

# 2008 Annual Report

## FROM THE OMBUDSMAN'S CASE FILES

Public Records and Open Meetings	5
Human Services	9
Corrections	13
Other Agencies	21
Local Government	23

## INSIDE

Outlook for Mentally Ill Remains Bleak	3
Government Websites	4
A Message to Public Officials: Democracy Relies on Transparency	6
Family Connections Needed	10
15th Anniversary of the "Small Business Ombudsman"	11
Extra Milers	12
Prisons and Jails: You Must Set a Good Example	14
Toll-free Numbers	27

## Ombudsman's Message:

### Government Accountability in Times of Stress

Calendar year 2008 was another busy year for the office. The Ombudsman and his staff received 4,711 contacts last year from the general public, government officials, and prisoners—a 3.66 percent increase from 2007. As I write this column, we have closed almost 95 percent (4,459) of the complaints received in 2008.



Bill Angrick  
Iowa Ombudsman

Of those closed cases, there were:

- 2,769 complaints about state or local government agencies within our jurisdiction
- 995 information requests on Iowa law or agencies within our jurisdiction
- 47 special or administrative projects
- 648 complaints or information requests about agencies outside the Ombudsman's authority

A small sampling of the more common complaints we received pertained to matters such as nuisance actions, zoning denials, open meeting violations, unfair child-support assessments, rude or unresponsive workers, and conditions in prisons and jails. We provided assistance or opened investigations in 1,216 of the 2,769 jurisdictional complaints received in 2008. In most of the other cases, we requested that complainants first attempt to remedy their problem using more direct, established procedures with the agency in question. In some of the cases, we determined there was no merit to the complaints.

We substantiated citizens' complaints, in full or in part, in 17 percent of the cases we investigated or where we assisted citizens with a resolution of their complaint. Put another way, in cases we investigated in 2008, we found that government acted unfairly, unreasonably, contrary to law or rule, or without adequate explanation nearly one in five times.

Information requests to our office included questions like, "How do I protest my property-tax assessment?" or "Who inspects food vendors in my county?"

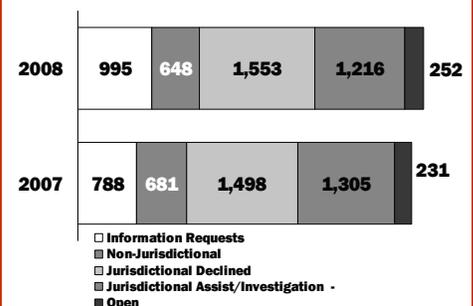
Our special projects may involve the monitoring of existing laws, proposals on legislative changes, legal action to enforce the powers of the office, or outreach and training for citizens, groups, and government agencies.

### The Ombudsman's Role

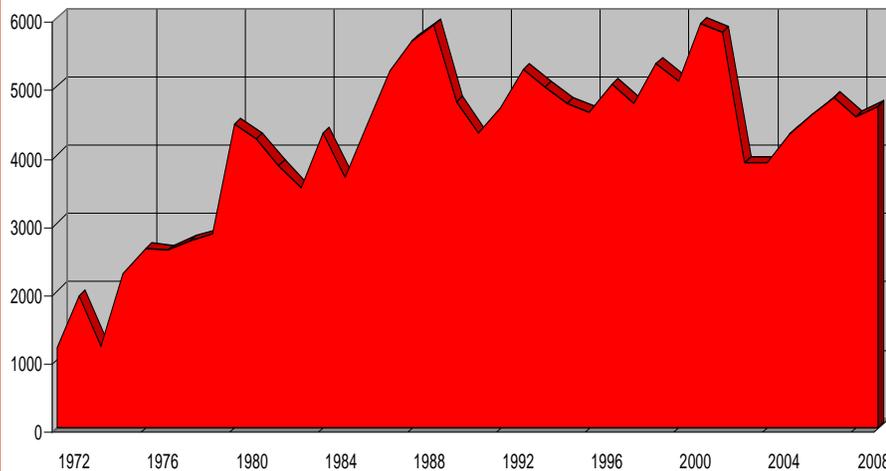
Issuing findings and publishing reports are important functions of the Ombudsman's work. However, resolving differences or

(Continued on page 2)

### Types of Complaints Received



### Annual Contacts to Ombudsman Since 1970



This chart shows the number of contacts received by the Ombudsman's office each year from 1970 through 2008

Accountability—(Continued from page 1)

righting wrongs can be achieved in a number of different ways. Many times, where we determine a complaint is valid, we try to rectify the matter through persuasion, mediation, an open discussion of alternative solutions, or formal recommendations.

Another way for the Ombudsman to undertake change is through the proposal of legislation. We spent significant time and effort since 2007 in working groups and with various committees to review and modernize Iowa's Public Records and Open Meetings laws. While these studies and legislative debates have thus far failed to produce much-needed change, the discussions have raised the awareness of our state legislators to the issues we continue to field complaints about. Hopefully, these ongoing discussions will streamline future efforts to improve the laws.

#### *A Challenging Year*

Calendar year 2008 was a year that tested Iowans' mettle. Natural disasters that tragically took lives and caused economic devastation also brought out the best across our state. Government officials and employees rose to meet the challenge, as did non-profit organizations and individual citizens. During our time of grief and recovery, Iowans also contributed generously to our commonwealth and future.

My office received few complaints about the delivery of the emergency services and the post event response and recovery. However, two members of my staff were designated to help coordinate information and to refer citizens to the appropriate persons and agencies.

As our nation's investment, financial, and insurance institutions struggled or collapsed under an economic crisis, it became clear as the year ended that

we face additional challenges. It may take a long time for better economic times to come again. If that is the case, my office may have to adjust our expectations of how government fulfills its responsibilities and delivers services. Obviously, a priority will be placed on complaints relating to health, safety, and basic human rights. In challenging times, I also believe that one of our more important roles will be to identify more efficient and effective ways for government to fulfill its functions. My office will adjust as the situation requires.

#### *Our Work With Friends Abroad*

One of the more enjoyable and interesting activities for me each year is meeting with foreign visitors. In March 2008, members of my staff and I met with a "rule of law" group from Tajikistan, coordinated by Iowa Sister States. Included in that group was a representative of the Tajikistan Bar who serves on a committee considering ombudsman legislation. I was able to share model legislation and information about ombudsman principles and standards. Tajikistan has since established an ombudsman's office and just recently named its first ombudsman.

In April, staff from my office received several Nigerian women representing different sectors and professions as part of a meeting sponsored by Iowa Resources for International Service.

For three days in October, my staff and I received an official delegation of the Ombudsman of Thailand. Iowa Senator Daryl Beall assisted us in this effort and participated in several of the activities. Delegates also were treated to a special tour of the State Capitol.

After careful investigation, research, and analysis, the ombudsman makes recommendations to resolve complaints that are found justified. Additionally, the Ombudsman may provide information and answer questions relating to government.

## Outlook for the Mentally Ill Remains Bleak

*It was once said that the moral test of Government is how that Government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life, the sick, the needy and the handicapped.*

— Hubert Humphrey



Linda Brundies  
Assistant 1

So, how is Iowa doing?

- Glenwood Resource Center, one of Iowa's state-run institutions for the developmentally disabled, had a much higher-than-average death rate in 2008 when compared with previous years. According to the Department of Inspections and Appeals, Glenwood was fined \$32,500 in 2008, which included a treble-damage fine for repeated violations. Many of these fines were due to quality of care and medication error issues. The Resource Center has been fined \$3,500 so far in 2009. The nonprofit Iowa Protection and Advocacy issued a report on April 7, 2009, recommending Glenwood's closure. The report accused the Department of Human Services (DHS) of being "neither effective nor efficient" in managing its facilities and said that media reports on DHS' "mismanagement and misinformation" were a "significant embarrassment to the state."
- The town of Atalissa made national news when 21 men with mental or developmental disabilities were found living in substandard housing, working for approximately 44 cents an hour. The men had many health and dental issues that apparently had been ignored.
- The waiting list for uninsured or low-income individuals to receive county subsidized mental health services in Polk County is so large that it takes nearly five years to become eligible for assistance.
- Jails and prisons remain Iowa's de facto mental health facilities. A recent analysis of Iowa's prison population indicated that 41 percent of inmates suffer from some sort of mental illness. More than 26 percent suffer from serious and persistent mental conditions such as dementia, bipolar disorder, schizophrenia, psychosis, or major depression. The Ombudsman continues to field contacts from mentally-ill inmates and their families alleging insufficient or inappropriate medication, lack of professional treatment, and unfair discipline, among other things.
- Iowa received a "D" from the National Alliance on Mental Illness (NAMI) in its 2009 "Grade the States" report. The report ranks

individual states and the country as a whole for their mental health programs and services. The country as a whole also received a "D."

With all of these issues in mind, the Citizens' Aide/Ombudsman decided to begin tracking mental health-related cases in January 2008. The purpose of this initiative was to see how mental health issues were impacting complainants and their issues.

The goals of this improved tracking are to:

1. Identify how many people claim they were adversely affected by their mental illness.
2. Identify other ways to improve the state's delivery and availability of mental health services.

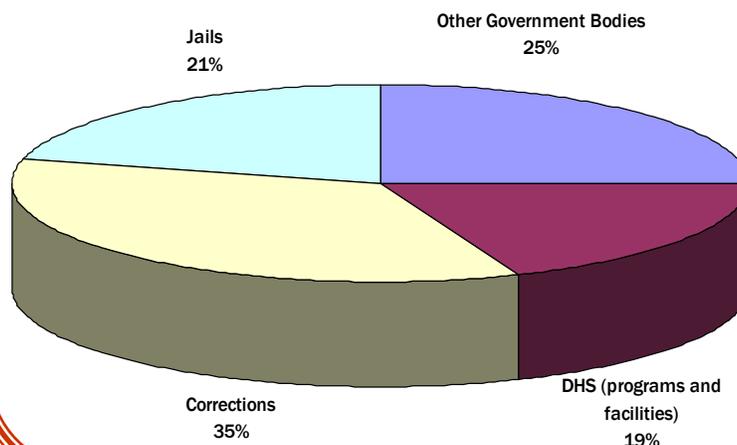
The mental health aspect of any complaint that reaches our office has to be articulated by the complainant or the government agency in question. In 2008 we received 160 such complaints. Below is a chart of the mental health-related issues we received by agency.

Last year, our office received several complaints suggesting that counties were having difficulty with the civil commitment and placement of mentally ill jail inmates. This prompted us to conduct a survey of counties and their civil commitment processes to pinpoint the source of the problems.

Taken as a whole, the results of our survey suggested that committing the mentally ill was not nearly as difficult as finding placement for them. Almost every county reported a lack of treatment beds and difficulty in finding placement for committed individuals. In addition, we found that the persons responsible for finding placement varied significantly among the counties. One county we heard from requires families to find placement for their mentally ill relatives. It is our belief that family

(Continued on page 4)

### 2008 Mental Health Related Cases to the Ombudsman



*Mentally Ill (Continued from page 3)*

members under stress should not have to bear the additional burden of finding placement for their loved ones. We also believe there should be consistency among counties as for who should handle commitment issues.

Fortunately, there were some positive developments in 2008. In Atalissa, Iowa agencies banded together and assisted the 21 disabled residents of the boarding house there to quickly find them safe living conditions and programming. Subsequently, the Governor formed a task force, recommendations were made, and a law was passed to regulate boarding houses to try to prevent a recurrence of the situation in Atalissa.

While Iowa received a "D" from NAMI this year, the grade was an improvement over 2006, when we received an "F." The NAMI report stated that:

Iowa's elected officials deserve credit for recognizing the need to improve the state's community mental health system. Governor Chet Culver and Lieutenant Governor Patty Judge have made improving access to services a key goal, and in 2007 the legislature called for stakeholders to make recommendations as part of a Mental Health Systems Improvement (MHSI) initiative. The initiative came on the heels of creating a new Mental Health and Disability Services (MHDS) division.

Iowa agencies, with the help of the federal government, stepped in to address the mental health issues of people affected by natural disasters. Project Recovery Iowa, run by the Iowa Department of Human Services, assisted 92,390 people in their Crisis Counseling Program from August 15, 2008, to March 8, 2009.

There is much good work being done in Iowa for our most vulnerable citizens, but we have a long way to go before we can claim the moral high ground we should aspire to. There are many reports from many different agencies and advocacy groups that outline the problems with Iowa's mental health system. Many of these reports propose solutions that have yet to be adopted. Without more drastic action, the system of care for the mentally ill in Iowa will remain as it is—broken.

