

Iowa Citizens' Aide/Ombudsman



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1989 Annual Report

REPORT TO
THE SEVENTY-THIRD IOWA GENERAL ASSEMBLY
SECOND SESSION

AND

THE GOVERNOR OF IOWA

1989 ANNUAL REPORT

BY THE IOWA CITIZENS' AIDE/OMBUDSMAN

126093

U.S. Department of Justice
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STATE OF IOWA



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WILLIAM P. ANGRICK II
CITIZENS' AIDE / OMBUDSMAN

In reply, please refer to:

April 2, 1990

I am pleased to present the annual report of the Office of Citizens' Aide/Ombudsman (CA/O) for calendar year 1989.

During 1989 a significant staff organizational change was instituted in the office. The professional staff was divided into two three member teams, one responsible for initial intake and charged to handle the voluminous diversity of complaints and information referrals, the second assigned a smaller number of jurisdictional complaints requiring more formal investigation procedures.

The first team, termed Intake and Rapid Resolution, is led by the Deputy Citizens' Aide/Ombudsman and includes the two senior assistants in the office. Relying upon this reservoir of knowledge about state and local government in Iowa the members of this team can quickly determine whether a complaint is jurisdictional, initiate inquiry and in many situations resolve the matter without formal investigation. If the matter is not jurisdictional, the Intake Team may direct the individual to more appropriate resolution arenas or procedures.

If a jurisdictional complaint is accepted for investigation the matter is transferred from the Intake and Rapid Resolution team to the Investigation Team, headed by the CA/O Legal Counsel. More formal procedures are utilized by the Investigative Team, such as the issuances of subpoenas, the taking of sworn or unsworn statements, or site inspections. As certain complaints require more concentrated attention, involve increasingly legalistic challenges, or necessitate the understanding of highly technical information it is my expectation that the Investigation Team concept will provide the appropriate resources to resolve those problems and complaints.

The year ended with the agency having calculated receiving 4,783 contacts. Although this is the fourth busiest year in

the history of the office, it is considerably fewer than the contacts we recorded last year. Because of computerization, a turnover in clerical staff and the above reorganization, we believe that our count may have been under reported. Additionally, the General Assembly directed the Department of Employment Services to institute an employee information hotline, a 1989 legislative recommendation by the CA/O, which had the effect of siphoning a significant number of non-jurisdictional employment related complaints.

With the new computer system, we now have the capability to retrieve statistics not previously available to us. To do that we must implement a new method of record keeping. In 1989 and all previous years, we have counted contacts when, in fact, one contact may comprise a number of different complaints.

For example, an inmate in a correctional institution may contact us with a number of complaints at one time. The inmate may complain that appropriate medical attention is not being provided and his/her legal mail is being improperly opened. In order to retrieve the number of medical complaints received and the number of mail complaints received against the correctional institutions, we have to separate out the number of complaints and record each complaint instead of counting only the number of contacts or complainants. This change in record keeping will surely impact the numbers in future years.

Nineteen eighty-nine was the first full calendar year in which the Citizens' Aide/Ombudsman responded to complaints from businesses concerning inappropriate competition from government. In 1988 Chapter 23A of the Iowa Code was established prohibiting competition by many governmental entities with private business.

This noncompetition by government law provides, in addition to the statutorily defined remedies for violations of the chapter, the office of Citizens' Aide/Ombudsman may review violations and make recommendations as provided in Chapter 601G. As with many new, innovative pieces of legislation, Iowa's experience with the noncompetition by government provision has been mixed and awaits certain fine tuning by legislation and case law. The Ombudsman received several complaints based upon alleged violations of this law. Some of those complaints were monitored as the participants sought 17A contested case or judicial remedies.

One issue was partially resolved when the complainant, a private cosmetology school, complained that a proposed entry of an area community college into the field of cosmetology education by purchase of a private beauty school constituted a violation of Chapter 23A. This matter was raised by the

complainant to the Iowa Department of Education which believed that such purchase was inappropriate and an alternative arrangement of contracting with the private school was followed by the community college. This indirect competition remains at issue with the complaining party, however it does appear to meet the standards and expectations established in Chapter 23A.

Another complaint which was monitored by the Citizens' Aide/Ombudsman involved representatives from the private tree nursery industry who held that aggressive purchasing and marketing of tree nursery stock by the Department of Natural Resources was in violation of the noncompetition law. Some legislative direction had been attended to this issue by the General Assembly when it mandated that the total costs associated with buying and growing tree nursery stock be reflected in the prices charged by the state nursery when selling its tree stock. During 1989 one arena in which this issue was heard was the administrative rule making process as the Department promulgated rules for its tree nursery stock program. A tentative compromise was reached among the various interests before the Administrative Rules Review Committee of the Legislature. The larger issue to what extent the state tree nursery is to compete with private business in the efforts to reforest Iowa was carried into the 1990 session of the General Assembly when it considered the Natural Resources Department appropriation.

A third issue relating to this concern only indirectly involved the Citizens' Aide/Ombudsman. The owner of a private asbestos removal training program complained that the offering of education in the same field in a community college curriculum was in violation of the law. This complainant elected to pursue his remedy in district court where he received an adverse decision. That decision is now on appeal to the Iowa Supreme Court.

One complaint relating to the noncompetition law involved the office of Citizens' Aide/Ombudsman throughout half of the year and into 1990. In June 1989 a husband and wife who own, operate, and publish a newspaper in northeastern Iowa which targets middle-aged and senior citizens complained that an Area Agency on Aging (AAA) housed at an Area Community College had expanded its senior citizens' newsletter into a multi-color, lengthy tabloid with paid advertisers to the detriment of their publication. Area Agencies on Aging receive funds, in part, though the Department of Elder Affairs, which coincidentally was promulgating rules establishing entrepreneurial activity standards for AAA's. The Citizens' Aide/Ombudsman and the newspaper owners appeared before the Administrative Rules Review Committee concerning the complaint. The Committee directed the Department to consider the complaint and

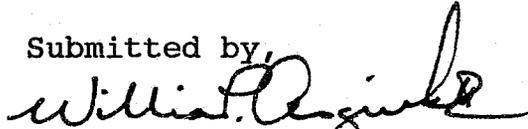
directed its own legal staff to research the issue. Both the department and committee legal staff concluded that Area Agencies on Aging are not governmental agencies as defined in Chapter 23A. Therefore they are not covered by the prohibition against competition with private business. The newspaper owners and the Citizens' Aide/Ombudsman next spoke before the community college board of trustees which provides an organizational home for the particular area agency on aging. That board heard the concerns and later responded by letter that there was no violation of the Chapter from their perspective. The newspaper owners considered appealing the board's response to the Department of Education but decided against that procedure because any school board can elect to exempt itself from the provisions of the law for a list of certain activities which could be interpreted to include publishing a newsletter for a targeted audience. The owners did not wish to expend time and resources to pursue an appeal in Des Moines (they reside in Dubuque) if all the community college board would have to do to overcome an adverse ruling would be to adopt a resolution exempting them from the law. The owners elected to pursue a request for adoption of a rule prohibiting such competition by AAA's by the Commission on Elder Affairs. The Citizens' Aide/Ombudsman and the owners appeared before the Commission which later decided against rule amendment because area agencies on aging are not included definitionally in Chapter 23A. At that meeting strong concern was voiced by legislative members, and a bill expanding the definitional section of Chapter 23A was introduced in the 1990 legislative session.

Nineteen eighty-nine also saw continuation of the role Iowa plays in the national ombudsman community. I was invited to participate on a panel discussing ombudsmen and other complaint handling offices at the National Conference of the American Association of Public Administration. During the year I also completed my term as Treasurer of the United States Association of Ombudsmen and made a presentation to that association's annual conference on the legal challenges facing ombudsmen offices. We also provided information and assistance to the Administrative Conference of the United States during the year. Recently that body issued a proposed recommendation encouraging greater use of ombudsmen in federal agencies. The Deputy Citizens' Aide/Ombudsman attended the national conference of the Society of Professional Dispute Resolution and participated in a roundtable discussion of the ombudsman institution.

Nineteen eighty-nine was a busy and challenging year for the office. As illustrated by the statistics and case summaries considerable important work was accomplished. Each day brings new contacts to the office involving persons who believe they have been treated unfairly or inappropriately

by the agencies and offices of Iowa state and local government. When 1990 ends the office will have completed its second decade of service to Iowa citizens, yet in many ways we believe that the future, not the past, is the measure of this office.

