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STATE OF IOWA

CITIZENS' AIDE/OMBUDSMAN  
CAPITOL COMPLEX  
215 EAST 7TH STREET  
DES MOINES, IOWA 50319-0231  
(515) 281-3592



WILLIAM P. ANGRICK II  
CITIZENS' AIDE / OMBUDSMAN

In reply, please refer to:

October 28, 1992

1400RS

DEC 11 1992

ACQUISITIONS

The Honorable Terry E. Branstad, Governor  
State Capitol  
Local

Dear Governor Branstad:

Pursuant to Iowa Code Section 601G.18, I am pleased to submit to you the annual report of the Citizens' Aide/Ombudsman for calendar year 1991.

Sincerely,

*William P. Angrick II*  
William P. Angrick II

WPA:ml

Enclosure

139752

U.S. Department of Justice  
National Institute of Justice

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Iowa Citizens' Aide/Ombudsman

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WILLIAM P. ANGRICK II  
CITIZENS' AIDE / OMBUDSMAN

In reply, please refer to:

October 28, 1992

The Honorable Michael Gronstal  
President of the Senate  
State Capitol  
Local

Dear Senator Gronstal:

Pursuant to Iowa Code Section 601G.18, I am pleased to submit to you the annual report of the Citizens' Aide/Ombudsman for calendar year 1991.

Sincerely,



William P. Angrick II

WPA:ml

Enclosure

STATE OF IOWA

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WILLIAM P. ANGRICK II  
CITIZENS' AIDE / OMBUDSMAN

In reply, please refer to:

October 28, 1992

The Honorable Robert Arnould  
Speaker of the House  
State Capitol  
Local

Dear Speaker Arnould:

Pursuant to Iowa Code Section 601G.18, I am pleased to submit to you the annual report of the Citizens' Aide/Ombudsman for calendar year 1991.

Sincerely,

  
William P. Angrick II

WPA:ml

Enclosure

## ANNUAL REPORT NARRATIVE

During the calendar year 1991 the office of Citizens' Aide/Ombudsman received 4,689 contacts from individuals with complaints or requests for information. These contacts were received from each of the 99 Iowa counties, 34 states, the District of Columbia and five foreign countries. A map illustrating the geographic distribution of the contacts originating from Iowa is included elsewhere in this report.

Individuals may contact the office by telephone, TDD, FAX, mail or in person. Flexibility is sought and there are no initial forms to complete. However, written complaints may be requested when the issues are detailed, complex or sensitive. Written complaints are generally requested for complaints dealing with law enforcement. During 1991 contacts were initiated with the office in the following proportions:

<u>SOURCE</u>	<u>TOTAL</u>	<u>PERCENT</u>
Telephone	3,559	76%
Institutional Visit	620	13%
Mail	428	9%
Office Visit	67	1%
Self-Initiated	14	less than 1%
Site Visit	1	less than 1%
	<u>4,689</u>	<u>100%</u>

In 1991 approximately 17 percent of the 1,509 jurisdictional complaints received were found to be justified or partially justified; 39 percent were determined not justified; and 44 percent were either referred, withdrawn or there was no basis to evaluate the merits of the complaint.

Non-jurisdictional complaints accounted for 905 of the contacts received in 1991. Jurisdictional information requests numbered 1,295 during the year, while 754 of the contacts were non-jurisdictional information requests. Thirty-seven contacts were of undetermined nature.

Of the 4,689 contacts received during 1991, 96 percent were completed and closed during the year. One hundred eighty-nine cases remained open and under investigation into 1992.

The length of time a contact remained open -- that is, until the complaint was evaluated as justified or not justified, and if determined to be justified an equitable resolution achieved; the information located and provided; or by appropriate referral made -- ranged considerably. Statistics demonstrate that 93 percent of the contacts were completed in 60 days or less.

<u>DAYS OPEN</u>	<u>NUMBER OF CONTACTS</u>	<u>PERCENT</u>
10 days or less	3,651	78%
11 - 30 days	480	10%
31 - 60 days	215	5%
61 - 90 days	66	1%
91 - 180 days	74	1%
181 days or more	14	less than 1%
Remained open into 1992	189	4%
	<u>4,689</u>	<u>100%</u>

Approximately 21 percent of the contacts dealt with divisions, institutions, or programs of the Department of Corrections and the Board of Parole. Lesser numbers involved the Department of Human Services (8.1 percent); the Department of Transportation (2.5 percent); and the Department of Employment Services (1.5 percent). Municipal government generally accounted for 7.3 percent and county government generally comprised 6.4 percent of the contacts received during the year. Less than one percent pertained to schools and school districts. A complete listing of the agencies, levels of government, and other problem areas about which the Ombudsman received contacts is presented elsewhere in this report.

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

In 1991 the Ombudsman issued one critical report, "Investigation of the response by officers of the Webster City Police Department to a domestic violence call".

### **LEGISLATIVE RECOMMENDATIONS**

The CA/O made the following legislative recommendations to the 1991 Iowa General Assembly:

1. Establishing the crime of fourth degree sexual abuse by certain public employees who engage in a sex act with a person while the public employee is acting in a custodial capacity over the person;
2. Extending the protections of the Iowa Civil Rights Act to persons who are incarcerated or detained in state prisons, facilities or local jails; and
3. Protecting the release or "gate" money provided an inmate upon release from a correctional facility from seizure by the state for monies allegedly owed to the state by the inmate.

### **BUDGET**

During Fiscal year 1990-91 the state appropriation for operation of the office of Citizens' Aide/Ombudsman was \$524,950. Staff includes the Deputy Citizens' Aide/Ombudsman, Legal Counsel, Assistants for Corrections and Public Safety, four assistants with general assignment, and three clerical.

