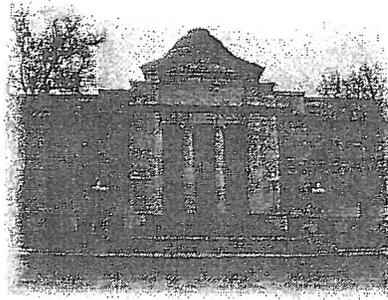


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Presentation to Joint Government Oversight Committee
February 6, 2014

Budget and Staffing

Besides my position as Ombudsman, the Office is currently staffed with one Legal Counsel, ten Assistant Ombudsmen, one Financial Officer, and one Receptionist/Secretary. We have one vacant Assistant Ombudsman 1 position we are currently advertising to fill. The Deputy position remains vacant.

Following is the budget for 2014FY, as compared with our budget for the past 2013FY:

FY 2013	15.0 FTE	\$1,606,042 – we reverted \$953
FY2014	15.0 FTE	\$1,718,506

Since the Deputy Ombudsman position I previously held has been vacant since July 25, 2010, I have been handling the responsibilities previously performed by the Ombudsman and the Deputy Ombudsman. Although that has meant some adaptations and prioritization or deferral of tasks or projects, I have tried hard to ensure the office fulfills its primary statutory responsibilities by maintaining the same level and quality of service in handling complaints and investigations.

Activities in 2013

Case Statistics

During calendar year 2013 we opened 4,008 cases. Of the total cases:

- 2,737 were complaints about state or local government agencies within our jurisdiction.
- 439 were requests for information about government agencies within our jurisdiction.
- 788 were complaints or information requests about matters outside of our authority.
- 44 were treated as special projects for other activities related to the work of the office.

Of the 2,737 jurisdictional complaints:

- 1,314 (48%) were or are being investigated. 1,423 were declined for investigation; even so, we typically will refer the complainant to an appropriate remedy or provide an explanation or information so the complainant better understands the reason for declining or the issue.
- To date, 114 complaints have been substantiated or partially substantiated and 733 were not substantiated. [Note: some cases opened in 2013 are still being investigated.]
- In 143 of all cases, we made either informal suggestions or formal recommendations to the agencies to remedy or correct a problem or take action to improve a policy or procedure.

One significant change in the cases we handle occurred after July, 2013, when the new Iowa Public Information Board (IPIB) began investigating complaints related to open meetings and open records. As a result, we refer most of the contacts we get on those issues to the IPIB; we can still investigate complaints that the IPIB does not handle - - for example, anonymous complaints or those filed beyond the required 60-day statutory timeframe for filing complaints with the IPIB. Previously, we received about 300 contacts a year on open meetings and open records issues. Nevertheless, we remain as busy as before because the case numbers alone do not account for the time and resources expended. We have been conducting more complex, systemic investigations that can take significantly more time and resources to complete.

Systemic investigations

Two of the larger systemic investigations we began in 2013 concern the treatment of residents at the Iowa Veterans Home and at the Iowa Juvenile Home.

Iowa Veterans Home Investigation

In the case of the Iowa Veterans Home (IVH), we were asked in late June to review the quality of care of residents, including alleged bullying or abuse, and involuntary discharges. Because these allegations were too general, initially we tried to gather more specific information from some former employees and current residents or their representatives. We issued formal notice of the investigation to the IVH on August 20, 2013 and requested numerous records. Most of the records were provided by September 30, but records related to involuntary discharges were initially held up so the Attorney General's Office could scrutinize our access as a "health oversight agency" to records covered under HIPAA. We are further examining a discrepancy in the number of involuntary discharges reported by the former Commandant and what we have found in the records we received. We also sought to review the Department of Administrative Services' investigative files for information related to care of residents, but that was also delayed because the Attorney General's Office questioned our authority to review employment-related records. There has been a tapering off in the number of reported concerns since the former Commandant left. We have been analyzing hundreds of records and new information from recent contacts, and we are currently conducting more in-depth sworn interviews of individuals.

Iowa Juvenile Home Investigation

In regard to the Iowa Juvenile Home (IJH), we were asked in mid-August to review the policies and rules concerning use of physical constraints and isolation rooms and how employees were

informed and trained about them. Because we were not asked to examine past use of isolation rooms and because of available news from the media and Disability Rights Iowa (DRI) on this subject, we did not initiate a separate investigation of this issue. We have been monitoring closely and reviewing information as developments occurred: this included the Senate Oversight Committee meeting on September 17; the Governor's task force and its recommendations; the Department of Education's investigation and findings on education concerns raised by the DRI; and ongoing changes in administration, operation, and training at the IJH. Related to that, we visited the home, met with the DRI, and requested information from the Department of Human Services (DHS). Although we had asked the DHS for information about what it intended to do with the task force recommendations and the youths at the IJH, we were not informed by DHS officials about the closing of the IJH until the day it was disclosed to the media. Our focus has shifted to ensuring the welfare of the youths who have been transferred to other placements after the IJH closed. I have requested contact information from the DHS for these youths and am writing to them individually to inform me of any concerns they might have.

