



OMBUDSMAN'S REPORT



2005

Annual report of the Iowa Citizens' Aide/Ombudsman

June 2006

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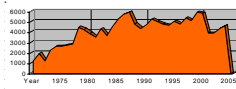
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Ombudsman's message

Gaining trust by correcting errors

Bill Angrick



The CIETC scandal broke in the last few weeks of the 2006 session of the Iowa General Assembly, focusing a great deal of the public's, the media's and state and local governments' attention on questions of trustworthiness and accountability in government and its contracted services.

When government is trusted, its citizens have confidence in its ability to deliver what is needed and expected. Capability and predictability are components of this confidence. Needs and expectations may vary with circumstances and individuals. But the equation is the same. Trust is subjective and earned. When effective, consistent and predictable it has significant staying power: consider the trust you have in your local fire department. But it can be quickly diminished or lost. Consider trust in certain government agencies during the immediate aftermath of Hurricane Katrina.

How does an ombudsman promote trust in government? Does the ombudsman promote trust in government when reporting the results of a critical investigation? In such instances isn't the ombudsman's impact just the opposite; we substantiate that government is faulty, makes errors, is biased? How does that promote trust? Perhaps to gain trust, a government entity has to first be aware and recognize its failings, and then hopefully it will correct the error or wrong and make changes to do better.

Credibility is a component of trust. Integrity is also. By ensuring that the ombudsman office has a credible review or investigation capability, the ombudsman builds his or her own trust. And from trust in the work of the ombudsman perhaps trust in government can be achieved, earned, maintained. But that isn't an easy or straight line progression. Being accurate, thorough and honest in how the ombudsman carries out his responsibilities and in what the ombudsman says, both publicly and privately, works toward this end. But for me it must also be measured in the changes an ombudsman stimulates, brings about, or otherwise accomplishes.

Exposing a wrong is important. In an open society, citizens need to know when and where government fails. It is one of the ways government can be held accountable. But rectifying wrong is equally important and must be built into the trust equation or otherwise we will be left with raw commentary and unfulfilled expectations.

Rectification is a different process than investigation and reporting. In a perfect world, if the ombudsman speaks then changes should occur. But our world isn't that simple and ombudsman offices around the world know we aren't that omnipotent.

Building upon the ombudsman's integrity and credibility, the ombudsman's own trust, the ombudsman must find ways to persuade, influence and convince policy makers to make policy changes, redirect resources and modify priorities. Otherwise the ombudsman may be relegated to an office of superfluous criticism, an irritating gadfly. It is up to the ombudsman to find ways to make that happen.

Reports must be readable and accessible. Reports may need to be interjected into public discussion. Those who can implement or cause to be implemented the ombudsman's recommendations may need to be shown how to do so, reminded that they can do so, influenced or persuaded to do so. The media will need to be kept apprised and consulted if the ombudsman's work is to be salient.

American's first ombudsman, Herman Doi of Hawaii, wrote about "reasoned persuasion" as one of the ombudsman's tools. That arrow must be in the ombudsman's quiver. And ombudsmen must also be able to speak from Teddy Roosevelt's "bully pulpit."

Sometimes the ombudsman does this quietly, other times with vigor and noise. As trust in the ombudsman is gained then the repertoire of resources available to the ombudsman will expand.

Effective use of the media, competent presentations before legislative committees, administrative councils, work

Continued on page 5

EXTRA MILERS



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



Roger Baysden, Department of Corrections, Director for Iowa Prison Industries — for taking Iowa Prison Industries from furniture work, license plates and blood sales to the current program offering a far larger opportunity for training and potential for job opportunities once released.



Richard (Dick) Coffman, Jail Administrator, Keokuk County Sheriff's Department — for his candor and initiative used in problem solving; employing education and modeling a professional attitude rather than reactionary towards those held in his trust in the course of implementing such solutions.



Julia Goodin, State Medical Examiner — for her prompt attention to two issues: autopsies to be done by her office on in-custody deaths for consistency in specimen collection and laboratory analysis; and her response to the notification of next-of-kin so survivors don't learn of deaths of loved ones 11 hours after an accident.



John Hampel, former Chief of Jails, Polk County Jail — for being completely responsive to the recommendations of the Ombudsman to help the jail meet and exceed in some cases, the requirements for the inmates. Subsequent to our investigation, he continues to be immediately responsive to any new concerns and as a rule, takes immediate steps to resolve matters. This would include not only taking action that is required by law, but taking those actions that are just and reasonable for inmates.



Ronda Johnson, Appeals Liaison, Department of Human Services — for further analyzing a situation, resulting in a significant reduction in the caller's obligation. She also recognized the caller may have received misinformation from the agency so she agreed to entertain a hardship application from the caller after the deadline had expired.

How to reach us

E-mail: ombudsman@legis.state.ia.us

Web: www.legis.state.ia.us/ombudsman

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

Address: Ola Babcock Miller Building
1112 East Grand Avenue
Des Moines, Iowa 50319-0231

TTY: (515) 242-5065

Fax: (515) 242-6007



Eight steps for resolving your own complaints

“What 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 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’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 to see if you can get an extension or if you can appeal by telephone.

3. Choose the right communication mode. If you’re 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’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 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’re wanting face-to-face contact, we recommend that 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. And 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 don’t have authority to investigate any federal agency.



Open records & meetings

Have we lost the spirit of Public Records, Open Meetings laws?

Transparency (and the perception of transparency) is important. I believe the Public Records and Open Meetings Laws are designed to allow citizens the ability to participate in and hold government officials accountable. Stopping abuse and demanding accountability goes to the heart of the Ombudsman’s office and democracy itself. Officials need to remain diligent about conducting government business in the open.

I was astonished when a city administrator told me that he believed a form he designed for a city council to vote and/or comment on budget issues is a “private communication...for my use” (as explained below in *When is communication about city business a public record?*). Citizens have the ability, with our assistance, to change such behavior and attitudes.



Assistant for
Public Records,
Open Meetings
and Privacy
Angela Dalton

The Ombudsman’s office is most effective as a watchdog for Public Records and Open Meetings Laws when we receive credible, timely, and reliable information from the public. This is enhanced when citizens and officials know the law and participate in government.

A simple message for the public official: The records created in conducting government business are not your own and you must have a specific exemption under law to keep records confidential. Likewise, if the law requires open meetings, you may only go behind closed doors when authorized by law. When in doubt, read the law and consult with legal counsel. Most importantly, document your reason for denying a record or going behind closed doors.

A simple message to the public: You have the right to view or copy any public record that is not considered confidential by law. You need to be prepared to pay the actual costs of the work associated with retrieving, copying and/or supervising the records while you view them. If you are denied access to a record, ask the agency to put the reasons for denying the record in writing.

Public records, open meetings resources

If these resources do not answer your questions, please contact our office, your attorney, or the attorney working for the governmental body.

- Every month the Attorney General’s office publishes an easy to read “**Sunshine Advisory**” which interprets the basic nuts and bolts. Go to: http://www.state.ia.us/government/ag/Sunshine_adv/sunshine.html

- The Iowa Freedom of Information Council publishes the **Iowa Open Meetings, Open Records Handbook**. Copies can be obtained by calling the Council at (515) 271-2295.

- The Attorney General’s office, the Iowa State Association of Counties, and the Citizens’ Aide/Ombudsman office conducted a free two-hour **Public Records Law training course for public officials** over the Iowa Communications Network in 2004. The tape is available by contacting Assistant Ombudsman Angela Dalton at 1-888-426-6283 or by contacting ISAC at <http://www.iowacounties.org/>.

- Local government officials can also get more information and training from the Iowa League of Cities and the Iowa State Association of Counties.

When is communication about city business a public record?

Many agencies have drafts which are revised, rewritten, and reworked until the final product is ready to be released to the public. There may be an exception for working documents depending on the nature of the document.

In one case, a city council was having trouble agreeing on where to cut the budget. In an effort to reach a resolution, the city administrator asked council members to vote on specific areas of the budget by secret ballot. The ballots would be compiled and used to recommend a budget.

