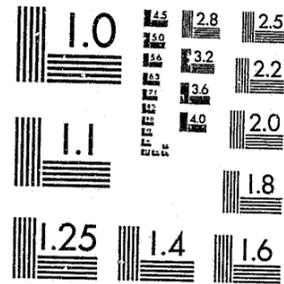


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Washington, D. C. 20531

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REPORT TO
THE GOVERNOR OF IOWA
AND

THE SEVENTIETH GENERAL ASSEMBLY
BY THE IOWA CITIZENS' AIDE/OMBUDSMAN



1982 ANNUAL REPORT

U.S. Department of Justice 95283
National Institute of Justice

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REPORT TO
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THE SEVENTIETH GENERAL ASSEMBLY

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1982 ANNUAL REPORT

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ANNUAL REPORT NARRATIVE

During calendar year 1982 the office of Citizens' Aide/Ombudsman received 3,757 contacts from individuals with complaints or requests for information. These contacts were from 95 of the 99 Iowa counties and 23 other states including the District of Columbia. A map illustrating the geographic distribution of the contacts originating from Iowa is appended.

Individuals may contact the office in any mode they find comfortable and convenient: by telephone, mail or in person. Flexibility is sought and there are no required forms to complete. However, complaints may be requested in writing when the issues are unusually complicated or sensitive. During 1982 contacts were initiated with the office in the following proportions:

<u>Source</u>	<u>Cases</u>	<u>Logs</u>	<u>Total</u>	<u>Percent</u>
Telephone	315	2,361	2,675	71%
Mail	141	238	379	10%
Office Visit	35	83	118	3%
Institutional Visit	136	445	581	15%
Site Visit	1	2	3	< 1%
Self-Initiated	-	1	1	< 1%
	<u>627</u>	<u>3,130</u>	<u>3,757</u>	<u>99%*</u>

*% not equal to 100% due to rounding error

Contacts are received and investigated by individual staff members who, on a daily rotation basis, intake and are responsible for working the case to completion. 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 a specific institution. Staff responsible for

correctional complaints regularly travel to the institutions in order to receive, investigate, and resolve those complaints.

If the problem is jurisdictional and requires inquiry by the Ombudsman, arrangements are made to secure the necessary documentation, identify the relevant officials and review the appropriate law, rule or regulation. Cases are routinely worked by telephone or mail, and less frequently by site investigation.

If the Citizens' Aide/Ombudsman cannot help the individual, an immediate and accurate referral is made. Many times the person needs to be put in contact with the agency or official having jurisdiction to review and resolve the matter; such as the Attorney General's Consumer Protection Division, the Insurance Department, or the Iowa Commerce Commission.

In 1982, approximately 31 percent of the jurisdictional complaints investigated were found to be justified or partially justified; 43 percent not justified; and 26 percent were either withdrawn or there was no basis to evaluate the merits of the complaint.

Of the 3,757 contacts received in 1982, 88 percent were completed and closed during that year. Seventy-seven cases remained open and under investigation into 1983.

Contacts which are simple requests for information, complaints against parties outside the Ombudsman's jurisdiction, or jurisdictional complaints which can be immediately evaluated and/or resolved are recorded on a monthly log procedure.

Contacts requiring inquiry or investigation by the Ombudsman, usually the jurisdictional complaints and the more complicated information requests are made into case files and worked to completion by the Assistant responsible.

Of the 3,757 new contacts with the office in calendar year 1982, 3,130 were recorded as logs and 627 were worked as case files.

The average length of time a case remained open -- that is, until the complaint was evaluated as justified or not justified, and if determined to be justified, an equitable resolution achieved -- was 31.5 days. Case statistics demonstrate that 74 percent of the cases were completed in 60 days or less.

<u>Days Open</u>	<u>Number of Cases</u>	<u>Percent</u>
10 days or less	196	31%
11 - 30 days	168	27%
31 - 60 days	100	16%
61 - 90 days	45	7%
91 - 180 days	19	3%
121 - 180 days	17	3%
181 days or longer	5	1%
Remained open into 1983	<u>77</u>	<u>12%</u>
	627	100%

The range of contacts with the office continues to be quite varied. Issues requiring investigation have involved local fence viewers and weed commissioners to the directors of the large state agencies.

The greater proportion of contacts tend to involve those agencies and levels of government most directly involved in providing services to or regulating or controlling behavior of large numbers of citizens. Accordingly almost 25 percent of the 1982 contacts dealt with divisions or programs of the Department of Social Services. Lesser numbers involved the Parole Board (2.9%), Job Service of Iowa (2.5%), the Department of Transportation (2.1%), the Department of Health (1.4%), and the Department of Revenue (1.1%). Approximately

5 percent of the contacts concerned municipal government, 4 percent involved county government, and less than 1 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 during 1982 is appended.

OUTREACH

During 1982 efforts were continued to make information about the services of the Citizens' Aide/Ombudsman available to the Iowa public. As opportunity and time present themselves either the Ombudsman or a member of the staff accept invitations to speak before various groups, associations and school classes and appear on television and radio programs. Information is regularly updated and provided to various information directories serving selected publics. In March a brief public service announcement about the office was mailed to the Iowa radio stations for their use. Each outreach effort has its own impact upon increasing citizen awareness of the office and providing those with complaints or problems the knowledge that the office is here to assist them.

Increasingly various government officials at the federal, state and local levels have referred their constituents and clientele experiencing problems to the Ombudsman for resolution. A tabulation of those referral sources is appended.

UNITED STATES ASSOCIATION OF OMBUDSMEN ANNUAL CONFERENCE - DES MOINES

The office of Iowa Citizens' Aide/Ombudsman was among the founding members of the United States Association of Ombudsmen (USAO) in 1977.

This membership organization promotes a linkage among the state and local ombudsmen offices nationally. A newsletter keeps the membership apprised of various reports and activities during the year and each year the membership meets to share experiences, learn how to improve investigations and achieve more effective resolutions for its citizens.

Iowa Citizens' Aide/Ombudsman William Angrick currently serves as president of the USAO and hosted the 1982 conference in Des Moines September 30-October 2, 1982 at the Hotel Savery. Forty participants attended the conference coming from Nebraska, Missouri, Minnesota, Michigan, Alaska, Kansas, Ohio, New Jersey, New York, Tennessee, Illinois, Virginia, California, Maryland, Louisiana, Washington, D.C., the Panama Canal Commission and the Canadian provinces of British Columbia and Ontario.

Former Governor Robert D. Ray welcomed the participants to Iowa and was made an honorary member of the association for his role in initiating an office of Citizens' Aide in 1970.

INTERNATIONAL OMBUDSMAN INSTITUTE

The ombudsman is an international office having first appeared in Sweden and spread throughout the world. The International Ombudsman Institute, located at the University of Alberta, Edmonton, Alberta, Canada, is a non-profit research organization which promotes the concept of ombudsmanship worldwide, provides educational programs, and collects, stores, and disseminates information about the ombudsman institution.

In December Iowa Ombudsman William Angrick was elected to a three year term on the Board of Directors of the International Ombudsman Institute.

STATUTORY AND RULE CHANGES

During the 1982 Session of the 69th General Assembly Chapter 601G, The Citizens' Aide Act, was amended by House File 829 in three important ways: 1) the Citizens' Aide was provided access to agency confidential records and information; 2) the requirement that all decisions not to investigate be made in writing to the complainant was removed; and 3) the annual report due date was changed from February 15th to April 1st.

These changes are consistent with the evolving needs and responsibilities of the Citizens' Aide/Ombudsman. Many complaints require access to information that may be confidential by law or rule in order to determine whether they are justified or not justified. The requirement to notify each complainant in writing that a decision not to investigate had been made was redundant and unnecessarily costly; especially if that communication had been made previously by telephone or personal conversation. The requirement to prepare an annual report by February 15th of each year was becoming increasingly unfeasible as case and log statistics grew and led to an artificial emphasis of effort and resources at a time of year when the focus of the Ombudsman needed to be elsewhere, for example forwarding legislative recommendations to the General Assembly or responding to the flurry of complaints that many times appear shortly after the first of the year.

A major rewrite of the Administrative Rules for the office of Citizens' Aide/Ombudsman was accomplished in 1981 and the rules were modified in 1982 to reflect statutory changes and administrative experience.

A complete printing of Chapter 601G, the Citizens' Aide Act, and the Administrative Rules, reflecting the changes in both, is appended.

SPECIAL REPORT ISSUED

During 1982 the Ombudsman did not find occasion to issue any reports critical of any Iowa government agencies or officials.

A Special Report, #82-1, Matters Relating to Certain Procedures Followed in the Award by the University of Iowa of its 1982-83 Coal Contract, was issued which contained five recommendations. The Ombudsman was informed in early 1983 that most of the recommendations made were being implemented in one form or another.

A complete copy of this report, including the unedited replies of the respondents, will be provided upon request.

STAFF AND BUDGET

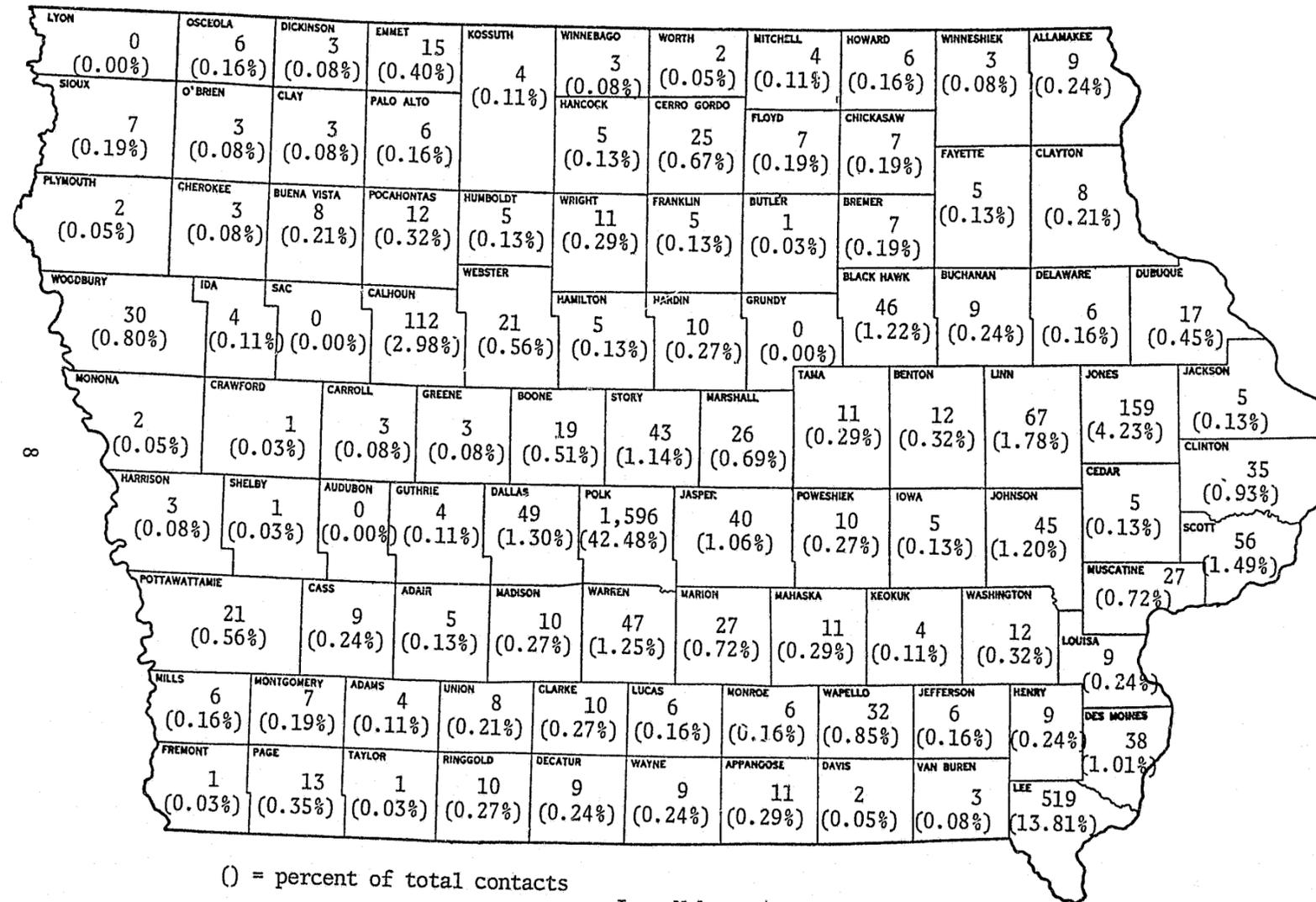
The office of Citizens' Aide/Ombudsman employs six professional (including the director) and two clerical staff.

During Fiscal Year 1981-82 the state appropriation plus cost-of-living salary adjustment was \$217,193. In Fiscal Year 1982-83 the agency operates on a budget of \$234,954.

STAFF

William P. Angrick II	Citizens' Aide/Ombudsman
Ruth L. Mosher	Deputy Citizens' Aide/Ombudsman
William J. Hornbostel	Legal Analyst
Ray Cornell	Assistant for Corrections
Doneen Woodward	Assistant
Clarence Key, Jr.	Assistant
Patricia Nett	Secretary/Receptionist
Judy Green	Secretary/Accountant
Linda Leon Hoffmann	Legal Analyst (Resigned September 1982)
G. Kent Renegar	Assistant (Resigned August 1982)

1982
NUMBER OF CONTACTS BY COUNTY



() = percent of total contacts

Iowa Unknown/Unknown 147 (3.92%)
Other States 73 (1.96%)

1982
CITIZENS' AIDE/OMBUDSMAN
CONTACT STATISTICS

	Number Of Logs	Number Of Cases	Total Number Of Contacts	Percent Of Total Contacts
Iowa Law & Government, general Governor*	243	27	270	7.19%
Secretary of State	3	-	3	0.08%
Auditor	4	1	5	0.13%
Department of Agriculture	1	1	2	0.05%
Attorney General	11	4	15	0.40%
Judiciary*	20	4	24	0.64%
General Assembly*	7	-	7	0.19%
Citizens' Aide/Ombudsman	13	-	13	0.35%
Accountancy Board	21	1	22	0.60%
Commission on Aging	2	-	2	0.05%
State Appeal Board	8	-	8	0.21%
Architectural Examiners Board	1	-	1	0.03%
Arts Council	-	1	1	0.03%
Banking Department	3	-	3	0.08%
Beer & Liquor Control Department	2	-	2	0.05%
Blind Commission	3	1	4	0.11%
Campaign Finance Disclosure Commission	2	1	3	0.08%
Civil Rights Commission	1	-	1	0.03%
Commerce Commission	9	2	11	0.29%
Comptroller	16	-	16	0.43%
Conservation Commission	-	1	1	0.03%
Credit Union Department	11	6	17	0.45%
Crime Commission	-	1	1	0.03%
Development Commission	-	1	1	0.03%
	5	-	5	0.13%

*Non-jurisdictional to Citizens' Aide/Ombudsman -- includes referrals and informational requests.

