State of Iowa
Office of Ombudsman

Annual Report 2013

This annual report about the exercise of the Office of Ombudsman functions during the 2013 calendar year is submitted to the Iowa General Assembly and the Governor pursuant to Iowa Code section 2C.18.

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Ombudsman's Message

Ruth H. Cooperrider
Iowa Ombudsman

Effective July 1, 2013, our office's name was officially changed in our statute (chapter 2C of the Code of Iowa) from "Office of Citizens' Aide" to "Office of Ombudsman." I asked the Iowa General Assembly to make this change because that is the name our office is more commonly known as by citizens who contact us, government agencies we interact with, and the media. In addition, the functions of our office are similar to those of other governmental ombudsman offices that have been established since the earliest ombudsman was created in Sweden in 1809.

Given our name change and given that I am still asked on occasions what an "ombudsman" does, it may be timely to share my brief description: An "ombudsman" is a government official who investigates and resolves, when appropriate, complaints from citizens about administrative actions of other government agencies or officials. In Iowa we have broad authority to investigate state and local government agencies, but not the Governor, the General Assembly, or judges.

Case Work

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

During calendar year 2013 we opened 4,010 cases. Of the total cases:

- 2,735 were complaints about state or local government agencies within our jurisdiction.
- 446 were requests for information about government agencies within our jurisdiction.
- 783 were complaints or information requests about matters outside of our authority.
- 46 were treated as special projects for other activities related to the work of the office.

Of the 2,735 jurisdictional complaints:

- 1,297 (47%) were or are being investigated. 1,438 were declined for investigation; even so, we typically will refer the complainant to an appropriate remedy or provide an explanation or information so the complainant better understands the reason for declining the issue.
- To date, 126 complaints have been substantiated or partially substantiated and 802 were not substantiated. [Note: some cases opened in 2013 are still being investigated.]
- In 155 cases, we made either informal suggestions or formal recommendations to the agencies to remedy or correct a problem or take action to improve a policy or procedure.

One significant change in the cases we handle occurred after July, 2013, when the new Iowa Public Information Board (IPIB) began investigating complaints related to open meetings and open records. (See Assistant Ombudsman Angela McBride's column on page 9.) Previously, we had received around 300 contacts each year on open meetings and open records issues.

Nevertheless, we remained busy in 2013 because the amount of work cannot be based just on the total number of cases. We have been conducting more complex, systemic investigations that take significantly more time and resources to complete. Two of those were requests by legislators to look into the treatment of residents both at the Iowa Veterans Home and the Iowa Juvenile Home. We also continued to face legal challenges by state agencies and the Attorney

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General's Office to our authority, which means expending more time or resources to resolve. (See "Legal Challenges")

Published Investigative Report

Usually our investigative findings and recommendations are communicated by letters directly to the agency and complainants. Occasionally, I may decide to publish a report on a topic of significance or broad public interest. In 2013 I issued a public report about inadequate oversight of a child care center by the Iowa Department of Human Services. I made 13 recommendations for improvements, 7 of which were accepted or partially accepted. (See story on page 5.)

Legal Challenges

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

An ongoing issue is our authority to have access to the closed session records of the files of two professional licensing boards, which has necessitated spending time and resources to conduct sworn testimonies and pay for certified transcriptions. Because the witnesses have refused to respond on advice of the Attorney General, we tried to address this through legislation last year. If legislation is not enacted in 2014, I will likely pursue litigation to resolve this legal issue.

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

We also faced a challenge and delay in obtaining investigative records held by the Department of Administrative Services, even after I affirmed we were not investigating an employment-related complaint from an employee (about which we have no authority to investigate). The Attorney General allowed us to review the files only under supervision and after we had signed a memorandum of understanding. It is my opinion this is contrary to our right to obtain copies of records already affirmed by the Iowa Supreme Court.

Legislative Proposals

As mentioned earlier, I proposed a bill to change our office name to "Office of Ombudsman." That change took effect on July 1. The transition to that name has been smooth and seamless.

As a result of our investigation into several complaints about the debt setoff process under Iowa Code section 8A.504, I made some recommendations to the Department of Administrative Services (DAS) to improve the process, especially as it relates to due process rights in setoffs initiated by local governments. In 2013 I submitted a bill to require agencies seeking a setoff to provide an opportunity for the debtor to contest the debt before a setoff, but the bill did not pass.

[Note: I submitted a similar provision in a bill (House File 2288) in the 2014 legislative

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session, and as of this date, both the House of Representatives and the Senate have passed that bill.]

South Korean Government Fellowship

Our office is hosting our third government official from South Korea's Anti-Corruption and Civil Rights Commission (ACRC) (which includes an ombudsman's function) to complete an 18-month fellowship study. Mr. Jung-gun Park is the Chief Secretary to the Chairman of the ACRC. He is conducting a study on the independence of the Iowa Ombudsman and other types of ombudsman offices in the United States, in terms of their structure, mission, role, and jurisdiction.

The Ombudsman's Authority

Iowa law gives the Ombudsman the authority to investigate the administrative actions of most local and state government agencies when those actions might be:

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

By law, the Ombudsman cannot investigate the Iowa courts, legislators and their staffs, the Governor and his staff, or multi-state agencies. The Ombudsman also cannot investigate complaints from agency employees about employment-related matters.

Eight Steps for Resolving Your Own Complaints

"What steps have you taken to resolve the problem?" That is often one of the first questions we ask people who contact us with a complaint.

Under law, one of the scenarios in which the Ombudsman is not required to investigate is when people have available "another remedy or channel of complaint which [they] could reasonably be expected to use." [Iowa Code section 2C.12(1)] And it is not just the law, it is also simple common sense. Disputes and grievances can be resolved with simple, honest communication. Certainly not all the time, but enough that it is almost always worth trying *before* filing a complaint with our office.

Here are some basic, important guidelines to follow when you are trying to resolve any "consumer" problem, whether it involves a government agency or not.

1. Be pleasant, persistent, and patient. The wheels of government usually move, but not always quickly. We have found the citizens who are best able to get problems resolved have three core traits in common: they treat everyone with respect and courtesy; they don't give up easily; and they realize that most problems are not resolved overnight.

2. Exercise your appeal rights. Does the problem involve a decision or action that has a formal appeal process? If you are not sure, ask the agency. The right to appeal usually has a deadline. Respond well before the deadline and consider sending your appeal by certified mail. If you cannot write before the deadline, call to see if you can get an extension or if you can appeal by telephone.

3. Choose the right communication mode. If you are not filing a formal appeal, decide whether you want to contact the agency in person, over the phone, or through a letter or e-mail. Go with the mode you are most comfortable with, unless the problem is urgent, in which case you will probably want to rule out a letter or e-mail.

4. Strategize. Before making contact, consider who your likely audience will be. Will it be someone who can actually fix the problem to your satisfaction? If not, your initial goal might be along the lines of patiently explaining your concern, listening to the response, and then politely asking to speak with a supervisor—perhaps even more than once!

5. Plan your questions. Write down your questions before calling or visiting the agency. Be sure to specifically ask which law, rule, or policy authorized the agency's actions. Then ask for a copy of the law, rule, or policy (so you can read it for yourself, to see whether you agree).

6. Be prepared. Be sure to have any relevant information available before contacting the agency. If you are wanting face-to-face contact, we recommend you call first. A short phone call could save headaches and wasted time, such as finding that the person you need to talk to is sick that day.

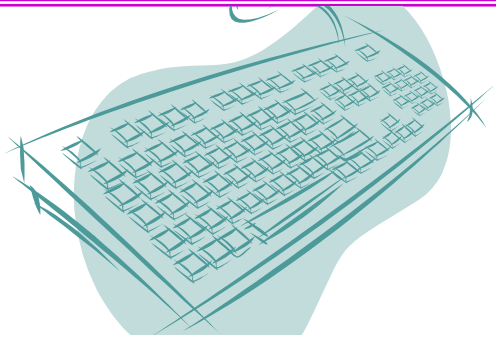
7. Keep records. Take good notes of all conversations. This should include the person's name and title, the time and date, and what they told you. Keep all records received from the agency, even envelopes. Also keep copies of any letters, faxes, or e-mails you send to the agency.

8. Read what is sent to you. Carefully read everything from the agency, front and back including the fine print!

If all that fails, contact us. Our office has authority to investigate complaints about most agencies of state and local government in Iowa. Major exceptions include the courts, the legislature, and the Governor. We do not have authority to investigate any federal agency.

Top Ten Government Web Sites

We have put together a list of ten web sites that will quickly put you in touch with almost any facet of state and local government in Iowa. This is certainly not an exhaustive list, but one that should help you get started in finding whatever you might be looking for.

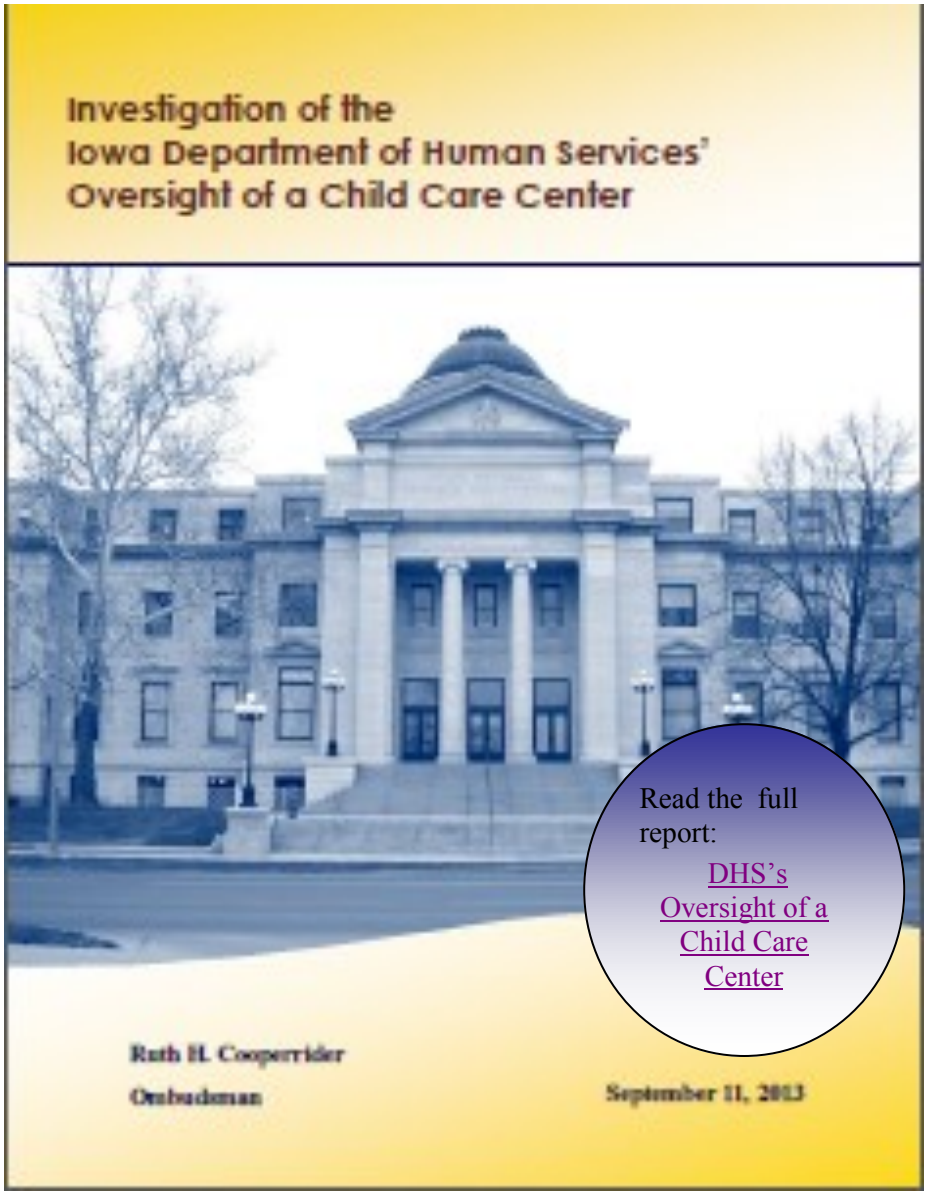


1. Official State of Iowa website—www.iowa.gov
2. State agencies—http://phonebook.iowa.gov/agency.aspx
3. Legislative—www.legis.iowa.gov
4. Judicial—www.iowacourts.gov
5. Cities—www.iowaleague.org
6. Counties—www.iowacounties.org
7. Public school districts and Area Education Agencies—www.ia-sb.org
8. Iowa law—www.legis.iowa.gov/IowaLaw/statutoryLaw.aspx
9. Iowa Public Information Board—www.ipib.iowa.gov/
10. Office of Ombudsman—www.legis.iowa.gov/Ombudsman

Investigation of the Iowa Department of Human Services' Oversight of a Child Care Center

The Iowa Department of Human Services (DHS) failed to closely monitor a child care center after finding violations associated with children engaging in sexual behavior, we concluded in a public report released in 2013.

The 83-page report was the culmination of our investigation into complaints alleging DHS did not appropriately sanction the center despite finding significant problems in 2010. The matter involved the Child Development Center (CDC) in Des Moines, which is owned and operated by Children and Families of Iowa (CFI).



While no further sexual incidents were reported at the center, "this was in spite of the DHS dropping the ball," our report stated. Ombudsman Ruth Cooperrider added: "Our greatest concern was the failure by the DHS to visit the center over a crucial eight-month period after the incidents and to verify the center was correcting its problems in a timely manner."

A DHS investigator concluded center administrators ignored staff reports about a child who put his hands in other children's pants, according to our report. The DHS investigator reduced the center's license to provisional status, roughly the equivalent of probation, and required the center to submit a written plan of how it would correct various violations.

Mental Health Redesign Progresses, Placement Issues Remain

By: Linda Brundies, Assistant Ombudsman

Iowa's effort at mental health redesign continued in 2013. The major issue is still how best to fund the system. In last year's annual report, I mentioned a bill was being considered by the Iowa General Assembly for transition funding and property tax equalization.

The law providing for transition funds of $11.6 million was passed and the funds were distributed to 26 counties in March 2013. This money provided additional resources to eligible counties to pay for current services under county plans.

The provision for property tax equalization and a new mental health and disability services property tax levy was passed and began July 1, 2013. The new levy is $47.28 per capita (per person). Counties who were levying more than $47.28 per capita were required to reduce their levy to that amount. Counties levying less than $47.28 per capita are to receive equalization funds from the state to bring them up to $47.28 per capita. Under this new structure, 54 counties were eligible to receive equalization funds. This system will be in effect for two fiscal years. If the Governor or the General Assembly does not act, this levy will be repealed July 1, 2015, and the previous levy will be reinstated.