## Top Ten Government Websites

We've put together a list of ten websites that will quickly put you in touch with almost any facet of state and local government in Iowa. This is certainly not an exhaustive list, but one that should help you get started in finding whatever you might be looking for.



1. Official State of Iowa website—[www.iowa.gov](http://www.iowa.gov)
2. State agencies—<http://phonebook.iowa.gov/agency.aspx>
3. Legislative—[www.legis.state.ia.us](http://www.legis.state.ia.us)
4. Judicial—[www.judicial.state.ia.us](http://www.judicial.state.ia.us)
5. Cities—[www.iowaleague.org/](http://www.iowaleague.org/)
6. Counties—[www.iowacounties.org](http://www.iowacounties.org)
7. Public school districts and Area Education Agencies—[www.ia-sb.org](http://www.ia-sb.org)
8. Iowa law—[www.legis.state.ia.us/IowaLaw.html](http://www.legis.state.ia.us/IowaLaw.html)
9. "Sunshine Advisories"—[www.iowaattorneygeneral.org/sunshine\\_advisories/](http://www.iowaattorneygeneral.org/sunshine_advisories/) (primers on the Open Meetings and Public Records laws)
10. Citizens' Aide/Ombudsman—[www.legis.state.ia.us/ombudsman](http://www.legis.state.ia.us/ombudsman)

## How To Reach Us

**Citizens' Aide/Ombudsman  
Ola Babcock Miller Building  
1112 E. Grand Avenue  
Des Moines, IA 50319-0231**

**1-888-426-6283**

**(515)281-3592**

**Fax: (515)242-6007**

**TDD: (515)242-5066**

**[ombudsman@legis.state.ia.us](mailto:ombudsman@legis.state.ia.us)  
[www.legis.state.ia.us/ombudsman](http://www.legis.state.ia.us/ombudsman)**



## Public Records and Open Meetings

### Math Whizzes, Sharpen Your Pencils

As far as weird votes go, the actions of a library board in south central Iowa may take the cake.

With no advance warning to the public, the library board's president called mid-meeting for a vote on raises for its staff. The measure was approved 4-1, but the president declared that the vote had failed without further explanation. We later learned, because the full membership of the board was nine, a majority of the full board was needed to pass a resolution, which necessitated five affirmative votes. As it happened, a sixth board member who was in attendance chose not to participate in the vote and abstained. A seventh board member was absent, and two seats were vacant.



We received a complaint about the board's vote, not because of the vote count, but because the issue was discussed without 24 hours advance notice on a posted agenda, as is called for by Iowa law. Exceptions for the 24-hour requirement can be made, but only in cases of emergency where the issue was not expected to come up. This did not appear to be such a case.

Adding to the confusion was the revelation that the library board had already approved these raises two months earlier. Or so it was thought. A review of the minutes from that meeting indicated that this measure, too, passed without the five requisite votes.

And to muddle matters even further, we learned that two of the three employees whose pay would have been affected by the raises no longer worked for the library.

In light of the board's failure to inform the public in advance of the second vote, and because the first vote lacked the necessary support, we recommended that the library board re-vote the issue anew. The board agreed, and this time the raises were properly approved.

City officials volunteered to monitor the library board's compliance with the Open Meetings law for six months, and the board's secretary agreed to improve her record-keeping of meeting minutes.

### Here is the Meeting – But Where is the Agenda?

A man wanting to attend a county Planning and Zoning Commission meeting complained to us that the commission's agenda had not been posted. He attended the meeting, but felt that the public should have been notified of what topics the meeting would cover. Iowa Code section 21.4 requires a governmental body to give notice of the time, date, and place of each meeting and its tentative agenda. We learned from the county assessor that the agenda was created, but never posted by his secretary. The assessor explained that his secretary was new on the job and did not realize she was supposed to post the entire agenda. The assessor assured us that agendas would be posted in the future, and the complainant was encouraged to contact us again if problems persisted.

### Public Records, Open Meeting Resources

- Every month the Attorney General's office publishes an easy to read "**Sunshine Advisory**" which interprets the basic nuts and bolts. Go to: [www.state.ia.us/government/ag/sunshine\\_advisories/index.html](http://www.state.ia.us/government/ag/sunshine_advisories/index.html)
  - The Iowa Freedom of Information Council publishes the **Iowa Open Meetings, Open Records Handbook**. Twelfth edition copies can be obtained (for a fee) by calling the Council at (515)271-2295 or go to: [www.drake.edu/journalism/IFOICWebSite/index.html](http://www.drake.edu/journalism/IFOICWebSite/index.html)
  - In 2004 the Attorney General's office, the Iowa State Association of Counties, and the Citizens' Aide/Ombudsman office conducted a two-hour **Public Records Law Training Course for Public Officials** over the Iowa Communications Network. The tape is available by contacting Assistant Ombudsman Angela McBride at 1-888-426-6283 or by contacting ISAC at [www.iowacounties.org](http://www.iowacounties.org)
  - Local government officials can also get more information and training from the Iowa League of Cities, the Iowa State Association of Counties, and the Iowa Association of School Boards.
- If these resources do not answer your questions, please contact our office, your attorney, or the attorney working for the governmental body.

## A Message to Public Officials: Democracy Relies on Transparency

How many times, as a public official, have you felt like citizens and the media don't understand your job or your role in government? How often have you been asked, "What do you do?"



**Angela McBride**  
Assistant for  
Public Records,  
Open Meetings,  
and Privacy

Public officials should take pains to explain to every citizen what we do and why we do it. Citizens' trust in us depends on it. For government to work as intended, we must do everything possible to encourage and facilitate an active and informed citizenry. We can achieve that goal by providing access to public records and meetings and by giving citizens an opportunity to voice their concerns and opinions. Fostering public participation in your decision-making will minimize criticism and earn you credibility on those occasions when you have lawful reasons to keep a public record confidential.

It is true that some citizens would rather learn about their government from the comfort of their living room or coffee shop—or only when the matter at hand directly affects them. But make no mistake, just because citizens don't turn out for every meeting does not mean they are not paying attention.

Citizens often rely on the media to do much of their research and to ask difficult questions for them. If you fail to write informative agendas or provide adequate notice of your meetings, if you take official actions without an open discussion, you may quickly find yourself under a media microscope.

True, there are fewer reporters these days who are following your actions day to day. But you still have the power to get ahead of potential controversies by making a commitment to provide information to the public in advance of your decisions. By making it easy for citizens to find information, over time, the public will begin to understand the challenges you face in running government.

Government historically has been slow to reinvent itself. In the interest of serving the public, technology is one easy means of doing just that. What do you know about e-mail and the Internet? Does your government have a website? Do you employ a public information officer, or a records officer (as is required by Iowa Code section 22.1) who knows the requirements of the Public Records law, and who knows how to use technology to comply with that law? You may find that technology can assist you in delivering

information to the public more efficiently and effectively.

### *Our Annual Statistics for Public Records, Open Meetings, and Privacy Issues*

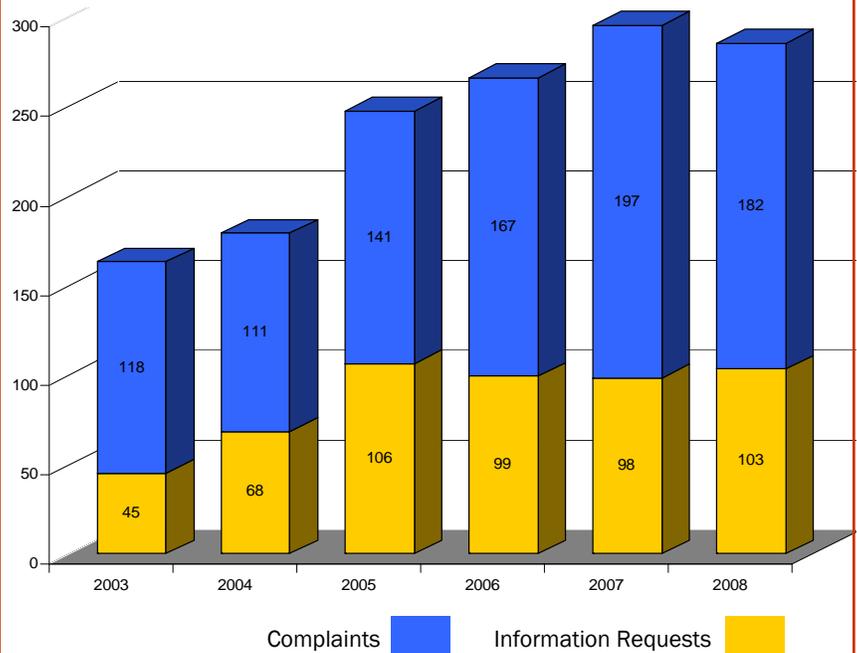
In 2008 we opened 303 cases relating to public records, open meetings, or privacy—down slightly from 318 contacts we received in 2007. Of these 303 cases, 182 were categorized as complaints—31 of which were substantiated or partially substantiated by our investigations. We were engaged in 11 special projects such as training sessions and legislative recommendations. This special category represented more than 15 percent of all the Ombudsman's cases in 2008

### *Training, Training, and More Training*

In 2008 I spoke to 208 law enforcement officers, 22 internal affairs investigators, and 30 city clerks regarding "what we do," with a focus on public records, open meetings, and privacy. I also worked with state librarians and sent all of the state's 543 public libraries a letter reminding them of the requirements of the Open Meetings law. As a result of that communication, I have made presentations to several other groups during the first half of 2009,

*(Continued on page 8)*

### Public Records, Open Meetings, and Privacy Jurisdictional Complaints and Information Requests Received by the Ombudsman



## Meeting Concerns Again and Again

A woman from northwest Iowa contacted our office when she noticed that minutes from her city's meetings were not being published within 15 days, as state law requires.

When we contacted the city, officials attributed the publication delays to the city clerk, who had just been deployed overseas. The acting clerk told us she was familiar with the law and promised to abide by it. A little more than a year later, however, we received word that the problem had resurfaced since the return of the city clerk.

We then reviewed the publication dates of nine city council meetings held prior to the city clerk's deployment and six other meetings, most of which followed the clerk's return to work. We determined that only one set of minutes from those 15 meetings was published within the 15-day period prescribed by law.

The city clerk accepted our recommendations to regularly comply with the 15-day publication requirement, and agreed to work with the local newspaper to ensure he meets the timeline for publication in the future.

## Penny-Per-Record Fee Still Too High



A businessman protested an estimate from an assessor in northeast Iowa who wanted to charge him more than \$1,400 for an electronic list of all the county's properties. Such requests are fairly common and are readily retrievable in the computer age with a

minimum of effort.

The businessman knew that state law allows government agencies to charge only the actual cost of fulfilling a records request, but he failed to convince the assessor's information-technology staff. He was told that a county policy mandated a charge of a penny per parcel for property records. Because his request totaled tens of thousands of properties, the bill reached \$1,409.58, even though the job of compiling and transferring the data to a compact disc could be performed in about an hour and a half.

When we called county officials to question the reasonableness of the fee, they had already received word from the county attorney that their fee policy should reflect actual costs.

With our input, the county subsequently eliminated its per-parcel fee, and the businessman received his information plus a \$2.25 refund on the \$50 check he attached to his request.

## You're Protecting Whose Interests?

A library board in western Iowa met to discuss a complaint against a library employee, but did not indicate at the meeting what section of law allowed it to do so in private.



When we asked the board to explain its reasons, an official said a closed session was held to protect the employee's reputation. However, the employee told us she requested that the discussion take place in open session. Iowa law allows government agencies to go into closed session for personnel matters only when the employee asks for it.

In our review of the closed-session audiotape, one board member is heard saying, "We do not need to keep minutes or anything." Later, with the employee in attendance, a board member called for the meeting to move into "executive session" so the employee could be excluded.

When the employee questioned the use of an executive session, a board member replied, "I've been at [company name] long enough to know my board talks about me in executive session, and then asks me to come back in. It's completely legal. And we got advised before we did it." The board later entered into the executive session without the employee present.

Iowa law has no provision for "executive sessions." Under Iowa's Open Meetings law, there is no secondary level of closed session like the "executive session" discussed and entered into by the library board.

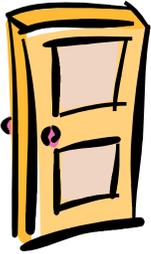
Based on our conversations with the complainant and our review of the library board's agenda, minutes, and tapes, we had immediate concerns that the board had violated Iowa law. We referred the matter to the Iowa Attorney General's office for its review. The library board subsequently entered into a written agreement with the Attorney General promising to follow the provisions of Iowa's Open Meetings law.

