Do we really believe mental illness is a crime?

More than one-fourth of the Ombudsman’s complaints in 2006 came from inmates in state and county jails, prisons and other facilities. The majority involved health services. While the number of complaints about prisons controlled by the Iowa Department of Corrections (DOC) remains steady, complaints from within county jails are on the rise. The Ombudsman has observed an increasing unwillingness by county sheriffs and jail administrators to provide inmates with adequate medical attention and prescribed medications. Many prisoners who contact our office tell us that county officials sometimes refuse to refill necessary medications, even if those prisoners enter the jail with a doctor’s prescription. Iowa law, however, does not permit sheriffs and jail staff to deny medications to inmates with serious health problems. The Code of Iowa does permit a sheriff to charge an inmate “for any medical aid provided to the prisoner.” The tension between a sheriff’s obligation to provide medical care and an inmate’s responsibility to pay for it is spelled out in more detail in the Iowa Administrative Code. This rule was developed in consultation with the Iowa State Sheriffs and Deputies Association, the Iowa Association of Chiefs of Police and Peace Officers, the Iowa League of Cities and the Iowa Board of Supervisors Association.

The rule emphasizes that a sheriff cannot deny necessary medical treatment, including medicine, to a prisoner just because that prisoner is indigent.

The Ombudsman’s investigations into matters such as medication delivery in jails also have brought another serious issue to light: a lack of resources to treat mentally ill offenders. With few beds available for individuals in psychiatric crisis, many of the mentally ill are simply arrested and jailed because there is nowhere else for them to go. The reason for this is clear. Our communities have few mental health services to begin with. As a result, the prisons continue to expand their role as the mental health institutions of the 21st century.

MENTAL HEALTH

Limited whistleblower role for Ombudsman after CIETC scandal

“We know enough about bureaucracies to understand that often they provide a cover for wrongdoing, especially since many executive managers at the top still want to shoot the messenger instead of fixing the problem. And so we should not forget that whistleblowers are often doing the dirty work that highly paid administrators refuse to do.” Diane Swanson, chairperson of a business ethics initiative, Kansas State University

Nowhere in Iowa was this lesson learned better last year than in the case of CIETC, the public job-training agency that awarded nearly $1 million in bonuses to its top three administrators. The CIETC scandal, which has led to criminal charges against six former state and local officials, might never have come to light but for the courage and persistence of a handful of state employees, one of whom stood apart.

As a budget analyst with Iowa Workforce Development (IWD), Kelly Taylor discovered the high salaries at CIETC and started asking questions. When he took his findings to supervisors, he and a staffer were reportedly rolled off the case.

One of Taylor’s superiors told federal officials that Taylor’s report amounted only to “rumor and innuendo.” Taylor was later excluded from team meetings at IWD and felt that he had been “blacklisted” from attaining a higher position, he told The Des Moines Register.

Fortunately for the public, Taylor also relayed his concerns to the State Auditor, who considered the information and dug deeper. The Auditor would later issue a report critical of CIETC’s pay practices and of IWD’s oversight. Within days of the audit’s release, representatives of both CIETC and IWD were stepping down or being fired. Federal prosecutors followed with indictments and officials are now seeking restitution for the mispent money.

Taylor’s inspiring story prompted Iowa lawmakers last year to provide greater protections to government whistleblowers. From now on, lawmakers decided, whistleblowers who face retaliation for trying to protect the public’s interest may seek relief from the Public Employment Relations Board and enlist the aid of the Citizens’ Aide/Ombudsman to investigate their claims.

WHISTLEBLOWERS

Iowa Ombudsman hosts national conference

Ombudsman representatives from across the globe gathered in Des Moines for four days in September 2006 for the 27th annual conference of the United States Ombudsman Association (USOA). The USOA is North America’s oldest national ombudsman organization dedicated to the promotion of fairness, accountability, equality and justice in government through the public sector ombudsman. Its purpose is to encourage the establishment of new ombudsman offices and to promote professional development of existing ombudsman offices.

Representatives from ombudsman offices in state and local governments across the United States, as well as some federal agencies, were in attendance. The conference also attracted international participants from offices in the provinces of Canada, Bermuda, United Kingdom, India, Pakistan, and Botswana.

The Iowa Ombudsman’s office hosted the conference. Deputy Ombudsman Ruth Cooperieder is currently the USOA President. Staff from the office assisted with registering participants, setting up audio/visual equipment, and ensuring the sessions ran smoothly.

CONFERENCE

CONTINUED ON PAGE 3
Luther closed session violates Open Meetings Law

The Ombudsman issued a public report in 2006 because the Luther City Council failed to announce the reason for going into a closed session.

The City Council member initiating the closed session refused to tell the public or the other City Council members the reason they were closing the session.

The Ombudsman said that board members never discuss county business during their lunches. He added that their lunches are far from a secret, as many people have seen them eating out for lunch over the years.

The supervisor agreed, saying, “I can understand how someone could come to believe that the supervisors were discussing county business. We suggested that the board avoid eating together in otherwise empty rooms. The supervisor accepted our suggestion and agreed to discuss this with the other board members. He also asked us to advise the citizens, “They are welcome to sit down and eat with us any time.”

-supervisors in one county will be watching where they sit when they go out for lunch together, thanks to an alert restaurant customer.

The City Council member initiating the closed session said that he still required to provide the information by law, the agency is still required to disclose the agenda in advance. The public may want to attend the meeting to verify the reason for the closed session, how the elected official votes, and decide whether they would like to wait until final action is taken in open session.

The Ombudsman said that board members never discuss county business during their lunches. He added that their lunches are far from a secret, as many people have seen them eating out for lunch over the years.

The supervisor agreed, saying, “I can understand how someone could come to believe that the supervisors were discussing county business. We suggested that the board avoid eating together in otherwise empty rooms. The supervisor accepted our suggestion and agreed to discuss this with the other board members. He also asked us to advise the citizens, “They are welcome to sit down and eat with us any time.”
Public records/open meetings/privacy contacts to Ombudsman from 2003-2006

Number of public records and open meetings complaints rising

Since 2003, the number of complaints and information requests regarding Public Records, Open Meetings, and Privacy (PROMP) has grown from 169 to 282 contacts in 2006.

Why the increase in PROMP concerns? Some possible answers include: the public is becoming more educated; agency officials have lost the spirit and intent of the law; officials are keeping more information secret from the public causing more complaints; or, there is more knowledge about us, causing our phone to ring more often. We think they are all behind the increase.