The Iowa Health and Wellness Plan (IHWP) legislation was also passed in 2013. The IHWP requires the Department of Human Services (DHS) to calculate a Medicaid offset (clawback) amount from the counties. If counties experience savings from county residents transferring to Medicaid or the IHWP, 80 percent of that savings must be sent back to the state. Many local officials, providers, and consumers are concerned the clawback will negatively impact the county or the region's ability to provide core services as required by the redesign legislation. The mental health redesign law was crafted to ensure that core services will be expanded within each region. New disability service populations such as development disabilities and brain injury were to be added as funding became available. A major concern is that the clawback requirement works against those goals.

For an examination of the history of the Adult Disability Services System funding structure, see: https://www.legis.iowa.gov/docs/publications/IR/2014/24647/24647.pdf

The majority of counties have already entered into regions as part of the redesign. They must be ready to start operations by July 1, 2014. Since most counties are ahead of schedule, this should not be an issue. A map of the most recent approved regions can be viewed at: http://www.dhs.state.ia.us/uploads/Map-of-Approved-MHDS-Regions.pdf

Legislators and stakeholders should continue to monitor the mental health redesign funding situation and take action if necessary to ensure the following:

- consumers continue to receive core services
- waiting lists are not put in place
- regions and regional providers are financially able to continue to provide core services

The mental health redesign is expected to increase access to mental health treatment and equalize services across the state. However, there is a problem increasing in regularity and seriousness which does not appear to be addressed by the redesign improvements. The problem is that certain populations of mentally ill individuals are finding themselves without a place to receive treatment other than in jails or prisons. There is a lack of providers willing to or able to accept patients who are labeled as assaultive, aggressive, or are otherwise difficult.

Our office has been contacted by court-appointed mental health advocates, jail staff, and family members because mentally ill individuals are jailed rather than placed in a treatment facility because no bed could be found. In each case, the presenting problem was that no

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treatment provider would take the individual because they were currently assaultive or had been in the past.

A bill (House File 2122) is being considered by the General Assembly in 2014 to deal with housing of elderly persons who are sexually aggressive or combative or who have unmet geropsychiatric needs. The bill directs the Department of Inspections and Appeals and the DHS to establish a committee to study the issue and report its findings and recommendations to the Governor and the General Assembly by December 15, 2014. Another bill (SF 2057) under consideration would appropriate $150,000 from the general fund to the DHS in FY 2013-2014 for a study to assess placement of sex offenders or other hard-to-place persons who are in need of a nursing facility level of care for personal or medical reasons.

Neither of these bills completely address the issue of individuals who need mental health treatment and are labeled aggressive or assaultive or are otherwise difficult. Most of the persons we have been contacted about are not elderly nor are they sex offenders. Some have pending criminal charges for assaults on staff at treatment facilities. Some have been discharged from mental health institutes for assaulting staff and no other facility will take them. Whether or not criminal assault charges are filed, the individual can end up in jail due to the lack of placement options. Many jails, especially those in rural areas, do not have staff trained to handle mentally ill inmates. Legislation passed last year requires jail staff to obtain mental health training, but that training may not be sufficient to equip staff to deal with a severely mentally ill individual who engages in self-harm or harm to others. In jail, such patients are usually held in solitary confinement and often do not receive mental health treatment, other than medication.

Our office believes Iowa needs a treatment facility with trained security and treatment staff who are capable of handling and treating difficult, assaultive, or aggressive individuals suffering from mental illness.

Our office believes Iowa needs a treatment facility with trained security and treatment staff who are capable of handling and treating difficult, assaultive, or aggressive individuals suffering from mental illness. At one time, the four state-run mental health institutes were considered the "placement of last resort" for severely mentally ill patients. Over the years, it seems the mission of the mental health institutes has changed and they now provide short term psychiatric treatment for acute patients, similar to other psychiatric hospitals throughout the state. For a historical overview of the mental health institutes, see:
http://www.dhs.iowa.gov/docs/HF811_Closure_Proposal_Briefing.pdf

The issue of needing a facility to handle assaultive or aggressive mentally ill individuals who are or have been involved in the criminal justice system has been addressed by a workgroup. A bill (Senate File 525) was passed in 2011 requiring the DHS to convene an Adult Mental Health Workgroup and to report its findings by December 9, 2011. The workgroup's report discussed the issue of inpatient care and the role of the mental health institutes:

> The Workgroup agreed that there is a need for additional forensic inpatient capacity within the Mental Health Institutes and that as the need for long-term, civil commitment inpatient beds decreases as the community system strengthens, some beds can be re-purposed for individuals with mental illness and forensic circumstances. The Workgroup decided that the current construct of a forensic psychiatric hospital being located within the prison system

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should be transitioned to one that is located within the control of the mental health system.

Several states have successfully established specialized or separate facilities for housing and treating the severely mentally ill who have become involved in the legal system.

Kansas has a forensic hospital which treats severely mentally ill adult male inmates within the Kansas Department of Corrections (KDOC). This facility also treats a significant number of inmates diagnosed with borderline personality disorders or a conduct disorder which makes them an unacceptable risk for housing in another facility. The Larned State Hospital campus in Kansas also provides 115 beds for KDOC offenders. These inmates are provided mental health care and treatment in either the acute care or the residential rehabilitation program (RRP). The RRP provides psychiatric rehabilitation and vocational services to adult males referred from the KDOC. The intent of the program is to prepare these individuals for successful reintegration into the community or back into KDOC services. See http://www.doc.ks.gov/facilities/lcmhf

Other states have forensic psychiatric facilities managed by their mental health or human services departments. Examples include:

- New York State's Office of Mental Health has specialized forensic facilities and services, including a maximum security hospital, for justice-involved individuals and civilly committed persons found to be dangerous and unmanageable in other state facilities. https://www.omh.ny.gov/omhweb/forensic/BFS.htm
- The State of Florida has a network of state forensic facilities to evaluate, house, and treat individuals with mental illness who are involved with the criminal justice system. http://www.myflfamilies.com/service-programs/mental-health/forensic-facilities
- The State of Michigan built a new Center for Forensic Psychiatry in 2005 to provide both diagnostic services and psychiatric treatment for criminal defendants adjudicated incompetent to stand trial and/or acquitted by reason of insanity. http://www.michigan.gov/mdch/0,4612,7-132-2941_4868_4896_62743---,00.html

The treatment and housing of the severely mentally ill individuals who are assaultive or aggressive is not a simple issue to resolve, but Iowa needs a specialized forensic facility with trained staff and resources capable of evaluating and treating this subset of mentally ill patients.

It is understandable that people may experience difficulty in addressing complaints and questions to the proper offices or officials. The Office of Ombudsman was established for the purpose of providing Iowans with one office to which they may take their grievances.

Handing Off the Baton to the Iowa Public Information Board

By: Angela McBride, Assistant Ombudsman

After years of nudging from open government advocates, the Iowa General Assembly passed legislation establishing the Iowa Public Information Board (IPIB) in 2012. Shortly thereafter Governor Branstad appointed nine members to the new Board, after which staff was hired, rules were adopted, and the office was opened in July 2013.

The duties of the new IPIB, which are contained in Iowa Code chapter 23, include:

- Receive complaints alleging violations of open meetings law or open records law.
- Seek informal resolution of the complaints.
- Formally investigate complaints to determine if there is probable cause to believe a violation of law occurred.
- Commence a contested case proceeding if probable cause of a violation is found.
- Make training opportunities available to government bodies and officials.
- Inform members of the public about their right to access government information.
- Make recommendations or propose legislation the IPIB believes are desirable.

The Office of Ombudsman has fulfilled these functions, except for prosecution of cases through contested case proceedings, for many years. I believe we have performed them well through our trainings, informal resolutions, investigations, and recommendations. What we have lacked is enforcement authority, which the IPIB has. For that reason, we did not resist the creation of the IPIB. Still, it is a change for us because we have played an active role in ensuring compliance with the laws. The public's right to have access to information as much as possible under the laws is vital for government accountability.

Ombudsman's Role and Relationship with the IPIB

Although the Ombudsman still has statutory authority to investigate open meetings and open records complaints, we usually refer such complaints to the IPIB, since they have delegated special authority to handle these issues. One notable exception is that our office has discretion to investigate complaints that fall outside of the IPIB's 60-day filing deadline. In addition, we will continue to review tangential issues not covered by the open meetings and public records laws, such as publication of meeting minutes, retention of public records, and matters related to privacy or breach of security.

Generally, our office will not intervene in the day-to-day operations of the IPIB. We may monitor the IPIB's activities, participate in work groups as requested, and we may share relevant information for the Board's consideration. We may also monitor or comment on legislative proposals that affect transparency or accountability in government.

Under our statute, we have authority to investigate complaints about the IPIB, similar to other state boards within our jurisdiction. However, given the IPIB's assigned role and adjudicatory authority, and given that complainants can appeal IPIB's decisions, it is unlikely we will be reviewing or investigating substantive decisions by the IPIB.

Disagreement with IPIB on Notice Issue

In one complaint that we referred to the IPIB, the Ombudsman did appear at a meeting of its Board to express disagreement with a proposed decision by the IPIB's executive director to dismiss the complaint on the grounds that it was legally insufficient.

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The issue was about whether the agenda notice of a city council meeting had to be "easily accessible to the public" for at least 24 hours before the meeting. The complaint alleged the agenda was posted inside city hall 26 hours before the meeting, but because city hall was locked for 15 of the 26 hours, the agenda was accessible to the public only 11 hours.

The proposed decision said the posting met the requirements of the law as long as it was posted in the designated public place for agendas at least 24 hours before the meeting. The Ombudsman disagreed with this reading of the law, noting that the statute says the 24-hour notice must conform with the requirement that the notice be "easily accessible to the public." Therefore the Ombudsman interprets the law to require that the notice be accessible to the public for at least 24 hours. The IPIB's executive director argued our interpretation of the law "would be a major change beyond the scope of the authority of IPIB. A modification of this magnitude should only be made by the Iowa Legislature."

After a brief discussion, the Board rejected the Ombudsman's recommendation to accept the complaint for further consideration of the facts and legal arguments.

This decision by the IPIB essentially allows meeting agendas to be posted inside a public building which may not be accessible to the public for 24 hours before a meeting. The effect is that the public really only has access to the agenda during business hours—less than 24 hours. I do not believe this is what the Iowa Legislature intended.

Despite its decision, the IPIB's training materials are encouraging government bodies, as a best practice, to post agendas so they are accessible to the public for at least 24 hours preceding the meeting whenever possible. I believe this is especially important for non-regularly scheduled meetings when the public may not be expecting to see an agenda. [For more information, see the case summary on page 12.]

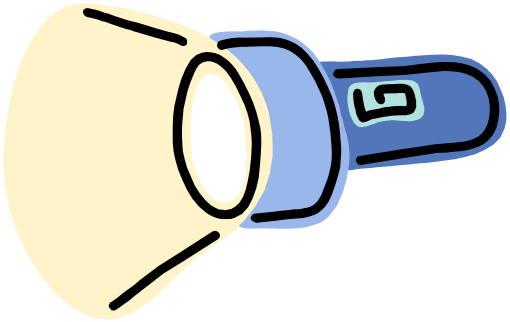
Training

I have always enjoyed providing training about the open records and open meetings laws and will miss that particular aspect of the job. Over 500 people heard me speak about that topic from January to July 2013, when the IPIB office opened for business. The groups included state employees, a library board, new county officers, GIS and IT professionals, local veteran affairs boards (organized by the Iowa Department of Veteran Affairs), a civil attorney group, and various agencies in and around Fort Dodge.

Statistics

While the IPIB was getting established, we continued investigating complaints and assisting people by providing them information and answering their questions. In 2013 we had 247 contacts regarding public records, open meetings, and privacy. Of those, 96 were information requests, 145 were complaints, and 6 were special projects. Of the complaints, 15 were substantiated or partially substantiated and 8 are still pending.

I expect these numbers to drop significantly in 2014 since most complainants will either go directly to the IPIB or we will refer them there. I sincerely hope the IPIB is able to keep running with the baton and its staff and board members are just as sincere and passionate about the mission of "Shining the Light on Public Information" as our office has been.



Public Records, Open Meetings, and Privacy

Provide Records Promptly or Face the Consequences

Citizens are not the only people who can have trouble keeping tabs on their government. We heard from a frustrated city council member in north-central Iowa who had tried for months without success to obtain financial records from the mayor and city clerk. The complaint was confounding for us, not only because the records are public information, but because council members have a statutory duty to oversee their cities' finances. Without reasonable access to financial records, it is nearly impossible for a council member to do his or her job properly.

We attempted to mediate the dispute and suggested a meeting among officials to get the council member what she needed. The mayor was resistive. We later learned that meetings had been scheduled without the complainant's knowledge or rescheduled for other reasons. Finally, a meeting was held and documents were given, but the council member remained unconvinced that she had all the records.

The continued problems caused us to write a letter that listed all of the records not received and gave a deadline for providing them. The deadline came and went without any of the information being delivered, and without an explanation.

The city attorney stepped in to try to resolve the problems, and it appeared the council member had received all of the records she had requested. However, the council member noticed more gaps in the information. We suggested she put her request in writing, but weeks went by without a response, even after we put in a word with the mayor.

Further talks eventually resulted in the production of the records. But our work with all of the people involved led us to conclude that the mayor's delays were intentional. We considered, but ultimately decided against, referring the case to state prosecutors.

We provided hands-on training to city officials, and others on the Open Records and Open Meetings Laws.

City Apologizes for Unlawful Agenda Changes

Iowa's Open Meetings Law requires that tentative agendas for public meetings must provide notice sufficient to inform the public of the specific actions to be taken and matters to be discussed at the meeting. We received a complaint alleging a mayor and council were repeatedly adding items to the agenda at the beginning of council meetings.

After reviewing the agendas and minutes for several council meetings, we identified seven changes to four agendas in a four-month period that resulted in discussion and vote by the city council. We concluded these changes did not qualify as emergencies. When we brought this problem to the attention of the mayor, he said the city was under time constraints for getting the budget approved, so this is why a budget item was added to one agenda. We suggested that additional special meetings can be warranted for time-sensitive issues in order to give proper notice as required by law. The mayor told us he had not realized that their actions violated state law.

We recommended the city comply with the Open Meetings Law and the mayor, council members, and city clerk participate in training about the law's requirements. City officials apologized for their actions and accepted our recommendations.