## PROFESSIONAL STAFF

### **William P. Angrick II, Citizens' Aide/Ombudsman**

#### **Ruth L. Mosher, Deputy Citizens' Aide/Ombudsman**

- specific assignment to Iowa Correctional Institution for Women
- administrative oversight of clerical staff
- professional staff case management reviews and intake oversight
- new staff trainer
- general casework

#### **Ruth H. Cooperrider, Legal Counsel**

- external legal representative of the office
- legal research, advice and opinions to staff
- affirmative action officer
- general casework

#### **Michael J. Ferjak, Assistant for Public Safety**

- overall responsibility for complaints dealing with law enforcement, fire protection, disaster relief, and emergency medical services
- general casework

#### **Judith A. Milosevich, Assistant for Corrections**

- overall responsibility for complaints dealing with adult correctional facilities and jails
- specific assignment to Iowa State Penitentiary, John Bennett Correctional Center, Medium Security Unit, Riverview Release Center, county jails, and community based correctional facilities

#### **Connie L. Bencke, Assistant I**

- general casework
- specific assignment to the four mental health institutes, the Correctional Treatment Unit, and the Iowa Veterans' Home

#### **Wendy L. Sheetz, Assistant I**

- general casework
- specific assignment to the two juvenile institutions and the two hospital-schools

#### **Steven L. Exley, Assistant**

- started employment September 1991
- general casework
- specific assignment to the Iowa Men's Reformatory, Iowa Medical & Classification Center, and North Central Correctional Facility

#### **Jeffrey E. Burnham, Assistant**

- started employment June 1992
- general casework and special assignments

## CLERICAL STAFF

**Judith L. Green, Executive Secretary**  
**Patricia Nett, Administrative Secretary**  
**Maureen Lee, CA/O Secretary**

**1991  
CITIZENS' AIDE/OMBUDSMAN  
CONTACT STATISTICS**

<b>JURISDICTIONAL AGENCIES, DEPARTMENTS AND OFFICES</b>	<b>TOTAL NUMBER OF CONTACTS</b>	<b>PERCENT OF TOTAL CONTACTS</b>
State of Iowa (General)	187	4.0%
- Iowa Law/Bill Status	[130]	
- Governmental Financial Assistance	[ 30]	
- Open Meetings/Public Records	[ 9]	
Citizens' Aide/Ombudsman	73	1.6%
Department of Justice (Attorney General)	55	1.2%
Auditor of State	2	less than 0.0%
Secretary of State	13	0.3%
- Notaries Public	[ 4]	
Treasurer of State	7	0.1%
Department of Agriculture and Land Stewardship	8	0.2%
State Fair Board	5	0.1%
Civil Rights Commission	15	0.3%
College Aid Commission	8	0.2%
Department for the Blind	3	less than 0.0%

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

Department of Commerce	63	1.3%
- Alcoholic Beverages Division	[ 1]	
- Banking Division	[ 4]	
- Insurance Division	[ 32]	
- Professional Licensing and Regulation Division	[ 1]	
- Accountancy Examining Board	( 1)	
- Architectural Examining Board	( 1)	
- Engineering and Land Surveying Examining Board	( 1)	
- Real Estate Commission	( 3)	
- Utilities Division	[ 15]	
Department of Corrections	938	20.0%
- Community Services Division	[ 4]	
- Community Based Corrections	( 64)	
- Parole and Probation	( 40)	
- Work Release	( 43)	
- Institution Division		
- Iowa Men's Reformatory, Anamosa and Luster Heights Facility	(166)	
- Correctional Treatment Unit, Clarinda	( 74)	
- Iowa State Penitentiary, John Bennett Correctional Center and Prison Farms, Fort Madison	(127)	
- Iowa Correctional Institution for Women, Mitchellville	( 99)	
- Medium Security Unit, Mount Pleasant	(199)	
- Riverview Release Center, Newton	( 16)	
- Iowa Medical and Classification Center, Oakdale	( 81)	
- North Central Correctional Facility, Rockwell City	( 12)	
Board of Parole	62	1.3%
Department of Cultural Affairs	2	less than 0.0%
Iowa Public Television	1	less than 0.0%
Department of Economic Development	43	0.9%

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

Department of Education	46	1.0%
- Area Education Agencies	[ 4]	
- Community Colleges	[ 11]	
- Vocational Rehabilitation Division	[ 15]	
Department of Elder Affairs	29	0.6%
- Area Agencies on Aging	[ 1]	
Department of Employment Services	69	1.5%
- Industrial Services Division	[ 12]	
- Job Service Division	[ 29]	
- Labor Services Division	[ 23]	
Department of General Services	3	less than 0.0%
Department of Human Rights	15	0.3%
- Community Action Agencies Division	[ 3]	
- Deaf Services Division	[ 4]	
- Persons with Disabilities Division	[ 4]	
- Latino Affairs Division	[ 1]	
- Status of Women Division	[ 2]	
- Criminal and Juvenile Justice Planning Agency	[ 1]	
Department of Human Services	382	8.1%
- Community Services Division		
- Collections	(110)	
- District and County Offices	(111)	
- Iowa Veteran's Home, Marshalltown	[ 15]	
- Mental Health, Mental Retardation, and Developmental Disabilities Division		
- Mental Health Institute, Cherokee	( 13)	
- Mental Health Institute, Clarinda	( 1)	
- Mental Health Institute, Independence	( 3)	
- Mental Health Institute, Mount Pleasant	( 5)	
- State Hospital-School, Glenwood	( 1)	
- State Hospital-School, Woodward	( 3)	
- Social Services Division	[ 82]	
- State Training School, Eldora	( 19)	
- Iowa Juvenile Home, Toledo	( 1)	

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

Department of Inspections and Appeals	10	0.2%
Department of Management	2	less than 0.0%
Campaign Finance Disclosure Commission	1	less than 0.0%
State Appeal Board	7	0.1%
State Appellate Defender	6	0.1%
Department of Natural Resources	24	0.5%
- Energy and Geological Resources Division	[ 1 ]	
- Environmental Protection Division	[ 10 ]	
- Fish and Wildlife Division	[ 4 ]	
- Parks, Recreation, and Preserves Division	[ 5 ]	
Department of Personnel	20	0.4%
- Iowa Public Employees Retirement System (IPERS)	[ 7 ]	
Department of Public Health	42	0.9%
- Board of Barber Examiners	( 2 )	
- Board of Cosmetology Examiners	( 2 )	
- Board of Mortuary Science Examiners	( 1 )	
- Board of Nursing Home Administrators	( 4 )	
- Board of Optometry Examiners	( 1 )	
- Board of Psychology Examiners	( 3 )	
- Substance Abuse Division	[ 1 ]	
Professional Licensure Boards	7	0.1%
- Board of Medical Examiners	[ 3 ]	
- Board of Dental Examiners	[ 1 ]	
- Board of Pharmacy Examiners	[ 2 ]	
Department of Public Safety	12	0.2%
- Administrative Services Division	[ 1 ]	
- Criminal Investigation Division	[ 1 ]	
- Fire Marshal Division	[ 2 ]	
- State Patrol Division	[ 6 ]	
- Capitol Security	( 1 )	
- Medical Examiner	[ 1 ]	