Annually, 60 to 80 percent of our PROMP complaints and information requests involve local government issues, such as counties and cities. This is understandable considering the number of officials from 94 entities, 99 county reimbursable schools, and the number of governmental bodies underneath the parent bodies. This year we allotted more space in this annual report to highlight PROMP and plan to get this report in the hands of more local officials.

One easy way for all government officials to decrease the possibility of having a PROMP complaint filed against them is by establishing a point person who knows, or can learn, the law and its intent. The point person should also have access to an attorney when necessary.

If you are looking for more education, or advanced education, regarding Public Records or Open Meetings, please call me at 1-888-426-6283. However, most of your statewide associations and local or regional training groups are already conducting training.

The Randolph Library Board, in southwest Iowa, violated the Open Meetings Law by requesting a closed session, as it claimed, the Ombudsman concluded that the Board did not have a quorum at its December 2005 meeting, when it fired a library employee. The Board asked an assistant librarian with a partial agenda for a meeting.

The Ombudsman concluded that the Board effectively went into a closed session without following the procedures required under Iowa Code section 21.5, and only after it has followed the required procedures. In addition, the Board should limit the discussion to those matters for which it went into the closed session.

If the Board conducts an electronic meeting, it should ensure the public can hear the absent member through a phone line.

The Ombudsman recommends the Board incorporate written rules on how and when electronic meetings will be conducted, and ensure they are in compliance with Iowa Code section 21.5.

The Mayor also said sometimes a majority of the City Council members privately discussed city business by rotating members in and out of the deliberation room, to avoid having a majority of the members present. This practice is also referred to as a “walking quorum.” While this practice is not specifically prohibited, the Ombudsman believes it contravenes the spirit of the law.

The Ombudsman provided educational resources and made recommendations to improve operations and comply with the Open Meetings Law.

Job applications

When a job applicant didn’t get hired for three positions at three different government agencies, he began to question the credentials of the other candidates and the hiring decisions made public. Noting that internal candidates are not from “outside government, we asked the agencies for their resumes confidential. We asked each agency whether it asked job applicants if their resumes could be made public. Noting that internal candidates are not from “outside government, we asked the agencies for their resumes confidential. In one case the agency decided that resumes of internal applicants were public. Meanwhile, another agency determined that all applications would be kept confidential without asking the applicants if they had a preference.

Due to the problematic nature of using 22.7(18) to keep job applications confidential, and many other cases involving the openness of hiring decisions for positions of public trust, the Ombudsman has attempted to resolve this problem by proposing legislation. In the 2007 Generally Assembly we proposed House Study Bill 38 and Senate Study Bill 1042, which did not make it past the first funnel date but we anticipate further discussion over the interim and the 2008 General Assembly.

If it walks like a duck...

When a majority (or quorum) of City Council members discuss or deliberate City business, they are required to follow the Open Meetings Law. The Mayor of one city told the Ombudsman that City Council members had been coached to call all the meetings “workshops” so they would not have to meet privately. The Ombudsman determined the “workshops” qualified as meetings under the Open Meetings Law and the private gatherings violated the law. The Mayor also said sometimes a majority of the City Council members privately discussed city business by rotating members in and out of the deliberation room, to avoid having a majority of the members present. This practice is also referred to as a “walking quorum.” While this practice is not specifically prohibited, the Ombudsman believes it contravenes the spirit of the law.

The Ombudsman provided educational resources and made recommendations to improve operations and comply with the Open Meetings Law.

[Contact information removed for privacy]
35 years of helping Iowans: Looking back

2006 marks the 35th anniversary of the Iowa Citizens’ Aid Ombudsman. That’s an office establishment by statute.

As we celebrate that event, it is worth remembering efforts that led to the creation of the office as it is today. Two attempts by Republican legislators in 1967 and 1969 to establish the Ombudsman by law did not succeed. The Ombudsman became a reality when Governor Robert D. Ray created the position as an arm of the governor’s office in 1970. That Ray administration won a grant from the federal government to form the office as a “demonstration project” after he learned about the ombudsman concept during a work trip to the West Coast.

What most don’t remember is the person who issued that initial federal grant. It was a man who headed the Office of Economic Opportunity created by President Nixon.

That man was Donald Rumsfeld, President Bush’s former Secretary of Defense. “I dealt with Don Rumsfeld on several different projects,” recalled Ray. Ray had borrowed the Ombudsman idea from Hawaii, which in the late 1960s was the only state to operate such an office. The idea of an Ombudsman, popularized in Scandinavia in the 19th and early 20th centuries, is to allow citizens to redress their grievances against government’s shortsights and abuses.

Ray made the idea a centerpiece of his 1969 inaugural address, arguing that the “pernicious impersonality” of government made such an office necessary. Ray also reasoned that an independent Ombudsman could validate good government against frivolous complaints and explain the basis for government’s responses to citizens.

“If people understood why a government worker did what he did, you’ve solved a problem,” Ray said.

After Ray created the position, it took another two years before the office was established as a permanent statutory office within Iowa government. When that was achieved the Ombudsman was moved from the executive to the legislative branch. That achievement is important for several reasons.

In the late 1960s and early 1970s there were few ombudsman offices in the United States. Creation of the office by statute meant the office had greater permanency and perhaps more powers than offices created solely under administrative authority. Placing the office within the legislative branch of government ensured greater independence of the office from the agencies it investigates, enhanced more objective and impartial consideration of the inquiries undertaken, and removed it from potential pressures within the executive bureaucracy. And requiring by law that the ombudsman and staff refrain from active involvement in partisan affairs removed the ombudsman from politics. The statute passed by the Iowa General Assembly and signed by Governor Ray in 1970 is now and remains today a model piece of legislation for establishing ombudsmans offices.

Today, the Iowa Ombudsman office fields almost 5,000 complaints and information requests a year. It has a staff of 11 investigators, two administrators, a legal counsel and two support staff. Iowa’s office is a moderate size office in North America and the world.

The office simultaneously serves as a complaint department, trough-shooter, mediator, watchdog, and the “conscience” of state and local government.

Topics of complaint about how Iowa government touches its citizenry run the gamut, from the treatment of prison and jail inmates to citizens’ open-meetings disputes to the thoroughness of police and child-abuse investigations to the fairness of property-tax assessments, and to the appropriateness of licensing regulation plus a whole lot more.

Most complaints to the Ombudsman are resolved informally, through inquiry, explanation and persuasion. Some investigations do result in published reports that may be critical of an agency or official. In addition to recommending corrective action in a particular case when it is appropriate, the Ombudsman can also recommend new legislation in the interest of fair, responsive and responsible government.

“I think it did develop as I hoped it would,” Ray recently said of the Ombudsman’s office. “It’s served a very valuable service.”

