

*Forty-second
Annual Report
of the
Nebraska
Public Counsel*

**THE
OMBUDSMAN**

2012



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NEBRASKA PUBLIC COUNSEL'S OFFICE

“When complaints are freely heard, deeply considered, and speedily reformed, then is the utmost bound of civil liberty attained that wise men look for.”

John Milton, *Areopagitica*

MISSION STATEMENT

TO PROMOTE ACCOUNTABILITY IN PUBLIC ADMINISTRATION AND PROVIDE CITIZENS WITH AN INFORMAL MEANS FOR THE INVESTIGATION AND RESOLUTION OF THEIR COMPLAINTS AGAINST THE ADMINISTRATIVE AGENCIES OF NEBRASKA STATE GOVERNMENT.

EXPOSITION

- The Public Counsel's Office is a public accountability and problem-solving agency. Its fundamental purposes are to promote accountability by state agencies and to investigate, address and resolve, through informal means, citizens' complaints relating to the administrative acts of state agencies.
- The "administrative acts" that may be addressed by the Public Counsel's Office include any action, rule, regulation, order, omission, decision, recommendation, practice, or procedure of an agency of state government.
- In addressing citizen complaints, the emphasis is always on the need for informality in resolving the disputes between citizens and agencies. Because of this emphasis on informality, some of the work of the Public Counsel's Office takes on the appearance of being in the nature of mediation or conciliation. However, the Public Counsel's Office is interested in more than simply resolving disputes and must, particularly

in its public accountability role, carry out serious fact-finding. In order to perform this fact-finding, the Public Counsel's Office has been given very real investigative powers, including the subpoena power.

- The approach to each citizen's complaint is tailored to its particular facts, but the Public Counsel's Office always addresses complaints impartially, and does not approach cases from an initial perspective of acting as an advocate for the complainant. In fact, many complaints are found to be unjustified by the Public Counsel's Office precisely because the results of a neutral investigation show that the complaint is not sustained by the facts. On the other hand, once it has been determined from an investigation that a complaint is justified, then it is the duty of the Public Counsel's Office to approach the relevant administrative agency with recommendations for possible corrective action. In pursuing these recommendations, the Public Counsel's Office takes on the role of an advocate, not for the complainant, but for the corrective action and, in a very real sense, for the general improvement of public administration.
- Because of its interest in improving public administration, the Public Counsel's Office is not necessarily satisfied with the outcome of a case merely because the complainant may be satisfied. The Public Counsel's Office also has to consider the broader implications of a case for the administrative system and, where appropriate, make recommendations for changes that will strengthen agency policies and procedures. By performing this function, and by publishing occasional reports of its findings and recommendations, the Public Counsel's Office also helps to promote public accountability of the agencies of state government and performs a legislative oversight function.

TRANSMITTAL

Section 81-8,251, R.R.S. 1943, provides that the Public Counsel shall each year report to the Clerk of the Legislature and to the Governor concerning the exercise of the functions of the office during the preceding calendar year. Pursuant to Section 81-8,251, this Forty-second Annual Report of the Nebraska Public Counsel's Office has been prepared as the annual report for the calendar year 2012, and is hereby respectfully submitted.

THE OMBUDSMAN CONCEPT

Throughout much of the last century, countries around the world, in general, and Americans, in particular, have witnessed a dramatic growth in the scope of government. The modern bureaucratic state, with its extended supervisory functions and its increased provision of services, has become an unavoidable reality. As a natural concomitant of that reality, the organization and operation of government has become more sophisticated, and more complex, as government has endeavored to perform its expanded role in an efficient, evenhanded, and procedurally reasonable manner. A common result of this increased complexity in government is the utter bewilderment that many citizens experience when confronted by the intricate, and seemingly infinite, array of rules, regulations, policies, and procedures that they encounter in their dealings with the bureaucracy of modern government. Thus, as government's involvement in the lives of its citizens has become more frequent, direct, and thorough, citizen interaction with that government has simultaneously become more complicated and, for many, far more frustrating.

As might be expected, these combined characteristics of modern government tend to generate a wide assortment of grievances in cases where citizens feel, rightly or wrongly, that their government has treated them in a manner that is unreasonable, unfair, or improper. While some of those grievances are ultimately resolved through the sole efforts of the complaining party, many grievances are left unresolved, either because there is no avenue for a ready solution, or because the grievant simply lacks the resources and sophistication necessary to utilize those avenues that do exist. When such grievances are left unresolved, citizens become more alienated from their government, and the errors of governmental operatives are left unaddressed and are, perhaps, even reinforced.

In order to help a bewildered public deal with the backlog of unresolved citizen grievances against governmental bureaucracy, numerous governments around the world have turned to the Swedish innovation of the ombudsman. Although the specific characteristics of the institution may differ in certain respects from one government to another, the basic concept of an ombudsman's office envisions an independent office that is designed to receive, investigate, and pursue informal resolution of miscellaneous citizen complaints relating to agencies of government. In carrying out this function, the ombudsman is not only expected to resolve the specific substantive complaints that come to the office, but the ombudsman is also expected to promote improvements in the quality of government by advocating for

changes in the ongoing management and operation of the agencies under the ombudsman's jurisdiction. It is also anticipated that the ombudsman, in performing these functions, will help to hold powerful governmental agencies publicly accountable for their actions.