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

Board of Regents	24	0.5%
- University of Iowa	[ 3]	
- Hospitals and Clinics	( 16)	
- Iowa State University	[ 5]	
Department of Revenue and Finance	56	1.1%
- Lottery Division	[ 4]	
Department of Transportation	117	2.5%
- Administration Division	[ 12]	
- Air and Transit Division	[ 1]	
- Highway Division	[ 11]	
- Motor Vehicle Division	[ 88]	
- Rail and Water Division	[ 1]	
*****		
Schools and School Districts	31	0.7%
- Administration	[ 5]	
- Board	[ 4]	
- Teachers	[ 4]	
Municipal Government	341	7.3%
- Administration/Clerk/Manager	[ 13]	
- Assessor	[ 2]	
- Attorney	[ 1]	
- Housing and Zoning	[ 23]	
- Mayor/Council	[ 57]	
- Municipal Utilities	[ 17]	
- Parks/Recreation	[ 2]	
- Police/Jails	[165]	
- Public Works	[ 12]	
County Government	300	6.4%
- Assessor/Conference Board/Board of Review	[ 14]	
- Attorney	[ 69]	
- Auditor	[ 5]	
- Engineer/Roads Department	[ 5]	
- General Relief	[ 18]	
- Recorder	[ 4]	

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

County Government - continued		
- Sheriff/Jail	[116]	
- Board of Supervisors	[ 21]	
- Township Trustees/Benefitted Districts	[ 3]	
- Treasurer	[ 4]	
- Weed Commissioner	[ 5]	
- Zoning	[ 2]	
Metropolitan/Regional Government	2	less than 0.0%
Private Non-Profit Quasi-Government Agency	8	0.1%

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**NON-JURISDICTIONAL**

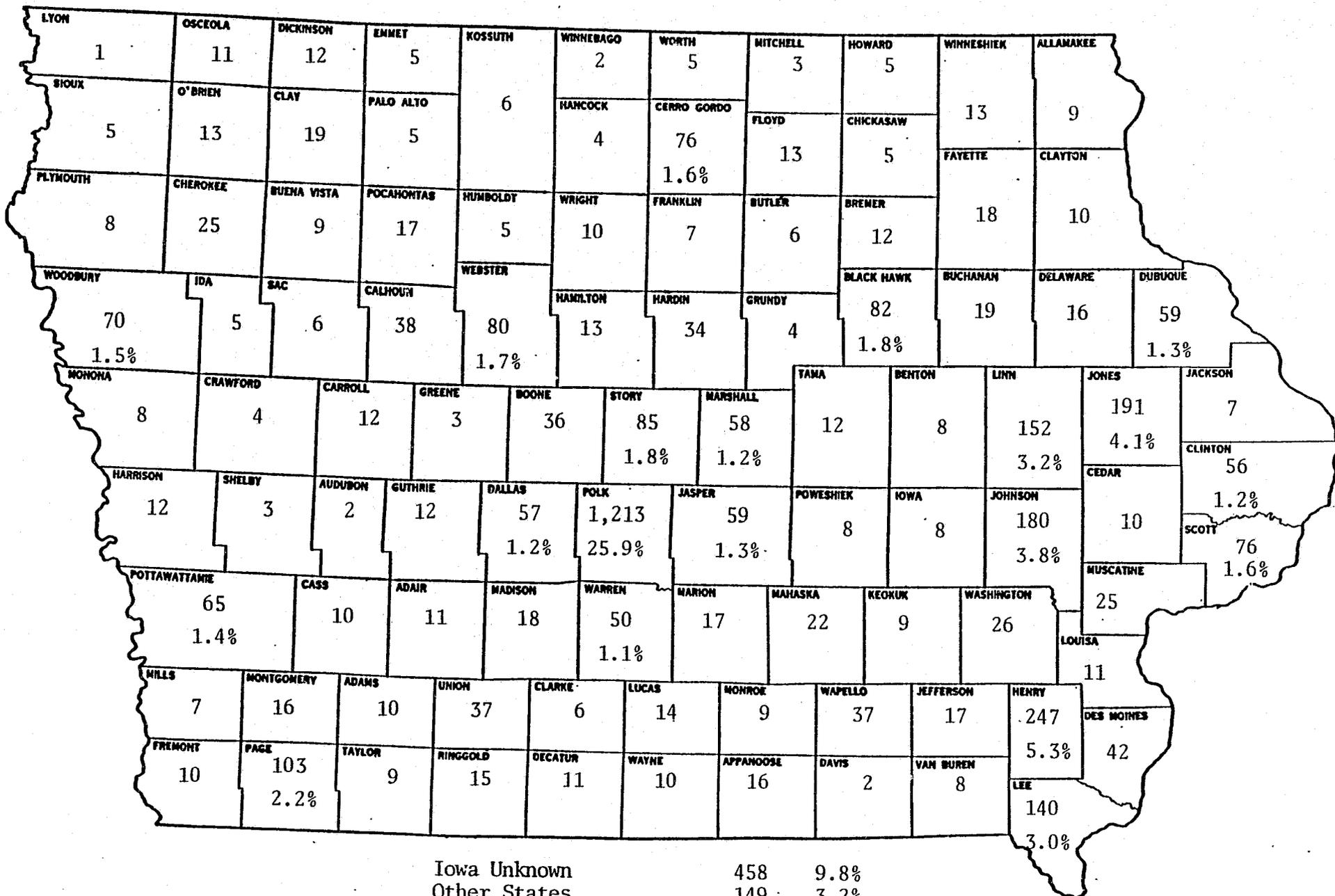
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Government, State	139	3.0%
- Governor and Staff	[ 13]	
- Judiciary	[102]	
- Clerks of Court	[ 13]	
- Legislature/Legislative Agencies	[ 7]	
States Other Than Iowa	39	0.8%
- Interstate Compact Matters	[ 7]	
Government, Federal	112	2.4%
Government, International	6	0.1%
Non-Jurisdictional - General	1,317	28.0%
- Consumer	[ 263]	
- Employer/Employee	[ 305]	
- Financial Institution	[ 28]	
- Insurance	[ 61]	
- Landlord/Tenant	[ 73]	
- Legal (Private)	[ 393]	
- Health Professionals	[ 34]	
- Nursing Homes	[ 9]	
- Utilities	[ 48]	
Undetermined	37	0.8%

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

# 1991 CONTACTS BY COUNTY

10



Iowa Unknown	458	9.8%
Other States	149	3.2%
District of Columbia	5	
Foreign Countries	5	
Unknown	2	

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For counties reflecting contact count without percentage figure the percentage was less than one percent.

## Case Summaries

GREAT TREASURE HUNT INVOLVES CA/O. Citizen complained the State Treasurer's office was being less than cooperative in processing a claim for over \$400 from the Great Iowa Treasure Hunt. The citizen, who had moved from the state several years previously, reported she had filled out all of the paperwork and provided proof of her identity, but had still not received the money and was unable to discover why. After making several telephone calls, Citizens' Aide/Ombudsman (CA/O) discovered the abandoned savings account had been turned over by a bank almost 25 years earlier and the records relating to that account, if there were any, were buried somewhere in the bank's archives. The problem was complicated by the fact the citizen had a common name and without more information the Treasurer's office could not verify, even though the citizen had the same name, she was the true owner of the abandoned money. CA/O continued to monitor the situation, and along with the Treasurer's office, prodded the bank into finally producing some identifying records. Soon afterwards, the citizen received her money.

