

GENERAL ASSEMBLY OF IOWA



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Mark W. Johnson
Michael A. Kuehn
Carolyn T. Lumbard
Julie A. Smith

RESEARCH ANALYSTS

Kathleen B. Harlon
Thane R. Johnson

LEGISLATIVE SERVICE BUREAU

STATE CAPITOL BUILDING
DES MOINES, IOWA 50319
(515) 281-3566
FAX (515) 281-8027

DIANE E. BOLENDER
DIRECTOR

RICHARD L. JOHNSON
DEPUTY DIRECTOR

JOHN C. POLLAK
COMMITTEE SERVICES ADMINISTRATOR

LOANNE DODGE
IOWA CODE EDITOR

PHYLLIS V. BARRY
ADMINISTRATIVE CODE EDITOR

JULIE E. LIVERS
LEGISLATIVE INFORMATION OFFICE DIRECTOR

May 26, 1993

MEMORANDUM

TO: CHAIRPERSON VAN MAANEN AND MEMBERS OF THE SERVICE COMMITTEE

FROM: Chairperson Palmer and the Members of the Administration Committee

RE: Iowa Administrative Code Recommendation

The Administration Committee met on May 26, 1993, and approved a series of recommendations for adoption by the Legislative Council relating to proceeding with a project of the Legislative Service Bureau to publish and distribute the Iowa Administrative Code in electronic format. In conjunction with the project, the Administration Committee adopted the following recommendation:

That the Service Committee and Legislative Council authorize the Legislative Service Bureau to proceed with the scanning into electronic form of the Iowa Administrative Code, to restructure Bureau personnel resources to allow for proofreading of the scanned Code, to expend \$25,000 of moneys received from Mead Data Central for the scanning, to use any Bureau funds available at the end of this fiscal year to make initial hardware and scanning purchases necessary to proceed with the Administrative Code computerization project, and to proceed, upon Legislative Council approval, with further development of the computerized Administrative Code publication process.

Legislative Fiscal Bureau Staff
February 1993

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LIO Officer	Lucinda Parker	P-FT	24	1
LIO Officer	Gary Thompson	P-FT	24	1

Librarian	Jonetta Douglas	P-FT	24	3
Asst. Librarian	Judy Neff	P-PT	22	1
Capitol Tour Guide Supervisor	Henrietta Macaulay	P-PT	14	6
Capitol Tour Guide	Joan Arnett	P-PT	12	6
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Corrected 02/18/93

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Citizens' Aide/Ombudsman Secretary	Maureen Lee	P-FT	19	4

Chapter 3. PERSONNEL GUIDELINES FOR THE CENTRAL LEGISLATIVE STAFF AGENCIES

I. DEFINITIONS

- "Agency" means the Legislative Service Bureau, the Legislative Fiscal Bureau, the Computer Support Bureau, and the Office of Citizens' Aide/Ombudsman.
- "Director" means the head of an agency as designated by the Legislative Council.
- "Employee" means an employee of an agency, including supervisors, unless the context requires otherwise.
- "Supervisor" means the agency director or the agency employee designated by the agency director to perform supervisory duties with regard to an agency employee or agency employees.

II. POLICY-MAKING AND OVERSIGHT AUTHORITY

A. Legislative Council

The Legislative Council is the policy-making and oversight authority for the central legislative staff agencies under Chapter 2 of the Code of Iowa. Such statutory power can be found in Code Section 2.42, subsections 1, 11, 12, 14, and 17. Code Sections 2.48, 2.58, and 2.100 establish the Legislative Fiscal Bureau, the Legislative Service Bureau, and the Computer Support Bureau, respectively. Code Chapter 601G establishes the Office of the Citizens' Aide, commonly known as Citizens' Aide/Ombudsman. Section 601G.3 makes the Citizens' Aide responsible to the Legislative Council.

B. Service Committee

The Service Committee of the Legislative Council determines policies and exercises oversight relating to the operations of the central legislative staff agencies, subject to the approval of the Legislative Council (Code Section 2.45). Executive branch policies referenced herein shall be accepted as of July 1, 1989. Subsequent changes in executive branch policies are subject to review by the Service Committee prior to the policy's adoption. Any reference in these guidelines to a requirement of Service Committee approval also includes a requirement of Legislative Council approval. Such approval by the Council is customarily given by Council adoption of Service Committee recommendations contained in the reports of the Service Committee to the Council.

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February 1993

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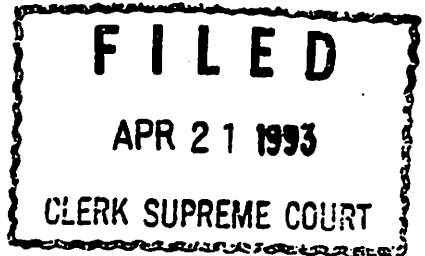
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IN THE SUPREME COURT OF IOWA

No. 103 / 92-212

Filed April 21, 1993



CITIZENS' AIDE/OMBUDSMAN,

Appellant,

vs.

PAUL GROSSHEIM and CRISPUS NIX,
in their capacity as employees of
the Iowa Department of Corrections,

Appellees.

Appeal from the Iowa District Court for Polk County,
Richard A. Strickler, Judge.

Appellant challenges protective order issued by
district court during investigation of prison incident.
REVERSED AND REMANDED.

Ruth H. Cooperrider, Des Moines, for appellant.

Bonnie J. Campbell, Attorney General, and R. Andrew
Humphrey, Assistant Attorney General, for appellees.

Considered by McGiverin, C.J., and Schultz, Carter,
Neuman, and Snell, JJ.

NEUMAN, J.

To copy or not to copy? That is the question in this squabble between the Citizens' Aide/Ombudsman and the Iowa Department of Corrections over a videotaped recording of an incident under investigation at the Iowa State Penitentiary. A protective order issued by the district court permits the Citizens' Aide to view--but not obtain its own copy of--the videotape. We reverse.

All we know about the disputed tape is that it records an inmate incident which occurred June 30, 1991, in a "hospital sideroom" at the prison. After receiving several complaints about the incident, Citizens' Aide William Angrick initiated an investigation. See Iowa Code § 601G.9(1) (1991) (authorizing Citizens' Aide to investigate, subject to limited exceptions, "any administrative action of any agency"). As part of that investigation, Angrick requested and received copies of incident reports and disciplinary records prepared by prison officials. Those officials also conceded that Angrick or his aides could view the official videotape at department of corrections headquarters. But corrections officials have repeatedly refused Angrick's request for a copy of the tape and have failed to honor two subpoenas duces tecum issued for its production.

Angrick petitioned the district court for an order compelling obedience to the subpoenas. The department of corrections countered with combined motions for protective

order, injunctive relief, and to quash the subpoenas. It claimed that production of the tape would be contrary to the public interest "because it is of limited value without the presence of the participants, depicted in the videotape, to explain their actions" and would thereby subject the department to risk of irreparable harm from "gross mischaracterization" of its contents. In response, Angrick noted that, under Iowa Code section 601G.9(3), protection from public disclosure is required for all confidential documents obtained by the Citizens' Aide. Moreover, he urged that access to a copy of the tape would greatly facilitate his investigation. Rather than being judged in isolation, he argued, the tape would be used to supplement and better assess other information gathered in the investigation.

The district court quashed the motion to compel and issued a protective order which permitted the Citizens' Aide unlimited viewing of the videotape at corrections headquarters but prevented it from obtaining its own copy. The court's brief ruling cited the following four factors as the basis for its decision:

- (1) the tape in question had been made available to the Plaintiff,
- (2) the tape in question will continue to be made available for review by the Plaintiff,
- (3) the tape contains intelligence information concerning the internal layout and procedures at this maximum security facility,
- (4) the Plaintiff may use their own videotape machine for view[ing].

It is from this decision that the Citizens' Aide has appealed.