A member of the public questioned whether the recommended budget reflected the council’s responses and asked

for copies of the council’s secret ballots. The city administrator refused to provide copies, saying the ballots were considered to be “private communication ... for my use” and therefore were not a public record under the law.

After reviewing the matter, we disagreed with the city administrator’s position. Although not an ordinary means of executing the public’s business, an elected official’s “vote” used to recommend a budget is of interest to the public. It is not a private communication and should be treated as a public record. The city administrator conceded and provided copies of the documents to the citizen.

Conscientious recycler preserves privacy

When a small business owner placed a bid to recover and recycle tons of paperwork for a county agency, he did not anticipate the documents would be filled with personal information about people in his community.

When he told the agency about the personal information, they said all the information is public record and recycling it would be sufficient. Not satisfied, the business owner called the Ombudsman’s office.

He explained that the documents were transported to his facility, where he bundled them for transport to a recycling facility. During transport, both before and after bundling,

or in the process of bundling, these documents could be accessed by staff and/or others if the documents “blew away.” He sent samples of the documents in his possession. Included were specific individuals’ Social Security numbers, dates of birth, home addresses, license plate numbers, home telephone phone numbers, child abuse reports and other personal information.

We called the agency and persuaded them to spend the extra money (approximately \$300) to have the business owner shred the documents, to reduce the risk of citizens’ information getting into the wrong hands.

Count on officials to do “the right thing” ... or require it?

A citizen made a records request to an agency located several counties from his home. He was told he would need to appear in person to pick up the documents.

After a protracted debate with our office, the agency reluctantly agreed to send the documents by mail with prepayment. The agency argued that the Open Records Law didn’t require it. We countered by noting that Iowa Code Chapter 2C not only authorizes the Ombudsman to review complaints about actions that are alleged to be contrary to law, but also authorizes review of actions alleged to be un-

reasonable, unfair, oppressive, or inconsistent, even though in accordance with law. We can also recommend legislative changes when the law causes unintended consequences. Based on our review, we proposed legislation to modify Iowa Code section 22.3. The legislation, requiring agencies to accommodate record requests received by *any* means, and prohibiting agencies from requiring the physical presence of the requestor, was unanimously passed by both the Iowa Senate and House, and signed into law by Governor Vilsack in 2005.

2005

CITIZENS’ AIDE/OMBUDSMAN
OLA BABCOCK MILLER BUILDING
1112 EAST GRAND AVENUE
DES MOINES, IOWA 50319-0231
1-888-426-6283 (515) 281-3592
FAX (515) 242-6007 TTY (515) 242-5065
E-MAIL: OMBUDSMAN@LEGIS.STATE.IA.US

STAFF

WILLIAM P. ANGRICK II, CITIZENS’ AIDE/OMBUDSMAN
RUTH H. COOPERRIDER, SENIOR DEPUTY OMBUDSMAN AND
SENIOR LEGAL COUNSEL
JUDITH MILOSEVICH, SENIOR ASSISTANT
FOR CORRECTIONS
KRISTIE F. HIRSCHMAN, SENIOR ASSISTANT
FOR SMALL BUSINESS
ANGELA DALTON, ASSISTANT FOR PUBLIC RECORDS,
OPEN MEETINGS AND PRIVACY
BARBARA VAN ALLEN, ASSISTANT FOR CHILD WELFARE
JEFF BURNHAM, SENIOR ASSISTANT
KYLE R. WHITE, ASSISTANT II
RORY E. CALLOWAY, ASSISTANT II
ELIZABETH HART, ASSISTANT I
ANDY TEAS, ASSISTANT
LINDA BRUNDIES, ASSISTANT
JERI BURDICK CRANE, SENIOR FINANCIAL OFFICER
[DON GROVE, ASSISTANT II, AND MAUREEN LEE, SECRETARY
RECEPTIONIST, LEFT EMPLOYMENT IN 2006.]

THIS PUBLICATION WAS RELEASED BY THE OFFICE OF THE
CITIZENS’ AIDE/OMBUDSMAN, WHICH PRINTED 2,000 COPIES AT
A COST OF 47 CENTS PER COPY, TO PROVIDE AN ANNUAL REPORT
TO THE LEGISLATURE, THE GOVERNOR AND THE PUBLIC.



Local government

Elderly homeowner gets tax suspension, keeps home

An elderly homeowner was worried that she might lose her home. She had recently applied to the county for suspension of her property taxes. As a recipient of federal Social Security Income (SSI), she thought she was eligible for suspension of property taxes under Iowa law (Code section 427.9).

But a county supervisor told her that they were going to deny her request. Not sure where else to turn, the homeowner called our office. We reviewed the law and confirmed that section 427.9 states supervisors "shall" approve

such requests.

We called the supervisor who had talked with her. He defended the decision to deny her request, but he also said he had not looked at Code section 427.9. We suggested that he review section 427.9 and to perhaps consult with the county attorney.

Two days later, the homeowner called us. She had just gotten a call from the county supervisor and she said "it sounds like it's going to be fine, thanks to you!" She said he also apologized to her.

Release of tape violated law, Ombudsman concludes

A county auditor violated Iowa's Open Meetings Law by releasing a tape recording of a board of supervisors' closed session, according to a report published in 2005 by the Citizens' Aide/Ombudsman.

The Lee County Auditor said she acted on the advice of the Lee County Attorney. But according to the Ombudsman's report, the Open Meetings Law specifies that only a court can release tapes of closed sessions. The law also states, "Ignorance of the legal requirements of this chapter shall be no defense to an enforcement proceeding brought under this section." [Code section 21.6(4)]

"The Ombudsman concludes that the Auditor's release of the Board's closed session tape recording violated section 21.5(4) of Iowa's Open Meetings Law," the report said. "Given that the Board [of Supervisors] is the legal custodian of the record and the Auditor was uncertain about its release, the Ombudsman believes the Auditor had the implicit responsibility to refer the request for the Board's closed session tape recording to the Board or to notify or confer with the Board about the request."

The tape was from a closed session held by the Lee County Board of Supervisors. A newspaper reporter later requested a copy of the tape from the County Auditor, who serves as clerk to the Board. In response to the Ombudsman's investigation, the County Auditor said she was advised by the County Attorney that she could release a copy of the tape "due to the meeting being illegal and the tape not being protected." She did not inform nor seek permission from the Board of Supervisors.

"There is no administrative remedy or sanction in Iowa Code chapter 21 authorizing a governmental body to unilaterally release tapes of a closed session, even if the meeting was closed illegally," the Ombudsman's report said. Considering the language of section 21.5 and a 1980 decision by the Iowa Supreme Court, "[T]he Ombudsman believes the proper remedy is to petition the court for release. Proceeding in this manner would afford any aggrieved persons the opportunity to challenge or dispute the release of the records of a closed session or any portions of such records."

In her written reply to the report, the County Auditor wrote, "With due respect to your office and position, I believe there remains considerable confusion and difference of legal beliefs regarding the legality of releasing a tape recording of an illegal closed session." She also expressed disappointment that the Ombudsman's investigation did not examine whether the closed session itself was in accordance with the Open Meetings Law.

Copies of the six-page report, and an unedited version of the County Auditor's response, are available upon request and from the Ombudsman's website at www.legis.state.ia.us/ombudsman.

Danger averted; storm drain fixed

Kids need parents, but they also need neighbors looking out for them as well. That was the case when a woman called about a broken storm drain in her neighborhood.

Before calling us, she said she had reported it several times to the city without results. She said the storm drain had deteriorated and a large hole had developed. She and a neighbor put two warning signs next to the hole, but she was still concerned that a child could fall through.

We contacted city officials. An administrator confirmed that the cement was gone from the top of this storm water intake, creating the hole. He said they had arranged for a contractor to repair it nine months before, but the contractor failed to do so. The necessary repairs were made within a month or two after we contacted the city.