INMATE WANTS TO SEE DENTIST. Riverview Release Center (RRC) inmate asked for assistance to receive additional dental care. He had extensive dental problems based on a lifetime of neglect. CA/O talked to RRC superintendent and asked a special dental examination be undertaken for the inmate. The examination was completed and gradual work began to help the inmate. However, CA/O informed the inmate he was not going to receive new teeth or even top-grade restorative work. Additionally, the inmate was provided with assistance to lessen his discomfort and facilitate his mastication.

NO SUCH THING AS A FREE . . . PODIATRIST EXAM. While at a county-operated senior citizen meal site, a citizen received an examination from a podiatrist and was subsequently billed for the services. The citizen complained he thought the examination was free and had no notice he would have to pay. CA/O contacted the program administrator and she agreed to develop a sign-up procedure which could clearly inform participants of the possible personal costs associated with the examination. In the meantime, the initial complainant contacted the podiatrist office directly and resolved his billing dispute.

DNR'S SEASONAL HIRING PRACTICES TERMINATED. In reviewing the minutes of a staff meeting of supervisors for the Department of Natural Resources (DNR) Parks Bureau to provide documentation for a case, CA/O became concerned that the bureau chief was seemingly giving a directive not to rehire seasonal employees who had filed for unemployment benefits during the off-season. The chief was also planning to circulate a list of workers in that category. CA/O made inquiries to the bureau and learned the bureau chief believed if someone consistently filed for unemployment after working for the bureau three months, they

should look to see who else may be available for employment. CA/O referred the matter to the Department of Employment Services (DES). The bureau chief was subsequently admonished for trying to implement a policy that would violate Iowa law and is considered a serious misdemeanor. CA/O was assured that no such policy was in place, but should the need arise, DES did have the capability of reviewing DNR's employment records.

VICTIM ASKED TO INVESTIGATE CRIME. Citizen complained that her county sheriff's department had not adequately investigated a sexual assault committed against her. The citizen further alleged she was asked to gather information which should have been done by law enforcement officers. CA/O investigated. After taking the citizen's sworn statement and reviewing numerous records and police reports, CA/O concluded the investigation was sufficient. However, CA/O found the sheriff had not kept the citizen properly informed or involved in the investigation of the crime. Additionally, CA/O agreed it was inappropriate to ask an alleged victim of a crime to pursue possible witnesses. Accordingly, CA/O suggested changes in future investigation procedures.

BACK TAXES REFUNDED WHEN LOST FORM FOUND. CA/O received a referral from a state representative that a citizen was erroneously being denied a long-term capital gains refund as claimed on his 1988 Iowa tax forms. Citizen contended upon notification the Department of Revenue and Finance (DORF) had not received a 1988 tax return from him, he resubmitted a copy to the department. However, DORF denied the refund because the copy was not received by the statutory deadline. The citizen insisted he had mailed the original forms in a timely fashion, although he had no way of verifying that fact. Citizen went on to state he vividly remembered filing the forms the first time around in an envelope with his children's trust forms. Because DORF lost his original forms, the citizen reasoned, he should not be penalized for having to resubmit the forms. In discussing the dilemma with DORF and learning that children's trust forms are routed to a separate division, CA/O asked the department to check the children's trust division for the original tax forms. The search yielded the original tax forms stapled to the back of the trust forms with the date stamped denoting receipt prior to the statutory deadline. Given this verification of receipt prior to the deadline, DORF reversed its decision and the citizen was issued a refund.

PRISON DISCIPLINE BASED ON GANG FIGHT, NOT RACE. Family members and inmates of the Iowa Men's Reformatory (IMR) complained the inmates had been unjustly disciplined in a prison disturbance. The dispute apparently erupted over an event related to a drive-by shooting in Des Moines and involved in-prison retaliation between two rival gangs. Between 20 and 40 inmates gathered on the prison yard where derogatory names were yelled and a few fists were thrown before prison guards succeeded in defusing the incident. About a dozen inmates were subsequently disciplined in connection with the incident. CA/O investigated the allegations, including concerns that only black inmates were disciplined. CA/O concluded that under the circumstances the disciplinary action was appropriate and had not been racially biased.

SICK INMATE SENT BACK TO SQUARE ONE. An inmate at IMR, who had been transferred to another institution to participate in specialized programming, complained to CA/O he had been treated unfairly. The receiving institution was unable to adequately monitor the inmate's health so he had been returned to IMR. In the process, the inmate lost his good rating in the level system within the reformatory which allows inmates to earn privileges by exhibiting good behavior and obeying rules. Inmate argued he should not have to start over in the system for a problem that was not his fault. CA/O agreed. CA/O suggested to the warden that inmates returning to the reformatory from other institutions solely for medical problems, be allowed to return at or near the level they had achieved when they left. The warden agreed to the change and the policy was implemented.

STOVE FALLS ONTO ROAD, CAUSES ACCIDENT. Citizen contacted CA/O regarding some problems he was experiencing with the Department of Transportation (DOT) and the Department of Public Safety (DPS). The citizen had been trying to move a stove when it fell out of the back of his pick-up truck and was subsequently hit by another car before he had time to remove it from the roadway. The citizen's drivers license had been suspended by DOT for failure to complete an accident report form showing proof of insurance. The citizen, however, contended the DPS officer at the accident scene had told him he did not need to fill out the form. CA/O discussed the situation with a DPS official and expressed concern the citizen had relied on the officer's advice to his detriment. DPS maintained it considered the incident two separate accidents and since the citizen's vehicle was not involved in the second accident in which the car hit the stove, the citizen did not need to fill out an accident report form. CA/O then discussed the situation with DOT and recommended under the circumstance the suspension be lifted. DOT agreed and the suspension was expunged from the citizen's record.

CITIZEN OBTAINS WORKING DOCUMENT, FOR A FEE. Citizen complained that the Department of Education (DOE) was refusing to provide her with information she felt was a public record. Specifically, the woman wanted the first draft of recommendations made at a recent task force meeting for improving Iowa schools. CA/O contacted DOE and learned a final draft of the report would be available soon and the department would prefer not to disseminate working material. DOE went on to rationalize it only had one copy of the 64-page report left and due to ongoing budget concerns, it would not be practical to provide draft copies when a final report would soon be available. CA/O reminded DOE of a recent case in which an Iowa court ruled that failure to release draft copies of certain DOE reports was found to be in violation of Iowa's Open Records Law. CA/O also noted the law allows a state agency to charge a citizen reasonable copying fee for requested records and cost should therefore not be an issue. DOE agreed and a copy of the report was provided to the citizen for a small fee.