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**The ombudsman system is based on the principle that everyone has a right to have his or her grievances against the government heard, and if justified, satisfied. The Office of the Citizens' Aide/Ombudsman provides Iowans a non-partisan independent agency where action can be taken to resolve their complaint.**

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## Superintendent Did Not Request Closed Session for Evaluation



A woman from eastern Iowa alleged that a school board had closed a public meeting without voting or stating its reasons, as state law requires. Iowa Code section 21.5(1) allows a governmental body to hold a closed session, but only upon the vote of either two-thirds of its full membership or all members present. When we investigated, we also found that the school board kept no minutes of the closed meeting, as is required by Iowa Code section 21.5(4). When we reviewed an audiotape of the closed session, we found that the board had given a reason for closing the meeting—to evaluate its superintendent. Its reason for closure, however, was not justified under the law. Iowa Code section 21.5(1)(i) allows a session to be closed to evaluate the professional competency of an individual if the individual requests a closed session, but in this case, the superintendent did not request a closed session. The school board accepted our recommendations to acquaint itself with the closed-session provision of the Open Meetings law and to obtain training.

way of example, we noticed this spring some agencies began to disclose basic information about candidates for high-profile jobs at the same time lawmakers debated whether a new law was needed to address that topic. We also have heard use of the term “walking quorum,” a tactic which has been used by some governments to avoid opening sensitive meetings to the public.

What’s in store for 2010? We have noticed a disturbing trend with regard to governments’ protective treatment of electronic records. The fact is, government stores most of its records electronically. By storing data and records electronically, vast amounts of information can be saved, reorganized, and catalogued in ways that make it more user-friendly. Unfortunately, we have seen many local governments treat these records more cautiously and disseminate them much less liberally. At a minimum, we’d like to see more clarity in the law on how electronic records should be treated. Another issue on our radar screen is how “advisory bodies” are defined in the law as they pertain to whether meetings must be open to the public. We know of two court cases that highlight inadequate language now in the Code. We believe this will also be a priority of ours during the 2010 legislative session.

Transparency—(Continued from page 6)

and we are developing plans for more presentations in the summer and fall.

We are working closely with the Iowa Attorney General when agencies need a little extra persuasion to follow the law. I believe we are off to a good start on this joint effort, as most agencies under investigation are cooperating with our inquiries and addressing our concerns. Overall, I am pleased to work with the Attorney General’s office to make good government better.

### *Important Legislative Initiatives— Discussion Without Passage is Not Wasted Time*

The last two legislative sessions have resulted in a great deal of time and energy spent trying to repair the Public Records and Open Meetings laws. We sent several communications to legislators to provide insight into the recurring problems we have seen in our casework. By the waning days of the 2009 session, however, it became apparent that a bill to reform these laws (HF 777) was not going to pass.

Even if our proposals are not passed, just having a discussion on the issues symbolizes progress. These ongoing debates bring media attention and input from professional associations that educate public officials and citizens alike. As a result, we have seen agencies fixing problems on their own with policies that parallel the proposed legislation. By

### *Good Work Protecting Citizens’ Personal Information*

Personal privacy is the elephant in the room for transparency advocates. Nobody likes to discuss it, but concern about identity theft cannot be ignored. Requiring Social Security numbers to be redacted from public records before they are made available for inspection may be expensive, but it is clearly the right thing to do. Since I accepted my position in 2003, I have seen a lot of progress by government agencies to protect citizens’ personal information. More agencies must become conscientious of the information they collect, how it is stored, and how that information can be protected through written policies and procedures.

### *Need Training?*

It is inexcusable that some government agencies continue to act in defiance or ignorance of the Public Records and Open Meetings laws. If these laws remain a mystery in your agency, I suggest you request training from professional associations such as the Iowa League of Cities or the Iowa Association of Counties, or from the Ombudsman. Due to budget constraints, we have begun asking agencies for reimbursement of the actual costs of our travel to conduct these presentations. However, this office is committed to educational initiatives that will make good government better. Please see the resources on page five to find information for yourself. If you still have questions, please give us a call.



## Human Services

### Bringing Death Investigations to All State Institutions

While investigating a death at a state mental health institution, it came to our attention that county medical examiners were not required by law to conduct preliminary investigations at these facilities.

This discovery struck us as potentially inconsistent since state law did require such investigations at prisons, jails, and other correctional institutions. In a survey of the nine facilities operated by the Department of Human Services (DHS), we learned that only four had been notifying the local county medical examiner of all deaths occurring there. We later learned that certain types of deaths at all of these facilities were being reported to licensing agencies, but not to medical officials who could independently assess whether signs of neglect or abuse existed that could justify an autopsy to pinpoint a cause and manner of death.

Recognizing that all DHS facilities house vulnerable populations, the Ombudsman proposed legislation in the 2008 legislative session to require preliminary investigations by county medical examiners of the deaths of any persons confined to a state mental health institution, a juvenile facility, or a state resource center.

The language from our proposed legislation was ultimately included in Senate File 2425, which was passed in both houses and was signed by the Governor on May 13, 2008. An amendment that was added to the final bill also requires DHS to pay the cost of preliminary death investigations.

### Still Getting Only Half the Story

Failures by the Department of Human Services (DHS) to interview alleged child abusers before issuing founded abuse reports against them have continued, despite the attention we gave to the problem in 2007.

Iowa law and DHS policy require the agency to offer an interview to any caretaker who is alleged to have committed child abuse prior to its final determination of the case. This requirement assures that accused individuals receive due process before any of their rights are taken away.

However, in late 2007 a central Iowa woman reported to us that DHS determined she had committed child abuse without offering her an interview or an opportunity to be heard on the matter. The woman, a mother of one child and stepmother of two others, was in the midst of a custody battle with her ex-husband when she received a letter from DHS notifying her that a child abuse allegation had been founded against her and she would be put on the child abuse registry. Prior to receiving the letter, the woman said she knew nothing about any allegations of abuse.

Through our investigation, we confirmed that DHS never offered the woman an interview prior to issuing its report. Because we had previously substantiated similar cases in 2006, we made formal recommendations to the DHS director in 2008 to remedy this problem. DHS was responsive to all of our recommendations.

The agency trained staff to ensure that those accused of abuse were offered an interview before a founded assessment could be issued. In addition, DHS redesigned its electronic forms to require workers to indicate whether reasonable efforts had been made to offer an interview to the person accused of abuse. Supervisors now must approve a worker's entries on interview efforts before a report can be finalized.

DHS followed up on its training with quality assurance reviews that found no examples of cases where staff had failed to make reasonable efforts to interview a person before they were founded for abuse or neglect.

The Ombudsman also has been working with DHS to ensure the agency completes its child abuse investigations within 20 business days of a child abuse allegation, as the law requires, and that subsequent addendums are also completed within 20 days. We also asked DHS to provide timely notification of its investigations' findings to parents and those accused of abuse.



## Family Connections Needed

The Iowa Department of Human Services (DHS) determined that 13,329 children were victims of abuse and neglect in 2007. Although this figure seems high, it actually represents a 10 percent decline in founded abuse cases since 2005, when DHS reported an all time high of 15,060 such cases.

Data from Iowa's Child Death Review Team (CDRT) shows that very young children are disproportionately at risk for abuse, including homicide. According to CDRT, six times more children under the age of 1 are victims of homicide than children between 1 and 17. On average, eight to nine children are homicide victims in Iowa each year. The CDRT also found that 49 young children were shaken or slammed to death from 1995 to 2007.

In response to these reports of abuse, the Iowa Legislature this year passed a statewide Shaken Baby Syndrome prevention program. Senate File 101 requires the Department of Public Health to work with experts to develop a plan to use a collaborative approach to reduce Shaken Baby Syndrome. The law became effective July 1, 2009.

Despite the decline in founded abuse cases and the special attention given to reducing incidents of Shaken Baby Syndrome, I find the statistics devastatingly sad. I remain guarded in my optimism about protecting children from abuse because indicators associated with higher risks of child abuse remain high. More children raised in a single-parent household live in poverty, lack health care, and have parents using illegal drugs than those in a two-parent environment. Many Iowa families are now forced to cope with the recession, high unemployment, and the impacts of disaster recovery. Children needing mental health and mental retardation services sit on waiting lists, often for years. Organizations dedicated to social, protective, and court services, which are often relied upon to prevent child abuse by providing family support services, face increased budgetary problems and a growing demand for help. Finding the resources to meet the demand of protecting our most vulnerable population should be everyone's concern. Clearly, governmental and non-governmental services are instrumental in the prevention of child abuse.

For anyone who wants to know how they can help prevent child abuse, abundant resources are available from federal and state governmental agencies and private organizations. I suggest that interested parties start by reviewing the materials available from Prevent Child Abuse Iowa at [www.pcaiowa.org](http://www.pcaiowa.org), the Department of Human Services at [www.dhs.iowa.gov](http://www.dhs.iowa.gov), and the Child Death Review Team at [http://www.idph.state.ia.us/hpcdp/medical\\_examiner\\_cdrt.asp](http://www.idph.state.ia.us/hpcdp/medical_examiner_cdrt.asp).

While support from a variety of sources can make



*Barbara Van Allen*  
Assistant for  
Child Welfare

a big difference to a family, I would especially encourage relatives to offer support to a struggling parent or at-risk children as soon as possible. Child care can be stressful even for the most experienced parent, under optimal circumstances. Helping a family to meet its essential needs, improve its strengths and resources, locate important information and referral assistance, and find respite time from child care could keep a family together. Your help could also prevent child abuse and removal from their parents or foster care. When it is necessary to remove a child from the family home, relatives can provide assistance or an alternative home so the child does not lose all connections to their family. It is important for these children to have family connections with safe and stable relatives.

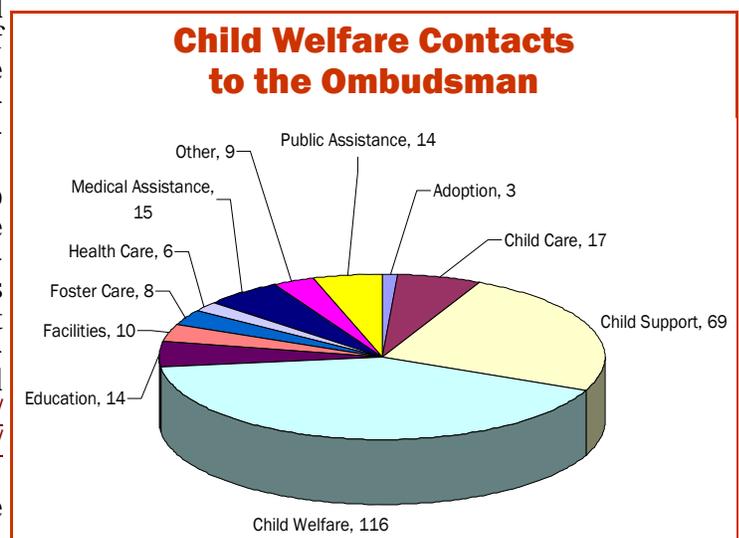
Hopefully, these intervention efforts by relatives will now be easier with the passage of the Fostering Connections to Success and Increasing Adoptions Act of 2008, enacted in October 2008. For more information on this law, see: [http://www.dhs.iowa.gov/docs/Fostering\\_Connections.pdf](http://www.dhs.iowa.gov/docs/Fostering_Connections.pdf).

Generally, this new federal law amends the Social Security Act to:

- extend and expand adoption incentives through FY2013,
- create an option to provide kinship guardianship assistance payments,
- create an option to extend eligibility for Title IV-E foster care, adoption assistance, and kinship guardianship payments to age 21,
- de-link adoption assistance from Aid to Families with Dependent Children (AFDC) eligibility,
- provide federally recognized Indian Tribes or consortia with the option to operate a Title IV-E program.

A more detailed summary of the revised Social Security Act can be found at: <http://www.ncsl.org/statedfed/humserv/SummaryHR6893.htm>. Also, a chart comparing the changes made as a result of the new

*(Continued on page 11)*



## Ombudsman Facilitates Communication Between Two State Agencies

Authorities from out of state reported difficulty in reaching a worker with the Iowa Department of Human Services who was charged with monitoring the safety of a Kentucky child living with his aunt in Iowa. The child's mother, who came to Iowa to be closer to the child, alleged that the aunt refused to let her see the child. The child's mother also said that Iowa officials were not providing any services to her. We found communication shortfalls on the part of both states' child welfare agencies, and provided the Kentucky agency with the proper contact information in Iowa.