Submitted by,



William P. Angrick II

WPA:jg

ANNUAL REPORT NARRATIVE

During the calendar year 1989 the office of Citizens' Aide/Ombudsman received 4,783 contacts from individuals with complaints or requests for information. These contacts were received from each of the Iowa counties and thirty-nine other states including the District of Columbia. A map illustrating the geographic distribution of the contacts originating from Iowa is included elsewhere in this report. For comparative purposes a table of the number of annual contacts since 1971 is presented below:

CITIZENS' AIDE/OMBUDSMAN TOTAL CONTACTS

1988 - 5,900	1979 - 4,458
1987 - 5,668	1978 - 2,838
1986 - 5,231	1977 - 2,733
1985 - 4,471	1976 - 2,597
1984 - 3,660	1975 - 2,624
1983 - 4,330	1974 - 2,262
1982 - 3,512	1973 - 1,199
1981 - 3,846	1972 - 1,934
1980 - 4,237	1971 - 1,185

Individuals may contact the office in any manner they find comfortable and convenient: by telephone, mail or in person. In order to facilitate contact with the office an Iowa In-WATS line was installed in 1985. In 1988 a Telecommunications Device for the Deaf (TDD) line was added extending the services of the office directly to deaf Iowans. During 1989 a FAX machine was installed. Flexibility is sought and there are no required forms to complete. However, written complaints may be requested when the issues are detailed, complicated or sensitive. During 1989 the manner in which contacts were initiated with the office in the following proportions:

<u>Source</u>	<u>Total</u>	<u>Percent</u>
Telephone	3,803	80%
Institutional Visit	386	8%
Mail	474	10%
Office Visit	111	2%
Self-Initiated	7	less than 1%
Site Visit	2	less than 1%
	<u>4,783</u>	<u>100%</u>

Contacts from inmates of the Iowa correctional system are routinely assigned to the statutorily mandated Assistant for Corrections and other staff members who have been assigned

specific institutions. Staff members responsible for correctional and other institutional complaints regularly travel to the institutions or facilities to receive, investigate, and resolve those matters.

If the problem is jurisdictional and requires inquiry by the Ombudsman, arrangements are made to secure the necessary documentation, identify and speak with the responsible officials, review appropriate laws, rules or regulations and interview relevant participants and witnesses. Inquiries are routinely made by telephone or mail, and occasionally by site investigation.

If the Citizens' Aide/Ombudsman cannot help the individual, an explanation or referral is made when possible. Many times the person needs to be put in touch with an agency or official having jurisdiction to review and resolve the matter, such as the Attorney General's Consumer Protection Division, the Insurance Division of the Department of Commerce, or the Labor Services Division of the Department of Employment Services. Other times the referral is made to a non-governmental entity such as Home, Inc. (which mediates landlord/tenant disputes) or Legal Services of Iowa, Inc. (which provides legal representation to low-income persons).

In 1989, approximately 26 percent of the 1,325 jurisdictional complaints received were found to be justified or partially justified; 44 percent were determined not justified; and 30 percent were either referred, withdrawn or there was no basis to evaluate the merits of the complaint.

Non-jurisdictional complaints accounted for 959 of the contacts received in 1989. Jurisdictional information requests numbered 1,486 during the year, while 871 of the contacts were non-jurisdictional information requests.

Of the 4,783 contacts received during the year, 97 percent were completed and closed during that year. One hundred twenty-five cases remained open and under investigation into 1990.

The length of time a contact remained open -- that is, until the complaint was evaluated as justified or not justified, and if determined to be justified an equitable resolution achieved; the information located and provided; or an appropriate referral made -- ranged considerably. Statistics demonstrate that 95 percent of the contacts were completed in 60 days or less. The average length of time that a contact remained open during 1989 was slightly more than 13 days.

<u>Days Open</u>	<u>Number of Contacts</u>	<u>Percent</u>
10 days or less	4,074	85%
11 - 30 days	393	8%
31 - 60 days	110	2%
61 - 90 days	30	1%
91 - 180 days	44	1%
181 days or more	7	less than 1%
Remained open into 1990	<u>125</u>	<u>3%</u>
	4,783	100%

The range of contacts with the office continues to be quite varied. Issues requiring investigation have involved minor local offices to the directors and policies of large state agencies. The greater proportion of contacts deal with those agencies and levels of government most directly involved in providing services to or regulating or controlling behavior of large numbers of citizens. Approximately 19.5 percent of the contacts dealt with divisions, institutions, or programs of the Department of Corrections and the Board of Parole. Lesser numbers involved the Department of Human Services (8.2 percent); the Department of Employment Services (3.4 percent); the Department of Transportation (1.8 percent); and the Department of Revenue and Finance (1.0 percent). Municipal and county governments each accounted for six and five percent of the contacts respectively. One percent pertained to schools and school districts. A complete listing of the agencies, levels of government, and other problem areas about which the Ombudsman received contacts are presented elsewhere in this report.

The Citizens' Aide/Ombudsman has statutory authority to issue reports regarding governmental officers and agencies. These reports may be either critical or special in nature. A critical report may conclude that an agency or official acted arbitrarily, capriciously, unreasonably, or contrary to law. A special report details investigative findings that are not critical of an officer or agency yet involves matters sufficiently important or which have generated public attention to the degree that the Ombudsman believes a public statement is necessary. In 1989 the Ombudsman did not find it necessary to issue either a critical or special report.

Pursuant to Iowa Code Section 601G.16, the Citizens' Aide/Ombudsman is mandated to notify the General Assembly whenever objectionable administrative consequences can be traced to the need for change in legislation. Accordingly, in January 1989 several legislative recommendations (LR) were made to the Iowa General Assembly.

- LR 89-1 Amend the Sexual Abuse Code to establish the crime of sexual abuse in the fourth degree which would occur whenever an employee, officer, or agent of the Department of Corrections, a judicial district Department of Correctional Services, the Department of Human Services or its divisions, or a county or municipal correctional or institutional facility engages in a sex act with a person in the custody of said department, division or facility.
- LR 89-2 Amend Iowa Code Section 910A.9 to require that the Department of Corrections notify victims and witnesses when an offender expires a sentence. (Became law on July 1, 1989 as part of House File 279, the omnibus victim assistance legislation.)
- LR 89-3 Proposal to create a one-stop employment rights information office in the Division of Labor, Department of Employment Services. (An information office providing this service was established by the department with discretionary funds in response to legislative interest in this concept.)
- LR 89-4 Create a civilian law enforcement oversight authority to review the actions of state and local law enforcement agencies and personnel.
- LR 89-5 Create within the Department of Natural Resources a state-wide inspection and regulatory authority over public and certain privately owned and operated outdoor firearm shooting ranges.

BUDGET

The office of Citizens' Aide/Ombudsman employs six professional and three clerical staff.

During Fiscal Year 1988-89 the total state appropriation for operation of the office of Citizens' Aide/Ombudsman was \$434,160.00

STAFF

William P. Angrick II	Citizens' Aide/Ombudsman
Ruth L. Mosher	Deputy Citizens' Aide/Ombudsman - special assignment to Iowa Correctional Institution for Women - Intake and Rapid Resolution Team Leader
Michael K. Elliott	Legal Counsel - Investigation Team Leader
Clarence Key, Jr.	Assistant for Corrections - overall responsibility for complaints dealing with inmates and correctional institutions, facilities, programs and policies. - specific assignments to Iowa State Penitentiary, Medium Security Unit at Mount Pleasant, Correctional Treatment Unit at Clarinda, Riverview Release Center
Randy A. Meline	Assistant II - special assignments to Iowa Men's Reformatory and Iowa Medical and Classification Center
Michael J. Ferjak	Assistant II - special assignments to Iowa Veteran's Home and North Central Correctional Facility
Tina M. Eick	Assistant I - started employment February, 1990
Judith L. Green	Executive Secretary
Patricia Nett	Administrative Secretary
Maureen A. Kennedy	CA/O Secretary

1989
CITIZENS' AIDE/OMBUDSMAN
CONTACT STATISTICS

JURISDICTIONAL AGENCIES, DEPARTMENTS AND OFFICES	TOTAL NUMBER OF CONTACTS	PERCENT OF TOTAL CONTACT
State of Iowa (General)	286	5.5%
Citizens' Aide/Ombudsman	60	1.2%
Department of Justice	47	0.9%
- Consumer Advocate Office	[18]	
- Prosecuting Attorneys		
Training Coordinator Office	[1]	
Auditor of State	3	less than 0.0%
Secretary of State	13	0.2%
- Notaries Public	[4]	
Treasurer of State	4	less than 0.0%
Department of Agriculture and Land Stewardship	14	0.3%
Department for the Blind	2	less than 0.0%
Civil Rights Commission	22	0.4%
Department of Commerce	37	0.7%
- Alcoholic Beverages Division	[1]	
- Banking Division	[1]	
- Insurance Division	[19]	
- Professional Licensing and Regulation Division	[9]	
- Utilities Division	[5]	
Department of Corrections	907	17.6%
- Community Services Division	[146]	
- Community Based Corrections	(70)	
- Parole and Probation	(29)	
- Work Release	(41)	
- Institutions Division	[735]	
- Iowa Men's Reformatory, Anamosa & Luster Heights Facility	(158)	

(continued)

Bracketed figures indicate divisional totals, figures in parenthesis represent intra-divisional totals.