URINE TESTS BECOME MORE ACCEPTABLE. CA/O received numerous complaints from male inmates at IMR regarding urine testing procedures. CA/O subsequently examined

that testing procedure and suggested changes. The recommendations included notifying inmates they will be tested for all substances (previously inmates had been told they would only be tested for THC), placing an integrity seal initialled by the inmate across the container lid, and requiring officers and staff testing the samples to wear gloves. The warden agreed to the changes and CA/O has received no further complaints on urine testing from that institution.

REPEAT TESTS REVEAL PROBLEMATIC DRUG FINDING. Inmate at the Iowa Correctional Institution for Women (ICIW) complained the medical department's drug testing process was not accurate. The inmate admitted she had smoked marijuana and did not complain when she received a disciplinary report because she was guilty. She was furious, however, when she was sanctioned for the use of amphetamines that she was adamant that she had not used. CA/O went to ICIW to observe a training session to learn how the urine testing process worked. While at the session, CA/O had the diagnostics company's representative look at the inmate's test results. The representative verified the test was clearly invalid. CA/O relayed the information to the prison warden. The warden was concerned because the company had promised to train ICIW personnel to use the process and if they were not, the institution may not want to continue to work with that company. Subsequently, the inmate's test results were viewed by another company representative who stated the results were valid. To resolve the matter, the inmate's samples were retested by an area hospital with a conclusive testing procedure. The test confirmed the inmate's sample was negative for amphetamines and so her lost good time was restored. Additionally, due to the problems that arose in this case, ICIW discovered several potential weaknesses in its testing procedures and took steps to resolve them.

DOT ANSWERS CALL FOR ANOTHER RESTROOM. Citizen complained the driver's license examination station in her area did not have a public restroom. She was upset because after waiting in line for two hours, her young daughter needed to use the restroom. When the citizen asked an employee to let her daughter use the employee restroom she was rudely refused. CA/O contacted the director for DOT's Office of Driver Services and recounted the allegations. The director later responded DOT had reached a mutual agreement with other businesses in the facility where the station was housed to allow for public access to a set of restrooms in the facility used by the businesses. He also assured CA/O all rude or discourteous remarks would be investigated and treated accordingly.

ARREST FINALLY FOLLOWS ASSAULT. Victim of an assault by her ex-husband claimed her county attorney's office had not acted on a complaint she filed with that office in over a month. Desperate, and with severely ill child at home and continued harassment by her ex-husband, the women said she had decided to purchase a gun to protect herself. CA/O contacted the county attorney and asked him to review the case. The county attorney reported back to CA/O the woman had erroneously been directed to the Neighborhood Mediation Center (apparently this had been the practice of the county attorney's predecessor).

Subsequently, a warrant for the ex-husband was issued and he was arrested. Additionally, because there was specific Des Moines Register coverage of this case, CA/O wrote a letter to the editor clarifying the office's role in the matter.

DAIRY INSPECTOR'S INQUIRY MOO-VES SLOWLY. Part-time dairy inspector for the Iowa Department of Agriculture complained he had not been paid for 12 inspections. The man was just about to retire and felt he was being taken advantage of by the department. On the verbal approval of his supervisor, the citizen stated he had conducted the 12 inspections one month earlier than scheduled because the local dairy's hired man was to have surgery and would be unavailable for several months. Consequently, he was not paid for the inspections. CA/O was prohibited by statute from becoming involved in the employer/employee matter; however, it did suggest the citizen write the department director with his complaint. When the citizen received no response to his letter, CA/O contacted the department and learned there had been a problem with getting correspondence answered for several months. CA/O forwarded the citizen's complaint to the director's administrative aide who then promised to look into the matter and make sure the citizen was informed of the outcome of her inquiry.

ARTIFICIAL LIMB CONDEMNED AS NO LEG TO STAND ON. Citizen complained in order to receive state papers to pay for her artificial leg, she was being forced to work with a prosthesis maker who had made her a leg that didn't fit and who had treated her rudely. The University of Iowa (U of I) Hospitals and Clinic's position was the craftsman should have to repair the leg to make it fit and therefore the citizen should stick with him until he got it right. CA/O contacted the woman's doctor (who works for the U of I Hospital) and learned it was his opinion it would be impossible to revise the leg to make it fit properly and therefore the leg should be "condemned." Because the whole process would have to be redone and it would cost more money regardless of who did the new work, CA/O recommended the woman be allowed to choose a new prosthesis maker with whom she had more confidence and with whom she felt comfortable. The hospital conceded and the woman was issued state papers and began the process of being fitted for a new leg.

CONCRETE RESOLVES STINK OVER ERRONEOUS INFORMATION. A dairy farmer built an earthen waste slurry storage basin (a large, dirt-walled lagoon used to hold cattle waste) on his property and just missed the deadline of a new law which required such lagoons to be set back several hundred feet from neighbors' properties. A DNR field supervisor gave the farmer erroneous information as to what would be required for the lagoon to pass inspection. The law had not yet become effective when the discussions were held. DNR central office offered to waive regulatory authority in the case because the farmer had been provided incorrect information. Additionally, the farmer learned if he installed a concrete pad at the base of the lagoon, the law would not affect him because it dealt only with earthen basins. He added the concrete and the lagoon became operable. DNR field representatives were informed about how the law may affect other farmers so further problems would not arise.

MAN'S RESISTANCE LEADS TO FORCEFUL ARREST. Citizen complained police officers assigned to security duty at a local club had used excessive force against him during an arrest. CA/O investigated the case and found the incident had been thoroughly investigated by the city's police chief and internal affairs department and had been deemed unjustified. After taking its own statements from the citizen and his witnesses and reviewing the police reports, CA/O noted while there were conflicting accounts of the incident of that evening all parties conceded that the citizen had been repeatedly warned to cease his disruptive actions. Additionally, there was strong evidence the citizen did not heed those warnings and resisted arrest thereby causing an even greater public disorder. Based on these findings, CA/O concluded the police officers had acted appropriately and the internal affairs investigation had been substantial and complete.