City removes requirement for kennel license

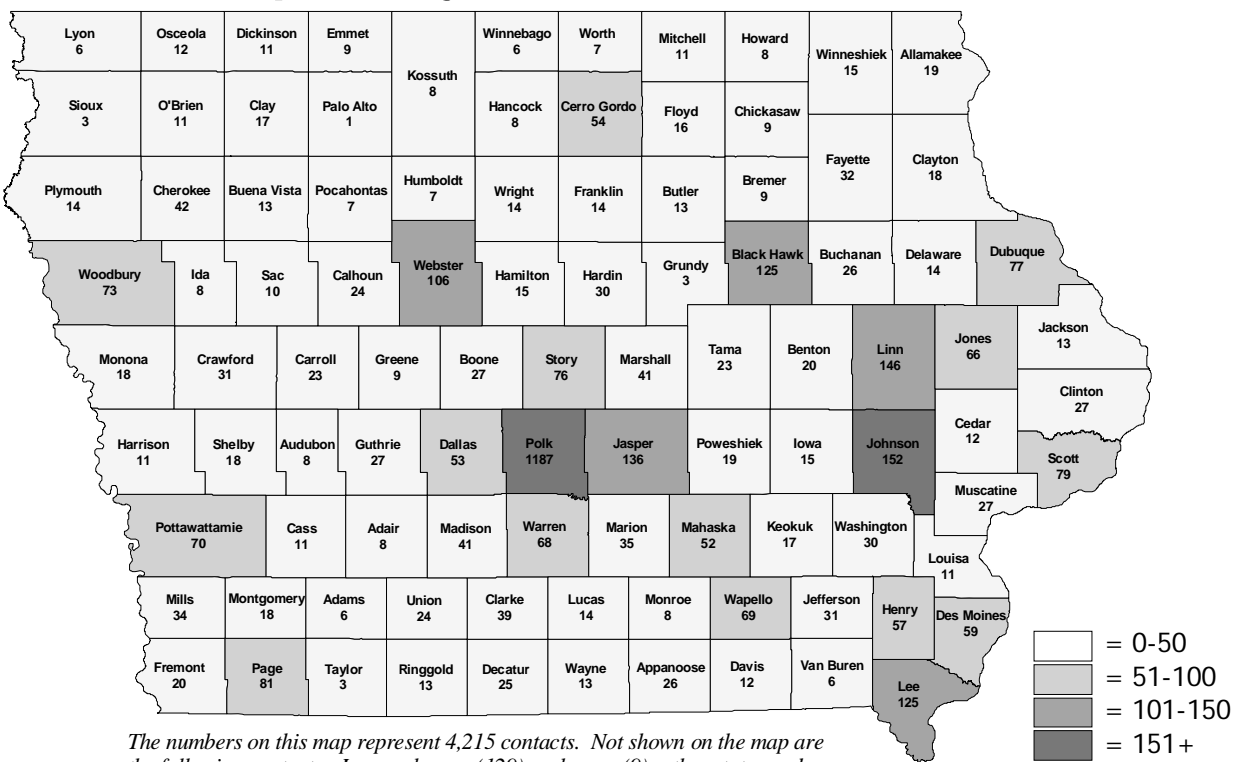
The owner of three dogs complained about a new ordinance restricting residents to two dogs unless they receive a kennel license from a state agency.

Our research revealed there are two types of kennels defined in Iowa law: a boarding kennel and a commercial kennel. The criteria for both licenses requires that a person be paid for the service. And in some situations, a commercial breeding license would be the appropriate license.

In other words, a private dog owner in the city with more than two dogs would likely not qualify for any type of kennel license. We brought this problem to the attention of city officials. They agreed to remove the requirement for a kennel license. It is still unlawful to maintain more than two dogs on any one property in the city, with the exception of a litter for six months.

Where's your county?

Contacts opened by Citizens' Aide/Ombudsman in 2005



The numbers on this map represent 4,215 contacts. Not shown on the map are the following contacts: Iowa unknown (129); unknown (9); other states and District of Columbia (219); and other countries (2).

County removes barrier for poor to get assistance

Iowa law requires counties to help "poor persons" under certain circumstances. But what if a county feels it can't afford to help everyone who needs help?

That question was raised by a single mother who was disabled. She was receiving some public assistance every month, but she still occasionally needed additional help. Over a week's time, she made two requests for assistance to the county's community services department. Both were denied. The first request - food vouchers for supplies she couldn't buy with food stamps - was denied because the department had already spent its allocated funds. The second request - for utility assistance - was denied because she had some household income (department policy only allowed such assistance for those who had absolutely no household income). She appealed to the board of supervisors, which denied her appeal.

"I do not feel that this is fair," the woman wrote. "My income is way below the poverty line in Iowa. I do not feel that if I need occasional help, this is out-of-line."

We reviewed state law - Iowa Code Chapter 252, "Support for the Poor." Code section 252.25 states, "The board of supervisors of each county shall provide for the assistance of poor persons lawfully in the county who are ineligible for, or are in immediate need and are awaiting approval and receipt of, assistance under programs provided by state or federal law, or whose actual needs cannot be fully met by the assistance provided under those programs...." The term "poor person" is defined in Code section 252.1 as "those who have no property ... and are unable, because of physical or mental disabilities, to earn a living by labor...."

We reviewed the eligibility criteria listed on the department's website. It stated that applicants had to have "no source of income." We contacted the department director and the county attorney. We learned that:

1. For approximately three years, the department had used the "no income" criterion as one of the definitions of "poor person," for the purpose of determining eligibility for "general assistance."

2. In April, the department had spent all of its funding allocated for general assistance. The director requested additional funding from the board of supervisors; they gave him some of the monies requested but not all, citing budget problems.

3. The woman's requests were made in late May and early June - relatively late in the fiscal year (most agencies run their budgets on a fiscal year basis, beginning July 1 and ending June 30).

4. "As I recall, there were 5 of these cases that simply were unmanageable - support could not be continued because funds were not available," the director wrote.

5. In a letter earlier that year to the director and the board of supervisors, the county attorney wrote, "[I]t appears that decisions are made based upon some loosely defined protocol that may change based upon the status of the budget and available funds. That sort of situation is intolerable and invites challenges and potentially serious litigation.... In short, without a clear and concise set of qualification guidelines that are consistently applied, we are open to claims that may result in some very damaging results."

6. The county attorney urged that the eligibility criteria be specified in the department's policy, "and that they be consistently applied and enforced regardless of the status of the budget."

7. "I started drafting revisions to my procedures manual in June with the intention of implementing some new practices starting in the new fiscal year," the director wrote.

8. Beginning with the new fiscal year on July 1, the department changed its definition of "poor person." Instead of requiring absolutely no income, the new procedure relied on a formula that the Department of Human Services used to determine eligibility for certain benefits.

By late August, we persuaded the agency director to allow the woman to reapply under the new procedures, and we shared that with her. Seven months later, after a series of delays and meetings, the board finally approved the new procedures.



Department of Human Services

Family's benefits restored due to Ombudsman's inquiry

A single mother with three children contacted us for help. She did not work and had been receiving benefits through the Family Investment Plan (FIP) program.

She had been required to also participate in the Promise Jobs (PJ) program. Her PJ worker required her to show documentation that she was applying for at least 20 jobs every week.

She said that was impossible, as she had medical problems, and so did her four-year-old daughter. But she alleged that her PJ worker was not being receptive to these problems, and as a result she was losing her FIP benefits.

We contacted the PJ worker. He confirmed that she had discussed having severe headaches that interfered with her ability to do job searches. He had given her a form for her doctor to verify that her medical problems made it unrealistic to require the job search. But the written response from the woman's doctor did not verify her problems were of that magnitude.

We then asked the PJ worker about the medical problems of the woman's daughter. The worker said she may have mentioned that, but he didn't pursue it because she did not mention it to the same degree as her own medical problems. (We also interviewed an advocate who was helping

the woman at the same meeting. The advocate said the woman did mention her daughter's medical problem.)

At our request, the PJ worker sent her the paperwork for her daughter's doctor to fill out. It came back as verifying the daughter's breathing problems were of such severity that it would be inappropriate to require her mother to leave her at a day care center while searching for jobs. Based on that information, the woman was reapproved for FIP benefits, and the job search requirement was waived due to her daughter's medical problem.

We thought her concerns were resolved at that point. But she called us back a few days later with a new issue. While she was being reapproved for FIP benefits, she was not being approved for retroactive benefits (she had not received FIP benefits for the two prior months).