The Ombudsman’s Authority

Iowa law gives the Ombudsman the authority to investigate the administrative actions of most local and state government 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, legislatures and their staffs, the governor and his staff or multi-state agencies.

2006: Complaints Opened by Agency

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Can we talk... – to your organization or group? Staff from the Ombudsman’s office are available to give talks about our services, Brochures and newsletters are available in quantity.

E-mail: ombudsman@legis.state.ia.us
Web: www.legis.state.ia.us/ombudsman
Phone: 1-888-426-6283 (515) 261-3552
Address: Oba Babcock Miller Building 1112 East Grand Avenue Des Moines, Iowa 50319-0231
TTY: (515) 242-5065
Fax: (515) 242-6007

Robert D. Ray
Iowa Governor
1970-1982

If people understood why a government worker did what he did, you’ve solved a problem.”
 -- Robert D. Ray
Open government is a foundation stone for modern democracy. Transparency is an essential element of accountable government. Access to information and records is fundamental to meaningful citizen participation in the political process.

The Iowa General Assembly has given the state two chapters of law: the Public Records and Open Meetings acts that should leave little doubt about the obligations of our public officials to respect the public’s right to know. But somewhere along the way, adherence to the spirit of the law has lost out to legal technicalities and strategic maneuverings that cost all of us in the long run. When government officials are able to find ways to compromise the spirit of what our public officials and open meetings statutes mandate, not only does government become less accountable, but our basic trust is eroded.

The Iowa Ombudsman investigates citizens’ complaints about Iowa state and local government. We respond to almost 5,000 inquiries each year. Of those, more than 200 contacts annually deal with some aspect of public records, open meetings or privacy. The range of these issues is quite varied and involves state, regional, county, city, school and township government. Over the past several years my office has experienced, investigated and reported on attitudes and behavior, emphases, emphases which have led to recommendations for corrective legislative change.

One 2006 legislative recommendation by the Ombudsman that was passed by the Iowa General Assembly and became law clarified the manner in which a citizen can make a request for a public record. At issue was whether requests needed to be made in person at the office of the custodian of the record. Iowa law at the time provided for examination and copying of a record to be done under the supervision of the lawful custodian, but it did not specifically require that requests records be made in person. In fact across the state most government were flexible and reasonable in responding to telephone and mail requests in addition to those made in person. With the advent of fax machines and electronic mail, Iowans used those technologies to request records. In a few instances, some government agencies narrowly construed the law to require a person they believed as unfriendly to drive from one border of our state to the middle of Iowa rather than mail the records to him. Fortunately the Iowa General Assembly saw the unreasonableness of this practice and the Iowa Public Records Law now clearly requires accepting a public record request in writing, by telephone, or by electronic means. But other ambiguities and inconsistencies still exist and some seem to emerge more frequently than they should. Consider the case where city and county officials deliberately met privately in numbers of less than a quorum to discuss an impending decision. They could not do so because the size of the group was less than the quorum required for conducting an open meeting. By rotating members in and out of the gathering (also known as a “walking quorum”) the two bodies skirted public accountability during those deliberations. Technically, walking quorums are not prohibited under current law.

More recently an Iowa newspaper reported the elected board of a public hospital met without notice, claiming the meeting was simply called to receive information, not to discuss it. It supposedly could meet without public notice or scrutiny because no deliberation or action was taken. Other public bodies have followed similar tactics to avoid being in the public eye when receiving information that might be used in deliberation sometime in the future.

Another public body, one which has been under significant scrutiny for over a year, repeatedly engages in the practice of a non-specific start time for public meetings which piggy back onto a meeting of the same officials meeting as a different public body. The result of this practice has been that both the public and the media are uncertain when to show up for the start of a meeting; as a consequence, public scrutiny and participation may be lost.

In November, I submitted a bill draft for the 2007 legislative session to address how our public bodies make hiring decisions by amending both the Iowa Open Meetings and Public Records laws. Current law allows a governmental body to hold a closed session to determine the professional competency of an individual whose appointment, hiring, performance, or discharge is being considered at a meeting of a governmental body when necessary to prevent needless and irreparable injury to the reputation of the individual and when the individual requests a closed session.

The bill provides that before a government body can hold such a closed meeting:

1) The individual must have requested the closed meeting in writing, stating the reason for requesting a closed meeting, and

2) The government body must have determined the closed meeting is necessary to prevent ‘‘needless or irreparable injury’’ to the individual’s reputation.

With respect to public records, the bill creates a new provision specifically about employment applications. The bill provides that information contained in a communication pertaining to an applicant, candidate, or nominee being considered for employment with or appointment by a government body be a public record. The applicant, candidate, or nominee requests in writing that the information be kept confidential and the government body makes that determination. If the determination is not made, failure to do so will result in needless and irreparable injury to the reputation of the applicant, candidate, or nominee. However, the government body shall disclose at least the name, city residence, employment history, professional background, and any experience with the government. The government body shall disclose at least the name, city residence, employment history, professional background, and any experience with the government.

It is to me as simple as: Do I as a resident of my community have a stake in who becomes its city manager? Should I as a taxpayer have the opportunity to know about the background and accomplishments of my school superintendent before he or she is hired? If candidates for president of a major public university have different management styles, or emphasize a particular way of delivering public education, should not those variations be known before the selection is made? In so doing, should not the hiring body be open to comment from the public?

Government is open when its records and public decision making transparent. I firmly believe that open government begins with allowing citizens to know who is being considered and selected for positions of trust and authority. We value free and open elections. We should expect and demand when persons are hired for positions of trust and authority that those processes be as open and accessible as they can be. The government has a stake in who does the governing, whether elected or appointed. Transparent selection processes instill trust. Closed ones promote suspicion. An informed government is a better government.

Responsible government has certain duties it must fulfill for its citizens. Protection is paramount among these. Government protects individual rights. Government protects public safety. Government protects personal well-being and financial and property interests.

At some point in time, most government bodies in Iowa have been or will be faced with disposing public records containing personal information of Iowans. As Ombudsman, I strongly believe these records should be disposed of with the same level of security required during the life of the record. I believe this duty of protecting sensitive personal information of our citizens should be carefully considered, and standards and best practices should be sought. One way this responsibility can be accomplished is, if after study by policymakers who weigh the risks, responsibilities, costs and alternatives, our state and local government agencies are given standards and guidelines for proper record destruction or disposal.

Toward the end of both ensuring open government in Iowa and also guarding against the risks of the loss of Iowans contained in certain records and reducing the risks of identify theft, I support the proposal of an interim legislative study committee to carefully and thoroughly review our open records and records retention policies and practices.