	Number Of Logs	Number Of Cases	Total Number Of Contacts	Percent Of Total Contacts
Department of Substance Abuse	2	1	3	0.08%
Energy Policy Council	12	1	13	0.35%
Engineering Examiners Board	-	1	1	0.03%
Department of Environmental Quality	7	1	8	0.21%
State Fair Board	14	1	15	0.40%
General Services Department	9	3	12	0.32%
Department of Health	47	6	53	1.41%
- Community Health Division	(2)	(1)		
- Personal & Family Health Division	(2)	-		
- Records & Statistics Division	(35)	(4)		
- Boards of Examiners	(7)	(1)		
-- Barber	-	((1))		
-- Cosmetology	((2))	-		
-- Funeral Directors & Embalmers	((1))	-		
-- Speech Pathologists & Audiologists	((1))	-		
Higher Education Facilities Commission	2	3	5	0.13%
Historical Departments	3	-	3	0.08%
Housing Finance Authority	2	-	2	0.05%
Industrial Commission	1	-	1	0.03%
Insurance Commission	18	9	27	0.72%
Job Service Department	62	30	92	2.45%
- Job Placement Division	(5)	(1)		
- Job Insurance Division	(49)	(27)		
- IPERS	(8)	(1)		
- Employer Contribution	-	(1)		
Bureau of Labor	17	-	17	0.45%
- Wage Collection Division	(11)	-		
Law Enforcement Academy	1	-	1	0.03%
Library Commission	2	2	4	0.11%

	Number Of Logs	Number Of Cases	Total Number Of Contacts	Percent Of Total Contacts
Merit Employment Department	6	1	7	0.19%
Natural Resources Council	1	-	1	0.03%
Nursing Board	-	1	1	0.03%
Parole Board	73	35	108	2.87%
Office of Planning & Programming	4	-	4	0.11%
Department of Public Defense	1	-	1	0.03%
Department of Public Instruction	12	5	17	0.45%
- Area Education Agencies	(1)	(2)		
- Vocational Rehabilitation	(1)	(1)		
Department of Public Safety	14	2	16	0.43%
- State Patrol	(5)	(2)		
- Fire Marshal	(3)	-		
- Division of Criminal Investigation	(3)	-		
- Capitol Security	(1)	-		
Real Estate Commission	4	2	6	0.16%
Board of Regents & institutions	6	12	18	0.48%
- University of Iowa	-	(1)		
- University of Iowa Hospitals	(1)	(3)		
- Iowa State University	(4)	(3)		
- University of Northern Iowa	-	(3)		
- Iowa School for the Deaf	-	(1)		
Department of Revenue	30	13	43	1.14%
- Income Tax Division	(9)	(3)		
- Motor Vehicle Fuel Tax Division	-	(1)		
- Sales Tax Division	(13)	(7)		
- Property Tax Division	(3)	-		
- Estates & Trusts Division	(1)	-		
Department of Social Services	683	247	930	24.75%
- Division of Adult Corrections	(593)	(210)	(803)	(21.37%)
-- Iowa Security Medical Facility	((9))	((7))		
-- Iowa State Penitentiary	((308))	((102))	((410))	((10.92%))

	Number Of Logs	Number Of Cases	Total Number Of Contacts	Percent Of Total Contacts
-- Iowa Men's Reformatory	((76))	((32))	((108))	((2.87%))
-- Iowa Women's Reformatory (Iowa Correctional Institution for Women)	((113))	((39))	((152))	((4.05%))
-- Medium Security Unit, Mt. Pleasant	((1))	((3))		
-- John Bennett Correctional Center	((7))	((7))		
-- Community Based Corrections Program	((35))	((19))	((54))	((1.44%))
-- Riverview Release Center	((10))	((1))		
-- Work Release	((8))	-		
-- Clarinda Correctional Facility	((12))	((4))		
- Division of Mental Health Resources	(2)	(2)	(4)	(0.11%)
- Division of Community Services	(55)	(25)	(80)	(2.13%)
-- Juvenile Home (Toledo)	-	((1))		
-- Food Stamps	((29))	((10))		
-- Child Support Recovery	((8))	((7))		
-- Income Maintenance	((6))	((2))		
- Iowa Veteran's Home (Marshalltown)	(2)	-	(2)	
- Field Operations	(14)	(10)	(24)	(0.64%)
- Division of Administrative Services	(3)	-	(3)	
Soil Conservation Department	-	1	1	0.03%
Commission of Status of Women	1	-	1	0.03%
Board of Examiners/Court Shorthand Reporters	1	-	1	0.03%
Department of Transportation	55	24	79	2.10%
- Highway Division	(8)	(5)		
- Motor Vehicle Division	(40)	(16)	(56)	(1.50%)
-- Registration	((7))	((5))		
-- Drivers License	((22))	((7))		

	Number Of Logs	Number Of Cases	Total Number Of Contacts	Percent Of Total Contacts
-- Drivers Examinations	((2))	-		
-- Motor Vehicle Inspection	((3))	-		
-- Operating Authority	((2))	((1))		
-- Financial Responsibility	((1))	-		
- Railroad Transportation Division	(1)	(1)		
Spanish Speaking Peoples Commission	1	1	2	0.05%
Appellant Defenders Office	2	-	2	0.05%
Prisoner Legal Assistance Grant	5	-	5	0.13%
County Government	99	60	159	4.23%
- Board of Supervisors	(1)	(3)		
- Sheriff	(10)	(4)		
- County Jail	(20)	(14)		
- Clerk of Court	(9)	(2)		
- County Attorney	(5)	(4)		
- Treasurer	(5)	(6)		
- Assessor, Conference Board, Board of Review	(10)	(6)		
Schools & School Districts	18	9	27	0.72%
Municipal Government	121	63	184	4.90%
- Mayor/Manager	(3)	(3)		
- Council	(9)	(4)		
- Police	(23)	(5)		
- Streets	(8)	(9)		
- Sanitation, Sewer, Solid Waste	(8)	(3)		
- Municipal Utilities	(7)	(7)		
- Planning, Housing, Urban Development	(11)	(3)		
Metropolitan entities, regional governments	10	1	11	0.03%
Federal Government	119	3	122	3.25%

	Number Of Logs	Number Of Cases	Total Number Of Contacts	Percent Of Total Contacts
Miscellaneous non-jurisdictional problems	1,279	37	1,316	35.03%
- Consumer	(188)	(1)	(189)	(5.03%)
- Employee-Employer	(153)	(1)	(154)	(4.10%)
- Financial institution	(4)	(1)		
- Insurance	(48)	(3)		
- Landlord-tenant	(138)	-	(138)	(3.67%)
- Legal	(484)	(21)	(505)	(13.44%)
-- Member of legal profession	((24))	-		
-- Legal Services/Legal Aid	((9))	-		
- Nursing home	(15)	(1)		
- Utility complaints	(45)	-		
- Medical	(9)	-		
TOTAL	3,130	627	3,757	99.79%*

*rounding error

REFERRAL SOURCE

	Cases	Logs	Total	Percent
General Assembly	69	67	136	4%
Governor's Office	16	30	46	1%
Attorney General	26	41	67	2%
Other Governmental - State	38	130	168	4%
Other Governmental - Local	8	75	83	2%
Other Governmental - Federal	7	16	23	1%
Congressional Delegation	25	78	103	3%
State Court	2	1	3	< 1%
Federal Court	6	5	11	< 1%
Institution	130	485	615	16%
Previous Case	112	354	466	12%
Public Relations	19	319	338	9%
Other Miscellaneous	47	229	276	7%
No Record	111	1,286	1,397	37%
Self-Initiated	11	14	25	1%
	627	3,130	3,757	101%*

*rounding error

CODE OF IOWA

1983

CHAPTER 601G

CITIZENS' AIDE

(Ombudsman)

- 601G.1 Definitions.
- 601G.2 Office established.
- 601G.3 Appointment—vacancy.
- 601G.4 Citizen of United States and resident of Iowa.
- 601G.5 Term—removal.
- 601G.6 Deputy—assistant for penal agencies.
- 601G.7 Prohibited activities.
- 601G.8 Closed files.
- 601G.9 Powers.
- 601G.10 No charge for services.
- 601G.11 Subjects for investigations.

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 his 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 his personal staff.
 - d. Any instrumentality formed pursuant to an interstate compact and answerable to more than one state.

- 601G.12 Complaints investigated.
- 601G.13 No investigation—notice to complainant.
- 601G.14 Institutionalized complainants.
- 601G.15 Reports critical of agency or officer.
- 601G.16 Recommendations to agency.
- 601G.17 Publication of conclusions.
- 601G.18 Report to general assembly.
- 601G.19 Disciplinary action recommended.
- 601G.20 Immunities.
- 601G.21 Witnesses.
- 601G.22 Penalties.
- 601G.23 Citation.

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 his approval by the senate and the house of representatives, and until his successor is appointed by the legislative council, unless he can no longer perform his 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 his 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 his 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 responsible for investigating complaints relating only to penal or correctional agencies. [C73, 75, 77, 79, 81, §601G.6]

601G.7 Prohibited activities. Neither the citizens' aide nor any member of his 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 any other employment for remuneration.
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]

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 him, 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. The citizens' aide may examine the 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. If the document sought is required by law to be kept confidential, the agency may refuse access until the citizens' aide demonstrates that the document is relevant or material to an investigation authorized under subsection 1. If the citizens' aide is provided access to the confidential document, 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.
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]

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 concern himself 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. He shall conduct a suitable investigation into the administrative actions complained of unless he finds substantiating facts that:

1. The complainant has available to him another remedy or channel of complaint which he 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 he 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, he shall state his recommendations to the agency. If the citizens' aide requests, the agency shall, within twenty working days notify him of any action taken on his 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, he 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 his 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 he 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, he 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 his 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 his staff be compelled to testify in any court with respect to any matter involving the exercise of his 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 allow-

ances. 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 his or her 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]

CITIZENS' AIDE[210]

(OMBUDSMAN)

Chapter 1-6 rescinded and the following chapter 1-8 published 9/16/81 and effective 10/21/81.

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**CHAPTER 1
ORGANIZATION**

210—1.1(601G) Function. The citizens' aide/ombudsman office was created pursuant to chapter 601G, The Code, and is charged with the responsibility to accept and investigate complaints and render an objective opinion or recommendation on a complaint from a member of the public about an action or inaction of an agency of the state or local government in Iowa, and by doing so, resolving citizens' complaints and improving administrative processes and procedures.

210—1.2(601G) Operation.

1.2(1) Location. The office of the citizens' aide/ombudsman is located at 515 E. 12th Street, Des Moines, Iowa 50319. The phone number is area code (515) 281-3592. Office hours

are 8:00 a.m. to 4:30 p.m., Monday through Friday.

1.2(2) Method of contacting citizens' aide/ombudsman. Citizens may contact the citizens' aide/ombudsman office by phone, mail or personal visit.

- a.* Citizens may call the office from within the state of Iowa station-to-station collect.
b. Collect calls may be limited to three minutes and, if necessary, the call will be returned on the state's phone lines (WATS line). Collect telephone calls from those confined in correctional or other institutional facilities may be exempt from this time limit. Due to the expense of collect calls, the number of calls accepted from any one particular citizen may be limited.

c. No appointment is necessary to visit the office of the citizens' aide/ombudsman. No specific form of complaint or inquiry shall be required. The citizens' aide/ombudsman may request that a complaint be reduced to writing. There is no charge to the citizen making the complaint to the citizens' aide/ombudsman office as provided in section 601G.19, The Code.

1.2(3) Composition of staff. The office of the citizens' aide/ombudsman consists of:

a. The citizens' aide/ombudsman. The position of citizens' aide/ombudsman is created by section 601G.3, The Code, and he/she is appointed by the legislative council as directed in section 601G.3, The Code. The citizens' aide/ombudsman is generally responsible for employing and supervising all employees under his/her direction in the positions and at the salaries as shall be authorized by the legislative council. The citizens' aide/ombudsman may delegate to members of the staff any of his/her authority or duties except the duty of formally making recommendations to agencies or reports to the governor or the general assembly.

b. Deputy citizens' aide/ombudsman. The deputy is appointed by the citizens' aide/ombudsman and has the authority to act as citizens' aide/ombudsman when the citizens' aide/ombudsman is absent from the state or becomes disabled as provided in section 601G.6, The Code.

c. Assistant for corrections. The assistant for corrections shall be responsible for investigating complaints relating only to penal or correctional agencies as provided in section 601G.6, The Code.

d. Legal analyst. The legal analyst serves as chief legal counsel within the citizens' aide/ombudsman office.

e. Assistants. Assistant citizens' aide/ombudsmen receive and investigate citizen complaints and assume those responsibilities delegated by the citizens' aide/ombudsman as provided in section 601G.3, The Code.

[Filed 8/26/81, Notice 7/22/81—published 9/16/81, effective 10/21/81]

**CHAPTER 2
PROCEDURES****210—2.1(601G) Intake methods.**

2.1(1) Review and evaluation of complaints. Complaints may be received from any source and shall be investigated unless:

- a.* The complainant has available another remedy or channel of complaint which he/she could reasonably be expected to use;
b. The complaint pertains to a matter outside of the citizens' aide/ombudsman authority;
c. The complainant has no substantive or procedural interest which is directly affected by the matter complained about;
d. The complaint is trivial, frivolous, vexatious or not made in good faith;
e. Other complaints are more worthy of attention;
f. The citizens' aide/ombudsman's resources are insufficient for adequate investigation;
g. The complaint has been delayed too long to justify present examination on its merits;
h. There is insufficient evidence to initiate investigation;
i. A previous determination has been made by the citizens' aide/ombudsman on the matter.

2.1(2) Self-initiation powers. Pursuant to the authority in section 601G.9(1), The Code, the citizens' aide/ombudsman may investigate on his/her own motion. The citizens' aide/ombudsman shall exercise discretion in investigating complaints from an anonymous source.

210—2.2(601G) Jurisdiction.

2.2(1) Exclusions. Notwithstanding the potential for administrative or judicial review and without regard to the finality of the agency action, the citizens' aide/ombudsman office has jurisdiction to investigate actions of agencies of state and local government in Iowa. "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 his/her official duties, but it does not include:

- a. Any court or judge or appurtenant judicial staff. Appurtenant judicial staff does not include court agencies, e.g., clerk of court, friend of court;
- b. The members, committees, or permanent or temporary staffs of the Iowa general assembly;
- c. The governor or his/her personal staff;
- d. Any instrumentality formed pursuant to an interstate compact and answerable to more than one state;
- e. The complaint of an employee of an agency regarding his/her direct employment relationship with the agency as provided in section 601G.9, The Code;
- f. Agencies and officials of the federal government;
- g. The private sector.