When "24 Hours" Doesn't Mean 24 Hours

During the course of our investigation into an improper board appointment by a city council, a citizen informed us the council had called a meeting on the subject without proper public notice. The citizen said council agendas were typically hung in the front window of City Hall; in this case, however, the agenda was posted inside City Hall, outside the view of passersby.

We advised the citizen to file a complaint with the new Iowa Public Information Board (IPIB) specifically created to ensure compliance with the state's Open Meetings Law and Open Records Law. In the meantime, we called the city clerk to get some basic information on the posting of the agenda. State law requires meeting agendas to be posted at least 24 hours in advance in a place that is "easily accessible to the public."

The clerk told us the agenda had been posted 26 hours in advance inside City Hall offices, which are closed to the public after regular business hours. This meant the agenda had been easily accessible to the public for only 11 hours before the start of the meeting. The clerk told us the agenda was posted inside City Hall, rather than in the front window, because it was a special meeting, and not a regular meeting. She could not explain why the city would distinguish between types of meetings. State law makes no such distinction.

To our surprise, the IPIB concluded the city had not broken the Open Meetings Law when it hung its agenda inside a locked office for more than half of the required posting period. The IPIB director argued the Open Meetings Law does not explicitly state that agendas must be easily accessible to the public for 24 *total* hours or 24 *continuous* hours. He claimed most governments post their agendas as this city did. He said it would be impractical for boards to ensure agendas could be seen by members of the public for 24 hours before a meeting.

We disagreed with the director's conclusion, and we made our position clear in a public presentation to his board. Other states that have considered this subject have reached the same conclusion as we have. If it is acceptable for a city to make its agendas easily accessible to the public for only 11 hours, would it be acceptable to provide access for only six hours, or one hour? If the Iowa Legislature did not feel that agendas should be easily accessible for 24 hours, we believe it would have written a smaller figure into the law. Further, the IPIB's decision ignores a provision that requires any ambiguity in the Open Meetings Law to "be resolved in favor of openness."

Since our presentation, the IPIB has created some written guidance for Iowa governments. The guidance states that it is a "best practice" to provide as much notice as possible prior to a meeting.

We continue to disagree with the IPIB and believe that governments must make their meeting agendas easily accessible to the public for at least 24 hours prior to their meetings.

Too Much Information?

Most law enforcement offices in Iowa respond to citizens' information requests by providing basic information about a crime or incident. Iowa's Open Records Law considers peace officers' investigative reports to be confidential, but requires at a minimum that the date, time, specific location, and immediate facts and circumstances surrounding a case be released. The information provided is not always exhaustive, and we receive a good number of complaints from people who want more information to be released.

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In one unusual case last year, we received a complaint in which it was alleged that police had released *too much* information.

A citizen had requested information from police regarding a specific incident, and received the entire report. The report contained details about a domestic dispute, including information about the parties' mental health and substance abuse. One of the parties argued that the report was inaccurate in places, a violation of personal privacy, and had compromised an ongoing child-custody case.

We requested a telephone conference with law-enforcement personnel and their attorney. We came to an agreement as to what information in the report was confidential, and which should be released as "immediate facts and circumstances." The agency pledged to release only a redacted version of the report if it was requested in the future.

Council Hides the Ball on Employee Firing, Gets Sued

A city employee who attended a city council meeting in northeast Iowa said he was surprised to hear the council talk about his performance as an employee. That is because an agenda posted in advance of the meeting gave no indication that the employee would be a topic of discussion.

In a creative but improper move, the council had listed among its topics for discussion an item called "Amend Agenda/Approve Agenda." During the meeting, when the item came up, a council member revealed that they would then discuss the city park board and the specific employee's performance.

Iowa's Open Meetings Law requires that government bodies post their tentative agendas at least 24 hours in advance and "in a manner reasonably calculated to apprise the public of that information." Agendas can be amended within the 24-hour posting period only in cases of a true emergency. The public has a right to know when a government body will meet and what is on the agenda in order to decide whether to attend and observe an open session.

It was easy to conclude from the agenda that members of the council knew in advance they would discuss the employee's performance, but purposely withheld giving notice of that discussion to the public.

That discussion ultimately led to a vote by the council to terminate the employee. The council followed with two new appointments to the park board that also were not hinted at on the originally posted agenda. Many items that did appear on the agenda were short on detail. One such item simply said: "Water."

Eight days later, during a special meeting with proper notice, the council met to revisit the employee termination and affirmed their prior decision. The council then adjourned the meeting and proceeded to have what it called an "emergency meeting" to deal with a grievance that had been filed by the ousted employee. Again, no hint of a second discussion was provided on the meeting agenda. The council also did not vote to go into a closed session or give a public reason for the closed session, as the law requires.

We determined the council violated the law in both meetings. We recommended that council members, the mayor, and city clerk attend training on the law to improve the quality of agendas and ensure that no matters were discussed without proper public notice. The city initially resisted the recommendation for training, but ultimately relented.

The employee who had been terminated later sued the city on the basis of the open meetings violations.

Iowa Implements a New Approach to Respond to Allegations of Child Abuse

By: Barbara Van Allen, Assistant Ombudsman

Legislative History

In 2010 the federal government conditioned a state's eligibility for federal child welfare funding on implementation of a differential response system that would allow for an alternative approach, other than traditional investigations, for handling allegations of child abuse.

During the 2012 legislative session, the Iowa General Assembly directed the Department of Human Services (DHS) to conduct a comprehensive review of differential response systems and make recommendations about implementing differential response in Iowa. I participated in the workgroup which completed the review, and a report recommended adoption of differential response. In 2013 the General Assembly passed legislation (House File 590) to enable the DHS to create two different pathways for responding to reports of child abuse and to adopt rules for their implementation. The legislation and administrative rules went into effect January 2014.

Why Differential Response

Traditionally, when a state's child protective services agency receives a report alleging child abuse, an "investigation" is done to find out if the abuse occurred and to identify the perpetrator (person responsible for the abuse). Perpetrators are placed on child abuse registries. In serious cases of abuse this is the appropriate approach. But this approach does not work best for every situation. Sometimes the families involved are struggling with poverty or other factors and need support, and they may be more receptive to services if child protection workers are working with them and not pointing fingers. The goal of differential response is to engage families, assess their needs, and build upon their strengths to keep children safe in their homes. In field experiments, children were found to be as safe under a differential response approach as under the traditional or investigative approach. No evidence has been found to suggest children are less safe when their families are receiving support services under a differential response approach.

The goal of differential response is to engage families, assess their needs, and build upon their strengths to keep children safe in their homes.

The American Humane Association has more information about differential response at: http://www.americanhumane.org/children/professional-resources/program-publications/differential-response/

Iowa's Differential Response System

Iowa law defines "differential response" to mean an assessment system in which there are two discrete pathways to respond to accepted reports of child abuse—a child abuse assessment and a family assessment. See, Iowa Code section 232.68(5).

The traditional investigative approach, now known as the child abuse assessment pathway, has not changed. The DHS will still use this approach to respond to more serious reports of child abuse involving imminent danger, death, or injury to a child. For these abuse reports, the DHS is still required, within 20 business days of receiving a child abuse report, to make a written determination if child abuse occurred, if a caretaker abused the child, and

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whether the criteria for placing a guilty caretaker on the child abuse registry are met. The person determined to be responsible for the child abuse has the opportunity for an administrative hearing to contest placement on the child abuse registry.

For child abuse reports accepted and referred to the family assessment pathway**,** the DHS will not determine if child abuse occurred nor identify the perpetrator and child victim. There is no record on the child abuse registry**.** There is no opportunity for a contested case hearing to challenge the assessment and any service recommendations. The DHS is required to complete the family assessment report within 10 days of receiving the child abuse report. The written assessment report will identify the strengths and needs of the child and of the child's parent, home, and family. The written assessment report will identify services available from the DHS and services and other support available in the community to address the family's needs. Upon completion of the assessment, the DHS will consult with the child's family on these services.

The family assessment approach will be used when a caretaker fails to provide for the adequate food, shelter, clothing, medical or mental health treatment, supervision, or other care necessary for the child's health and welfare, and when the person is financially able to do so or was offered the means to do so. This represents a major change in the approach for child protection services when responding to accepted reports of neglect or maltreatment. The family assessment pathway will provide the DHS greater flexibility to target and provide services to caretakers willing to voluntarily participate in this non-adversarial and cooperative approach.

Iowa law allows the DHS at any time to change from a family assessment to a child abuse assessment, if a child is determined to be unsafe or in imminent danger, if it appears that the family may flee or the child may disappear, or if other facts warrant the change.

At the conclusion of a family assessment, the DHS may provide or arrange for services for the child and family. A contracted provider of services is to notify the abuse hotline if the family's noncompliance with a service plan places a child at risk. If that information indicates child abuse, the DHS will commence a child abuse assessment. If the DHS finds the criteria for a child in need of assistance (CINA) action are met, the DHS will decide whether to request a CINA petition be filed in the juvenile court.

More information about Iowa's differential response system can be found at: http://www.dhs.state.ia.us/Consumers/Child_Welfare/CW_Menu.html

The Ombudsman investigates complaints against agencies or officials of state and local governments in Iowa.
We perform this service, without a fee, in an independent and, when appropriate, confidential manner.

Human Services

Communication Breakdown Contributes to Improper Denial of Benefits

Many of the complaints we receive are rooted in communication breakdowns between a government agency and a citizen. The following case shows how such a breakdown can have significant, real-life consequences.

A woman was helping her pregnant teenage daughter apply for medical benefits through the state. The woman was already receiving benefits for her daughter, but they did not extend to the baby.

After submitting an online application, the woman said she left two voice mails over the next two weeks for the state worker assigned to her case. She received no response. When the woman called a third time, she was told her application was denied because her daughter had failed to be available for a telephone interview.

The woman said her daughter did not receive notice of the requested interview, and she questioned how she could be denied on those grounds. We suggested they file a new application, but we also agreed to investigate her complaint.

In response to our inquiry, state officials said their worker denied receiving any messages from the woman or her daughter. They said the woman's daughter had applied for both medical benefits and temporary cash assistance. The worker insisted she had called the number on the application and left a message, saying she would call the next morning. When she called the next morning, she twice received no answer, and she then denied the application.

The worker's supervisor said the worker was correct to deny the application for cash assistance, but not to deny the application for medical benefits. The supervisor said an interview was necessary to receive cash assistance, but not to receive medical benefits. State officials were in the process of approving the daughter's second application for medical benefits, even though the second application should not have been necessary.

Mother: Where is my Daughter?

After two weeks of not knowing where her daughter was or when she could see her, a mother contacted our office for help. Her daughter had been removed and put into foster care. The mother said she was told to contact the worker the next day to get visitation and other information. The mother said she had called several times but no one had returned her calls.

We knew that, by law, only under certain conditions would a parent not be informed about the location and nature of their child's placement. But that did not explain why the mother's calls were not being returned. We contacted the state agency to get a better understanding.

In response, the agency said that when the child was removed, the mother was too distraught to take down information so the mother was given a phone number to call the next day. The agency's records indicated the mother called and left four messages the next day, all during normal business hours. The agency said the mother's calls were not returned because the worker's other cases were taking priority, and the worker was also out of the office for part of the two-week period. The agency said visits were not arranged due to "worker error." The agency said this was not in-line with agency practice, and the matter has been addressed with the worker and the supervisor.

Ombudsman Helps Cut Through Medicaid Red-Tape

A member of Iowa's "greatest generation" needed transportation to her medical appointments. In the past she got help from TMS, a private company that has a contract to help Medicaid clients who need transportation services for non-emergency medical appointments.

Recently, however, she said her discussions with TMS staff had become difficult. She said a TMS representative told her that she would not be eligible for services because she owned a car. Our caller said her car was in such disrepair that her mechanic advised her to only drive it in her small town. She doubted she could ever afford a replacement, and planned to keep her car until it stopped running.

She needed surgery, but said she postponed the procedure because of the problems she had with TMS. No longer able to wait and feeling exasperated, she asked our office to contact TMS so she could get transportation assistance for the surgery she needed.

We contacted TMS and learned their policy had changed. Under the new policy, transportation assistance would not be provided if there is a registered vehicle in the client's home. They said she could submit a written request for an exception to that policy. Under the circumstances, we wrote the policy-exception request on behalf of our elderly caller.

A few hours later, TMS advised it had approved her for transportation assistance. She just needed to call TMS with the details. We relayed the good news to our caller. She called our office again a few weeks later and said she called TMS to provide the details but was told they would not help her because she made a minor mistake with the address of her doctor's office. We contacted TMS again. A supervisor intervened and made sure she would get the transportation assistance that she needed.

Foster Parent Finally Gets Paid, With a Little Ombudsman Help

Raising a child is not cheap. This is why foster families receive payments to help with food, clothing, shelter, and school expenses for children placed in their homes. Checks are typically issued to foster families by the fifth working day of each month. Delays lead to financial headaches for foster families.

So we were concerned when a foster mother said she had not received over $4,500 in payments for the two prior months (May and June). She had three foster children and contacted our office only after her repeated inquiries to the state agency did not resolve the problem. "This is a large amount of money for us," she explained, "and we did not budget for a delay in the benefits."

We called the agency and requested an explanation. In response, an agency official acknowledged the May payment was late. They said the worker responsible for processing payments was behind in her work. The June payment was processed the day we called and was not considered tardy. The agency issued the payments for both May and June two days after the foster mother called our office.

Child Care Owner Gets a Second Chance

For many working parents, reliable child care service is a necessity. Anything that disrupts that service means time away from work, resulting in less income for the family.

We were contacted by the owner of a child care development home. The state agency wanted her to voluntarily give up her child care license because the owner had failed to meet deadlines for renewing her license and completing some required training.

Trouble was, some of the families she served were getting child care assistance through the state. If the owner gave up her license, it would cause a decrease in the rate of the state-paid child care assistance. She feared the drop would be enough to put her out of business, which would be a significant disruption for the families she was serving.

After reviewing the agency's administrative rules, we asked the agency to reconsider its request that she give up her license voluntarily. In response, the agency reversed its position and gave the owner 30 days to complete the required training. This meant there would be no disruption in child care services for the families. The owner was able to meet the new deadline. She said she now realizes how important it is to meet those deadlines—and the consequences of not doing so.

What We Do:

We investigate complaints against agencies or officials of state and local governments in Iowa.

We work with agencies to attempt to rectify problems when our investigation finds that a mistake, arbitrary, or illegal action has taken place.

We have unique statutory responsibility to investigate and determine if an action was fair or reasonable, even if in accordance with law.

We have access to state and local governments' facilities and confidential records to ensure complete review of facts regarding a complaint.