We contacted DHS about this. We explained how her FIP benefits had been stopped for her allegedly failing to do the required job search, and how we were able to get that requirement waived due to her daughter's medical issues. Based on all of that, we encouraged DHS to give her FIP benefits for the two prior months as well. DHS reviewed the matter and agreed to approve her for retroactive FIP benefits.

Clerical mistake gives abuse reporter grief

Imagine filing a report of alleged child abuse with the Department of Human Services (DHS), and then receiving a phone call from an angry relative of the person you were reporting.

That was the situation for one of our callers last year. We immediately contacted DHS. We found that a letter DHS had intended to go to the reporter was instead sent by accident to the alleged perpetrator, due to a clerical error. The letter had the reporter's name and address.

It was sent to the alleged perpetrator, where a relative saw it, called the reporter and an argument ensued.

Due to our inquiry, a DHS supervisor set in place a procedure whereby notices sent to reporters would no longer have any identifying information. So, even if a letter is sent to a wrong address, the reporter's identity would remain confidential. In addition, the supervisor stated she would remind employees of the need to eliminate such mistakes in the future.

Grandparents proceed with adoption after Ombudsman clears snag

A grandfather was trying to adopt his grandson. He needed to get a "home study," but said he was getting no help from child welfare agencies in Iowa and in the state they had moved to.

The original case involved the termination of parental rights for both of the boy's parents. His grandparents were attempting a private adoption. With the court's approval, the grandparents moved to another state with their grandson.

A key step in any adoption is obtaining a "home study," where a child welfare agent assesses the ability of the

adoptive parents to raise the child. The grandparents contacted Iowa's Department of Human Services (DHS) and the child welfare agency in the other state. Neither agency would help get a "home study." In fact, each agency said it was the other state's responsibility.

That's when the grandfather contacted our office. In response to our inquiry, DHS found that its own staff needed to take additional steps before the family could receive help from the child welfare agency in the other state. Those steps were taken, a home study was conducted, and the grandparents proceeded with the adoption process.

Care provider finally gets paid for her work

Few things are more frustrating than not getting paid for your work. That was the situation for a caller who was an in-home care provider on contract with Iowa Medicaid Enterprise (IME), which administers Iowa's Medicaid program. IME is comprised of staff from the Department of Human Services (DHS) and private contractors.

She told us that she hadn't been paid for a \$243 claim submitted two months prior. She had called IME several times, but said she got a different response each time.

We contacted DHS and IME. Their response was that the provider was at fault; she had submitted a claim for the month of July before the month was over (contrary to the program's rules). A few weeks after our inquiry, her claim

check was mailed to her.

While that resolved the larger problem, we questioned why it had taken so long. Noting that IME confirmed that the provider had made four phone calls about her claim, we asked how IME staff responded to her during those calls.

In response, we were told that IME's "call logging system" does not readily show the "call history" for a particular provider; which at least partly explained why she was not given consistent answers. We were also told that "IME is looking into a way to get the system to show the call history so we can avoid the issue encountered here of several calls with no resolution."

Ombudsman helps keep lights on for in-home day care provider

The Ombudsman helped prevent electrical services from being turned off to the home of a day care provider licensed by the Department of Human Service (DHS).

DHS had lost the day care provider's paperwork submitted for payment. The day care provider needed to complete and resubmit the paperwork a second time, which meant she would not have the funds needed to pay her

essential bills on time. Her utility company was planning to shut off services for nonpayment.

With the cooperation of DHS, the Ombudsman arranged for expedited payment processing and contacted the utility for an extension on the payment date to avoid the shutoff.

Child Support Advisory Committee



Deputy
Ombudsman and
Legal Counsel
Ruth Cooperrider

I served as the representative from the Ombudsman's office on the State of Iowa's Child Support Advisory Committee, as provided by Iowa law (Iowa Code section 232B.18). I and other representatives on the Committee give input and make recommendations to the Department of Human Services (DHS) regarding the state's child support program. The Committee met five times on a bimonthly basis during 2005, except for the May meeting which was cancelled.

As mentioned in last year's column, the Ombudsman independently and through the Committee recommended that DHS use the administrative modification procedure under Iowa Code chapter 252K to modify or terminate a support order in situations where a child receiving support goes to live with the parent ordered to pay support (obligor). Examples include when a juvenile court places custody of the child to the obligor or when the obligee is incarcerated or dies. DHS officials resisted this idea because they did not think they have adequate staff and resources. The Ombudsman nevertheless submitted a bill proposal (Senate File 357) to the Iowa Legislature in 2005 for DHS to perform this procedure. The bill did not pass due to concerns about the costs. The Ombudsman still believes this is a worthwhile recommendation and will continue efforts to promote the idea.

In the meantime, the judiciary took action to address situations involving juvenile court orders transferring custody to the obligor. The judges in the state were asked to establish a process by which the support order could be terminated by a district court judge after the transfer occurred.

The Committee also attempted to address concerns about qualifications for "hardship" status raised by me and another Committee member. Child support rules allowed an obligor to request reduction of the child amount based on hardship, if the obligor met the financial criteria and requested the modification within 15 days from notice of an income withholding order. I wanted the notice to state more clearly that a hardship request is a separate remedy from a motion to quash, which an obligor can also pursue. I also asked whether the hardship status should be allowed for situations other than just 15 days within issuance of an income withholding order. I served on a subcommittee that looked at these and other issues. The subcommittee proposed the rules be changed to 1) allow an obligor receiving Social Security disability benefits to request a "hardship" reduction at any time, and 2) reduce the amount withheld to pay the delinquency from 50 percent to 20 percent of the current obligation whenever a parent asks for a review and adjust, even if the parents' incomes have not changed enough for an adjustment. DHS officials were receptive to these proposed changes.

2005 was the last year for me to serve as the Ombudsman's representative on the Committee. Assistant Ombudsman Barbara Van Allen has assumed that responsibility. I have enjoyed working with Committee members for the past 12 years to improve the child support program.

How to reach us

E-mail: ombudsman@legis.state.ia.us

Web: www.legis.state.ia.us/ombudsman

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

Address: Ola Babcock Miller Building
1112 East Grand Avenue
Des Moines, Iowa 50319-0231

TTY: (515) 242-5065

Fax: (515) 242-6007



Continued from page 1

meetings, task forces and advisory groups all become part of what the ombudsman can use to attain the second half of the equation. And, when successful, these tools can help build a general climate of trust in government.

Accountability is at the crux of representative democracy. Accountability comes about when government is responsive and responsible. The ombudsman may play a key role in this process. Other structures can and do also. According to the political scientist J. Roland Pennock, responsiveness occurs when authority responds to the demands of individuals and groups. When individuals and groups articulate demands they are seeking to influence government. Accountability can be broad or narrow, positive or negative. The challenge for the democratic theorist, such as Pennock, is how to explain what makes a government responsive to the collective voice of its citizens, the public good, and the majority opinion without ignoring or trampling upon the rights and interests of various minorities. He defines accountability in terms of answerability and explicability. Government is accountable when it can be held to account (answer) for its actions. Government is also accountable when it must explain its decisions, behaviors and actions.

The ombudsman is a means to fulfill both kinds of accountability. Requiring a government agency or official to account for its actions or inactions is precisely what we do daily. Examining those actions in terms of law, reason or some other standard is an essential ombudsman's task. If we do it well we contribute to the accountability of a government to its citizenry, individual and collective. And if government is accountable while fairly protecting the rights

of the minority and disenfranchised, then it can become good.

When the Iowa General Assembly adjourned this May, it had expanded Iowa's capacity to hold itself accountable and trustworthy. The Iowa State Auditor will have powers to audit and investigate in areas not previously authorized. Entities receiving state funds, especially on contract, will be required to submit additional information about their organization, operations and expenditures. The Iowa Ombudsman will, in certain situations, have additional responsibility to determine whether government whistleblowers have been retaliated against. I expect these reforms will create more work and better government. At least that is my hope and what my office will be working toward in the months and years to come.