One obligation of democracy is vigilance. Another is participation. Good government demands, and better. No matter how carefully Iowa’s laws are written, if we are to preserve and enhance open government in our state, each of us as citizens must remain attentive and let our voices be heard.

Bill Angrick
Iowa Ombudsman
Insurance problem fixed

Pregnant women have a vital need for access to good health care. But one pregnant woman was being shut out of the health care system. So she contacted the Ombudsman for help.

She had applied for Medicaid coverage through the State Department of Human Services (DHS). But her application was being denied by Iowa Medicaid Enterprise (IME), the private company which manages Iowa’s Medicaid program for the state. She was saying that she was still covered through other insurance providers. But the woman said it had been months since she was covered through those other providers.

We contacted DHS about her complaint. Two days later, DHS reported that the problem had been resolved, and she was finally approved for coverage through Medicaid. They called the woman and she said her DHS worker had already called her with the good news.

Provider gets checks (finally)

A woman who provided transportation for a Medicaid recipient contacted the Ombudsman when DHS refused to resend two compensation checks. The first set of checks were sent to the wrong address and were made out to the Medicaid beneficiary. However, the beneficiary died during the mailing process. The checks were returned to DHS, which promised to send another set of checks made out to the provider.

DHS sent the second set of checks again to the deceased beneficiary. The checks were forwarded to the beneficiary’s mother’s address, who cashed the checks. When the provider informed DHS of what occurred, DHS informed her it would not send another set of checks, and she would have to file a legal action against the recipient’s mother. The provider then contacted the Ombudsman.

The Ombudsman found DHS was notified of the Medicaid recipient’s death; but had failed to properly reissue the checks in the provider’s name, as it normally would in such circumstances. The Ombudsman found that DHS was responsible for ensuring the correct name was placed on the checks, and sent to the correct address, and suggested DHS reimburse the provider directly. DHS agreed to send a new set of checks to the provider and, decided it would take the responsibility of contacting the recipient’s mother for reimbursement and possible legal action.

Machine error, human error

An in-home health-care provider from northeastern Iowa contacted the Ombudsman for help after the state paid her just a fraction of the work she had performed.

The Iowa Medicaid Enterprise told the care provider that the discrepancy was due to an error in a scanning machine. But the agency said it could be a month before it could fix the mistake.

Seeing that the worker could not wait 30 days for payment, the Ombudsman’s office rechecked the checks in the provider’s name, as it normally would in such circumstances. The Ombudsman found that DHS was responsible for ensuring the correct name was placed on the checks, and sent to the correct address, and suggested DHS reimburse the provider directly. DHS agreed to send a new set of checks to the provider and, decided it would take the responsibility of contacting the recipient’s mother for reimbursement and possible legal action.

The Ombudsman appointed me in 2006 as the first Assistant Ombudsman specializing in child welfare matters. In that role, I will assist the Ombudsman to better respond to and track issues affecting children. Examples include, but are not limited to the following:

• Education Rights
• Foster Care/Adoption
• Child Labor Laws
• Child Abuse Prevention and Assessment
• Juvenile Placements/Treatment
• Governmental Medical Programs
• Family and Children Welfare Programs
• Medical Examiner complaints related to infant deaths

Child Support Advisory Committee

I serve as a representative from the Ombudsman’s Office on the State of Iowa’s Child Support Advisory Committee. Along with other representatives on the Committee, recommendations are made to the Department of Human Services (DHS) regarding the state’s child support program.

The Committee in 2006 recommended and DHS approved changes to the hardship rules for parents who pay child support and also receive Social Security Disability and Supplemental Security Income Disability benefits. The parent can now claim hardship toward payment of past due support now at any time. This is a significant change from the prior rule that only allowed parents to request that less money be taken to pay the past due child support on the grounds of hardship when first notified of collection and enforcement proceedings.

The Committee held public meetings on Iowa’s Child Support Guidelines, and will be providing input and recommendations to the Iowa Supreme Court Committee to Review Child Support Guidelines. Pursuant to the federal Family Support Act of 1988, each state must maintain uniform child support guidelines and criteria, and review the guidelines and criteria at least once every four years. In Iowa, the Iowa General Assembly has entrusted the Iowa Supreme Court with this important responsibility [see Iowa Code section 596.21(4)]. The next review will be completed by the Court’s committee of experts in 2008. The 2004 final report is at: www.legis.state.ia.us/Reports/Proposed Legislation for Changing Child Support Orders

Family Independence of the Child Support Advisory Committee, Deputy Ombudsman Ruth Cooperrider and I continues the Ombudsman’s efforts to propose legislation and leading in the administrative modification procedure under Iowa Code chapter 252K. The Ombudsman believes parents need a fast and economic method to request changes in child support orders when a child goes to live with the parent ordered to pay support for that child. Changes in the child’s care and living arrangements may be caused by:

• Agreement of the parents
• A juvenile court order changing custody
• Other circumstances, such as the custodial parent going to jail, prison or dying.

The DHS lobbied against the bill, Senate File 338. Although the Legislature did not pass the bill, the Ombudsman remains committed to helping Iowa’s families and to ensure support goes to the children.

Foster Parents’ Bill of Rights

Is it time for the vulnerability of being a foster parent to be recognized in Iowa law? Some states think so and have passed legislation to establish basic rights for foster parents. The National Foster Parent Association (NFPA) reports the following states have already passed Foster Parents’ Bill of Rights: Alabama, Colorado, Illinois, Georgia, Kentucky, Maryland, Mississippi, Missouri, New Mexico, Oklahoma, Oregon, Tennessee and Washington. The NFPA’s basic foster parents’ rights are the right to:

• Be treated with consideration, respect for personal dignity, and privacy.
• Be included as a valued member of the service team.
• Receive support services which assist in the care of the child in their home including an open and timely re-

spense from agency personnel.
• Be informed of all information regarding the child that will impact their home or family life during the care of the foster child.
• Be input into the permanency plan for the child in their home.
• Assurance of safety for their family member.
• Assistance in dealing with family loss and separation when the child leaves their home.
• Be informed of all agency policies and procedures that related to their role as foster care giver.
• Receive training that will enhance their skills and ability to cope as foster care givers.
• Be informed of how to receive services and reach personnel on a 24 hours a day, 7 days a week basis.
• Be granted a reasonable plan for relief from the role of foster care giver.
• 12. Confidentiality regarding issues that arise in their foster family home.
• Have been granted protection against based on the religion, race, color, creed, sex, national origins, age, or physical handicap.
• Receive evaluation and feedback on their role of foster care giver.