## DHS Resolves Problem Quickly

Our office received a complaint that the Department of Human Services (DHS) stopped paying Medicare premiums for a mentally disabled person who lived in an intermediate care facility for the mentally retarded. We investigated and found that DHS had mailed the person's annual review form to the facility, but the facility apparently did not receive it. Since the form was not returned to DHS, the disabled person was automatically terminated from the program. DHS allowed the facility to re-apply and obtain benefits for the individual retroactively.

*Connections—(Continued from page 10)*

law can be found at: <http://www.dhs.iowa.gov/docs/Compare.pdf>.

I have spoken to many relatives of abused children who did not know the child needed support or a place to live until too late—after the children were permanently placed with foster or adoptive parents. Of course, my wish is that families have the awareness—and the courage—to get involved before the government has to act.

Fortunately, recent changes in the states' notification provisions may improve opportunities for extended family participation or placement during the early stages of a child's case. The Fostering Connections Act requires that DHS exercise due diligence to identify and notify all adult relatives of a child within 30 days of the child's removal from his parents' home. Except in cases where domestic violence has occurred, DHS will now timely identify and provide notice to all adult grandparents and other adult relatives of the child (including any other adult relatives suggested by the parents) that:

- the child has been or is being removed from the custody of the parent or parents of the child;
- explains the options for relatives to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice;
- describes the requirements to become a foster family home and the additional services and supports that are available for children placed in such a home; and
- describes how the relative guardian of the child may subsequently enter into an agreement with the state to receive financial support.

I believe that a child's extended family, well informed, is the simplest and best preventative to child abuse.

## 15th Anniversary of the "Small Business Ombudsman"



*Kristie Hirschman*  
Assistant for  
Small Business

2009 marks the 15th anniversary of the "small business ombudsman" position in the Office of the Iowa Citizens' Aide/Ombudsman. It should come as no surprise that small business continues to remain big business in Iowa. More than 97 percent of Iowa's employers were defined as small employers, according to statistics published in 2008 by the United States Small Business Administration's (SBA) Office of Advocacy. That amounts to 64,129 small businesses in a state of just over 3 million residents. Small business also created nearly 62 percent of the state's new jobs from 2004 to 2005.

The Ombudsman has always answered questions and investigated complaints from small businesses about state and local government. We have performed this service at no cost, in an independent manner, and in confidence, when appropriate. But our relationship with small business was incidental and sporadic until 1994, when the position of "small business ombudsman" was officially established. Since we began tracking small business complaints electronically in 2003, we have received 479 complaints or inquiries from small businesses.

Among the matters with which we provide assistance are disability issues, environmental regulations, sign location, tax problems, permit issues, and zoning disputes. We have answered questions and reviewed complaints about audit legislation, financing, Internet regulations, the legislative process, legal notices, tire disposal, permitting issues, underground tanks, and rule waivers, to name just a few. The complaints have come from bird dealers, cab companies, gas stations, junkyards, mussel buyers, tow truck operators, mobile food vendors, home health care agencies, and a host of other industries.

As the small business ombudsman, I am actively engaged in reviewing and commenting on administrative rules that affect Iowa's employers. I also have proposed legislation to benefit small business owners, which includes the 1998 passage of the Environmental Audit and Privilege Immu-

*(Continued on page 12)*

## Extra Milers



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



**Wayne Cooper, Iowa Department of Revenue and Finance**—for his prompt and thorough responses and pro-active approach to resolving complaints. He was able to resolve a matter which resulted in the disabled complainant receiving a refund of his rent rebate which had been erroneously attached.



**Ken Runde, Dubuque County Sheriff**—for his offer to refund application fees to 18 citizens who were denied concealed-weapons permits. Without much urging, Runde recognized his nonrefundable \$20 fees were not authorized by state law, and rather than trying to justify the charges, he said he would seek changes to the law.



**Captain Mike Simons, Jail Administrator, Jefferson County Jail**—for his professional cooperation with our investigation and reception to our office's recommendations. He welcomed our recommendations as a challenge for him to improve his jail's operations. His attitude stood out as exemplary while working with our office to address a difficult and serious issue.



**Ken Smid, Assistant Director for Residential Services, Fifth Judicial District, Department of Correctional Services**—for being a public administrator with high standards of responsibility and accountability throughout his career.



**Staff of the State Library of Iowa**—for being extremely helpful and courteous, obtaining needed items, and providing free classes to assist Iowans to best use available research tools. Our jobs are easier because of their knowledge and assistance.

*Small Business—(Continued from page 11)*

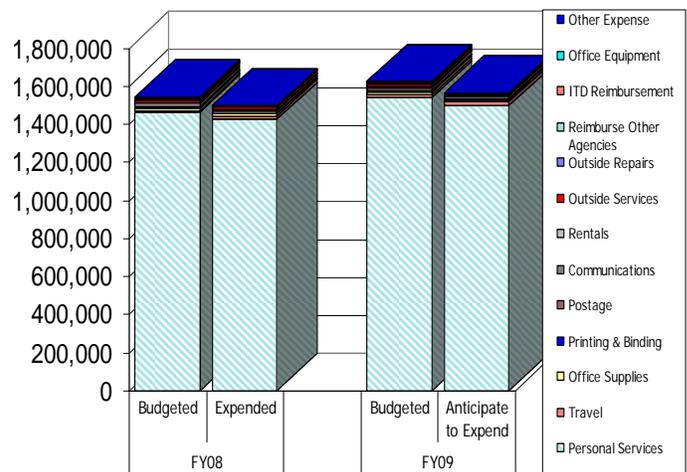
nity Act, which can immunize businesses that conduct environmental audits from civil penalties when they promptly volunteer information to the state about environmental violations.

I also have had the pleasure of hosting and participating in several regional "Regulatory Fairness Hearings" where small business owners are invited to comment on federal regulations they might consider unfair or excessive. Businesses from Iowa communities were able to participate in the fairness hearings via the Iowa Communications Network.

Additionally, I serve as a member of the Iowa Business and Regulatory Assistance Network. This "network" is comprised of business assistance coordinators from state agencies who meet monthly to coordinate communication and streamline services for citizens, small business, industry, and local governments.

Having been a small business owner for years, I understand the challenges small businesses face on a daily basis, and I look forward to providing them with continued ombudsman services in the future.

### Office of Citizens' Aide/Ombudsman FY08 & FY09 Financial Information



*The above information is presented to meet the requirement that state government annual reports to the General Assembly include certain financial information.*



## Corrections

### Risky Relationships Go Unchecked

We received a report of overly friendly contacts at a medium-security prison between a female kitchen employee and a male inmate. The inmate who reported the actions said it appeared that the employee was giving her inmate friend preferential treatment. This report, if true, might also pose a security risk.

When we looked into the allegations, we found that a recently concluded investigation had led to the employee's resignation. With any immediate security concerns allayed, we sought to find out whether the employee had been adequately supervised and, if not, whether the prison had responded appropriately to any concerns it had.

In our review of the investigative reports and in interviews with prison staff, we learned that the kitchen employee had been investigated three times in 13 months for a variety of inappropriate conduct with offenders. We learned that the employee did not receive any mentoring to address the issue until a year after the first report was received. The employee's supervisor admitted to us that she "didn't make an extra effort" to get the employee into training that would have addressed this type of conduct. We also found the supervisor did little to attempt to observe the employee during work hours to prevent further misconduct.

The handling of the investigations led the Ombudsman to recommend top-level review of the prison's internal investigations to ensure proper training and to prevent future incidents of misconduct. The Ombudsman also asked prison officials to counsel the former employee's supervisor about the dangers of over-familiarity between staff and offenders. Prison leaders, who fully cooperated with the Ombudsman, adopted all the recommendations, and said the investigation "brought to light some opportunities" for improvements.

### A Lifetime is a Long Time

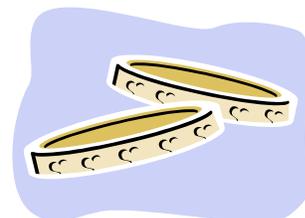
A convicted sex offender who was initially told he would have to register with the state for ten years called us when he was later informed he would have to register for the remainder of his life.

We found that the confusion stemmed from a vague sentencing order that failed to specify which subsection of crime the man committed. The specific crime could mean the difference between a Class C and Class D felony—a crucial distinction in the area of sex offender registration.

A closer analysis of the man's court file indicated that the man was indeed convicted of the lesser felony. When we shared that information with the Iowa Department of Public Safety, the agency agreed that the man was subject only to the ten-year registration period and reversed its determination.

### A Matter of Constitutional Rights

An imprisoned sex offender asked for our help when a warden denied his request to be married to a woman outside the institution.



Our office thought this issue had been long resolved after we settled a similar complaint in 2000. At that time, we observed that Iowa's prison wardens were inconsistent in their reviews of marriage applications and were deciding these questions based on their own personal beliefs. We then pointed corrections officials to a U.S. Supreme Court decision which held that incarcerated individuals had a constitutional right to be married, barring a specific security concern. State officials then agreed to observe the case law and to change their policy.

The warden in this case, who had recently been recalled from retirement, denied the prisoner's marriage application mainly to prevent him from later moving into his fiancé's home, where their children resided.

We reminded the warden that citizens can choose to marry whomever they want, and he could only deny a marriage if it posed a security risk within the prison walls. We also pointed the warden's attention to state laws that might prevent the inmate from living with his children, regardless of whether his wife lived there.

The warden agreed to reverse his decision and approve the marriage application.

### Our Services Are Available to:

- **All residents of the State of Iowa, including those confined in state institutions.**
- **Persons from other states and countries who may have complaints against agencies of Iowa government.**

## Prisons and Jails: You Must Set a Good Example



**Eleena Mitchell-Sadler**  
Assistant for  
Corrections

My first year as corrections ombudsman was more challenging, but also more rewarding, than I ever could have imagined. In last year's annual report, I ended my column by saying that leadership and training at the Iowa Department of Corrections (DOC) make a difference. Since then, leaders in both the prison and jail settings have incorporated an Ombudsman presentation into their

training, which has given over 400 rookie and veteran employees information about the Ombudsman's interest in corrections issues. This made for a very busy year on the road for me.

Fiscal year 2009 marked the first year the Ombudsman's office had been a part of DOC training for new employees. Because I had been a DOC employee for many years, I understood the value of adding an Ombudsman piece into DOC's staff training agenda. I felt it was important for all corrections staff to understand the Ombudsman's role, so I made a pitch to the Director of Training and the DOC Director to add an Ombudsman overview to their schedule. Without hesitation, the DOC officials agreed to include the Ombudsman in training for new employees beginning in FY 2009.

My presentation last year included a brief history of the Iowa Ombudsman, our office structure, and the numbers and types of complaints we receive from offenders. I have been invited back to participate in training in FY10 as well.

In addition, the Iowa Jail Training Coordinator asked me to make presentations as part of periodic training for existing jail staff. Having made this two-hour presentation to employees of 52 different sheriff's departments in five different counties thus far, I believe the time has been well spent, as the response has been very positive. Although many jail staff had heard of our office, most had not directly communicated with us and were unclear about the Ombudsman's role and jurisdiction.

During training, I assign "complaints" to small groups and ask them to work through the issues as if they were ombudsmen. The groups discuss whether further inquiry is necessary, and if so, which questions should be posed to the offender and the institution being complained about. We also go one step further, to determine what staff might have

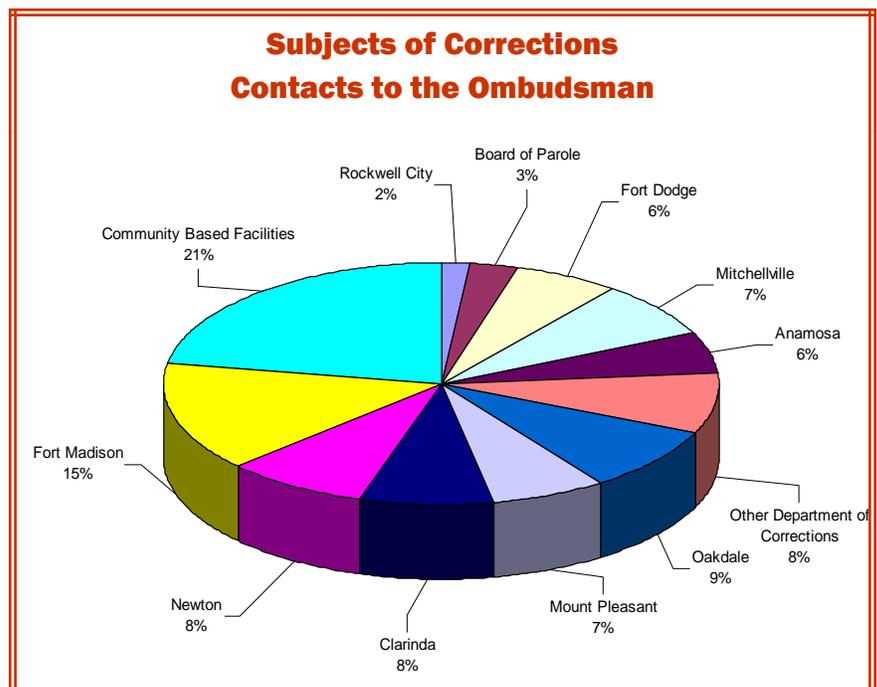
done to prevent the complaint in the first place. During this process, I have discovered that many of the participants have good problem-solving skills. Generally, they recognize the importance of being flexible and explaining their actions to offenders, when possible.