I. Iowa Code section 601G.9(4) authorizes the Citizens' Aide to "[i]ssue a subpoena to compel any person to . . . produce documentary or other evidence relevant to a matter under inquiry." Matters pertaining to the department of corrections merit special attention by statute. The Citizens' Aide is required to appoint an assistant "who shall be primarily responsible for investigating complaints relating to penal or correctional agencies." Iowa Code § 601G.6.

Agencies are vested with broad authority to issue investigatory subpoenas within their assigned fields of expertise. Iowa City Human Rights Comm'n v. Roadway Express, Inc., 397 N.W.2d 508, 510 (Iowa 1986); Wilson & Co. v. Oxberger, 252 N.W.2d 687, 688 (Iowa 1977). Judicial enforcement hinges on whether the subpoena is "(1) within the statutory authority of the agency, (2) reasonably specific, (3) not unduly burdensome, and (4) reasonably relevant to the matters under investigation." Roadway Express, 397 N.W.2d at 510.

Because agency subpoena power is essentially a discovery tool, our review is limited to abuses of trial court discretion. Iowa Civil Rights Comm'n v. City of Des Moines, 313 N.W.2d 491, 497 (Iowa 1981); see also NLRB v. G.H.R. Energy Corp., 707 F.2d 110, 113 (5th Cir. 1982) (district court's enforcement order to be affirmed unless discretion abused). That does not mean, however, that the court's discretion is unlimited. Enforcement is the rule,

not the exception, so long as the four-factor test we adopted in Roadway is met. See G.H.R., 707 F.2d at 113 (court compelled to order obedience to subpoena court found relevant to matters under inquiry); see also Iowa Code § 601G.9(4). Abuse of discretion may be shown where there is no record to support the court's factual conclusions, or where the decision is grounded on reasons that are clearly untenable or unreasonable. State v. National Dietary Research, Inc., 454 N.W.2d 820, 822 (Iowa 1990); Glenn v. Farmland Foods, Inc., 344 N.W.2d 240, 243 (Iowa 1984); Rath v. Sholty, 199 N.W.2d 333, 336 (Iowa 1972).

II. There appears little dispute that the subpoena issued by the Citizens' Aide meets two of the Roadway factors. First, investigation of prison activity falls within the statutory authority of the agency and, second, the request is reasonably specific. See Roadway, 397 N.W.2d at 510. The dispute centers on whether the tape contains sensitive information about prison security, and whether giving the Citizens' Aide its own copy of the tape would aid its investigation. This factual dispute corresponds roughly to the remaining Roadway factors: if the tape contains sensitive information, disclosure could be unduly burdensome, and if the tape is not necessary for the investigation, it is not relevant. See id.

Our resolution of the controversy necessarily begins by acknowledging that courts are obliged to grant prison

officials a wide berth in the execution of policies and practices needed to maintain prison discipline and security. Overton v. State, 493 N.W.2d 857, 860 (Iowa 1992). But the record before us contains no facts to support the concern over prison security alleged here. Neither the tape itself nor any description of its contents were in evidence for the court's review. Aside from knowledge that the videotape revealed an "incident" in a "hospital sideroom," the district court had nothing upon which to base its decision but the defendants' conclusory allegations.

Even if we assume that an unauthorized view of the videotape could pose a threat to security, the defendants have articulated no reason why giving the Citizens' Aide its own copy would increase that risk. The court's order already permits the Citizens' Aide "unlimited" access to view the tape. If it were copied, it would retain its confidential status. See Iowa Code § 601G.9(3) ("Confidential documents provided to the citizens' aide by other agencies shall continue to maintain their confidential status."). We believe the Citizens' Aide is entitled to a presumption that it will uphold its statutory duties and protect the integrity of the tape and the information contained on it.

Equally unconvincing is defendants' argument that the Citizens' Aide has no need for the tape; that it is somehow

irrelevant to its investigation. They confidently assert that the requested copy "could not add to nor meaningfully detract from Ombudsman's investigation." We are persuaded that such judgments about the methods used by the Citizens' Aide to complete its investigation are not for the department of corrections to make. To decide otherwise would stand the agency's investigative power on its head.

The Citizens' Aide has advanced cogent reasons to support its claimed need for a separate copy of the tape, not the least of which is convenience. In order to corroborate other evidence, and compare the taped scene with oral and written statements given by the participants, repeated viewing will be necessary. This examination would clearly be hampered by the requirement of travel to department of corrections headquarters for each viewing. In analogous contexts, the right to copy discovery material has long been held essential to an advantageous exercise of the right of inspection. Lehman v. National Benefit Ins. Co., 243 Iowa 1348, 1357, 53 N.W.2d 872, 877 (1952). We find that the district court's contrary conclusion is simply untenable.

In short, we are convinced that this record contains no support for the conclusions underlying the district court's protective order. Thus we reverse the decision of the court and remand this matter for further proceedings not inconsistent with this opinion.

REVERSED AND REMANDED.

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May 25, 1993

MEMORANDUM

TO: CHAIRPERSON PALMER AND MEMBERS OF THE ADMINISTRATION COMMITTEE

FROM: Diane Bolender, Director *DB*

RE: Administrative Code Update

Background and Purpose

The purpose of this memorandum is to bring you up to date on the progress made on the project to place the Iowa Administrative Code (IAC) and Iowa Administrative Bulletin (IAB) in electronic format. The IAC is the compilation of administrative rules adopted and administered by state agencies in implementing state law and policy. The IAC was originally issued in 1974 in a looseleaf format and since that time new pages have been published and various pages have been republished as needed. A supplement to the IAC consisting of new pages is typeset and issued every two weeks. The IAC is currently 20 looseleaf volumes on 6" x 9" inch paper.

These rules are very important because they have the force and effect of law. A lengthy process of public notice and input and legislative review is used in the rules adoption process. The IAB is the official means of public notice used in the rules adoption process. It is published every two weeks and typically consists of 75 to 125 pages on 8.5" x 11" paper. The IAB is now being typeset in-house.

The project to bring the IAC and the IAB into an electronic format was initiated to achieve four major purposes. These purposes are:

1. To improve public access and create sales and print efficiencies. Currently a subscriber to the IAC must purchase the entire 10,500 page document and receives updates to the entire document every 2 weeks. Electronic technology would permit sale of distinct portions of the IAC which may expand the IAC's distribution and

sale. In addition, publication could be performed at a lower cost due to savings in typesetting and paper production costs. Typesetting costs for the IAC Supplement for FY 93 are estimated at \$120,000.

2. To create an archiving system. Rules which are amended or deleted have a legal effect for the period of time they were in effect. Currently, previous versions of a rule only exist in paper files and microfilm and it is quite a task to determine the exact language of a rule in effect on a specific date in the past. Electronic storage will improve research capabilities and may reduce the amount of storage required.
3. To provide search and retrieval capabilities. The ability to locate a rule affecting a particular topic without manually paging through the rules will be very useful.
4. To automate the rules process. Migration to an electronic format will eventually reduce the amount of paper which must be physically carried between the various offices. An electronic docketing process would be developed to improve the tracking of rules throughout the rules adoption process.

In the spring of 1992, a committee composed of Diane Bolender, John Pollak, Phyllis Barry, Kathy Bates, and Gary Rudicil from the Legislative Service Bureau; Joe Royce, Administrative Rules Review Committee Staff; and Paula Dierenfeld, Administrative Rules Coordinator, selected an independent consultant to develop an RFP for the project. The consultant met with the committee, held workshops, and developed a draft Request for Proposals for the project. Funding for the costs of the consultant was paid partially from Legislative Service Bureau funds and partially, pursuant to authorization by the Legislative Council, from moneys collected from the sale of the Iowa Code database.