DOC TAKES 20 PERCENT OF GIFTS FOR RESTITUTION. CA/O received numerous complaints from inmates and their families that the new restitution policy being utilized by the Department of Corrections (DOC) was unfair. The change in policy allowed DOC to deduct 20 percent from all credits to an inmate's account. This included money families had sent the inmates in lieu of gifts so inmates could order the items they needed through a supplier approved by the institution and therefore reduced security concerns. While CA/O recognized the need to collect restitution, we were concerned that the department's procedure for doing so was not appropriate. After extensive research, CA/O concluded the policy was not promulgated consistent with the Iowa Code. Upon questioning the department, CA/O was informed the attorney general had advised the department it could proceed with the policy. CA/O requested a formal review of the policy by the Administrative Rules Review Committee. Presentations were made by CA/O, DOC, victims and the families of inmates. A motion to bring the policy in for formal consideration and review, however, lost on a tie vote of the committee.

CITIZEN FINDS CHILD SUPPORT COLLECTION TAXING. Citizen was concerned that the Child Support Recovery Unit (CSRU) was trying to collect support from him he did not owe and its procedure for doing so was inappropriate. The citizen complained his joint income tax refund had been taken. His portion of the refund was only a few dollars, but his new wife's portion (who was not obligated to pay his child support) was several hundred dollars. He was told his wife could request a separation of the refund and receive the amount due her, but if he appealed the offset neither he or his wife would receive any refund until the appeal proceeding on the child support was concluded which would take several weeks. CA/O advised the citizen not to appeal the offset of taxes at this time since he could continue to contest the amount of support as long as the state claimed he owed support and that way his wife could receive her portion of the refund without delay. CA/O contacted CSRU and got documentation on the amount of support due. After reviewing the information, citizen concluded he did owe the amount CSRU was alleging, but still found the computation sheet the department was sending him to be confusing and not conclusive in determining the amount

of support he owed. To further aid understanding, CA/O provided the citizen with another statement from the department, in letter form, which plainly detailed the support owed.

JUSTIFICATION HELPS REDUCE URINE-TEST SANCTIONS. The brother of an inmate at the Iowa Men's Reformatory (IMR) complained prison officials were treating his brother unfairly. Upon review, CA/O discovered the inmate had been asked to provide a urine sample for drug testing because he was being considered for work outside the prison walls. Procedure called for an officer to observe as the inmate provided the sample. This inmate, however, said he could not urinate if someone was watching and was unable to provide a sample in the allotted two hours. Consequently, the inmate was given a disciplinary report. CA/O argued if the inmate was being investigated for drug use or other infractions, it would be appropriate for the strict observation and subsequent punishment if the sample was not provided. However, if the inmate was being considered for additional privileges, CA/O argued he should not be punished if he was unable to provide a sample. The warden conceded, and institutional policy was changed to accommodate this thinking. The specific inmate's case was not affected by the change; however, his lost good time was restored.

CA/O'S ARGUMENT EASES PLAT BATTLE. Citizen alleged the city planner refused to approve a subdivision plat unless he granted the city, without charge, an easement across the corner of his property for future construction of a road. Citizen complained there were no plans to build the road in the near future, and in the meantime, the citizen wished to sell part of the land. CA/O contacted the mayor and asked why the platting of the subdivision was being made contingent on the citizen granting an easement to the city. The city indicated while it was not aggressively acquiring right-of-way nor planning any actual street improvements, it had been planned for many years and therefore the planning commission requested the final plat include the right-of-way extension. CA/O researched the situation and could find nothing in the Iowa law that would permit or prohibit this type of arrangement. CA/O, however, felt such a requirement was premature and questioned the reasonableness of requiring the citizen to grant the easement at this time. The city agreed and the citizen was granted his plat without having to grant the easement.

INMATES REQUIRED TO REMOVE ASBESTOS; FACILITY FINED. Inmate of the North Central Correctional Facility (NCCF) alleged inmates of the facility were being forced to remove asbestos from an old boiler in the facility's power plant and were not being provided with protective gear or clothing. The inmate stated he had complained to the warden, but had not received a reply. CA/O referred the complaint to DES--Occupational Safety and Health Bureau (OSH) for inspection and follow-up, while CA/O monitored. In the meantime, work around the asbestos continued, despite CA/O's phone contact and OSH's letter to the warden alerting him of the complaint. A few weeks later, OSH conducted an inspection and found several violations regarding the removal of asbestos and the facility was fined.

ROAD TAKES CITY OVER NEW BILLING ROUTE. An elderly woman living on a fixed income received notice she would lose her home if she did not pay the property taxes on a special assessment for road improvements. Desperate, she contacted CA/O for help. CA/O talked with the county treasurer and learned the woman had not paid on the special assessment since 1986 and was now facing a delinquent tax bill of over \$1,200. CA/O suggested the woman petition the city council and the county board of supervisors to suspend or cancel the overdue taxes by reason of age and infirmity under Iowa Code Section 427.8. Realizing this was a somewhat complicated procedure, CA/O contacted Legal Services Corporation of Iowa (LSCI) and asked it to assist the woman through the process. Upon review, the city council decided not to suspend or cancel the taxes, apparently because it had never done so before and did not want to set a precedent. The city agreed, however, to postpone collection of the taxes and in effect gave the woman a new payment schedule. The resolution was acceptable to the woman so CA/O did not pursue the matter. CA/O, however, advised the city failure to review the merits of each case in the future may be seen as being arbitrary or capricious.

LANDLORD'S POLICE ACTION UPSETS TENANT. Citizen complained to CA/O a police officer had inappropriately used her position during a private business dispute involving a rental property owned by the officer. The officer had filed charges of assault against the citizen and a trial was held, but the citizen was found not guilty. Subsequently, the citizen sought charges of malicious prosecution against the officer, but the court declined to find any wrongdoing by the officer. CA/O had no jurisdiction over the court proceedings, but did present its concerns there may be a misuse or the appearance of a misuse of authority if officers file and then investigate charges in which they hold a personal interest. The police chief responded to CA/O concerns and acknowledged the potential problem. The chief stated he did not want to totally prohibit such action since it could restrict an officer from filing legitimate charges, but he would direct his officers to use restraint and careful consideration before filing charges and he would discuss the "color of office" issue during roll call meetings to ensure officers did not abuse their authority.

SCHOOL REWRITES AN UNWRITTEN POLICY. A concerned parent contacted CA/O over her son's suspension from high school. The woman questioned school's policy of sending a student home during the school day without first contacting a parent. A better policy, the woman argued, would have been to suspend her son on-premises or to have contacted her before her son was sent home. School officials countered the youth had been suspended for fighting and because there is only one in-school suspension room it would not be appropriate to put two fighting students in the same room. Officials also noted per the school's unwritten policy, the youth was given an opportunity to call his mother, but opted not to do so. CA/O questioned whether an unwritten policy was sufficient and informally surveyed other schools in the area to compare policies. CA/O learned that none of the area schools have formal written policies in this area but their unwritten policies varied greatly in whether or not parents would be contacted of a child's out-of-school suspension. Upon review, the school decided in the future it would be a better policy to require parental notification in

such cases. CA/O apprised the citizen of the change and informed her of her right to pursue the matter with the school or the district and lobby for a written policy.