2.2(2) Referrals. Citizens with complaints and information requests deemed to be outside the jurisdiction of the citizens' aide/ombudsman may be referred to the appropriate governmental agency or other appropriate body.

2.2(3) Information requests. Information about state and local government may be given upon request.

210—2.3(601G) Investigations.

2.3(1) Subjects for investigation. An appropriate subject for investigation by the citizens' aide/ombudsman shall include but not be limited to administrative actions that might be:

- a. Contrary to law or rule;
- b. Unreasonable, unfair, oppressive, or inconsistent with the general course of an agency's functioning, even though in accordance with the law;
- c. Based on a mistake of law or arbitrary in ascertainment of fact;
- d. Based on improper motivation or irrelevant consideration;
- e. Unaccompanied by an adequate statement of reasons.

2.3(2) Notice of decision to investigate.

- a. If a decision is made not to investigate, the complainant shall be informed of the reasons for the decision.
- b. If a decision is made to investigate, the complainant and the agency shall be notified of the decision.
- c. The citizens' aide/ombudsman may make a verbal or written investigative inquiry to determine whether need exists for further investigation.

2.3(3) Investigative tools. In investigating a complaint, the citizens' aide/ombudsman may utilize the following methods:

- a. Inspection of relevant records;
- b. Witness statements, informal or under oath;
- c. An on-site visit or inspection;
- d. A review of applicable law and regulation;
- e. A public or private hearing;

- f. The issuance of a subpoena to compel testimony or the production of records;
- g. A request for a statement from the agency providing reasons why an administrative action was taken.

This rule is intended to implement Iowa Code chapter 601G as amended by 1982 Iowa Acts, chapter 1026.

210—2.4(601G) Hearings.

2.4(1) Definitions.

a. Hearing. A hearing conducted under Chapter 601G, The Code, is not a contested case hearing as described in Chapter 17A, The Code. A hearing is the taking of testimony relative to a matter before the citizens' aide/ombudsman where one, some, or all parties may be present. A hearing before the citizens' aide/ombudsman does not affect the substantive rights of a citizen or the agency. The hearing is an internal device used by the citizens' aide/ombudsman to gather information and to assist in arriving at conclusions or recommendations regarding an agency's action.

b. Party. The complainant or the person or agency complained against.

c. Counsel. A party may be represented by anyone whom he/she may authorize to act in his/her behalf, including a member of the Iowa bar.

d. Witness. Any person who may be called to give testimony relating to a matter before the citizens' aide/ombudsman.

2.4(2) Scheduling of hearings. Hearings may be held at the discretion of the citizens' aide/ombudsman and may be requested, arranged, and conducted informally. Hearings may be conducted at the office of the citizens' aide/ombudsman or elsewhere at the discretion of the citizens' aide/ombudsman.

2.4(3) Witnesses.

a. If a witness fails to attend a hearing after being notified, the hearing may be postponed or the citizens' aide/ombudsman or designated deputy may choose to proceed. A subpoena may be issued to compel a witness to appear and give testimony. The subpoena may be delivered either by personal service as in civil actions or by certified mail return receipt requested. If a witness fails to respond to the citizens' aide/ombudsman's subpoena, action may be taken to enforce the subpoena through the district court.

b. A witness may be orally examined under oath. Any witness has the right to have counsel present during the hearing. Counsel may advise the witness during questioning and may register objections to questions asked. Objections shall be noted but the witness shall answer all questions except when the witness asserts the right against self-incrimination or when the witness asserts some other privilege or immunity that would normally be extended to a witness in the courts of this state.

2.4(4) Manner of conducting hearing. The order for the taking of evidence shall be at the discretion of the citizens' aide/ombudsman or his/her designated deputy. Questions shall be posed by the citizens' aide/ombudsman or deputy. At the citizens' aide/ombudsman or deputy's discretion, the witness or witnesses may be examined privately or may be sequestered. At the conclusion of the citizens' aide/ombudsman or deputy's examination of a witness, a party or his/her counsel may be permitted to examine the witness, after which the citizens' aide/ombudsman or deputy may inquire into new matters so raised. The citizens' aide/ombudsman or deputy may limit questions and exclude witnesses or other persons in order to maintain proper decorum.

2.4(5) Evidence. Strict rules of evidences shall not apply; the probative nature of any evidentiary matter shall be determined by the citizens' aide/ombudsman or his/her designated deputy. Irrelevant, immaterial or unduly repetitious evidence may be excluded.

2.4(6) Record. A record of the hearing may be made on tape or by a certified court reporter. Witnesses shall be permitted to record any testimony that they may give. A written transcript of the hearing may be made at the discretion of the citizens' aide/ombudsman. If a transcript is made, witnesses shall be permitted to obtain, upon request, a written copy of any testimony that they may give. If no transcript is made, tapes shall be preserved for at least sixty calendar days.

2.4(7) Ex parte communication.

a. The office of the citizens' aide/ombudsman does not hold contested case hearings as described in Chapter 17A, The Code. Communications made to the citizens' aide/ombudsman by any party, hearing officer, witness or counsel shall not be considered to be ex parte communication as defined in section 17A.17, The Code.

b. The office of the citizens' aide/ombudsman has the authority under section 601G.9, The Code, to investigate without regard to the finality of the administrative action. Communications made by the citizens' aide/ombudsman during the course of its investigation of an agency's administrative action shall not be considered as ex parte communications.

210—2.5(601G) Case disposition after investigation.

2.5(1) Conclusions and recommendations. At the conclusion of an investigation, the citizens' aide/ombudsman shall take the matter under advisement. Any conclusions or recommendations shall be reported to the complainant and to the agency, if appropriate. If the agency's action is deemed appropriate and pursuant to applicable law and rule, no further action shall be taken. As provided in section 601G.16, The Code, if the agency action was deemed to be inappropriate or not pursuant to the applicable law or rule, the citizens' aide/ombudsman may recommend that:

- a. The matter be further considered by the agency;
- b. An administrative action be modified or canceled;
- c. A rule on which an administrative action is based be altered;
- d. Reasons be given for an administrative action;
- e. Any other action be taken by the agency; or
- f. Disciplinary or criminal proceedings be initiated.

2.5(2) Reports. At the conclusion of an investigation, the citizens' aide/ombudsman may formally issue a report to an agency which may include recommendations to the agency. The report containing the conclusions, recommendations and, in the case of critical reports, comments from the agency, shall be reported to the governor and general assembly. After reporting to the governor and general assembly, reports become public information and may be disseminated by the citizens' aide/ombudsman to the media and the general public.

a. The citizens' aide/ombudsman may issue a report critical of an agency. Prior to a report critical of an agency being issued, the affected agency must first be given the opportunity to comment on the conclusions and recommendations. The affected agency shall be given not less than five days to comment. The citizens' aide/ombudsman reserves the right to comment on the response of the agency.

b. The citizens' aide/ombudsman may issue a special report containing observations, recommendations and conclusions which are not critical of an agency.

c. The citizens' aide/ombudsman may issue a report to the general assembly or its committees. The citizens' aide/ombudsman may also present oral testimony to the general assembly or its committees.

210—2.6(601G) Review. A person wishing a review of any action taken or decision made by a deputy of the citizens' aide/ombudsman or staff may do so by contacting the citizens' aide/ombudsman directly.

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**CHAPTER 3
DECLARATORY RULINGS**

210—3.1(17A) General. Any interested person may solicit oral or written advice from the citizens' aide/ombudsman concerning the application or interpretation of any statute or administrative rule dealing with the office of citizens' aide/ombudsman. However, unless the request is made pursuant to section 17A.9, The Code, petition for declaratory ruling, any advice is not binding upon the citizens' aide/ombudsman. Petitioners for a declaratory ruling

must have a real and direct interest in a specific fact situation which may affect their legal rights, duties or responsibilities under statutes or rules administered by the citizens' aide/ombudsman.

210—3.2(17A) Petition for declaratory rulings. A petition for a declaratory ruling shall be filed in the office of the Citizens' Aide/Ombudsman at 515 E. 12th Street, Des Moines, Iowa 50319. The petition shall either be mailed certified, return receipt requested or delivered in person. An additional copy may be provided if the petitioner wishes to retain a filed stamped copy of the petition. The petition may be typewritten or legibly printed in ink and must substantially conform to the following:

CITIZENS' AIDE/OMBUDSMAN
Capitol Complex
515 East 12th Street
Des Moines, Iowa 50319

Petition by _____ (Name))	
For a Declaratory Ruling on)	PETITION FOR
(state statute, rule citation)	DECLARATORY RULING
to be ruled on)		

(petition must state in separate, numbered paragraphs)

1. Petitioner's name, address and phone number.
2. A clear, concise and complete statement of all relevant facts on which the ruling is requested.
3. A clear and concise statement of the controversy or uncertainty.
4. Reference to the statutory authority or rules in question, along with attached copies.
5. The reasons for prompting the petition and a full disclosure of petitioner's interest.
6. Whether petitioner is currently a party to an investigation by the citizens' aide/ombudsman, rulemaking or judicial proceeding involving the controversy or uncertainty.
7. The names and addresses, when known, of other persons who may be affected by the declaratory ruling.

(Petitioner's signature)

210—3.3(17A) Procedure after petition is filed.

3.3(1) Initial review. Upon filing of the petition the citizens' aide/ombudsman shall inspect the petition for substantial compliance with the recommended form, and may, in his/her discretion, reject a petition which fails to contain one or more of the required statements.

a. The citizens' aide/ombudsman shall conduct an initial review of the petition and may request the petitioner to provide additional facts or provide greater specificity and detail in the questions posed. A request shall be made within fourteen days of the filing of the petition. If the requested information is not provided within thirty days of the receipt of the request, the petitioner will be deemed to have withdrawn the petition.

b. The citizens' aide/ombudsman shall then issue a ruling or declination to rule within thirty days of the receipt of additional information or of the filing of the petition, whichever is later.

3.3(2) Citizens' aide/ombudsman action. After due consideration, the citizens' aide/ombudsman may decline to issue a ruling upon one or more of the following grounds:

- a. The issue in question is currently involved in a rulemaking, investigative, legislative or judicial proceeding.
 - b. The petition does not contain sufficient facts to demonstrate that the petitioner will be aggrieved or adversely affected by failure to issue a declaratory ruling.
 - c. The petitioner presents issues or facts which are unclear, overbroad or otherwise inappropriate as a basis upon which to issue a declaratory ruling.
 - d. The petition indicates the petitioner seeks to obtain approval to engage in activities so borderline as to be of dubious legality, although perhaps marginally proper.
 - e. The issue in question has been rendered moot by a change in circumstances, fact or law.
 - f. The issue in question depends upon peculiar facts which cannot be predicted or accurately described in advance.
 - g. Other good and sufficient reasons, which shall be detailed in writing.
- 3.3(3) Effect of declaratory ruling. A declaratory ruling by the citizens' aide/ombudsman is binding upon both the citizens' aide/ombudsman and the petitioner on the questions of law dealt with in the ruling.
- 3.3(4) Declaratory rulings issued by the citizens' aide/ombudsman shall be public record and shall be maintained in the office of the citizens' aide/ombudsman in chronological order.
[Filed 8/26/81, Notice 7/22/81—published 9/16/81, effective 10/21/81]

CHAPTER 4 RULEMAKING

210—4.1(17A,601G) Commencing rulemaking. The citizens' aide/ombudsman shall give notice of its intention to adopt, amend or repeal a rule by publishing the text of the proposed change, or a summary of the issues and subject matter to be considered and the time, place, and manner in which interested persons may comment upon the proposal, in the Iowa administrative bulletin. In the event the text is too voluminous for publication, the notification shall state the subject matter of the proposed rule, a summary of changes from the existing rule, if any, and the location and telephone number where interested persons may obtain the actual text. The notice shall also include the name and address of a person to whom interested persons may present written views and arguments, and the deadline by which these submissions may be submitted. This person shall be responsible for the review and summarization of all submissions.

210—4.2(17A,601G) Oral presentations. When requested by the persons or groups enumerated in section 17A.4(1)"b", The Code, an opportunity for an oral presentation shall be scheduled. The request must be presented at the citizens' aide/ombudsman office within twenty days of the publication of the Notice of Intended Action and must identify the proposed rule subject to the request by ARC number and by the specific citation to the proposed rule upon which presentations are to be made.

4.2(1) Notice. When so requested under the provisions of rule 4.2(17A,601G) or in his/her discretion, the citizens' aide/ombudsman shall schedule an opportunity for oral presentations by publishing a notice of the opportunity in the Iowa administrative bulletin, which shall refer to the ARC number and citation of the proposed rule, and which shall give the public not less than twenty days notice of the date, time and place of the meeting. Additional notice shall be mailed to all persons who have requested the opportunity for an oral presentation.

4.2(2) Conduct of meetings. The citizens' aide/ombudsman or designee shall serve as the presiding officer at the meetings. At the commencement of the meeting the presiding officer shall request any person wishing to make an oral presentation to advise the presiding officer of his/her name, address and affiliation.

a. At the commencement of the meeting the presiding officer shall give a brief synopsis of the proposed rule, a statement of the statutory authority and the reasons for the proposed rule. When necessary in the interests of time, the presiding officer may limit individual presentations as necessary to ensure that all persons who have requested an opportunity to speak may do so.

- b. To facilitate the exchange of information and if time permits, the presiding officer may open the floor to questions or general discussion.
- c. Persons who disrupt or obstruct the meeting either by their behavior or by the use of a camera or recording device shall be requested to cease. The presiding officer shall exclude any person who fails to comply with the request.
- d. The presiding officer shall, when practical, receive all relevant physical and documentary evidence presented by witnesses. All evidence becomes the property of the citizens' aide/ombudsman office.
- e. A record shall be prepared consisting of the minutes or verbatim record, and all evidence submitted. The presiding officer shall then prepare a summary of the content of all comments received at the meeting.

210—4.3(17A) Conferences or consultation. In addition to the required rulemaking procedures, the citizens' aide/ombudsman or designee may obtain viewpoints or advice concerning proposed rulemaking through informal conferences or consultations as he/she may deem desirable.

210—4.4(17A) Adoption. Not less than thirty-five days after the publication of notice, the proposed rule may be adopted in final form, and, if so adopted, shall be made effective pursuant to the provisions of section 17A.5, The Code.

210—4.5(17A) Statement of reasons. If so requested by any interested person, pursuant to the provisions of section 17A.4(1), The Code, and upon adoption of any proposed rule, the citizens' aide/ombudsman shall prepare a statement of principal reasons for and against the proposed rule containing the reasons for overruling considerations urged against the rule.