Published Investigative Report

Usually our investigative findings and recommendations are communicated by letters or reports directly to the agency and complainants involved. Occasionally, I may decide to publish a report about a topic of significance or broad public interest. In 2013, I issued a public report regarding inadequate oversight of a child care center by the Iowa Department of Human Services. I made 13 recommendations for improvements, 7 of which were accepted or partially accepted.

Legal Challenges

In 2013 we encountered several legal challenges to our office's authority from the Iowa Attorney General. These challenges can impede obtaining information necessary to an investigation, or create significant delay in completing an investigation. I met with the Attorney General in an attempt to resolve these issues, but we have not been able to reach agreement on these matters.

I brought one of these issues to the attention of this Committee last year. It concerns the denial of access to closed session records of the files of two professional licensing boards. A bill, HSB 216, was proposed to address this problem, but it did not make it out of subcommittee last year. We then tried to obtain answers through some sworn interviews of board members and staff this past year. However, the witnesses have either forgotten or have refused to respond on advice of the Attorney General. I am hopeful there may still be a legislative solution, since the House subcommittee passed out HSB 216, as amended, on February 4, 2014. If legislation is not enacted, I must pursue litigation for access to the records in order to complete our investigations.

Another disagreement concerned our office's ability to directly contact a current or former state employee, whom we subpoena as a witness, and for us to interview that witness without the presence of an Assistant Attorney General if that is the choice of the witness. It is my opinion the right to counsel belongs to the witness and the Attorney General's insistence on being present against the witnesses' wishes could have a chilling effect on witnesses being candid with us.

We also faced a challenge to obtaining investigative records of the Department of Administrative Services in the IVH case, even after I affirmed we were not investigating an employment-related complaint from an employee. The Attorney General's Office allowed us to review the files only

under supervision and after we signed a memorandum of understanding. It is my opinion this is contrary to our right to obtain copies of records already determined by the Iowa Supreme Court.

Legislative Proposals

We submitted a bill to officially change the name of the office to "Office of Ombudsman." That bill passed and took effect on July 1. The transition to that name has been smooth and seamless.

As a result of our investigation of several complaints about the debt setoff process under section 8A.504, I made some recommendations to the Department of Administrative Services to improve the process, especially as it relates to due process rights in setoffs initiated by local agencies, and to update the DAS rules. We worked with the DAS on drafting a bill for consideration in 2013, but that bill did not pass. However, I am working with the DAS to amend its bill this year to include a provision for agencies to give debtors the opportunity to contest the debt before setoff.

Other Activities

Besides our case work on complaints, we were involved in number of other activities to provide input on addressing systemic problems or current concerns, and to provide outreach, training or education to agency personnel and members of the public. These included the following:

- Our mental health specialist continued to monitor and provide input when appropriate on issues related to mental health re-design. She also attended quarterly meetings on mental health and substance abuse issues with AMOS (A Mid-Iowa Organizing Strategy).
- Our corrections specialist was asked again in 2013 by the ILEA training director to participate in the county jails' annual training. She traveled to 12 different counties and spoke with over 600 veteran jail staff.
- Our child welfare specialist served as the office's representative on the statutory Child Support Advisory Committee and has been active in offering feedback on various issues.
- We continued to monitor the Iowa Public Information Board and have provided input or information to the IPIB when I believe it would be of use or assistance. In one complaint we referred to the IPIB, I spoke at the Board meeting to voice concerns about a proposed decision to dismiss the complaint and asked the Board to further consider the complaint.
- We did some presentations about the work of our office at trainings for administrative law judges, agency employees, and community groups.
- I continued to hold quarterly meetings with Auditor of State David Vaudt before his resignation. I have initiated similar meetings with current Auditor Mary Mosiman, to share relevant information and help coordinate our work in areas where we overlap.
- We are hosting a third government official, Mr. Jung-gun Park, from South Korea's Anti-corruption and Civil Rights Commission (which includes an ombudsman's function) on an 18-month fellowship study. Mr. Park is the Chief Secretary to the Chairman of the ACRC. Our office will receive a stipend of \$18,000 for hosting this fellowship study.