We make recommendations to the General Assembly for legislation, when appropriate.

Corrections Corner

By: Eleena Mitchell-Sadler, Assistant Ombudsman

"Leadership is absolutely about inspiring action, but it is also about guarding against mis-action." — Simon Sinek

To Tase or Not to Tase; That is the Question...

Use of Tasers or electronic control devices by law enforcement has been increasingly in the spotlight in recent years. In the wake of some incidents in 2013, the Iowa General Assembly is considering a bill (Senate File 2187) in 2014 to mandate the development of training standards relating to the use of electronic control devices by law enforcement agencies. The Office of Ombudsman has seen its fair share of complaints involving use of such devices. Most of the complaints we have received about misuse or abuse of electronic devices have involved county jails, but we have received complaints against police officers and sheriff's deputies also. Some complaints are more egregious than others, and an underlying concern we have of those particular incidents is the lack of leadership and lack of judgment by those authorizing use of these devices and by those deploying them.

Our office has never received the following Taser complaints:

The officer doesn't know how to store the taser.
The taser was not properly maintained.

Rather, these are the types of complaints we have received:

I was tased while fully restrained.
I was tased repeatedly while face down with officers on top of me and punching me in the kidneys.
I was attacked and tased because I asked about reimbursement for a phone call.
I posed no physical threat.

These particular incidents all occurred in Iowa jails. Even after passage of time and closure of these cases, I am still troubled that people who are tasked with overseeing our incarcerated could act in a manner that would leave an inmate confused, afraid, or bitter.

In one case, the inmate was transferred from one jail to another jail after being tased. At the second jail, staff recognized he was suffering from some sort of anxiety when he arrived. When he spoke with the psychiatrist (fortunately they brought in a mental health professional during admission), the inmate admitted he was fearful of another hazing by officers. The reason—he had never been incarcerated before and his experience was being "beaten and tased" during admission in the first jail. The second jail assured him that would not happen at their jail. The inmate was later diagnosed and treated for post-traumatic stress disorder.

The proposed legislation mentioned above states the electronic weapons safety course shall include *"identifying conditions and circumstances where the use of electronic weapons is appropriate or inappropriate."* I am pleased to see this required training, but I would also like requiring annual refresher training on this topic. I believe inclusion of an annual de-escalation and communications curriculum is essential to running a safe jail.

Use of Force Best Practices

It is important to note that use of electronic control devices is part of the larger issue concerning use of force by peace officers and jail staff. Our office also has investigated inappropriate use of force not involving electronic control devices. Based on my review of several use of force incidents in one jail, I identified the following best practices when it

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comes to any use of force. These are applicable in any correctional setting where use of force may be used on inmates.

- The amount of force used by staff should be commensurate with the level of threat posed. Like force or the minimum force necessary to control the situation is the amount of force which should be employed.
- Sincere effort should be made to communicate with inmates prior to non-emergency force being used. A reliable resource to aid communication should be used.
- All officers should be trained in decision-making, crisis intervention or effective communication techniques as required by administrative rule (201-50.25).
- Reviewing staff should look at all aspects leading up to and following force incidents. Doing so will ensure the conduct of staff involved was appropriate and did not instigate or exacerbate a situation.
- Staff should be cognizant that some inmate behaviors may be due to medical or mental distress and therefore health services personnel should be notified for an assessment.
- All staff should be familiar with the use of force policy, particularly those who may authorize its use.
- Inmate complaints should be reviewed in a timely manner so that video can be preserved if necessary.

Statistics on Prison and Jail Complaints

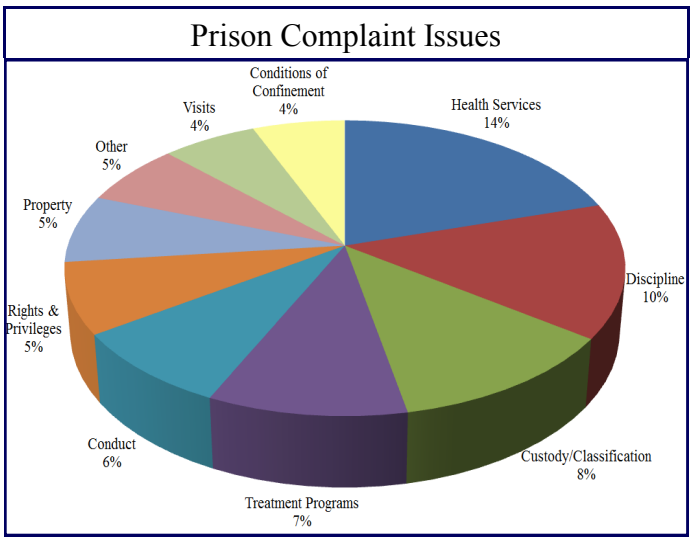
Our office receives a wide range of complaints about prisons and jails. In the prison system, 43 percent of all the complaints we received in 2013 involved issues of classification, discipline, medical issues, time computation, and treatment programs.

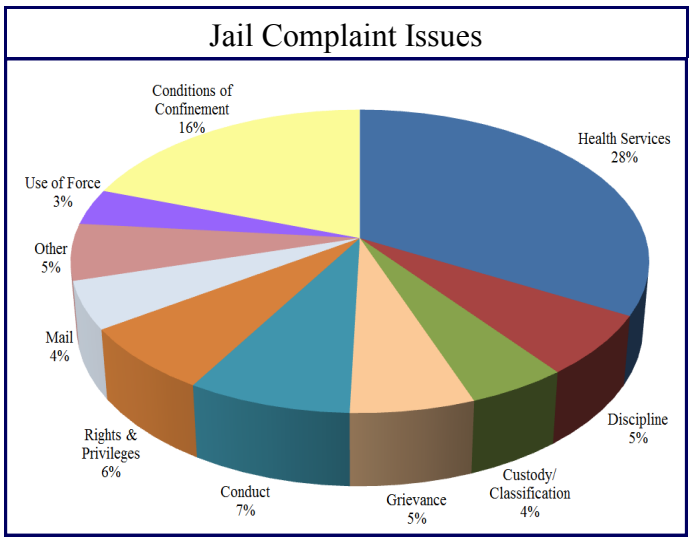
The top issues about jails include conditions of confinement, medical services, discipline, rights, and staff misconduct. These issues comprise 62 percent of our overall jail complaints.

See the charts below for specific complaint comparisons between prisons and jails.

Outreach

As the office's corrections specialist, this past year I continued to attend corrections-related meetings at various locations across the state, as well as speak to inmate advocacy groups. I particularly enjoy being asked to speak with prison and jail staff about the functions of our office. In 2013 I spoke to over 800 corrections employees across the state. I also visited 10 prisons and jails, meeting with inmates and staff about complaints our office had received.





Corrections

A Sensible Gesture

A diabetic offender who was serving a sentence in a work-release facility complained that officials refused to let him keep snacks in his room. The offender argued the snacks were necessary in the event of frequent low-blood sugar episodes which in the past had led to seizures. The man said he had two late-night attacks at the facility and had to be revived by roommates.

Our review of the man's correctional files confirmed he was diabetic. Facility officials reasoned, though, that the snacks would attract insects and rodents.

We did some research on the subject and found a possible solution: glucose tablets. The tablets, which are contained in small plastic bottles, are used by some diabetics to quickly correct low-blood sugar attacks. When we suggested to the offender that he request the tablets in place of snacks, he said that he had already done so, without success.

We contacted the facility manager and explained the situation. He quickly grasped the seriousness of the situation, and the utility of the glucose tablets. Within a day of receiving the information, the manager authorized the offender to keep the tablets in his room indefinitely.

Jail Official Vows: "This Will Never Happen Again, Trust Me"

It is not very often our office receives eight letters from one county jail on the same day. It is even more notable when the eight letters come from a jail that was the subject of only one complaint to our office over the prior two years.

Such was the case one day in 2013 when we received complaints about a county jail's handling of a disciplinary matter. All eight inmates felt they were victims of "group punishment." They lost their weekend telephone and television privileges "for a couple of people arguing and one laughing," one inmate wrote. "All the jailer did was ask who was laughing, and nobody snitched, so she said fine and shut off our stuff."

We requested records about the Friday morning incident. According to a report, the jail administrator "heard screaming from Cell A [and] all the inmates started yelling and screaming." The jail administrator ordered everyone in the cell to stop yelling and to go to their beds.

At that point, "somebody on the east side of the cell was laughing hysterically," the jail administrator wrote. "Asked them what was so funny, they said nothing. I asked them why is somebody still laughing, they didn't answer me." The jail administrator then informed the inmates that the entire cell would lose their telephone and television privileges until Monday morning. There was no indication the jail administrator attempted to identify the "guilty parties," other than to ask, "Why is somebody still laughing?"

The jail administrator assured us she had followed state administrative rules in the disciplinary process. Our investigation showed otherwise. We found the jail administrator did not:

1. Provide a copy of the disciplinary report to any of the inmates who allegedly caused the disruption.
2. Give the inmates information explaining their right to challenge the report at a hearing, or an explanation about the hearing process.

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3. Give the inmates information on their right to file an appeal if they were found in violation of jail rules after a hearing.

The jail administrator told us that disciplinary reports were for her use only, but would have been provided to any inmate who asked for one. We noted that this practice also violates state rules. The jail's shortcomings were particularly troubling to us because the state rules were accurately reflected in the jail's own policy manual.

When we pointed out the problems to the jail administrator, she promised changes, and said inmates would begin receiving copies of disciplinary reports automatically. "This will never happen again, trust me," she said.

Warden Promises to Speed Up Appeal Responses

Prison inmates have to follow the rules or they pay a price. Why should prison wardens be treated any differently?

That was the gist of a letter we received from a prison inmate who was disciplined for getting a gang-related tattoo. He claimed the disciplinary case against him should be dismissed because the warden did not respond to his appeal within 15 days. Prison policy requires that wardens "shall respond to an appeal in writing within 15 calendar days from receipt of the appeal."

In this case, we found that 28 days had elapsed between the warden's receipt of the appeal and the warden's written denial, clearly exceeding the timeframe set by policy. The inmate did not argue that he was innocent of the rule violations. Instead, he focused entirely on the warden's failure to respond within 15 days. The appeal policy informs inmates that the warden's failure to respond to an appeal within 15 days should be considered a denial; however, an appeal response is still expected as soon as practical.

The inmate acknowledged the warden's failure to respond to his appeal within 15 days meant his appeal was denied. But, he argued, "This is wrong. If I don't appeal in 24 hours of the decision then I lose the right to appeal. Therefore I believe if my appeal isn't reviewed in the time allowed instead of being denied it should be dropped."

We told the inmate we were unaware of any case where an Iowa court had dismissed a disciplinary case against an inmate due to a late appeal response by a warden. Based on this information, we did not agree the warden's failure to meet the 15-day deadline should have caused the hearing decision to be overturned. We do not believe a late appeal response equates to a due-process violation.

But our investigation did not end there. Our office had previously received similar complaints about the same warden. We dug deeper to see whether there had been a pattern of this warden not meeting the 15-day deadline. We decided to overlook cases that went one or two days beyond the deadline.

From our review of a random sampling of complaints to our office, we found that fewer than half of the warden's appeal responses were considered timely. More than half of his appeal responses took 25 days or more.

We made a similar evaluation of appeal responses at other state prisons. We found the vast majority of responses to disciplinary appeals were issued in 17 days or less. We found only two other wardens who took more than 17 days to answer a disciplinary appeal.

We submitted our findings to the warden, and he answered favorably. "From today forward," he wrote, "if we miss one timely issue in discipline or grievance, let me know. I will be surprised if that happens." As of March 2014, our office has not received any further complaints about delayed appeal responses by this warden.

An Unreasonable Delay

An inmate who had been granted a parole asked for our assistance when his release had been held up for three weeks. The inmate informed us he had twice been given a release date, but he remained in prison past both dates.

In reviewing the inmate's records, we found the inmate's release had been delayed by parole officers. The officers were aware of a crime the inmate had allegedly committed during a prior escape from work release that had never led to criminal charges. One parole officer had been assured by a prosecutor months earlier that charges would be filed in the case, but no record existed to show charges were in fact filed. Authorities in Illinois, where the crime allegedly occurred, declined to file any charges at the time.

We investigated further and found that a top parole authority had authorized an indefinite hold on the parolee's release until prosecutors could make a decision. A county attorney promised to review the case again, but urged officials not to hold the parolee pending his charging decision, which he said might take months. "I don't want the State to detain a person who otherwise has the right to be released," the county attorney wrote in an email.

Nonetheless, prison officials and parole authorities held the parolee for more than a month, until the county attorney decided to seek an arrest warrant in the case. The charge alleged that the parolee, a felon, had unlawfully possessed weapons. The bond in the case was $5,000.

We were concerned that officials' decision to indefinitely delay the man's release was improper, since no active charges had been filed and the man still had a valid parole order. The courts typically do not allow police to hold civilian criminal suspects for more than a day or two without a charge being brought.

Some officials conceded the delays were longer than they would have preferred, but justified the decision in the interest of public safety. We responded that it would have been better to release and re-arrest the man at a later date or revoke his parole, rather than detain him without a court's express consent. We concluded the decision to delay the parolee's release was unreasonable.

Officials said an improved information-sharing policy already underway at the time this complaint was made should prevent future recurrences of the problem.

Harry Prisoner and The Case of the Secret Law Book

A prison offender was denied access to a law book because of his classification status and because the book was labeled "For Library Use Only." We contacted the prison and confirmed his request was denied because the book was not allowed to be removed from the library, and offenders in segregation did not have library visitation privileges.

We did not agree that offenders in segregation should have to kite and wait for an appointment to meet with someone from outside the prison just to see a book that offenders in general population have daily access to. We shared our concern with a prison official and asked if he could accommodate this offender's request. The prison official promptly responded that arrangements would be made for the offender to access the law book.

Prison Mail Policy Violated Not Once, But Twice

A prison inmate who tried to write us reported that a correctional officer had asked her to open her letter so it could be checked for contraband. The directive contradicted state prison policy on mail, which states: "Mail to or from the Office of Ombudsman shall not be opened for inspection by staff. Offenders are not required to open mail at the direction of staff that is to/from the Ombudsman Office." The policy is based in the Ombudsman's statute and is the belief that prisoners need to be able to share their concerns confidentially, in the interest of oversight of the prisons.

We contacted the prison warden, who admitted the officer had violated the policy. The warden apologized and notified staff to remind them of the policy.