210—4.6(17A) Petition for rulemaking. A petition for rulemaking shall be filed in the Citizens' Aide/Ombudsman Office, 515 E. 12th Street, Capitol Complex, Des Moines, Iowa 50319. The petition shall either be mailed certified, return receipt requested, or may be delivered in person. An additional copy may be provided if the petitioner wishes to retain a filed stamped copy of the petition. The petition shall be either typewritten or legibly printed in ink and must substantially conform to the following form:

CITIZENS' AIDE/OMBUDSMAN
Capitol Complex
515 East 12th Street
Des Moines, Iowa 50319

Petition by _____ (Name))	
)	
to (Amend, Adopt, or Repeal)	
)	PETITION FOR RULEMAKING
Rules Relating to (state)	
)	
subject matter))	

(petition must state in separate, numbered paragraphs)

1. Petitioner's name, address and phone number.
2. The nature of petitioner's interest in the matter.
3. The text or substance of any requested rule adoption, amendment or repeal including the text and citation for any current rule in effect.
4. The reasons for seeking the requested action, including any statute, rule, data, evidence or arguments which are relevant to the request. Copies of any statute, rule, evidence, etc. should be attached to the petition.

(Petitioner's signature)

210—4.7(17A) Procedure after petition is filed.

4.7(1) Inspection by the citizens' aide/ombudsman. Upon filing of the petition the citizens' aide/ombudsman shall inspect the petition to ensure substantial compliance with the recommended form. If the petition does not contain the text or substance of the proposed amendment or any reasons for the proposed amendment or fails to include copies of any cited statute, rule or evidence, the citizens' aide/ombudsman may reject the petition and return it to the petitioner along with the reasons for the rejection. Petitioner may then correct the reasons for rejection and refile the petition.

4.7(2) Citizens' aide/ombudsman action. Within sixty days of the filing of a petition the citizens' aide/ombudsman shall either grant the petition and commence rulemaking, or deny the petition and notify the petitioner in writing of the grounds for the denial.

[Filed 8/26/81, Notice 7/22/81—published 9/16/81, effective 10/21/81]

CHAPTER 5
CONFIDENTIALITY

210—5.1(601G,68A) Public information. Any information held by the citizens' aide/ombudsman that is public information as defined by chapter 68A, The Code, shall be released by the citizens' aide/ombudsman's office upon request.

5.1(1) Citizens' aide/ombudsman public reports, annual reports, and declaratory rulings are public information and shall be released upon request.

5.1(2) Information in citizens' aide/ombudsman's files that is public under chapter 68A, The Code, and has been provided by another agency may be released by the citizens' aide/ombudsman.

a. Anyone requesting such a document may be directed to obtain that document from the agency that is the custodial agency.

b. If it is not certain whether information held by citizens' aide/ombudsman is public

information under chapter 68A, The Code, the citizens' aide/ombudsman shall require the request to be made directly to the custodial agency.

210—5.2(601G) Private information. Section 601G.8, The Code, provides that the citizens' aide/ombudsman may maintain secrecy regarding the records and files of the office of the citizens' aide/ombudsman. Accordingly, private information is that which is not public information under chapter 68A, The Code, and is not specifically confidential by some other section of the Code.

5.2(1) The name of a citizen contacting the citizens' aide/ombudsman is private information and this name shall not be released to any person not directly involved in the handling of the case unless the citizen has authorized the release of that fact either orally or in writing or unless it has been determined that the citizen has waived this right by his/her actions. However, complaints and requests for information which are nonjurisdictional to the citizens' aide/ombudsman or that will not be handled by the citizens' aide/ombudsman may be referred to another agency or organization by the citizens' aide/ombudsman without prior approval of the complainant.

5.2(2) A citizen may request that his/her identity be held as private. Such requests will be respected unless it would be impossible for the citizens' aide/ombudsman to pursue the complaint without identifying the complainant. In such cases, the citizens' aide/ombudsman shall contact the citizen, before investigation, to determine if he/she would like to withdraw the complaint.

5.2(3) The citizens' aide/ombudsman has no affirmative duty to inform one providing information that it can be held as private. If a request is made that information be held as private, the citizens' aide/ombudsman will determine, under his/her authority in Iowa Code section 601G.8, whether he/she will respect this request. If a determination is made to hold certain information as private by the citizens' aide/ombudsman, such information may later become public if a report made pursuant to 2.5(2) is issued.

5.2(4) When the citizens' aide/ombudsman believes that any public official, employee or other person has acted in a manner warranting criminal or disciplinary proceedings, he/she shall refer the matter to the appropriate authorities. The citizens' aide/ombudsman has an affirmative duty to disclose this obligation to any person at any time he/she realizes that information about such acts may be proffered.

210—5.3(601G) Confidential information. Confidential information is any information defined as confidential by state or federal law. Confidential information cannot be released by the citizens' aide/ombudsman except to those persons having lawful access. The citizens' aide/ombudsman is subject to the same policies and penalties regarding the confidentiality of the information as an employee of the agency that provided the information. The citizens' aide/ombudsman case closings, internal notes, memoranda and correspondence shall be considered confidential information pursuant to Iowa Code section 601G.8.

210—5.4(601G) Request for information in citizens' aide/ombudsman files.

5.4(1) All public information shall be disclosed upon request.

5.4(2) All information that a citizen has provided to the citizens' aide/ombudsman or that he/she has previously received shall be released to a citizen or his/her counsel. All information that a governmental official has provided to the citizens' aide/ombudsman or that he/she has previously released shall be released to the official or his/her counsel.

5.4(3) Confidential information shall not be provided to any person unless that person has lawful access.

5.4(4) All requests for information from the citizens' aide/ombudsman files shall be in writing. Costs for reproduction of documents may be assessed as provided in Iowa Code section 68A.3.

5.4(5) The citizens' aide/ombudsman will provide open access to the files, at the written request of the governor, the general assembly or standing committee of the general assembly pursuant to Iowa Code section 601G.8.

These rules are intended to implement Iowa Code chapter 601G as amended by 1982 Iowa Acts, chapter 1026.

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[Filed 11/5/82, Notice 6/23/82—published 11/24/82, effective 12/29/82]

CHAPTER 6 PRIVILEGES AND IMMUNITIES

210—6.1(601G) Privileges and immunities.

6.1(1) No civil action, except removal from office, as provided in chapter 66, The Code, or proceeding shall be commenced against the citizens' aide/ombudsman or any member of his/her 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.

6.1(2) The citizens' aide/ombudsman or any member of his/her staff shall not be compelled to testify in any court with respect to any matter involving the exercise of his/her official duties except as may be necessary to enforce the provisions of chapter 601G, The Code.

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CHAPTER 7 PENALTIES

210—7.1(601G) Penalties. Any person who willfully obstructs or hinders the lawful actions of the citizens' aide/ombudsman or a member of the citizens' aide/ombudsman's staff or who willfully misleads or attempts to mislead the citizens' aide/ombudsman in his/her inquiries shall be guilty of a simple misdemeanor. The citizens' aide/ombudsman shall refer all violations of this section to the county attorney in the county where the obstruction or hinderance occurred.

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CHAPTER 8 FORMS

210—8.1(601G) Subpoena form. Citizens' aide/ombudsman form number CA/O-1 is a subpoena/subpoena duces tecum form.

210—8.2(601G) Patient waiver form. Citizens' aide/ombudsman form number CA/O-2 is an authorization for medical or hospital information form.

210—8.3(601G) General information waiver form. Citizens' aide/ombudsman form number CA/O-3 is an authorization for release of information form.

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CASE SUMMARIES

These case summaries have been greatly abbreviated for the purpose of this report. Should you have any questions, the file number of each case is recorded. More detailed information may be made available upon request.

The following abbreviations have been used to further facilitate brevity:

ADC	Aid to Dependent Children
AEA	Area Education Agency
AFDC	Aid to Families with Dependent Children
AG	Attorney General
BOL	Bureau of Labor
CA/O	Citizens' Aide/Ombudsman
CC	Conservation Commission
Code	Code of Iowa
CRC	Civil Rights Commission
CSRU	Child Support Recovery Unit
CTU	Correctional Treatment Unit
DAC	Division of Adult Corrections
DCI	Division of Criminal Investigation
DEQ	Department of Environmental Quality
DOA	Department of Agriculture
DOH	Department of Health
DOR	Department of Revenue
DOT	Department of Transportation
DPI	Department of Public Instruction
DSS	Department of Social Services
GR	General Relief
IAPA	Iowa Administrative Procedures Act
ICC	Iowa Commerce Commission
IJH	Iowa Juvenile Home
IMR	Iowa Men's Reformatory
IRS	Internal Revenue Service
ISP	Iowa State Penitentiary
IWR	Iowa Women's Reformatory
JS	Job Service
LFB	Legislative Fiscal Bureau
LIHEAP	Low Income Home Energy Assistance Program
MHI	Mental Health Institute
OMVUI	Operating Motor Vehicle Under the Influence
PCB	Polychlorinated Biphenyls
RN	Registered Nurse
Rule	Iowa Administrative Code
SS	Social Security
SSI	Supplemental Security Income
U of I	University of Iowa
UA	Urinalysis
UI	Unemployment Insurance
VA	Veterans Administration
VR	Vocational Rehabilitation
WIN	Work Incentive

80-696 Citizen was riding on a motorcycle with her husband when they were struck from behind while stopped at a stop sign by a man who was charged with OMVUI. Subsequently, she learned that it was his fifth OMVUI arrest so far this year (from January to July) and that he had not been brought to trial on any of the charges.

Recognizing the prosecuting attorney's discretion in pursuing cases, CA/O contacted the county attorney expressing concern. He verified that the man had indeed been arrested five times for OMVUI, but that because the arrests had taken place in such rapid succession, sufficient time had not elapsed between arrests to get a first conviction, which he said is necessary in order to file second arrest charges. He indicated that the man had spent about ninety days in voluntary alcohol treatment, which had been an impediment to scheduling a trial date.

CA/O followed this telephone contact with a letter expressing concern that the man may be driving, and stating that it seemed imperative that a prompt determination of guilt should be made. CA/O requested further information concerning the dates and locations of the arrests, and the dates of the voluntary alcohol treatment. CA/O expressed concern that the voluntary treatment may have been used as a hedge against prosecution.

County attorney responded, indicating what steps his office had taken to bring the man to trial and stating that a first conviction had now been obtained. The county attorney indicated that two of the cases are still pending and that plea takings are set. He explained that under Iowa law the third OMVUI conviction is a felony and results in a mandatory driver's license revocation for one year. He stated his intention to prosecute until the third conviction had been obtained.

80-787 Citizen complained that her neighbors on both sides were continually pouring or spraying pesticides on the property. She expressed exasperation but she had contacted several governmental agencies and that none had been able to help her. CA/O explained that this appeared to be a private problem which perhaps no governmental agency could solve; however, CA/O contacted the agencies she had contacted within our jurisdiction for their report.

CA/O learned from County Neighborhood Mediation that a meeting had been held which produced no results satisfactory to the complainant. The neighbors had denied the allegations and without further substantiation the county attorney's office could do nothing more. CA/O made an on-site visit to the property and viewed nothing out of the ordinary. CA/O then contacted the DOA and learned that they had taken pesticide samples on the property. They sent CA/O their reports when their analyses were completed. DOA laboratory sampling reports found no significant levels of chlorinated pesticides and further results were inconclusive. CA/O then suggested that the citizen contact the power company for a check of her furnace to rule out any problem there.

80-887 Claimant applied for UI benefits and was denied by imposition of an administrative penalty which may be imposed if JS finds that a claimant has previously fraudulently claimed benefits. There is a time limit of thirty-six months from the date of the weeks benefits were fraudulently claimed. CA/O noted that the thirty-six months had lapsed, making imposition of the penalty improper. JS took the position that even though the claimant had made his dissatisfaction immediately known upon denial of benefits, he had not filed a proper appeal. CA/O took the position that JS had made the error and should, therefore, correct the error without placing the burden on the claimant. The claimant was required to exhaust all appeal rights and was denied at each level on the basis of the timeliness of his original appeal. CA/O then contacted the JS Fraud Investigation Unit explaining the department's error. They agreed that it was an agency error and benefit payments were released to the claimant.

80-994 CA/O was asked, by a state senator, for our observations relative to the Civil Rights Commission's (CRC) handling of discrimination cases. CA/O explained our concern with regard to case management procedures within the commission, particularly delays. A synopsis of summaries and complaints received by CA/O against CRC was appended. CA/O related that CRC had responded to each complaint by explaining their large backlog of cases and that each new director had declared his/her dedication to reducing that backlog. CA/O suggested consideration should be given to a performance audit by the LFB and also the possibility of a joint investigation by CA/O in concert with the LFB. That proposal was taken to the Legislative Council and preliminary discussions took place between the LFB and CA/O. The LFB shared CA/O's concern with regard to case management procedures. A representative of the LFB met with the director of CRC. She convinced him that changes were implemented to improve the services provided. She outlined goals in detail. LFB decided not to go forward with the performance audit at this time, but to closely monitor the progress made by CRC. Subsequent information received by CA/O indicated that the CRC had implemented administrative closing procedures and a rapid charge process. These systems are designed to reduce the backlog and move current cases more efficiently.

80-1111 Citizen contended that the city should reimburse her for sewer service charges assessed and paid for twelve years prior to her connection with the city sewer. She contended that the former property owner, her father, had an agreement with the city that he would not be required to connect to the sewer. CA/O reviewed city sewer ordinances and the city's position in this matter. City attorney informed CA/O that there was no written waiver to exempt the former property owner from connection with the city sewer, and since the charges had been paid without protest for twelve years, it was the city's position that she had no complaint.

CA/O reviewed the ordinance which requires every property owner to connect with the city sewer when it becomes available and informed citizen that such an ordinance serves as notice to the property owner to connect with the sewer, in

the absence of any written waiver. The city agreed to compromise and waive the \$150.00 connection charge in requiring the citizen to hook up to the sewer. In effect, she had "broken even".

80-1140 CA/O was contacted by two inmates requesting assistance in ascertaining whether a disciplinary report against them, which had been overturned and ordered expunged by the court, had been expunged from all files. CA/O determined that all copies of this report had been dismissed and expunged, except the original which was still in the institutional file. This original was destroyed at CA/O's request.

80-1159 Citizen alleged damage to his property as a result of drainage following construction of a local high school and the adjoining athletic field. He alleged conflict between the city and the school district as to responsibility in the matter. CA/O contacted the city which moved to pursue resolution by writing the school district informing them that improved plans must be filed by a certain date. The city threatened action through the courts to protect its interest if that deadline was not met. The citizen was informed of the negotiation efforts and he informed CA/O that he had received a communication from the attorney for the school board relative to a settlement.