There has been another development which I believe is important to report. As a result of our individual experiences and involvement in not only the CIETC scandal and the subsequent Legislative Government Oversight Committee hearings, the State Auditor, myself and the Executive Director of the Ethics and Campaign Finance Board have begun regular meetings to ensure we are aware of and are timely and appropriately responding to complaints and issues that impact upon the performance of government and the public's confidence and trust in Iowa's state and local government. My office and the State Auditor have historically cooperated and coordinated to ensure that citizens raising complaints are heard and responded to. But that has been on an individual and ad hoc basis. We are exploring how we, as the citizens' watchdogs, can apply our limited resources to improve the performance, accountability and trustworthiness of Iowa government

with our particular jurisdictions, responsibilities, powers, and skills. I look forward to reporting in the future how we do.

Once again, it is almost like a refrain to be sung each year at this time, the Ombudsman has received an increased number of contacts over the year proceeding. We are doing more in the area of public records, open meetings and privacy. I am considering perhaps publishing more frequent reports in this area because I believe there may be general value to be learned from what we have been finding and dealing with on an individual and informal manner. We saw a significant jump in the number of contacts relating to county government this past year. Jails of course are full, bursting at the seams in some locations, and that has been the source of many of the increased complaints. But I also believe that Iowans generally are more aware that Iowa has an Ombudsman and how to contact our office. Obviously, the monthly Sunshine Advisories on public records and open meetings issues published by the Attorney General mentions the Ombudsman as the place to go with complaints and questions. I did not do any sort of survey or study, but it certainly seems like the Ombudsman has been mentioned more in articles, stories and editorials in Iowa's print and electronic media. Again, if we have a public presence then we will get contacted.

In calendar year 2005, my office received 4,574 new complaints, requests for information, requests for assistance and special projects. That is 268, or a six percent increase in new cases. For the first third of calendar year 2006, my office has received 119 more complaints and requests than for the same period last year. For the past year or two on any given day, my staff and I have approximately 600 contacts open. Only through being able to work most of our cases informally, exercising the authority to apply reasonable and appropriate discretion on which cases to investigate and which to refer elsewhere or to decline, and utilizing the ability to access, prioritize and triage our caseload, are the 14 employees able to perform our work.

In 2005 and early 2006 my staff and I had the privilege of receiving several international visitors to the office.

From April 13-15, 2005, Albanian People's Advocate Ermir Dobjani and Mr. Riza Poda and Ms. Anila Shyti of his staff visited the Iowa Ombudsman and we shared ideas and information about the performance of ombudsman responsibilities in our different offices.

In early May 2005, I was asked by former Lieutenant Governor Robert Anderson, who is President of Iowa Resources for International Service, to meet with a delegation of legislative leaders from Kaduna state in Nigeria. My staff and I had informative meetings and learning exchanges with Speaker Bashir Usman Zubairu, Deputy Speaker Audu Emmanuel Marsango, House Agriculture Committee Chair Patrick Stephen Managri, House Local Government Committee Chair Mohammed Auwal Mohammed and Assembly Minority Leader Dr. Mohammad Mahmood Abubakar.

In November 2005, Mr. Geng Zhisheng, Deputy Director of the State Bureau for Letters and Calls of the People's Republic of China and several of his senior staff, Mr. Zhang Youzhi, Mr. Pu Chaolin, Ms. Jiang Suli, Mr. Tang Jianhua, Mr. Xie Oinghua, and Ms. Shao Na, visited Deputy Ombudsman Ruth Cooperrider, in her capacity as president of the United State Ombudsman Association and myself, as president of the International Ombudsman Institute.

On January 19, 2006 I was asked by the Iowa Council on International Understanding to meet with Wang Yong, a social science researcher and faculty member at the Central Party School, of the People's Republic of China. Mr. Yong wanted to exchange ideas and learn about government accountability and citizen participation.

In February 2006, three national legislators from Uruguay, Dr. Daniel Bianchi, Mr. Daniel Pena, and Mr. Enrique Pintado, spent time with Deputy Ombudsman Ruth Cooperrider and me discussing how best to establish ombudsman offices in their country. These officials were the guests of the U.S. State Department's International Visitor Leadership Program and were locally hosted by the Iowa Council on International Understanding.

In September 2005, I presented the keynote address to the Annual Conference of the United States Ombudsman Association in Nashville; in October I served on a panel discussion about the role of the public sector ombudsman at the annual conference of the Association for Dispute Resolution in Minneapolis; and in December I was privileged to make a keynote speech to the 9th annual meeting of the Asian Ombudsman Association in Hong Kong.

Later this year, in September 2006, the Iowa Ombudsman office will host the annual conference of the United States Ombudsman Association in Des Moines. USOA President and Deputy Iowa Ombudsman Ruth Cooperrider and I look forward to receiving up to a hundred ombudsmen and women from across the U.S., Canada and hopefully from a number of other countries as well.

2005: Complaints Opened by Agency

Name	Jurisdictional Complaints	Non-jurisdictional Complaints	Information Requests	Pending	Total	Percentage of Total
Administrative Services	2	0	4	0	6	0.1%
Agriculture & Land Stewardship	5	0	0	0	5	0.1%
Attorney General/Department of Justice	6	0	10	0	16	0.4%
Auditor	0	0	3	0	3	0.1%
Blind	1	0	0	0	1	0.0%
Citizen's Aide/Ombudsman	0	0	45	0	45	1.0%
Civil Rights Commission	2	0	2	1	5	0.1%
College Aid Commission	2	0	2	0	4	0.1%
Commerce	9	0	12	1	22	0.5%
Corrections	440	0	59	34	534	11.8%
County Soil & Water Conservation	0	0	0	2	2	0.0%
Cultural Affairs	0	0	1	0	1	0.0%
Economic Development	5	0	1	0	6	0.1%
Education	11	0	2	0	13	0.3%
Educational Examiners Board	0	0	0	0	0	0.0%
Elder Affairs	2	0	24	0	26	0.6%
Ethics and Campaign Disclosure Board	0	0	0	0	0	0.0%
Executive Council	0	0	1	0	1	0.0%
Human Rights	0	0	2	0	2	0.0%
Human Services	457	0	53	18	528	11.7%
Independent Professional Licensure	4	0	0	2	6	0.1%
Inspections & Appeals	29	0	10	1	40	0.9%
Iowa Communication Network	0	0	0	0	0	0.0%
Iowa Finance Authority	1	0	0	0	1	0.0%
Iowa Public Employees Retirement System	2	0	1	0	3	0.1%
Iowa Public Television	0	0	0	0	0	0.0%
Law Enforcement Academy	0	0	0	0	0	0.0%
Lottery	2	0	1	0	3	0.1%
Management	0	0	0	0	0	0.0%
Natural Resources	17	0	8	3	28	0.6%
Parole Board	18	0	10	1	29	0.6%
Professional Teachers Practice Commission	0	0	0	0	0	0.0%
Public Defense	0	0	0	0	0	0.0%
Public Employees Relations Board	0	0	0	0	0	0.0%
Public Health	12	0	10	1	23	0.5%
Public Safety	13	0	10	3	26	0.6%
Regents	21	0	3	0	24	0.5%
Revenue & Finance	41	0	22	0	63	1.4%
Secretary of State	0	0	3	0	3	0.1%
State Fair Authority	1	0	0	0	1	0.0%
State Government (General)	82	0	200	0	282	6.2%
Transportation	50	0	6	0	56	1.2%
Treasurer	2	0	0	0	2	0.0%
Veterans Affairs Commission	1	0	1	0	2	0.0%
Workforce Development	22	0	7	4	33	0.7%
State government - non-jurisdictional						
Governor	0	8	8	0	16	0.4%
Judiciary	0	140	27	1	168	3.7%
Legislature and Legislative Agencies	0	10	10	0	20	0.4%
Governmental Employee-Employer	0	35	3	0	38	0.8%
Local government						
City Government	530	0	111	24	665	14.7%
County Government	670	0	75	38	783	17.3%
Metropolitan/Regional Government	11	0	1	0	12	0.3%
Community Based Correctional Facilities/Programs	172	0	16	3	191	4.2%
Schools & School Districts	33	0	24	1	58	1.3%
Non-Jurisdictional						
Non-Iowa Government	0	96	52	0	148	3.3%
Private	0	438	141	0	579	12.8%
Totals	2676	727	981	138	4523	100.0%



Corrections

Mentally ill and in prison: "I have done nothing wrong"

Is being mentally ill a crime? It felt that way to one man who was returned to prison so he could keep getting the medication he needed for his mental illness.