The Ombudsman believes it is timely for Iowa to consider a Foster Parents’ Bill of Rights. The Ombudsman’s office has received complaints from foster parents. Some report they and others have or will be surrendering their foster care license because of actual or perceived mistreatment and underutilization by the child welfare system. Others fear they will not be considered for complaints about the child welfare system or will not seek information due to fear of being identified as difficult, interfering or uncooperative. They also fear agency retaliation, resulting in the removal of children in their home, or never having children placed in their home for foster care and/or adoption.

Chief Justice of the Iowa Supreme Court Marsha Tur- nis, in her 2007 State of the Judiciary remarks to the Iowa Legislature, expressed great concern for expeditiously finding foster children safe, permanent homes with good families. She indicated that in Iowa, over 5,000 children are living in foster care. According to Iowa Foster & Adop- tive Parents Association (IFAPA) 2006 Iowa Key Foster Care and Adoption Facts, 64 percent of children in foster care are not placed with a relative. The National Resource Center for Family-Centered Practice and Permanency Plan- ning at the Hunter College School of Social Work reports that in Fiscal Year 2006, 11,748 children were served in Iowa foster care, with an average stay of 18 months. It is therefore important that foster parents feel valued by the child welfare system, while asked to care for some of our most vulnerable children.

The missing appeal

A father and his daughter contacted our office at the suggest- ion of a legislator. They complained that the Department of Human Services (DHS) had failed to act on an appeal regarding their wife/mother’s Title 19 application for pay- ment of nursing home care. The original application had been denied almost a year before and it took nine months of waiting to get a response from agency personnel.

While awaiting a response to their appeal, they submitted a new application. This application was also denied and they also promptly appealed its denial. When they contacted our office, they had not received any response to their inquiries regarding the status of the second appeal. DHS’ appeals liaison told us the appeals division had no record of receiving the second appeal.

We learned that the first appeal was never closed; the appeals division had remanded the case in June 2006 to the local DHS office, asking it to recheck information and to reconsider its decision. After posing additional ques- tions, we were contacted by the local DHS office supervis- or, who indicated that the case worker had misunderstood the attribution of assets. The supervisor advised that the problem had been corrected and benefits would be approved within ten days, retroactively to the month they submitted a new application.
Ombudsman persuades city to open blocked street

A woman in northeast Iowa had twice appealed to her city council to keep an unpaved street near her home clear of obstructions. The woman, who had health problems and wanted an alternative route open in case of emergency, even hired an attorney to make her case. Still, she received no reply from the city.

The street in question was a “paper street,” meaning it was dedicated for public use as a right of way but never paved as a primary thoroughfare. The woman said the grass street had historically been used for foot traffic, but could conceivably be used by vehicles if it were clear.

When the Ombudsman contacted city officials, the utilities superintendent acknowledged that the street was in fact a city right of way. He also acknowledged that a private landowner had blocked the street by erecting a fence and placing junk cars and other debris at the site. Nevertheless, the superintendent said, “I don’t see any reason why” the woman deserved greater consideration than other residents who had only one route out of their homes.

The Ombudsman noted that the private encroachment onto a public street appeared to violate five separate city ordinances on nuisance prohibitions and illegal parking of vehicles. The superintendent admitted he was unaware of those city prohibitions.

Within days, the city’s mayor ordered a response and a city attorney prepared for a public hearing to address the further dispute. The city even trimmed back some back trees and sent a fire engine down the length of the street to ensure it was passable.

“I want you to know how much I appreciate all that you have done to help us with this matter!” the woman wrote to the Ombudsman.

Municipal no-no: Shutting off water without chance for hearing

Shutting off the water supply to private property is among the more drastic actions government can take. Iowa law prohibits city utility services from being discontinued “unless prior written notice is sent to the account holder … informing the account holder of the delinquency and affording them the opportunity for a hearing prior to discontinuation of service.” (Iowa Code section 384.842c)

Over the years, our office has found that not all towns are aware of this law. This was the case when we were contacted by a man from a relatively small town. The week before, the city had put a notice on his front door, saying he hadn’t paid his monthly water bill by the deadline. It also said the city was going to shut off his water supply within that day. Before the city would restore his water service, he had to pay a $50 “reconnect” fee.

The man felt it wasn’t right for the city to shut off his water on the same day that it issued the notice. We told him he was raising a good point, and explained what is stated in Code section 384.842c: "The next day we called the mayor. We explained the complaint and also explained what the law says. The mayor agreed to take this up with the city attorney. Later that same day, the man’s water was turned back on, and he was never again billed for the $50 ‘reconnect’ fee.

A few weeks later, the city attorney confirmed that the city had modified the late notice that goes out to delinquent account holders. We obtained a copy of the new notice, and found that it includes language consistent with the process set out in state law.

Where’s your county?

Contacts opened by Citizens’ Aide/Ombudsman in 2006

A member of Iowa’s congressional delegation referred an elderly couple on a fixed income to our office with a complaint about a city water utility. The utility installed water service at the property in January 2003. The couple noticed fluctuating meter readings soon after, and the utility informed them that the problem was caused by a fitting that was not screwed on properly at the time of installation.

By summer 2003, the couple again suspected problems with their water service. We sent a letter of complaint to the utility. After some delay and multiple calls from our office, the utility denied having any knowledge of those problems. We obtained a copy of the new notice, and the utility agreed to reimburse the couple for the cost of repairs and credited them for the water usage attributed to the water leak. The couple was reimbursed for $600 in repair bills and received a credit for $57.71 on their account.

WHISTLEBLOWERS

Continued from page 1

Unfortunately, the protections have their limitations. That’s because the 2006 law, as written, fails to cover the vast majority of public employees who might be in a position to uncover government waste and corruption.

In fact, Kelly Taylor would not have been eligible to benefit from these new protections at the moment they became law. Taylor is not alone. The Ombudsman also lacks the legislative authority to investigate whistleblower claims from:

- Employees of Iowa’s 947 cities
- Employees of Iowa’s 365 public school districts
- Employees of Iowa’s 39 counties
- State of Iowa employees covered by collective-bargaining agreements
- State of Iowa employees who are covered by the merit system

That leaves an extraordinarily large number of potential whistleblowers without a government agency to protect them.

WHISTLEBLOWERS: Continued from page 1

Local government

Your hearing is ... last week!

Why would a local government agency mail a notice about an administrative hearing a week after the hearing was held?

That was the essence of a property owner’s complaint. The county assessor’s office had mailed a notice, stating the assessed value of the owner’s property was going up. He sent a letter back, protesting the proposed increase. He later got a notice in the mail, indicating his protest was denied. The notice also seemed to indicate that the Board of Review would hold a meeting at a particular date and time.