One thing I try to make clear at these presentations is that the Ombudsman is not an advocate for the offender, or for any person who contacts our office. We are impartial fact finders. However, when the facts show that an agency has acted inappropriately, unreasonably, or contrary to its own policies, we may morph into what appears to be an advocate in an attempt to help make the affected person whole, and to reduce the likelihood of repeat problems.

At one training session, I was asked to talk about the most difficult complaint I'd had to investigate. After giving a specific example, I explained that, in general, it is very disheartening when the facts show an employee has conducted him or herself unprofessionally or abused their authority. It saddens me to know that some people in a position of power would choose to mistreat an inmate simply because they "hold the key."

All corrections employees are given great responsibility and a wonderful opportunity from the moment they walk in the gate to touch lives in a positive way. Many offenders have not had the mentors or guidance necessary to develop socially acceptable behaviors. Other offenders have been taught not to trust "the uniform" or authority figures of any kind. That distrust and disrespect for authority can deepen when

*(Continued on page 18)*



### Lost in the Shuffle

A woman who was transferred between jails while awaiting trial was found by a friend to have gone without medication for a bipolar disorder for two months.

When we contacted the originating jail's nursing director with our concerns, she discovered that the inmate was transferred before she could keep a scheduled appointment with the psychiatrist responsible for writing her prescription. Jail officials could not explain the premature transfer.

The nurse promptly had the inmate transported back to the main jail for a new appointment and a prescription.

### An Honest Day's Wage for an Honest Day's Work



An inmate alleged that he was underpaid for work he had performed inside a medium-security prison as a plumber and a painter.

We reviewed time sheets and memos provided by the inmate, and discussed pay rates and job responsibilities with prison officials. We learned that inmate painters received 34 cents an hour, while inmate plumbers made 10 cents more.

An employee who oversaw operations in the inmate's living unit denied the inmate pay as a plumber, arguing that he had assigned him to work only as a painter. We found documentation, however, showing that correctional officers had indeed ordered the inmate to do plumbing work, which would have entitled him to the higher wage.

However, we found it was impossible to know how many hours the inmate had worked as a plumber because officers were not precise in their record-keeping of inmate work hours. We also found that inmates were not given work assignments in writing to settle disputes such as this one.

We ultimately estimated that the inmate might have worked about 45 hours for which he went unpaid. The inmate claimed to have worked about twice as many hours, but we determined he was merely "on call" during those hours, meaning he would only be paid if he was called to do work. We also noticed the inmate, in some cases, was paid a lesser wage than was called for. The warden agreed with our suggestion to credit the inmate's account with \$21 in back pay.

The prison also agreed to consider our record-keeping concerns as part of a review of its inmate pay practices.

### 'Welfare' Check

#### Found to be an Oxymoron



We decided to investigate how a mentally disturbed man died in the custody of prison officials while awaiting trial.

The man, we discovered, was imprisoned as a "safekeeper," meaning a judge had ordered him to undergo a mental-health evaluation to determine whether he was fit to stand trial. An autopsy concluded that the man appeared to have been dead in his prison hospital bed for nine hours before prison officials discovered it. The autopsy revealed that the man had choked to death during a seizure.

We found that prison staff failed to do adequate hourly welfare checks of the man, as required by law. Video we reviewed showed that officers, on a few occasions, walked by the man's room at a distance without looking inside. When they did look inside, we found it would have been difficult for them to see the man well enough to observe his vital signs, unless he was standing near the door.

The prison's warden agreed that staff could have been more attentive in their welfare checks. A prison policy was subsequently reworded to require staff who perform the hourly checks to ensure the patient is "living and breathing."

### Can We Talk....

....to your organization or group? Staff from the Ombudsman's office is available to give talks about our services. Brochures and newsletters are available in quantity.

Address: Ola Babcock Miller Building  
1112 E. Grand Avenue  
Des Moines, IA 50319-0231

Phone: 1-888-426-6283  
515-281-3592

Fax: 515-242-6007

TDD: 515-242-5065

### **Inmate Left Empty-Handed**



A man alleged he was released from prison in June 2007 without the \$100 cash that inmates are entitled to under state law.

Aware of the law, we asked the prison to explain its actions and learned that officials there believed the man had received his so-called “gate fee” just months before. Under state law, an inmate is eligible to receive a gate fee only once in a 12-month period.

We confirmed that the man had received a gate fee when he was transferred from prison to work release in April 2006. The prison, however, wrongly assumed he was given another gate fee upon his parole from work release five months later.

When the man's parole was revoked due to violations, he was sent back to prison to serve the remainder of his sentence. When he finally discharged that sentence in June 2007, we found that more than a year had passed and concluded he was entitled to a new gate fee.

The prison agreed and \$100 was credited to the inmate. The Department of Corrections also agreed to clarify with all its prisons' staff the proper procedures for dispensing gate monies.

### **No Drug Use, but You're Going to Prison Anyway**

An offender in a residential correctional facility disputed the results of a routine drug screen and requested a confirmation of his urinalysis by an independent laboratory. When the lab test indicated that the inmate's urine was in fact free from illegal substances, authorities at the residential facility were skeptical and requested that a third test be done. When it was learned that no third test could be conducted because the urine sample had been destroyed, the inmate was nonetheless sent back to prison for his alleged infraction.

The offender asked our office to review the case, and we quickly discovered that authorities should have offered him a hearing before remanding him to prison. Authorities also failed to give the offender access to an attorney, as the law requires. When we voiced our concerns about the handling of the allegations, the offender was released back to the residential facility.

In our investigation of this case, we discovered that “day reporters”—offenders allowed to live on their own but required to check in daily with authorities—were commonly being sent back to prison without a hearing or an attorney. At our urging, state officials agreed to remedy this practice and complaints to our office on this issue have ceased.

### **Your Bill is Paid ... Now Pay it Again!**

A recently paroled offender contacted our office when he was informed he owed over \$6,300 in court-ordered restitution that he thought was long paid. It appeared to the parolee that his past prison earnings had not been applied to the restitution, as he believed it should have been.

For several years prior to his release, the offender had worked in a special private-employment program run under the auspices of the federal government. In this way, the offender was able to learn marketable job skills—and earn a prevailing wage for the work he did. The prisoner was entitled to retain a small allowance from his wages, but by law, a greater share of the money was to be earmarked for income taxes, child support, and restitution. If any money was left over, it would be deposited in the state's general fund.

In our review of the man's prison account, we found that officials had miscalculated his withholdings and had failed to make payments toward his court costs, as required.

When we contacted prison officials, they acknowledged the error and agreed that the state had retained too much money from the man's wages. This meant that the parolee's outstanding restitution was a much larger figure than it should have been.

We facilitated a filing with the State Appeal Board that ultimately resulted in a belated payment to the courts of over \$5,500 in the offender's name.

### **Even Inmates Have Rights**

Some people may think that inmates accused of assaulting jailers get what they deserve, but the law requires that such inmates cannot be punished without a fair and independent review of the circumstances.

We learned of two instances where officials at a central Iowa jail skipped established disciplinary procedures and placed two accused inmates in segregation indefinitely. The jail's policies also required periodic reviews of these inmates' segregation status, but we found in documentation that the reviews did not appear to be done in good faith. No explanation or rationale for the inmates' continued segregation was offered, and we found the inmates' appeals to higher authorities at the jail went unanswered.

We concluded that the jail acted unfairly and in contradiction of its own policies. As such, we suggested that the jail stick to the directives of its disciplinary policies and document each decision in detail. The jail administrator agreed to ensure these required steps were followed in the future.

## A Humanitarian Gesture

An inmate of a minimum-security prison was a month from release when he informed his family that a job he had outside the prison was harming his health. The inmate, who was epileptic, said his work at a tree farm was bringing on feelings that had caused him seizures in the past.

The man's mother and cousin called us, asking for our help. They said the inmate had been off anti-seizure medication for years and they feared that a new seizure could put him in a coma.

We confirmed the inmate's condition in a review of his prison records, and learned from medical resources that stressful work is known to bring on seizures.

We spoke with a deputy warden and impressed upon him the potential seriousness of the inmate's condition. The deputy warden asked medical staff to re-evaluate the inmate, which led staff to conclude that he was displaying increased anxiety. As a result, the deputy warden decided to pull the inmate off the work site until his release.



## Sometimes it Pays to do Time in Jail

A south-central Iowa man spent 27 days in jail as a material witness to an alleged sex crime, but waited more than two years without word from officials who were supposed to compensate him for his assistance.

Iowa law requires payment to any citizen who is held against his will to testify as a material witness. After this man waited almost a month without being called to testify, prosecutors decided to file for his release, pending trial. The trial, however, never occurred. Instead, the defendant pleaded guilty, and the witness, for some reason, was never paid.

We contacted the county attorney on the case, who recalled that the judge had indefinitely postponed a hearing on the witness fees. We continued to follow up with the county attorney, and, with the assistance of a veteran's patient advocate, kept the man abreast of the claim and continually verified his changeable home address.

The man's court-appointed attorney eventually secured a hearing date to determine the amount of witness fees. More than 32 months after his release from jail, the witness finally received a check for \$645 in fees.

## Two Months too Long



An eastern Iowa man asked us to look into the welfare of his brother, a prison inmate, who had been segregated in a one-man cell for a month. The man knew little about the circumstances of his brother's situation.

After a check of the inmate's prison records, we learned that he was the subject of an investigation, but we also noted that no disciplinary report in the case had been written. Required weekly reviews of the man's status in segregation yielded no clues about the case.

A prison supervisor told us that investigators were looking into an allegation that the inmate had made a sexual proposal to a staff member. The supervisor stressed that the inmate would remain in isolation until he was told whether a disciplinary report would be written.

For the next month and a half, we monitored the inmate by computer and made regular inquiries to prison staff, without word on the investigation. Frustrated by the lack of progress and information on the case, we finally contacted the prison warden by e-mail. The inmate was released back into the general population the next day and was reinstated to his work detail.

We later learned that the prison's investigation of the inmate was concluded after only two weeks with no formal disciplinary report. The warden acknowledged that prison staff "definitely dropped the ball" in its lack of communications with one another, and pledged to take up the issue with those responsible to ensure that inmates would no longer be segregated unnecessarily.

### After receiving a complaint about a prison or jail, we review the relevant information and decide whether staff:

- **Followed the law and institution policy**
- **Acted reasonably and fairly**

### If we conclude the complaint is substantiated, we look for ways that staff can:

- **Fix the problem**
- **Reduce the chance it will happen again**

## A Hairy Situation



A female prison inmate asked our office to review a policy that prohibited offenders at that institution from cutting their hair shorter than one inch. Prison officials said the policy stemmed from a concern that potential employers would be put off by such inmates during their job inter-

views.

We reviewed case law which established that inmates' decision on how to grow or wear their hair is a constitutionally protected right. The courts said they would only uphold a prison policy restricting hair length if the policy was reasonably related to the prison's legitimate penological interests.

Examining the issue objectively, we had difficulty seeing how the hair-length policy qualified as a legitimate penological interest.

We also noted that the institution's policy appeared to be inconsistent with the overarching policy of the state prison system. That policy allowed inmates the freedom in personal grooming, so long as their appearance did not conflict with the prison's requirements for safety, security, identification, medical issues, or hygiene.

The prison resisted our suggestion to reverse its policy, in its belief that state corrections officials were traditionally slow to recognize a distinction between the needs of female and male offenders. State corrections officials, however, stepped in and ordered the women's prison to revoke its hair-length policy.

## ¿Se Habla Español?

A Spanish-speaking prison inmate was informed that he would be eligible for parole if he would complete substance abuse treatment. Unfortunately for the inmate, the program was only available in English. Without a waiver of the treatment requirement or the ability to get treatment in Spanish, he would not be eligible for parole.

When we contacted prison officials about the problem, they acknowledged that there were other inmates in the same situation. Fortunately, the prison was in the process of hiring counselors and offered a job to a candidate who spoke Spanish.