He had been at a work release facility and his prescription was about to run out. He tried to see several psychiatrists but could not afford their fees. Before he knew it, he was being sent back to prison "to see psychiatrist and get meds refilled," he wrote. "Now the problem is getting back to work release. I have done nothing wrong."

"This happened," he added, "because [the county] does not have funds for folks to get meds or see psychiatrist while at work release."

We contacted the work release facility and the prison. We learned that:

- Monies available to local government agencies to help low-income individuals get mental health services have been declining in recent years, forcing some agencies to prioritize which clients will receive the limited monies available.

- In his county, work release clients were no longer eligible for such help. We were told that one county official had asked, "Who are you going to fund, a guy who's just getting out of prison or somebody who's never had a conviction?"

- None of the officials involved were taking any pleasure in having to make such priorities.

This in turn created significant challenges for the work release facility, and the local Department of Correctional Services, which were not budgeted to pay for such mental health needs. Staff had "begged and borrowed" from local providers, to help low-income clients with mental-health needs. But when those efforts were not successful, staff had felt compelled to consider, as a last resort, transferring the client back to prison; not as a long-term solution, but as a temporary move to keep them on their "meds" and stabilized.

In this case, the man was transferred back to the work release facility after spending about two months in prison. And in response to our inquiry, the facility director said

that the facility (and the district) would from then on pay for mental health services of any clients who couldn't afford it. He noted they were not required to do so, and didn't know how much this would cost. But he said they would do so anyway because they wanted to avoid sending any more clients back to prison, simply because they couldn't afford to renew a mental-health prescription.

When we wrote back to the man, we encouraged him to share his story with a commission that has been studying how to redesign the delivery of services to people with disabilities in Iowa. It's called the Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury (MH/MR/DD/BI) Commission. It reports to the Governor and the Legislature. We provided him with a contact person, their address and phone number. The commission's website is: http://www.dhs.state.ia.us/dhs2005/mhdd/MIMRDBI_commission/#search='MH/MR/DD/BI%20Commission'

County jail violates several basic rules

Several inmate complaints prompted Ombudsman staff to conduct a series of inspections at a county jail. The complaints centered on the extended housing of offenders in temporary holding cells, the lack of available grievances, and an infection among several offenders.

Temporary Holding Cells

When inmates arrived at the jail, staff initially put them in temporary holding cells – rooms which were concrete with one bench, a toilet stool and sink. We found the jail held too many offenders in these cells for over 24 hours; they also went without showers, toothbrushes, hand soap, and proper meals. The Iowa Administrative Code requires jails to provide access to basic hygiene products, a shower, and a bed within 24 hours. It also requires one hot meal daily.

The jail accepted our recommendations to ensure all prisoners receive meals approved by a certified nutritionist to meet nationally recommended minimum dietary allowances

After delay, offender gets \$100 for broken television

Sometimes you lose, even when you win. That's what it felt like for a prison offender, who won a legal claim for \$130 in damages, only to learn that none of the money would go to him.

The offender alleged that a correctional officer broke his television, and the officer admitted it. He filed a tort claim for \$130 with the State Appeal Board, which approved his claim.

However, when the State Department of Administrative Services (DAS) prepared to send him a check for \$130, it learned that the clerk of court claimed the money to cover a court-related debt. DAS sent a notice to the offender, explaining that it had submitted the entire sum to the clerk of court. The offender felt this was unfair, since the money from DAS was to serve as reimbursement for the damages to his TV.

Frustrated, he wrote to our office. Upon reviewing the matter, we discovered that in the notice sent to him, DAS should have advised him of the right to file an administrative appeal. DAS sent a revised letter to him, offering the appeal process.

He filed an appeal. After hearing his appeal, an administrative law judge agreed that he should get 80 percent of the money (about \$100), with the remainder going to the clerk of court.

and consisting of one hot meal daily in accordance with jail rules. The Ombudsman also asked the jail to demonstrate its attempts to assign inmates to a regular cell within 24 hours of booking. This resulted in more inmates being released on citation or being transported to other correctional facilities.

Grievance Procedures

We also found that inmates did not have sufficient access to the grievance process – the means by which offenders can submit a formal, written complaint to jail administrators. A previous jail administrator admitted he told staff not to provide grievance forms since the jail lacked adequate staff to process the complaints.

We concluded that the jail was in violation of the Iowa Administrative Code, and the jail's own policy for not having a functional grievance procedure. The Ombudsman made recommendations to improve the prisoner grievance procedures. The jail administrator accepted the Ombudsman's recommendations and instructed staff to provide grievances upon request and not attempt to determine the nature of grievances. The assigned grievance officer's role is to determine the nature and adequacy of a complaint.

Infections

After receiving complaints about spider bites that required a change in antibiotics, the Ombudsman reviewed these cases with the jail's health services department. Health services staff informed the Ombudsman that offenders did not have spider bites but rather were diagnosed with an infection called *Staphylococcus aureus*. The change in antibiotics occurred when a few cases came back as having a resistant bacterial infection more commonly known as Methicillin-resistant *Staphylococcus Aureus* (MRSA). An antibiotic that worked for a regular staph infection would not necessarily work for MRSA.

The Centers for Disease Control (CDC) states that correctional facilities can reduce the increasing prevalence of MRSA disease by identifying and appropriately treating infected persons and by instituting prevention measures. The jail's nursing supervisor traced five of the MRSA cases to a recent hospitalization.

The nursing supervisor also spoke with jail administration and strongly recommended that staff disinfect each temporary holding cell with a bleach solution once a week. Prior to the Ombudsman visiting the jail, health services established an outline of care for offenders with MRSA. For example, nursing staff segregated those offenders diagnosed with MRSA from others. Offenders also received instructional material regarding this type of infection including how to prevent the spread of MRSA. Upon admission to the jail, nursing staff was available around the clock to assess suspicious wounds or injuries.

One concern presented by the Ombudsman in touring three of the temporary holding cells was the absence of hand soap in the cells. According to the CDC, basic hand washing is the first line of defense against most infections, including MRSA. With each visit to the jail, the Ombudsman will continue to assess compliance with providing hand soap and the number of offenders diagnosed with MRSA. A visit three months later revealed no present cases of MRSA within the jail.

Jail provides "hygiene pack" for African Americans

An inmate complained about a lack of hygiene products for African-Americans at a county jail.

We contacted the jail and asked specifically about a product called a "bump razor." The jail administrator asserted that no such product existed. He continued to maintain this even after we offered to bring some to the jail for his inspection. The jail administrator also said he refused to provide hair gel because it stains the pillow cases so badly.

Many male African Americans cannot use a traditional razor because of the way their facial hair grows. We called the head of the Iowa Prison Industries (IPI). He offered to

bring over some samples of razors, shaving cream and hair gel. He delivered those a short time later.

When we showed the items to the jail administrator, he was surprised at the "bump razor." He said in the many years he's been in the business, he had never seen such a product. He promised to try to order some. We checked back with the jail's administrator who said his supplier was unable to obtain this item. After more phone calls, the jail administrator eventually ordered the razors from IPI in large quantity and provided a "hygiene pack" specifically for African Americans.

Work release resident gets needed help for medical problem

A man came to our office, clearly in pain, after being transferred to a local work release facility. While in prison, our office had helped him get an appointment with a specialist for his ailment.

He said the specialist had recommended surgery and claimed that the surgery was supposed to be performed before his release from prison. When he asked about it, health services staff gave no indication that the surgery would not take place.

But several months later, he was informed that he was supposed to have decided whether he wanted the surgery. It was our opinion that the offender's repeated inquiries about the surgery affirmed his desire to have it. Now at

work release, he might be responsible for the costs of the surgery.

Our review found that an order was written to schedule the surgery but the appointment was not made. Fortunately for the man, the county agreed to pay for the costs of the surgery.