Two weeks later, the warden contacted us to let us know another incident with mail had occurred. An officer had apparently misinterpreted an email sent by the prison security director after the first incident. The officer understood the email to say that he should not read or scan mail from the Ombudsman, but he could ask the offender to shake the letter out. The officer spoke with us and admitted his error. The officer also apologized to the offender. No further reports of mishandled mail have been reported.

A Guilty Mischaracterization

A prison inmate who had received a year in solitary confinement for initiating a fight with a correctional officer argued to us that the case had been overblown by prison officials. Upon reviewing the evidence in the case, we disagreed. The inmate put the officer in a choke-hold and taunted him after wrapping himself in bedding and jumping on top of the officer.

However, we were troubled by the way the disciplinary finding was characterized. According to the report, the inmate had been accused of 13 separate rule violations. Among the seven rules he was found guilty of violating were assault, fighting, intimidation—and killing. Our primary problem with this finding: No one died in the attack.

Through interviews with prison officials, we found the report had intended to show that the inmate was guilty of attempting to kill the correctional officer. A close look at the hearing decision showed the inmate had been found guilty of a separate rule violation called "attempt/complicity." But nowhere was it specified that the "attempt" violation was connected to the "killing" violation. We found the hearing decision confusing, misleading, and inaccurate.

We asked the prison's warden to correct or clarify the decision. He explained that the way the decision was written followed a longstanding practice and would have to be addressed by the agency's attorney. The attorney said he saw nothing wrong with the decision and argued that the prison official who wrote the decision had the discretion to write it as he saw fit.

We pointed out that the report was a matter of public record, and could easily be misconstrued by anyone who saw it, including the authorities who eventually will consider the inmate's parole. We found and shared a similar disciplinary case that had been ordered to be corrected by a judge after a court appeal. Still, the attorney stood by his decision not to clarify the written decision.

We informed the inmate that his only means to have the record corrected was through the courts.

Nevertheless, the warden said he would ask the employees in his prison who hear disciplinary cases to better explain how a primary rule violation relates to an "attempt" rule violation.

Ill-Gotten Gains

An inmate who worked for a private company building trailers discovered that his employer was not withholding child support from his paycheck, as it should. As a consequence, the state had seized the inmate's income-tax refund and applied it toward his now-delinquent child-support obligations.

By law, private-sector inmate workers must be paid a prevailing wage, but are allowed to keep just 20 percent of the gross wage. The remainder, minus taxes and a contribution to a victim compensation fund, is supposed to go first and foremost toward child-support obligations, then court restitution. Any money left over goes to either the prisons or the state treasury.

We confirmed the inmate had an active court order to pay $36 a month in child support. His pay stubs showed that no child support had been withheld from his paychecks for 13 consecutive months. We asked state prison officials to refund $468 to the inmate for his child support debts.

A prison official initially refused, saying the error was the employer's, and argued that the inmate should have noticed the problem earlier. We agreed the error was not the prisons', but pointed out they had received proceeds they were not entitled to. The official suggested that he would support paying the inmate half of the kept proceeds if the inmate filed a tort claim through the state. We encouraged the inmate to file a tort claim for all of the funds.

A different state agency that oversees employers' child-support withholdings found that the trailer company had erred in its handling of the inmate's pay. The company pledged to correct the problem.

Our Services Are Available to:

- **All residents of the State of Iowa, including those confined in state institutions.**
- **Persons from other states and countries who may have complaints against agencies of Iowa government.**

Jails: No billing for Administrative Costs for Pre-Trial Inmates

An inmate complained a jail was taking his commissary money to pay off his $1,200 medical bill. The Ombudsman knew that inmates can be required to pay their own medical bills, so long as treatment is not denied for inability to make payment; we expected to provide that explanation to the inmate and close the case.

But our plans changed when we reviewed the medical bill enclosed with the inmate's letter. It said the inmate was being billed for security costs incurred while he was in the hospital. We asked jail officials to cite their authority for billing those costs to the inmate. Jail officials said they were relying on Iowa Administrative Code 210-50.15, which says, "Responsibility for the cost of medical services and products remains that of the prisoner."

While we agreed the costs of medical services and products were the prisoner's responsibility, we pointed out that under state law (Iowa Code section 356.7), prisoners can be charged for administrative costs only if they have been convicted and a court has authorized this recoupment. Because this inmate was in pre-trial status, we advised jail officials they did not have authority to charge him for the hospital-related security costs. In response, jail officials acquiesced and credited the previously seized money to the inmate's account.

Strange but True: Dismissed Report Results in Loss of Earned Time

A dismissed disciplinary report resulted in the loss of 30 days earned time. That statement alone should have raised a red flag for corrections officials, but the offender was unable to get anyone to listen—until he wrote to the Ombudsman.

When the offender received a notice of loss of earned time for a report that was dismissed, he contacted his counselor, who referred him to another department. The offender filed a grievance but it was denied; prison staff said they had no authority to restore the earned time. The offender then wrote to the residential facility where the report had been dismissed. He received a response from the district director affirming the report had been dismissed and claiming there was no loss of earned time, even though there was a loss of earned time.

Enclosed with the offender's letter to our office were copies of the district director's letter and a time computation sheet. The time computation sheet showed 30 days earned time was in fact taken from him for a report that had been dismissed. We checked the corrections' database and it too showed a loss of 30 days earned time. It took us all of five minutes to see that the offender had a legitimate complaint.

We emailed the office which handles time computations. A few hours later, they fixed the problem, and the offender's earned time was rightfully restored.

Oversight Results in Stolen Property

An offender residing in a community residential correctional facility wrote our office because her property had gone missing from the facility after she went to jail. The offender believed that staff had failed to properly secure her property and other offenders had stolen it.

We contacted the facility's residential manager, who said he would look into the matter immediately. The manager reviewed the matter and confirmed that staff had failed to secure the offender's property as policy requires.

The offender was urged to file a tort claim with the state so she could be compensated for her loss.

The manager told us this was an unusual occurrence and assured us that staff would take greater care in the future. We have received no further complaints about missing property at the facility.

Can it Really Wait That Long?

A prison inmate alleged a staff doctor had ignored his request to treat a baseball-sized hernia. The inmate had surgery for the problem a few months earlier, but the problem recurred. Despite persistent pain and a medical exam that confirmed the size of the hernia, a physician opted to reevaluate the inmate's condition in three months.

Medical complaints are among the most difficult cases our office fields. We are not medical experts, nor can we dictate orders to healthcare providers. We can, however, make inquiries to see whether staff is doing what is medically necessary, as the law requires.

In this case, our office asked a medical supervisor whether it was reasonable for the inmate to wait three months for a reevaluation, given the patient's reported pain, difficulty moving, and the size of the protrusion.

After our inquiry, officials scheduled a new appointment for the inmate within a few days at an outside surgical clinic.

This case shows that while we are not medical practitioners, we can raise questions and suggestions that can result in more timely treatment for complainants.

Doctor Necessary to Review Medical Complaints

An inmate who claimed he lost consciousness when he was given two medications rather than one complained to us that prison officials failed to adequately resolve his complaint.

Through a review of records, we could see that a prison doctor had prescribed the inmate a new medication to replace a different one that was about to expire. The inmate said no one had told him to discontinue taking the old medication at the time he was given the new one.

A prison official who had received the inmate's written grievance concluded it was doubtful that the medications, taken together, would cause a person to pass out. But the official failed to look into whether staff failed to tell the inmate to return pills from his old prescription.

The prison's warden considered the matter further and issued the inmate a very detailed response. Unfortunately, in denying the inmate's grievance, it became apparent to us the warden had based his decision on incorrect information he had received from staff. Nonetheless, the matter was dropped.

We could not conclude, based on the record, whether the two medications had caused the inmate to lose consciousness. However, we did question why the prisons' medical director was not called upon to review the grievance, given its technical details.

It was eventually agreed upon that the medical director would provide input on all medical grievances that were appealed beyond the warden. This improved process should ensure that medical complaints of a technical nature will be fully considered by those who best understand the dynamics of the complaint.

After receiving a complaint about a prison or jail, we review the relevant information and decide whether staff:

- ***Followed the law and institution policy.***
- ***Acted reasonably and fairly.***

If we conclude a complaint is substantiated, we look for ways that staff can:

- ***Fix the problem.***
- ***Reduce the chance it will happen again.***

Other Agencies

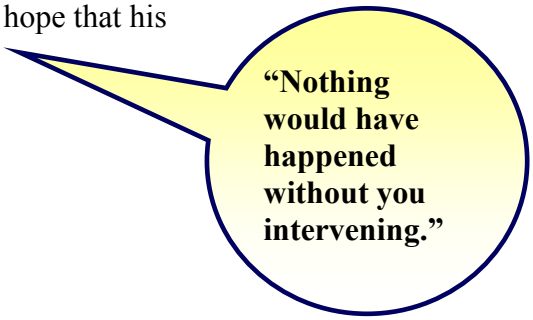
Prove Your Residency, or Pay $6,000

A former Iowa resident asked for our help in dealing with an attempt by state revenue officials to collect $6,000 in back taxes from him. The man said he was being accused of failing to file state income taxes in a year when he did not actually live in Iowa.

State officials asked the man to provide proof he lived elsewhere, but the man argued it should be the state's burden to prove he did live in Iowa. We asked questions of state officials who eventually told us that the man's federal tax returns suggested he had lived in Iowa. The man explained to us that he originally filed federal returns from another state, but later amended them after he had moved to Iowa. It appeared to us that the amended return was the cause of the man's problems. We persuaded him to order a copy of the original federal returns to convince the state that a mistake had been made.

Federal officials could not locate the man's original tax returns. However, he was able to find official correspondence from that period that included his out-of-state address. Iowa officials reviewed the documents and accepted them as proof that the man did not owe state income taxes. The state ceased its collection attempts, refunded a small fee it had imposed on the man, and wrote him a letter of apology.

The complainant admitted that he initially had little hope that his situation could be resolved. "Nothing would have happened without you intervening," he said.



Website Sales-Tax Calculator Not Always Accurate

A rural central Iowa woman made some online purchases and noticed she was improperly charged 7 percent sales tax, not the usual 6 percent. She contacted the company, which referred her to a state government website that calculates an individual's sales-tax rate based on their address. The sales-tax calculator website is managed by a state agency, so she contacted the agency and a representative confirmed her sales tax rate should be 6 percent.

Because the website was still calculating her sales tax rate incorrectly at 7 percent, she sent an email to our office. She explained that her address and zip code "covers two counties and two different tax rates." One is at 6 percent, the other is at 7 percent.

We contacted the agency and an agency representative told us that their computer program was not precise enough to determine the correct sales-tax rate for some addresses. The agency representative said there had been two other cases, over a period of five years, where the sales-tax calculator was wrong. She said there is no current fix for the problem, although taxpayers who feel they were overcharged can request a refund from the agency. The representative said the agency is collaborating with other agencies to explore the possibility of using geographic information system technology for greater specificity in the sales-tax application.

Licensing Board Agrees to Send Written Notice to Complainants

A southeast Iowa man filed a complaint with an Iowa professional licensure board. Nearly a year later he called the board and was told his complaint had been closed. He then called our office because he thought the board was required to provide him with a written decision.

We contacted the licensing board. Their staff said the man was not given a written decision because they perceived him as volatile. We reviewed Iowa law, the board's administrative rules, and the information the board provides to complainants. Neither Iowa law nor the board's administrative rules required the board to provide written decisions to complainants.

We found, however, that the agency's website says complainants will receive a letter advising of the case closure. We asked the board to send the man a letter advising him of the closure of the case, because it is their stated policy to do so. We also asked the board to consider adding this requirement to their rules, because other licensing boards already require written notice of closure in their rules.

The board agreed to send a closure letter to the man and provided a copy to our office. The board then initiated a discussion with its legal counsel about changing their rules to require a closure letters to complainants. We will follow up with the board regarding this issue.

After careful investigation, research, and analysis, the Ombudsman makes recommendations to resolve complaints that are found justified. Additionally, the Ombudsman may provide information and answer questions relating to government.

Change in Law Hooks Fisherman

Everyone should believe in something; I believe I'll go fishing.—Henry David Thoreau

A disabled fisherman found himself caught by government bureaucracy. He had received a fishing license for the past three years without any trouble. But now he was being required to have either a driver's license (DL) or a state identification card (ID card) in order to renew his fishing license.

The man said he could not obtain an ID card unless he first surrendered his DL, which was expired. He did not want to do that because his car was being reworked to accommodate his wheelchair. Once that was completed, he was going to get his DL renewed.

We researched the matter and found the requirement to have a DL or ID card was due to a change in state law. We contacted the state agency and learned they were already familiar with the man's dilemma. In response to our inquiry, agency officials reconsidered the matter and decided they were satisfied this man was in fact an Iowa resident, clearing the way for renewal of his fishing license. In an email to the man, an agency official wrote, "It is our job to serve the public. I want to sincerely apologize for our inability to process your request in a timely manner and for the amount of time and effort you had to put into obtaining your fishing license."

A Hair-Raising Experience

A cosmetologist called our office to share her frustration with trying to get her salon license. She had mailed an application for a salon license, along with a money order, to the state licensing agency. Eight weeks later, she asked for an update and was told the agency did not receive her application.

The very next day, however, her original application and money order arrived in her mailbox. On the application someone had highlighted mistakes she had inadvertently made. She corrected the mistakes and then hand-delivered the application to the agency two days later. She also submitted and paid for her cosmetology license renewal, as it was set to expire in a few days.

Agency staff told her they had 30 days to process salon license applications, but they promised to get hers completed in a couple of days. Two weeks passed and the cosmetologist had not received anything from the agency, so she recontacted them. She was then informed the agency had lost her paperwork and she needed to resubmit both applications. The cosmetologist refused their offer to accept her applications by fax or email, calling our office instead.

When we called the agency, they confirmed they had a dated receipt for her licensing fees, but they could not find either of her license applications. The agency said they had received a high volume of applications because they were at the end of a renewal cycle, but they agreed to consider implementing a better tracking system. The agency again offered to accept a fax application from the cosmetologist and to process it quickly. The cosmetologist faxed the applications immediately and the agency processed both licenses the same day.

Veterans Retain Home-Loan Freedom

In our monitoring of periodic changes to Iowa's administrative rules, we discovered that a state agency had proposed requiring veterans to get loans from specific banks in order to qualify for a $5,000 state grant for first-time homeowners.

This was an issue that had received our attention in the past. Service members returning from the Middle East complained to us in 2006 and 2007 that getting the $5,000 grant should not depend on where they got their home loan. One serviceman said he was offered significantly worse terms by one of the state's "participating lenders" than he could get from his local bank, which convinced him to turn down the grant altogether. State lawmakers subsequently amended the law, allowing veterans to use non-participating banks if they offered lower rates than participating banks.