The consultant indicated that there are 2 possible avenues for computerization of the IAC and the IAB. Under the first option, the consultant estimated that it would cost several million dollars to provide the IAC on an electronic database and to provide access to the approximately 1,000 state employees who either draft or administer administrative rules. Under this system, there would also be sufficient capacity to sell access to private parties such as law firms. Under the second option, which the consultant estimated would cost about \$250,000 spread over a 2 to 3 year period, the IAC would be developed into an electronic database accessible to the legislative branch and the Administrative Rules Coordinator. Under the second option, access can be provided to the executive branch but in a less convenient format than under the first option. With either option, it is believed that it will require at least one full year to complete the process of placing the rules in electronic format and verifying their accuracy.

The committee held several meetings with representatives from the executive branch to determine whether the funding for the 1,000 user system might be recommended by the executive branch for the next fiscal year. The executive branch did not recommend this expenditure.

The Legislative Service Bureau proceeded with the project by issuing an RFP to provide for a system accessible to the legislative branch of government in order to determine whether there are any bidders and whether the consultant estimate of \$250,000 for the legislative option was accurate.

Request for Proposals

The Legislative Service Bureau issued the RFP in September 1992. A conference was held with various vendors on November 4, 1992. The conference demonstrated a great deal of interest among vendors about this project but a number of questions were raised about such topics as funding and technology concerns. Based on discussions with legislative leaders and to clarify various technology questions, a decision was made to withdraw and revise the RFP with the intent to revisit the project following the 1993 legislative session.

Senate File 359

During the 1993 legislative session the issue was raised independently by the new Senate committee which focuses upon technology. The Senate passed SF 359 sponsored by the Committee on Communications and Information Policy, which would require the publication and availability of the Iowa Administrative Code in electronic format by July 1, 1995. A fiscal note was prepared to estimate the cost of the project. This estimate was \$150,000 to \$200,000 over a two-year period with some cost offsets due to sales of the electronic version. The House Committee on State Government was assigned the bill and it remains eligible for consideration when the General Assembly next convenes.

Recent Activities

The Legislative Service Bureau has recently worked with the Computer Support Bureau which has developed a list of potential computer hardware requirements to optimize compatibility with the legislative computer network. Discussions have been held with executive branch staff with the goal of making this project as compatible as possible with executive branch computer resources. Staff are currently reviewing computer software in order to locate programs that could be adapted for the project.

Proposed Activities

The following activities are proposed in connection with this project:

1. Proceed with scanning of the printed IAC to get the document into an initial electronic form.
2. Restructuring of LSB proofreading staff resources in order to check the scanned document.
3. Legislative Council approval to use the Mead Data moneys (\$25,000) for costs associated with this project.
4. Use of any LSB funds projected to be remaining at the end of the fiscal year for scanning and computer costs associated with this project.

5. When suitable computer software and hardware is located and following Legislative Council approval, proceed with development based upon the attached tentative timetable.

The Administration Committee will be updated with any new developments.

TENTATIVE Timetable - ACO Project

	6/93	7/93	8/93	9/93	10/93	11/93	12/93	1/94	2/94	3/94	4/94	5/94	6/94	7/94	8/94	9/94	10/94	11/94	12/94	1/95	2/95	3/95	4/95	5/95	6/95	7/95	
Scanning into Ami Pro format																											
Evaluation of need for Unix Server, search for software vendors with appropriate products																											
Proofreading (in house)																											
Entering corrections of scanned result																											
Editing to add bi-weekly updates and bring current since scan, continuous update in Ami Pro																											
Select software and system integrator, determine system acceptance																											
Installation of minimal hardware																											
Install initial software																											
Debugging and final system approval																											
Training on software																											
Installation of remaining hardware if necessary																											
Formatting scanned result																											
Optional production of CD version																											

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May 24, 1993

MEMORANDUM

TO: CHAIRPERSON VAN MAANEN AND MEMBERS OF THE SERVICE COMMITTEE

FROM: Diane Bolender, Director *DB*

RE: May Personnel Report

A. Notification is made of the following personnel actions since the December 1992 Service Committee meeting:

1. Alice Gossett, Text Processor, retired January 28, 1993. Kimberly McKnight, Text Processor, was hired at the entry level, grade 19, step 1, to replace Ms. Gossett, effective February 15, 1993.

2. Bonnie King, Publications Assistant, will be retiring June 30, 1993.

3. The following employees have received a merit step increase since the December 1992 Service Committee meeting: Jolene Lenth; Janet Hawkins; Rosemary Drake; Marva Cross; Joanne Walroth; Lucinda Parker; Peter Dubec; Susan Crowley; Michael Kuehn; Susan Weddell; Jonetta Douglas; Sue Fetters; Helen DeBartolo; John Pollak; Jody Jennings; Jennifer Clark; Edwin Cook; Doris Stoner; Sheila Mauck; and Betty Snuggs.

4. The following positions are in the process of being filled: one permanent Proofreader position and temporary Proofreader and Tour Guide positions.

5. The following employees have requested parental leave: Michael Kuehn and Sheila Mauck.



SANFORD B. SCHARF
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DES MOINES, IOWA
50319

STATE OF IOWA

LEGISLATIVE COMPUTER SUPPORT BUREAU

TO: Service Committee, *SBS* Legislative Council
FROM: Sanford B. Scharf, Director
SUBJECT: May Personnel Report
DATE: May 25, 1993

The following employees have received a satisfactory evaluation and have been granted a merit increase, since December 1992.

Ed Damman - 5/21/93

Roger Murtfeld - 1/15/93

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May 25, 1993

MEMORANDUM

TO: CHAIRPERSON VAN MAANEN AND MEMBERS OF THE SERVICE COMMITTEE

FROM: Diane Bolender, Director *DB*

RE: Salary Information

In November 1991, the Legislative Council directed representatives from the partisan and nonpartisan staffs to review a proposal relating to position classifications of certain legislative staff employees. During May and June, 1992, a Staff Salary Committee consisting of representatives of the Legislative Service Bureau, Legislative Fiscal Bureau, Office of Citizens' Aide/Ombudsman, Computer Support Bureau, Chief Clerk's Office, and Secretary of the Senate's Office, and Caucus Staff Directors and Administrative Assistants to Leaders met several times to review the pay grades of the current legislative positions, the job responsibilities of those positions, and the pay grades and job responsibilities of comparable positions in the executive branch of state government, and to make recommendations.

The results of the salary study were presented to a Salary Subcommittee of the Service Committee on June 17, 1992. The recommendations of the Salary Subcommittee were considered by the Service Committee and adopted by the Legislative Council on June 18, 1992. The Staff Salary Committee was then directed to develop a plan for implementing the position classification system and to report that plan to the Service Committee and the Legislative Council in July. Copies of the Report of the Salary Subcommittee and the Implementation Plan are attached.

**REPORT OF THE SALARY SUBCOMMITTEE
OF THE
SERVICE COMMITTEE**

June 17, 1992

The salary Subcommittee of the Service Committee met on June 17, 1992, and makes the following report to the Service Committee:

That the Service Committee recommends that the Legislative Council approve the attached proposed position classification system for all legislative employees and the proposed implementation plan as recommended by the joint staff committee from the Senate, House, and Central Legislative Staff Agencies. The proposal is submitted to meet the following objectives:

1. To match the professional legislative branch positions to the comparable Public Service Executive positions existing in the executive branch of state government.
2. To reduce the number of divergent grades and series for the remaining legislative positions by improving position comparability among all legislative agencies.