Trouble was, he received that notice more than a week after the date listed for the meeting. So we contacted the county assessor. She explained that Iowa law requires an oral hearing be held only when the property owner requests one. In this case, he had not asked for an oral hearing. (He did ask for an oral hearing the year before, showing he knew about that requirement.)

So why did the notice seem to indicate that he could attend an oral hearing if that wasn’t the case? On this point, the assessor acknowledged that her office was misleading. We obtained additional information from the Department of Revenue, which oversees the forms that are used by the county assessors’ offices. We relayed this information to the county assessor. She spoke with her contracted vendor (who actually produces the forms) and promised that the forms would be revised so that they are no longer misleading.

Your hearing is ... last week!

employees of Iowa’s cities

Since the Ombudsman assumed its new whistleblower authority on July 1, 2006, the office has received 21 contacts from whistleblowers seeking help. Nine of those whistleblowers said they were punished or harassed for reporting problems within their own organization.

Not one of their cases fell within the Ombudsman’s jurisdiction. In some of those cases, lawmakers demanded to know why the Ombudsman had not opened investigations in defense of the workers.

These lawmakers apparently did not know that the law they passed in 2006 failed to cover the employees they now wish to help.

The Ombudsman asked the Legislature during debate on the law to extend its whistleblower authority to all state and local government employees, but for now, those workers remain excluded.

Nevertheless, those employees are not without some protections. Iowa Code sections 70A.28 and 70A.29 generally say that if an employee alleges that a state or local government official shall not discharge an employee or fail to promote or provide an advantage to that employee “as a reprisal for” disclosing information to any other public official “if the employee believes the information is contrary to law or rule, mismanagement, a gross abuse of funds, an abuse of authority, or a substantial and specific danger to public health or safety.”

Employees who are subject to those retributions may file civil action for reinstatement, back pay, attorney’s fees and other relief. Employees also may seek a court injunction to prevent further acts of retaliation. Violation of these provisions also constitutes a simple misdemeanor.

Employees who are covered by collective bargaining agreements usually can call upon a union to protect their interests if they have been discharged as a whistleblower. The state’s labor contracts include a protective provision modeled after the two laws cited above.
City addresses citizens’ complaints against sole police officer

A woman’s teenaged children attend high school in a nearby small town. The mother contacted our office and said the town’s only police officer was threatening and harassing her children. The woman and others complained the officer acted unprofessionally, especially around teenagers. One incident with the officer occurred after he received a complaint about how a friend of the woman’s son was driving. The officer went to the boy’s house to discuss it, and her son was with the boy. The woman said her son and another boy tried to explain the situation to the officer and the officer yelled at them and pushed her son into the other boy’s house. Citizens who lived in the town also complained about the officer. One woman whose son was in an automobile accident alleged the officer did not file an accident report within nine months after the accident. This caused difficulty in recovering damages from the other driver’s insurance company. Iowa law requires an officer to file a report with the Department of Transportation within 24 hours of completing an investigation.

A man complained the officer had contacted his employer and provided false information, trying to get him into trouble with the employer. The man alleged the officer did this because he was upset with the man’s son. Another woman complained the officer did not follow through on a child abuse allegation. The town received so many complaints that the city council established a grievance committee. We viewed a video of the incident between the officer and the boys. We also spoke with the officer and many other witnesses, and attended the grievance committee meeting. We were unable to substantiate that the officer pushed the woman’s son, because the video was recorded at the wrong angle to show the incident. We were able to substantiate the officer’s unprofessional conduct based on the recorded conversation of the video. We also substantiated the officer’s failure to file the accident report within the proper time period. The complaints were resolved because the town instituted a grievance process, and listened to and acted on the complaints. The grievance committee recommended, and the city council agreed, to discipline the officer. Citizens report the officer is now behaving in a more professional manner.

New York driver gets refund and apology

The Ombudsman is not empowered by Iowa law to investigate the courts, but sometimes, the office can help solve problems there with a little research and a telephone call. Last December, a New York resident contacted the Ombudsman after her husband was forced to pay a traffic-ticket fine twice, with a late fee, in order to keep his driver’s license. A court clerk had acknowledged to the complainant that the first check was received and cashed in the wrong county but did not volunteer to pursue the problem any further.

When the Ombudsman pulled the court records and the traffic tickets, the information suggested that a police officer mistakenly provided an envelope for a different county than the one in which the ticket was issued. The wrong clerk then accepted the driver’s payment, did not relay that information to the correct county, which had reported the driver to the Department of Transportation for nonpayment. That report ultimately led to the suspension of the driver’s license in New York, which could only be lifted by a second payment to the correct county clerk. A court administrator, seeing the errors, immediately arranged for an apology to the driver, as well as a refund of the second check and the late fee.

Top Ten: Government websites

We’ve put together a list of 10 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.legis.state.ia.us
2. State agencies — www.legis.state.ia.us/state/main/index.html
3. Legislative — www.legis.state.ia.us
4. Judicial — www.judicial.state.ia.us
5. Cities — www.legis.state.ia.us/state/main/cityindexes.html
7. Public school districts and Area Education Agencies — www.legis.state.ia.us/areaedu.html
8. Iowa law — www.legis.state.ia.us/iowalaw.html
10. Citizens’ Aide/Ombudsman — www.legis.state.ia.us/ombudsman

Mistake costs police $600

A police department agreed to pay more than $600 in vehicle impoundment fees because it failed to send a certified letter to the owner of an impounded truck, as required by Iowa law.

The owner said it all started when he reported his truck had been stolen. A few weeks later, law enforcement in a nearby town spotted the truck. They had the driver pull over and asked for ID. The arresting officer (a county sheriff’s deputy patrolling the small town at the time) had the truck impounded.

Within a few days, the officer was able to find out that the truck had been impounded in the other town, but he said that his attempts to locate the truck were unsuccessful. He called local law enforcement agencies and towing companies, but said nobody knew where his truck was.

Two months later, he received a phone call from one of the towing companies, asking whether he would ever be getting his truck. (The truck owner claimed this was the first time anyone acknowledged this. We spoke with the tow company owner, who believed his staff had long ago confirmed this to the truck owner, although there was no documentation of such a communication.) Trouble was, the impound bill had grown to more than $1,000. And the truck owner believed he shouldn’t have to pay all of that. We found that under Iowa Code section 321.893(3), the police department was required to send a certified letter to the truck owner within 20 days of impoundment. We spoke with the police chief and he confirmed that such a notice was not sent to the owner. As a result, the chief decided that the owner should only have to pay the towing bill and for 20 days of storage fees. The chief agreed that his department would cover the remaining costs, which totaled more than $600. We confirmed this with the truck owner, who was satisfied with the police chief’s decision.