Department of Corrections (continued)		
- Correctional Treatment Unit, Clarinda	(51)	
- Iowa State Penitentiary, John Bennett Correctional Facility & Prison Farms, Fort Madison	(226)	
- Iowa Correctional Institution for Women, Mitchellville	(100)	
- Medium Security Unit, Mount Pleasant	(101)	
- Riverview Release Center, Newton	(5)	
- Iowa Medical & Classification Center, Oakdale	(65)	
- North Central Correctional Facility, Rockwell City	(20)	
Board of Parole	99	1.9%
Department of Cultural Affairs	2	less than 0.0%
- Arts Division	[1]	
- Iowa Public Television Division	[1]	
Department of Economic Development	22	0.4%
Department of Education	28	0.5%
- Area Schools Division	[3]	
- Vocational Rehabilitation Division	[11]	
- College Aid Commission	[6]	
- Professional Teachers Practices Commission	[2]	
Department of Elder Affairs	14	0.3%
Department of Employment Services	175	3.4%
- Industrial Services Division	[32]	
- Job Service Division	[72]	
- Labor Services Division	[64]	
Department of General Services	11	0.2%
Department of Human Rights	9	0.2%
- Community Action Agencies Division	[2]	
- Deaf Services Division	[3]	
- Status of Women Division	[2]	
Department of Human Services	425	8.2%
- Community Services Division	[172]	
- Iowa Veteran's Home Division	[6]	
(continued)		

Bracketed figures indicate divisional totals, figures in parenthesis represent intra-divisional totals.

Department of Human Services (continued)		
- Mental Health, Mental Retardation & Development Disabilities Division	[27]	
- Mental Health Institute, Cherokee	(10)	
- Mental Health Institute, Clarinda	(3)	
- Mental Health Institute, Independence	(1)	
- Mental Health Institute, Mount Pleasant	(4)	
- State Hospital/School, Glenwood	(5)	
- State Hospital/School, Woodward	(3)	
- Social Services Division	[200]	
- State Training School, Eldora	(7)	
- Iowa Juvenile Home, Toledo	(21)	
Department of Inspections & Appeals	23	0.4%
State Appellate Defender	6	0.1%
Department of Management	3	less than 0.0%
State Appeal Board	3	less than 0.0%
Department of Natural Resources	41	0.8%
- Energy & Geological Resources Division	[1]	
- Environmental Protection Division	[13]	
- Fish & Wildlife Division	[5]	
- Forest & Forestry Division	[1]	
- Parks, Recreation & Preserves Division	[11]	
Department of Personnel	15	0.3%
Department of Public Defense	6	0.1%
Department of Public Health	28	0.5%
- Central Administration/Professional Licensure Division	[1]	
- Substance Abuse Division	[4]	
Professional Licensure Boards	9	0.2%
- Board of Medical Examiners	[2]	
- Board of Pharmacy Examiners	[1]	

Bracketed figures indicate divisional totals, figures in parenthesis represent intra-divisional totals.

Department of Public Safety	39	0.8%
- Criminal Investigation Division	[5]	
- Fire Marshal Division	[4]	
- State Patrol Division	[16]	
- State Medical Examiner	[5]	
Board of Regents	31	0.6%
- University of Iowa	[9]	
- Hospitals and Clinics	(9)	
- Iowa State University	[9]	
- Cooperative Extension Service	(2)	
- University of Northern Iowa	[2]	
- Iowa School for the Deaf	[1]	
Department of Revenue & Finance	50	1.0%
- Lottery Division	[9]	
Department of Transportation	94	1.8%
- Air & Transit Division	[3]	
- Highway Division	[9]	
- Motor Vehicle Division	[62]	

LOCAL GOVERNMENTS

Schools and School Districts	50	1.0%
Municipal Government	324	6.3%
- Administration/Clerk/Manager	[7]	
- Assessor	[2]	
- Attorney	[6]	
- Housing & Zoning	[24]	
- Mayor/Council	[53]	
- Municipal Utilities	[10]	
- Parks/Recreation	[4]	
- Police/Jails	[158]	
- Public Works	[10]	
County Government	271	5.2%
- Assessor/Conference Board/Board of Review	[9]	
- Attorney	[53]	
- Auditor	[3]	
- Conservation Commission	[2]	
- Engineer/Roads Department	[9]	
- General Relief	[8]	
- Recorder	[2]	
- Sheriff/Jail	[114]	
- Board of Supervisors	[13]	
(continued)		

Bracketed figures indicate divisional totals, figures in parenthesis represent intra-divisional totals.

County Government (continued)		
- Township Trustees/Benefitted Districts	[4]	
- Treasurer	[3]	
- Weed Commissioner	[3]	
- Zoning	[4]	
Metropolitan/Regional Government (Intrastate, e.g. Council of Governments/28E Agreement Agencies/ Community Action Agencies/Rural Electric Cooperatives)	3	less than 0.0%
Private Non-Profit Quasi-Government Agency	3	less than 0.0%

NON-JURISDICTIONAL

Government, State	115	2.2%
- Executive/Governor	[21]	
- Judiciary	[81]	
- Legislature/Legislative Agencies	[12]	
States Other Than Iowa	18	0.3%
- Interstate Compact Matters	[2]	
Government, Federal	132	2.6%
Non-Jurisdictional, General	1,690	32.7%
- Consumer	[257]	
- Employer/Employee	[540]	
- Financial Institution	[39]	
- Insurance	[85]	
- Landlord/Tenant	[65]	
- Legal (Private)	[513]	
- Medical	[42]	
- Nursing Homes	[14]	
- Utilities	[62]	
Undetermined	28	0.5%

Bracketed figures indicate divisional totals, figures in parenthesis represent intra-divisional totals.

CONFLICT OF INTEREST RESULTS IN RE-BIDDING. Small-town businessman complained to the Citizens' Aide/Ombudsman (CA/O) that the city council accepted a bid for snow removal equipment from a council member - also an equipment dealer. CA/O requested copies of all bids and reviewed the bid specifications. It turned out that the council member in question had amended his bid at the last minute to allow for trade-in, however the other bidders were not afforded the same opportunity. CA/O conferred with city officials. The council decided to abandon all bids and re-write the specifications and accept new bids from all interested parties.

* * *

GOOD LANDING BUT, BAD PARKING. A private pilot landed his aircraft at a municipal airport at night and parked in an empty hangar. In the morning he found that his plane had been removed from the hangar. The pilot complained to the airport manager, the chief of police and the county sheriff without satisfaction. (CA/O) contacted the airport manager and learned that pilots visiting the airport are allowed to park in unoccupied hangar space with airport staff approval. Though the complaining pilot was aware of the policy, he had checked with no one and parked in a rented hangar space. When the rightful occupant of the space returned, complainant's airplane was towed out. CA/O advised the pilot to avoid this practice. No fault was found with local officials.

* * *

ANONYMOUS CALLS REQUIRE DOCUMENTATION. Applicants for low-income, home energy assistance complained to CA/O that approval was delayed because the County Community Action Agency worker (who process these applications) had received an anonymous call alleging unreported income in the applicants' home. The applicants further alleged that the Action Agency worker was holding a personal grudge against them. CA/O inquiry found a total lack of documentation concerning the anonymous call. CA/O made specific recommendations on how to properly document anonymous phone calls - Action Agencies statewide were apprised of the policy. The application was approved and processed. In the future, the complainant's application was to be handled by

another agency staff person.

* * *

LOST DRIVERS LICENSE PROVES COSTLY. Citizen sought help from CA/O when an erroneous speeding violation on his driving record resulted in increased car insurance costs. CA/O obtained copies of the ticket and driving record and inquired with the Department of Transportation (DOT), Drivers Services Division. The car driven at the time the ticket was written turned out to be an out-of-state rental car. It was learned that the citizen had lost his drivers license and a duplicate had been issued. It appeared an imposter was using the citizen's name and lost license - at least the imposter had paid the ticket. The DOT expunged the erroneous violation. Citizen was to provide documentation to his insurance company so the rate could be reduced.

* * *

INMATE WRONGLY ACCUSED OF STRONG-ARMING. An inmate complained to CA/O that he was found guilty of extortion (strong-arming) and making threats at a medium-security prison and had been transferred to the state Penitentiary. CA/O investigated and learned that the inmate's guilt had been based on confidential information from another inmate. CA/O reviewed the confidential information and requested that prison officials verify its validity. The superintendent reviewed the report and re-interviewed the inmate who had provided the confidential information. That inmate recanted his story. The superintendent dismissed the report and the inmate - after a short delay - was sent out on work release. Unfortunately, a short time later he broke the rules of his release and was back in the system.