80-1186 Parent complained that the local school board refused to allow a residency transfer for his daughters to a neighboring community where his wife held a permanent job and established a separate domicile five days a week. It was more convenient for the children to attend school in the community where the mother resides. CA/O suggested they make a formal request to the local school board, as they had not done so. They did, and the request was denied. At CA/O's direction, they then appealed the local board's decision to DPI. DPI overturned local board's decision, in favor of the citizens.

81-7 Citizen complained about being required to license his dog in both county and city. CA/O found that state law allows for the taxation of dogs by cities in addition to the county licensure. CA/O so informed citizen and satisfied his interest. However, CA/O found that a 28-E agreement legitimizing this arrangement had expired. CA/O asked that the county auditor's office facilitate a new 28-E agreement between the county and the city.

81-23 During investigation of another case, CA/O discovered that a county attorney was serving as a city attorney. CA/O wrote him citing a 1976 AG's Opinion which concludes that the two positions are incompatible. The attorney responded that he was not an appointed city attorney but was employed by the city in connection with his half time private practice from time to time. CA/O referred the matter to the Prosecuting Attorneys Council stating that it appeared that his contention, that there was no conflict because he had not

been officially appointed, was a distinction without a difference. CA/O asked that they review the situation in light of the Opinion cited. The committee took the position that it is ethically permissible for a county attorney to perform legal work for a municipality within the jurisdiction of the county attorney provided that he or she does not accept appointment by the municipality to the position of city attorney and does not prosecute violations of city ordinances or accept such employment when it would create an actual or apparent conflict of interest.

CA/O wrote AG asking for a clarification in that this position seemed to conflict with the previous Opinion. In an Opinion released in August, the AG concluded that the two positions are not incompatible, although there may be the occasional potential for conflict of interest, and rejected all previous Opinions which contradict this one.

81-28 Citizen's brother died while a patient at a MHI. His sister questioned the adequacy of the medical treatment provided since she alleged that he had been taken off his heart medication and died of a massive heart attack. CA/O suggested that she contact the MHI directly for medical information. CA/O then contacted the director of the MHI and was informed that the complainant had not contacted the institution. He explained that the patient had been receiving his medication and was transferred to a local hospital for coronary care two days before his death. The director assured CA/O that he would welcome the contact from the citizen and would provide her with full information relative to the circumstances of her brother's death. CA/O again contacted the complainant urging her to make the contact.

81-77 Citizen alleged that a county treasurer denied her request to transfer title of a vehicle to her husband's name because theirs was a common-law marriage (Transfer between spouses is allowed without inspection). CA/O contacted DOT and they agreed they would have to recognize a documentable common-law marriage. However, the citizen was unable to provide information to document the common-law marriage.

81-80 Citizen complained about a notice he received from county treasurer for delinquent property taxes for 1975 and 1976 on property he had purchased in December, 1979 from the DOT. His deed from the DOT covenanted that the premises were free and clear of all encumbrances.

CA/O contacted county treasurer, DOR, and DOT general counsel concerning the matter. Research and contacts indicated that state law requires the county board of supervisors to abate the taxes if the governmental agency fails to pay the delinquent taxes.

CA/O arranged to have DOR and DOT contact the county treasurer. CA/O verified the contact and was advised that the treasurer had been provided additional oral and written explanations and an AG Opinion on the issue. Citizen informed

CA/O that the treasurer had assured him the lien would be released and taxes abated at the earliest convenience and upon authorization and direction of the board of supervisors.

81-100 Citizen complained that while attending a Labor Day celebration in a neighboring town, her grandson fell into an unmarked open drainage ditch and suffered facial cuts. She had no success in getting the city to enclose the ditch, fence it or mark it in some conspicuous way.

CA/O visited the site and found that the structure was an open concrete trough or culvert approximately seven feet long by two and a half feet wide and adjacent to a parking lot. CA/O agreed that the location made it particularly dangerous. CA/O expressed this concern to the mayor asking if the city had considered potential liability should future damage claims arise. CA/O suggested that the city consider additional steps to better mark the location.

The city responded, deciding to enclose the culvert with thick wooden slabs, level off the parking lot, and fill in around the culvert with dirt. They marked it with four highly visible reflecting markers.

81-105 Citizen complained that he had not been paid for repair work done last year for a drainage district. CA/O researched the Code and made inquiry to the county treasurer. Treasurer responded that there is no current balance in the drainage district fund and the warrant could not be paid until an assessment is spread, which should be done this Fall.

CA/O wrote citizen, responding that the Code sets forth provisions for public obligations not paid for want of funds and for the payment of interest on those obligations. CA/O notified citizen that interest would accrue at 7%, payable when the warrant is paid.

81-114 Citizen was concerned that his elderly mother had been denied Title XIX benefits because DSS contended she had assets which were not in a proper irrevocable burial trust account and therefore considered assets available to the client.

CA/O reviewed the materials on file with DSS and suggested that citizen appeal the proposed decision. CA/O noted that the proposed decision is in citizen's favor, although he could present further arguments to be considered. The issue whether the money was in an allowable irrevocable burial trust account could be verified in writing from the bank. CA/O suggested that citizen present such verification. CA/O further suggested that should the denial be upheld, that citizen, as his mother's guardian, reapply for assistance after first attempting to withdraw the money from the account and getting proof that it was indeed irrevocable.

81-129 Husband and wife complained about penalty and interest on fifty-one dollars of income tax due on a 1976 return. They felt that DOR was at fault for refunding the money which they had designated to carry as a credit on next year's tax. Because they expected the fifty-one dollars to carry over, they underpaid the 1977 tax by fifty-one dollars. In 1981, after receiving notice of the unpaid tax plus interest and penalty, the DOR director refused to abate the penalty and interest.

CA/O made inquiry and learned that there was no error on the part of DOR. The original error had been made by the citizens on the 1976 income tax return. The citizens had requested that the fifty-one dollars be both refunded and credited to the 1977 tax due. In cases of such error, the DOR refunds the money as had been done.

81-134 Citizen attended a rock and mineral specimen sale sponsored by U of I Department of Geology. He complained that the materials available were not of the quantity or quality advertised in a sale flyer. Second, he alleged that a local rock club had been allowed early access to the sale. CA/O wrote the chairman of the Department of Geology asking for his comments. He responded, taking issue with the allegation that the specimens were not of quantity or quality as advertised. He confirmed that two local rock clubs had been invited to the sale prior to its public opening, because each had contributed to the department for student scholarships. CA/O related concerns about the preferential sale issue and the chairman stated at future sales everyone would be allowed the same access.

81-139 Citizen inquired whether there was any way to expunge a child abuse registry report. He alleged that the report was unfounded.

CA/O researched the matter and advised citizen how he can request that the information be expunged.

81-150 Citizen complained that her daughter's high school allows students to smoke cigarettes on school property. CA/O found that state law requires school districts to make rules prohibiting the use of tobacco by students on school property. CA/O wrote the school district asking for the board's smoking policy. Superintendent responded, enclosing the district policy and explaining that although the use of tobacco is explicitly prohibited on school property, the policy established a supervised smoking area for high school students outside the building.

CA/O responded that although not in strict compliance with state law, the district's policy seemed to be a reasonable way to deal with the inevitable fact of students smoking, eliminating fire hazards of smoking indoors. CA/O suggested that the complainant could further pursue the matter by asking the board to formally rule on her request for a no smoking policy and then appeal it to DPI.

81-157 Citizen complained that county sheriff's department failed to respond to his telephone request for assistance in removing a drunk driver that he had apprehended on his property. Sheriff's dispatcher refused to send anyone to the premises unless citizen filed property damage charges against the man. Since he refused to file such charges, no officer was dispatched. CA/O contacted the sheriff, and after he reviewed a tape of the assistance call, the dispatcher and his supervisor were reprimanded, and an apology was made to the citizen.

81-161 Citizens complained about the Real Estate Commission's handling of their insufficient check for license renewal. Because the check was insufficient, their licenses expired.

CA/O found that Administrative Rules require that proper payment be submitted for license renewal. The applicants were given the opportunity to send another check within a thirty day grace period, which they did not do.

CA/O responded that they had been given adequate notice and opportunity to remit proper payment.

81-235 Citizen complained that yearly inspections are not performed on every elevator in the state by the Bureau of Labor (BOL) and that his elevator is inspected yearly, requiring him to assume a disproportionate cost of the inspections. CA/O contacted the BOL and was advised that the policy is that once an elevator is inspected, it is scheduled for a yearly inspection; presently, not enough inspectors exist to inspect every elevator each year.

CA/O's understanding of the policy was confirmed in writing and CA/O was advised that the Labor Commissioner may at his discretion extend the time specified for making inspections. Further, the BOL conducts yearly inspections on high-usage elevators in the state and the degree of usage is the chief factor in the selection of elevators for inspection. There are currently two private companies which assist and report to the BOL. The use of these companies is expected to alleviate the burden.

CA/O reviewed the BOL's position and the applicable law, and learned that the discretion given to the department to extend the time for inspections must be done by Administrative Rule. CA/O wrote BOL requesting that a Rule be promulgated. CA/O was advised that the department is working on a set of Rules on the issue which should be promulgated in the near future.

81-239 Owner of a supermarket complained that DSS had stopped payment on an ADC check for \$360.00 he had cashed. CA/O learned that the ADC recipient had reported the original check missing and a duplicate was issued. It was determined the recipient had endorsed and cashed both checks. The Treasurer's office processed reimbursement to the supermarket.

81-240 Citizen, with allergies, lives on a dusty county road. He controls the dust by oiling the road using waste oil from vehicles and machinery used on his farm. To do so, he acquires a permit from the county. When he applied for the permit this year, he was informed that he would have to have the oil tested for PCB contamination before he could use it. The county alleged that this was a federal government requirement.

CA/O consulted DEQ concerning the problem and was assured that there is no such regulation. CA/O communicated with the county assuring them that the only problem oil is waste oil the origin of which is unknown. Since the complainant had drained the oil from his own vehicles and therefore knew its origin, there was no possibility of contamination. CA/O asked DEQ to communicate that same information to the county. This was done and the county agreed to allow the complainant to sign a statement assuring the origin of the oil. The permit was issued and he oiled the road.

81-242 Citizen complained that the area in which he lives, an unincorporated part of the county, does not receive adequate sheriff's department protection. As a consequence, he and his neighbors are subjected to rowdy behavior by other residents of the area.

CA/O made inquiry to the sheriff regarding the patrolling and protection of the area. He explained that in spite of a jurisdictional problem in that the streets in the residential area are private, his department has always responded to calls for assistance. Sheriff suggested that CA/O ask residents of the area to contact him personally so as to explore any possible solutions to the problem. CA/O advised the citizen of the sheriff's proposal and was assured by him that he and his neighbors would speak with the sheriff.

81-261 Citizens asked what they could do to add information to or expunge a juvenile's court mental health records. CA/O researched and responded that there is no provision which would allow them to add information to the evaluation record, which is medical opinion; however, there is a provision whereby the juvenile can petition the court for the sealing of the records two years after the final disposition of the charge. CA/O suggested that they contact a private attorney if they wished to accomplish this.

81-264 Citizen complained on behalf of his wife, a registered nurse educated in India, regarding the Iowa Board of Nursing's denial of her application for RN licensure. The applicant, licensed as an RN by the states of New York and Pennsylvania, was denied licensure by interstate endorsement, because she had passed the RN test pool examination on the fifth writing. An Iowa Administrative Rule pertaining to applicants by examination requires that applicants pass the exam in four writings.

CA/O reviewed the pertinent Administrative Rules, and concluded that the Rule cited by the Board does not pertain to applicants for licensure by interstate

endorsement. CA/O suggested to citizen that she petition the Board in writing for reconsideration of her case, which she did. The petition was denied upon the basis of the Rule previously cited.

CA/O then suggested that the citizen hire a private attorney and appeal the ruling in court, which she did. The district court ruled that the Board did not have the authority to deny the applicant licensure under the cited Rule as it pertained only to applicants for licensure by examination. The court directed the Board to reconsider the applicant's application, applying only those Rules applicable. The nursing license was granted and the woman is now employed in a local hospital.

81-270 Inmate at IMR complained that his due process rights on a disciplinary report had been violated because the person who had written the report also sat on the disciplinary committee. CA/O investigated and determined that this had occurred and was a due process violation. CA/O recommended that this report be dismissed and expunged and the inmate's lost time be returned to him. These actions were taken by the institution.

81-271 DSS social worker contacted CA/O on behalf of a client who was attempting to obtain a copy of his birth certificate. The man, now thirty-two years old, is retarded and had been adopted at birth. At age four, when his disability became evident, the adoption was annulled and he was placed at Woodward State Hospital-School.

The worker had been having difficulty in obtaining a copy of the birth certificate for the man. After extensive contact with DSS-Adoption Services, CA/O found that the DOH Vital Statistics section has the authority to remove this birth certificate from the adoptive file so that a copy of it can be obtained when an adoption has been annulled. CA/O put them in touch with the social worker.

81-304 Citizen owns farmland upon which stands a building (tenant house) owned by someone else. The building was sold at auction in settlement of the landowner's parents' estate many years ago. The purchaser intended to move the building but had not done so nor had he paid the property taxes due. The building is now in a state of disrepair and the landowners want to remove it but cannot because they do not own the building and the taxes are unpaid. CA/O contacted county treasurer who agreed if the landowner would obtain permission to destroy the building from the owner, the treasurer would take the matter to the board of supervisors and ask them to forgive the unpaid taxes. This was done and the building was destroyed.

81-316 Inmate in a county jail complained about various jail conditions including leaking showers, insects, improper ventilation, electrical hazards, insufficient heating and unhealthy maintenance of toilet stools.

CA/O reviewed the jail inspection report and then contacted the chief jailer to review each complaint with him. He advised that he had checked and is unaware of any leaks from the showers, that an exterminator is employed monthly, that electrical problems have been addressed by the board of supervisors, that inmates with complaints about heating and ventilation make them known and the complaints are immediately addressed, and that the toilet stools are cleaned by inmates and that inmates have access to mops and buckets, etc.

A follow-up call by CA/O revealed that further inspection was made of stools and that electrical wiring bids had been let for a new electrical system. CA/O so informed prisoner.