Toll-free numbers

Public Health (Department) Immunization Program 1-800-831-6293
Revenue and Finance (Department) 1-800-367-3388
ShIP (Senior Health Insurance Information Program) 1-800-351-4694
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 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
Eight steps for resolving your own complaints

“Steps have you taken to resolve the problem?” That’s 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’s not just the law: it’s also simple, common sense. Disputes and grievances can be resolved with simple, honest communication. Certainly not all the time, but enough that it’s almost always worth trying before filing a complaint with our office.

Here are some basic, important guidelines to follow when you’re 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’ve found that the citizens who are best able to get problems resolved have these 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’re 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 can’t write before the deadline, call the agency and ask for a court-like process of appeal. You can get an extension or, if you can appeal by telephone.

3. Choose the right communication mode. If you’re not sure what to write, you might want to contact the agency in person, over the phone or through a letter or e-mail. Go with the mode you’re most comfortable with, unless the problem is urgent, in which case you’ll probably want to rule out a letter or e-mail.

4. Strategize. Before making contact, consider who your line of communication with will be: legal, legislation, or government. The goal might be along the lines of patiently explaining your problem and seeing if someone can 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 someone in charge perhaps even the agency. (You can read it for yourself, to see whether you agree).

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. The Ombudsman focused on whether the Iowa Department of Agriculture and Land Stewardship (IDALS) employees in these counties were assisting SWCDs from competing with private contractors, in violation of Iowa law.

6. Be prepared. Be sure to have any relevant information ready: your contact information, 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 don’t have authority to investigate any federal agency.

If you’re having problems getting a Master Electrician license in a specific city. He also alleged a conflict of interest, as the city’s Electrical Board included local contractors whose licenses he feared could be down when more licenses were issued.

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. And keep copies of any letters, faxes or e-mails you send to the agency.

7. Keep records. Take good notes of all conversations. Regardless of who the competition may be, if public monies are involved, it is critical that all parties, government and businesses alike, monitor their actions and decisions to comply with the law and avoid any appearance of bias.

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

Small businesses

Major revisions to competitive bidding laws

Competing for customers or market share is an integral part of the formula for succeeding in the world of commerce. Government agencies become part of the equation when businesses compete against each other for government contracts.

Iowa’s competitive bidding laws were significantly revised in 2006 with the passage and enactment of House File (HF) 2713, the Iowa Construction Bidding Procedures Act, creating a new chapter of the Code of Iowa, Chapter 26. In addition to clarifying existing law, HF 2713 created three tiers of bidding requirements for projects entered into on or after January 1, 2007: formal competitive bidding, quotation process and informal process. The estimated cost of the project, along with the nature of the project and the population served by the government agency, determines the applicable tier.

In the past, our office has received complaints that bid specifications were not followed or that some portion of the process was unfair and biased. There has also been the perception in some instances that the successful bidder had inside connections, regardless of the merit and competitive nature of their bid.

To avoid similar complaints under the new law, government and businesses should carefully review and implement the new bidding requirements for future construction projects.

Our office also receives complaints when businesses find themselves competing against those same government agencies for customers or market share. Chapter 23A of the Iowa Code generally prohibits competition by government businesses with private enterprise. There are, however, exceptions, as illustrated in a case reviewed by the Ombudsman at the request of the Government Oversight Committee. The Ombudsman gathered information regarding competitiveness issues.

Iowa law governs competitive bidding procedures for awarding construction project contracts for governmental entities, including school districts, for public improvements, non-emergency repair or maintenance work not done by school district employees, and structure demolition. It is not uncommon to receive requests to receive information requests or complaints from citizens, contractors and governmental entities related to a contract award. The disagreements reported are generally related to a government agency’s failure to properly publish notice to potential contract bidders, the failure to require bidders to submit bid security with their bids and concerns about whether the contract was awarded to the lowest responsive, responsible bidder.

In March 2006, Governor Vilsack signed the Iowa Construction Bidding Procedures Act, making numerous changes to the bidding requirements that government entities must follow in awarding construction projects, including raising the threshold when formal bidding is required. The Act, enacted as House File 2713, is created a new chapter of the Code of Iowa (Chapter 26). The Act applies to public improvement contracts entered into on or after January 1, 2007.

At the time the Act was pending approval from the Iowa General Assembly and Governor Vilsack, a contractor contacted the Ombudsman to report a school district had awarded a substantial roofing contract to another contractor in violation of the existing competitive bidding procedures. The contractor had been in contact with the Superintend-ent and School Board concerning the required bidding procedures, but had been unsuccessful in getting the school board to acknowledge the roofing project had been awarded in violation of the law.

Following an investigation, the contractor’s complaint was substantiated. The Ombudsman recommended the school reject the awarded contract and start the competitive bidding process over on the roofing contract.

The school acknowledged its noncompliance with the competitive bidding procedures and did not accept the Ombudsman’s recommendation to relet the roofing con-tract. The roofing project had already begun and the school alleged it was unable to relet the contract without risk of losing federal funding. The Ombudsman recommended the school comply with the bidding procedures, as required, on all applicable and future projects.

In addition, license denials could be addressed through an existing appeal process conducted by a separate appeals board.

Sparks fly for electrician

A constituent’s e-mail was forwarded to our office by a legislator. In the e-mail, the man complained that he was having problems getting a Master Electrician license in a specific city. He also alleged a conflict of interest, as the city’s Electrical Board included local contractors whose licenses he feared could be down when more licenses were issued.

Furthermore, our inquiries revealed that the city staff also had difficulty in communicating with the Board, our office and the man about the status of his application. We finally contacted the department supervisor and the city sent the man a letter, apologizing for the confusion and approving his application for a Master Electrician reciprocal license. The city asked the man to submit the annual $40 license fee but waived the $25 reciprocal license application fee.

We also confirmed through independent research that the membership of each SWCD is similar to that of this city. We found no evidence that the Board was denying a disproportionate number of licenses compared to other communities with a similar licensing process.

In addition, license denials could be addressed through an existing appeal process conducted by a separate appeals board.
Transfer to non-Iowa jail leads to medication problems

Ombudsman persuades prison to return restraint board

Facilities should contact Public Health for isolation guidelines

Jail fails to provide prompt medical and mental health treatment in several cases
Does gang activity in prison justify a "lock 'em up and throw away the key" approach?

Gangs and prisons don’t mix well. The violence associated with gangs gives prison administrators a good reason to have a zero tolerance approach to gangs and gang activity. But is it possible for prisons to go too far in their efforts to remove gang activity from inside the walls? Yes, as illustrated by an Ombudsman investigation involving one such program.