The newly proposed rule change, though, appeared to undercut the law by removing lower interest rates as a consideration in whether to allow veterans to use non-participating lenders.

We expressed our concerns to state lawmakers and the agency, which quickly agreed that the proposed rule change would conflict with the law. The agency withdrew part of its proposed rule change. As a result, veterans who apply for the $5,000 grant remain eligible to use non-participating lenders.

Business Owner Gets Apology for Unprofessional Note

A business owner doing contract work for an Iowa prison called about an odd note he received. He explained that he owed money on a tax debt and was paying it off through a payment plan.

The business owner realized that the money he earned from the prison-related contract would be withheld. He received a written notice which explained the withholding. He was not concerned with the written notice, but he was concerned with a handwritten note that was on the notice. The unsigned note stated, "Solve this problem. It is extra work for 2 departments to withhold payment for your debt/taxes?" The "2" was circled.

The business owner was offended by the handwritten note. He felt it was unprofessional as well as harassing. We contacted the business office of the prison and the manager found that one of his employees had written the note. The manager agreed the note was inappropriate and counseled the employee to make certain it would not happen again. The manager also apologized directly to the business owner.

Local Government

Excuses, Excuses

It is fairly common for us to receive complaints about local government agencies that do not publish minutes of their meetings in a timely fashion. Once we point out to officials that they have a legal obligation to publish their minutes within two weeks, we usually do not hear about them again. Unfortunately, though, not everyone is so compliant.

A central Iowa man brought us proof of five instances where his local school district had failed to timely publish its meeting minutes. In one instance, the minutes were published 52 days after the meeting.

Unbelievably, the school superintendent had been criticized in a 2012 state audit for precisely the same violation in a separate school district. That district had responded to the audit with a promise to change its ways.

When we contacted the school superintendent with our concerns, she gave excuses for the delays. She expressed frustration that the full school board, which met monthly, did not have a chance to review and approve the minutes before they were required to be published.

We asked the superintendent to review other school notices to determine whether other deadlines had been missed. The superintendent found two additional instances where meeting agendas were not posted at least 24 hours in advance, as Iowa law requires.

In our closing letter to the superintendent and school board, we substantiated the complaint and tried to impress upon them the importance of publishing on time. We also summed up our findings to our complainant in a letter that was partially published by a local media outlet.

But I Called Before I Dug!

A resident in northwest Iowa built a new home several years ago, and diligently worked to make sure he got all of the permits he needed to do the job right. He also called before excavation work was done, which state law requires to avoid underground utility damage.

Unfortunately, a municipal utility never came to mark the location of the man's sanitary sewer line, even though the law requires it. Five years later, city officials informed the man that a sewer manhole was located just under his driveway, which they needed to access for maintenance. The city proposed tearing up the driveway, raising the manhole, and repaving.

Understandably, the homeowner wondered how this could happen. He wanted to avoid having a manhole in the middle of his driveway, in the belief that it would hurt his property value.

The homeowner alleged to us that the city did not follow a state law requiring them to locate an underground utility when excavation occurred. The homeowner wanted the city to relocate the manhole to avoid impacting his driveway.

We contacted city officials to hear their side. We also reviewed public records to confirm the homeowner called before he excavated, as state law requires. The records proved the homeowner called ahead, and the city was notified of the excavation.

City officials acknowledged they lost track of several manholes in the area, which had been covered by several inches of dirt and grass. They also could not show they had responded to the notification that required them to locate the manhole. Despite their oversights, city officials argued that their rights and interests in a public right-of-way superseded those of the homeowner.

We acknowledged the city's arguments about the right-of-way and their need to access the sewer line for maintenance. However, the complainant had some reasonable concerns. He followed the law. Why should he have his driveway torn up because the city did not meet its obligations?

We told city officials we believed they violated the law when they failed to locate the sewer line. In light of the city's shortcomings, we suggested that officials work with the homeowner to see if they could reach a mutually agreeable solution.

At the city council's next meeting, city officials disagreed with our office's findings. They felt we failed to consider their side of the issue. One council member suggested responding to our office like so: "Thank you, Mr. Ombudsman, but we really don't care." Another council member suggested letting the complainant make a "little speech" before the city would vote to "tear up their damn driveway."

We found council members' collective response distasteful and insensitive to the complainant's legitimate concerns. We also found this was not the first time the city had run afoul of state laws. Over the prior decade, the city had been cited for at least eight violations of its wastewater permit.

We substantiated the homeowner's complaint because the city failed to comply with the law. While we did not help resolve the case the way the complainant wanted, we are hopeful that our report will prevent the city from making similar errors in the future.

Cat Owner: Where is My Dead Cat?

"*I do thank you for your assistance. You accomplished what I had been trying to do for ten days – return (my cat) so I could bury him."*

"I do thank you for your assistance.

We received that thank you from a cat owner after police returned her dead and tortured cat to her following our investigation into her complaint.

The cat owner said someone had tortured and killed her cat. Police had filed charges against the alleged perpetrator for animal torture and animal abuse, but she wanted her veterinarian to perform an autopsy. She thought the cat's cause of death would strengthen the criminal case against the accused cat killer. She also wanted to give her cat a proper burial. But for some reason, she said, the police would not return the cat to her or tell her where it was.

In response to our inquiry, the police chief said he had told the owner there was no need for an autopsy because they had an eyewitness and photos. When asked if the cat had been tossed in a ditch by his officer, the chief acknowledged "probably should have done that differently."

The chief said he would have his officer gather the cat carcass, bag it, and take it to the owner that day. After the cat was returned to her, we informed her that as the cat's owner, she was considered a victim; therefore she could contact the county attorney to register as a victim so she would be given an opportunity to make a statement at sentencing. The accused cat killer is still awaiting trial.

Was the Right Decision Made the Wrong Way?

A small-town resident in southeast Iowa complained to our office that his dog was banned from town before he was given a proper hearing. The complainant alleged that his rights were violated, and city council members had defied their own ordinance.

The problems started when the complainant's dog reportedly got loose and bit a woman and her dog. Animal control in the town is handled by the county sheriff's office. After the reported dog-bite incident, the town mayor reportedly contacted a deputy and said the dog needed to be removed from town. The mayor's order contradicted a written notice the complainant was given, which said he needed to quarantine the dog for ten days. The discrepancy caused us immediate concerns.

The city council held a regularly scheduled meeting the day after the dog-bite incident. A motion was made to add a discussion about the dog-bite incident to the agenda. Shortly thereafter, the council declared the dog "vicious" and concluded the dog's owner had violated the town's animal ordinance.

The dog owner was not invited to, nor advised of, the meeting. The council made no effort to hear the dog owner's side of things, even though they were deciding a matter that impacted his property rights.

We reviewed the facts and circumstances of the case and concluded that city officials made a series of miscues. We also identified violations of the state's Open Meetings Law. We concluded the council did not satisfy notice requirements because they failed to let the public know of its discussion at least 24 hours in advance. Since the dog was already quarantined, we dismissed any notion thismatter was an emergency that would excuse the 24-hour notice requirement.

When we reviewed the city's ordinances, we learned that only the council could declare an animal dangerous and require its removal from town. That meant the mayor's order to remove the dog from city limits was contrary to the local ordinance.

(Continued on next page)

Lastly, we pointed out the city council might have violated the complainant's due process rights because it did not give him the right to be heard before it voted to declare his dog dangerous.

We recommended that city officials meet with the complainant to discuss a mutually agreeable resolution. Further, we recommended that council members undergo training to improve compliance with the Open Meetings Law. Although the city accepted our recommendations, the complainant sued the city.

City officials may have made the right decision to declare the dog dangerous and remove it from town. Where they failed was in the way they made their decisions, in violation of state and local laws.

It Pays to Consult the Law Before Acting

A resident in southeast Iowa called us to ask what laws a township must follow before auctioning off the contents of a derelict building scheduled for demolition. The resident was interested in participating in the township auction, but had learned about the event too late and was unable to attend. Trustees had published notice in the newspaper two days prior to the intended auction and handed out fliers around town.

We reviewed the Code of Iowa and found that trustees were required to post notice in a newspaper at least ten days before the disposal of any personal property by sale.

We quickly contacted two of the trustees to inform them of the Iowa law. The trustees were upset that someone had complained about the process, but grudgingly agreed to call off the auction. Both seemed unaware of the legal requirements. The trustees also agreed to consult with the county attorney for legal advice on how to properly dispose of the building and its contents.

Follow Your Own Rules

A city in eastern Iowa passed an ordinance requiring its city attorney to serve as acting city administrator whenever the position became vacant, or during any excused absences. Later, after the city administrator stepped down, the city council appointed its finance director as interim city administrator while they conducted a search to fill the position permanently.

A citizen called us to object that the temporary appointment of the finance director was illegal under city ordinances. He further argued it was an improper appointment because the city administrator oversaw the finance director's work. Ultimately, the finance director was hired to the post permanently.

After our review of state laws and legal opinions, we could not find that the positions of finance director and city administrator were incompatible. However, we concluded the temporary appointment of the finance director clearly violated the city's ordinance and should not have happened.

We expressed our opinion that elected officials send the wrong message to the citizenry when they fail to follow laws they have sworn to uphold. Public officials should be held to the same standard, if not a higher standard, than citizens.

The mayor initially agreed with our position. Later, after he consulted with his city attorney, he changed his mind and asserted the city's actions were legal.

We held our ground on our conclusions and laid out our reasoning in a letter to the city council. The council ultimately agreed to change its ordinance to prevent similar controversies in the future.

Non-Payment of Fines Cannot Lead to Vehicle Impound

As governments' use of traffic cameras increase, so do the complaints from citizens concerned about the constitutionality of the programs. We usually decline these complaints because Iowa's courts have affirmed the use of the cameras. But there are exceptions.

A central Iowa man asked for our help after his wife received a ticket through a traffic camera. The man told us he had attended public meetings on the cameras, and remembered the city had removed language from its ordinance that allowed police to impound the cars of offending drivers. His wife's ticket, however, contained language warning the impounds were authorized.

We reviewed the city ordinance, confirmed the man's recollection, and asked police for an explanation. A police captain acknowledged the department had forgotten to update the citations to account for the new language in the ordinance.

The woman's car was not impounded, nor were any others, police said. They agreed to change the language on future tickets.

The Office of Ombudsman
An independent Legislative agency created
for the citizens of Iowa to help ensure fair and equitable
government services for all its residents.

Supervisor Improperly Intervenes in Civil Dispute

A rural property owner in southeast Iowa complained to our office after a county supervisor reportedly intervened in a civil dispute over a private driveway. The man alleged that the supervisor and other county officials improperly gave approval for a neighbor to use his driveway.

The complainant claimed to have a decades-old court order that proved his argument. We reviewed the court order, which appeared to prevent the neighbor's use of the driveway. But we also knew it was the court's place to interpret and enforce its order.

We inquired with various county officials, including those with knowledge of surveys and land records, and the supervisor the complainant was most upset with. Through our interviews, we found the supervisor had assumed total control over the dispute, regardless of other officials' knowledge of or expertise on the issues.

It became clear to us the supervisor was trying to handle matters that by law were the responsibility of other county offices. We also found it improper that a supervisor would get so heavily involved in a private dispute between homeowners, especially on aspects of the case that were most appropriately addressed in court.

We conveyed our findings to the county supervisor and suggested that he avoid overstepping the duties and responsibilities of his office.

Banking on a Technicality

A city council's decision to hire a city administrator might not seem like a controversial move. Unless you discover that the city's ordinances doesn't authorize the position—and the appointment happens without proper notice to the public.

That is what happened in a small north-central Iowa town whose city council tried to argue that state law would only prohibit their appointment of a city *manager*—not an administrator. State law does indeed require the passage of an ordinance before a city may hire a manager. But we found the city's argument to be disingenuous—the positions of city manager and administrator are synonymous, and we concluded that its move undermined the intent of the state law. Without an ordinance specifying a city manager's or administrator's duties, the powers and duties of the person hired into the job would remain an open question.

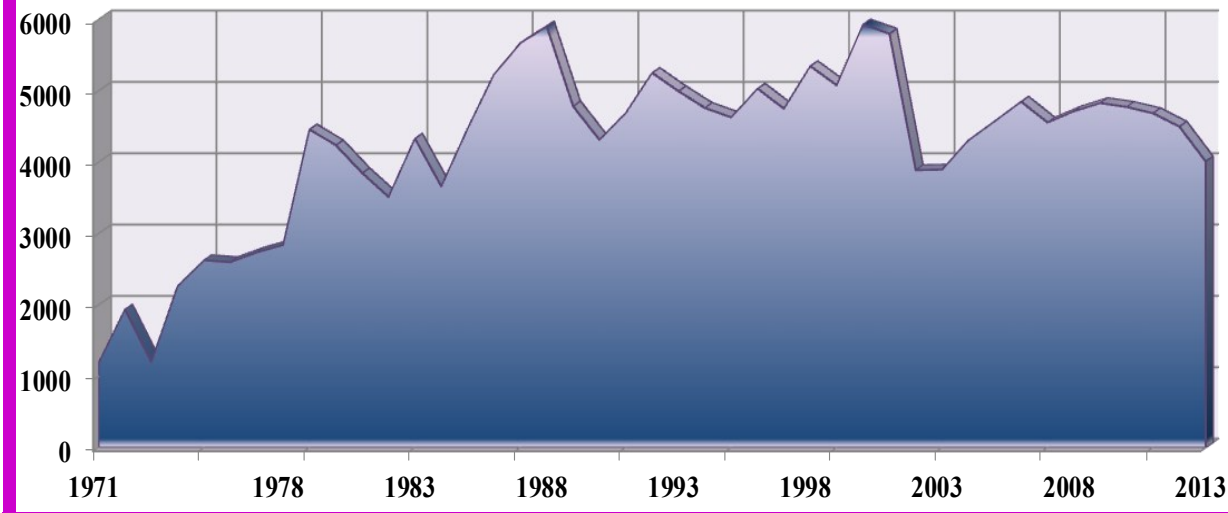
Furthermore, in this case, the city council violated a provision of the Open Meetings Law that requires elected officials to provide at least 24 hours' notice to the public of any issues they plan to discuss or vote upon. Its agenda for the meeting was silent on the subject.

We outlined our thoughts in a letter to the council and followed up to ensure a substantive response. After several conversations, the council finally agreed to develop an ordinance authorizing a city manager position, which eventually passed.