UNHEALTHY PRISON PRACTICE CHANGED. An inmate in disciplinary detention at IMR complained to CA/O that pitchers used to dispense coffee, juice, water, and milk during meals were being rinsed out and left upside down in the same sink where waste water used to clean the cells of unruly inmates and various other areas of that prison floor were also being emptied. CA/O confirmed that this was indeed happening and contacted the warden. The warden expressed disbelief, but upon inspecting the area and seeing the situation for himself, he immediately had the pitchers discarded and ordered additional pitchers so that used ones are exchanged for clean ones at each meal.

CLASH OVER CALIFORNIA CLASSES. Citizen contacted CA/O concerning the Board of Cosmetology's refusal to grant her continuing education credits for classes she had taken in California. The woman had moved to California for a year to enable her son with Muscular Dystrophy to participate in specialized treatment. Before moving, the woman claimed she called the board and was assured she could obtain her continuing education credits in California as long as the courses she took were at a beauty college or university. Upon returning to Iowa and seeking renewal of her license, the board rejected her application stating that her continuing education credits had not been pre-approved by the National Cosmetology Association as required. CA/O reviewed the board's administrative rules and noted they do not specify that credits must be taken at a university or college nor they be pre-approved by the National Cosmetology Association. The rules do provide for organizations to seek prior approval for continuing education courses, if they are not already accredited by the board. Under the circumstances, CA/O felt the woman should be granted credit for her course work. CA/O attended the board's next meeting with the citizen and requested it reconsider its position. After much debate, the board agreed to review the courses for approval after-the-fact. Ultimately the board granted the woman a sufficient number of credit hours to enable her to renew her license for another two years.

SIGNATURES PROVIDE BASIS FOR CORRESPONDENCE. CA/O received a complaint from an attorney regarding the inability of her client to correspond with his common-law wife, a co-defendant, serving a sentence in another institution. The couple had lived together for 15 years and had three children together, but because they had not appropriately described their relationship as common-law on prison forms, they were denied the privilege of corresponding with one another. According to the couple, they had lived together continuously prior to their prison sentence and the man had signed DHS aid forms as "father." CA/O checked with DHS, but the department replied the man had not signed the forms. The couple remained adamant the man had signed the forms so CA/O contacted DHS a second time and asked for copies of the forms. The copies revealed the man had indeed signed the forms prior to his incarceration. CA/O forwarded the documents to prison officials and the couple was then allowed to write under scrutiny per institution regulations.

DESERT STORM FAMILIES GET THEIR BENEFITS. The Iowa National Guard contacted CA/O and requested help in speeding up the food stamp applications of families whose providers were serving with the military in the Desert Storm operation. Apparently some DHS field offices were requiring dependents to provide "leave and earnings" statements (LES) as verification of income. Because these statements were not readily available to many dependents, lengthy delays in receiving aid resulted. CA/O discussed the problem with DHS and learned LES statements were generally used as verification of income to determine eligibility. The department added, however, if a dependent was having difficulty in obtaining such a statement a DHS worker should assist the applicant in obtaining verification from other sources and determine eligibility based upon the best available information. The process was complicated by the fact that when an entire unit is mobilized, as happened with many units who served in the Gulf, all their personnel files go with the unit. CA/O learned DHS was preparing a memo for its field offices clarifying the procedures for verifying military income. CA/O pursued the matter and asked the National Guard to provide contact sources and the addresses for central finance centers for each branch of the military should further questions arise. The Guard obliged and CA/O passed the information along to DHS.

CA/O AIDS DEAF PRISONER. Deaf inmate at the Iowa Medical and Classification Center (IMCC) complained he did not have access to an interpreter. CA/O brought the problem to the attention of the treatment director at the institution who promised an interpreter would be arranged for as soon as the inmate began programming. In the meantime, the institution arranged for the inmate to have access to a Telecommunications Device for the Deaf (TDD) telephone and a close-captioned television. Additionally, to meet the inmate's needs and abilities, he was assigned a job working on computers in the library and teaching a sign language class to other inmates.

FATHER WINS FIGHT OVER ADC PAYMENT TO EX-WIFE. Father of three children contacted CA/O over difficulties he was experiencing with DHS and CSRU. The man stated he had recently received a letter indicating he was required to pay back child support to the state of Iowa as reimbursement for ADC (aid to dependent children) paid to his ex-wife over two and one half years before. The man indicated this was the first he had heard about his "ex" claiming ADC for the children and he actually had custody of one of the children she received aid for. Given the length of time it had taken the department to contact him and the fact he had actually cared for one of the children during the time in question, the man felt the amount he was being asked to repay was unreasonable. CA/O agreed and contacted the county DHS director on the situation. The county office countered that as the mother had filled out all the appropriate forms, and there was no custody order in place at the time the ADC was received, it was up to the father to prove he actually had custody of the child. The office went on to state that usually fraud allegations or investigations were referred to the Department of Inspections and Appeals. DHS concluded if the father wanted to contest the amount of child support reimbursement, he could appeal the decision of the child support unit and take the

issue to court if necessary. While CA/O could not provide the father with legal representation, we did give him the numbers of various groups that could. Due to his financial situation, the man did not feel he could afford an attorney. CA/O did give the father suggestions on what type of information he could submit to DHS to support his case. CA/O also explained to the father his appeal rights and how the process worked. Ultimately the man took the matter to court and secured a judgment requiring him to reimburse only half of the original amount demanded by the department.

MAN EXAGGERATES CLAIM OF RELATIONSHIP TO INMATE. Man claiming to be the step-father of an inmate at ICIW requested CA/O's assistance in obtaining approval for him to write his step-daughter. The man indicated he had been married to the woman's mother for the last 10 years and the inmate and her sisters had taken the man's last name. CA/O checked with the warden and found there was no record of the relationship. CA/O also contacted the inmate in question and suggested if she wished to correspond with this man she should work with her counselor and attempt to document the relationship per institution regulations. Upon following up on the situation, CA/O learned while the man was married to the inmate's mother, he himself had been incarcerated for all but a few months of that time and therefore there was no opportunity for establishing a parental relationship. Based upon this information, and the man's current status as an inmate, the request was denied. CA/O agreed with the decision and informed the man of outcome.