Respectfully submitted,

MICHAEL E. GRONSTAL
Chairperson

*Adopted by the
Legislative Council
June 18, 1992*

IMPLEMENTATION PLAN PROPOSED POSITION CLASSIFICATION SYSTEM

The adjustment in grades recommended by the staff review are adopted subject to the following conditions:

1. The adjustments will take effect beginning July 3, 1992. Individuals who are affected will be moved to the new grades at their existing salaries or at their salaries adjusted for any applicable cost-of-living increase granted to noncontract employees.
2. Employees will be eligible for a step increase on a schedule as comparable to employees in the executive branch.
3. If the current salary of an employee is less than the entrance level salary at the new grade, the employee is eligible to receive a one step increase on a schedule comparable to employees in the executive branch. The lowest salary of an employee in a job classification or step 1 of the appropriate grade, whichever is less, will constitute the entry level for that grade until the lowest salary is equal to the entry level salary for that grade.
4. All steps in grades 29 and above are a minimum of 12 month steps for employees except for a newly hired employee placed in step 1 of a grade. Step 1 for a newly hired employee placed in grade 29 or higher will be a minimum of 6 months to be eligible for a step increase as all step 1's are currently.
5. Newly hired employees who were placed at step 1 upon their employment shall be eligible for a step increase after successful completion of six months employment or probationary period. This step increase shall be retroactive where necessary.
6. Employees are eligible for promotion.

**POSITION RECLASSIFICATION PROPOSAL
PROFESSIONAL POSITIONS**

() indicates current pay grade

Prop. Grade	Comp. Branch Positions	CAUCUS/LEADERSHIP STAFF		LSB	LFB	CA/O	CSB
		House	Senate				
41	PSE 5/other Div Adm.	Sr. Caucus Staff Dir. (38) Sr. Asst. Chief Clerk (new)	Sr. Caucus Staff Dir. (38) Sr. Asst. Sec. of Senate (new)	Deputy Director (39) Div. Adm. 2 (new) *Code Editor (38)	Deputy Director (39) Div. Adm. 2 (new)	Sr. Deputy (new)	
OR							
38	PSE 4/other Div Adm.	Caucus Staff Dir. (34)	Caucus Staff Dir. (34)	*Admn. Code Editor (38) Div. Adm. 1 (36)	Div. Adm. 1 (36)	Deputy (36)	
* Denotes position could be pay grade 38 or 41 depending upon job responsibility and experience.							
38	PSE 4	Sr. Adm Asst to Ldr. (35) Sr. Adm Asst to Spkr (35) Sr. Research Analyst (35) Asst. Chief Clerk 3 (34)	Sr. Adm Asst to Ldr (35) Sr. Adm Asst to Pres (35) Sr. Research Analyst (35) Asst. Sec. of Senate 3 (34)	Sr. Legal Counsel (36) Sr. Research Analyst (35)	Sr. Legis. Analyst (35)	Sr. Legal Counsel (new) Sr. CA/O Asst. (new)	CSB Div. Adm. 2 (new)
35	PSE 3	Adm. Asst. 3 to Ldr (33) Adm. Asst. 3 to Spkr (33) Research Analyst 3 (33) Legal Counsel 2 (33) Asst. Chief Clerk 2 (new)	Adm. Asst. 3 to Ldr (33) Adm. Asst. 3 to Pres (33) Research Analyst 3 (33) Legal Counsel 2 (33) Asst. Sec. of Sen. 2 (new)	Deputy Code Editor (33) Dep. Adm. Code Ed. (new) Legal Counsel 2 (33) Research Analyst 3 (33) Sr Comp Sys Anly (34)	Legislative Analyst 3 (33) Sr Comp Sys Anly (34)	Legal Counsel 2 (new) CA/O Asst. 3 (33)	CSB Div. Adm. 1 (new) Sr Comp Sys Anly (34) Sr Comp Sys Engr (new)
32	PSE 2 Sr. Systems Analyst Data Proc. Spec. 2	Adm. Asst. 2 to Ldr (30) Adm. Asst. 2 to Spkr (30) Research Analyst 2 (30) Legal Counsel 1 (new) Asst. Chief Clerk 1 (new)	Adm. Asst. 2 to Ldr (30) Adm. Asst. 2 to Pres (30) Research Analyst 2 (30) Legal Counsel 1 (new) Asst. Sec. of Sen. 1 (new)	Legal Counsel 1 (new) Research Analyst 2 (30) Comp Syst Anly 3 (33)	Legislative Analyst 2 (30) Comp Syst Anly 3 (33)	CA/O Asst. 2 (30) Legal Counsel 1 (new)	Comp Syst Anly 3 (33) Comp Syst Engr 2 (new)
30		Legal Counsel (30)	Legal Counsel (30)	Legal Counsel (30)		Legal Counsel (31)	
29	PSE 1 System Analyst Data Proc. Spec.1	Adm. Asst. 1 to Ldr (new) Adm. Asst. 1 to Spkr (new) Research Analyst 1 (new)	Adm. Asst. 1 to Ldr (new) Adm. Asst. 1 to Pres (new) Research Analyst 1 (new)	Research Analyst 1 (new) Comp Syst Anly 2 (30)	Legislative Analyst 1 (new) Comp Syst Anly 2 (30)	CA/O Asst. 1 (new)	Comp Syst Anly 2 (30) Comp Syst Engr 1 (new)
27		Adm. Asst. to Ldr (27) Adm. Asst. to Spkr (27) Research Analyst (27)	Adm. Asst. to Ldr (27) Adm. Asst. to Spkr (27) Research Analyst (27)	Research Analyst (27) Comp Syst Anly 1 (27)	Legislative Analyst (27) Comp Syst Anly 1 (27)	CA/O Asst. (27)	Comp Syst Anly 1 (27)
24		Research Asst.	Research Asst.				Comp Syst Anly Trn

**POSITION RECLASSIFICATION PROPOSAL
ADMINISTRATIVE AND SUPPORT POSITIONS**

Prop. Grade	House	Senate	LSB	LFB	CA/O	CSB
31	Sr. Finance Off. (31)	Sr. Finance Off. (31)	Sr. Finance Off. (31)			
30	Sr. Editor (29)	Sr. Editor (29)	Asst. Ed. III (new) LIO Dir. (30)			
28			Indexer Sup. (new) Text Proc. Sup. (28)			
27	Finance Officer II (27) Eng./Enr. Proc. (new) Conf. Sec. (26) Asst. Legal Cl. (26) Sec. Sup./Tr. II (new)	Finance Officer II (27) Conf. Sec. (26) Asst. Legal Cl. (26) Sec. Sup./Tr. II (new)	Finance Officer II (27) Asst. Ed. II (27) Conf. Sec. (26) Sr. Lib. (27)			
25	Editor II (24) Indexer II (24) Sr. Text Proc. (25)	Editor II (24) Indexer II (24)	Doc. Proc. Sup. (23) Indexer II (24) Sr. Text Proc. (25)			
24	Fin. Off. I (24) Exec. Sec. (23) Sr. Cauc. Sec. (23) Sec. Sup./Tr. I (24) Rec. Clerk II (new)	Fin. Off. I (24) Exec. Sec. (23) Sr. Cauc. Sec. (23) Sec. Sup./Tr. I (24) Rec. Clerk II (new)	Fin. Off. I (24) Exec. Sec. (23) Asst. Ed. I (24) Lib. (24) LIO Off. (22)	Exec. Sec. (23)	Fin. Off. I (new) Exec. Sec. (23)	Comp. Oper. II (24) Exec. Sec. (23)
22	Editor I (21) Indexer I (21) Text Proc. II (new)	Editor I (21) Indexer I (21)	Text Proc. II (22) Indexer I (21) Sr. Doc. Proc. (new) Proof. Sup. (18) Asst. Lib. (22)			
21	Asst. Fin. Off. (21) Adm. Sec. (21) Cauc. Sec. (21) Sec. Sup. (new) Rec. Clerk I (20)	Asst. Fin. Off. (21) Adm. Sec. (21) Cauc. Sec. (21) Sec. Sup. (new) Rec. Clerk I (20)	Asst. Fin. Off. (21) Adm. Sec. (21) Pub. Asst. (21)	Adm. Sec. (21)	Asst. Fin Off. (new) Adm. Sec. (21)	Comp. Oper. I (21) Adm. Sec. (21)
19	Asst. Editor (new) Indexing Asst. (18) Text Proc. I (new) Sec. (19) Asst. to Leg. Cl. (17)	Asst. Editor (new) Indexing Asst. (18) Sec. (19) Asst. to Leg. Cl. (17)	Indexing Asst. (18) Text Proc. I (19) Doc. Proc. II (18) Proof. II (new) LIO Asst. (18)		Sec. (19)	
18		Rec. & S. Clerk (18)				
17	Composer (17) Comm. Sec. (17) Sergeant-at-Arms (17)	Composer (17) Comm. Sec. (17) Sergeant-at-Arms (17)				

