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# Iowa Citizens' Aide/Ombudsman



## 1994 Annual Report

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# Citizens' Aide/Ombudsman 1994 Annual Report Table of Contents

<b>When should you call the ombudsman?</b>	<b>Page 4</b>
<b>Ombudsman's overview of 1994</b>	<b>Page 5</b>
<b>Annual Report Narrative 1994</b>	<b>Page 8</b>
<b>Legislative and agency proposals</b>	<b>Page 10</b>
<b>Graph: Numbers by year</b>	<b>Page 10</b>
<b>Type of inquiries received by agency</b>	<b>Page 11</b>
<b>1994 Citizens' Aide/Ombudsman Staff Roster</b>	<b>Page 16</b>
<b>Case summaries</b>	
<b>Critical report, use of Mace<sup>TM</sup></b>	<b>Page 17</b>
<b>Critical report, school investigation of teacher</b>	<b>Page 18</b>
<b>State government</b>	<b>Page 20</b>
<b>Department of Corrections</b>	<b>Page 23</b>
<b>Department of Human Services</b>	<b>Page 26</b>
<b>County government</b>	<b>Page 27</b>
<b>Municipal government</b>	<b>Page 29</b>
<b>Law enforcement</b>	<b>Page 30</b>
<b>School districts</b>	<b>Page 31</b>
<b>Iowa Code 2C, Citizens' Aide Act</b>	<b>Page 32</b>
<b>Map, Inquiries by County</b>	<b>Page 37</b>
<b>Agency Responses to Critical Reports as Required by Iowa Code 2C.18</b>	<b>Page 38</b>





## When should you call the ombudsman?

When a person calls the Citizens' Aide/Ombudsman (CA/O) with a complaint, often among the first questions we ask is, "*What steps have you taken to resolve the problem?*" In many cases, taking some of the following tips on your own may help you resolve the problem.

*The Ombudsman recommends trying the following common sense steps:*

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

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

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

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

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

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

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

***If all that fails, call the Citizens' Aide/Ombudsman.***

The CA/O has the authority to investigate complaints about many state and local government agencies (major exceptions are the federal government, the courts and the legislature).

In the Des Moines area, call 281-3592. The toll-free number is 1-800-358-5510 which works at pay telephones without the need to deposit coins. Hearing-impaired persons may call the TDD number, (515) 242-5065.

Write to Citizens' Aide/Ombudsman, State Capitol Complex, Des Moines, Iowa 50319-0231. Fax us at (515) 242-6007. If you prefer Email, our Internet address is: [OMBD@Legis.IA.Gov](mailto:OMBD@Legis.IA.Gov)

People are welcome on a drop-in basis at the office at 215 East Seventh Street, but you may be able to save a wait by calling ahead.



# Overview of 1994

by

William P. Angrick II  
Citizens' Aide/Ombudsman

Nineteen ninety-four was a year of accomplishment and challenge for the office.

Two important critical reports were released during the year. One dealt with the inappropriate use of force by prison officers and the treatment of mentally ill inmates in the Iowa corrections system. The report focused attention of the new director of the department on these issues and she was committed to reviewing those problems. The second reported on the inadequate and irresponsible oversight of a problematic teacher by local school officials, shortcomings which placed a number of students at risk and diminished parental trust in district authorities. Subsequent to release of this report a school administrator was reprimanded by the local school board for his role in those oversights.

During the year we recommended three changes in Iowa law to the Iowa General Assembly.

- that the definition of domestic abuse be expanded to include dating relationships,
- that certain personnel and payroll records of employees of a government body are public records subject to examination, and
- that a publication whose standards are incorporated by reference in agency rulemaking be purchased and provided by the agency to the administrative rules coordinator for deposit in the state law library.

Progress was made implementing the Small Business Clean Air Act Ombudsman program. As part of Iowa's response to the federal Clean Air Act Amendments of 1990, the Citizens' Aide/Ombudsman and the Environmental Protection Commission of the Iowa Department of Natural Resources signed an interagency agreement creating a specialized program assisting Iowa small businesses comply with federal, state and local clean air act standards. This program, located in the office of Citizens' Aide/Ombudsman, will also help businesses resolve problems they experience in dealing with the governmental regulations. This program promises to be a significant undertaking for the office and allows us to recruit and hire an individual with applied environmental and/or public health experience.

This past year legislative agencies have gained access to the Internet. I have found that this has opened up many new opportunities for my staff. It is used to research issues relating to the complaints we receive. We now publish our Internet mail address in brochures, etc. (Ombud@Legis.Ia.Gov) should anyone wish to contact us that way. We are in daily contact with other ombudsmen throughout the United States and Canada. We occasionally query them about complaints or policy issues to see how another government deals with a problem that we are dealing with in Iowa. This new knowledge will help give the recommendations this office makes to agencies even stronger as they have been "tested" in other jurisdictions.

In January, we filed suit in the Iowa district court over an issue that is important in maintaining this office's ability to do thorough investigations and assist in being able to provide legislative oversight of state and local governmental agencies. It pertains to our ability to gain access to confidential complaint and investigative files of the Board of Mortuary Science Examiners, one of a number of state professional Licensure boards we review. These boards assert that our statute only authorizes access to only those



confidential records listed in the public records act under section 22.7. However, there are numerous confidentiality provisions scattered throughout the Code of Iowa, and precluding our access to those records would greatly restrict my office's ability to conduct its investigations. To date, the district court has ruled in our office's favor, and the case is currently pending on appeal before the Iowa Supreme Court.

The past two years my office has staffed a booth at the Iowa State Fair. Many Iowans do not know that they have a legislative ombudsman office that can help them answer questions and resolve problems with their state and local governments. This past year we met and talked with about 25,000 Iowans at the fair. Not only did we explain the role of the ombudsman in Iowa government but my staff answered questions and helped resolve concerns of those who visited our booth. (NOTE: These contacts are *not* reflected in the "Inquiries" shown in the statistical portion of this report).

One of the important charges to the Citizens' Aide/Ombudsman office is to help improve the administration of government. Because of this important responsibility I have made a commitment to retain the most talented staff I can when investigator positions become vacant. I am particularly pleased that my belief in the quality of our staff is continually recognized by both citizens of our state and other governmental professionals. Several staff were sought out by other agencies to provide training and assistance to their staff. In other cases, the expertise of our office was solicited to provide our experience and perspectives in the development of public policy matters. Here are some examples:

- The advice of our assistant for public safety was sought when a county was developing a policy that could accommodate religious requirements/needs with their food service.
- The Citizens' Aide/Ombudsman Legal Counsel and an ombudsman investigator with extensive social services background were asked to provide testimony to the *"Iowa Supreme Court Task Force on Courts' and Communities' Response to Domestic Abuse"*. I was pleased that their testimony was often cited in the final report.
- All Citizens' Aide/Ombudsman investigator staff have received training and certification as *Certified Investigators* by the Council on Licensure, Enforcement and Regulation, an affiliate of the National Council of State Governments. I was proud when one of my staff was appointed to be on the council's national instructors certification committee.
- Testimony was given to the interim committee of the Iowa General Assembly on privatization of certain governmental functions. One of my staff testified about her observations regarding the impact of the privatization of the food service at the Iowa Veterans Home. This gave policy makers the unbiased view of a trained investigator who had recently made a site visit to the home. I also testified regarding concerns, cautions, and suggested recommended safeguards to properly implement privatization of government services.
- My office was contacted by Representative Robert Burns of Arizona, a former Iowan. Representative Burns was visiting his parents in an eastern Iowa town and learned of our office while reading a local newspaper. He was so impressed with the concept of ombudsman cutting governmental red tape, he sponsored an ombudsman bill for Arizona with an eye towards helping businesses deal with government regulations. My staff and I have spent time with Arizona legislative and executive branch leaders educating them about the ombudsman function. The bill recently passed and Arizona is now the 5th state with a general jurisdiction legislative ombudsman.



- The Department of Corrections looked to one of our senior investigators to help train their staff in how to put together a legislatively mandated "Batterer's Education Program". We provided training to 50-75 corrections professionals who would eventually implement a "Batterer's Education Program" for the offenders.
- We were contacted by the Academy for Educational Development for the USAID/AED. They asked for help, in providing training and orientation for key staff of the new Office of the Ombudsman of the Russian Federation. We participated with ombudsman offices in Canada, Alaska, and Minnesota to help give this fledgling organization a solid background in "ombudsmanship".
- Several visitors from foreign countries and other states visited our office this past year to learn about the ombudsman concept, how an ombudsman office is run, or the concept of mediation in resolving governmental disputes. Our visitors came from such places as India, the Fiji Islands, Sri Lanka, Texas and our neighboring Minnesota. I find that visits such as these have two benefits: not only do we have an opportunity to share experiences with others but we also are able to learn new ideas from our visitors.
- In the area of Child Support Recovery, my staff has been active in two committees. Our on going membership with the Child Support Advisory Committee was established in Iowa Code 252B.18. Also, the Department of Human Services asked that one of my staff participate in their Customer Service Committee. This committee was formed primarily in response to complaints about access to the various child support offices, because the public can contact the offices only during restricted hours each day. This special committee has been looking at numerous ways to improve not only accessibility, but overall communication with and responsiveness to the public. The Citizens' Aide/Ombudsman has participated by giving input on problems raised by our complainants and by making suggestions for improvement.
- A representative of the Citizens' Aide/Ombudsman served on a committee originally formed in 1993 by the Department of Revenue and Finance to recommend changes in the laws governing taxpayer procedures before the department. The committee's work helped the department to create a bill, *The Tax Procedures and Practices Act*, which was enacted during the 1994 legislative session.

My staff and I look forward to continuing to serve the people of the State of Iowa in the coming years. Borrowing from a recent best selling book title, we do try to put "common sense" back into the daily operation of government when it is found lacking.



## Annual Report Narrative 1994

During the calendar year 1994 the office of Citizens' Aide/Ombudsman (CA/O) received 4,759 contacts from individuals with complaints or requests for information. These contacts were received from all but one of the 99 Iowa counties, 34 states, and one foreign country. A map illustrating the geographic distribution of the contacts originating from Iowa can be found on Page 37.

Individuals may contact the office by telephone, mail, TDD, FAX, Email or in person. Flexibility is sought and there are no initial forms to complete. However, written complaints may be requested when the issues are detailed, complex or sensitive. Written complaints are generally requested for complaints dealing with law enforcement. During 1994 contacts were initiated with the office in the following proportions:

Source of Contact	Contacts Made	% of Contacts
Phone	3823	80.3%%
Visit	97	2.0%
Mail	510	10.7%
Institutional Visit	288	6.1%
Site Visit	8	.2%
Self Initiated	29	.6%
Other	4	>.1%
Total	4759	100.00%

About 70 percent of the total contacts received in 1994 were jurisdictional. This is a marked change from the early years of the office when approximately one-half of the contacts received concerned problems the office could not, by statute, deal with. Over the years the CA/O has encouraged various agencies to establish in-house information services or complaint procedures, such as the Call-One program at the Department of Economic Development or the Employment Rights office with the Department of Employment Services. We have been a supporter of the Taxpayer Services program within the Department of Revenue and Finance, among others.