81-327 Citizen complained that the city was building a waste water stabilization lagoon 200 feet from a private saddle club. He explained the club leased the ground but that the concession stand on the grounds was owned by the club and was used extensively by residents of the area for various activities. CA/O found that a DEQ rule required that such a system be located at least 1,000 feet from the nearest inhabitable residence, commercial building, or other inhabitable structure. CA/O contacted the city stating that it would appear that building a lagoon in that location was in violation of the rule without a variance or waiver from the saddle club. The rule makes reference to the owner of the building, not the land. There was some confusion in that a representative from the engineering firm contacted CA/O stating that he had checked with DEQ and that he had been assured that the waiver was in order. CA/O initiated a three-way telephone call with DEQ and the engineering firm and found that DEQ was of the impression that the owner of the land was also the owner of the building. CA/O assured them that they were not. The engineering firm stated they would check with the city to verify ownership of the building. The engineer contacted CA/O a few days later confirming that the building was owned by the saddle club and that the council had met and agreed that they would ask the DEQ to waive the 1,000 foot requirement and would explore the possibility of an alternative site. The lagoon site was moved to a different location.

81-345 Inmate complained about not having been given thirty days good time "back". CA/O explained that there is no provision for the return of good time, since it is not automatically granted and must be earned by upholding disciplinary regulations. CA/O informed the inmate that the only way to get good time back on a disciplinary violation is to successfully appeal the report and have it expunged from the record.

81-355 Citizen worked for the U.S. government in Germany where her husband was stationed in the military. Her husband was ordered to Korea. Since she was not a citizen of the country, she was forced to leave. She claimed unemployment benefits in Iowa and received three weeks benefits. She moved on to South Dakota, claimed benefits there and was denied.

CA/O learned that on her claim in South Dakota she indicated that she had voluntarily quit which was the basis for the denial. CA/O explained the appeal process and urged her to file an appeal. CA/O explained that we could not speculate as to how the hearing officer would rule but that consideration would surely be given to the fact that she had no choice but to leave the country.

81-356 Citizen complained that the city was inequitably enforcing its trailer mobile home ordinance. Citizen had received a letter from the city citing an ordinance which makes it illegal for anyone to either park or live in any type of trailer without permission from the mayor unless the trailer is parked in a trailer court. Citizen was given ten days to make alternate living arrangements or to move the trailer into the trailer court. He alleged that although there is a house on the property in question, the trailer is not used as living quarters. He further alleged that many other residents in the city have trailers parked on their property and were not similarly cited.

CA/O reviewed pertinent ordinances and found that although the city does have an ordinance prohibiting the maintaining of two living structures on one lot, the wrong ordinance had been cited by the city in its letter to the citizen. CA/O called the city attorney, who agreed to recommend to the city council that the ordinance referring to the parking of trailers be amended to deal simply with the location of approved mobile home parks.

CA/O then wrote the mayor describing our conversation with the city attorney and asking him to apprise us of the city's position in regard to why the citizen received a notice when other persons having trailers in violation of the ordinance were not similarly served. City attorney responded stating that it was the city's position that the citizen was indeed living in the trailer, since temporary plastic sewer and water lines had been strung to it. The city agreed to withdraw its request under the erroneously cited ordinance, citing the proper ordinance.

CA/O wrote citizen informing him of our contacts with the city. CA/O stated that although the wrong ordinance was originally cited, it was the city's concern that the trailer was occupied in violation of another ordinance. CA/O set forth the allegation that sewer and water lines had been connected to the trailer, stating that in our view, prohibition against occupying the trailer would certainly preclude plumbing facilities, either permanent or temporary, from being used. CA/O stated that the city expected that he would voluntarily comply with the ordinance, so that no further action would have to be taken. CA/O also informed him of the city's intention to amend the ordinance which prohibits the parking of trailers. CA/O asked citizen to inform us if the city's allegation as to temporary occupancy was not accurate. Citizen did not respond.

CA/O received a copy of the amended trailer parking ordinance.

81-372 CA/O was informed that county office of DSS had a policy of refusing General Relief (GR) to Indo-Chinese refugees. CA/O wrote the director asking for the policy and its rationale. He responded that the policy was to deny

benefits to persons who are not citizens of the U.S. The rationale was that the responsibility for these refugees was with the federal government and certain state officials who had invited them to Iowa.

CA/O then contacted the chairman of the board of supervisors, copying all board members and the county director, stating that since state law requires the board to establish rules to discharge its responsibility to provide for relief of the poor, CA/O assumed that the rule excluding these refugees was a result of board action. One member of the board released his copy to the news media. Newspaper articles indicated that the majority of the board members had been unaware of the policy, and that the policy was an action of the welfare commission, not the board. The Civil Rights Commission (CRC) became involved through its affirmative action officer who made appearances before the board telling them that the policy was discriminatory. The director of the Iowa Refugee Center commented publicly that the policy was discriminatory.

The board passed a resolution staying the rule of the welfare commission for thirty days. CA/O wrote a follow-up letter since no response had been received from the county. A deputy director of county DSS vehemently objected to CA/O's requiring a response. His opinion was that since the matter had been addressed in the newspaper our question had been answered. CA/O required a response regardless of what had been printed in the newspaper and then received a copy of the board resolution staying the policy in order to study it, a letter from the county board of social services rescinding the policy, and the minutes of the welfare board rescinding the policy.

81-375 Citizen complained that he had not received credit on his real estate assessment roll for fifteen acres of forest reserve which he had planted in accordance with the provisions for forest reserve tax exemption. CA/O suggested that he file a protest with the Board of Review, which he did. CA/O later learned from the county assessor that the board considered the protest and granted the credit.

81-376 Citizen complained in April that he had not as yet received his income tax refund due to an error in the DOR's computer. CA/O found that there are approximately forty-five thousand returns yet to be processed individually, and that mid to late Summer was the earliest estimate as to when he would receive the refund. CA/O informed citizen that the DOR is required to pay interest on refunds not returned within thirty days after the filing deadline.

81-384 Citizen alleged that DSS had denied Title XIX claim for orthodontia which had been previously approved. CA/O learned that federal regulation requires that special medical coverage be extended to young people in an ADC family until age twenty-one, even though the parent no longer receives ADC payment for that child. The complainant's daughter's continued coverage hinged on her eligibility as a dependent child. In this case the coverage was cancelled because the daughter had left the mother's home. CA/O also found that the form

for prior authorization states that such authorization does not guarantee payment if the patient is not covered at the time the work is done. However, it was determined that this work was completed prior to the recipient being cancelled. Payment was therefore rejected incorrectly and the claim was paid.

81-397 Inmate complained he was not being allowed to practice his religion by the institution. He stated he was Jewish.

CA/O researched the limitations of the practice of Judaism in the correctional institution consulting with a Rabbi on this matter. CA/O clarified the matters in terms of possession of a prayer shawl and dietary restrictions and the inmate was allowed to have certain religious items.

81-408 Father of a young man confined to a wheelchair due to muscular dystrophy complained that DSS was not being responsive in providing paratransit program transportation for his son, and it was alleged that DSS policy required residency in the county for one year for applicants. Because of the requirement, the son was ineligible.

CA/O suggested that the son should formally apply for the program prior to any action by CA/O. He did so and was denied. After inquiry by CA/O and consultation with the county legal department, CA/O received correspondence that the residency policy had been misstated and that the county does practice legal settlement. CA/O was also advised that the citizen's son's application is on file with the county, but that currently the program is full. CA/O advised citizen that there is no one-year residency requirement and that his son's application is on a waiting list. CA/O then made contact with the Commission on Employment of the Handicapped and Vocational Rehabilitation. Various options were explored to secure transportation to and from work for the son. VR counselor arranged for the parents to provide the van with VR providing the driver.

81-413 CA/O was contacted by an engineering firm in the process of drilling a new well for a small town. The old well "gave out" completely and the new one would not be operational for several weeks. The town was in desperate need of a vehicle to haul water from a nearby town. CA/O contacted Disaster Services and through its computer listing of available emergency vehicles throughout the state, found a water tanker purchased by a nearby fire department which was being used as a back-up vehicle. The department offered the vehicle to the town for use as long as it was needed.

81-429 Citizen complained that he had applied for a refund on vehicle registration. When he did not receive the refund, he checked with DOT and found that the warrant had been mailed and cashed, although he did not receive it. CA/O contacted the Treasurer's office for an affidavit of forgery form which was sent to the complainant. The form was completed and a warrant issued in the amount of his refund.

81-443 Citizen complained that his school district administrators had refused to sign his son's application for a minor's school drivers license, although criteria specified were met. CA/O requested an AG's Opinion concerning whether the school administrators have authority to deny the request if criteria specified are met. CA/O also suggested that the citizen appeal the denial to the DPI, which he did. When the AG's Opinion was received, it was ambiguous to the point that a second Opinion request for clarification was made. The school district, in the meantime, granted the application because they had been advised to do so by DPI. The second AG's Opinion was issued, clarifying the first and indicating that school administrators do not have authority to consider criteria other than that specified on the application.

81-446 Director of a retired senior citizen volunteer program contacted CA/O after encountering difficulty in obtaining a raffle license from DOR. Citizen's group wanted to raffle a hope chest filled with handmade items to help pay for volunteers' mileage costs. The director had applied for a gambling license on June 22, 1981 indicating to the local DOR office that the license was needed by July 20, 1981, so that raffle tickets could be sold at the county fair. DOR field personnel assured her that getting the license by that date would be no problem. She filled out the required application and submitted the twenty-five dollar fee.

Several days later, the application and license fee were returned, along with a letter from DOR indicating that due to changes in the Iowa gambling laws effective July 1st, she would have to wait until after July 1st and apply under the new law. In addition to submitting the new application, she would have to submit extensive credit reference and federal income tax information that she had not been required to submit under the old law, and an increased one hundred dollar fee.

CA/O learned that DOR had sent back all applications submitted within the last two weeks of June and indicated to the applicants that they would have to apply according to the new law after July 1st.

Citizen indicated that she was perfectly willing to do this, but that no one in the field office seemed to be able to help her in securing the extensive information which was required.

CA/O contacted the director of the Sales Tax Division, and learned that they would accept an application for IRS 501C.3 Tax Status. Ordinarily, they required certification be received from the IRS in this regard, which takes approximately three months.

Due to the deadline involved and the extensiveness of the newly required information, CA/O travelled to Mason City to make sure that the application was complete.

CA/O met with the director of the Sales Tax Division to process the application due to the unique circumstances, although DOR had suspended issuing any gambling licenses due to court challenges of the new law. CA/O walked the application

through the certification process and the license was issued according to the new law. Tickets were sold at the county fair as planned, and CA/O later learned that the raffle cleared around two thousand dollars for mileage money for the volunteers.

81-463 ISP inmate complained that the 30-day review of lockup status was not being handled properly. Inmates, he alleged, were not given written dispositions on the review, as required by statute. CA/O asked the warden to provide written dispositions to inmates following the reviews. This was done.

81-480 Citizen complained about the city's fifteen dollar service charge for final readout of utilities. CA/O reviewed the ordinance which provides for the charge, and informed citizen that nothing in state law prohibits such a charge as long as it is properly established which this appeared to be. Subsequently, citizen informed CA/O that the ordinance was approved on June 1, 1981 and that her final readout had been on May 29th. She sent CA/O a copy of the billing indicating that the readout was in fact May 29th. CA/O then wrote the mayor, questioning whether the service charge is applicable. Mayor responded that the charge to the citizen was in error to which the city apologized. She indicated that they would check the readout charges for that period of time to make sure that other errors had not been made.

81-538 Citizen complained that buildings at the state fairgrounds were not properly designated smoking/no smoking areas as required by the Code. CA/O contacted Fair Board and it voted to comply with the regulation and indicated to CA/O that signs would be posted in the fairgrounds buildings in the near future.

81-556 Citizen complained that the city had inequitably imposed an eight-ton road embargo on the joint city-county road where he lives. He complained that he is the only person against whom enforcement action has been taken, as he drives a sixteen-ton semi.

CA/O stated that nothing in state law would prohibit the city from imposing such an embargo, as long as the jurisdiction was agreeable to the county and the restriction was equitably enforced and properly established. CA/O set forth a complaint that the embargo had been selectively enforced to the mayor and inquired about the jurisdiction. Mayor responded that the city is responsible for maintenance of that portion of the road inside the city limits, and explained that the embargo had been established by a city ordinance. He explained that the enforcement action had been taken against the citizen, as he was the only one who had been in violation of the ordinance.

CA/O informed citizen indicating that we saw nothing further that CA/O could do as the embargo was properly passed, unless he provided substantiation to his claim that it is being inequitably enforced. No substantiation was provided.

81-558 Citizen who was refused the services of a notary public because he was not a customer of the establishment by which the notary was employed, contacted CA/O concerning discretion accorded notary publics in the state. CA/O researched the problem and eventually requested an AG's Opinion on such discretion. The Opinion indicated that a notary may exercise discretion, may decline the exercise of notarial services, and may condition the exercise of services on the requirement that the person served be a customer or client of the establishment by which the notary is employed.

81-571 CA/O was contacted by an inmate at IWR with two problems. First, she had extremely severe dental problems and was suffering pain. CA/O requested that she be seen by a dentist, subsequently she was and dental care provided. She also complained that during the course of her arrest, certain items of her personal property were confiscated by the police and not returned. CA/O made inquiry to the local police department and they cooperated in returning her property.

81-580 Non-resident of an Iowa city complained about a city ordinance charging all properties a monthly sewer fee, even though they may not be connected to municipal sewer. CA/O researched the matter and informed citizen that the city has statutory authority to assess every property a fee, even though the properties may not be connected.

81-593 Recipient of low-income energy assistance program had received a check from local community action agency for \$170.50, which apparently was the unused portion of the grant for which she had been eligible early in the year. She cashed the check, as she was encouraged to do by the community action agency. She was then informed that the payment had been in error, an overpayment, and that she was obligated to reimburse the program, even though the error was not her fault. The agency was willing to negotiate a reasonable repayment schedule. CA/O contacted community action agency, asking what their authority was for requiring reimbursement for erroneous overpayment. None was cited. The director informed CA/O that reimbursement would not be pursued against the citizen.

81-599 Citizen complained that she had not received reimbursement for an ADC check that was stolen earlier in the year. CA/O made several contacts in this regard which yielded erroneous information.

CA/O then contacted the central payroll office, who agreed to trace the check. They did so and learned that it had been sitting in a local office and that the client could pick it up at any time. She was so informed and secured the check.

81-614 Wife of county jail inmate complained that the new telephone procedure used by the jail was causing their family undue financial hardship. In this procedure, calls are charged to the phone which the inmate calls. Prior to this, inmates made calls from a pay telephone located on the jail tiers, which required

that they be escorted to the telephone by jail personnel. The new telephone procedure allows all inmates ready access to a telephone just outside the bars of their cells. CA/O examined the procedure and found that it saves the expense of escorting inmates to the telephone, avoids potential physical confrontation and significantly reduces the probability of vandalism to telephones. Generally, it is less costly to the operation of the jail. CA/O substantiated that the charge was approved by ICC. CA/O explained the reasons for the change to the complainant.