The ombudsman system is based upon the principle that every person has a right to have his or her grievances against the government heard, and if justified, satisfied. The Office of Ombudsman provides Iowans a non-partisan independent agency where action can be taken to resolve their complaints.

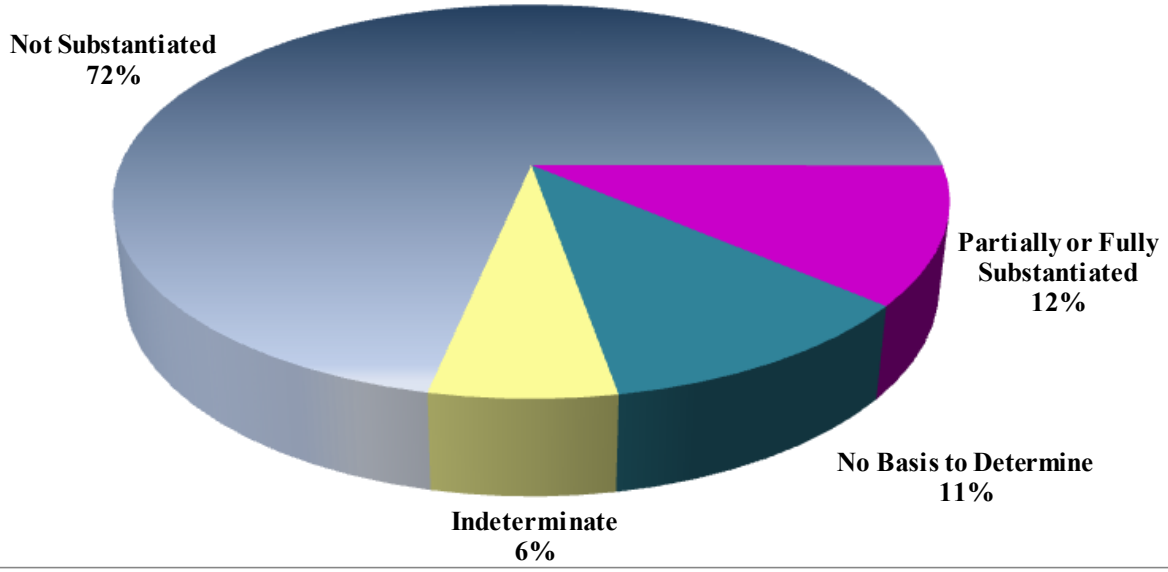
Statistics

4,010 Cases Opened in 2013

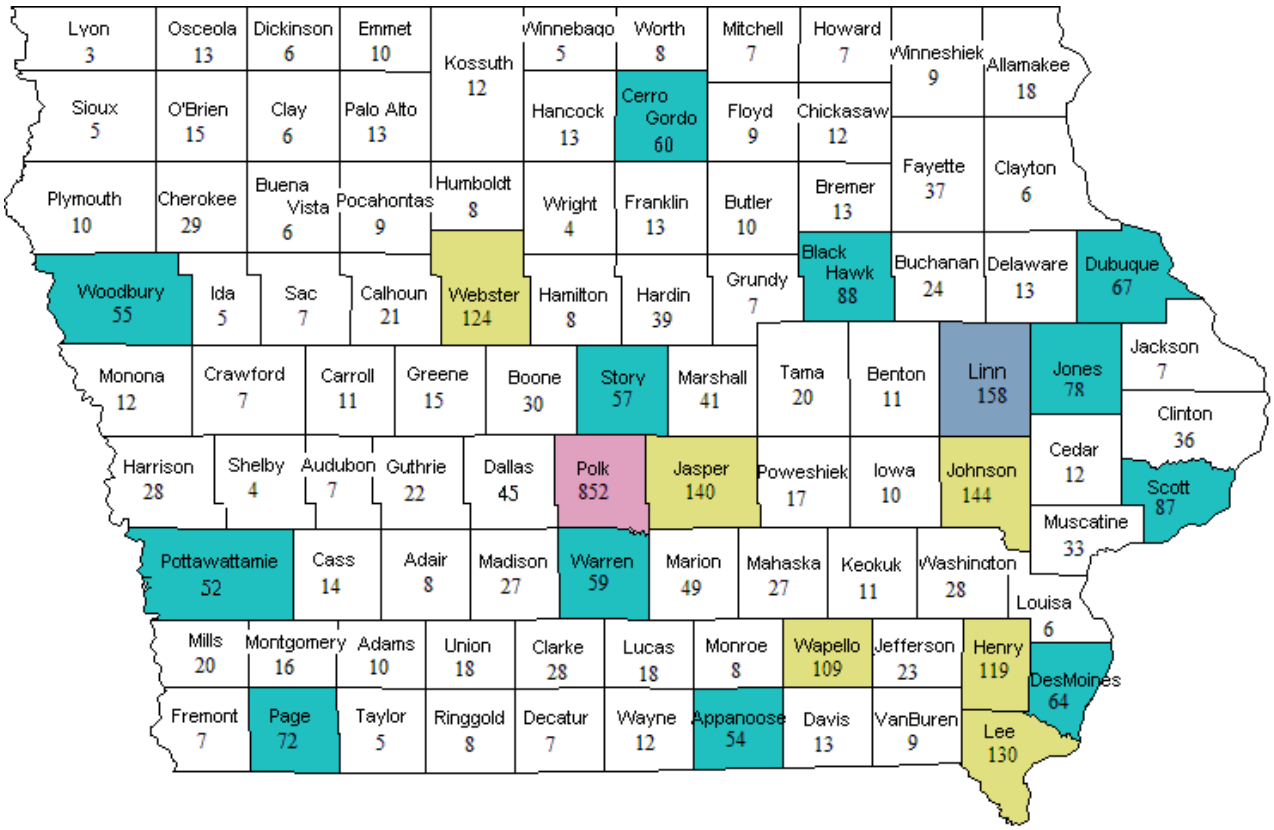


This chart shows the number of contacts received by the Office of Ombudsman each year from 1971 through 2013.

Determinations on Investigated Complaints



Cases Are Received From All Counties in Iowa



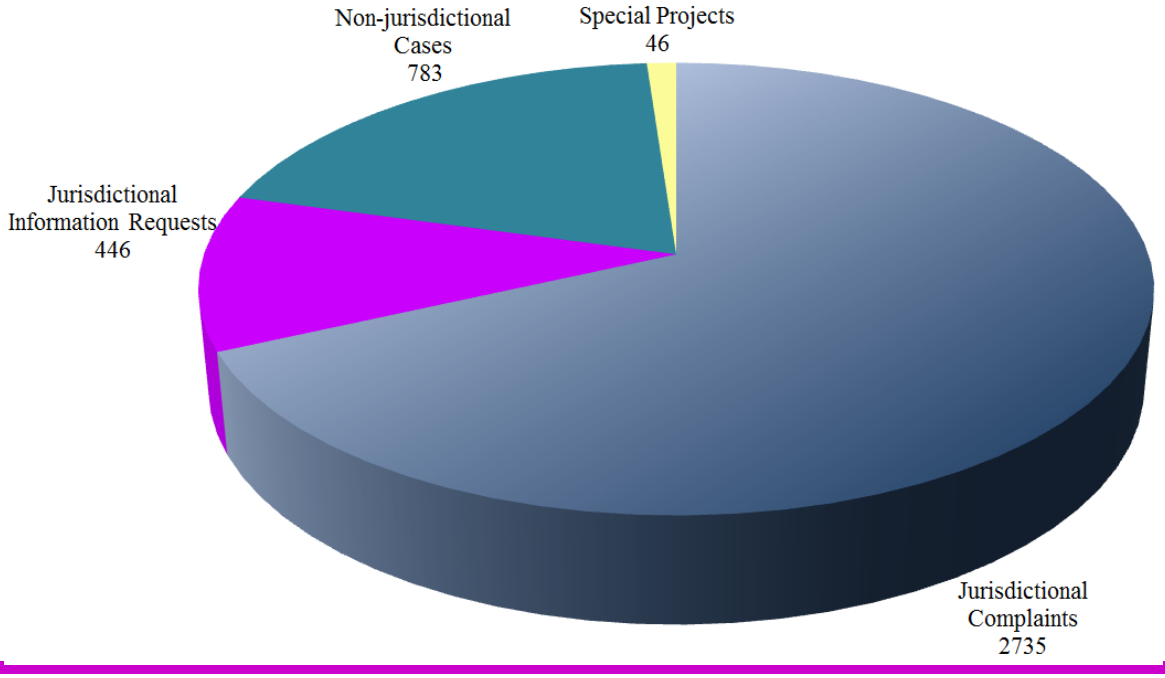
The numbers on this map represent 3,756 cases.
Not shown on the map are the following:

- *Iowa unknown (61);*
- *other states, District of Columbia and territories (183);*
- *other countries (1);*
- *and unknown (9).*

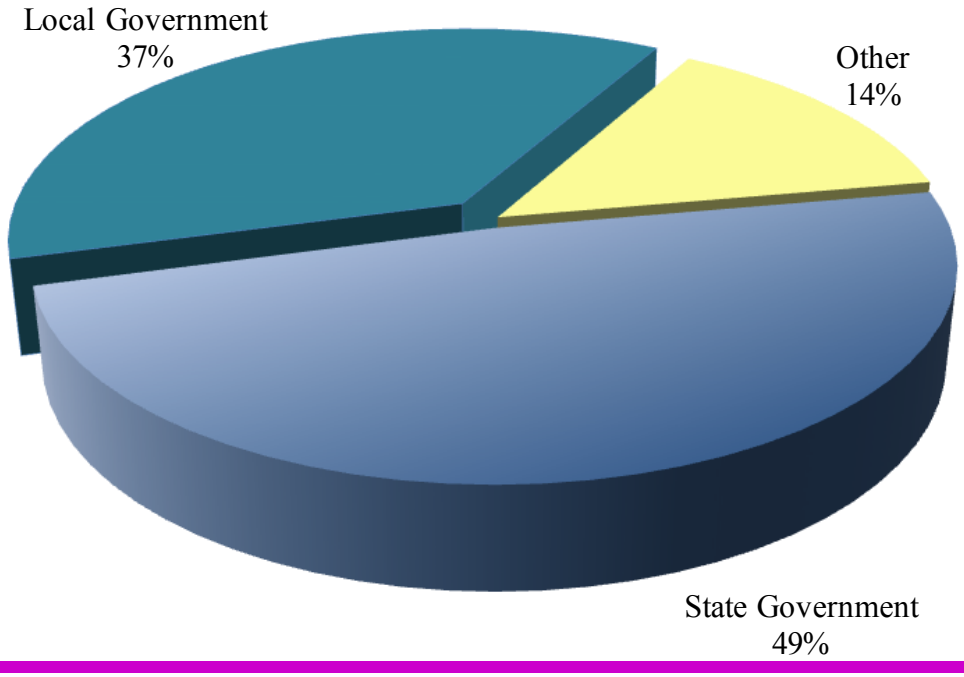
Cases Opened in 2013 by Agency

Name	Jurisdictional Complaints	Jurisdictional Information Requests	Non-jurisdictional Cases	Total	Percentage of Total
Administrative Services	4	5	0	9	0.23%
Aging	0	16	0	16	0.40%
Agriculture & Land Stewardship	3	1	0	4	0.10%
Attorney General/Department of Justice	6	4	0	10	0.25%
Auditor	0	0	0	0	0.00%
Blind	3	1	0	4	0.10%
Civil Rights Commission	12	5	0	17	0.43%
College Aid Commission	0	0	0	0	0.00%
Commerce	9	9	0	18	0.45%
Corrections	655	22	0	677	17.08%
County Soil & Water Conservation Districts	1	0	0	1	0.03%
Cultural Affairs	1	1	0	2	0.05%
Drug Control Policy	0	0	0	0	0.00%
Economic Development	0	1	0	1	0.03%
Education	13	2	0	15	0.38%
Educational Examiners Board	0	1	0	1	0.03%
Ethics and Campaign Disclosure Board	1	0	0	1	0.03%
Executive Council	0	0	0	0	0.00%
Human Rights	2	2	0	4	0.10%
Human Services	342	34	0	376	9.49%
Independent Professional Licensure	4	1	0	5	0.13%
Inspections & Appeals	44	5	0	49	1.24%
Institute for Tomorrow's Workforce	0	0	0	0	0.00%
Iowa Communication Network	0	0	0	0	0.00%
Iowa Finance Authority	1	0	0	1	0.03%
Iowa Lottery	0	0	0	0	0.00%
Iowa Public Employees Retirement System	1	0	0	1	0.03%
Iowa Public Information Board	3	16	0	19	0.48%
Iowa Public Television	0	0	0	0	0.00%
Law Enforcement Academy	5	0	0	5	0.13%
Management	1	0	0	1	0.03%
Municipal Fire & Police Retirement System	0	0	0	0	0.00%
Natural Resources	6	2	0	8	0.20%
Office of Ombudsman	0	36	0	36	0.91%
Parole Board	13	2	0	15	0.38%
Professional Teachers Practice Commission	0	0	0	0	0.00%
Public Defense	3	0	0	3	0.08%
Public Employees Relations Board	0	0	0	0	0.00%
Public Health	8	6	0	14	0.35%
Public Safety	20	6	0	26	0.66%
Regents	12	0	0	12	0.30%
Revenue & Finance	39	8	0	47	1.19%
Secretary of State	2	4	0	6	0.15%
State Fair Authority	1	1	0	2	0.05%
State Government (General)	71	114	0	185	4.67%
Transportation	41	8	0	49	1.24%
Treasurer	0	4	0	4	0.10%
Veterans Affairs Commission	9	2	0	11	0.28%
Workforce Development	35	12	0	47	1.19%
State government - non-jurisdictional					
Governor	0	0	10	10	0.25%
Judiciary	0	0	165	165	4.16%
Legislature and Legislative Agencies	0	0	10	10	0.25%
Governmental Employee-Employer	0	0	39	39	0.98%
Local government					
City Government	547	54	0	601	15.16%
County Government	562	35	0	597	15.06%
Metropolitan/Regional Government	19	1	0	20	0.50%
Community Based Correctional Facilities/Programs	206	12	0	218	5.50%
Schools & School Districts	30	13	0	43	1.08%
Non-Jurisdictional					
Non-Iowa Government	0	0	75	75	1.89%
Private	0	0	484	484	12.21%
Totals	**2735**	**446**	**783**	**3964**	100.00%