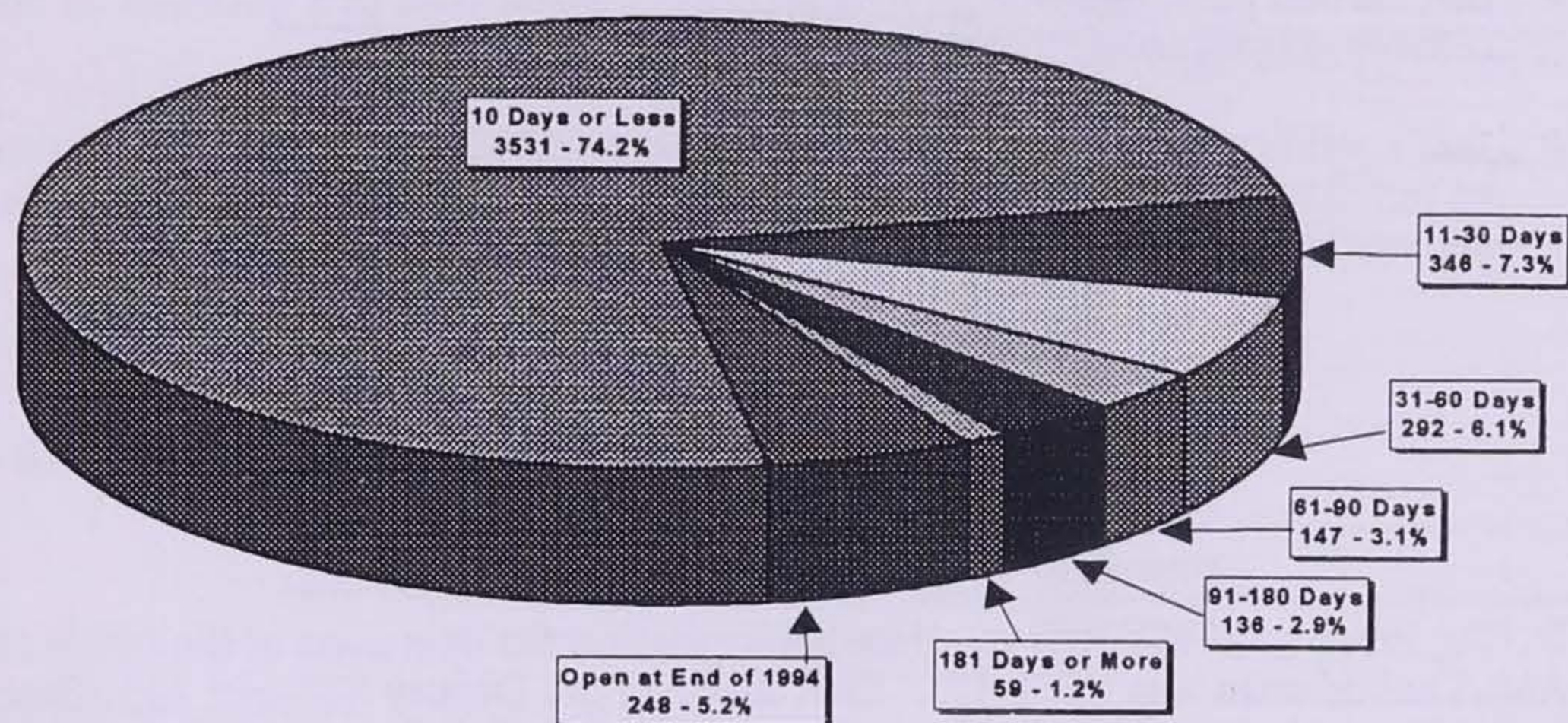
What this number and percentage means is that a greater portion of those persons initially contacting the Citizens' Aide/Ombudsman have complaints or questions we should be able to assist them with. It also means we can focus our resources and energies on determining which of the jurisdictional contacts require our investigations or research. The ombudsman can refer or decline to investigate contacts which:

1. Are brought prematurely to the attention of the Citizens' Aide/Ombudsman.
2. Could better be resolved by working through an already established appeal or grievance process.
3. Have been delayed too long to merit attention.
4. Are insignificant, frivolous or vexatious.

Of the 4,759 contacts received during 1994, ninety-five percent were completed and closed during the year. Two hundred and forty-eight contacts remained open and under investigation into 1995.



Iowa Citizens' Aide/Ombudsman  
Days to Close 4759 Inquiries  
1994



The length of time a contact remained open ranged considerably. We consider a contact being "open" until the complaint has been evaluated as justified or not justified. If it was determined to be justified, was an equitable resolution achieved? If appropriate, was information located and provided or referral made? Our data demonstrate that 88 percent of the contacts were completed in 60 days or less.

Approximately 19.9 percent of our 1994 contacts dealt with divisions, institutions, or programs of the Department of Corrections and the Board of Parole. Lesser numbers involved the Department of Human Services (10.5 percent); the Department of Transportation (1.5 percent); and the Department of Employment Services (1.4 percent). Municipal government accounted for 9.1 percent and county government comprised 8.4 percent of the contacts received during the year. Less than one percent pertained to schools and school districts. A complete listing of the agencies, levels of government, and other subject areas about which the Ombudsman received contacts is presented beginning on Page 11.

The Citizens' Aide/Ombudsman has statutory authority to issue reports regarding governmental officers and agencies. These reports may be either critical or special in nature. A critical report may conclude that an agency or official acted arbitrarily, capriciously, unreasonably, or contrary to law. A special report details investigative findings that are not critical of an officer or agency yet involves matters sufficiently important or which have generated public attention to a degree that the Ombudsman believes a public statement is necessary. Copies of any public reports issued by the office are available upon request. During 1994 the CA/O released two critical reports which are discussed in greater detail starting at Page 17.



## LEGISLATIVE RECOMMENDATIONS

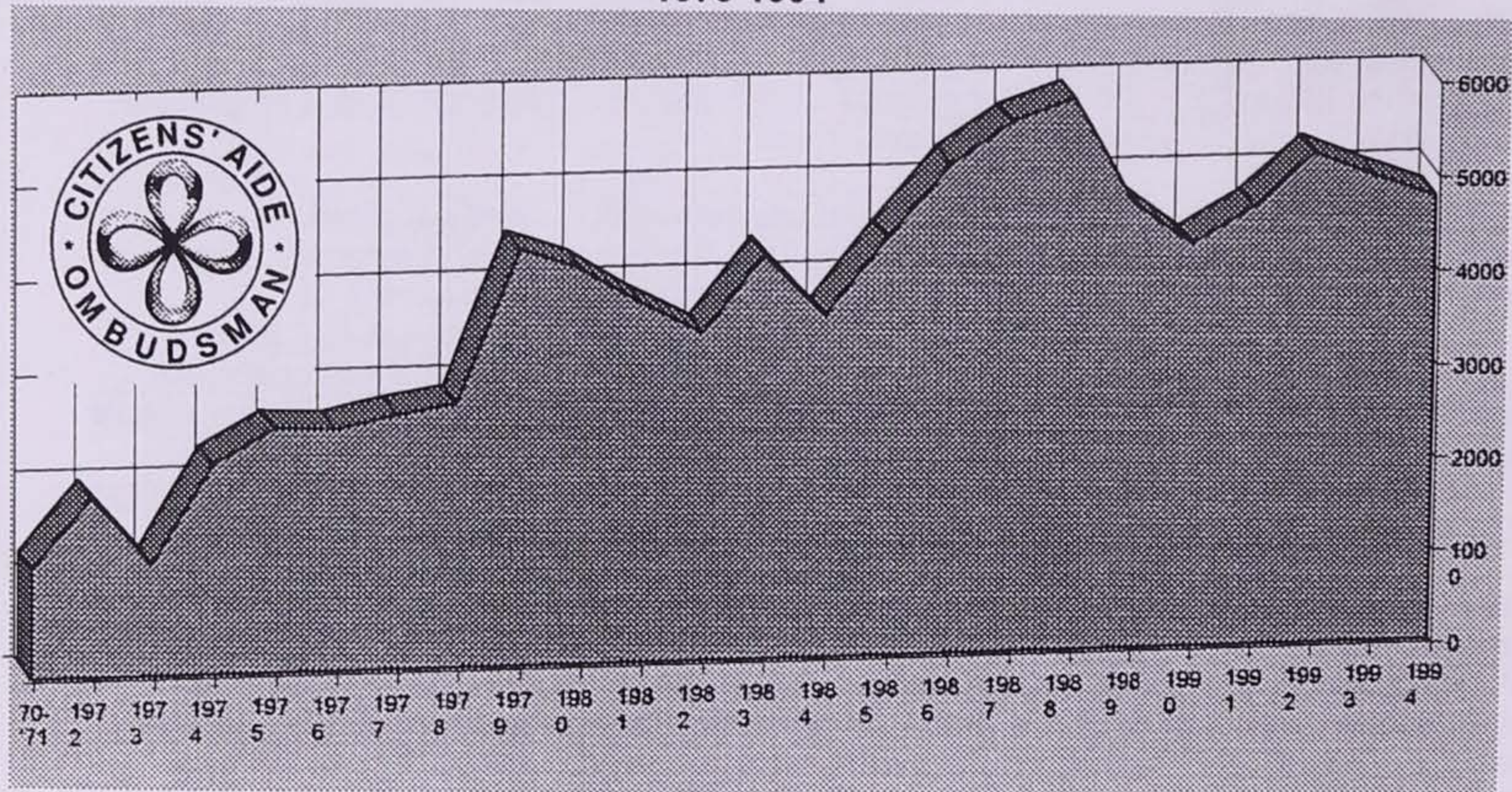
The CA/O made the following legislative recommendations to the 1994 Iowa General Assembly:

- that the definition of domestic abuse be expanded to include dating relationships,
- that certain personnel and payroll records of employees of a government body are public records subject to examination and,
- that a publication whose standards are incorporated by reference in agency rulemaking be purchased and provided by the agency to the administrative rules coordinator for deposit in the state law library.

## BUDGET

During Fiscal year 1993-94 the state appropriation for operation of the office of Citizens' Aide/Ombudsman was \$631,471. Staff includes the Deputy Citizens' Aide/Ombudsman, Legal Counsel, Assistants for Corrections and Public Safety, four assistants with general assignment, and three support staff.

Inquiries per Year  
1970-1994





**Iowa Citizens' Aide/Ombudsman  
Type of Inquiries by Agency  
1994**

<b>Department/Agency</b>	<b>Total</b>	<b>Percent of Total Contacts</b>
<b>Attorney General</b>	52	1.09%
Prosecuting Attorneys Training Council	1	0.02%
<b>Sub Total</b>	<b>53</b>	<b>1.11%</b>
<b>Secretary of State</b>	15	0.32%
Notaries Public	6	0.13%
<b>Sub Total</b>	<b>21</b>	<b>0.44%</b>
<b>Treasurer</b>	2	0.04%
<b>Agriculture &amp; Land, Department of</b>	8	0.17%
State Fair Board	7	0.15%
County Fair Boards	1	0.02%
<b>Sub Total</b>	<b>16</b>	<b>0.34%</b>
<b>Civil Rights Commission</b>	19	0.40%
<b>Commerce, Department of</b>	6	0.13%
Insurance Division	29	0.61%
Utilities Division	15	0.32%
Credit Union Division	1	0.02%
<b>Sub Total</b>	<b>51</b>	<b>1.07%</b>
Professional Licensing & Regulation Div.		
Engineering & Land Surveyor Examiners	2	0.04%
Real Estate Examiners	2	0.04%
<b>Sub Total</b>	<b>4</b>	<b>0.08%</b>
<b>Commerce Sub Total</b>	<b>55</b>	<b>1.16%</b>
<b>Corrections, Department of</b>	24	0.50%
Community Services Division	6	0.13%
Community Based Facilities	106	2.23%
Supervision Programs	64	1.34%
Other	1	0.02%
<b>Community Based Sub Total</b>	<b>177</b>	<b>3.72%</b>
Institutional Programs	36	0.76%
ISP - Ft. Madison	144	3.03%
IMR - Anamosa	118	2.48%
MPCC - Mt. Pleasant	103	2.16%
IMCC - Oakdale	84	1.77%
CTU - Clarendo	64	1.34%
ICIW - Mitchellville	61	1.28%
CRC - Newton	49	1.03%
NCCF - Rockwell City	19	0.40%
<b>Institution Sub Total</b>	<b>678</b>	<b>14.25%</b>
<b>Corrections Sub Total</b>	<b>879</b>	<b>18.47%</b>



**Iowa Citizens' Aide/Ombudsman  
Type of Inquiries by Agency  
1994 (Cont.)**

<b>Department/Agency</b>	<b>Total</b>	<b>Percent of Total Contacts</b>
<b>Parole Board</b>	<b>68</b>	<b>1.43%</b>
<b>Cultural Affairs, Department of</b>	<b>2</b>	<b>0.04%</b>
Museum Division	2	0.04%
Historical Preservation Division	2	0.04%
<b>Cultural Affairs Sub Total</b>	<b>6</b>	<b>0.13%</b>
<b>Economic Development, Department of</b>	<b>27</b>	<b>0.57%</b>
Iowa Finance Authority	4	0.08%
<b>Economic Development Sub Total</b>	<b>31</b>	<b>0.65%</b>
<b>Education, Department of</b>	<b>8</b>	<b>0.17%</b>
Community Colleges	11	0.23%
Vocational Rehabilitation Division	7	0.15%
Area Schools	6	0.13%
Area Education Agencies	1	0.02%
<b>Education Sub Total</b>	<b>33</b>	<b>0.69%</b>
<b>College Student Aid Commission</b>	<b>9</b>	<b>0.19%</b>
<b>Professional Teachers Practices Commission</b>	<b>1</b>	<b>0.02%</b>
<b>Elder Affairs, Department of</b>	<b>6</b>	<b>0.13%</b>
Nursing Home Ombudsman	40	0.84%
Area Agencies on Aging	1	0.02%
<b>Elder Affairs Sub Total</b>	<b>47</b>	<b>0.99%</b>
<b>Employment Services, Department of</b>	<b>11</b>	<b>0.23%</b>
Job Service Division	37	0.78%
Labor Services Division	18	0.38%
Industrial Services Division	2	0.04%
<b>Employment Services Sub Total</b>	<b>68</b>	<b>1.43%</b>
<b>General Services, Department of</b>	<b>3</b>	<b>0.06%</b>
<b>Human Rights, Department of</b>	<b>8</b>	<b>0.17%</b>
Community Action Agencies	3	0.06%
Deaf Services, Division of	2	0.04%
Latino Affairs Division	2	0.04%
<b>Human Rights Sub Total</b>	<b>15</b>	<b>0.32%</b>
<b>Human Services, Department of</b>	<b>38</b>	<b>0.80%</b>
Collections/Child Support	190	3.99%
Income Maintenance	116	2.44%
Adult, Children & Family Services	69	1.45%
Service/Social Work	64	1.34%
<b>Sub Total</b>	<b>477</b>	<b>10.02%</b>