We also asked the work release facility to waive his rent – because he couldn't work due to the surgery – and we helped the facility obtain approval for an early parole for him. Once on parole, he was eligible for Social Security disability income and the additional medical treatment he needed.

Jail adopts policy to screen for tuberculosis

A prisoner at a county jail alleged that jail staff did not screen new offenders for tuberculosis (TB). He knew of two offenders within the jail that had active TB.

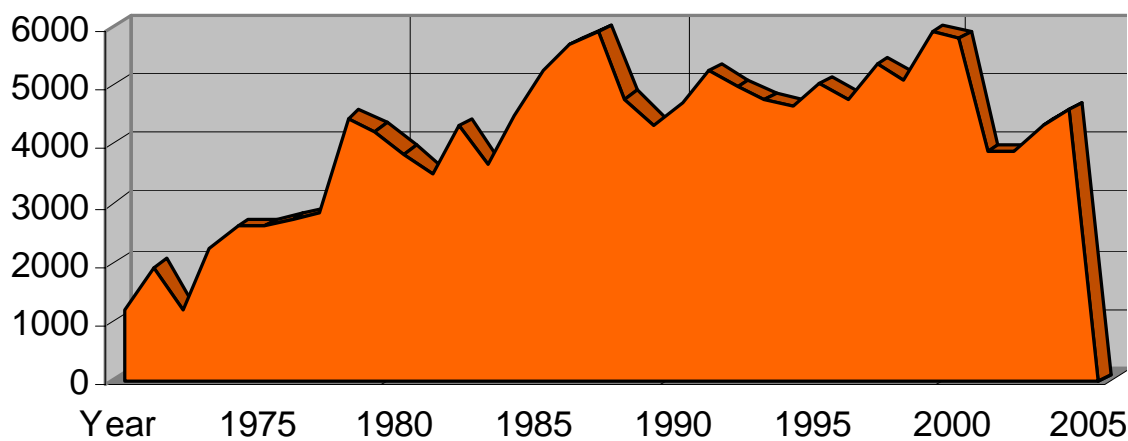
We contacted the jail. The jail administrator stated they do screen for TB but lacked a policy outlining requirements for TB screening. He stated all known active cases would be transferred to a local hospital. He denied the jail having any active cases of TB at the time of our call.

We suggested the jail formulate a policy outlining re-

quirements for TB screening as well as a plan of care for inmates with TB. Our office provided sample TB policies and Internet information on this disease. We also asked jail administration to work with their local county public health department to develop a TB policy. The jail did develop a policy addressing screening and treatment, distinguishing treatment for those with a positive Purified Protein Derivative (PPD) skin test versus treatment for those with a diagnosed active case of TB.



Annual contacts to Ombudsman since 1970



This chart shows the number of contacts received by the Ombudsman's office each year from 1970 through 2005.



Law enforcement

Ombudsman recommends better process for identifying accident victims and notifying relatives

Nearly 11 hours passed before an Iowa woman received official word that her husband had been involved in a fatal accident. State and local government agencies responsible for victim identification and death notification did not respond appropriately, according to an investigative report published in 2005 by the Citizens' Aide/Ombudsman.

The investigation found that the agencies failed to follow up on the identification information they collected at the scene. They did not use that information to access other information so identifications could be made and death notifications accomplished as soon as possible.

On Saturday, June 22, 2002, the woman's husband left his home in Boone, Iowa, to join friends to ride motorcycles to Anamosa. At 11:05 am, a van heading west on U.S. Highway 30 crossed the centerline about 14 miles east of Tama. The van hit four motorcyclists; three died at the scene, including the man.

The Tama County Sheriff's Office, the Iowa State Patrol, and the Tama County Medical Examiner were called to the scene. The Tama County Medical Examiner pronounced the body of John Doe #1, later identified as the woman's husband, dead at the scene at 11:56 a.m.

His wife had expected him home later in the day. Around 4 p.m., she heard about a tragic motorcycle accident in eastern Iowa. She made some phone calls, trying to find out if her husband was involved in the accident. She was eventually referred to the State Patrol, which she called several times that evening. Each time she was told they didn't know but someone would be calling her back. No one ever did call her back.

At 10:47 p.m., she heard a knock on her door. It was a Boone County Sheriff's Deputy and a pastor. They said they had just received word from the Iowa State Patrol that her husband had died in a motor vehicle accident in Tama County earlier that day.

According to the Ombudsman, by most accounts, the agencies could not positively identify the bodies at the scene, but they could have used the information collected at the scene to gather more information to identify the bodies. They had drivers' licenses, vehicle registrations, and other personal documents. They may not have had sufficient information at the scene to make a positive identification; but they did have sufficient information to formulate a reasonable suspicion. They had names and addresses, and they knew where to go to collect additional identification information. But, according to the Ombudsman, they didn't and this resulted in delayed notification, which was unreasonable and unfair to the families of the deceased.

The Ombudsman's report did not blame any particular officer or official for the late notification. Instead, he critiqued the agencies involved for not having a better system in place for assigning, defining, and documenting the duties and responsibilities for collecting and analyzing identification information so that death notifications are accomplished as soon as possible.

The Ombudsman recommended the agencies – State Medical Examiner's Office, Iowa Department of Public Safety/Iowa State Patrol, Tama County Sheriff's Office, and the Tama County Medical Examiner – work together and

with other interested persons and organizations to propose legislation or develop rules or policies that better defines when and how and by whom additional identification information is collected and analyzed, as well as when and how and by whom death notifications are accomplished.

The Ombudsman's report also recommended that the Iowa Department of Public Safety/Iowa State Patrol, Tama County Sheriff's Office, and the Tama County Medical Examiner send a letter of apology to the surviving spouse.

Three of the four agencies responded to the Ombudsman's report, and those responses are included in the report. The State Medical Examiner responded by stating her office will "draft and distribute guidelines to county medical examiners and their investigators regarding steps to take in order to establish positive identification of the deceased and how to work with law enforcement to ensure next-of-kin is notified once a positive identification is made."

The Commissioner of the Iowa Department of Public Safety, responded by stating his department "is always willing to participate in constructive dialog regarding meaningful legislation to improve public safety or service for the citizens of and visitors to the State of Iowa." The Commissioner also stated a letter of apology will be sent to the surviving spouse, with the Commissioner's signature."

The Tama County Medical Examiner responded by stating, in part, "It is my professional opinion that addition of legislation and/or regulation is not appropriate in this area." He stated, "Procedures and protocols cannot prescribe precise action because of the variables in each case." He also stated, "I regret the unfortunate happenings and I extend my sympathy to the families."

Copies of the report and the agencies' replies are available upon request and from the Ombudsman's website at www.legis.state.ia.us/ombudsman.

Ombudsman: Helping make good governments better

Iowa appointed its first Ombudsman in 1970, when Governor Robert Ray established the position in his office. In 1972, the Legislature approved the Ombudsman Act, now located in Chapter 2C of the Code of Iowa. The ombudsman became an independent office working under the auspices of the Iowa Legislature.

The Ombudsman is selected by the bipartisan, bicameral Legislative Council subject to the approval of the General Assembly. The appointment is for a term of four years, renewable for additional terms.

Under Iowa Code Chapter 2C, the Ombudsman is generally charged with looking into complaints about most agencies of state and local government in Iowa. Chapter 2C gives the Ombudsman authority to investigate administrative actions that 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 ascertainties of fact.
- Based on improper motivation or irrelevant consideration.
- Unaccompanied by an adequate statement of reasons.

The ombudsman system is based on the principle that everyone has a right to have his or her grievances against government heard and if justified, satisfied.