After an orientation, the new counselor implemented a Spanish-speaking curriculum for the prison's substance abuse program. The program was started in December of 2008.

## Did Offender Really Waive His Rights?

A man just released from prison was enroute to a work release facility when he was arrested for driving while barred. In the wake of the arrest, the man contacted us, alleging that he had been sent back to prison without a proper disciplinary hearing.

A formal report had accused the man of two work-release violations for which he was subsequently found guilty. Officials revoked the man's work release and took away 60 days of earned time he had accumulated while in prison.

The man told us he was never given a chance to be at the hearing and said he attempted to appeal the earned-time loss, but was told he relinquished his appeal rights when he waived his hearing.

A disciplinary report suggested the offender verbally waived his participation from a county jail in a telephone hearing with state authorities. However, authorities could not produce a signed waiver, as was called for by policy. When we discussed this with work-release officials, they told us they had not required waivers to be signed in eight years.

When we showed officials that their actions violated policy, they belatedly granted the man his right to appeal and restored his earned time. We also pointed work-release officials to a form they could use in the future to properly obtain hearing waivers from offenders.

We were not, however, persuaded by the man's argument that authorities' error should require them to release him from prison.

*Prisons and Jails—(Continued from page 14)*

offenders are treated unfairly, unreasonably, arbitrarily, or in an abusive manner by those entrusted to care for them. Prisons and jails have a captive audience, but that is temporary—most will be in our communities again, and their experiences on the inside may very well influence their behaviors once released.

On the bright side, it speaks well of the corrections community when those who witness misconduct by their co-workers report it in the greater interest of righting wrongs. This can be a very difficult thing for many people to do; doing what's right isn't always doing what's easy. Those individuals should be commended for fulfilling their responsibility as public servants.

One goal I set for myself in my first year as corrections ombudsman was to make visits to every state prison to meet staff and to have face-to-face interviews with offenders. Although I was unable to visit each prison, I did pay 17 visits to prisons over the

*(Continued on page 19)*

*Prisons and Jails—(Continued from page 18)*

past year and met with 14 offenders. Prison staffs have been very accommodating and cooperative with my requests for records and explanations of their decisions. Offenders, although not always satisfied with our findings, have expressed appreciation for the time we took to visit personally with them.

In my review of our statistics over the past three years, it is evident that our contacts on the prisons are on the rise. In 2008 the Ombudsman received 748 new complaints or questions about prison issues, as compared to 604 in 2007 and 593 in 2006. Population counts in the state’s prisons, meanwhile, remain static, with 8,740 prisoners in FY 2008, compared with 8,806 in FY 2007.

We have noted increases in complaints relating to medical issues, staff conduct, offender discipline, and offender rights. These categories of complaints comprise 40 percent of all complaints received.

Categories of complaints that have historically been low or are on a decline include those involving use of force, searches, and grievances. It is interesting to note that inmate complaints about grievances are low, given that the Ombudsman often refers complainants to their prison’s internal grievance process before we will investigate.

We do not always require offenders to exhaust the grievance process, especially when there are health and safety concerns, or where time is a factor. By law, the Ombudsman may review a complaint at any time without regard to the finality of the prisons’ administrative actions.

At the county jails, we saw an increase in complaints relating to medical issues, staff conduct, and conditions of confinement such as meal quality, housing temperatures, and sanitation. These complaints comprise 56 percent of all categories of complaints from jails.

**Future Plans**

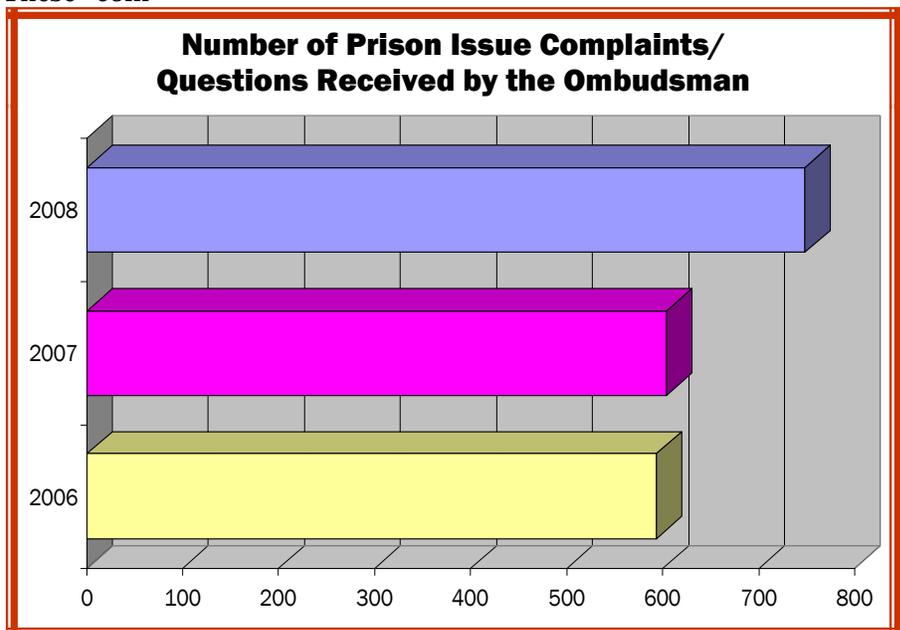
In the coming months, I plan to meet with prison officials to discuss ways of resolving our concerns more quickly. In addition, I will be making a presentation to the Iowa Board of Corrections, as it has expressed interest in receiving more information about the complaints our office receives.

Although all assistant ombudsmen investigate a variety of corrections complaints, issues of a systemic nature are generally assigned to me. Below are two systemic issues that are beginning to get my attention. I look forward to

working with corrections staff on these and any other matters in the future.

**Gradual Releases**—For more than 20 years, the Board of Parole (BOP) as a public-safety measure has used “gradual release codes” to signal its desire to transition prison inmates back into society. It is imperative that offenders with certain violent crimes be released gradually in order to determine whether they can handle the increasing responsibility and freedom of law-abiding citizens. Just recently, the DOC has made some policy changes for offenders with certain violent crimes that appear to conflict with offenders’ ability to complete the gradual release program recommended by the BOP. Offenders fear that this conflict may ultimately require them to fully discharge their sentences. Although this issue will be more thoroughly reviewed in the coming months, the BOP, DOC, and the Board of Corrections are aware of the offenders’ concerns and the possible conflicting policies.

**Administrative Segregation**—This is a classification status used by the prisons to isolate inmates from the general population. One reason it is used is to help staff maintain the integrity of investigations into major disciplinary reports. We have received a number of complaints that offenders are remaining in this status for lengthy periods of time—sometimes for months—without explanation. DOC policy states that this status is not intended to be punitive, although the amount of property and privileges given to offenders in this status is greatly reduced. We will be looking into inmates’ extended stays in administrative segregation and DOC’s reasons for restricting these offenders’ access to personal property.



## 2008: Contacts Opened by Agency

Name	Jurisdictional Complaints	Non- jurisdictional	Information Requests	Pending	Total	Percentage of Total
Administrative Services	3	0	4	0	7	0.15%
Aging	1	0	51	0	52	1.12%
Agriculture & Land Stewardship	1	0	2	1	4	0.09%
Attorney General/Department of Justice	9	0	83	0	92	1.98%
Auditor	0	0	1	0	1	0.02%
Blind	0	0	0	0	0	0.00%
Citizens' Aide/Ombudsman	1	0	48	0	49	1.05%
Civil Rights Commission	11	0	12	1	24	0.52%
College Aid Commission	3	0	1	0	4	0.09%
Commerce	13	0	13	1	27	0.58%
Corrections	638	0	35	75	748	16.07%
County Soil & Water Conservation	0	0	1	0	1	0.02%
Cultural Affairs	2	0	1	0	3	0.06%
Economic Development	0	0	4	1	5	0.11%
Education	7	0	2	0	9	0.19%
Educational Examiners Board	0	0	1	1	2	0.04%
Ethics and Campaign Disclosure Board	0	0	5	0	5	0.11%
Executive Council	0	0	0	0	0	0.00%
Human Rights	1	0	6	2	9	0.19%
Human Services	301	0	36	24	361	7.76%
Independent Professional Licensure	2	0	3	0	5	0.11%
Inspections & Appeals	24	0	8	4	36	0.77%
Institute for Tomorrow's Workforce	0	0	1	0	1	0.02%
Iowa Communication Network	0	0	0	0	0	0.00%
Iowa Finance Authority	1	0	2	0	3	0.06%
Iowa Lottery	1	0	0	0	1	0.02%
Iowa Public Employees Retirement System	4	0	1	1	6	0.13%
Iowa Public Television	0	0	0	0	0	0.00%
Law Enforcement Academy	0	0	0	0	0	0.00%
Management	2	0	0	0	2	0.04%
Municipal Fire & Police Retirement System	1	0	0	0	1	0.02%
Natural Resources	17	0	10	3	30	0.64%
Parole Board	24	0	3	0	27	0.58%
Professional Teachers Practice Commission	0	0	0	0	0	0.00%
Public Defense	2	0	1	0	3	0.06%
Public Employees Relations Board	0	0	0	0	0	0.00%
Public Health	9	0	12	1	22	0.47%
Public Safety	18	0	9	3	30	0.64%
Regents	11	0	3	1	15	0.32%
Revenue & Finance	40	0	18	3	61	1.31%
Secretary of State	1	0	7	0	8	0.17%
State Fair Authority	0	0	0	0	0	0.00%
State Government (General)	108	1	204	5	318	6.83%
Transportation	47	0	12	1	60	1.29%
Treasurer	2	0	0	0	2	0.04%
Veterans Affairs Commission	3	0	2	0	5	0.11%
Workforce Development	34	0	22	1	57	1.22%
<b>State government - non-jurisdictional</b>						
Governor	0	6	12	0	18	0.39%
Judiciary	0	140	14	1	155	3.33%
Legislature and Legislative Agencies	0	4	7	0	11	0.24%
Governmental Employee-Employer	0	36	0	0	36	0.77%
<b>Local government</b>						
City Government	577	0	97	53	727	15.62%
County Government	582	0	41	43	666	14.31%
Metropolitan/Regional Government	35	0	3	3	41	0.88%
Community Based Correctional Facilities/Programs	203	0	11	7	221	4.75%
Schools & School Districts	32	1	8	3	44	0.95%
<b>Non-Jurisdictional</b>						
Non-Iowa Government	0	111	52	0	163	3.50%
Private	1	349	126	0	476	10.23%
<b>Totals</b>	<b>2772</b>	<b>648</b>	<b>995</b>	<b>239</b>	<b>4654</b>	<b>100.00%</b>



## Other Agencies

### Agency Reverses its Denial of Housing Grants to Veterans

A 20-year military veteran wanted to know the basis for a state agency's decision to deny him a \$5,000 grant from the Military Service Member Homeownership Assistance Program.



The veteran said he was informed, because he did not use one of the state agency's "participating lenders," he was not eligible for the grant. But the veteran could not find anything in state law or the agency's rules which stipulated that certain banks had to be used in order to qualify for the grant.

Later, the veteran learned that the state agency had passed an emergency rule requiring the use of participating lenders. The rule, however, was passed several months after the veteran's grant denial.

After confirming the veteran's reading of the grant program's rules, we attempted to persuade the agency that it should not apply the requirement retroactively to him or anyone else. The agency was hesitant to reverse itself, even though it acknowledged it had denied grants to five other veterans under similar circumstances.

We explained the situation to a representative of the Governor's office who agreed to discuss the matter with the agency. Soon thereafter, we were notified that the agency would recommend to its board the passage of a policy that would enact our suggestions. Ultimately, that policy was adopted.

The agency also agreed to notify the six affected veterans of the policy change so that they could reapply for the grant. Our complainant later received \$5,000 from the grant program toward his loan principal.

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The Ombudsman investigates complaints against agencies or officials of state and local governments in Iowa. We perform this service, without a fee, in an independent and, when appropriate, confidential manner.

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### Compassion in a Time of Disaster

When a series of natural disasters struck Iowa in June, the Ombudsman's office surveyed and studied state and local agencies' responsiveness. Among the issues we studied was citizens' ability to obtain replacements for personal documents lost or destroyed in floods and tornadoes. Of specific concern to us were birth certificates, since they were necessary for victims to qualify for assistance programs, grants, and loans.

When we asked the Department of Public Health about its policy on replacing birth certificates, we learned the process would take two to three weeks by telephone, at a cost of up to \$24, depending on the applicant's method of payment. Under the circumstances, the Department said it could expedite applications made in person, but lacked the authority to waive any fees associated with the process.