**Iowa Citizens' Aide/Ombudsman  
Type of Inquiries by Agency  
1994 (Cont.)**

<b>Department/Agency</b>	<b>Total</b>	<b>Percent of Total Contacts</b>
<b>Human Services, Department of (Cont.)</b>		
Hospitals and Institutions		
Independence - MHI	8	0.17%
Cherokee - MHI	5	0.11%
Eldora - STS	4	0.08%
Mt. Pleasant - MHI	3	0.06%
Glenwood Hospital	2	0.04%
Sub Total	22	0.46%
<b>Human Services Sub Total</b>	<b>499</b>	<b>10.49%</b>
<b>Inspections and Appeals, Department of</b>		
Local Public Defenders	4	0.08%
Local Public Defenders	5	0.11%
Racing & Gaming Commission	5	0.11%
<b>Inspections &amp; Appeals Sub Total</b>	<b>14</b>	<b>0.29%</b>
<b>Management, Department of</b>		
State Appeal Board	3	0.06%
State Appeal Board	7	0.15%
<b>Management Sub Total</b>	<b>10</b>	<b>0.21%</b>
<b>Campaign Finance Disclosure Commission</b>	<b>7</b>	<b>0.15%</b>
<b>Natural Resources, Department of</b>		
Environmental Protection	18	0.38%
Environmental Protection	17	0.36%
Natural Resources	6	0.13%
<b>Natural Resources Sub Total</b>	<b>41</b>	<b>0.86%</b>
<b>Personnel, Department of</b>		
Public Employment Retirement System	7	0.15%
Public Employment Retirement System	6	0.13%
<b>Personnel Sub Total</b>	<b>13</b>	<b>0.27%</b>
<b>Public Employment Relations Board</b>	<b>2</b>	<b>0.04%</b>
<b>Public Defense, Department of</b>		
Military Affairs Division	1	0.02%
Military Affairs Division	5	0.11%
Iowa Veterans Home	5	0.11%
Emergency Services Division	1	0.02%
<b>Public Defense Sub Total</b>	<b>12</b>	<b>0.25%</b>
<b>Veterans Affairs, Commission of</b>	<b>2</b>	<b>0.04%</b>
<b>Public Health, Department of</b>		
Professional Licensure Division	14	0.29%
Physician & Occupational Therapy Examiners	3	0.06%
Barber Examiners	1	0.02%
Chiropractic Examiners	1	0.02%
Mortuary Examiners	1	0.02%
Ophthalmic Dispensers	1	0.02%
Optometry Examiners	1	0.02%
Podiatry Examiners	1	0.02%
Psychology Examiners	1	0.02%
Sub Total	10	0.21%



**Iowa Citizens' Aide/Ombudsman  
Type of Inquiries by Agency  
1994 (Cont.)**

Department/Agency	Total	Percent of Total Contacts
<b>Public Health, Department of (Cont.)</b>		
Independent Licensure Boards		
Medical Examiners, Board of	3	0.06%
Dental Examiners, Board of	2	0.04%
Nursing Examiners, Board of	2	0.04%
Sub Total	7	0.15%
<b>Public Health Sub Total</b>	<b>31</b>	<b>0.65%</b>
<b>Public Safety, Department of</b>		
State Patrol Division	6	0.13%
Criminal Investigation Division	10	0.21%
Fire Protection, Invest. & Bldg. Code Div.	4	0.08%
Sub Total	4	0.08%
<b>Public Safety Sub Total</b>	<b>24</b>	<b>0.50%</b>
<b>Board of Regents</b>		
University of Iowa	8	0.17%
University of Iowa Hospital	9	0.19%
Iowa State University	9	0.19%
Iowa School for the Deaf	3	0.06%
Sub Total	2	0.04%
<b>Regents Sub Total</b>	<b>31</b>	<b>0.65%</b>
<b>Revenue &amp; Finance, Department of</b>		
Lottery Division	57	1.20%
Sub Total	2	0.04%
<b>Revenue &amp; Finance Sub Total</b>	<b>59</b>	<b>1.24%</b>
<b>Transportation, Department of</b>		
Motor Vehicle Division	10	0.21%
Highway Division	51	1.07%
Administration Division	7	0.15%
Planning & Research Division	4	0.08%
Sub Total	1	0.02%
<b>Transportation Sub Total</b>	<b>73</b>	<b>1.53%</b>
<b>Schools and School Districts</b>		
Administration	13	0.27%
School Boards	16	0.34%
Teachers and Counselors	7	0.15%
Sub Total	4	0.08%
<b>Schools Sub Total</b>	<b>40</b>	<b>0.84%</b>
<b>Municipal Government</b>		
Mayor/Council	66	1.39%
Housing/Zoning	67	1.41%
Utilities	45	0.95%
Public Works	23	0.48%
Administrator/Clerk/Manager	16	0.34%
Assessor	5	0.11%
Parks & Recreation	3	0.06%
Sub Total	1	0.02%
Sub Total	226	4.75%
Police	207	4.35%
Jails	1	0.02%
Sub Total	208	4.37%
<b>Municipal Sub Total</b>	<b>434</b>	<b>9.12%</b>



**Iowa Citizens' Aide/Ombudsman  
Type of Inquiries by Agency  
1994 (Cont.)**

<b>Department/Agency</b>	<b>Total</b>	<b>Percent of Total Contacts</b>
<b>County Government</b>		
	35	0.74%
Attorney	77	1.62%
Board of Supervisors	16	0.34%
General Relief	12	0.25%
Assessor/ Review Board	9	0.19%
Treasurer	9	0.19%
Auditor	5	0.11%
Weed Commissioner	4	0.08%
Zoning	4	0.08%
Mental Health	4	0.08%
Conservation Commission	3	0.06%
Recorder	3	0.06%
Township Trustees	3	0.06%
Hospital	3	0.06%
Engineer/Roads	1	0.02%
Sub Total	188	3.95%
Jail	109	2.29%
Sheriff	101	2.12%
Sub Total	210	4.41%
<b>County Sub Total</b>	<b>398</b>	<b>8.36%</b>
<b>Metropolitan/Regional Government</b>	<b>12</b>	<b>0.25%</b>
<b>State of Iowa General</b>	<b>30</b>	<b>0.63%</b>
<b>Jurisdictional Matters</b>		
Question of Iowa Law	189	3.97%
Citizens' Aide/Ombudsman	62	1.30%
Needs Financial Assistance	16	0.34%
Sub Total	297	6.24%
<b>Non Jurisdictional Matters</b>	<b>5</b>	<b>0.11%</b>
Legislature & Legislative Agencies	19	0.40%
Governor and Staff	16	0.34%
Judiciary	95	2.00%
Clerks of Court	12	0.25%
Juvenile Court Officers	4	0.08%
Sub Total	151	3.17%
<b>General Iowa Government Sub Total</b>	<b>448</b>	<b>9.41%</b>
<b>Other Governmental Entities</b>		
Federal Government	121	2.54%
Other States	32	0.67%
Inter State Compact Matters	8	0.17%
Foreign Government	3	0.06%
International Government	2	0.04%
<b>Other Govt. Sub Total</b>	<b>166</b>	<b>3.49%</b>



**Iowa Citizens' Aide/Ombudsman  
Type of Inquiries by Agency  
1994 (Cont.)**

<b>Department/Agency</b>	<b>Total</b>	<b>Percent of Total Contacts</b>
<b>Other Non-Jurisdictional Matters</b>	<b>90</b>	<b>1.89%</b>
Private Legal Disputes	263	5.53%
Employer/Employee Matters	194	4.08%
Consumer Matters	146	3.07%
Undetermined	123	2.58%
Landlord/Tenant Matters	71	1.49%
Legal Profession	71	1.49%
Insurance Industry	36	0.76%
Health Professionals	32	0.67%
Utilities	28	0.59%
Financial Institutions	22	0.46%
Nursing Homes	16	0.34%
Unknown	13	0.27%
Private Non-Profit Agencies	12	0.25%
<b>Non-Jurisdictional Sub Total</b>	<b>1117</b>	<b>23.47%</b>
<b>Grand Total Citizens' Aide 1994 Contacts</b>	<b>4759</b>	<b>100.00%</b>

## STAFF

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## Critical Report:

Ombudsman criticizes use of Mace<sup>TM</sup>, questions prison's medication removal

Prison officials used excessive force when they sprayed Mace<sup>TM</sup> on a mentally disturbed inmate, said a 1994 critical report questioning treatment of mentally ill inmates.

The Citizens' Aide/Ombudsman's (CA/O) 45-page report criticized Iowa State Penitentiary (ISP) officials for "either ignorance of or willful disregard for the requirements of the court orders and their own policies" during a June 30, 1991 incident.

ISP officials used Mace<sup>TM</sup> on inmate Craig Leslie Gardner, who told the ombudsman he was suffering from mental delusions at the time. Gardner had destroyed his bed and was not responsive to direct orders from correctional officers.

Department of Corrections (DOC) officials had removed Gardner from psychotropic medications, used to help control some of his behavior related to his mental illness, when he entered the Iowa system. Some 90 percent of new inmates on psychotropic medications are removed from them, Dr. Paul Loeffelholz, medical director at the Iowa Medical and Classification Center prison, told the CA/O. "Such practices cry out for professional review," according to the report.

While critical of past practices, the ombudsman complimented department and prison officials for changes in policies made later, after a new DOC director and new warden were hired.

DOC Director Sally Chandler Halford, in a response appended to this annual report, said procedures have since been discussed so inmates removed from psychotropic medications "will be closely monitored by the medical staff." A psychologist will assist in training new employees in recognizing potential mental problems. DOC reviewed its use of force policies and court orders and updated its related training, Halford said.

"The errors made in conducting this forced move were many and egregious, but some of these problems already have been remedied," the report said. "Officers failed to follow widely accepted policies and practices regarding which level of force was appropriate. Officers did not use the minimum level of force available to attempt control but instead started with the highest level of force allowed by their policy, short of deadly force," the report said. The amount of Mace<sup>TM</sup> used exceeded the manufacturer's recommendations.

The ombudsman's recommendations to corrections officials included:

- Provide for review of treatment of the mentally ill to see whether it meets standards of the American Psychiatric Association and the Americans with Disabilities Act.

- DOC policy and court orders be followed when training officers and applying use of force.

- Provide officers updated training in non-lethal weapons and the recognition of the symptoms of the onset of mental illnesses.

- The warden routinely review videotapes and audio tapes of use of force or use of weapons.

- Provide better oversight of forced moves.

- Change other procedures to ensure officers will be forewarned of the existence of a mental illness in case of a forced move.



Prison officials videotaped the incident involving Gardner, then lost an 18-month legal battle after they tried to withhold a copy of the videotape from the ombudsman.

Copies of the report, with confidential information not authorized for release edited out, are available from the office of the Citizens' Aide/Ombudsman in Des Moines. An unedited response from the Department of Corrections is appended to this report. (Critical Report 94-1)

## **Critical Report:**

### **School officials fail to investigate teacher's alleged exposure**

A central Iowa school superintendent violated state rules and local policy by failing to investigate allegations a teacher exposed himself on a field trip, the Citizens' Aide/Ombudsman (CA/O) concluded in Critical Report 94-2.

The CA/O criticized two other officials in the Roland-Story Community School District for failing to immediately relay the allegations to the superintendent. The ombudsman also criticized Superintendent Dale Henricks for letting the teacher go on the overnight trip when Henricks knew the teacher was the subject of a criminal investigation into possible sexual offenses involving a former student.

The 78-page report concluded Henricks and Middle School Principal David Hemphill violated state rules and local policy created to protect school children from physical and sexual abuse by school employees. The ombudsman recommended the Roland-Story School Board take an "appropriate response" to Hendricks' and Hemphill's failures to comply with local policy and state rules. A similar recommendation was not made regarding the third official, Dennis Bauman, because he was a school board member and the ombudsman could not determine whether he violated local policy.

The state rules are contained in Chapter 102, "Procedures for Charging and Investigating Incidents of Abuse of Students by School Employees," of the Iowa Department of Education's rules in the Iowa Administrative Code (commonly referred to as "Chapter 102" or 281 IAC 102).

All three school officials attempted to justify their decisions involving the alleged exposure by noting within days after it was first reported, the same teacher was arrested and charged with one count of sexual exploitation of a minor and 10 counts of lascivious conduct with a minor. Henricks told the ombudsman the alleged exposure and criminal charges were part of "one big picture and beyond my ability to investigate." Both Hemphill and Bauman said they believed the alleged exposure was relatively minor compared to the criminal charges.

The report noted the alleged exposure was unrelated to the criminal charges and the state rules and local policy required a separate investigation. The report concluded that the state rules and district policy do not provide for decisions to investigate to be based upon the severity of the allegations. The report added that each complaint that involves a separate alleged incident must be taken seriously and considered separately on its own merits.