Wanted: A policy governing "wanted" posters

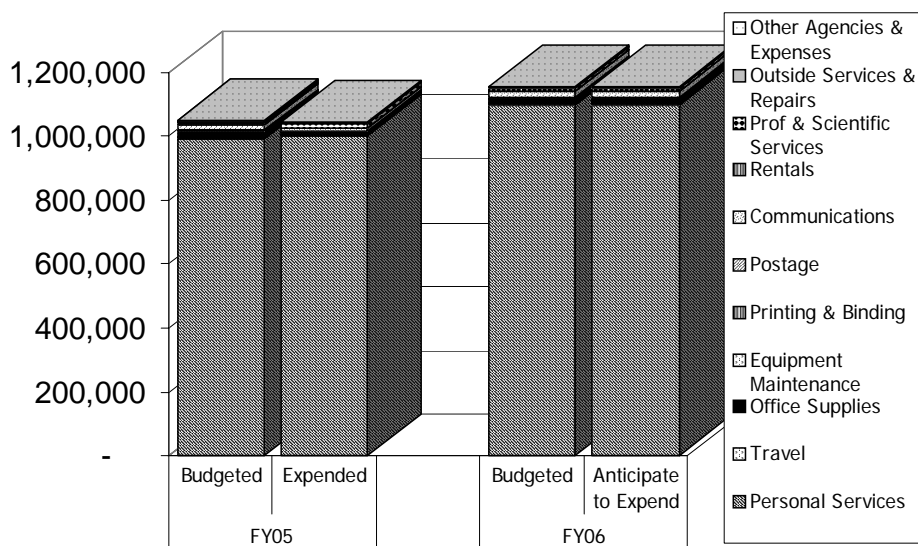
A mother called to complain about the county sheriff's office posting a "Wanted" poster about her son around town and in private businesses. The poster listed her son's name, his physical description and listed a criminal offense for which her son had not been convicted. In addition, the poster stated, "If you see this person, call 911. Do not attempt to apprehend the individual yourself." The mother believed the posters were possibly illegal or unreasonable.

We contacted the sheriff. He explained that he had used the "Wanted" posters a few times before, when a warrant had been issued and the person might still be in the area. The county attorney advised the sheriff that there was nothing wrong with the posters as they did not contain any confidential information.

Iowa law enforcement rarely uses "Wanted" posters, and there are no policies or procedures governing their use. We also found that there is no state law preventing their use. We reviewed several posters the sheriff had used and compared them to the alerts used by the FBI and Crime Stoppers. We found that those posters refer to charges as "alleged" and state the individual is "presumed innocent until proven guilty in a court of law" -- information which was not in the sheriff's posters.

We did not find that the sheriff acted contrary to law or unreasonably. However, we suggested the sheriff's office incorporate this language into the posters to avoid libel lawsuits. The sheriff welcomed our suggestion. We also suggested the sheriff develop a written policy to specify when posters are to be used, what information is included, and how posters are distributed and retrieved.

Office of Citizens' Aide/Ombudsman FY05 & FY06 Financial Information



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



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
Citizens' Aide/Ombudsman	1-888-426-6283
Civil Rights Commission	1-800-457-4416
College Student Aid Commission	1-800-383-4222
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
Human Services (Department)	1-800-972-2017
Inspection and Appeals (Department)	1-800-383-4920
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
Missing Persons Information	1-800-346-5507
Narcotics Division	1-800-532-0052
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	1-800-247-0614
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

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.iowa.gov/state/main/index.html
2. State agencies — www.iowa.gov/state/main/govagenciesfl.html
3. Legislative — www.legis.state.ia.us
4. Judicial — www.judicial.state.ia.us
5. Cities — www.iowa.gov/state/main/livingcitiesfl.html
6. Counties — www.iowa.gov/state/main/govcountiesfl.html
7. Public school districts and Area Education Agencies — www.ia-sb.org/usefullinks/usefullinks.asp
8. Iowa law — www.legis.state.ia.us/IowaLaw.html
9. "Sunshine advisories" — www.state.ia.us/government/ag/Sunshine_adv/sunshine.html (primers on the Open Meetings and Public Records laws)
10. Citizens' Aide/Ombudsman — www.legis.state.ia.us/ombudsman



Other agencies

Tax agency gives more time to flood-damaged business

The owner of a small business contacted us in 2005 regarding a dispute with the Iowa Department of Revenue (DOR). According to the business owner, DOR was not giving him enough time to submit tax returns because of records that had been destroyed in several floods going back to 1998 – his business is next to a river.

We contacted DOR. According to an administrator, the agency had been dealing with the business owner for two years. DOR said he had not submitted any state tax returns since 1992 – many years before the 1998 flood.

After considering the matter further, DOR agreed to give him three more weeks to file tax returns for 1999, 2000 and 2001; and if he did so, the agency would forgive him for returns not filed for 1998 and years prior. (DOR wanted to deal with tax returns for 2001 and prior before dealing with returns for subsequent years.) If he failed to submit those returns within three weeks, the agency said it would begin its administrative enforcement process. We relayed this offer to the business owner and he accepted DOR's offer.

Agencies do err -- a reminder to document key events

A man was ordered to pay a judgment stemming from a motor vehicle accident. After satisfying the judgment, he relied on his insurance agent to fax the documentation to the Department of Transportation (DOT).

He was later surprised, however, when he received notice that the DOT had suspended his driver's license. He contacted the DOT and learned it had no record of receiving the documentation of him satisfying the judgment. Although the insurance agent could not prove he faxed it, he was able to provide the fax number most likely used and an

By our calculations, we saved this man \$649.29

If you enjoy math, this summary is for you! A man traded in a truck for a newer truck. The new truck cost \$24,995. He received a trade-in credit of \$13,000 so he had to pay \$11,995 for the new truck.

Since he still owed \$11,661 on his old truck, the auto dealer arranged \$24,225 in financing for the new truck and paid off the loan on the old truck. The man registered his vehicle and paid 5% use tax (\$599.75) on the \$11,995 he owed for the new truck.

He learned three weeks later that the Iowa Department of Revenue (DOR) believed he should have paid \$1,182.80 in use tax on the transaction, plus \$66.24 in penalty and interest. DOR explained, "[W]hen a dealership pays off the balance of a loan on a trade-in, the amount paid off by the dealer is taxable. It is not part of the trade-in value, because it is not equity owned by the vehicle owner to claim at trade-in. Instead, it is part of the purchase price of the transaction."

The truck owner disagreed with DOR's interpretation of State law, as did our office and an attorney for an Iowa auto dealers association we contacted. The attorney offered to discuss the situation with DOR.

After that discussion, the agency agreed that the taxable price should be the difference between the cash price and the trade-in allowance; our caller owed nothing more. Our office requested the agency provide clarification to its field offices, add an example to its publication on this issue and amend its administrative rules to include the clarification.

approximate date the document was probably faxed.

We provided this information to the DOT and requested that staff review the records for that particular fax machine. The DOT found proof that the documentation had in fact been faxed in a timely manner. As a result, DOT rescinded the suspension and removed the civil penalty for the man.

The lesson learned by our caller – and applicable to everyone – is to verify receipt when transmitting important and time-sensitive documents. In this case, a facsimile confirmation would have been very helpful.

Pilot project clarified

People with disabilities who are looking for a job can get help from the Division of Vocational Rehabilitation Services (DVRS). Among other things, DVRS has contracts with a number of private organizations that specialize in helping clients find a suitable job.

To help clients decide which provider to choose, DVRS developed a pilot project. DVRS encouraged contract agencies to submit employee photographs and other personal information, such as nicknames, hobbies and interests.

At least one of the providers objected to the pilot project. Its director said the personal information was not relevant, and alleged that the request violated his employees' civil rights and their privacy. DVRS reviewed the objections with an assistant attorney general, who concluded that the project did not violate any laws.

The director of the provider contacted our office. We reviewed Iowa law and interviewed a number of participants, including supervisors with four different providers and the two DVRS supervisors who created the project.

Based on our investigation, we concluded that the project did not violate any laws, though we did question whether "head shot" photos, as well as hobbies and interests, were relevant for clients. In response to our suggestions, DVRS sent a written notice to all providers stating: The pilot project would be reviewed in six months; it would also be discussed at an upcoming meeting of the DVRS Council, where providers could participate; photos of staff working with a client or at a work station might be more helpful to a client than a head shot of an employee.

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) 281-3592

Address: Ola Babcock Miller Building
1112 East Grand Avenue
Des Moines, Iowa 50319-0231

TTY: (515) 242-5065

Fax: (515) 242-6007