Our office then asked the Governor to consider a temporary waiver of fees connected with the copying or processing of any state applications, certificates, licenses, or permits that were lost, destroyed, or otherwise needed by victims of the flood.

Shortly thereafter, the Governor issued a memo to all state department directors requesting their agencies to waive all fees associated with providing replacement documents to citizens affected by the disasters.

### Privacy Accommodations Can be Made

An eastern Iowa woman was offended when a state agency required her to report her Social Security number and date of birth to receive employment services. The woman had attempted to argue to the agency that the information was personal and should not be mandatory. However, because the woman's applications for assistance were processed online, we knew it might be difficult and costly for the agency to make computer programming changes to accommodate her.

The agency explained to us that it develops statistics with the personal information that helps to evaluate the effectiveness of its programs. The agency said that individual information was generally protected from re-dissemination by federal and state law.

Nonetheless, after some discussion on the issue, the agency conceded the information should not be required, and agreed to drop its practice mandating that the personal information be provided. The agency also agreed to issue a privacy statement to clients explaining why the information was sought, how it would be used, and how it would be protected.

## Bureaucracy in Action

A longtime recipient of Medicaid came to our office aggravated by his experience with a local office which he said lost his paperwork routinely. Four times in five years, he said, his coverage lapsed because he failed to re-apply for benefits. The only problem is that he always hand-delivered his application on time to avoid any possible chance he would have to go without insurance. The man said he had attempted on several occasions to have staff time-stamp his applications to verify his on-time delivery, but they had always refused to do so.

We called the local Medicaid office and, after several persistent questions, confirmed that staff had the man's latest application in hand for 13 days before a computer-generated notice was mailed informing him of his tardy application. Staff attributed its delay in processing applications to a paperwork backlog and employee shortages. We alerted the Governor's office to the chronic nature of the issue.

The agency offered several explanations as to its reasons for not time-stamping documents, but at our urging, agreed to begin that practice.

## Agency Reconsiders "Not Our Error – No Refund" Policy



A hunter was miffed when a state agency refused to allow his out-of-state son-in-law to exchange a \$400 deer-hunting license he bought inadvertently over the Internet.

The son-in-law accidentally purchased a license to hunt in the wrong locale, and simply requested a trade to the correct zone. The agency explained that online purchasers agree to make no changes at the time they pay for a hunting license. We agreed it was the purchaser's error, but questioned the reasonableness of the agency's no-exchange policy, as there were more tags available in the hunter's desired locale.

After two agency employees refused to make an exception to its rule, a division administrator considered the situation further and agreed to make the swap. The agency also said it would look into why out-of-state residents could not buy tags in two different counties, as this hunter attempted to do after his mistake.

## Let's Dig a Little Deeper

Private insurance companies are not within the jurisdiction of this office but the Iowa Insurance Division (IID) is. A woman had complained to IID that her company denied a damage claim on her vehicle. She believed IID basically just took the insurance company's word that her policy had been terminated prior to the accident. She acknowledged the insurer did send a written response to IID, but disputed the accuracy and completeness of the answer.



The Ombudsman asked IID for documentation of their investigation into this woman's complaint. IID provided a copy of their inquiry letter to the insurer and their response letter stating notice of termination was sent. We asked IID whether they had requested copies of the primary documents and whether IID followed up with this woman about disputed notice prior to sending her a closing letter. Specifically we asked whether IID had adequately addressed a key matter of contention as to whether the insurer sent the notice to the proper address since she had told her agent she had recently moved.

Based on the initial review of the matter, IID had concluded the insurer had followed the law regarding cancellation notice because their response to IID stated they gave notice appropriately before the date of the claim. Because of our questions, IID made further inquiry of the insurer for source documents with additional emphasis on the question of correct address. IID also followed up with the complainant to get a better timeline regarding her move, when she did actually get the notice, and to gather copies of correspondence that was received at different addresses on differing dates. As a result of this deeper investigation, the insurer reversed their determination and paid the damage claim.

## Left Hand Learns What the Right Hand was Doing

A laid-off worker from central Iowa who was denied an extension of unemployment benefits called our office after she learned that some similarly situated co-workers were granted the benefits.

We learned that confusion among state officials arose because it was not clear whether the company at issue had closed or was simply downsizing. When an administrative law judge reversed one worker's denial of benefits on the basis that the company was still in business, some, but not all, state unemployment officials began awarding benefits to the laid-off workers.

When we brought this discrepancy to the agency's attention, our complainant was quickly awarded an extension of benefits, plus financial assistance to train for a new job. The agency agreed to check its records to see whether any other workers were improperly denied their extensions.



## Local Government

### When Information on the Internet is not the Whole Story

A man wanted to build a simple shed on his property. He checked the city's website, and a link to a contractor's guide said if the structure was less than 200 square feet a building permit was not required. He began the foundation, but was stopped when a building inspector noticed and said the new rule is buildings over 120 square feet must be permitted. The man felt he had justifiably relied on the website's information, so he called the Ombudsman for assistance.

The website was reviewed and city building officials contacted. The contractor's guide was from 2006 and incorporates national standards effective since 2003. But new rules were adopted and by ordinance applied beginning January 1, 2007. While the website had a note stating it was not up-to-date, the city had technical difficulty in getting the links on this page to actually go to the current

codes. After the Ombudsman made contact, the city added language to the website clarifying that users should not rely on the posted information and should contact the city for current regulations.

Since the city had properly enacted the new regulations and had put at least some warning on the website that information was not current, this office could not determine the city was acting outside of law and rule in requesting this man apply for a building permit. However, the Ombudsman also found the city performed inefficiently in not timely updating the website leaving intact a link to outdated information that this citizen relied upon. After several conversations a compromise was reached in which the city agreed to waive the permit application and fees and the citizen agreed to allow inspection of his completed structure.

### A Siding by Any Other Name

A central Iowa woman enticed by a class-action lawsuit asked for our help in getting restitution from a county who she said misled her into believing she had defective siding on her home.

When the woman learned of the class-action lawsuit against the Masonite Corporation, she went to her county assessor's web page, which referred to her siding as "masonite." She relied on this information to submit a claim in the lawsuit. The claim form offered the woman five different options for proving her siding was Masonite®; she chose to send a \$100 check for an inspection of her home. The \$100 would have been refundable if the siding was proven to be Masonite®—unfortunately for the woman, it was not.

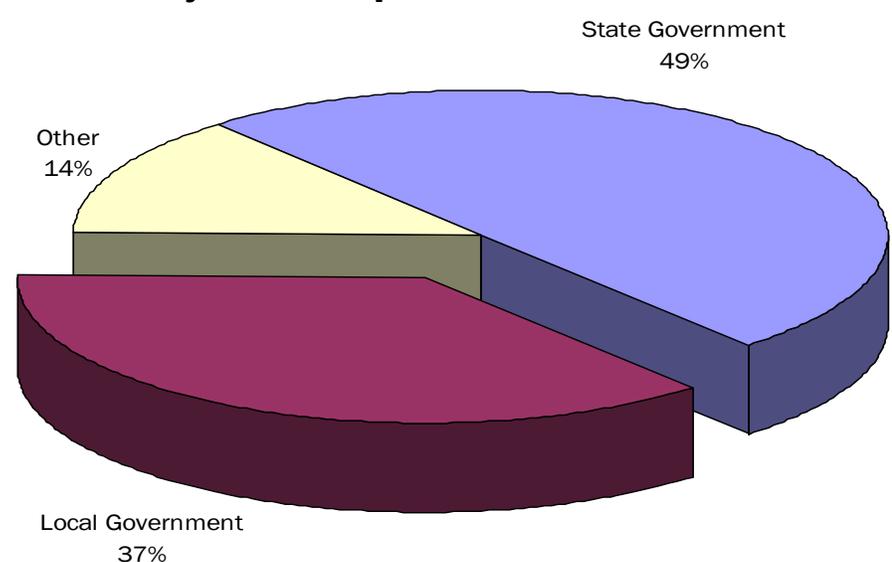
The county assessor defended its use of the word "masonite" as a generic term, similar to "kleenex" or "band-aids." Still, the assessor agreed to cease its use of the term in order to avoid further confusion. It refused, however, to pay the woman \$100 as reimbursement for her erroneous claim.

We could not conclude that the assessor acted unreasonably in denying the woman's request, since she had other options to prove her siding was Masonite®.

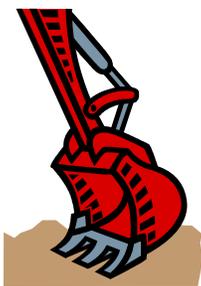
However, as part of our review of this complaint, we learned that a manual published by the Department of Revenue (DOR) and used by county assessors also include brand names. The DOR agreed to remove its reference to brand names from its future manuals, and to assist in the removal of the same information from assessor web pages.

In addition, the Iowa Assessor's Association volunteered to make its members aware of the issue.

### Subjects of Complaints to the Ombudsman



## Making a Pitch for a Ditch



A man in a small unincorporated town reported flooding on his property after state road crews filled in a drainage ditch to build his neighbor a driveway. The neighbor's driveway needed to be relocated to make room for a highway widening.

The state agreed to dig the man a new drainage ditch, but said the responsibility of maintaining it would be his. Irked, the man asked the county to maintain the new ditch since it would be part of an established right-of-way. The county engineer declined the request, arguing (understandably) that, because the road was never formally approved by supervisors, it was a private road and should not be maintained with county funds.

We reviewed county land records in the area, and learned that no one was paying property taxes on the right-of-way, which suggested it was a public road. We also reviewed correspondence dating to the 1970s in which a county attorney had written a handful of area landowners to inform them that county crews would be laying rock there. This suggested the road was owned by the county—even if the county had not formally adopted it. We further found that the county was actively maintaining other nearby roads that also were never formally incorporated into the county road system.

With all of this information at hand, we persuaded county supervisors to pass a resolution to adopt all of the unincorporated town's roads and to maintain them—as well as the ditches alongside them.

## In the Interest of No Disclosure

A member of a school board in east central Iowa failed to notify his colleagues when he voted in support of a construction contract with a company run by his employer.

Technically speaking, because there was no evidence the board member directly benefitted from the deal, we could not find that the member violated state conflict-of-interest laws. However, we believed the board member's actions, at a minimum, violated the spirit of a school board policy that requires members to be able to make decisions objectively. The board's president agreed.

From our review of the board's meeting minutes, it appeared to us that the contract would have been approved even if the conflicted board member had abstained. Therefore, we simply alerted school board officials to the situation and the requirements of the law, which the board discussed further at a public meeting.

## Eight Steps for Resolving Your Own Complaints

"What steps have you taken to resolve the problem?" That is often one of the first questions we ask people who contact us with a complaint.

Under law, one of the scenarios in which the Ombudsman is not required to investigate is when people have available "another remedy or channel of complaint which [they] could reasonably be expected to use." [Iowa Code section 2C.12(1)] And it is not just the law, it is also simple common sense. Disputes and grievances can be resolved with simple, honest communication. Certainly not all the time, but enough that it is almost always worth trying *before* filing a complaint with our office.

Here are some basic, important guidelines to follow when you are trying to resolve any "consumer" problem, whether it involves a government agency or not.

**1. Be pleasant, persistent, and patient.** The wheels of government usually move, but not always quickly. We have found the citizens who are best able to get problems resolved have three core traits in common: they treat everyone with respect and courtesy; they don't give up easily; and they realize that most problems are not resolved overnight.

**2. Exercise your appeal rights.** Does the problem involve a decision or action that has a formal appeal process? If you are not sure, ask the agency. The right to appeal usually has a deadline. Respond well before the deadline and consider sending your appeal by certified mail. If you cannot write before the deadline, call to see if you can get an extension or if you can appeal by telephone.

**3. Choose the right communication mode.** If you are not filing a formal appeal, decide whether you want to contact the agency in person, over the phone, or through a letter or e-mail. Go with the mode you are most comfortable with, unless the problem is urgent, in which case you will probably want to rule out a letter or e-mail.

**4. Strategize.** Before making contact, consider who your likely audience will be. Will it be someone who can actually fix the problem to your satisfaction? If not, your initial goal might be along the lines of patiently explaining your concern, listening to the response, and then politely asking to speak with a supervisor—perhaps even more than once!

**5. Plan your questions.** Write down your questions before calling or visiting the agency. Be sure to specifically ask which law, rule, or policy authorized the agency's actions. Then ask for a copy of the law, rule, or policy (so you can read it for yourself, to see whether you agree).

**6. Be prepared.** Be sure to have any relevant information available before contacting the agency. If you are wanting face-to-face contact, we recommend you call first. A short phone call could save headaches and wasted time, such as finding that the person you need to talk to is sick that day.