Henricks said Bauman told him on March 21, 1992, that the Story County Sheriff's Department was investigating possible "sexual involvement between" the teacher and a former student which "may have been on school property on weekends." Henricks allowed the teacher to go on the field trip the next week, where Henricks knew the teacher would be the lone adult in charge of several seventh-graders in a dormitory sleeping area.

Henricks gave several reasons why he failed to act, including that he had not "been contacted officially" by the sheriff's department. The report concluded it was unacceptable for Henricks to



use this as an excuse for ignoring the children's best interests. Henricks also claimed he "didn't have the information" about the criminal investigation, a claim which was contradicted by his own testimony. The report stated the ombudsman's belief that Henricks ignored his duty to protect students by allowing the teacher to go.

The week after the field trip, a teacher told Principal Hemphill that two parents said several boys saw the teacher naked in a field-trip bedroom. Though district policy required him to immediately relay that information to the superintendent, Hemphill did not. Asked why, Hemphill said he "weighed the merits" of the alleged exposure against his expectation that the same teacher was about to be arrested on unrelated criminal charges. The next day, the teacher was arrested and charged with one count of sexual exploitation of a minor and 10 counts of lascivious conduct with a minor involving alleged incidents which preceded the field trip by more than a year.

The report said Hemphill relayed the field-trip allegation to Henricks about one week after receiving it. The report questioned whether Hemphill ever would have relayed the allegation were it not for an inquiry from a sheriff's detective. The ombudsman concluded Hemphill's delay violated a state rule and local policy requirement to immediately relay the complaint to Henricks, the designated investigator.

Based on Hemphill's report, the ombudsman said Henricks should have opened an investigation into the alleged exposure under state rules and local policy. Instead, Henricks said he fulfilled his responsibilities by having Hemphill "turn over" the complaint to the sheriff's department in early April 1992. Hemphill acknowledged his conversation with a sheriff's detective did not include any discussion as to which agency would investigate the complaint. The report said that although Henricks was not involved in that conversation, he subsequently assumed the sheriff's department was investigating the complaint. As it turned out, Henricks' assumption was incorrect and indefinitely delayed any investigative action on the complaint, the report added.

According to the report, the first investigative action into the alleged exposure occurred about four months later and resulted from efforts by individuals other than Henricks. That criminal investigation later closed with no charges against the teacher. Henricks never investigated the allegation.

Regarding the unrelated criminal charges that were filed, the teacher pled guilty on June 15, 1992, to four counts of lascivious conduct with a minor. The other charges were dismissed.

The report also criticized Henricks for often giving evasive, conflicting or incomplete answers to parents and the CA/O when asked about his decisions and actions. The report stated the ombudsman's belief that it is doubly unacceptable for a government official to fail to meet his or her duties and then to evade public accountability and investigative inquiries.

The report said Board Member Bauman was told by a parent that her son saw the teacher naked in a field-trip bedroom. The report said Bauman believed he later relayed the information to Henricks, but Bauman had no definitive recollection of doing so. While Bauman was not required to make such a report under the state rules, the ombudsman was uncertain whether he was required under local policy. The report stated the ombudsman's belief that regardless of the state rules and district policy, it is reasonable to expect school board members to immediately relay reports of alleged abuse of a student by a school employee to the designated investigator.

Similar to its criticism of Hemphill, the report also criticized Bauman for attempting to justify his decisions because he viewed the alleged exposure as "relatively minor compared to" the criminal charges he expected were about to be filed.

Copies of the report are available from the Office of the Citizens' Aide/Ombudsman in Des Moines. An unedited response from the school district is appended to this report. (Critical Report 94-2)



## State government

### Patients have right to contact lens prescriptions

A complainant said her optometrist refused to provide her with a copy of her prescription for contact lenses. The Citizens' Aide/Ombudsman (CA/O) contacted the Iowa Board of Optometry which said optometrists were not required under Federal Trade Commission regulations to provide a copy of a contact lens prescription. The CA/O acknowledged FTC rules only require release of prescriptions for eyeglasses, but pointed out it believes state law requires release of contact lens prescriptions as well. Iowa Code section 154.9 in part states:

It shall be unlawful for any person to dispense and adapt contact lenses or any other ophthalmic lens or lenses, without first having obtained a written prescription or order therefor from a duly licensed practitioner .... Each such practitioner shall furnish a patient without charge a copy of the patient's prescription."

The board contended this statute only required a prescription for eyeglasses because it construed "ophthalmic lens" as referring to only eyeglasses. The CA/O believed that interpretation was flawed and contact lenses were covered. The ombudsman suggested at a board meeting it clarify its position by administrative rule. The board proposed a rule, but it was delayed by the legislature's Administrative Rules and Review Committee. The board subsequently withdrew it and instead proposed legislation, later adopted, that a patient may receive a copy of the contact lens prescription after the lenses have been adequately adapted and the patient released from initial follow-up care. The new law specifies the prescription must contain the necessary information to fill the prescription. (91-217)

### Amish dairy farmer seeks upgrade

A dairy farmer contacted the Citizens' Aide/Ombudsman (CA/O) to complain about the process of upgrading his milk producer status from Grade B to Grade A. He believed he could earn \$1 per hundredweight of milk more, or, with his small dairy herd of about 40 Holstein cows, \$6,000 more annually.

The man did not have electricity on his farm which he said was prohibited by his Amish faith. He proposed using a diesel motor to operate a bulk tank cooling system and vacuum system for his automatic milking. He proposed using high-pressure white gas lamps to meet lighting requirements. His application was approved by one Iowa Department of Agriculture inspector, but revoked later when officials said they found an error in calculating the sanitation rating. The correction placed the farm's score below the 90 percent rating required for compliance.

The farmer questioned the sanitation rating, a change in inspectors and other factors including why other states allowed Grade A dairy production under systems similar to those he proposed. Ombudsman research confirmed hundreds of dairy farmers in neighboring states produce Grade A milk without electricity. The ombudsman questioned an Iowa Department of Agriculture interpretation of a federal regulation on the minimum size of pipe allowed for waste removal and a federal official confirmed a minimum size was "recommended" but not required in existing dairy barns.

The Iowa Department of Agriculture eventually agreed to promulgate rules before the legislature's Administrative Rules and Review Committee which interpreted the federal regulations similar to the ombudsman's interpretation and in agreement with the manner in which the complainant sought to operate his farm. It took more than a year from the date of his application to final approval, including six months of the CA/O's involvement. The farmer received a 99 percent sanitation rating in the inspection leading finally to approval of his application. (93-104)



## **How to dispose of abandoned vehicles**

An Illinois resident wrote the Secretary of State's Office with a question about some farm land he had inherited several years ago in northern Iowa. The man had recently discovered two old, abandoned cars in the trees forming the wind-block. While he wanted to dispose of the cars, he first wanted to learn what the state law was so he could follow it.

The Secretary of State's Office referred the letter to the Citizens' Aide/Ombudsman (CA/O), which researched the matter and responded with a letter to the man explaining the following: Under Iowa Code section 321.90, he needed to contact the "police authority" to apply for authority to dispose of the abandoned vehicles. The letter explained that under the law, the "police authority" follows the "appropriate notification procedures" under Code section 321.89(3); eventually, if the vehicles are not reclaimed, the police authority gives the applicant "a certificate of authority to dispose of the motor vehicle to any demolisher for demolition, wrecking or dismantling." The ombudsman's letter included the address and phone number for the county sheriff as well as a Department of Transportation official familiar with these procedures. (940300783)

## **DOT agrees to reduce trucker's bill**

A man complained the Department of Transportation (DOT) was billing him about \$3,300 in license fees and penalties for two trucks he had leased for long-distance hauling. He said he had applied for temporary licenses from DOT in March 1994. But he assumed he did not need the licenses upon learning the owner paid to license the same trucks a few weeks later. Assuming the department's computers would show the trucks were already licensed, the man believed he had no responsibility to follow through with his application to DOT.

After receiving the complaint, the ombudsman discussed the situation with DOT Motor Vehicle Division staff. DOT researched the matter and contacted the man. DOT informed the ombudsman the man admitted he had actually received a temporary license for one truck two months earlier than he had told the CA/O. DOT said he also admitted that truck was driven outside the state for at least one trip during that period. The man therefore agreed he owed a license fee plus penalty for one truck for that period. But he insisted the other truck had not been out of state all year.

DOT verified the second truck was licensed at the county level all year and opted to take him at his word that it was not driven out of state. DOT noted federal laws provide for audits that can verify where a truck traveled. The CA/O confirmed with the man that he agreed to pay DOT about \$690 for license fees, penalty and fees due from other states. He was very relieved DOT had significantly reduced the amount owed and thanked the ombudsman office for its help. (940802925)

## **Unpaid bill doesn't disconnect wedding plans**

A woman called with an urgent problem: She was getting married in an hour and had just received a disconnect notice from her gas company. She had been unemployed for six months due to disability. She was not eligible for federal energy assistance because the bill was not in her name - it was still in her ex-husband's name. She could not afford the \$300 deposit required to put it into her name. She had called her county's General Relief program to learn if she could get any help to pay the deposit. She was told she could apply for assistance through the local Community Action Agency, but it would take 30 days to process her application.

With nowhere else to turn and her wedding an hour away, the woman called the ombudsman. After listening to her situation, the CA/O contacted the Department of Human Rights -- which administers the Community Action Agency programs -- and learned that once the woman applied



for assistance through the program, the gas company could not disconnect for 30 days. The ombudsman immediately relayed this information to the woman and wished her a happy wedding. (931200030)

### **One complaint resolved, another referred**

A man complained Job Service was requiring him to repay a nearly \$500 overpayment before he could receive new unemployment benefits. He needed the benefits because he and his wife were about to run out of money. While she had applied for Family Investment Program (FIP) benefits through the Department of Human Services (DHS), the worker told her she would have to accept a job if one were offered. With two small children, the couple said day care costs would probably be higher than any potential income.

The ombudsman contacted DHS administrators, who said the FIP program does not require mothers to accept a job as long as any of the children are under six months of age. In this case, the youngest was nine weeks old, so it appeared the family could receive FIP benefits and the mother would not have to work. Human Services administrators relayed this information to the worker who was handling the family's FIP application. Regarding Job Service, the man's initial complaint became a moot issue because he lost at the initial fact-finding hearing, meaning he could receive new benefits only if he won on appeal, which would take at least several weeks.

The man complained Job Service's appeals process was difficult for him because of his disability (Attention Deficit Disorder), which he claimed was why he lost the job. The ombudsman referred him to the Legal Services Corporation of Iowa for possible help with the Job Service appeals process. At that time, the family was no longer in the financial crisis which existed when they called the CA/O. (94-89)

### **To love and cherish... and to pay his child support?**

A woman complained the Department of Revenue and Finance (DORF) was trying to take her state tax refund every year because of her husband's delinquency with the Child Support Recovery Unit. Though she always got her refund after making some phone calls, she believed she was being needlessly harassed. She and her husband filed separately on a combined return. She was to receive a nearly \$400 refund for her 1992 tax return. Instead, they received a notice stating her refund was being held.

The notice was addressed to her husband but showed her social security number. Ombudsman staff contacted both agencies, which cited regulatory authority under a rule stating, "If a married taxpayer files a combined return with his or her spouse, any refund will be issued in both names." Given this regulatory basis, the ombudsman found it reasonable for DORF to offset her refund, especially given her right to appeal. Further, the department noted that if she filed a separate return, her refund could not be held. The ombudsman relayed this information to the woman and she said she would follow that advice in future years. (93-18)

### **The DOT doctor is ... not in:**

A man just wanted to vent some frustration over an experience with the Department of Transportation (DOT). His 15-year-old daughter needed to take a driving test to get a permit to drive to school. They live in a small town about 20 miles from the county seat, where DOT runs a station once a week. The father took the day off and picked his daughter up at school after lunch -- she had to be in school at least half the day to be eligible for a track meet after school.

They got to the DOT station at 1:30 and were told there was only one opening for her driving test -- at 3:15, which would not leave enough time to get her back for the track meet. The father asked if he could make an appointment for another day, but DOT staff said they were not allowed to make appointments. The father later called DOT's central office and spoke to an administrator who said DOT used to accept appointments, but stopped doing so because many people did not



keep their appointments. The father said he asked if DOT could consider a compromise, such as appointments for two hours of an eight-hour day, but the administrator was not interested.

When he called the ombudsman, the father wondered if this particular problem is fairly common for rural Iowans who need to interact with DOT. The ombudsman contacted the same administrator, who confirmed he has had similar conversations with other rural Iowans -- including one who suggested a \$100 deposit, refundable only if the citizen keeps the appointment. The administrator said there were a number of reasons DOT stopped taking appointments, including the problems caused when people arrived several minutes late. Operating on a "first come, first served" basis, he said data from the DOT stations showed about 12 percent of the people who showed up were turned away. He believed this percentage to be reasonably low.