It started with a woman who called our office on behalf of a man serving a life sentence. He had been in administrative segregation (ad seg) for about two years. The prison was refusing to put him back into general population until he completed a program designed to discourage offenders from associating with gangs. One of the requirements was for participants to disavow their gang membership.

According to the woman, the man was not a gang member, nor was he the type to join or participate in gang activity. She wrote: “If we had that type of program, I could see how it would work, but that man is not that type.”

Our investigation found that the prison had sufficient information for identifying the man as a gang member. But we also found that the way in which he was being segregated was tantamount to isolation. He had little contact with staff, and no contact with other offenders, day after day, week after week, and month after month.

We considered that he had been segregated in those conditions for about two years, with no changes planned for the foreseeable future. We also considered that several other offenders were being segregated the same way. This caused us to pose two questions to a deputy warden who oversaw the program:

1. Are you comfortable that some offenders are kept in ad-seg status indefinitely simply because they refuse to participate in the gang-renunciation program?
2. Is that the most appropriate way to handle such cases, or is there a better way?

In response, the deputy warden initiated a months-long review of the entire program, including the manner in which some offenders were segregated for years at a time. This review triggered several developments:

We wondered what such a long-term placement would do to any particular person’s mental health.

The offender in this case was removed from segregation status several months after we first contacted the prison about his situation.

The prison put together a statewide committee, charged with recommending improvements for working with offenders who had been identified as gang members.

Our office was invited to a meeting of the committee, and we were impressed that the participants were interested in making genuine improvements to the program.

This also allowed us to emphasize our concerns, particularly regarding the fact that those who refused to participate had been in isolation or quasi-isolation status for months or even years at a time. We wondered what such a long-term placement would do to any particular person’s mental health.

A small group of offenders was in the process of completing the program. Once they were finished, the program ceased to exist.

In its place is a new program, available to any offender classified in “Administrative Segregation A” status (not just those with gang affiliations).

New batteries for disabled inmate’s wheelchair

A double amputee feared he would no longer be able to get around on prison on an electric wheelchair, until the Ombudsman intervened.

His wife called us and explained that the batteries "were about shot." New batteries would cost about $500 and they could not afford that. Without the wheelchair, the man could not get around. They figured the Department of Corrections (DOC) would pay for the new batteries.

They were very disappointed, however, upon learning that the prison doctor had decided DOC would not pay for the new batteries. We immediately contacted the doctor, who explained that his decision was based on an understanding that Medicaid might pay for the new batteries.

We called the man’s wife. She said her husband had been on Medicare (not Medicaid) before going to prison. But Medicare dropped coverage the day he was initialed incarcerated. She said there was no chance that Medicare or Medicaid would agree to pay for the new batteries, since he was incarcerated.

We relayed this to the prison doctor and the warden. The doctor called us and said it was his understanding that the decision of whether to pay for the batteries was actually up to the warden. We relayed this to the warden. Two weeks later, the prison agreed to purchase the new batteries for the man’s wheelchair.

Jail makes improvements to comply with disabilities law

A disabled man who was jailed for 30 days for a traffic offense appealed to the Ombudsman for help with lingering issues over accessibility in a central Iowa lockup.

The man, who is partially paralyzed and walks with the aid of a cane, said he slipped in a jail shower and later fell off a toilet because the facilities had no grab bars to assist people with disabilities.

The Ombudsman discovered that the Americans with Disabilities Act, also known as the ADA, requires that such accommodations be made in jails and prisons. Institutions that fail to make those accommodations can be sued.

The jail administrator said he didn’t know the jail was required to comply with the ADA. Nevertheless, after consultations with state and county officials, sheriff’s officials agreed to install grab bars and a riser for the toilet, which were approved by state regulators. The jail also enacted a policy to screen all new inmates for disabilities to ensure they receive proper accommodations.

Mental Health Continued from page 1

Most of those fortunate enough to receive treatment in prison have little or no access to continued care in the community once released. This gap often results in a relapse and an eventual return to prison.

As these stark realities become clearer, with little response from our government officials, it begins the question whether lowans care about the fates that befall our pris- ons and jail populations.

Do we really believe people should be denied nitro- glycerine for heart problems, insulin for diabetes, and psycho- druthic drugs for mental illness simply because they are incarcerated and cannot afford to pay for it?

Do we really believe mental illness is a crime?

Have we completely lost our heart?

Iowa needs to look seri- ously at how we fund mental health services. Under current system, the level of care varies widely from county to county. This disparity should not continue to exist.

Iowa has only one mental health court. We need to divert these criminals to drug court and offer incentives to get them clean.

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Iowa Administrative Code on obligation to provide medical care

Medical services. The jail administrator shall establish a written policy and procedure to ensure that prisoners have the opportunity to receive necessary medical care. If the prisoners’ objectively serious medical and dental needs which are known to the jail staff are not met within a reasonable time, the prisoner shall be referred to a physician for further opinion. The plan shall include a procedure for emergency care. Responsibility for the costs of medical services and products remains that of the prisoner. However, no prisoner will be denied necessary medical services, dental service, medicine or prostheses because of a lack of ability to pay.

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Taking an agency’s “word for it” not always good enough

You open your mail to find a notice from the tax department. It says you’re being fined $87 for making a late payment. You call in to report that the notice is wrong. Eventually, they agree, and tell you to ignore the notice.

So far, so good. You then ask for a second notice to confirm that the first notice was wrong, so that you have written proof. But they tell you a second notice isn’t needed.

That was the situation for one Iowa taxpayer when he called the Ombudsman’s office last year. He had opted to pay his income taxes through an electronic check handler. It would submit payments automatically, on a date set up by the taxpayer, to the Department of Revenue (DOR). DOR sent a written notice saying one such payment was one day late, and he was being penalized $87 as a result. He contacted DOR and explained that the payment was not late. Eventually, a DOR manager acknowledged that the taxpayer was correct, and told him he no longer had to pay the penalty.

The taxpayer in turn asked for a notice confirming that the first notice was in error. To that, he said a DOR manager responded to the effect of, “We don’t do that.”

This refusal concerned the taxpayer. He noted that only two weeks had passed since the phone conversation in which the DOR representative stated that the notice was in error: “That guy could lose his job and I’d be left out in the cold,” the taxpayer reasoned.

The DOR representative said they were willing to send me a follow-up letter effectively saying I owe them money, and it gets fixed, I think they needed a car for work. He contacted DOR and explained that the payment was not late. Eventually, a DOR manager acknowledged that the taxpayer was correct, and told him he no longer had to pay the penalty.

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