**7. Keep records.** Take good notes of all conversations. This should include the person's name and title, the time and date, and what they told you. Keep all records received from the agency, even envelopes. Also keep copies of any letters, faxes, or e-mails you send to the agency.

**8. Read what is sent to you.** Carefully read everything from the agency, front and back including the fine print!

If all that fails, contact us. Our office has authority to investigate complaints about most agencies of state and local government in Iowa. Major exceptions include the courts, the legislature, and the Governor. We do not have authority to investigate any federal agency.

### No Permit, No Fee

A man who applied for a concealed-weapons permit from a sheriff in northeast Iowa argued that he should have received a refund when the permit was denied. The man also protested that the sheriff was charging twice as much for the permit as state law allowed.

Strictly speaking, when we read the law closely, we agreed that this man had an argument. A provision of the law instructed that “the issuing officer shall collect a fee of ten dollars ... for each permit issued.” Because no permit was issued, the man said, the sheriff could not charge a fee. If he did charge a fee, he said, it should be \$10.

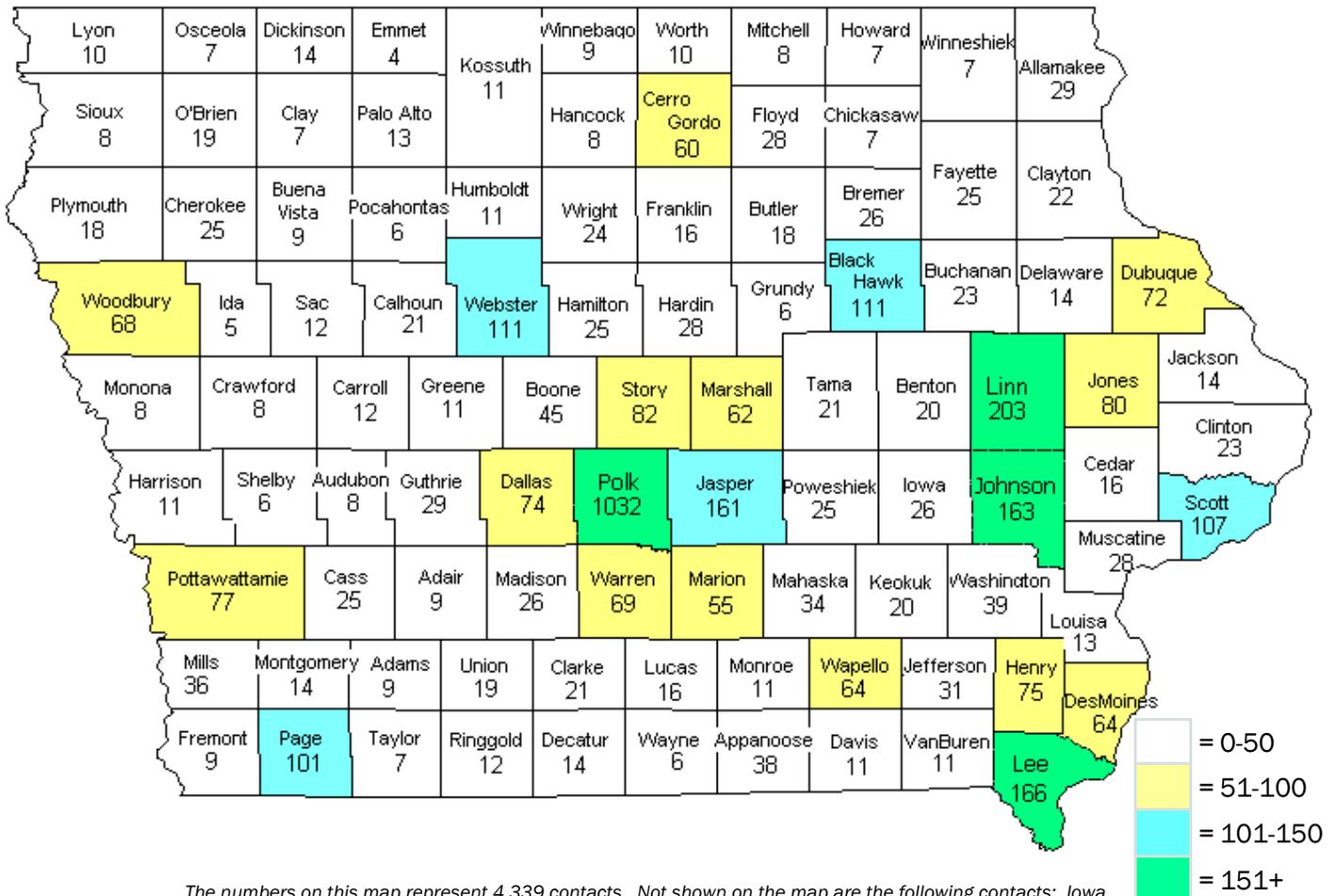
When we approached the sheriff, he explained that processing concealed-weapons permits could be time-consuming and costly since he instructed his staff to do background checks on all applicants. At our suggestion, to save time and money, the sheriff

said he would run background checks only where he might consider issuing a permit. The sheriff also agreed to consult his county attorney on the fee question. A month later, the sheriff agreed to lower his fee to \$10, and to charge the fee only when a permit is issued.

The sheriff adopted our suggestions even after he learned that other sheriffs were charging “handling” fees separately from the \$10 permit fees mandated by law. Not only did he refund our complainant’s money—but he refunded money to 18 other applicants who were denied permits. Said our complainant of the refund check he received: “You could have knocked me over with a feather ... he’s a good sheriff.”

The sheriff said he would likely seek a change in state law to allow sheriffs to recover the costs of issuing permits and conducting background checks.

### Where is Your County? Contacts Opened by Citizens' Aide/Ombudsman In 2008



The numbers on this map represent 4,339 contacts. Not shown on the map are the following contacts: Iowa unknown (111); other states, District of Columbia and territories (241); other countries (4); and unknown (16).

### **It Doesn't Have to be this Complicated**



A daughter flew to Iowa to take care of her recently deceased father's affairs. Her father was a construction worker who lived in a camper near the work site. The camper was impounded to protect its contents since the door did not lock. Before she flew to Iowa she was told a storage fee had to be paid before she could get her father effects and she wired the money. The next day when she arrived she was told the sheriff's office had put a hold on the camper and its contents. She previously understood a court order was necessary before she could get two firearms, but now nothing could be taken unless she was named executor by court order. The daughter flew back to college without her father's things. She sent a power of attorney to her mother who talked more with the towing company owner over the next two weeks explaining she believed it was only the two weapons that required a court order for release.

When the mother drove in from out of state, she was again told a court order was needed to get any personal items from the camper. With a limited time before she had to head back to her home state, a call was made to the Ombudsman. The owner of the towing/storage facility said the sheriff said the county attorney said a court order was needed. When this office spoke with the county attorney it became clear much had been miscommunicated. The county attorney had told the sheriff's office some evidence a claimant had a right to the property was needed and did mention in some cases an executor is established in probate court, but this was not necessary in this case. And a court order was needed for 2 of 14 weapons but not for everything.

On the Ombudsman's request, the county attorney arranged for the mother to make a sworn affidavit of right of claim at the sheriff's office. The sheriff then relayed to the towing company that it was OK to release the property. All of this was accomplished before noon on the day the Ombudsman was called, and the family could collect the belongings and start the long drive home.

### **Billing Without Warning**

The out-of-town owner of a vacant lot in a small central Iowa town said she received no warning before the city billed her \$105 for twice failing to clear snow from her sidewalk.

Iowa law gives cities the authority to bill for their work to shovel snow, but only if its process is outlined in its ordinances. Many towns and cities offer notices to landowners before work is done or charges are imposed, even though it is not required by state law.

Our review of a resolution recently passed by the city council indicated that the city was required to alert residents with a door hanger if they had not removed snow from their sidewalks after 48 hours. In this case, however, no such warning was issued because the property owner had no structure on which to hang a reminder.

Upon closer examination, the first of the property owner's billings occurred before the enactment of the new resolution. But it appeared the city made no effort to alert the property owner in the second instance, so we suggested that the city forgive that fee, which totaled \$65. City officials agreed.

The city also agreed to rescind its new snow-removal resolution, which conflicted with a previously existing ordinance, and to draft a new ordinance incorporating its new processes.

### **Man Not Arrested Still Made to Feel Guilty**

A sick and disabled man who worked at an automobile detailing shop in eastern Iowa said he was made to stand in the rain for 20 minutes by a policeman while the officer fruitlessly searched his car for drugs.

The man said that co-workers had called the police to harass him with a false report of drugs. The police officer reportedly patted the man down, then yelled at him when he protested his treatment. The officer and drug-sniffing dogs failed to find any drugs in the man's car.

When the man, still upset by his treatment, requested a police report from the officer, he was told there would be none. We were skeptical of this statement and encouraged the man to make a formal request for any reports relating to the incident. This time, the man was informed by a police clerk that the investigation remained open and, thus, he could not receive a copy of the report.

When we informed the police chief of this response, he acknowledged there was no open investigation. He also agreed the man was entitled to a copy of the report, which he mailed to the complainant without charge. Police later agreed to revise its prior practice of denying suspects copies of reports.

In our review of the police reports, we concluded that the man's behavior could have raised police suspicions, and we did not ask police to conduct an internal investigation into the officer's conduct.



## Toll-Free Numbers

### State Government

Blind (Department)	1-800-362-2587
Child Abuse/Dependent Adult Hotline	1-800-362-2178
Child Support Recovery Unit	1-888-229-9223
Child Advocacy Board	1-866-448-4608
Citizens' Aide/Ombudsman	1-888-426-6283
Civil Rights Commission	1-800-457-4416
College Student Aid Commission	1-877-272-4456
Commission on the Status of Women	1-800-558-4427
Consumer Protection Division	1-888-777-4590
Crime Victim Assistance Division	1-800-373-5044
Economic Development (Department)	1-800-245-4692
Elder Affairs (Department)	1-800-532-3213
Gambling Treatment Hotline	1-800-238-7633
HAWK-I (insurance for low-income kids)	1-800-257-8563
Home Health Hotline	1-800-383-4920
Human Services-Administrative Offices	1-800-972-2017
Human Services-Report Welfare Fraud	1-800-831-1394
Insurance Division	1-877-955-1212
Iowa Client Assistance Program (advocacy for clients of Vocational Rehabilitation and Blind Department)	1-800-652-4298
Iowa COMPASS (information and referral for Iowans with disabilities)	1-800-779-2001
Iowa Finance Authority	1-800-432-7230
Iowa Waste Reduction Center	1-800-422-3109
Narcotics Division	1-800-532-0052
Nursing Home Complaint Hotline (DIA)	1-877-686-0027
Public Health (Department) Immunization Program	1-800-831-6293
Revenue and Finance (Department)	1-800-367-3388
SHIIP (Senior Health Insurance Information Program)	1-800-351-4664
Small Business License Information	1-800-532-1216
State Fair	1-800-545-3247

State Patrol Highway Emergency Help	1-800-525-5555
Substance Abuse Information Center	1-866-242-4111
Tourism Information	1-800-345-4692
Transportation (Department)	1-800-532-1121
Veterans Affairs Commission	1-800-838-4692
Utilities Board Customer Service	1-877-565-4450
Vocational Rehabilitation Division	1-800-532-1486
Welfare Fraud Hotline	1-800-831-1394
Workforce Development Department	1-800-562-4692

### Miscellaneous

ADA Project	1-800-949-4232
Better Business Bureau	1-800-222-1600
Domestic Abuse Hotline	1-800-942-0333
Federal Information Hotline	1-800-688-9889
Iowa Legal Aid	1-800-532-1275
Iowa Protection and Advocacy	1-800-779-2502
Lawyer Referral Service	1-800-532-1108
Legal Hotline for Older Iowans	1-800-992-8161
Youth Law Center	1-800-728-1172

### **The Ombudsman's Authority**

Iowa law gives the Ombudsman the authority to investigate the administrative actions of most local and state governments when those actions might be:

- Contrary to law or regulation.
- Unreasonable, unfair, oppressive, or inconsistent with the general course of an agency's functioning, even though in accordance with law.
- Based on a mistake of law or arbitrary in ascertainment of fact.
- Based on improper motivation or irrelevant consideration.
- Unaccompanied by an adequate statement of reasons.

By law, the Ombudsman cannot investigate the Iowa courts, legislators and their staffs, the Governor and his staff, or multi-state agencies.

## **Citizens' Aide/Ombudsman**

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**We're on the Web!**

[www.legis.state.ia.us/ombudsman](http://www.legis.state.ia.us/ombudsman)

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