The ombudsman found his points to be reasonable and opted not to pursue the issue further. The daughter got her permit that Saturday when she and her father made the 40-mile drive to the DOT station in a larger town; they arrived at 7:30 a.m. and she was given the first test of the day at 8:30 a.m. (940400950)

### **Ombudsman suggests ways to avoid similar complaints**

A mother complained the Iowa State Vocational Rehabilitation Facility (ISVRF) had violated its own policies by failing to prevent her 17-year-old daughter to leave the building while on "supervised status." The mother alleged her mentally-disabled daughter left with a male client who sexually victimized her away from the facility. The girl's special education teacher had referred her to the facility for a two-week stay to determine if she could live on her own. At her parents' request, she was placed on "supervised status," meaning she was not to leave without staff supervision. The mother said staff led her to believe "supervised status" meant they could prevent her daughter from leaving. Facility staff denied making such a guarantee because the facility is not locked and staff cannot prevent clients from leaving if they want to. Staff noted they offered to have the girl commute from home, but the parents chose to continue her dormitory status, which the mother confirmed to the CA/O.

Ultimately, the ombudsman found the complaint to be undetermined -- both sides had different recollections of what was said and there was no independent verification of key conversations. However, based on the seriousness of the allegation and ISVRF's inability to specifically document its position that it cannot control clients, the ombudsman suggested several steps that might reduce the chances of a similar type of complaint from being filed again. A facility administrator was receptive to the suggestions and indicated most, if not all, would be implemented. (93-131)

## **Department of Corrections (DOC)**

### **Inmate's cassette tape destroyed contrary to policy**

An inmate at North Central Correctional Facility (NCCF) in Rockwell City complained his cassette tape was destroyed contrary to policy. He said he had loaned the tape to an inmate and agreed that broke a prison rule. But, he said, the prison destroyed the tape contrary to Department of Corrections (DOC) policy.

DOC policy defines inmate possessions not in the custody of their rightful owners as "contraband." Other contraband may include items which are not allowed in prison, or not legal for private citizens to possess. Policies at other prisons said items which are otherwise legal to possess which are found to be prison contraband may be sent out by an inmate at his own expense. An inmate is to be given that option and if he declines, it may be destroyed.

Prison officials said they destroyed the tape in line with their policies. The ombudsman pointed out the widespread practice among prisons was to allow legal items to be sent out at inmate



expense, and the DOC Central Office had told CA/O that is the policy prisons should follow. Prison officials said if DOC Central Office issued a clear directive on the matter it would follow it. DOC Central Office said it would issue such a directive to the prison that day. The ombudsman told the inmate he may wish to file a tort claim to recover the cost of the destroyed item from the state. (940702300)

### **Institution agrees to need for evidence**

An inmate at a work release center complained he received a major disciplinary report for being out of place of assignment. He said he was where he was supposed to be and proved it to the staff, but they still found him guilty. The director of the facility agreed the inmate showed he was where he was supposed to be, but there was no evidence he stayed there. Citizens' Aide/Ombudsman (CA/O) asked what evidence there was he had left. There was no such evidence, the supervisor said.

The CA/O explained its belief the courts had consistently required a "some evidence" standard to find an inmate guilty of a disciplinary report. The ombudsman understands this level of evidence to be less than a preponderance of evidence or clear and convincing evidence or any other level. Yet, the CA/O believed the court standard still required **some** evidence and asked the director when he intended to dismiss the disciplinary report and guilty finding.

The facility director said he did not intend to dismiss the report. The ombudsman said if there had been problems with an inmate in the past, the staff may be suspicious, but that suspicion was not evidence. The CA/O repeated the belief the facility needed some evidence to find the inmate guilty. The director said he would dismiss the report. The ombudsman asked the director to fax a copy of the order of dismissal and the director did so. The order also apologized to the inmate for the problems. (940802523)

### **Assaults on staff lead to group punishment**

Two assaults on staff members occurred at Iowa State Penitentiary on February 15, 1994, resulting in several serious injuries. The entire prison went on lockdown status for about two weeks while officials scoured the buildings and grounds for weapons. Then prison officials started a new status they termed "mandatory idle" for inmates they thought were troublemakers. Criteria for placement included: 1) threats against staff or inmates; 2) assaults against staff or inmates; 3) sub-par work or cell evaluations; 4) gang participation, and 5) disciplinary report convictions.

The prison placed about 30 inmates in this status. Eventually officers wrote disciplinary reports against some and they were placed in disciplinary status. Some others were transferred. The rest stayed in idle status and were unable to resume their prison jobs. After a month, the classification committee reviewed the group; seven inmates remained. Three of them had received reports for breaking rules in mandatory idle and the other four remained because staff said they had poor attitudes.

The Citizens' Aide/Ombudsman (CA/O) had many conversations with the prison administration and security staff as well as Department of Corrections leadership. The ombudsman believed the prison developed mandatory idle status in response to an emergency situation, with specific criteria for placement of inmates there. But inmates complained they were placed there not for threats to staff but rather for comments perceived to ridicule the injured staff members. It appeared to the CA/O that inmates were being placed in the status who did not qualify under the specific criteria. The ombudsman pointed out the guidelines did not warn inmates what behavior may place them in mandatory idle.

A case recently reviewed by the 8th Circuit Court of Appeals, *Bressman v. Farrier*, 825 F. Supp. 321, described an inmate who was issued a disciplinary report for an unflattering comment about



a staff member. The comment was in a letter to a person outside the prison, however, and the court said the inmate had a right to express opinions if the safety, order and security of the institution were not threatened. The ombudsman shared a copy of that order with prison officials. They dropped the practice. (940401042)

### **Probation revocation dismissed**

A public health nurse called on behalf of a man who was schizophrenic. He took medication to reduce the symptoms; he also was a heavy smoker and a substance abuser. He had been convicted of forgery and given probation. He violated his probation by smoking marijuana three times. The court sent him to the Correctional Release Center in Newton (CRC) to the Violators Program -- an intense 60-day program designed to reduce the number of parole and probation violators sent to prison. Like all inmates, he first went through the Iowa Medical and Classification Center (IMCC) at Oakdale. And like most inmates taking psychotropic medicine, he was removed from his medicine by Dr. Paul Loeffelholz, medical director at IMCC (see critical report summary elsewhere in this report).

He then went to the Violators Program at CRC, where smoking was not allowed. That, combined with lack of medicine for his schizophrenia, caused the public health nurse to say the man had "no fair chance" to complete the program. The program later removed him for four disciplinary reports, three of which involved smoking. He went to his county jail to await a probation revocation hearing. While in jail, he agreed to start taking his medicine again. However, if his probation was revoked, he would be returned to IMCC where he likely would be removed from his medication again.

The ombudsman made inquiries to prison officials, the man's private psychiatrist and his attorney. Based on our experiences with similar cases, the CA/O suggested the attorney research any connection between lack of medication and subsequent behavioral problems. At the hearing, the judge denied the revocation. The ombudsman believes such a ruling is rare. The judge's order said, "It is not surprising that he would fail in a structured setting without medication. He should not be punished under the circumstances presented." (93-182)

### **Reach out and touch someone**

An inmate at the Iowa State Penitentiary (ISP) said he submitted two memos asking to make collect phone calls to family members serving with the armed forces in France. The prison approved and he made both collect calls. A short time later, he discovered the phone company billed one of the calls to the prison, which took the amount from his inmate account. When the Citizens' Aide/Ombudsman (CA/O) contacted prison officials, they said overseas calls could not be collect.

The ombudsman talked to an AT & T representative for Iowa institutions and learned some European countries would accept collect calls and France was one. CA/O contacted prison officials again, but they refused to follow up on this issue. The ombudsman took the issue to the Department of Corrections central office officials and after several months, they finally agreed to credit the inmate's account for about \$31 charged for the call. (940401168)

### **Brothers' letters stopped**

An Iowa State Penitentiary (ISP) inmate wrote saying the prison would not let him write to his brother at the Iowa Men's Reformatory (IMR). The prisons had allowed both to write. IMR requires inmates to sign a contract on what can and cannot be discussed in letters to relatives in other Iowa prisons. The contract's purpose is to avoid having problems from one prison affecting another prison.



While the brother at ISP was not aware of the contract, prison officials still held him to the contract's terms. When he was suddenly told his letters would no longer be given to his brother at IMR, he was never told why. The ombudsman contacted department officials, who tried to resolve the complaint by letting the brother at IMR write, but not the other. The ombudsman did not believe this was reasonable because the ISP penalized its inmate for failing to meet standards about which he had never been told.

Finally, officials at both prisons and DOC central office agreed with the CA/O's suggestion: Have the brother at IMR sign another contract and review it with his brother at ISP to tell him his correspondence would be held to those standards. IMR officials would review all letters to see if they met the standards. (941103864)

### **Visits restored at medium-security prison**

An inmate's spouse complained the prison changed the visit rules at the John Bennett Correctional Center (JBCC) without notice. Under the new rules, all visits had to be inside the walls of ISP (adjacent to JBCC). Visitors and inmates complained in large numbers about this change. Rumors flew and people complained staff gave mixed messages about reasons for the change. The ombudsman contacted the warden who said there had been a significant increase in the number of "dirty urine's" (urine tests reflecting recent drug usage) for inmates in JBCC.

By visiting inside ISP, visitors had to go through more scrutiny than at JBCC, a medium security unit. The warden said he believed visitors brought in the drugs. The ombudsman talked with inmates, visitors, and penitentiary officials several times during a month-long period. The visiting room at JBCC was finally opened again. Shortly after this, a staff person who was leaving work was arrested for bringing in drugs. (940100116)

### **Improper use of Urine Analysis test machine**

An Iowa State Penitentiary (ISP) inmate complained about getting a disciplinary report for adding water to a jar of honey that had crystallized. The inmate, who had earned the privileged status of "honor lifer," said prison officials tested the jar's contents and found it contained alcohol, a prohibited substance. The ombudsman contacted ISP and questioned whether the machine used could test anything other than urine or blood. Prison officials said the machine could test other items.

The CA/O then contacted the machine's manufacturer and learned the product insert guide states the product is to test for alcohol in "human urine, serum or plasma." A legal advisor for the manufacturer said using the machine to test honey probably would not withstand a court challenge. The ombudsman relayed this to corrections officials and they later dropped the report. (941204194)

## **Department of Human Services (DHS)**

### **Child support payments located**

A mother said she received no child support over several weeks despite a new mandatory income withholding order filed by the Department of Human Services Child Support Recovery Unit (CSRU). The father of her child had been working for several weeks and the employer had withheld \$360, but the money did not reach the mother.

The complainant said she had written to CSRU local office three times without response. She said she had difficulty calling between 1:30 and 3:30 p.m., the only time frame in which CSRU accepts calls. That is a frequent complaint to the ombudsman.



The ombudsman called DHS' Collection Services Center and learned all payments withheld for this order had been sent in error to a case for one of the man's other children. The department issued a new mandatory income withholding order to correct the case number. (940401368)

### **Agencies confuse case numbers on payments**

A man from Nebraska complained the state of Iowa took his tax refund check of about \$700 for past due child support. He denied owing any late child support and said he had made several phone calls to the Child Support Recovery Unit (CSRU) to try to resolve the problem. His case had a mandatory income withholding order in place and he believed his employer had given all the required payments from his pay.

The ombudsman inquired with CSRU, which maintained the man owed the money. The ombudsman reviewed records from CSRU and the complainant. The records showed \$450 in payments deducted by the employer in February 1993 were not credited to the account. CA/O found Nebraska had applied the payment to a wrong account number. The ombudsman told CSRU where to find the error. The man received a check from the state of Iowa to repay the money. (940501597)

### **Slow Medicaid approval frustrates woman**

A woman complained slow verification of her Medicaid spending resulted in a delay of several weeks in obtaining a card which showed she qualified for free medical services and prescriptions. Because of her monthly income, she was required to spend about \$35 every two months before getting free Medicaid. The Department of Human Services calls this the Medically Needy Program.

DHS said it had lost a good worker in its data entry operation which caused a three-week delay in processing the cards. Eventually the workers began to catch up and the processing time dropped to eight to 10 working days. Pharmacies which are willing may call the department and learn whether it appears a person may be eligible for the program, but there are no guarantees of payment. The pharmacies may then provide the medications to patients and send a bill to DHS. Or the pharmacies may require payment by the patient and the patient may submit that receipt to help meet the spending level for the next two-month period.

Pharmacies have computer systems which generally provide instant updates in status. The department does what it calls "batch processing" which takes overnight. It sends computer tapes to California for verification which adds several days to the processing time. When the process works well, it may take three weeks for a person to receive a Medicaid card. CA/O has received similar complaints from other Medicaid users, some of whom say they are forced to do without medication while they await the cards because they cannot find pharmacies which will send a bill to Human Services, and they have no money for the medications. (940802883)

## **County government**

### **County jail corrects cold spot**

An inmate at a county jail called the Citizens' Aide/Ombudsman (CA/O) with several complaints, including a cold jail cell. He said a baseboard heater on the cold, outer wall of the jail did not work. Further, he alleged cold breezes blew through a drafty window in the cell. His cell mate agreed.

The ombudsman called the chief jailer who denied the cell was cold. He said the jail had forced air heat which kept it near 80 degrees most of the time, and the complainant and other inmates



often took off their shirts. He said the baseboard unit was an extra heater designed to help when temperatures fell below a certain point, but it probably wasn't cold enough for it to kick in.