* * *

PRISON MENTAL HEALTH TREATMENT STUDIED. Based on a request from a state representative CA/O researched and identified mental health evaluation and treatment resources available at adult institutions within the Department of Corrections. CA/O prepared a letter report outlining the mental health treatment philosophy of the department and identifying the mental health professionals department-wide who provide care to special-need inmates. CA/O found that there is a strong desire within the correctional/medical community in Iowa to avoid over-medication of psychiatric problems among inmates. The emphasis is placed on careful diagnosis of special-needs inmates and subsequent counseling and therapy to deal with their problems.

* * *

BARBER LICENSE RECIPROCITY GRANTED. Former Iowa barber who had lived, was licensed and practiced in Arizona for nine years, returned to Iowa to find that he was required to pay nine years back licensing fees to reinstate his Iowa license. CA/O obtained a copy of the Arizona license and asked the Iowa Board of Barber Examiners to review the case for licensure through reciprocity. Board officials said it was always necessary for the Iowa license to be reinstated by paying all back fees, however, they could cite no authority for that requirement. At CA/O's request this case was considered at a monthly Barber Board meeting. The board decided that the expatriated barber would be granted Iowa licensure through reciprocity.

* * *

DOT PENALTY IS APPROPRIATE. Citizen complained to CA/O that the Department of Transportation (DOT) was forcing him to remove truck cabs with altered Vehicle Identification Numbers (VIN) from truck chassis he had purchased. State law prohibits altering VINs. Complainant admitted breaking the law but claimed the penalties were too severe. CA/O reviewed the law and determined that fines and penalties imposed were proper and within discretionary guidelines.

* * *

SCHOOL MAKES RESTROOM ACCESSIBLE. Parents of a girl in high school wearing a leg brace for a dislocated knee complained to CA/O that school officials would not make the school restroom accessible to their daughter. CA/O contacted the Department of Education (DOE) for guidance on accessibility issues and suggested that the parents contact the school district superintendent with a formal request for help. The superintendent was unreceptive to the girl's plight and suggested home-bound education. He was contacted directly by CA/O and a DOE official for discussion of possible remedies. School officials then obtained a portable stool extender from a medical supply company and the temporary problem was resolved.

* * *

FATAL ACCIDENT INVESTIGATION QUESTIONED. A young girl was struck by a car and killed when she ran into a small-town street. Police conducted an investigation but, the girl's parents were dissatisfied because the driver was not charged. They requested a second investigation and were unhappy that it was not completed quickly. CA/O reviewed the investigative file, talked with police, and an assistant county attorney, consulted with the Iowa Law Enforcement Academy and State Patrol to compare investigative procedures. Investigating officers had met all statutory

requirements of the Department of Transportation. The driver had been operating within the speed limit and reported he didn't see the little girl until she was right in front of him. Although the incident was deemed a tragic accident, CA/O believed the officers had conducted satisfactory investigations. However CA/O assisted in providing the local officers with material used by the highway patrol's technical accident investigators and suggested they utilize certified technical accident investigators.

* * *

COUNTY DELAYS PROPERTY TAX REFUND. Homeowners complained to CA/O they had waited nearly a year for a property tax refund they had been told was forthcoming. CA/O contacted the county treasurer's office and learned the refund release was in the hands of the county attorney. Multiple contacts were made to an assistant county attorney who promised the refund would be made immediately. Months elapsed. No refund was made. CA/O complained to the County Attorney who ultimately responded that the Board of Supervisors would have to decide the case. The homeowners had never been given the courtesy of a telephone call to explain the long delay. CA/O informed to the Chairman of the Board of Supervisors. Finally, after a 16-month delay, the refund was paid.

* * *

INMATE'S WAGE SCALE RESTORED. An inmate at the Penitentiary was disciplined for unauthorized possession of three small needles stored in empty ink pens. He was placed in disciplinary segregation, lost good conduct time, lost his job assignment and lost earnings during the segregation time. Inmate appealed the disciplinary report on the basis that he was not provided proper notice of segregation. The report was later dismissed. Inmate argued to CA/O that he was allowed to possess the needles as hobbycraft tools. CA/O asked the Warden to review the case. Warden determined the inmate was allowed to possess the needles. Inmate was reimbursed for back pay and reinstated to his previous wage scale.

* * *

HOSPITAL DEATH REQUIRES COURT ORDER FOR TOXICOLOGY TEST. The death of a young man at a private hospital resulted in an autopsy being performed but no toxicology testing. The patient had been hospitalized for an extended time, therefore, there were no suspicions of foul play, according to the State Medical Examiner. CA/O had aided the family of the deceased in obtaining a copy of the autopsy report and learned that a court order would be required to compel toxicology testing. The Medical Examiner wrote to the

family, on CA/O's suggestion, assuring them that toxicological specimens would be maintained indefinitely while they sought such an order.

* * *

CA/O ASSISTS TROUBLED FATHER. A young, divorced father was called back to Iowa from out of state when his ex-wife was placed in an emergency substance abuse treatment program. It was freezing cold when he returned and the mobile home propane tank was empty. The utility bills were all long overdue, there was no food and no money. CA/O helped put the young father in touch with appropriate state and county authorities who responded with emergency aid. County General Relief filled the propane tank and food stamps were issued the next day. Aid for Dependent Children funding was to be re-routed to the father until the mother completed treatment and was deemed capable of caring for the children.

* * *

INMATE TRANSPORT FIRM SCRUTINIZED. Work release escapee was picked up in another state by a private inmate transport firm sometimes utilized by the Department of Corrections (DOC). The inmate was required to check all personal property, at a local jail, including two rings. The property was to be returned to the transport firm employee when they left the jail. The rings were missing when the trip back to Iowa had been completed. The inmate complained to CA/O. An inquiry was made into the reliability of this firm, according to DOC officials, based on other problems and complaints. Use of the firm was discontinued. The rings were never found, however, based on reports about how personal property was stowed during trips in vans - accessible to certain unrestrained inmates - it appeared likely that the rings could have been lost or stolen during the trip back to Iowa.

* * *

CASE OF THE MISSING NEWSPAPERS. The owner of a newspaper vending company informed CA/O that many newspapers were being stolen from vending machines in an Iowa town but police could not catch the culprits. Finally, stake-outs in unmarked police cars were conducted - with the company owner present - at sites where there had been frequent thefts. During a stake-out several men were observed stealing papers but they were not pursued. The owner was amazed. Later, the owner learned that one of the thieves had been the adult son of one of the police officers on the stake out. It appeared to the owner that the son would not be punished. CA/O contacted the police chief and learned that the son had turned himself in and agreed to repay the cost of all stolen

newspapers. The county attorney informed CA/O that the officer's son and others had been charged with theft.

* * *

CURB AND GUTTER PROJECT QUESTIONED. Small town property owner complained to CA/O that the city council was going ahead with a curb and gutter project even though a significant majority of residents opposed the plan. CA/O informed complainant that Iowa law allows individuals who constitute 75 percent of the total cost of the project to petition the city council for a resolution of necessity - requiring that additional steps be taken (including a unanimous vote by the council) before project plans are completed.

* * *

"HOME-BOUND" BY THE GRAND-PRIX? The 1989 Des Moines Grand-Prix required months of planning and organization before a large downtown area could be blocked off for race weekend. Among those inconvenienced was a downtown resident bound to a wheel chair. As the high, restraining fences were erected several days before race weekend her building was nearly enclosed by wire. The distance from her apartment door to an opening in the fence became too much for her to traverse. She feared she would be "home-bound" - and cut off from the grocery store, friends and medical services - for six or seven days. CA/O contacted the Grand-Prix director and asked if some accommodation could be made. He offered to pay for any taxi fares - including help getting to the taxi - the disabled woman might require because of the inconvenience.

* * *

SHERIFF QUESTIONS CIVIL SERVICE PROCESS. A county sheriff believed the civil service commission exceeded its authority by conducting oral interviews of candidates for deputy and eliminating those who failed that process. CA/O reviewed Iowa law governing the actions of civil service and law enforcement and conferred with the Director of the Iowa Law Enforcement Academy. CA/O examined the specific process this commission had utilized and determined that each candidate had been treated uniformly - there was no evidence suggesting preferential treatment. It was determined that the commission had not exceeded authority granted by law, however, CA/O suggested that the county attorney may want to seek an Iowa Attorney General's opinion concerning the role and authority of county civil service in these matters.

* * *

RESTITUTION PROBLEM CORRECTED. Parolee had paid court costs while in prison but upon release was informed he still owed the full amount. Asked for assistance to avoid a problem with parole, CA/O researched institutional records and traced when and where the inmate had paid the restitution in full. CA/O informed the clerk of court's office of the dilemma and it was discovered that the payment had been misapplied and paid to an incorrect area of the inmate's restitution account. The payment was applied correctly and the complainant avoided problems with his parole.