POSITION RECLASSIFICATION PROPOSAL

16	Clerk to Ch. Clerk (16) Supply Clerk (16)	Proof. (new) Proof. 1 (15, 16, 17) Doc. Proc. 1 (new)	
15	Legis. Sec. (15)	Legis. Sec. (15)	
14	Asst. Serg. (14) Sw. Operator (13) BM Clerk (13)	Asst. Serg. (14) Sw. Operator (13) BM Clerk (13)	Tour G. Sup. (14)
13		Doc. Proc. Asst. (13)	
12	Ch. Doorkeeper (new) Postmaster (12) Asst. BM Clerk (12)	Ch. Doorkeeper (12) Postmaster (12) Asst. BM Clerk (12)	Tour G. (12)
11	Doorkeeper (11)	Doorkeeper (11)	
MIN	Pages (MIN)	Pages (MIN)	Pages (MIN)
	Position Classification deleted: Assistant to the Legal Counsel and Enrolling Clerk (24)	Position Classifications deleted: Assistant to Legal Counsel/Assistant Finance Officer (18); Assistant Journal Editor/Assistant Finance Officer (23)	Position classification deleted: Administrative Assistant (20)

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July 21, 1992

MEMORANDUM

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TO: CHAIRPERSON GRONSTAL AND MEMBERS OF THE SERVICE COMMITTEE

FROM: Diane Bolender, Director

RE: Implementation of Position Classification System

Attached is the Report of the Position Classification Staff Committee relating to the Implementation of the Position Classification System.

NOTES

POSITION CLASSIFICATION STAFF COMMITTEE MEETING

July 9, 1992

The Position Classification Staff Committee met on July 7, 1992, and determined the following relating to implementation of the new position classification system:

1. The 7.5% cost of living increase will be implemented for legislative employees for the pay period beginning July 3, 1992, and will be included in the paycheck received on July 24, 1992. The Legislative Fiscal Bureau will revise the legislative pay matrix so that it provides the cost of living adjustment and that the minimum and maximum salaries correspond to the extent possible with the minimum and maximum salaries for the corresponding grades on the Executive Branch professional and managerial pay matrix (Collective Bargaining Exempt 000 pay matrix). Copies of the revised pay matrix will be sent to each legislative agency and to the appropriate finance officers.
2. Those legislative employees who earn less than \$26,677 on an annualized basis will be paid a bonus in December 1992, equal to the difference between 7.5% of their annualized salary on July 1, 1992, and the total of 6.0% of their annualized salary on July 1, 1992, and \$400.
3. For FY93, since the Executive Branch policy relating to salary corrections and merit increases is discretionary, Legislative Branch employees will be eligible to receive merit step increases on their salary review dates, subject to a satisfactory performance evaluation. Under the policy granting merit step increases on salary review dates, it is understood that the Legislative Council granted retroactive merit step increases for probationary employees at its meeting in June and these employees will also be eligible for the merit step increase in FY93.
4. The promotion of a legislative employee from one level in a job series to the next higher level in that job series is separate from the placement of that legislative employee under the new position classification system.
5. The attached chart contains a comparison of some of the current and proposed professional legislative staff job series with a listing of minimum years of service required for promotion from one job to a higher job in the series. As noted in the chart, in promotions, recognition may be given at one time during a job series to years of relevant experience, and recognition may be given one time for advanced educational degrees relevant to job responsibilities. It is believed that the implementation of the new job series and recognition of education and relevant experience during the hiring process will erase the myth that legislative employment

is lower paying and serves as a training ground for employment in the Executive Branch.

6. Entry level for Research Analysts without a Bachelor's Degree is grade 24 as a Research Assistant.
7. The merit review date for an individual who is promoted within a job series or to a different position with a higher pay grade in the position classification system is changed from the previous merit review date to the date on which the promotion takes effect.

July 1992

LEGISLATIVE PAY MATRIX

(Same as the Collective Bargaining Exempt 000 pay matrix with steps added)
Adjusted for 7.5% cost of living increase effective 7/3/92

DRAFT

GRADE	STEP	1	2	3	4	5	6
8	Bi-weekly	\$ 444.80	\$ 466.40	\$ 490.40	\$ 515.20	\$ 540.80	\$ 568.00
	Hourly	5.56	5.83	6.13	6.44	6.76	7.10
9		466.40	490.40	515.20	540.80	568.00	597.60
		5.83	6.13	6.44	6.76	7.10	7.47
10		490.40	515.20	540.80	568.00	597.60	628.80
		6.13	6.44	6.76	7.10	7.47	7.86
11		515.20	540.80	568.00	597.60	628.80	660.00
		6.44	6.76	7.10	7.47	7.86	8.25
12		540.80	568.00	597.60	628.80	660.00	690.40
		6.76	7.10	7.47	7.86	8.25	8.63
13		568.00	597.60	628.80	660.00	690.40	724.00
		7.10	7.47	7.86	8.25	8.63	9.05
14		597.60	628.80	660.00	690.40	724.00	757.60
		7.47	7.86	8.25	8.63	9.05	9.47
15		628.80	660.00	690.40	724.00	757.60	796.00
		7.86	8.25	8.63	9.05	9.47	9.95
16		660.00	690.40	724.00	757.60	796.00	832.80
		8.25	8.63	9.05	9.47	9.95	10.41
17		690.40	724.00	757.60	796.00	832.80	873.60
		8.63	9.05	9.47	9.95	10.41	10.92
18		724.00	757.60	796.00	832.80	873.60	916.00
		9.05	9.47	9.95	10.41	10.92	11.45
19		757.60	796.00	832.80	873.60	916.00	958.40
		9.47	9.95	10.41	10.92	11.45	11.98
20		796.00	832.80	873.60	916.00	958.40	1,005.60
		9.95	10.41	10.92	11.45	11.98	12.57
21		832.80	873.60	916.00	958.40	1,005.60	1,052.80
		10.41	10.92	11.45	11.98	12.57	13.16
22		873.60	916.00	958.40	1,005.60	1,052.80	1,103.20
		10.92	11.45	11.98	12.57	13.16	13.79
23		916.00	958.40	1,005.60	1,052.80	1,103.20	1,156.80
		11.45	11.98	12.57	13.16	13.79	14.46
24		958.40	1,005.60	1,052.80	1,103.20	1,156.80	1,212.80
		11.98	12.57	13.16	13.79	14.46	15.16

July 1992

LEGISLATIVE PAY MATRIX

(Same as the Collective Bargaining Exempt 000 pay matrix with steps added)
Adjusted for 7.5% cost of living increase effective 7/3/92