The ombudsman said the inmates complained of extreme cold. The CA/O asked if a thermometer might be placed in the cell and the temperatures written down each day. The administrator declined because he feared the inmates would take it apart and use it to harm themselves or others. The ombudsman asked if jail staff would walk by the cell a few times per night and make notes about how cold it felt and the administrator agreed.

Ombudsman staff called back a few weeks later to learn what the jailers had noted. The administrator was very helpful. He had gained several changes from the building staff. He said there were not enough temperature sensors for the baseboard units and asked another be placed on the outer wall. He said he asked the window be covered in Plexiglas to stop the drafts and to cover exposed bars, a suicide hazard. He said the ombudsman's call had helped convince the building staff to make three long-needed changes. (941103965)

### **Jail worker erroneously opens CA/O mail**

The Citizens' Aide/Ombudsman (CA/O) received letters from two inmates at a county jail. A secretary saw both letters had been opened and resealed with tape. This raised concern because letters from jail and prison inmates to the CA/O are confidential by law. The ombudsman contacted an assistant chief jailer who said he did not believe anyone on staff would open a letter to the CA/O. He invited the ombudsman to visit.

Jail staff which opens the mail said they did not recall opening and taping any envelopes to the CA/O. A security staff member who had worked that day, however, admitted to opening the mail. The administrator said he clarified it should not happen again.

The Citizens' Aide/Ombudsman suggested the jail's rule book be changed to include the word "ombudsman" with "citizens' aide" because some inmates may not know the full title Citizens' Aide/Ombudsman. The ombudsman suggested some other minor changes and closed the case with the note, "Issue resolved in record time with typical speedy follow up by the ---- county jail." (940401311)

### **The Citizens' Aide/Ombudsman reviews jail's notice of suicide**

A jail inmate committed suicide, and the inmate's mother called the ombudsman to question how the family was notified. She did not suspect foul play in the death. To notify the family, however, hospital personnel started dialing numbers from the phone book. They eventually reached the inmate's aunt.

The sheriff's department said in future cases it would send a deputy to the home of the next of kin as the ambulance is en route to the hospital. (93-38)

### **Biting the hand that feeds you?**

An inmate at a county jail complained about an alleged rat bite. He was concerned that the jail refused to pay the \$2,348 bill for a series of rabies shots. The inmate said collection agencies were after him to pay the bill. The ombudsman contacted the jail, which reported the inmate told jail staff he had been feeding the rat for about a week, and it bit him when he tried to pick it up. The inmate was immediately taken to a local hospital, where a doctor found no puncture wound and advised against further treatment. Ombudsman investigators also contacted the Department of Public Health, which concurred with the doctor's advice, adding that a rabies infection would require a deposit of saliva directly into a break in the skin. However, the jail said the inmate



insisted he be treated for rabies. After the inmate signed papers assuming responsibility for the costs, the hospital administered a series of shots. The jail also said it found no evidence of rodents in the inmate's cell block. An exterminator set traps, but caught no rats. (941103708)

## **Municipal government**

### **Must cities provide law enforcement?**

A mayor and clerk of a small town of about 60 people, contacted the CA/O and said the county sheriff would not respond to requests for law enforcement help. She sought help from the county board of supervisors, Iowa Attorney General and a legislator but was not satisfied.

A 1987 attorney general's opinion (number 87-10-4) construed Iowa Code chapter 372 to impose a duty on cities "to provide police protection, either by appointing, at a minimum, a chief of police or marshal, or by contracting with the county or with another city for such protection." With regard to the mayor-council form of government, Iowa Code Section 372.4 states the "mayor ... shall appoint the marshal or chief of police except where an intergovernmental agreement makes other provisions for police protection or as otherwise provided in section 400.13." Section 400.13 provides for appointment of police and fire chiefs under civil service.

The Citizens' Aide/Ombudsman (CA/O) contacted the League of Iowa Municipalities (league) and Iowa State Association of Counties (ISAC). The league disagreed with the attorney general's opinion; it interpreted section 372.4 as merely designating that it is the mayor and no one else who has authority to appoint a police chief in the absence of an intergovernmental agreement. ISAC agreed with the opinion and said it believed counties have no legal obligation to provide general law enforcement services to incorporated towns in the counties. ISAC considered proposing legislation to codify the attorney general's opinion but did not present it.

Instead, the league and ISAC formed a task force to discuss options. The towns may not have the resources to employ or contract for adequate police protection, while counties also have limited funds. Counties believe their sheriffs should be justly compensated for providing law enforcement services to the towns. The ombudsman is monitoring and looking at possible solutions as a member of the task force. (93-161)

### **Ombudsman obtains legal opinion on issue of holding dual offices**

Four residents of a small town complained about a city council member who was also serving as the city water superintendent. One alleged the official was mowing city property but checks were made out to her 21-year-old daughter. Two complained about the quality of the town's water. One questioned whether the official could simultaneously serve as a council member and water superintendent.

The ombudsman referred the water complaints to the Department of Natural Resources (DNR). The ombudsman also contacted DNR and was informed the department was satisfied with the water quality. Regarding the allegation that the official was mowing city property but checks were in her daughter's name, the ombudsman referred the matter to the State Auditor's Office for consideration. CA/O conducted legal research on the question of holding the two offices at the same time and found Code sections 372.13(8) and 362.5 were unclear on the issue. The ombudsman requested an opinion from the Attorney General's Office, which indicated the official could not legally be compensated for both positions simultaneously and that she therefore should not be allowed to continue serving both posts. CA/O referred the opinion to the official and the city attorney. The official ultimately resigned from the City Council. (92-141)



### **The Citizens' Aide/Ombudsman inspects ... a drainage ditch?**

During the Floods of 1993, a property owner in a small town contacted the ombudsman about a drainage ditch on her property. She believed the ditch would not flood as much if city officials dug it out. She alleged the Mayor and City Council were ignoring her requests. An ombudsman investigator contacted the Mayor, who said the city planned to dig out the ditch within six weeks. The ombudsman relayed this information to the property owner and closed the complaint.

The next summer, the woman reported the ditch had still not been dug out. The ombudsman re-contacted the Mayor and experienced difficulty getting information from him. After several efforts to resolve the matter by letter and telephone, an ombudsman investigator went to the town to meet with the property owner, the Mayor and a Council Member. The meeting allowed all parties to see the ditch first-hand. The ombudsman had the woman show exactly what she wanted done to the ditch and asked the Mayor and Council Member to respond to each point. Both sides reached agreement on four steps the city would have done. The CA/O memorialized the agreement in a letter to the Mayor with copies to the property owner and the City Council. Three weeks later, the ombudsman learned the ditch had been dug out and all parties were satisfied. (94-77)

## **Law enforcement**

### **Complainant seeks stop of abuse of daughter**

A woman called to complain a 20-year-old man had beaten her 14-year-old daughter several times. She said the man abused drugs and alcohol with her daughter and they had sex beginning when the daughter was age 13 and the man was age 19. Law enforcement, the mother said, refused to file any charges of statutory rape or assault. The mother said she found three other females ages 16 and 17 the man had abused similarly. He threatened the life of one.

The man made harassing phone calls to the mother. A police detective told her of the telephone company service for tracing calls to the originating number by pressing "star 67" on the phone after hanging up. The Citizens' Aide/Ombudsman (CA/O) encouraged the mother to contact the local women's shelter and speak with knowledgeable people about date rape and dating violence. The CA/O also encouraged the mother to complain to the police department's internal affairs office for a review of the police responses. She was also told she may contact the state Attorney General's Crime Victim Assistance Program and the local women's resource center.

The ombudsman discussed Iowa Code Chapter 236 regarding domestic abuse which generally prohibits abuse between persons who live together but which does not apply to people in dating relationships. That law provides for a protective order or restraining order designed to keep one person away from another, but those people whose relationships which do not qualify under Chapter 236 may require help from an attorney to obtain such an order. Complaints which are not adequately answered by a police internal review may be brought back to the ombudsman. (940602019)

### **Police reminded about child abuse referrals**

A woman complained the Department of Human Services was not responding appropriately to her frequent reports of alleged child abuse involving her two grandsons. The ombudsman reviewed the woman's extensive documentation and found all but one of her complaints were not supported by the evidence. In one complaint, it appeared local police had failed to forward a



report to DHS. At the ombudsman's suggestion, county DHS administrators met with the police chief to discuss the importance of timely referrals of child abuse complaints. The chief then issued an order to remind staff about their policies on child abuse complaints, including timely referrals. Police must immediately tell DHS and forward a written report within 48 hours. DHS was apparently satisfied with the chief's action. The report was unfounded by DHS and the ombudsman found no evidence to show the tardy referral harmed the investigation. (94-66)

## **School districts**

### **Superintendent agrees to discuss state rules**

The ombudsman received a complaint from a school district in which it appeared the superintendent had not advised a parent about filing a complaint under the state rules. The parent had told the superintendent that a bus driver allegedly assaulted her son.

Though not required by law or rule, the CA/O believes when parents allege abuse of a student by a school employee, school officials should advise them of the complaint process under the state rules in Chapter 102.

In this case, the superintendent agreed to always ask people alleging abuse if they are aware of the opportunity to file a Chapter 102 complaint. (See the summary of Critical Report 94-2 elsewhere in this report.)

### **School spending on bond issue nixed**

A southeast Iowa school district held a vote on whether to impose an income tax surcharge to provide more funds. Several taxpayers complained the district wrongly used tax money to support the bond issue. Taxpayer-financed school newsletters backed the referendum. A brochure and newspaper ads did not contain the required disclaimers to indicate a privately funded group paid for them. One support group did not file a timely statement of organization.

The taxpayers had lodged a complaint with the Iowa Campaign Finance Disclosure Commission under Iowa Code Chapter 68B. They argued the commission did not hold a hearing within 30 days as required by Iowa Code Section 58.11. The commission said changes in the law added to the delay. The new law changed the makeup of the commission and its name, to the Iowa Ethics and Campaign Disclosure Board. It also had a change in legal counsel.

The income tax surcharge failed in the first election and was passed by voters one year later. The Citizens' Aide/Ombudsman said the delay did not harm the complainants because the issue failed. The campaign board ordered the school district to recoup the costs of the newsletter's support statements from private organizations backing the tax surcharge. The board also ordered the school district to issue public statements about its errors. It did not recommend criminal charges to the county attorney, however, because it did not find the school district actions to be intentional, willful violations of the law. (93-160)



**State of Iowa  
Code Chapter 2C  
CITIZENS' AIDE**

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

2C.1	Definitions	2C.13	No investigation — notice to complainant.
2C.2	Office established	2C.14	Institutionalized complainants.
2C.3	Appointment — vacancy	2C.15	Reports critical of agency or officer.
2C.4	Citizen of United States and resident of Iowa.	2C.16	Recommendations to agency.
2C.5	Term — removal.	2C.17	Publication of conclusions.
2C.6	Deputy — assistant for penal agencies.	2C.18	Report to general assembly.
2C.7	Prohibited activities.	2C.19	Disciplinary action recommended.
2C.8	Closed files.	2C.20	Immunities.
2C.9	Powers.	2C.21	Witnesses.
2C.10	No charge for services.	2C.22	Penalties.
2C.11	Subjects for investigations.	2C.23	Citation.
2C.12	Complaints investigated.		

**2C.1 Definitions.**

Definitions. As used in this chapter:

- I. "Administrative action" means any policy or action taken by an agency or failure to act pursuant to law.
- II. "Agency" means all governmental entities, departments, boards, commissions, councils or institutions, and any officer, employee or member thereof acting or purporting to act in the exercise of official duties, but it does not include:
  - a) Any court or judge or appurtenant judicial staff.
  - b) The members, committees, or permanent or temporary staffs of the Iowa general assembly.
  - c) The governor of Iowa or the governor's personal staff.
  - d) Any instrumentality formed pursuant to an interstate compact and answerable to more than one state.
- III. "Employee" means any employee of an agency.
- IV. "Officer" means any officer of an agency.
- V. "Person" means an individual, aggregate of individuals, corporation, partnership, or unincorporated association.

[C73, 75, 77, 79, 81, § 601G.1] C93, § 2C.1

**2C.2 Office established.**

The office of citizens' aide is established.

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

**2C.3 Appointment — vacancy.**

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

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

[C73, 75, 77, 79, 81, § 601G.3] C93, § 2C.3



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

The citizens' aide shall be a citizen of the United States and a resident of the state of Iowa, and shall be qualified to analyze problems of law, administration and public policy.

[C73, 75, 77, 79, 81, § 601G.4] C93, § 2C.4

#### **2C.5 Term — removal.**

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

[C73, 75, 77, 79, 81, § 601G.5] C93, § 2C.5

#### **2C.6 Deputy — assistant for penal agencies.**

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

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

[C73, 75, 77, 79, 81, § 601G.6] 84 Acts, ch 1046, § 1 C93, § 2C.6

#### **2C.7 Prohibited activities.**

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

1. Hold another public office of trust or profit under the laws of this state other than the office of notary public.
2. Engage in other employment for remuneration with an agency against which a complaint may be filed under this chapter or that could create a conflict of interest or interfere in the performance of the person's duties under this chapter.
3. Knowingly engage in or maintain any business transactions with persons employed by agencies against whom complaints may be made under the provisions of this chapter.
4. Be actively involved in partisan affairs.