81-640 Citizen complained that DSS had not yet notified him of a decision on an appeal of a denial of re-application for foster family license he had made in June. Administrative Rule requires that the citizen be notified of the decision within ninety days. More than ninety days had elapsed. CA/O contacted DSS, and learned that a decision was expected shortly. CA/O so advised citizen, asking him to call again in a week if he had not received it. He called, and CA/O then wrote the hearing officer citing the ninety day requirement, asking when the citizen might reasonably expect to receive notification.

The hearing officer then responded that a decision had been made and mailed to the citizen.

81-643 Citizen alleged that he was being discriminated against in employment because he is an ex-felon. He had filed a complaint with the CRC and it refused to act on the complaint. CA/O explained that the Civil Rights Law does not specify ex-felons as a protected class. Therefore, CRC was correct in refusing investigation. CA/O explained various options available for restoration of certain rights and provided citizen the name of an organization whose purpose is to assist ex-offenders in search of employment.

81-646 Citizen had contacted DEQ and was told that a recreational bonfire for children on beggar's night would constitute a circumvention of the open burning law. Citizen intended to burn split firewood. CA/O contacted DEQ and explained that we had difficulty considering split firewood landscape waste. CA/O was informed that they had checked with the AG and had advised the citizen accordingly. CA/O then checked DEQ Rules and found that open burning was described and provisions existed for application for a variance for recreational fires. CA/O advised the complainant to apply for the variance. He did so that same day and the permit was issued without question.

CA/O then wrote DEQ and asked that we be apprised of its position on recreational fires and why the complainant was originally denied and later the same day granted the variance. They responded by saying that it was their understanding that the complainant planned to burn branches and was therefore told the fire would be in violation of the ban. CA/O was assured that DEQ was taking necessary steps to avoid issuing conflicting information in the future.

81-668 Citizen complained about delays in receiving an answer from the Iowa Board of Nursing on her request for hand-scoring of her Board examination. CA/O requested an explanation from the Board of its procedures for the handling of

correspondence concerning hand-scoring. The Board responded indicating that its investigation had found the complaint about delays justified and apologized for the manner in which the request was handled. CA/O transmitted the Board's finding to the citizen.

81-677 Citizen complained that he was inmeshed in the courts by virtue of a mistaken identity and confusion with another individual of the same name. He had mistakenly been served with an order for child support by the DSS Child Support Recovery Unit (CSRU). CA/O contacted the Unit and explained the problem. Documentation and substantiation were provided and the matter was cleared up.

81-703 An automobile distributor wholesaler alleged that he had been unfairly denied dealer plates by DOT. His assumption was based on an AG Opinion that such businesses would be considered a dealership for the purpose of safety inspections. DOT's position was based on the concept that wholesalers are not dealers and only retail dealers are allowed the plates. CA/O obtained a memo from the Assistant AG who had written the Opinion which indicated that the wholesaler was being construed as a dealer for the purpose of inspection only. Since persons engaged in distributing or wholesaling vehicles are not involved in retail selling, they are not eligible for dealer plates. CA/O so notified the citizen.

81-705 Inmate at IWR stated she was awaiting written confirmation from California for credit for time served in a California jail while awaiting transfer to Iowa and had encountered undue delays.

CA/O suggested that IWR use a teletype to get this information. IWR used a teletype machine belonging to a local police department and obtained the confirmation. The inmate was then released.

81-721 Citizen complained of a delay in receiving UI benefits because of state holidays. He asserted the theory that UI checks should be processed ahead of time in anticipation of a holiday, as are SS and VA checks. CA/O reviewed the matter with JS and learned that checks could not be processed in advance because unemployment eligibility hinges on each individual claimant's demonstration that he is ready and available for work and is actively seeking employment. These facts are evidenced by the weekly claim card. Checks are issued in the same sequence as claim cards are received. JS does not know until the card is received that the claimant is filing for benefits for that week. If the claimant found work or if he were ill or injured and could not work he would not be claiming benefits. If he worked part of a week he would be obligated to report those earnings thereby altering the amount of the benefits due. CA/O concluded that although SS and VA benefits are processed early prior to holidays, those benefits are constant and are not subject to weekly eligibility requirements. CA/O concluded that JS could not avoid the holiday delay for these reasons.

81-727 Citizen alleged that a number of dogs were running loose, in violation of city ordinance, and that they were a threat to school children, particularly through the noon hour when kindergarten children were going to and from school. Citizen had contacted the City Animal Control Department on numerous occasions but the situation persisted. CA/O visited the site and observed no fewer than twelve dogs running at large. CA/O photographed nine of these dogs and noted the coloring and location and the time of all sightings. During this investigation and observation CA/O was confronted by a rather aggressive large German shepherd. CA/O then contacted the city in the citizen's behalf. We were assured that immediate action would be taken. A few days later a follow-up on-site was made and no dogs were observed running at large. It appears that now that the Animal Control Unit is actively patrolling the area in an attempt to rectify the problem and residents in the area are observing the tie-up law.

81-734 Citizen complained about mandatory participation in a utility rate research project conducted under the authority of the ICC. The project was to experiment with time of day rates and could result in increased rates as well as a \$5.00 per month "metering charge".

CA/O contacted ICC and learned that new rules were under consideration to ameliorate the burdensome effects of such projects.

ICC abolished the metering charge and established a hearing procedure to allow individual exemption from the program for specific hardships. The ICC reaffirmed the mandatory participation in such projects to assure a fair and random test result.

81-741 Student at a community college complained about difficulties encountered in dropping her courses. She had apparently attempted to drop all courses on the last recognized day for doing so but was now being forced to take "W's" instead of dropping the courses as she was unable to contact her student advisor.

CA/O put the student in touch with the community college "Ombudsman" and he arranged that the failing grades would be removed and that she could continue the ensuing semester if she wished.

81-775 Citizen complained that since food stamps mailed to her had been lost or stolen she was being required by DSS to claim her stamps from the local office for a period of six months, as per DSS policy to prevent continued theft or fraud. Citizen explained that she had no way to get to the DSS office due to physical disabilities.

CA/O contacted DSS and paratransit transportation was arranged.

81-777 Failure of the AEA and the local public school to provide tutoring assistance to a homebound student in a parochial school was reported to CA/O. CA/O contacted DPI and homebound services were provided.

82-2 Citizen complained about the inaction of the State Fair Police and other law enforcement agencies in conducting an investigation into the killing of citizen's horse. Citizen owns several horses housed at the state fairgrounds in return for rent paid by the citizen. On Christmas eve, citizen's horse was stabbed but not killed. Citizen reported this to the State Fair Police. Then on 12/30/81 citizen discovered her horse dead, apparently shot four or five times. Citizen again contacted the State Fair Police, the State Fair Board, and other law enforcement agencies including the county attorney. Citizen claimed she could get no one to take responsibility for an investigation. CA/O contacted the DCI which informed CA/O that they had responsibility for the fairgrounds and would conduct an investigation.

82-15 Citizen alleged that she was required by her WIN worker to apply for an Iowa guaranteed student loan and the loan was granted. DSS was of the opinion that funds from the loan would not be totally exempt from income in calculating the amount of her AFDC grant. As a result, citizen's monthly grant was reduced significantly and she was informed that she would be required to repay an overpayment for two months. CA/O contacted DSS and was informed that it was the Department's interpretation that funds from the grant would have to be considered in calculating an ADC award. However, DSS checked with the federal agency and that agency notified DSS that the total amount of the grant is exempt and should not be used as income. The grant was reinstated and citizen was informed that she would not be responsible for what had earlier been determined to be an overpayment.

82-37 Citizen, required to take an insurance examination prior to taking a position as a salesman, was notified that his admission slip for the test was being referred to a conduct committee for investigation because of an arrest on his record. Citizen was concerned because of the length of time it was taking and the possibility of losing the opportunity for the job which he needed badly. CA/O researched the Rules and found no reference to a conduct committee. The Rules specified that the applicant should allow four days mailing time each way plus five working days in the Division for processing. There were no exceptions for applications under consideration by the conduct committee.

CA/O contacted the Insurance Commission and was informed that the conduct committee had been formed after the Rules had been written and that the Rules would be updated to reflect the function of this committee. A review of this particular situation indicated that an unusually long period of time had elapsed. Therefore, the Department processed the admission slip and CA/O notified citizen that he had been approved to sit for the test and his admission slip had been mailed.

82-39 CA/O learned that the CC required metal detector operators to obtain a permit, for which there was no charge, and to follow certain rules and regulations, including an "open season" when using detectors in state parks. CA/O could not find authority for these rules specifically other than the general management and control of state parks. There were no Rules published under the IAPA and

CA/O recommended that Rules be promulgated. Rules were drafted, revised, and promulgated. All parties were satisfied that their interests and responsibilities had adequately been spoken to in the Rules.

82-42 Resident in a correctional work release program complained that because of bad weather he had been laid off from his construction job and, as a result, his return to ISP was imminent. CA/O made inquiry and learned that the resident was a good worker who had been steadily employed, and that he was laid off only because of the bad weather and that the employer would rehire him as soon as the weather permitted. Nevertheless, resident was facing imminent return to ISP. This was confirmed by the director of the work release center. CA/O then contacted the Division of Adult Corrections and was assured that there was no push to return residents in this individual's situation to prison, as the Division is aware of the difficulty in securing employment and is attempting to work with residents involved. CA/O checked back with the resident and learned that he was enrolled in a job-seeking program which effectively erased the threat of return to prison.

82-50 Citizen contacted CA/O with a complaint concerning the repair of city water lines that were frozen. Citizen complained that although city ordinance requires that the city shall "maintain the lateral line from the water main to and including the stop box", the city refused to pay the cost of the repair of the citizen's water line which froze under the street and beyond the stop box. Citizen met unsuccessfully with city officials to resolve this matter as the city claimed that all bills and costs of repairing the line were the citizen's. CA/O wrote the city requesting a copy of the pertinent ordinance. The city attorney responded, indicating that the city would pay for the repairs to the water line in question, not because of the city code but because the city had failed to provide citizen with notice by publication for two consecutive weeks. The city will thus bear the cost of the repair of the water line.

82-71 Citizen alleged that a school district continues to transport children in two vans neither of which passed DPI safety inspection for the last two years. He stated the vans were extremely dangerous. He alleged that the school district gives the drivers no options other than to drive them. He stated that he had taken the matter to the superintendent of transportation, the safety director and the administration but they continued to drive the vehicles. CA/O reviewed the statute requiring DPI to inspect vehicles used to transport school children and checked with DPI to verify whether the two vans in question had, in fact, failed to pass inspection. CA/O learned that they had not. The first thing the next morning the complainant telephoned CA/O to say that the vans had been pulled off the road. He informed CA/O that he would keep an eye on the situation and contact us if the vans were in use again. DPI transportation director informed CA/O that the vans in question were unserviceable and that the school district had been so notified. He agreed that the vans were in terrible shape and stated that DPI would monitor to be certain that they were not put back in use.

82-82 Citizen, an applicant for LIHEAP, complained that her application was not accepted because she did not file a 1981 income tax return. Citizen and her husband's only income is his SS disability of \$432 a month and his veterans pension of \$178 per month. Both of these are tax free and thus it is unnecessary to file federal income tax returns. Citizen occasionally sells rag rugs that she makes, but does not make enough money to be required to file income tax, as she makes less than \$400 per year. CA/O contacted LIHEAP coordinator and verified with the IRS that no tax return is necessary on veterans pension and SS disability monies. The self employment limit is \$400. LIHEAP coordinator contacted local office. Local office staff contacted applicant, and indicated that as citizens were exempt from filing a return, their application would be accepted without the return. Application was accepted, and assistance received.

82-96 Citizen complained that a creditor had garnished AFDC monies which she had directly deposited into a checking account. Citizen inquired whether this was allowed. CA/O researched the matter and it appeared that AFDC funds deposited into a checking account are not subject to garnishment. CA/O contacted AG's office, but Assistant AG did not know whether or not AFDC funds were subject to garnishment. CA/O was referred by AG to Legal Services. CA/O then contacted Legal Services, and that contact proved inconclusive. CA/O then learned from citizen that her problem had been settled with the creditor by paying \$100 and that the matter as far as she was concerned was settled. However, CA/O saw an issue that affects many AFDC recipients in the State of Iowa and determined to pursue the matter further. CA/O then contacted DSS, and learned that although there is no notice of whether or not funds are subject to garnishment on the AFDC application form, DSS informed CA/O that recipients are given oral notice of the fact that their monies might be subject to garnishment. Although the application and the deposit agreement for automatic deposit of AFDC funds are silent in regard to garnishment of funds, DSS maintained that such funds are subject to garnishment. CA/O then requested an AG's Opinion to settle the issue. The Opinion was issued, holding that AFDC funds deposited directly into a checking account are not subject to garnishment as long as the funds are used for meeting current living expenses and are not characterized as permanent investments. CA/O then wrote DSS, County Legal Aid, and Legal Services and furnished them a copy of the AG's Opinion, suggesting that DSS advise AFDC recipients according to the Opinion issued.

82-119 ISP inmate complained that during a cell "shakedown" (search for contraband) certain religious materials including a King James Bible and a rosary had been taken from his personal property. CA/O contacted ISP and informed them that case law regarding religious freedom indicates that religious material cannot be confiscated in this manner. Materials were returned to inmate the same day.

82-122 Owner of a small town movie theater complained that he was being inappropriately denied an excise tax permit and that he was being required to pay a bond of \$750 minimum for delinquent excise tax collections from the previous owner of

the theater who had defaulted on a purchase of the theater from this citizen under contract. CA/O contacted DOR, and they agreed to look into this matter at CA/O's request. Subsequently, a compromise was reached. The complainant had some delinquencies of excise tax payment during his previous ownership and operation of the theater. He was therefore being asked to present a bond of \$250 and a permit would be provided and approved under those circumstances.

82-187 IWR inmate complained that her arthritis medication was discontinued for no apparent reason. She complained that the medication she was prescribed instead was not as effective for pain relief. CA/O made inquiry to the Nursing Supervisor and learned that the inmate was taken off the original prescribed medication as it is not included in the Division of Adult Corrections (DA) approved drug formulary. The Nursing Supervisor indicated that she would ask the doctor to consider whether a formulary exception request, which would allow the medication to be prescribed, was necessary. The doctor reviewed the situation, and signed an exception request.

82-210 Citizen complained that she was unable to obtain a correction on her birth certificate for a misspelling of her last name. Apparently citizen's name was spelled incorrectly with a "v" and citizen wanted this corrected to the correct spelling with a "u". Citizen had made repeated attempts to get the error changed unsuccessfully. CA/O intervened, as citizen had produced SS documents proving that the spelling was in error, and the corrected certificate was issued.