* * *

APPEAL BOARD DELAYS RETURN OF MATERIALS. A citizen complained that a State Appeal Board official had failed to return materials as promised and had not responded to specific questions. The citizen explained she had waited nearly a year for the response. CA/O contacted the Appeal Board official by telephone and was assured that the materials would be returned and a response was forthcoming. CA/O made repeated attempts to solicit the response. Finally, one year after the board's decision had been handed down, CA/O received a copy of the official's response to the citizen.

* * *

CA/O REVIEWS INVESTIGATION OF TEACHER. Parents complained to CA/O that inadequate investigations had been conducted by the local school district and the Iowa Board of Educational Examiners (formerly the Professional Teachers Practices Commission) concerning an alleged assault on their son by a teacher. CA/O reviewed documentation provided by the parents and board officials; interviewed school district officials and the local police investigator; reviewed the board's report and interviewed the board investigator who had worked the case. Though the case was emotionally charged, CA/O determined that local school officials had demonstrated reasonable judgement. It also appeared clear that the board had appropriately addressed the specific point of the complaint.

* * *

PRISON GATE PASS POLICY STUDIED. Medium security inmate serving a mandatory sentence complained to CA/O that he had been denied a gate pass (ability to work outside the prison walls). He further complained that the gate pass policy was applied unfairly. He noted two other inmates who had been granted gate passes who he believed had a mandatory sentence and/or an escape on their record. CA/O inquired about the matter and learned that there was no written policy. Prison officials advised that inmates must be within six months of

discharging their mandatory sentences before being considered for a gate pass. CA/O suggested a written policy be formulated. Neither inmate the complainant had mentioned had a mandatory sentence or an escape. Complainant received a gate pass when he was six months from discharging his mandatory.

* * *

PROGRAM PARADOX PLAGUES TITLE XIX RECIPIENTS. First one, then several Title XIX (medical assistance) recipients from around the state contacted CA/O to voice concern about a funding snafu which often adversely affected their Social Security disability benefits. When these clients do not reach a medical supplies/services, monetary spend-down target (based on income) monitored by the Department of Human Services (DHS), they are dropped from Title XIX, temporarily lose state payment of their Medicare supplement premium and are forced to reapply for medical assistance. This can happen as often as every 60 days. For many clients receiving medically needy assistance the problem represents a recurring dilemma. CA/O learned that DHS workers statewide dislike the bureaucratic process as much as clients. CA/O brought these cases to the attention of DHS medical policy officials and provided information to the complainants* so they could understand the nature of the problem. Legislation was proposed for the 73rd Iowa General Assembly which, if adopted, would allow policy changes to eliminate the spend-down process for affected clients. The result to clients would be that tedious re-application to determine eligibility would become unnecessary and the systematic reduction of Social Security benefits would end.

* * *

JAIL FOOD PREPARATION QUERIED. A county jail inmate complained to CA/O that food was prepared by workers who wore no hair nets or plastic gloves and smoked during preparation and serving. CA/O reviewed state rules regulating the operation of jails and noted that hair nets are required and smoking is prohibited in food preparation areas. Plastic gloves are not required. CA/O also reviewed the most recent jail inspection report and contacted the State Jail Inspector to determine how well this specific jail was adhering to the rules. An inspector informed CA/O that he had made several visits to the jail. He had noted both cooks and inmate workers wearing hair nets and following the smoking ban. The inspector reminded jail officials to maintain mandated health standards.

* * *

MOTHER'S CONCERNS LEAD TO CONTAMINATED WATER SUPPLY. A woman living in a town of 300 residents came to CA/O for help when she noticed her children were breaking out with skin rashes after bathing or showering at their home. She could find no one locally to listen to her. CA/O first determined that the town received its water supply through a pipeline from a larger community in the county. CA/O asked the county engineer to test her water. State Hygienic Lab test results revealed abnormally high bacteria levels. CA/O then contacted the Department of Natural Resources (DNR) regional office and suggested that a special inspection of the town's water system be conducted. A thorough inspection was completed and a written report by DNR specialists recommended several changes be made with the system, including more frequent usage of water stored in the tower and more frequent flushing and cleaning of the tower. Though professionals (including the family doctor) could never directly link the childrens' skin problems with the water contamination, the mother later reported to CA/O that the rashes were no longer a problem.

* * *

FEMALE INMATE FEARS SHE WILL LOSE CHILDREN. A woman serving time in prison on drug charges began worrying the state would take her children from her permanently. Her husband (who had been caring for the children) was convicted of armed robbery and sent to prison himself. Other female inmates had told the mother parental rights were always terminated if the mother was incarcerated over one year. She was serving a 20-month mandatory sentence. CA/O conferred with the Department of Human Services (DHS) worker handling the woman's case. CA/O learned that if the woman can demonstrate upon release that she can provide a healthy environment, the state will have no interest in keeping the children from her. CA/O informed the woman of this information and explained that there is no law or rule which automatically terminates parental rights if the mother is incarcerated for a long time.

* * *

DISABLED GAMBLER DENIED FREE MEDICAL ASSISTANCE. A man who had undergone heart surgery and was unable to work, sought free medical assistance from the state but was denied because it was determined that he was involved in gainful activity. The client had reported winning \$20,000 in 1988, the profits of gambling, primarily from dog and horse races. Those winnings were considered the equivalent of gainful activity by the Department of Human Services. The gambling profits were calculated the same as normal wages and negated

the man's eligibility because of his disability.

* * *

INMATES COMPLAIN ABOUT CANCELLED COUNSELING SESSIONS. Two inmates at a medium security prison complained to CA/O that 58 percent of group counseling sessions scheduled in recent months had been cancelled. The two inmates had written many state and federal law makers with this complaint. CA/O conferred with staff at the prison and was able to determine that of the 250 group sessions scheduled during the previous 90 days, 19 had been cancelled because of staff vacations, parole board meetings, staff training and illness. The actual percentage of cancellations was seven percent. The superintendent of the facility instructed his treatment director to schedule for the availability of a replacement staff so unnecessary cancellations could be avoided in the future.

* * *

CA/O QUERIES NURSING HOME FRAUD INVESTIGATION. Nursing home owner complained to CA/O that the Department of Human Services (DHS) was vehemently pursuing a fraud investigation against her private nursing home because she often employed two brothers - who live out of state - for consultation and repair work on the facility. She would lose government, medical assistance funding if she was found at fault. The amount of government assistance provided per diem for Title XIX (government assistance) was also under investigation because less than 80 percent of the home's beds were filled - as required by federal guideline. CA/O met with the owner and the state senator who had referred her. She explained that she had added 50 new beds which had not been ready for occupancy until just recently. Further, she said that her brothers were no more expensive and provided better work than others. She had hired an attorney to defend against the fraud investigation and spent thousands of dollars. An Administrative Law Judge with the Department of Inspections and Appeals (I&A) had ruled in her favor but DHS had appealed the I&A decision to the DHS Director, as provided for by law. The owner believed she had no chance against the state bureaucracy when a well-reasoned I&A decision could be overturned by the agency involved. CA/O met with DHS officials and discussed the case at some length. The officials announced that the possible funding reduction based on occupancy had been withdrawn because DHS accepted the owner's explanation. CA/O learned later that the departmental appeal had also been withdrawn. CA/O advised the owner that she must cooperate fully with DHS investigations and should not automatically believe that

investigators are attempting to close her facility.

* * *

SIMILAR SOCIAL SECURITY NUMBERS CAUSE TAX ERROR. Citizen complained to CA/O that for the third time in four tax years she and her husband had been accused by the Department of Revenue and Finance (DORF) of not filing state income tax returns. Complainant sent CA/O copies of the correspondence from DORF. CA/O noted that the Social Security Number (SSN) on letters from DORF did not match complainant's actual SSN. CA/O contacted DORF and pointed out the errors which had been made. Necessary corrections were made and the matter was dropped.

* * *

PRISON COMMISSARY RECORDS SCRUTINIZED. Inmate contacted CA/O upon his transfer from one prison to another to complain that civilian commissary employees consumed candy, pop and other items without paying for them. He also alleged that record keeping practices were poor. CA/O brought this matter to the attention of prison officials and an audit and investigation ensued. It was determined that there were some discrepancies in how personal consumption of commissary items was recorded. Stricter procedures were implemented. There was no evidence of overt pilferage and no disciplinary action was taken. It appears that a "sour grapes" element may have existed because the departing inmate had not succeeded at a commissary job assignment.