[C73, 75, 77, 79, 81, § 601G.7] 84 Acts, ch 1046, § 2 C93, § 2C.7

#### **2C.8 Closed files.**

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

[C73, 75, 77, 79, 81, § 601G.8] C93, § 2C.8

#### **2C.9 Powers.**

The citizens' aide may:

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



2. Prescribe the methods by which complaints are to be made, received, and acted upon; determine the scope and manner of investigations to be made; and, subject to the requirements of this chapter, determine the form, frequency, and distribution of the conclusions and recommendations of the citizens' aide.
3. Request and receive from each agency assistance and information as necessary in the performance of the duties of the office. Notwithstanding section 22.7, pursuant to an investigation the citizens' aide may examine any and all records and documents of any agency unless its custodian demonstrates that the examination would violate federal law or result in the denial of federal funds to the agency. Confidential documents provided to the citizens' aide by other agencies shall continue to maintain their confidential status. The citizens' aide is subject to the same policies and penalties regarding the confidentiality of the document as an employee of the agency. The citizens' aide may enter and inspect premises within any agency's control and may observe proceedings and attend hearings, with the consent of the interested party, including those held under a provision of confidentiality, conducted by any agency unless the agency demonstrates that the attendance or observation would violate federal law or result in the denial of federal funds to that agency. This subsection does not permit the examination of records or access to hearings and proceedings which are the work product of an attorney under section 22.7, subsection 4, or which are privileged communications under section 622.10.
4. Issue a subpoena to compel any person to appear, give sworn testimony, or produce documentary or other evidence relevant to a matter under inquiry. The citizens' aide, deputies, and assistants of the citizens' aide may administer oaths to persons giving testimony before them. If a witness either fails or refuses to obey a subpoena issued by the citizens' aide, the citizens' aide may petition the district court having jurisdiction for an order directing obedience to the subpoena. If the court finds that the subpoena should be obeyed, it shall enter an order requiring obedience to the subpoena, and refusal to obey the court order is subject to punishment for contempt.
5. Establish rules relating to the operation, organization, and procedure of the office of the citizens' aide. The rules are exempt from chapter 17A and shall be published in the Iowa administrative code.  
[C73, 75, 77, 79, 81, § 601G.9; 82 Acts, ch 1026, § 1]  
88 Acts, ch 1247, §1; 89 Acts, ch 296, §78 C93, § 2C.9

#### **2C.10 No charge for services.**

No monetary or other charge shall be levied upon any person as a prerequisite to presentation of a complaint to the citizens' aide. [C73, 75, 77, 79, 81, § 601G.10] C93, § 2C.10

#### **2C.11 Subjects for investigations.**

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

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

[C73, 75, 77, 79, 81, § 601G.11] C93, § 2C.11

#### **2C.12 Complaints investigated.**

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

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



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

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

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

#### **2C.13 No investigation — notice to complainant.**

If the citizens' aide decides not to investigate, the complainant shall be informed of the reasons for the decision. If the citizens' aide decides to investigate, the complainant and the agency shall be notified of the decision. After completing consideration of a complaint, whether or not it has been investigated, the citizens' aide shall without delay inform the complainant of the fact, and if appropriate, shall inform the administrative agency involved. The citizens' aide shall on request of the complainant, and as appropriate, report the status of the investigation to the complainant. [C73, 75, 77, 79, 81, § 601G.13; 82 Acts, ch 1026, § 2] C93, § 2C.13

#### **2C.14 Institutionalized complainants.**

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

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

#### **2C.15 Reports critical of agency or officer.**

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

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

#### **2C.16 Recommendations to agency.**

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

A matter should be further considered by the agency;

1. An administrative action should be modified or canceled;
2. A rule on which an administrative action is based should be altered;
3. Reasons should be given for an administrative action; or
4. Any other action should be taken by the agency, the citizens' aide shall state the recommendations to the agency. If the citizens' aide requests, the agency shall, within twenty working days notify the citizens' aide of any action taken on the recommendations or the reasons for not complying with them.

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

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

#### **2C.17 Publication of conclusions.**

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

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

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



**2C.18 Report to general assembly.**

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

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

**2C.19 Disciplinary action recommended.**

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

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

**2C.20 Immunities.**

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

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

**2C.21 Witnesses.**

A person required by the citizens' aide to provide information shall be paid the same fees and travel allowances as are extended to witnesses whose attendance has been required in the district courts of this state. Officers and employees of an agency shall not be entitled to such fees and allowances. A person who, with or without service of compulsory process, provides oral or documentary information requested by the citizens' aide shall be accorded the same privileges and immunities as are extended to witnesses in the courts of this state, and shall also be entitled to be accompanied and advised by counsel while being questioned.

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

**2C.22 Penalties.**

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

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

**2C.23 Citation.**

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

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

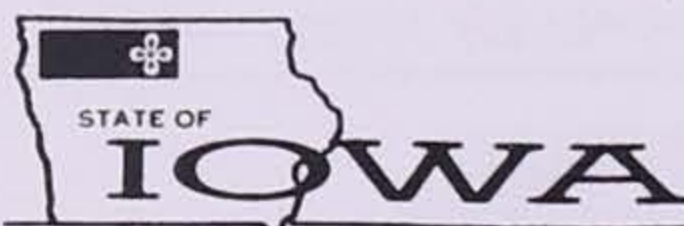


A map of Iowa with county names and their respective percentages of the total population. The data is as follows:

County	Percentage
Allamakee	9
Ashtabula	0
Buchanan	24
Calhoun	26
Cass	22
Cedar	10
Chickasaw	6
Clatsop	0
Clinton	40
Crawford	12
Cerro	47
Delaware	16
Dubuque	30
Des Moines	48
Dickinson	12
Dodge	0
Dallas	51
Davis	2
Dubuque	30
Emmett	5
Fayette	10
Fremont	15
Franklin	11
Greene	6
Hamilton	16
Hardin	24
Harrison	10
Hawley	0
Henderson	0
Hancock	2
Hennepin	0
Howard	4
Humboldt	11
Jefferson	20
Jones	122
Keokuk	16
Kimberly	0
Kossuth	4
Lincoln	145
Linn	3
Louisa	18
Lyon	1
Madison	15
Marion	37
Marshall	56
McCook	0
Monona	5
Monroe	13
Muscatine	26
Mitchell	2
Nemaha	0
North	2
Polk	1170
Pottawattamie	56 - 1.8%
Pocahontas	6
Rock	0
Scott	80
Shelby	12
Sioux	4
Stark	0
Story	113
Union	31
Tama	12
Taylor	6
Van Buren	8
Wabasha	0
Wapello	36
Warren	60
Washington	20
Webster	83
Winnebago	9
Winneshiek	8
Woodbury	59
Wright	24
Yamhill	0

**The Iowa Citizens' Aide/Ombudsman Office received 4759 requests for help in 1994.** Those counties which do not show a percentage made use of our services less than 1% of our total workload. There were 679 or 14.3% of our contacts that came from unknown Iowa locations. Calls from other states about Iowa problems accounted for 121 or 3% of our contacts. We even had 1 request for help from a foreign country.





TERRY E. BRANSTAD, GOVERNOR

DEPARTMENT OF CORRECTIONS  
SALLY CHANDLER HALFORD, DIRECTOR

To: William P. Angrick II  
Citizens' Aide/Ombudsman

From: Sally Chandler Halford *Sally Chandler Halford*  
Director, Iowa Department of Corrections

Date: February 15, 1994

Subject: Response  
Critical Report 94-1  
Case number 91-151

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FEB 17 1994

CITIZENS' AIDE/OMBUDSMAN

The case involving Craig Leslie Gardner occurred on June 30, 1991. As the Director of the Iowa Department of Corrections since January 4, 1993, I will focus on current procedures adopted and/or reviewed since my arrival as well as future plans.

#### Treatment of Mentally Ill

The Deputy Director of Institutions and I met with the Medical Director, Dr. Paul Loeffelholz to discuss and clarify procedures for inmates who come into the Iowa prison system on psychotropic medications. These procedures include:

- A) All inmates who are currently on psychotropic medications will continue to be evaluated by a Medical Doctor.
- B) If the inmate is to remain on the psychotropic medication, this information will be documented and sent to the receiving institution.
- C) If the inmate is taken off the psychotropic medication, then the inmate will remain at the Iowa Medical and Classification Center for a evaluation period. During this time he/she will be closely monitored by the medical staff. A Medical Doctor will then determine if the individual should remain off medication or if they should be administered medication and what type of medication.

If the inmate is placed back on the medication, then the procedures outlined in B above will be followed.

William P. Angrick II  
February 17, 1994  
Page 2

If the inmate is to remain off the medication after this observance period, then the medical staff will document what behaviors the staff should watch for as well as information about the inmate and his condition.

At the Penitentiary they have added a psychologist to their new employee orientation schedule in order to advise staff how to recognize potential mental problems with inmates, and how to make a referral to the Psychology Department. They will also be reviewing all forms related to the various court orders under which they operate and identify any deficiencies that may exist.

#### Use of Force

The Warden at the Iowa State Penitentiary has taken some steps to improve our ability in handling situations that may require the use of force. The Warden has moved members of our CERT (Correctional Emergency Response Team) team to the second shift. This team is trained more thoroughly than the other staff in handling situations involving force as well as use of equipment such as chemical agents. This will allow ISP to better utilize these officers throughout the time inmates are out of their cells instead of just the first shift, thus a specialized team to deal with violent or unusual circumstances is ready.

Our Department Use of Force policy is going through an extensive review by legal experts and our own Corrections Officials. Mr. William Collins, a noted legal expert in the Corrections field, has reviewed our policy and has made some recommendations and we are in the process of reviewing them. The policy will include de-escalation techniques, as well as step by step instructions on the type of force to be used.

#### Training

The penitentiary has updated the employees training requirements to insure that all of the staff is properly trained in the area of use of force. This includes cell extractions, chemical agents, and defensive tactics.

We are also developing a TQM (Total Quality Management) program for our training program. The group will consist of a variety of correctional employees throughout the state. We will include members of central office, the training academy, wardens, correctional supervisors, and input from A.F.S.C.M.E.

Our intention for this TQM project is to evaluate our training on an on-going basis and incorporate the best new techniques and ideas into current training. We want to improve and emphasize inter-personal skills of all our staff. Use of force will be part of a comprehensive program on inmate management.



William P. Angrick II  
February 17, 1994  
Page 3

The Wardens at the Institutions are required to review all Use of Force reports and forward them to the Deputy Director and me, for our review. We are routinely doing this with videotapes or audio-tapes when available. We are then using these for further training and as a learning tool.

#### Conclusion

These immediate and short-term goals are intended to improve on the quality of our prison system.



RECEIVED

JUN 30 1994

RESPONSE TO CRITICAL REPORT 94-2 BY DALE HENRIKSEN  
CITIZENS' AIDE/OMBUDSMAN

Following is a response to the Critical Report issued by the office of CA/O. I have not attempted to address everything in the lengthy report that I believe might need to be commented upon, but hopefully the following will help anyone who might read the report to better understand the situation.

I received second hand information through Board member Bauman that an allegation had been made against staff member, [REDACTED] on or about March 21, 1992. The investigating law enforcement officer, Sergeant Fosse, had specifically admonished Board member Bauman not to share this information with me for fear of interfering with his investigation. That admonition was shared with me by Board member Bauman who decided to share it with me anyway. The information shared was an unproved allegation. I had no other basis to believe that the allegation was necessarily true. I generally operate under the presumption of innocence.

The law enforcement officer's direct admonition was perceived by me as critical to a successful investigation (so potential evidence would not be altered or destroyed) and also thereby to the potential success of taking employment action against [REDACTED] should that be warranted. To disobey the directive that was received might constitute interference with official acts, a crime in and of itself.

[REDACTED] participated in the Springbrook trip on March 26 and 27 as he traditionally had done over the years. He was a science teacher and science instruction was a main focus of the trip. I perceived the circumstances at Springbrook as reasonably safe due to the group setting and multiple adult chaperones per building. It was a difficult decision regarding Springbrook that involved weighing several competing considerations and I tried as always to treat as paramount the interest of the children.

I received information regarding a complaint relating to Springbrook indirectly in early April. The information had been given to a teacher at a parent-teacher conference, then passed along to the Principal and eventually to me. At the time of the receipt of information, [REDACTED] had been arrested and was to be out of school for the remainder of the year. Eventually he resigned in June and surrendered his license during the summer.

The information given regarding Springbrook was not clearly indicative of wrongdoing and the CA/O did not conclude that it was. The complaint as received could be perceived as a "locker room type" situation and would not have involved anything necessarily inappropriate or intentionally sexual. There was no information furnished alleging that [REDACTED] activities were necessarily provocative.