DES OVERPAYMENT RECOUPMENT PROCEDURE REVIEWED. Several citizens contacted CA/O to complain that DES was unfairly offsetting their income tax refund to satisfy an overpayment judgment against them. All of the overpayment judgments had occurred seven to ten years previously and the citizens were dismayed the department was coming after them now. Additionally, many of the citizens contended they had not received an overpayment in the first place and were dismayed they could not get copies of their file because they had been destroyed. Upon investigation, CA/O learned DES records in this area are routinely destroyed after five years if they have been properly summarized and recorded. CA/O also noted that legislation had been passed in 1987 which was implemented by the department in 1989 which authorized it to offset income tax returns to collect on all accounts that had received overpayments within the last ten years. The department's position (based largely on an Iowa Supreme Court case) was that once a case had been finally determined, as all of these cases had been, it had no authority to rehear the case on its merits and therefore the citizens owed what the records indicated they owed. CA/O acknowledged this position, however, we did note the perceived inequities in the process and made formal recommendations to the department. The changes included increasing the amount of information saved after the rest of the file was destroyed, warning a claimant on all DES decision forms that they need to keep the department apprised of any changes in address and if there is a final decision of overpayment the claimants income tax refund may be offset.

"JOBLINE" NO CLASSIFIEDS. Citizen complained to CA/O that the Iowa Department of Personnel (IDOP) telephone "jobline," which provides information about state employment

opportunities, was misleading. Complainant stated the "jobline" made it sound like the jobs listed were open for hire. The citizen stated he was a previous state employee and knew at least one of the jobs listed was not open for hire. The citizen contended some type of disclaimer or clarification was needed so individuals could tell whether a job was actually in the process of being filled. CA/O listened to the "jobline" message and noted there was no indication as to whether a position was currently being filled, just that applications were being accepted for certain merit systems jobs. CA/O contacted IDOP and discussed the situation. IDOP agreed to try and change the message to avoid any confusion. As a follow-up, CA/O called the "jobline" a short time later and discovered the message had been changed to include a statement indicating that when job classifications were open it did not necessarily mean a vacancy existed and that classification were periodically opened to replenish the list of available applicants.

## CHAPTER 601E

DISTRESS FLAGS AND IDENTIFICATION DEVICES  
FOR HANDICAPPED

Chapter repealed effective January 1, 1990;  
89 Acts, ch 247, § 20, 21; see ch 321L

## CHAPTER 601F

## GOVERNOR'S COMMITTEE ON EMPLOYMENT OF HANDICAPPED

Repealed by 86 Acts, ch 1245, § 1255; see § 601K.71 et seq.

## CHAPTER 601G

## CITIZENS' AIDE

601G.1	Definitions.	601G.13	No investigation — notice to complainant.
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601G.12	Complaints investigated.		

**601G.1 Definitions.**

As used in this chapter:

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

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

a. Any court or judge or appurtenant judicial staff.

b. The members, committees, or permanent or temporary staffs of the Iowa general assembly.

c. The governor of Iowa or the governor's personal staff.

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

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

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

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

[C73, 75, 77, 79, 81, §601G.1]

**601G.2 Office established.**

The office of citizens' aide is established.

[C73, 75, 77, 79, 81, §601G.2]

**601G.3 Appoint. out — 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 appoint-

ment or vacancy occurs while the general assembly is not in session, such appointment shall be reported to the senate and the house of representatives within thirty days of their convening at their next regular session for approval and confirmation.

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

[C73, 75, 77, 79, 81, §601G.3]

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

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

[C73, 75, 77, 79, 81, §601G.4]

#### **601G.5 Term — removal.**

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

[C73, 75, 77, 79, 81, §601G.5]

#### **601G.6 Deputy — assistant for penal agencies.**

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

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

[C73, 75, 77, 79, 81, §601G.6]

84 Acts, ch 1046, §1

#### **601G.7 Prohibited activities.**

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

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

2. Engage in other employment for remuneration with an agency against which a complaint may be filed under this chapter or that could create a con-

flict of interest or interfere in the performance of the person's duties under this chapter.

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

4. Be actively involved in partisan affairs.

[C73, 75, 77, 79, 81, §601G.7]

84 Acts, ch 1046, §2

#### **601G.8 Closed files.**

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

[C73, 75, 77, 79, 81, §601G.8]

#### **601G.9 Powers.**

The citizens' aide may:

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

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

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

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

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

5. Establish rules relating to the operation, organization, and procedure of the office of the citizens' aide. The rules are exempt from chapter 17A and shall be published in the Iowa administrative code. [C73, 75, 77, 79, 81, §601G.9; 82 Acts, ch 1026, §1; 88 Acts, ch 1247, §1; 89 Acts, ch 296, §78]

#### **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 ascertainment of fact.
4. Based on improper motivation or irrelevant consideration.

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

[C73, 75, 77, 79, 81, §601G.11]

#### **601G.12 Complaints investigated.**

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

1. The complainant has available another remedy or channel of complaint which the complainant could reasonably be expected to use.
2. The grievance pertains to a matter outside the citizens' aide power.

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

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

5. Other complaints are more worthy of attention.

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

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

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

[C73, 75, 77, 79, 81, §601G.12]

#### **601G.13 No investigation — notice to complainant.**

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

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

#### **601G.14 Institutionalized complainants.**

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

[C73, 75, 77, 79, 81, §601G.14]

#### **601G.15 Reports critical of agency or officer.**

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

[C73, 75, 77, 79, 81, §601G.15]

#### **601G.16 Recommendations to agency.**

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

1. A matter should be further considered by the agency;
2. An administrative action should be modified or canceled;

3. A rule on which an administrative action is based should be altered;

4. Reasons should be given for an administrative action; or

5. Any other action should be taken by the agency, the citizens' aide shall state the recommendations to the agency. If the citizens' aide requests, the agency shall, within twenty working days notify the citizens' aide of any action taken on the recommendations or the reasons for not complying with them.

If the citizens' aide believes that an administrative action has occurred because of laws of which results are unfair or otherwise objectionable, the citizens' aide shall notify the general assembly concerning desirable statutory change.

[C73, 75, 77, 79, 81, §601G.16]

#### **601G.17 Publication of conclusions.**

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

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

[C73, 75, 77, 79, 81, §601G.17]

#### **601G.18 Report to general assembly.**

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

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

#### **601G.19 Disciplinary action recommended.**

If the citizens' aide believes that any public offi-

cial, employee or other person has acted in a manner warranting criminal or disciplinary proceedings, the citizens' aide shall refer the matter to the appropriate authorities.

[C73, 75, 77, 79, 81, §601G.19]

#### **601G.20 Immunities.**

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

[C73, 75, 77, 79, 81, §601G.20]

#### **601G.21 Witnesses.**

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

[C73, 75, 77, 79, 81, §601G.21]

#### **601G.22 Penalties.**

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

[C73, 75, 77, 79, 81, §601G.22]

#### **601G.23 Citation.**

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

[C73, 75, 77, 79, 81, §601G.23]