* * *

LIVE-IN CAREER EDUCATION PROGRAM EXAMINED. A state representative referred a woman to CA/O with complaints about her treatment at a live-in, career education and social skills orientation center. CA/O learned that the program primarily assists special education students and those referred from Mental Health Institutes to learn job skills and achieve job placement. The complainant said clients were sometimes ridiculed, mocked and yelled at by staff members. She said she had never actually witnessed these problems but provided CA/O with the first names of other former clients who had allegedly also heard of the problems. CA/O made a number of inquiries with medical and other professional persons familiar with the program and learned that it is extremely confrontive - in an effort to force clients to examine their problems and seek remedies. The program was obviously not appropriate for many people, the complainant included. CA/O decided not to contact the former clients (now working in their communities) because it had not been alleged that they had first-hand information. CA/O was also concerned that the contacts might

have a negative impact on the former clients. CA/O reported to the state representative about the history and functioning of the program.

* * *

PRISON HOBBYCRAFT TOOLS TAXED INAPPROPRIATELY. Inmate complained to CA/O that a five percent sales tax was added to the purchase of hobbycraft tools and materials. Prison policy called for sales tax to be charged only on materials. The inmate said he had been unable to remedy the problem internally. CA/O brought the matter to the attention of the Warden and the inappropriate taxing was discontinued. Affected inmates were advised to file state tort claims to have incorrectly charged taxes reimbursed.

* * *

LOSS OF SALE RESULTS FROM DELAYED BLOOD TESTING OF GOATS. Citizen who raises a few goats each year contacted CA/O to complain about delays in pre-sale, blood testing by the Iowa Veterinary Diagnostic Laboratory (IVDL) at Iowa State University. Several tests are required by both the IVDL and the National Veterinary Services Laboratories (NVSL) before goats can be marketed. In 1988 the test results became available on the deadline date imposed by the exporter. The citizen, therefore, was forced to deliver the goats to the State of Wisconsin. In 1989 an IVDL technician neglected to send samples on to the NVSL, as is the procedure. Subsequent delays and IVDL's failure to label the samples for export, resulted in the citizen losing the sale of the goats. The director of IVDL failed to provide adequate assurances that the errors would not occur again. CA/O brought what appeared to be a systemic problem to the attention of the Veterinary School Dean and a further examination of the testing procedures was conducted. The Dean suggested that samples be submitted several weeks in advance to assure timely testing. He further assured CA/O that the complainant's future samples would be treated with diligence and concern.

* * *

JOB SERVICE AUDITOR'S "SIGNATURE" QUESTIONED. An employer complained that a Job Service auditor [Department of Employment Services (DES)] had signed the employer's name onto a report form concerning unemployment benefits liability. The employer alleged that his signature had been forged. CA/O questioned this practice with DES officials and learned that law and administrative rule allows DES employees to enter names on such forms if the person involved refuses to come into a DES office and sign the form in question - as had been the case in this instance. CA/O argued that entering the name is one thing, but actually

signing a name was inappropriate. CA/O suggested that the names be typed or printed with a notation that the name had been placed on the form by a DES employee. A DES official responded that most auditors utilized such a practice. The specific auditor in this case was requested to print the employer's name in the space in the future and make a notation.

* * *

INVESTIGATION OF TROOPER ACCIDENT GAINS RESULTS. CA/O was contacted on behalf of a citizen who had been involved in an automobile accident with a State Trooper. Concern was expressed that the trooper's involvement had not been impartially scrutinized because the departmental review of the matter had been limited to Patrol Division inquiry only. CA/O interviewed the citizen and witnesses to the accident, reviewed various documents and files and met with the Commissioner of Public Safety (DPS) and high-level, Patrol Division officers. CA/O requested that the matter be reviewed by the independent Internal Affairs Division of DPS. This request was accepted and subsequent to that division's investigation appropriate actions were taken.

* * *

SOME RESULTS OF PRISON OVERCROWDING ARE NOTED

As the number of inmates held within Iowa's eight adult correctional facilities continued to climb during 1989 Citizens' Aide/Ombudsman (CA/O) staff members became increasingly aware of some of the effects of the growing numbers. Only a few inmates actually complained to CA/O about overcrowding in general, however, it required only cursory observation in 1989 to note where the system was straining at its seams and that overcrowding was at the source of the complaint:

* The sex offender and substance abuse treatment programs at the Mount Pleasant Correctional Facility (MSU) are full and have remained full throughout the year. There are long lists of inmates at MSU and other facilities waiting to get into those programs.

* The population at the Iowa Men's Reformatory (IMR) has leaped to over 1,200 inmates inside the old walls at Anamosa - 200 more than in 1988, 400 more than three years ago. A new inmate population record is set nearly every day. As a result, cells at IMR which at one time held only one inmate, now hold three and four.

* At the Iowa Correctional Institution for Women (ICIW) the changes are perhaps less noticeable because of the smallness of the state's only prison for females, but they are no less dramatic. The minimum/medium-security facility in Mitchellville was originally designed for a capacity of 100 but it held as many as 165 in 1989. With more and more violent, female offenders going to prison, only one small unit at ICIW is designated as medium security. It is always full. Inmates are doubled-up in small rooms and recreational areas have been converted for use as sleeping areas. With an extremely limited facility to work with, ICIW administrators have found it increasingly difficult to separate problem inmates from honor inmates. As a result, the Honor Cottage, established to reward inmates who demonstrate exemplary behavior for a significant period of time, has been virtually sacrificed. With the loss of such incentives goes another inducement for an inmate to exhibit good behavior.

* The North Central Correctional Facility (NCCF) at Rockwell City and the Clarinda Correctional Treatment Unit (CTU), both small, medium-security facilities, were once considered short-term, way-stations on the road to parole or work release. They now hold many, more serious offenders and the average length of stay has doubled in the last several years. Many long-term inmates now reside in these facilities making it more difficult to get new inmates admitted.

* The Iowa Medical & Classification Center (IM&CC) at Oakdale was always the proverbial revolving door because new inmates came and went so quickly (traditionally 21 days or less) but today the door is revolving very slowly. Inmates may remain in reception units for two and three months before being permanently assigned, because there is no place to send them. A frequent refrain the CA/O heard from inmates at IM&CC in 1989 was, "I've been cleared for 53 days to go to Clarinda. Can you speed things up." Unfortunately, we could not.

Because of a court-ordered population limit at the Iowa State Penitentiary (ISP) at Fort Madison, that maximum-security prison feels overcrowding in a different sense. There is currently a long list of inmates from around the system who are trying to get into ISP where they know they can get a single cell - a luxury these days in Iowa's prison system.

Something almost as hard to find as a single cell for Iowa prisoners in 1989, was a job. At CTU and MSU it might have taken four-to-six weeks to be assigned to an inmate job. At IMR there just aren't enough jobs to go around. Virtually meaningless jobs are invented to keep inmates active. Finding a good job is also a problem for the female prisoners at ICIW.

System-wide services and activities offered inmates have declined and delays to obtain those services have increased substantially. It takes longer to get an appointment to see a counselor, to visit an infirmary, to pick up mail, even to get lunch. When an inmate's time nears to head back into the community, he or she will no doubt also wait extra weeks or months after approval has been granted before a bed frees up at a work release center.

When conditions get very crowded, emotions elevate and tempers flare. These kinds of problems are evident system-wide but perhaps most noticeably at IMR, where twice as many disciplinary reports were written by correctional officers in 1989 than in the previous year - about 500 per month.

Another revolving door in the prison system is the parole/probation, revocation revolving door. The number of familiar faces who move in and out and back in the system is astounding. There are systemic changes being considered to alleviate this problem for male prisoners, such as a primary revocation/relapse facility, however, no such plans are being considered for female prisoners.

CHILD SUPPORT COLLECTION MATURES BUT COMPLAINTS PERSIST.

The CA/O received and investigated a large number of complaints in 1989 against the Child Support Recovery Unit (CSRU) and the Collections Services Center (CSC) of the Department of Human Services (DHS). It is important to note, however, that most of the problems we saw emerged as the results of a huge, statewide system, still in its infancy, struggling to come to terms with a myriad of bugs and snafus.

The collection of child support was previously a function of clerk's of court in the 99 counties. With the formation and evolution of the CSC we have noted increased uniformity. It is a goal of the centralized system that a citizen due child support in Allamakee County may receive equal assistance to that of a citizen in Fremont County - located at opposite ends of Iowa.

But, as CSC and CSRU administrators and line staff workers strive to get the bugs out of the system, errors occur, communication problems emerge. The following are a few of the types of complaints the CA/O fielded in 1989:

* Payees seeking current/back support payments from payors living in other states, were frequently frustrated by the length of time the process might take. The speed at which a paternity action or wage assignment could be effected, depended to a great extent on the efficiency of the other state involved.