Law enforcement had requested information regarding any

information that we might have that could be possibly construed as inappropriate or sexual. I told Principal Hemphill to relate the Springbrook complaint to Sergeant Fosse when he told me about it and he did. I was told that Fosse said that he was previously aware of the matter.

The person who originally related the Springbrook complaint did not indicate that the person wished it pursued per Chapter 102. At no time did anyone ever complete a 102 complaint in this situation. Persons are annually notified of the Chapter 102 process as required by the rules. The CA/O believes that I should have automatically treated the information as a 102 complaint as I am the level 1 102 investigator as well as Superintendent. There is nothing in the 102 rules or in the 102 training that mandates 102 treatment for this complaint.

I told CA/O that I believed that patron complaints should be addressed and followed up upon promptly in some way but not always per 102. I thought that the matter was adequately addressed by giving the information to law enforcement, especially in light of the circumstances at the time, i.e. [REDACTED] arrest, the nature of the Springbrook information was ambiguous and appeared less serious than the charge on which [REDACTED] was arrested, the fact that he was inaccessible for questioning, etc.

Local Board policy at that time in my estimation was intended to be parallel to 102. Therefore, I don't believe that local policy required 102 investigation of this circumstance either. The 102 rules literally require a written signed, witnessed complaint for investigation. Local policy assumedly did the same.

The CA/O suggested that I should have followed up with the source of the complaint to determine whether a separate 102 investigation was desired by the complainant. Again, I thought giving the information to law enforcement was the appropriate response at the time. In the future, I have no problem with following that suggestion.

It should be noted that even if the information had been treated as a 102 complaint immediately, an option existed for referring the matter to law enforcement whether or not a statutory violation was involved under the rules that existed at that time. Also, our 102 training has repeatedly suggested that if we have any questions about a situation to refer the matter to law enforcement. I thought that they were better suited to deal with this entire situation.

At the time the information regarding Springbrook was received, [REDACTED] was arrested and out of school for the remainder of the year and represented by a professional representative and counsel. I had no direct access to him for questioning. I was working with an attorney, Rick Engel, regarding his status.



Later on, a group of citizens asked additional questions about the various options for investigation of Springbrook. A group of persons came to a July 13 Board meeting unannounced. Unsure of my ability to share confidential personnel information in light of my own knowledge and admonishments of counsel, we set up another meeting with the group for July 27. On July 27, the group made known that they wished Springbrook to be separately investigated. I called the Story County Sheriff's Office on July 28 and the call was returned on July 29. I told the Sheriff's office that patrons wanted Springbrook separately pursued. I was told that the matter would be pursued. Some confusion existed in the Story County Sheriff's Office regarding jurisdiction, i.e. criminal jurisdiction versus 102 jurisdiction. I discussed these matters with them. As of March 1993, we now have a signed agreement with the Story County Sheriff's Department to clarify this relationship.

The District has also since 1992 revised its Board policies to separate the policy relating to mandatory child abuse reporting from the policy on 102 student abuse by school employees to avoid potential confusion. We will again review our policies in light of the CA/O suggestions.

I attempted to deal with the [redacted] situation carefully and appropriately, concerned with the welfare of the students but also necessarily mindful of the rights of the accused. I have also attempted in good faith to provide all materials requested and answer all questions posed by the CA/O fully and honestly. The [redacted] situation was a unique circumstance. It hopefully was one of a kind in my career. To the date of the CA/O inquiry, I had never had a written 102 complaint filed. I was in touch with counsel and worked closely with him on various matters relating to the [redacted] situation and attempted to follow professional advice.

As a result of the criminal investigation and our efforts in the employment sphere, a resignation was obtained from [redacted] and his teaching license was permanently surrendered on a voluntary basis. This was accomplished without the necessity of litigation. These are the ultimate potential consequences of the 102 process as they relate to an employee. By July 1992, [redacted] had resigned and his license surrender was imminent and expected.

Respectfully submitted,

*Dale Henricks*

Dale Henricks, Superintendent

6/28/94

Personnel

Major Area

4000

Series

Rights, Responsibilities & Duties

Subdivision

Policy Title Abuse of Students By School District Employees Code No. 4116.25

Physical or sexual abuse of students, including inappropriate and intentional sexual behavior, by employees will not be tolerated. The definition of employees for the purpose of this policy includes not only those who work for pay but also those who are volunteers of the school district under the direction and control of the school district. Employees found in violation of this policy will be subject to disciplinary action up to and including discharge.

The school district will respond promptly to allegations of abuse of students by school district employees by investigating or arranging for the investigation of an allegation. The processing of a complaint or allegation will be handled confidentially to the maximum extent possible. Employees are required to assist in the investigation when requested to provide information and to maintain the confidentiality of the reporting and investigation process.

The school district has appointed a Level I investigator and alternate Level I investigator. The school district has also arranged for a trained, experienced professional to serve as the Level II investigator. The Level I investigator and alternate will be provided training in the conducting of an investigation at the expense of the school district. The names of the investigators shall be listed in the student handbook, published annually in the local newspaper and posted in all school facilities.

If a school district employee or other member of the school district community believes a student has suffered abuse, which shall include sexual and physical abuse, by a school district employee in the course of their employment, it shall be reported to the superintendent immediately. The superintendent shall be the designated investigator for abuse complaints against school district employees. However, complaints regarding abuse by school district employees may also be reported to the high school guidance counselor, who shall be the alternate designated investigator for such complaints. The Story County Sheriff's department shall be the Level II investigator.

The superintendent is responsible for drafting administrative regulations to implement this policy.

Date of Adoption: July 28, 1993



Personnel _____	Major Area _____
4000 _____	Series _____
Rights, Responsibilities & Duties _____	Subdivision _____

Policy Title Child Abuse Reporting Code No. 4116.24

In compliance with state law and to provide protection to victims of child abuse, the board believes incidents of alleged child abuse should be reported to the proper authorities. Employees are encouraged, and licensed employees are required as mandatory reporters, to report alleged incidents of child abuse that they become aware within the scope of their professional practice. The definition of child abuse is in the accompanying regulation.

When a reporter suspects a student is the victim of child abuse, the mandatory reporter shall orally or in writing notify the Iowa Department of Human Services. If the reporter believes the child is in immediate danger, the local law enforcement agency shall also be notified. Within forty-eight hours of the oral report, the reporter shall file a written report with the Iowa Department of Human Services.

Within six months of their initial employment, mandatory reporters shall take a two-hour training course involving the identification and reporting of child abuse. The course shall be re-taken at least every five years.

Iowa law requires licensed employees to report to the Iowa Department of Human Services (DHS) instances of suspected child abuse which they become aware of within the scope of their professional practice.

The law further specifies that a licensed employee who knowingly or willfully fails to report a suspected case of child abuse is guilty of a simple misdemeanor and that the licensed employee may be subject to civil liability for damages caused by the failure to report.

Employees participating in good faith in the making of a report or in a judicial proceeding that may result from the report, are immune from liability.

#### Child Abuse Defined:

"Child abuse" is defined as:

- any nonaccidental physical injury, or injury which is at variance with the history given of it, suffered by a child as the result of the acts or omissions of a person responsible for the care of the child.
- The commission of a sexual offense with or to a child . . . as a result of the acts or omissions of the person responsible for the child...Sexual offense includes sexual abuse, incest, and sexual exploitation of a minor.
- The failure on the part of a person responsible for the care of a child to provide for the adequate food, shelter, clothing or other care necessary for the child's welfare when financially able to do so. A parent or guardian legitimately practicing religious beliefs who does not provide specified medical treatment for a child for that reason alone shall not be considered abusing the child...
- The acts of omissions of a person responsible for the care of a child which allow, permit or encourage the child to engage in acts prohibited pursuant to Iowa Code, section 725.1, which deals with prostitution.

Teachers in public schools are not "persons responsible for the care of the child" under this definition. However, a teacher who abuses a child is subject to civil, criminal, and professional sanctions.

#### Reporting Procedures:

Licensed employees, including teachers and school nurses, are required to report, either orally or in writing, within twenty-four hours to the Iowa Department of Human Services when the employee reasonably believes a child has suffered from abuse within the scope of employment. Within forty-eight hours of an oral report, a written report must be filed with the DHS.

Each report should contain as much of the following information as can be obtained within the time limit. However, the law specifies a report will be considered valid even if it does not contain all of the above information.

- name, age, and home address of the child;
- name and home address of parents, guardians or to the persons believed to be responsible for care of the child;
- the child's present whereabouts if not the same as the parent's or other person's home address;
- description of injuries, including evidence of previous injuries;
- Name, age, and condition of other children in the same home;
- any other information considered helpful; and,
- name and address of the person making the report

Board policy states it is not the responsibility of employees to prove that a child has been abused or neglected. Employees should not take it upon themselves to investigate the case or contact the family of the child. The DHS is responsible to investigate the incident of alleged abuse.

Date Of Adoption: March 1971; Revised September 1982; Revised February 26, 1987; Revised August 21, 1989;  
Revised April 13, 1993; Revised July 28, 1993

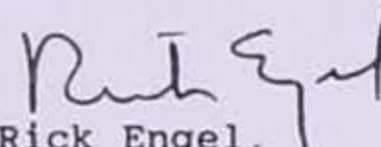


RESPONSE TO CRITICAL REPORT 94-2 BY RICK ENGEL

As an attorney, I work extensively with school districts and have for a number of years. I was a member of the Model Policy Committee that provided input to the Department of Education, specifically Kathy Collins, Legal Counsel, who drafted the Chapter 102 rules. I have had numerous occasions to attempt to apply and interpret 102 rules and to discuss such interpretations with Kathy Collins, the author of the rules. Based on that background, I believe that it is clear that there is no duty to automatically treat a complaint received as a 102 complaint without a signed, witnessed 102 complaint. It has been my experience that often-times complainants do not wish complaints channeled into 102 necessarily. Further, I see some disadvantages to channeling every complaint to 102 that could be argued to fit the definitions. This is not to say such complaints are ignored. They are investigated for possible employment consequences.

So to the extent that the office of CA/O believes that Dale Henricks was remiss for failing to automatically treat the Springbrook complaint as a 102 complaint and investigate as such, I disagree. I also disagree that local policy necessarily required a different outcome based on my reading of the policy.

Respectfully submitted,

  
Rick Engel,  
Attorney at Law

RECEIVED

JUN 30 1994

CITIZENS' AIDE/OMBUDSMAN

AGREEMENT

THE STORY COUNTY SHERIFF AND THE ROLAND/STORY COMMUNITY SCHOOL DISTRICT (the parties) AGREE THAT:

- ...In keeping with the philosophy of the Story County Sheriff's Office to provide comprehensive law enforcement to the communities within Story County.
- ...The school district and sheriff's office can cooperate in providing a safe and wholesome atmosphere which in turn will enhance the education experience for all students.
- ...Safety, welfare, and discipline problems in the school are problems for the community and must include the efforts of the whole community to facilitate a resolution which will ultimately serve the best interests of all involved.

THE PARTIES FURTHER AGREE THAT:

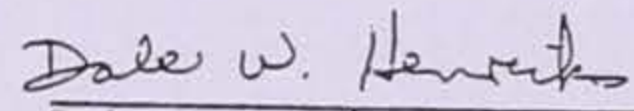
- ...Areas of mutual concern may include but not be limited to: problems surrounding drugs, alcohol and tobacco; and assaults, injuries, or attempted injuries to students, faculty, support staff, or any other person on school property or attending a school function.

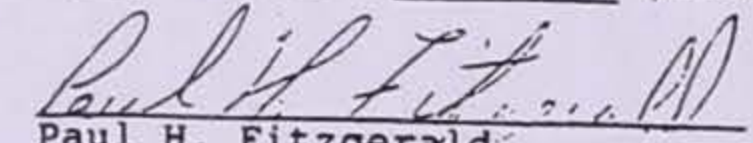
THE PARTIES FURTHER AGREE THAT:

- ...The Code of Iowa, as amended, shall be recognized as the primary authority to determine matters of confidentiality.
- ...The Story County Sheriff's Office may be utilized as the level II investigator by the Roland/Story Community School District.
- ...All matters of public and individual safety, criminal offenses, and other matters of mutual concern will be timely communicated to the Story County Sheriff's Office by the school district.
- ...Communique of questions, concerns, or information by the school district shall not necessarily mean official law enforcement action is to be taken by the Sheriff's Office.
- ...The Story County Sheriff's Office may be called upon at anytime as a resource for the Roland/Story Community School District.

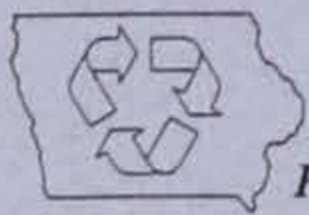
This agreement shall remain in full force and effect until such time as it is modified or terminated by the parties mutual and written consent.

This agreement entered into on this 19 day of March, 1993.

  
Dale Henricks  
Superintendent  
Roland/Story School District

  
Paul H. Fitzgerald  
Sheriff  
Story County, Iowa





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