GRADE	STEP	1	2	3	4	5	6
25		1,005.60	1,052.80	1,103.20	1,156.80	1,212.80	1,270.40
	\$26,145.60	12.57	13.16	13.79	14.46	15.16	15.88
26		1,052.80	1,103.20	1,156.80	1,212.80	1,270.40	1,332.80
	\$27,372.80	13.16	13.79	14.46	15.16	15.88	16.66
27		1,103.20	1,156.80	1,212.80	1,270.40	1,332.80	1,394.40
	\$28,683.20	13.79	14.46	15.16	15.88	16.66	17.43
28		1,156.80	1,212.80	1,270.40	1,332.80	1,394.40	1,464.00
	\$30,076.80	14.46	15.16	15.88	16.66	17.43	18.30
29		1,212.80	1,270.40	1,332.80	1,394.40	1,464.00	1,532.80
	\$31,532.80	15.16	15.88	16.66	17.43	18.30	19.16
30		1,270.40	1,332.80	1,394.40	1,464.00	1,532.80	1,605.60
	\$33,030.40	15.88	16.66	17.43	18.30	19.16	20.07
31		1,332.80	1,394.40	1,464.00	1,532.80	1,605.60	1,683.20
	\$34,652.80	16.66	17.43	18.30	19.16	20.07	21.04
32		1,394.40	1,464.00	1,532.80	1,605.60	1,683.20	1,764.80
	\$36,254.40	17.43	18.30	19.16	20.07	21.04	22.08
33		1,464.00	1,532.80	1,605.60	1,683.20	1,764.80	1,848.80
	\$38,064.00	18.30	19.16	20.07	21.04	22.08	23.11
34		1,532.80	1,605.60	1,683.20	1,764.80	1,848.80	1,938.40
	\$39,852.80	19.16	20.07	21.04	22.06	23.11	24.23
35		1,605.60	1,683.20	1,764.80	1,848.80	1,938.40	2,032.00
	\$41,745.60	20.07	21.04	22.06	23.11	24.23	25.40
36		1,683.20	1,764.80	1,848.80	1,938.40	2,032.00	2,129.60
	\$43,763.20	21.04	22.06	23.11	24.23	25.40	26.62
37		1,764.80	1,848.80	1,938.40	2,032.00	2,129.60	2,232.00
	\$45,884.80	22.06	23.11	24.23	25.40	26.62	27.90
38		1,848.80	1,938.40	2,032.00	2,129.60	2,232.00	2,337.60
	\$48,068.80	23.11	24.23	25.40	26.62	27.90	29.22
39		1,938.40	2,032.00	2,129.60	2,232.00	2,337.60	2,451.20
	\$50,398.40	24.23	25.40	26.62	27.90	29.22	30.64
40		2,032.00	2,129.60	2,232.00	2,337.60	2,451.20	2,568.80
	\$52,832.00	25.40	26.62	27.90	29.22	30.64	32.11

July 1992

LEGISLATIVE PAY MATRIX

(Same as the Collective Bargaining Exempt 000 pay matrix with steps added)

Adjusted for 7.5% cost of living increase effective 7/3/92

GRADE	STEP	1	2	3	4	5	6
41		2,129.60	2,232.00	2,337.60	2,451.20	2,568.80	2,691.20
	\$55,369.60	26.62	27.90	29.22	30.64	32.11	33.64
42		2,232.00	2,337.60	2,451.20	2,568.80	2,691.20	2,820.00
	\$58,032.00	27.90	29.22	30.64	32.11	33.64	35.25
43		2,337.60	2,451.20	2,568.80	2,691.20	2,820.00	3,016.80
	\$60,777.60	29.22	30.64	32.11	33.64	35.25	37.71
44		2,451.20	2,568.80	2,691.20	2,820.00	3,016.80	3,167.20
	\$63,731.20	30.64	32.11	33.64	35.25	37.71	39.59
45		2,568.80	2,691.20	2,820.00	3,016.80	3,167.20	3,326.40
	\$66,788.80	32.11	33.64	35.25	37.71	39.59	41.58
46		2,691.20	2,820.00	3,016.80	3,167.20	3,326.40	3,481.60
	\$69,971.20	33.64	35.25	37.71	39.59	41.58	43.52
47		2,820.00	3,016.80	3,167.20	3,326.40	3,481.60	3,653.60
	\$73,320.00	35.25	37.71	39.59	41.58	43.52	45.67
48		3,016.80	3,167.20	3,326.40	3,481.60	3,653.60	3,814.40
	\$78,436.80	37.71	39.59	41.58	43.52	45.67	47.68
49		3,167.20	3,326.40	3,481.60	3,653.60	3,814.40	4,004.80
	\$82,347.20	39.59	41.58	43.52	45.67	47.68	50.06
50		3,326.40	3,481.60	3,653.60	3,814.40	4,004.80	4,204.80
	\$86,486.40	41.58	43.52	45.67	47.68	50.06	52.56

The Collective Bargaining Exempt 000 pay matrix in the Executive Branch extends to pay grade 55, however, at the current time, the highest classification in the Legislative Branch is Grade 41.

LEGAL COUNSEL IMPLEMENTATION (LSB & CA/O):

Current	Proposed	Minimum Yrs Experience **
Leg. Counsel I (30-31)	Leg. Coun. (30)	
Leg. Counsel II (33)	Leg. Coun. I (32)	2 as LC
Sr. Legal Counsel (36)	Leg. Coun. II (35)	2 as LC I
	Sr. Leg. Coun.(38)	3 as LC II

RESEARCH ANALYST IMPLEMENTATION:

Current	Proposed	
RA I (27)	RA (27)	
RA II (30)	RA I (29)	2 as RA
RA III (33)	RA II (32)	2 as RA I
Senior (35)	RA III (35)	2 as RA II
	Senior (38)	2 as RA III

SYSTEM ANALYST IMPLEMENTATION (LFB & CSB):

Current	Proposed	
Syst. Anal I (27)	Syst. Anal I (27)	
Syst. Anal II (30)	Syst. Anal II (29)	2 as SA I
Syst. Anal III (33)	Syst. Anal III (32)	2 as SA II
Sr. Syst. Anal (34)	Sr. Syst. Anal (35)	2 as SA III

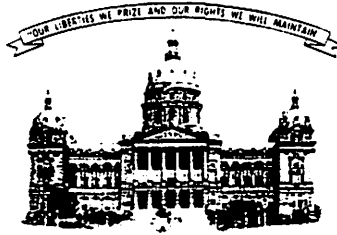
ADMINISTRATIVE ASSISTANT IMPLEMENTATION :

Current	Proposed	
AA (27)	AA (27)	
AA II (30)	AA I (29)	2 as AA
AA III (33)	AA II (32)	2 as AA I
Sr. AA (35)	AA III (35)	2 as AA II
	Sr. AA (38)	2 as AA III

CA/O ASSISTANT IMPLEMENTATION:

Current	Proposed	
CA/O Asst (27)	CA/O Asst (27)	
CA/O Asst II (30)	CA/O Asst I (29)	2 as Ass't
CA/O Asst III (33)	CA/O Asst II (32)	2 as Ass't I
Sr. CA/O Asst	CA/O Ass III (35)	2 as Ass't II
	SR. CA/O Asst (38)	2 as Ass't III

**** Significant and directly related experience may at one time during the job series be substituted for a portion of the required Iowa legislative experience, subject to the discretion of the supervisor. One year of required experience may be waived once in a job series for employees for an advanced degree relevant to the job responsibilities, subject to the discretion of the supervisor.**



DENNIS C. PROUTY
DIRECTOR
515/281-5279

STATE CAPITOL
DES MOINES, IOWA
50319

STATE OF IOWA
LEGISLATIVE FISCAL BUREAU

MEMO

TO: Service Committee of the Legislative Council
FROM: Dennis C. Prouty, Legislative Fiscal Bureau
RE: Fiscal Bureau Personnel Report
DATE: May 26, 1993

Attached is the Legislative Fiscal Bureau's Personnel Report covering the period December 17, 1992 through May 26, 1993. The Report covers all personnel action since the last report, which was submitted December 17, 1992.