* Many complainants were surprised by an increasingly aggressive enforcement attitude: wage garnishments, state and federal tax return attachments, Veteran's Administration benefit attachments, liens against homes and other personal property were the subject of many reluctant payors' complaints. CA/O found the great majority of these DHS actions to be justified and appropriate.

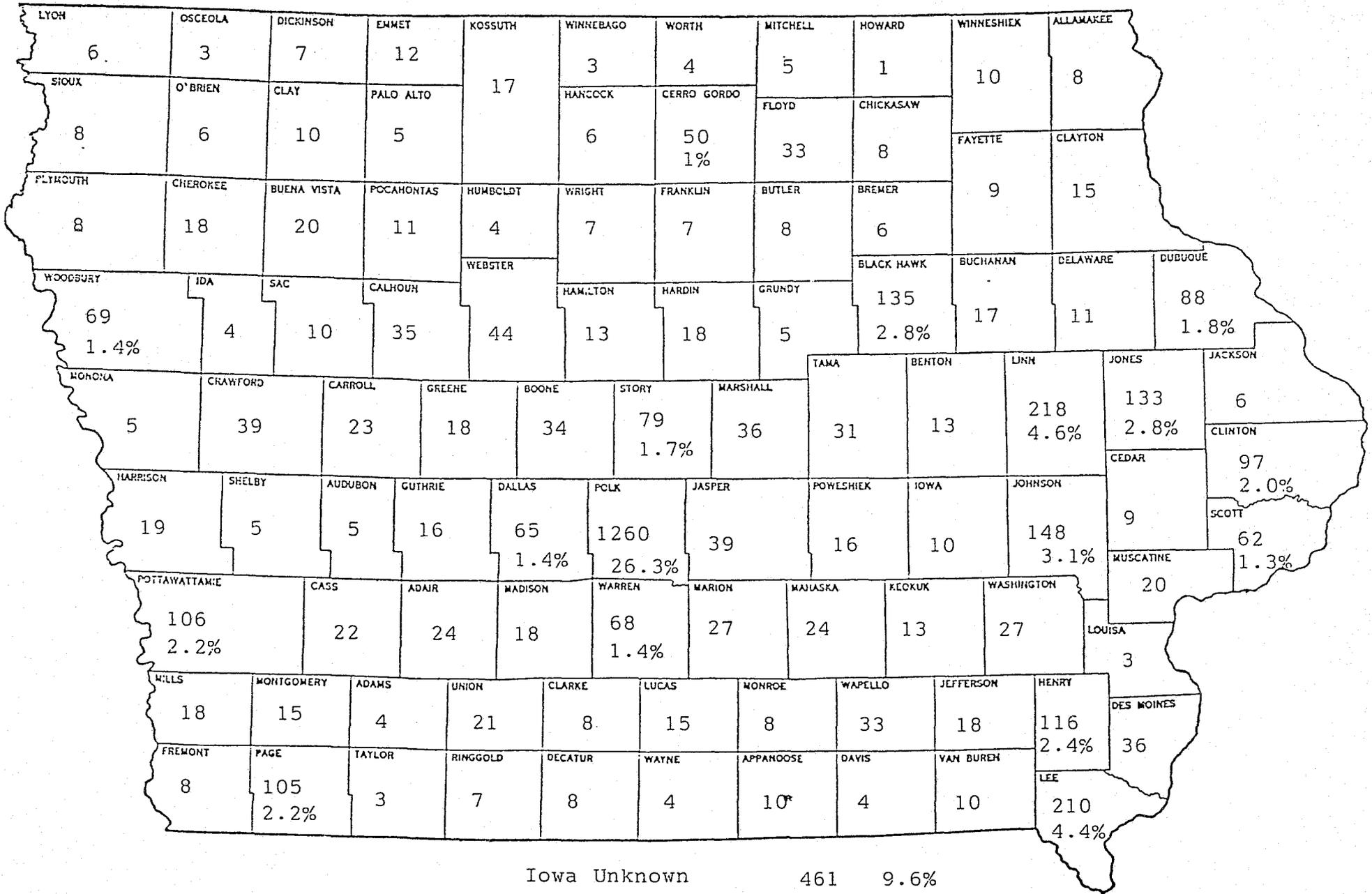
* Occasionally a citizen would complain that a tax return or benefit check had been attached when in actuality their support account was current. CA/O assisted these citizens to establish correct account information and effect a release of their funds.

* There were complaints concerning varying interpretations of court orders: citizen seeing it one way, DHS seeing it another. Usually, it was determined after a review of these cases that further court involvement might be necessary to obtain a clarification or modification of an order.

It should also be noted that many single parents in Iowa -

struggling to raise their children - have received help from DHS in establishing paternity and getting support payments started.

1989 CONTACTS BY COUNTY



Iowa Unknown 461 9.6%
 Other States 154 3.2%
 Foreign Countries 1

CHAPTER 601G

CITIZENS' AIDE

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601G.1 Definitions.

As used in this chapter:

1. "Person" means an individual, aggregate of individuals, corporation, partnership, or unincorporated association.

2. "Agency" means all governmental entities, departments, boards, commissions, councils or institutions, and any officer, employee or member thereof acting or purporting to act in the exercise of official duties, but it does not include:

- a. Any court or judge or appurtenant judicial staff.
- b. The members, committees, or permanent or temporary staffs of the Iowa general assembly.
- c. The governor of Iowa or the governor's personal staff.
- d. Any instrumentality formed pursuant to an interstate compact and answerable to more than one state

3. "Officer" means any officer of an agency.

4. "Employee" means any employee of an agency.

5. "Administrative action" means any policy or action taken by an agency or failure to act pursuant to law.

[C73, 75, 77, 79, 81, §601G.1]

601G.2 Office established.

The office of citizens' aide is established.

[C73, 75, 77, 79, 81, §601G.2]

601G.3 Appointment — vacancy.

The citizens' aide shall be appointed by the legislative council with the approval and confirmation of a constitutional majority of the senate and with the approval and confirmation of a constitutional majority of the house of representatives. The legislative council shall fill a vacancy in this office in the same manner as the original appointment. If the appointment or vacancy occurs while the general assembly is not in session, such appointment shall be reported to the senate and the house of representatives within thirty days of their convening at their next regular session for approval and confirmation.

The citizens' aide shall employ and supervise all employees under the citizens' aide's direction in such positions and at such salaries as shall be authorized by the legislative council. The legislative council shall hear and act upon appeals of aggrieved employees of the office of the citizens' aide.

[C73, 75, 77, 79, 81, §601G.3]

601G.4 Citizen of United States and resident of Iowa.

The citizens' aide shall be a citizen of the United States and a resident of the state of Iowa, and shall be qualified to analyze problems of law, administration and public policy.

[C73, 75, 77, 79, 81, §601G.4]

601G.5 Term — removal.

The citizens' aide shall hold office for four years from the first day in July of the year of approval by the senate and the house of representatives, and until a successor is appointed by the legislative council, unless the citizens' aide can no longer perform the official duties, or is removed from office. The citizens' aide may at any time be removed from office by constitutional majority vote of the two houses of the general assembly or as provided by chapter 66. If a vacancy occurs in the office of citizens' aide, the deputy citizens' aide shall act as citizens' aide until the vacancy is filled by the legislative council.

[C73, 75, 77, 79, 81, §601G.5]

601G.6 Deputy — assistant for penal agencies.

The citizens' aide shall designate one of the members of the staff as the deputy citizens' aide, with authority to act as citizens' aide when the citizens' aide is absent from the state or becomes disabled. The citizens' aide may delegate to members of the staff any of the citizens' aide's authority or duties except the duty of formally making recommendations to agencies or reports to the governor or the general assembly.

The citizens' aide shall appoint an assistant who shall be primarily responsible for investigating complaints relating to penal or correctional agencies.

[C73, 75, 77, 79, 81, §601G.6]

84 Acts, ch 1016, §1

601G.7 Prohibited activities.

Neither the citizens' aide nor any member of the staff shall:

1. Hold another public office of trust or profit under the laws of this state other than the office of notary public.

2. Engage in other employment for remuneration with an agency against which a complaint may be filed under this chapter or that could create a conflict of interest or interfere in the performance of the person's duties under this chapter.

3. Knowingly engage in or maintain any business transactions with persons employed by agencies against whom complaints may be made under the provisions of this chapter.

4. Be actively involved in partisan affairs.

[C73, 75, 77, 79, 81, §601G.7]

84 Acts, ch 1046, §2

601G.8 Closed files.

The citizens' aide may maintain secrecy in respect to all matters including the identities of the complainants or witnesses coming before the citizens' aide, except that the general assembly, any standing committee of the general assembly or the governor may require disclosure of any matter and shall have complete access to the records and files of the citizens' aide. The citizens' aide may conduct private hearings.

[C73, 75, 77, 79, 81, §601G.8]

601G.9 Powers.