82-220 The Iowa Board of Nursing changed its method of testing nurses for licensure and failed to have that change reflected in the Administrative Rules prior to making the changeover. Under existing Rules tests were given in five parts. If an applicant failed one or two parts, he or she was allowed to test only for those parts previously failed, at the next examining period. Our complainant failed two parts of the test and was prepared to take only those two sections when she learned that under the new Rules she would be required to take the overall test for licensure. The tests are uniform throughout the United States and provided by the National Council of State Boards of Nursing and when an applicant passes the test in one state he or she would be recognized as eligible for endorsement in any other state. As of 1982 the National Council did not recognize partial examinations. CA/O negotiated with the Nursing Board attempting to find a logical resolution. However, there was no viable alternative to sitting for the entire test. CA/O found that resisting a Rule change would only burden new applicants and would serve no purpose since it is essential that Iowa continue in the National Council and in order to do so they must promulgate Rules accordingly. If the graduates are to enjoy endorsement with other states they must sit for the national exam. CA/O examined the possibility of purchasing test questions from the National Council and the possibility of a Board constructed examination, neither of which seemed to be economically feasible nor would they provide the endorsement with other states. The applicant would not be recognized in any other state. The only reasonable alternative was for our

complainant to sit for the overall exam which she did. Unfortunately on a follow-up CA/O found that she failed that examination also. It is clear that the Board failed to have Rules in place as they should have, although much information had been provided through the schools of nursing of the impending change in the testing procedures. CA/O considered this to be a case where there was no satisfactory resolution.

82-222 Citizen contacted CA/O concerning the DSS cheese distribution program. Apparently the program was threatened with termination because DSS was not maintaining the storage of cheese at a 45 degree temperature as required. CA/O researched the matter and found that the DOA has a statute requiring that "milk products" be stored at a temperature of 45 degrees. However, in an earlier chapter cheese was specifically excluded from the definition of milk products. CA/O then contacted the DOA and inquired whether the problem was arising from the Code section requiring 45 degrees. The DOA representative indicated that there was no problem. As on the same day there had been a newspaper article on this situation in depth, indicating that there was some disagreement between the DOA and the DSS in the handling of cheese, CA/O contacted DSS Commissioner's office. They agreed to check into the situation. In the meantime, the DOA had agreed not to confiscate or impound any cheese. At that time the DSS had not determined whether the Code section requiring 45 degree storage was applicable. After extensive contact with DOA, DSS and the AG's office, it was determined that the 45 degree requirement did not apply and that it was only a guideline. Upon further research, CA/O learned that there were federal Food and Drug Administration guidelines providing that cheese not be stored for any period of time over 70 degrees. It was then determined that the 45 degree requirement did not apply, and an AG's Opinion was issued in this regard. The cheese distribution continued uninterrupted.

82-246 Inmate complained that he had lost 680 days of good and honor time resulting from a disciplinary report which he received subsequent to his having been tried and acquitted in court on the same alleged offense. CA/O reviewed this matter and determined that the loss of 680 days of good time was not appropriate. CA/O contacted the DAC and it was agreed that the time loss was inappropriate. The time loss was cut back from 680 days to 96 days.

82-261 Citizen's federal income tax refund was withheld by the IRS to satisfy delinquent child support. A wage assignment had been placed against the complainant by the Friend of the Court and deductions were being made weekly from his paycheck. Once notice had been provided that an amount being held was significantly more than the amount owed, CA/O was successful in getting the wage assignment dropped. The adjustment could not be made until the actual funds were received back in the state from IRS. The citizen contacted CA/O at the time of the adjustment and reported that CSRU withheld more than the amount owing. The complainant was able to document through payroll deduction slips that \$50.00 had inappropriately been held. CA/O contacted the Friend of the Court and was informed that the \$50.00 had been assessed as interest. The law

gives the court the authority to assess interest on such accounts, however CA/O's concern was that the interest had been assessed arbitrarily. CA/O corresponded with the Friend of the Court citing case law and explained that we did not question the authority to collect interest, but expressed concern with the criteria, policy and procedures for such assessments. CA/O explained that in the absence of any procedures which would apply equally and uniformly to all, we would question the appropriateness of the assessment since it would appear to be arbitrary. The Friend of the Court responded stating that the matter was solely within the discretion of the CSRU and that they would be consulting with the AG's office for advisement. CA/O followed-up with CSRU and received a letter stating it had not been the practice throughout the state to collect interest in such situations. CSRU, therefore, recomputed our complainant's account and determined that there was an overpayment of \$50.00 which was returned to him.

82-265 ISP inmates in honor lifer status contacted CA/O about their concerns in reference to decreased inmate control of the Hobby Craft Shop and night yard time for the honor lifers.

CA/O corresponded with ISP Warden in this regard, and several compromises were made allowing the honor lifers more yard time and greater control of the Hobby Craft Shop.

82-275 Citizen, a farmer, complained that his cornfield was searched by a National Guard helicopter for a fugitive who had fled from custody after shooting two policemen. Search did not turn up suspect but did damage citizen's corn crop. Citizen had sought reimbursement but neither state, nor county, nor city would assume responsibility. CA/O telephoned State Appeal Board to learn status of citizen's claim against the state for damage done by helicopter. CA/O was informed that the Board had denied the claim the preceding day upon advice of AG's office. CA/O then discussed this matter with an Assistant AG, who argued that this was not purely a state liability, and that citizen should seek reimbursement from city and/or county. He stated that if the city or county would agree to share liability and citizen would reduce his claim that the AG's office might modify its recommendation against payment. CA/O asked for documents and copy of AG's letter to the city and county outlining compromise. Both city and county denied responsibility. Citizen attempted to file against county independently to no avail. CA/O then initiated independent investigation. County Sheriff acknowledged he had requested State and National Guard assistance. National Guard acknowledged that National Guard helicopters caused damage and that they were on duty due to gubernatorial orders upon local authority request. CA/O informed the Appeal Board that they should reconsider farmer's claim and arranged meeting date. Citizen, State Representative and CA/O appeared. CA/O stated that since damage had been caused by National Guard helicopter on official business under the orders from the Governor to assist local authorities, the state should assume responsibility for any damages associated with that portion of the search. Burden should not be upon citizen. Appeal Board agreed and approved payment. The Board also directed Assistant AG to work out compromise sharing of liability with county and city. Reimbursement was made to citizen.

82-319 ISP inmate complained that it was the intention of the institution to close the inmate-managed souvenir shop. Upon inquiry, CA/O learned that it was not the institution's intention to close the shop, but rather to move it to another location due to construction of the new hospital and visiting complex. Several alternate locations were discussed and an appropriate one was located. Inmates were informed that the location would be tried for 90 days. After that period of time, CA/O reviewed the results of this move with ISP Warden, Business Manager and the complaining inmate. It was discovered that the inmates had lost no substantial amount of profit as a result of this move and, in fact, business appeared to be on the upswing during the pre-holiday season. CA/O so informed complainant.

82-330 CA/O received a letter from the Property Management Division of the DAC requesting assistance from CA/O in detecting and correcting possible fire hazards at ISP. CA/O reviewed Fire Marshal's reports and discussed the matter with ISP Warden and DAC Director. CA/O then reviewed fire safety on a site visit to ISP. A letter of recommendation on two items was then sent to ISP, including safety and security precautions for handling of paint, paint thinner and stripper in the Prison Industries area and oxygen in the acetylene canisters in the welding shop. Warden subsequently informed CA/O that arrangements had been made for the paints and related items in the Industries building and that the oxygen and acetylene canisters in the welding shop had been removed from the general inmate traffic area into a fireproof area and chained to the wall.

82-343 Citizen participated in a mass sign-up for UI benefits resulting from a plant closing. In the resultant confusion he neglected to complete his address on the form. He also signed and turned in a form indicating that he had received severance pay which he had not received. These errors were not caught by JS personnel in accepting his application for benefits. Because the records indicated that he had received severance pay and the fact that he did not appeal timely, because JS made an assumption that the street number on his application form was a box number, he did not receive proper notice. CA/O reviewed copies of his claim and talked with local JS personnel who agreed that he should have received benefits but because of errors he did not. The file was remanded for a rehearing. CA/O alerted local JS persons who had agreed to go on the line for a telephone hearing in the citizen's behalf and JS administration personnel who agreed to testify to the contents of the file. A telephone hearing was held and citizen was awarded benefits.

82-346 An insurance agent informed CA/O that the State Insurance Department had informed him that he was being assessed an additional \$10.00 to maintain his license, in spite of the fact that his current license was valid. CA/O contacted the Insurance Department and found that the Legislature had passed legislation which would change the system of licensing agents. Under the old system the company paid license fees for individual agents and under the new system agents were paying for their own license at the rate of \$10.00 per year. The Department had taken the position that the change in the statute cancelled the existing

licenses requiring new ones. CA/O wrote the Insurance Department explaining that based on the general savings provision in Section 4.13 of the Code, we felt the imposition of the license fee to be inappropriate. The Department explained that there was no way that they could discontinue the new licensing procedure because it was already in process. However, the Department amended its original position extending the time period for the new license expiration date to one year from the date that the old license would have expired. Further, they agreed to extend the date for receipt of the fee and agreed to accept personal checks.

82-357 DSS informed citizen that she would possibly lose food stamps and SSI because she owned a lake property. Citizen informed CA/O that she had consulted with an attorney in regard to the property because the title was questionable and the citizen did not have a deed to the property. She, of course, could not sell the property without a title. CA/O talked with the attorney and he agreed to write DSS explaining that the property ownership was in doubt and that without a title the citizen could not possibly sell the property. Upon receipt of the letter DSS informed CA/O that the letter of explanation was sufficient to maintain services.

82-371 Citizen complained that his neighbor's property was in violation of residential zoning regulations. He indicated that the property was being used as a junkyard. CA/O contacted the county planning and zoning. An inspector inspected the property and found it to be in violation of residential zoning requirements. Property owners were sent a notice of violation requiring them to begin corrective action within two weeks. Follow-up inspection found that many improvements were made, and the property was brought into compliance.

82-372 Citizen alleged that she was without food stamps because the stamps which were mailed to the local office were not received by the local office. She received a letter stating that a federal government rule stated that re-issuance could not be made more than twice in a six month period. A few months prior a reissuance of food stamps was necessary and during that same month there was a reissuance because of a stuffing error on the part of the Department. From that time on the stamps were sent to the local office and she picked them up there. Therefore, two of the situations which required reissuance of stamps were the fault of the Department and not the citizen. CA/O contacted DSS in citizen's behalf and was originally informed that it made no difference who made the error, there was no way that the stamps could be reissued. CA/O explained that this seemed highly irregular that the recipient would be denied service because of errors by the agency and asked for a copy of the regulation in question. CA/O found that the regs do allow reissuance when the problem is created by the agency. DSS agreed to include this information in their Employee's Manual to avoid any future situations of this type. The food stamps were reissued.

82-406 When citizen receiving unemployment benefits moved, he informed JS of the change of address. JS erred on the street name in changing their records and two unemployment checks were sent to the wrong address. Citizen told CA/O

that she could get food for the weekend at the Food Kitchen but had no way to get there. CA/O took her to the Center. She was provided with food and an order for gasoline. CA/O contacted JS and was informed that they couldn't do anything about it until the checks were returned. CA/O checked the city directory and found that there was such an address and that we, therefore, were not dealing with a simple non-deliverable situation, but that the checks could very well be tied up since they may have been taken into the house. JS did agree to send out someone from their Fraud Squad to attempt to locate the checks. They were unable to do so. JS then contacted the complainants and explained that they could either wait to see if the checks were returned or stop payment on them and reissue them. The complainant elected to stop payment and reissue.

82-409 ISP inmate complained that subsequent to the September 1981 riot the weight-lifting equipment was removed and inmates have not had access to the equipment for over one year. Inmate complained that the only response he had received from the institution on this was that new weight-lifting equipment had been ordered. CA/O noted that there are some security concerns about weight-lifting equipment, but that the weight-lifters traditionally have not misused the equipment. Specifically, CA/O was concerned with the weights which could be thrown or used as weapons. CA/O corresponded with ISP Warden in this regard. He responded that equipment locks had been ordered. The locks were received, and the weight-lifting equipment was placed so that inmates would have access to it.

82-423 ISP inmate complained that he had not received appropriate credit for four months of time that he had been held in a county jail. CA/O made inquiry with ISP Registrar and learned that the institution had never seen this credit ordered. CA/O then contacted the county jail and learned that there were two criminal causes in this matter. On one cause, inmate had received 127 days of credit, however, this occurred prior to the second charge and the inmate pled to a reduced charge on the second criminal cause and had subsequently been back in jail on the dates mentioned on criminal cause number one and in fact served 114 more days. The county jail staff agreed that there was an error in the credit, which they corrected. A letter of correction was sent to ISP Registrar, and the additional time was credited.

82-427 Citizen complained that the City Fire Chief sounded the siren twice each day for testing, once at 7:00 a.m. and once at 6:00 p.m. She alleged that the firemen had beepers and that it was unnecessary to use the siren at all, particularly since it was located in the downtown area and nearly all the firemen lived in a suburb. The complainant had circulated a petition and presented it to the Council with 166 signatures. The petition specifically asked that the firemen be provided with beepers and that the whistle be tested only once a day at noon or at 6:00 p.m. The matter came before the Council and died for lack of a second. CA/O contacted the Fire Service Extension Office at Iowa State University and they agreed to contact the Mayor and the Fire Chief and evaluate the system. Ultimately the 7:00 a.m. testing was discontinued. However, it was determined that the siren would still have to be used in emergencies.

82-443 ISP inmate complained that he had not received medical idle pay to which he was entitled. He was not able to work for several months, as he fell in the prison kitchen and suffered a severe skull fracture. CA/O reviewed ISP policies and found that when inmates are injured through no fault of their own they shall receive pay as if they were in fact working. CA/O contacted ISP Warden in this regard, and he assigned staff to review the matter. The \$208.00 due the inmate was credited to his account.

82-459 Citizen alleged that a female resident at IJH had been beaten by a staff person there and sustained injuries.

CA/O learned upon inquiry that the female subject was 16 years of age, and had been adjudicated as a child in need of assistance. CA/O requested a report of the incident from IJH Director. After reviewing the incident report, CA/O conducted an on-site visit to the facility and interviewed subject and staff persons involved. It was determined that the subject and three other female juveniles were in the process of absconding from the IJH premises when the incident occurred; injuries received were minor and occurred in the process of a Youth Service Worker physically apprehending the subject. Although a written reprimand was placed in the Youth Service Worker's personnel file regarding his handling of the incident, the allegations that the subject was intentionally beaten were not substantiated.

CA/O issued an investigative report upon conclusion of investigation. The report included recommendations designed to prevent situations such as this from occurring in the future, including a recommendation that all security staff at IJH be trained in methods of successful restraint. It was further recommended that a course on how to handle stressful situations might be helpful. Complainant was advised of the contents of the report.