LFB PERSONNEL REPORT
1993 Interim

PERSONNEL ACTIONS SINCE LAST REPORT: December 17, 1992

SERVICE COMMITTEE REVIEW

MERIT INCREASES:

Dave Hinman	Comp. Sys. Analyst I	5/7/93
Jon M. Neiderbach	Sen. Legislative Analyst	4/23/93
Jon A. Muller	Legislative Analyst	4/2/93
Brad D. Hudson	Legislative Analyst III	4/2/93
Sharon K. Ramsay	Legislative Analyst	4/2/93
Tami A. Fujinaka	Legislative Analyst	4/2/93

VACANT POSITIONS:

Paul D. Durand	Legislative Analyst III	Resigned 4/15/93
Lynn S. Sevedge	Executive Secretary	Termination 2/25/93

VACANT POSITIONS FILLED:

Nicole M. Navara	Executive Secretary	4/9/93
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PARENTAL/SICK LEAVE:

Leroy A. McGarity	Legislative Analyst I	5/24 - 7/26/93
Alice A. Wisner	Legislative Analyst III	2/24 - 5/19/93

SERVICE COMMITTEE APPROVAL

PROMOTIONS

FROM

TO

None

GENERAL ASSEMBLY OF IOWA

LEGAL COUNSELS

Douglas L. Adkisson
Mary M. Carr
Edwin G. Cook
Susan E. Crowley
Patricia A. Funaro
Michael J. Goedert
Leslie E. W. Hickey
Mark W. Johnson
Michael A. Kuehn
Carolyn T. Lumbard
Julie A. Smith

RESEARCH ANALYSTS

Kathleen B. Hanlon
Thane R. Johnson



LEGISLATIVE SERVICE BUREAU

STATE CAPITOL BUILDING
DES MOINES, IOWA 50319
(515) 281-3566
FAX (515) 281-8027

DIANE E. BOLENDER

DIRECTOR

RICHARD L. JOHNSON

DEPUTY DIRECTOR

JOHN C. POLLAK

COMMITTEE SERVICES ADMINISTRATOR

LOANNE DODGE

IOWA CODE EDITOR

PHYLLIS V. BARRY

ADMINISTRATIVE CODE EDITOR

JULIE E. LIVERS

LEGISLATIVE INFORMATION OFFICE DIRECTOR

May 26, 1993

MEMORANDUM

TO: CHAIRPERSON VAN MAANEN AND MEMBERS OF THE SERVICE COMMITTEE

FROM: Chairperson Palmer and the Members of the Administration Committee

RE: Iowa Administrative Code Recommendation

The Administration Committee met on May 26, 1993, and approved a series of recommendations for adoption by the Legislative Council relating to proceeding with a project of the Legislative Service Bureau to publish and distribute the Iowa Administrative Code in electronic format. In conjunction with the project, the Administration Committee adopted the following recommendation:

That the Service Committee and Legislative Council authorize the Legislative Service Bureau to proceed with the scanning into electronic form of the Iowa Administrative Code, to restructure Bureau personnel resources to allow for proofreading of the scanned Code, to expend \$25,000 of moneys received from Mead Data Central for the scanning, to use any Bureau funds available at the end of this fiscal year to make initial hardware and scanning purchases necessary to proceed with the Administrative Code computerization project, and to proceed, upon Legislative Council approval, with further development of the computerized Administrative Code publication process.

STATE OF IOWA



CITIZENS' AIDE/OMBUDSMAN
CAPITOL COMPLEX
215 EAST 7TH STREET
DES MOINES, IOWA 50319-0231
(515) 281-3582

COPY

WILLIAM P. ANGRICK II
CITIZENS' AIDE / OMBUDSMAN

In reply, please refer to:
May 26, 1993

**Speaker Harold Van Maanen
Chair, Service Committee
Legislative Council
Capitol Building
LOCAL**

Dear Speaker Van Maanen:

Personnel Report

I wish to advise the Service Committee of the following personnel action in the office of Citizens' Aide/Ombudsman which occurred during the 1993 legislative session:

- Steven Exley, Assistant CA/O, was awarded a merit step increase from Grade 27, Step 2, to Grade 27, Step 3, effective March 12, 1993.

Legal Report

- The Iowa Supreme Court recently ruled in favor of our office having access to a copy of a video tape needed in the investigation of a cellhouse incident at the Iowa State Penitentiary. A copy of that decision, Citizens' Aide/Ombudsman vs. Grossheim is enclosed. The Procedendo has been sent down to Polk County District Court and we are awaiting scheduling of the remanded hearing.
- We are currently in litigation in Polk County District Court involving the enforcement of a subpoena to gain access to an investigative file of the Board of Mortuary Examiners.

Sincerely,

William P. Angrick II

Enclosures
WPA:jg

No. 92-212. **CITIZENS' AIDE/OMBUDSMAN v. GROSSHEIM.**

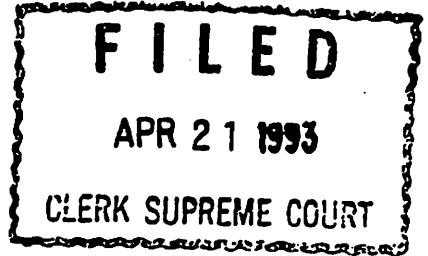
Appeal from the Iowa District Court for Polk County, Richard A. Strickler, Judge. **REVERSED AND REMANDED.** Considered by McGiverin, C.J., and Schultz, Carter, Neuman, and Snell, JJ. Opinion by Neuman, J. (7 pages \$2.80)

An inmate incident at the Iowa State Penitentiary was videotaped. After receiving several complaints about the incident, Citizens' Aide William Angrick initiated an investigation. Officials conceded that Angrick or his aides could view the official videotape at department of corrections headquarters. But corrections officials have repeatedly refused Angrick's request for a copy of the tape and have failed to honor two subpoenas duces tecum issued for its production. Angrick petitioned the district court for an order compelling obedience to the subpoenas. The department of corrections countered with combined motions for protective order, injunctive relief, and to quash the subpoenas. The district court quashed the motion to compel and issued a protective order which permitted the Citizens' Aide unlimited viewing of the videotape at corrections headquarters but prevented it from obtaining its own copy. It is from this decision that the Citizens' Aide has appealed. **OPINION HOLDS:** I. Iowa Code section 601G.9(4) authorizes the Citizens' Aide to issue subpoenas duces tecum. The district court's discretion to enforce is not unlimited. Enforcement is the rule, not the exception, so long as certain criteria are met. II. The dispute centers on whether the tape contains sensitive information about prison security, and whether giving the Citizens' Aide its own copy of the tape would aid its investigation. Aside from knowledge that the videotape revealed an "incident" in a "hospital sideroom," the district court had nothing upon which to base its decision but the defendants' conclusory allegations. Even if we assume that an unauthorized view of the videotape could pose a threat to security, the defendants have articulated no reason why giving the Citizens' Aide its own copy would increase that risk. We believe the Citizens' Aide is entitled to a presumption that it will uphold its statutory duties and protect the integrity of the tape and the information contained on it. The Citizens' Aide has advanced cogent reasons to support its claimed need for a separate copy of the tape. We find that the district court's contrary conclusion is simply untenable. Thus we reverse the decision of the court and remand this matter for further proceedings not inconsistent with this opinion.

IN THE SUPREME COURT OF IOWA

No. 103 / 92-212

Filed April 21, 1993



CITIZENS' AIDE/OMBUDSMAN,

Appellant,

vs.

PAUL GROSSHEIM and CRISPUS NIX,
in their capacity as employees of
the Iowa Department of Corrections,

Appellees.

Appeal from the Iowa District Court for Polk County,
Richard A. Strickler, Judge.

Appellant challenges protective order issued by
district court during investigation of prison incident.

REVERSED AND REMANDED.

Ruth H. Cooperrider, Des Moines, for appellant.

Bonnie J. Campbell, Attorney General, and R. Andrew
Humphrey, Assistant Attorney General, for appellees.

Considered by McGiverin, C.J., and Schultz, Carter,
Neuman, and Snell, JJ.

NEUMAN, J.