The citizens' aide may:

1. Investigate, on complaint or on the citizens' aide's own motion, any administrative action of any agency, without regard to the finality of the administrative action, except that the citizens' aide shall not investigate the complaint of an employee of an agency in regard to that employee's employment relationship with the agency. A communication or receipt of information made pursuant to the powers prescribed in this chapter shall not be considered an ex parte communication as described in the provisions of section 17A.17.

2. Prescribe the methods by which complaints are to be made, received, and acted upon; determine the scope and manner of investigations to be made; and, subject to the requirements of this chapter, determine the form, frequency, and distribution of the conclusions and recommendations of the citizens' aide.

3. Request and receive from each agency assistance and information as necessary in the performance of the duties of the office. Notwithstanding section 22.7, pursuant to an investigation the citizens' aide may examine any and all records and documents of any agency unless its custodian demonstrates that the examination would violate federal law or result in the denial of federal funds to the agency. Confidential documents provided to the citizens' aide by other agencies shall continue to maintain their confidential status. The citizens' aide is subject to the same policies and penalties regarding the confidentiality of the document as an employee of the agency. The citizens' aide may enter and inspect premises within any agency's control and may observe proceedings and attend hearings, with the consent of the interested party, including those held under a provision of confidentiality, conducted by any agency unless the agency demonstrates that the attendance or observation would violate federal

law or result in the denial of federal funds to that agency. This subsection does not permit the examination of records or access to hearings and proceedings which are the work product of an attorney under section 22.7, subsection 4, or which are privileged communications under section 622.10.

4. Issue a subpoena to compel any person to appear, give sworn testimony, or produce documentary or other evidence relevant to a matter under inquiry. The citizens' aide, deputies, and assistants of the citizens' aide may administer oaths to persons giving testimony before them. If a witness either fails or refuses to obey a subpoena issued by the citizens' aide, the citizens' aide may petition the district court having jurisdiction for an order directing obedience to the subpoena. If the court finds that the subpoena should be obeyed, it shall enter an order requiring obedience to the subpoena, and refusal to obey the court order is subject to punishment for contempt.

[C73, 75, 77, 79, 81, §601G.9; 82 Acts, ch 1026, §1]

88 Acts, ch 1247, §1

601G.10 No charge for services.

No monetary or other charge shall be levied upon any person as a prerequisite to presentation of a complaint to the citizens' aide.

[C73, 75, 77, 79, 81, §601G.10]

601G.11 Subjects for investigations.

An appropriate subject for investigation by the office of the citizens' aide is an administrative action that might be:

1. Contrary to law or regulation.

2. Unreasonable, unfair, oppressive, or inconsistent with the general course of an agency's functioning, even though in accordance with law.

3. Based on a mistake of law or arbitrary in ascertainties of fact.

4. Based on improper motivation or irrelevant consideration.

5. Unaccompanied by an adequate statement of reasons. The citizens' aide may also be concerned with strengthening procedures and practices which lessen the risk that objectionable administrative actions will occur.

[C73, 75, 77, 79, 81, §601G.11]

601G.12 Complaints investigated.

The citizens' aide may receive a complaint from any source concerning an administrative action. The citizens' aide shall conduct a suitable investigation into the administrative actions complained of unless the citizens' aide finds substantiating facts that:

1. The complainant has available another remedy or channel of complaint which the complainant could reasonably be expected to use.

2. The grievance pertains to a matter outside the citizens' aide power.

3. The complainant has no substantive or procedural interest which is directly affected by the matter complained about.

4. The complaint is trivial, frivolous, vexatious, or not made in good faith.

5. Other complaints are more worthy of attention.

6. The citizens' aide resources are insufficient for adequate investigation.

7. The complaint has been delayed too long to justify present examination of its merit.

The citizens' aide may decline to investigate a complaint, but shall not be prohibited from inquiring into the matter complained about or into related problems at some future time.

[C73, 75, 77, 79, 81, §601G.12]

601G.13 No investigation — notice to complainant.

If the citizens' aide decides not to investigate, the complainant shall be informed of the reasons for the decision. If the citizens' aide decides to investigate, the complainant and the agency shall be notified of the decision. After completing consideration of a complaint, whether or not it has been investigated, the citizens' aide shall without delay inform the complainant of the fact, and if appropriate, shall inform the administrative agency involved. The citizens' aide shall on request of the complainant, and as appropriate, report the status of the investigation to the complainant.

[C73, 75, 77, 79, 81, §601G.13; 82 Acts, ch 1026, §2]

601G.14 Institutionalized complainants.

A letter to the citizens' aide from a person in a correctional institution, a hospital, or other institution under the control of an administrative agency shall be immediately forwarded, unopened to the citizens' aide by the institution where the writer of the letter is a resident. A letter from the citizens' aide to such a person shall be immediately delivered, unopened to the person.

[C73, 75, 77, 79, 81, §601G.14]

601G.15 Reports critical of agency or officer.

Before announcing a conclusion or recommendation that criticizes an agency or any officer or employee, the citizens' aide shall consult with that agency, officer or employee, and shall attach to every report sent or made under the provisions of this chapter a copy of any unedited comments made by or on behalf of the officer, employee, or agency.

[C73, 75, 77, 79, 81, §601G.15]

601G.16 Recommendations to agency.

If, having considered a complaint and whatever material the citizens' aide deems pertinent, the citizens' aide finds substantiating facts that:

1. A matter should be further considered by the agency;
2. An administrative action should be modified or canceled;
3. A rule on which an administrative action is based should be altered;
4. Reasons should be given for an administrative action; or
5. Any other action should be taken by the agency, the citizens' aide shall state the recommendations to the agency. If the citizens' aide requests, the agency shall, within twenty working days notify the citizens' aide of any action taken on the recommendations or the reasons for not complying with them.

If the citizens' aide believes that an administrative action has occurred because of laws of which results

are unfair or otherwise objectionable, the citizens' aide shall notify the general assembly concerning desirable statutory change.

[C73, 75, 77, 79, 81, §601G.16]

601G.17 Publication of conclusions.

The citizens' aide may publish the conclusions, recommendations, and suggestions and transmit them to the governor, the general assembly or any of its committees. When publishing an opinion adverse to an administrative agency or official the citizens' aide shall, unless excused by the agency or official affected, include with the opinion any unedited reply made by the agency.

Any conclusions, recommendations, and suggestions so published may at the same time be made available to the news media or others who may be concerned.

[C73, 75, 77, 79, 81, §601G.17]

601G.18 Report to general assembly.

The citizens' aide shall by April 1 of each year submit an economically designed and reproduced report to the general assembly and to the governor concerning the exercise of the citizens' aide functions during the preceding calendar year. In discussing matters with which the citizens' aide has been concerned, the citizens' aide shall not identify specific persons if to do so would cause needless hardship. If the annual report criticizes a named agency or official, it shall also include unedited replies made by the agency or official to the criticism, unless excused by the agency or official affected.

[C73, 75, 77, 79, 81, §601G.18; 82 Acts, ch 1026, §3]

601G.19 Disciplinary action recommended.

If the citizens' aide believes that any public official, employee or other person has acted in a manner warranting criminal or disciplinary proceedings, the citizens' aide shall refer the matter to the appropriate authorities.

[C73, 75, 77, 79, 81, §601G.19]

601G.20 Immunities.

No civil action, except removal from office as provided in chapter 66, or proceeding shall be commenced against the citizens' aide or any member of the staff for any act or omission performed pursuant to the provisions of this chapter unless the act or omission is actuated by malice or is grossly negligent, nor shall the citizens' aide or any member of the staff be compelled to testify in any court with respect to any matter involving the exercise of the citizens' aide's official duties except as may be necessary to enforce the provisions of this chapter.

[C73, 75, 77, 79, 81, §601G.20]

601G.21 Witnesses.

A person required by the citizens' aide to provide information shall be paid the same fees and travel allowances as are extended to witnesses whose attendance has been required in the district courts of this state. Officers and employees of an agency shall not be entitled to such fees and allowances. A person who, with or without service of compulsory process, provides oral or documentary information requested by the citizens' aide shall be accorded the same privileges

and immunities as are extended to witnesses in the courts of this state, and shall also be entitled to be accompanied and advised by counsel while being questioned.

[C73, 75, 77, 79, 81, §601G.21]

601G.22 Penalties.

A person who willfully obstructs or hinders the lawful actions of the citizens' aide or the citizens' aide's staff, or who willfully misleads or attempts to mislead the citizens' aide in the citizens' aide's inquiries, shall be guilty of a simple misdemeanor.

[C73, 75, 77, 79, 81, §601G.22]

601G.23 Citation.

This chapter shall be known and may be cited as the "Iowa Citizens' Aide Act".

[C73, 75, 77, 79, 81, §601G.23]