Types of Cases Opened in 2013

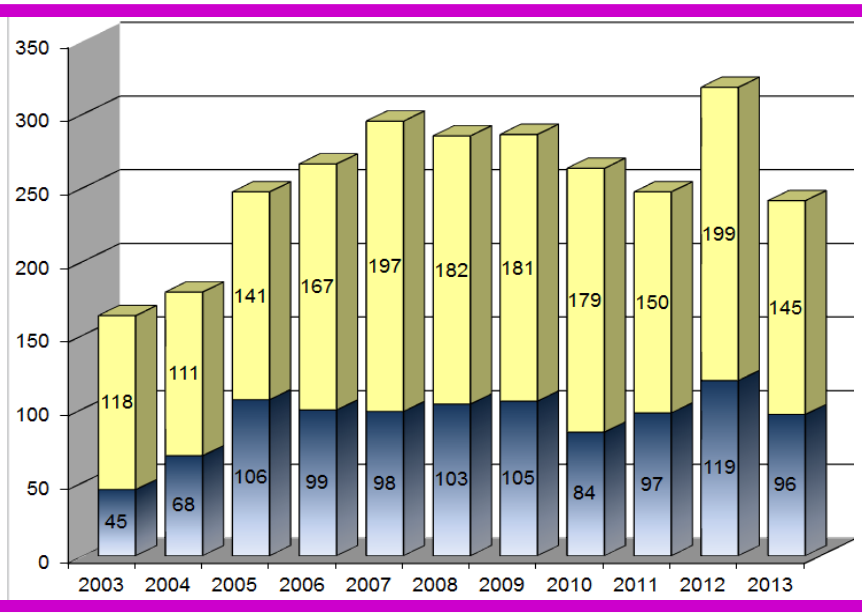


Subjects of Cases



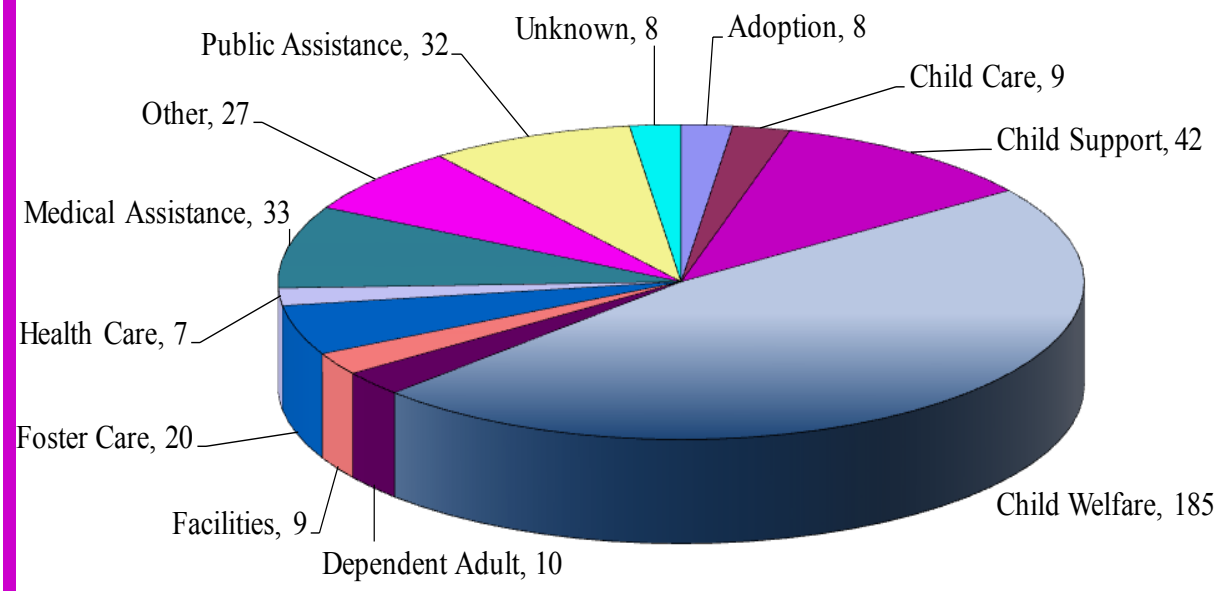
Public Records, Open Meetings, and Privacy Complaints and Information Requests Received

(See pages 9-10 for details on 2013 contacts)

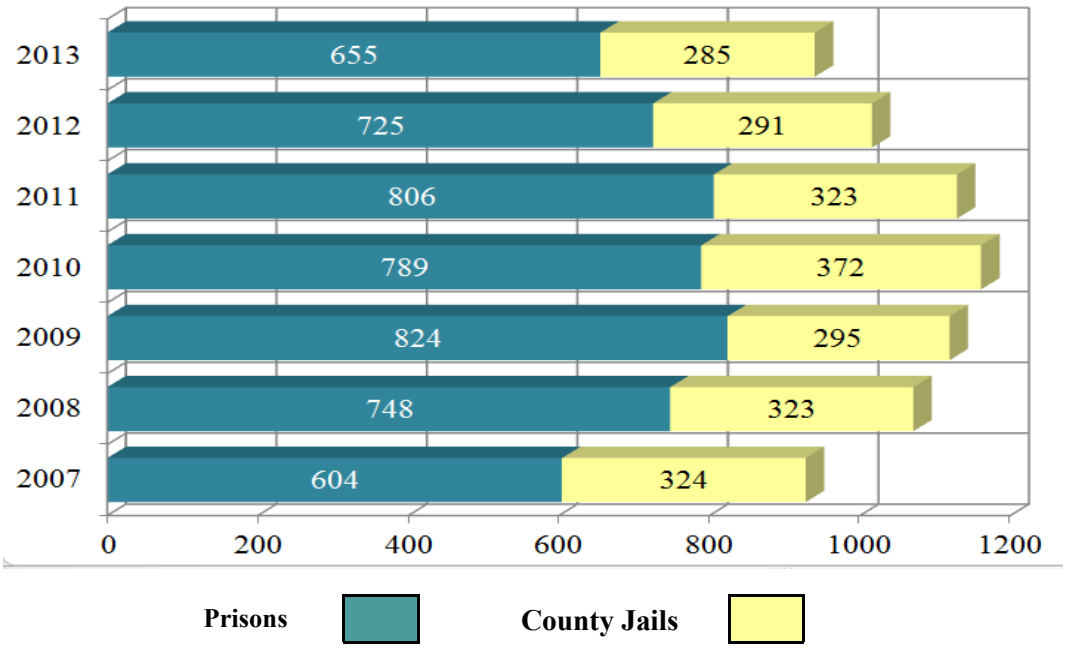


Complaints Information Requests

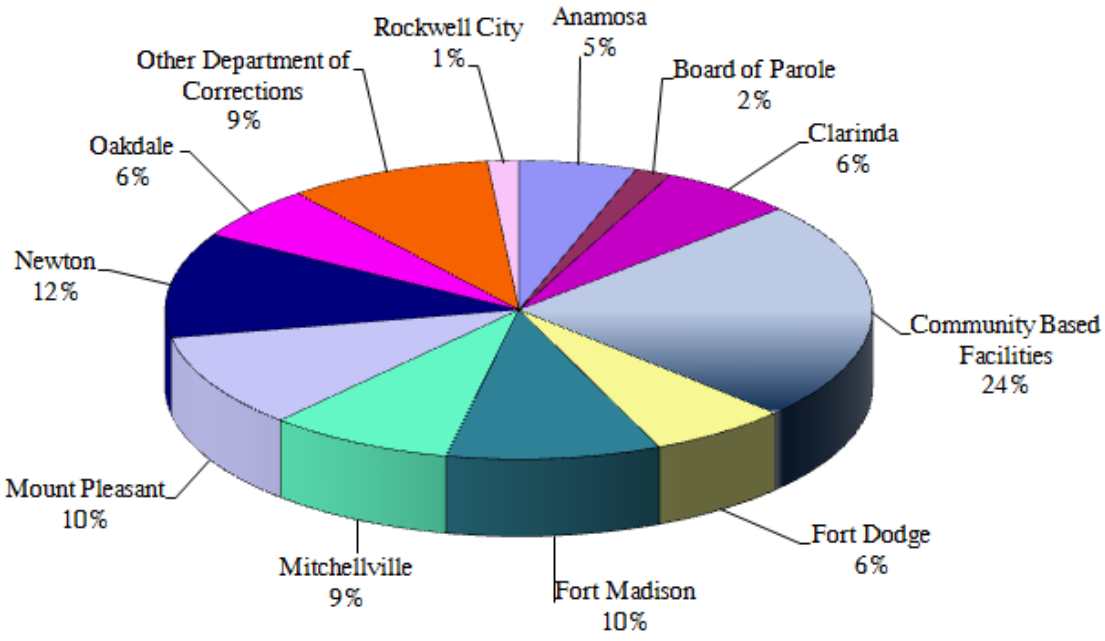
Human Services Cases



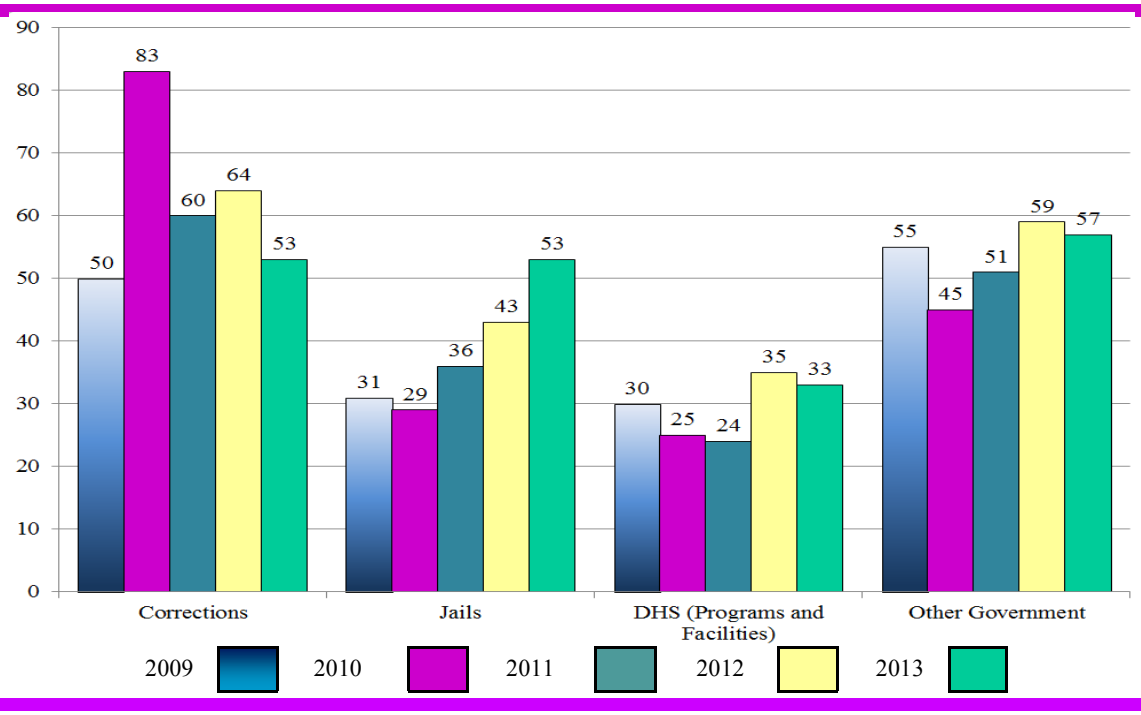
Number of Prison & Jail Complaints



Subjects of Corrections Cases



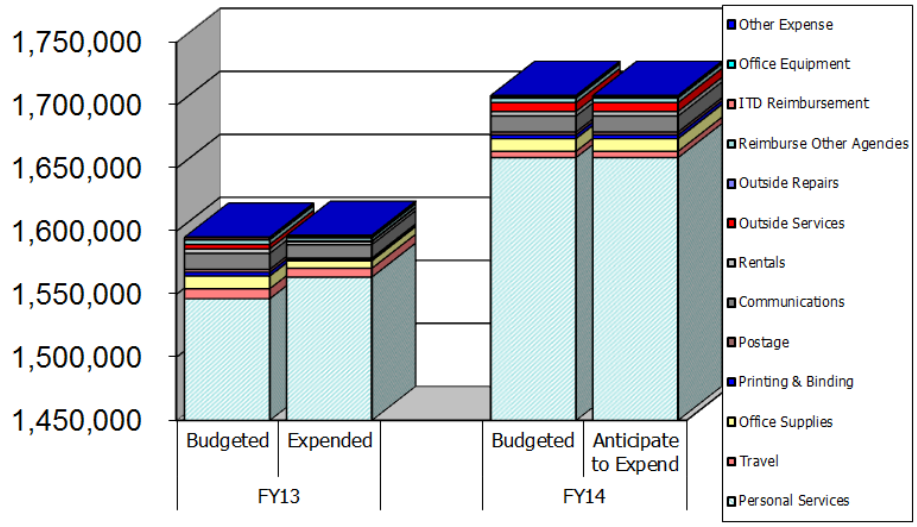
Mental Health Related Cases



Mental Health related cases identify cases:

- *Where complainants claim they were adversely impacted as a result of their mental illness.*
- *Involving the delivery and availability of mental health services.*
- *Where the agency identifies mental illness as an issue in the complaint.*

Office of Ombudsman
FY13 & FY14 Financial Information



Budget information is presented to meet the requirement that state government annual reports to the Legislature include certain financial information.

From Left to Right: Front Row: Andy Teas, Ruth Cooperrider, Angela McBride; Second Row: Kristie Hirschman, Jeri Burdick Crane, Jung-gun Park; Third Row: Jeff Burnham, Eleena Mitchell-Sadler, Bert Dalmer, Jason Pulliam. Not pictured: Linda Brundies, Elizabeth Hart, Debbie Julien, Barb Van Allen, Kyle White.

The Ombudsman and Staff

Ruth H. Cooperrider, Ombudsman
Andy Teas, Legal Counsel
Linda Brundies, Assistant Ombudsman 2
Jeff Burnham, Senior Assistant Ombudsman
Bert Dalmer, Assistant Ombudsman 3
Elizabeth Hart, Assistant Ombudsman 2
Kristie F. Hirschman, Senior Assistant Ombudsman
Angela McBride, Assistant Ombudsman 2
Eleena Mitchell-Sadler, Assistant Ombudsman 3
Jason Pulliam, Assistant Ombudsman 1
Barbara Van Allen, Assistant Ombudsman 3
Kyle R. White, Assistant Ombudsman 3
Jeri Burdick Crane, Senior Financial Officer
Debbie Julien, Secretary/Receptionist

Jung-gun Park, Chief Secretary to the Chairman of the South Korea's Anti-Corruption and Civil Rights Commission. Mr. Park is completing an 18-month fellowship study in our office.

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