To copy or not to copy? That is the question in this squabble between the Citizens' Aide/Ombudsman and the Iowa Department of Corrections over a videotaped recording of an incident under investigation at the Iowa State Penitentiary. A protective order issued by the district court permits the Citizens' Aide to view--but not obtain its own copy of--the videotape. We reverse.

All we know about the disputed tape is that it records an inmate incident which occurred June 30, 1991, in a "hospital sideroom" at the prison. After receiving several complaints about the incident, Citizens' Aide William Angrick initiated an investigation. See Iowa Code § 601G.9(1) (1991) (authorizing Citizens' Aide to investigate, subject to limited exceptions, "any administrative action of any agency"). As part of that investigation, Angrick requested and received copies of incident reports and disciplinary records prepared by prison officials. Those officials also conceded that Angrick or his aides could view the official videotape at department of corrections headquarters. But corrections officials have repeatedly refused Angrick's request for a copy of the tape and have failed to honor two subpoenas duces tecum issued for its production.

Angrick petitioned the district court for an order compelling obedience to the subpoenas. The department of corrections countered with combined motions for protective

order, injunctive relief, and to quash the subpoenas. It claimed that production of the tape would be contrary to the public interest "because it is of limited value without the presence of the participants, depicted in the videotape, to explain their actions" and would thereby subject the department to risk of irreparable harm from "gross mischaracterization" of its contents. In response, Angrick noted that, under Iowa Code section 601G.9(3), protection from public disclosure is required for all confidential documents obtained by the Citizens' Aide. Moreover, he urged that access to a copy of the tape would greatly facilitate his investigation. Rather than being judged in isolation, he argued, the tape would be used to supplement and better assess other information gathered in the investigation.

The district court quashed the motion to compel and issued a protective order which permitted the Citizens' Aide unlimited viewing of the videotape at corrections headquarters but prevented it from obtaining its own copy. The court's brief ruling cited the following four factors as the basis for its decision:

(1) the tape in question had been made available to the Plaintiff,

(2) the tape in question will continue to be made available for review by the Plaintiff,

(3) the tape contains intelligence information concerning the internal layout and procedures at this maximum security facility,

(4) the Plaintiff may use their own videotape machine for view[ing].

It is from this decision that the Citizens' Aide has appealed.

I. Iowa Code section 601G.9(4) authorizes the Citizens' Aide to "[i]ssue a subpoena to compel any person to . . . produce documentary or other evidence relevant to a matter under inquiry." Matters pertaining to the department of corrections merit special attention by statute. The Citizens' Aide is required to appoint an assistant "who shall be primarily responsible for investigating complaints relating to penal or correctional agencies." Iowa Code § 601G.6.

Agencies are vested with broad authority to issue investigatory subpoenas within their assigned fields of expertise. Iowa City Human Rights Comm'n v. Roadway Express, Inc., 397 N.W.2d 508, 510 (Iowa 1986); Wilson & Co. v. Oxberger, 252 N.W.2d 687, 688 (Iowa 1977). Judicial enforcement hinges on whether the subpoena is "(1) within the statutory authority of the agency, (2) reasonably specific, (3) not unduly burdensome, and (4) reasonably relevant to the matters under investigation." Roadway Express, 397 N.W.2d at 510.

Because agency subpoena power is essentially a discovery tool, our review is limited to abuses of trial court discretion. Iowa Civil Rights Comm'n v. City of Des Moines, 313 N.W.2d 491, 497 (Iowa 1981); see also NLRB v. G.H.R. Energy Corp., 707 F.2d 110, 113 (5th Cir. 1982) (district court's enforcement order to be affirmed unless discretion abused). That does not mean, however, that the court's discretion is unlimited. Enforcement is the rule,

not the exception, so long as the four-factor test we adopted in Roadway is met. See G.H.R., 707 F.2d at 113 (court compelled to order obedience to subpoena court found relevant to matters under inquiry); see also Iowa Code § 601G.9(4). Abuse of discretion may be shown where there is no record to support the court's factual conclusions, or where the decision is grounded on reasons that are clearly untenable or unreasonable. State v. National Dietary Research, Inc., 454 N.W.2d 820, 822 (Iowa 1990); Glenn v. Farmland Foods, Inc., 344 N.W.2d 240, 243 (Iowa 1984); Rath v. Sholty, 199 N.W.2d 333, 336 (Iowa 1972).

II. There appears little dispute that the subpoena issued by the Citizens' Aide meets two of the Roadway factors. First, investigation of prison activity falls within the statutory authority of the agency and, second, the request is reasonably specific. See Roadway, 397 N.W.2d at 510. The dispute centers on whether the tape contains sensitive information about prison security, and whether giving the Citizens' Aide its own copy of the tape would aid its investigation. This factual dispute corresponds roughly to the remaining Roadway factors: if the tape contains sensitive information, disclosure could be unduly burdensome, and if the tape is not necessary for the investigation, it is not relevant. See id.

Our resolution of the controversy necessarily begins by acknowledging that courts are obliged to grant prison

officials a wide berth in the execution of policies and practices needed to maintain prison discipline and security. Overton v. State, 493 N.W.2d 857, 860 (Iowa 1992). But the record before us contains no facts to support the concern over prison security alleged here. Neither the tape itself nor any description of its contents were in evidence for the court's review. Aside from knowledge that the videotape revealed an "incident" in a "hospital sideroom," the district court had nothing upon which to base its decision but the defendants' conclusory allegations.

Even if we assume that an unauthorized view of the videotape could pose a threat to security, the defendants have articulated no reason why giving the Citizens' Aide its own copy would increase that risk. The court's order already permits the Citizens' Aide "unlimited" access to view the tape. If it were copied, it would retain its confidential status. See Iowa Code § 601G.9(3) ("Confidential documents provided to the citizens' aide by other agencies shall continue to maintain their confidential status."). We believe the Citizens' Aide is entitled to a presumption that it will uphold its statutory duties and protect the integrity of the tape and the information contained on it.

Equally unconvincing is defendants' argument that the Citizens' Aide has no need for the tape; that it is somehow

irrelevant to its investigation. They confidently assert that the requested copy "could not add to nor meaningfully detract from Ombudsman's investigation." We are persuaded that such judgments about the methods used by the Citizens' Aide to complete its investigation are not for the department of corrections to make. To decide otherwise would stand the agency's investigative power on its head.

The Citizens' Aide has advanced cogent reasons to support its claimed need for a separate copy of the tape, not the least of which is convenience. In order to corroborate other evidence, and compare the taped scene with oral and written statements given by the participants, repeated viewing will be necessary. This examination would clearly be hampered by the requirement of travel to department of corrections headquarters for each viewing. In analogous contexts, the right to copy discovery material has long been held essential to an advantageous exercise of the right of inspection. Lehman v. National Benefit Ins. Co., 243 Iowa 1348, 1357, 53 N.W.2d 872, 877 (1952). We find that the district court's contrary conclusion is simply untenable.

In short, we are convinced that this record contains no support for the conclusions underlying the district court's protective order. Thus we reverse the decision of the court and remand this matter for further proceedings not inconsistent with this opinion.

REVERSED AND REMANDED.

**SERVICE COMMITTEE
OF THE LEGISLATIVE COUNCIL**

MEMBERS

Speaker Harold Van Maanen, Chairperson
Representative John H. Connors
Representative Teresa Garman

Senator Donald E. Gettings
Senator Wally E. Horn
Senator Jack Rife

TENTATIVE AGENDA

Wednesday, May 26, 1993
Committee Room 22

1:30 p.m.

Call to Order

Roll Call

Personnel Reports

- Legislative Fiscal Bureau
- Legislative Service Bureau
- Computer Support Bureau
- Citizens' Aide/Ombudsman

Computer User Committee Report

Personnel Guidelines Additions

June Personnel Reports

Additional Business, if any

Adjournment