In its classic form, an ombudsman, although an independent officer, is viewed as being an adjunct of the legislative branch of government. Indeed, one of the reasons that the ombudsman's office in its classic form is made a part of the legislative branch is to help insulate the ombudsman from pressures that the office might experience if it were placed within the executive branch of government. Because of its association with the legislative branch of government, the classic ombudsman is also able to perform a role as part of the apparatus for legislative oversight of governmental agencies and programs. In fact, the work of the ombudsman in resolving the problems that are experienced by ordinary citizens at the hands of governmental agencies gives the ombudsman a unique insight into the real world activities and consequences of those agencies and programs. That insight may then be used as a resource by the legislature in carrying out its oversight responsibilities with respect to the agencies within the ombudsman's jurisdiction.

Typically, the investigatory powers given to an ombudsman's office under the law are very real, and very meaningful. In arguing for the resolution of citizens' complaints, and in advocating for fundamental changes in the policies and procedures of administrative agencies, the "truth," as revealed to the ombudsman by a thorough investigation, is the most potent weapon that an ombudsman can wield. Indeed, without the power to thoroughly investigate the facts surrounding citizens' complaints, an ombudsman's office would be crippled in its efforts to understand and resolve those grievances. In addition to its investigatory authority, an ombudsman's office also has very broad power to make recommendations to the agencies under its jurisdiction, and to publish its findings and conclusions relative to the grievances that it investigates. However, the typical ombudsman's office does not have the authority to compel an administrative agency to accept and implement its conclusions and recommendations. Thus, in its formal relationship with the agencies under its jurisdiction, an ombudsman's office performs solely an advisory role. Nevertheless, it is widely recognized that an ombudsman's office, by providing a direct and informal avenue for the mediation of citizen grievances, is a valuable tool for enhancing the relationship between a government and its citizens and, ultimately, for improving the administration of government itself.

The ombudsman institution made its first appearance in North American

government in the 1960's. In his ground breaking books *When Americans Complain* and *Ombudsmen and Others*, Professor Walter Gellhorn of Columbia University promoted the ombudsman concept as a means of providing an "external critic of administration" for American government. In 1967, Professor Gellhorn followed up by preparing a "Model Ombudsman Statute." Then, in 1969, the American Bar Association adopted a resolution that articulated the twelve essential characteristics of an ombudsman for government. The ABA followed this effort with the development of its own Model Ombudsman Act, which the ABA adopted in 1971. From these beginnings, the ombudsman institution gradually spread to state and local governments across the United States.

INFORMATION AND REFERRAL

In addition to performing its specific statutory mandate regarding the resolution of citizen complaints, the Office of the Public Counsel has assumed the additional function of responding to citizen requests for general information relative to government. In this day of complex bureaucratic structures and imponderable regulatory provisions, it is not unusual for citizens to be confused or simply "lost" in their dealings with government. The Office of the Public Counsel is frequently contacted by citizens with questions regarding the provision of governmental services, the content of specific laws and regulations and a variety of miscellaneous issues relating to government in general.

Historically, the Office of the Public Counsel has responded to such inquiries either by providing the information sought directly or by referring the citizens involved to the organizations or governmental entities that would be best equipped to provide the information sought. The Office of the Public Counsel, with its broad expertise in the organization and operation of government, particularly on the state level, has proven to be ideally suited to serve as a clearinghouse for citizen inquiries pertaining to government. Over the years, thousands of citizens have contacted the Office of the Public Counsel and have received the information necessary to enable them to better understand and interact with their government.

HISTORY OF THE OFFICE

On July 22, 1969, the Nebraska Legislature passed LB 521, providing for the establishment of the Office of the Public Counsel. LB 521 was approved by Governor Norbert T. Tiemann, on July 29, 1969. (See Appendix.) The Office commenced actual operation on June 1, 1971, with the appointment of Mr. Murrell B. McNeil to the position of Public Counsel.

In creating the Office of the Public Counsel, the Nebraska Legislature established an office that was, in all significant respects, consistent with the classic model of an ombudsman's office as articulated in the American Bar Association's Resolution setting forth the twelve essential characteristics of an ombudsman for government. The new law contemplated that the Public Counsel would be an independent officer, appointed by the Legislature for a term of six years and subject to removal, for good cause, only by a vote of 2/3 of the members of the Legislature. In order to facilitate its efforts to resolve citizen complaints, the Office of the Public Counsel was endowed with very thorough investigatory powers, including the authority to address questions to officers and employees of state agencies, free access to agency records and facilities, and the subpoena power. The Office of the Public Counsel was further empowered to publish its findings and conclusions relative to citizen complaints and to make recommendations to the agencies under its jurisdiction. The Office was also authorized to participate, on its own motion, in general studies and inquiries not relating to specific citizen complaints. The jurisdiction of the Office of the Public Counsel was limited to scrutiny of the administrative agencies of the state government. The Office was not given jurisdiction over complaints relating to the courts, to the Legislature or to the Governor and her personal staff. Most significantly, the Office of the Public Counsel was not given jurisdiction over political subdivisions of the State.

After serving for over nine years as Nebraska's Public Counsel, Murrell McNeil retired from office, effective July 31, 1980. Upon Mr. McNeil's retirement, Mr. Marshall Lux, then the Deputy Public Counsel, became the Acting Public Counsel, by operation of law. On February 19, 1981, the Executive Board of the Legislative Council nominated Mr. Lux for appointment to the position of Public Counsel, pursuant to Section 81-8,241, R.R.S. 1943. That nomination was approved by the Nebraska Legislature on February 20, 1981. The Legislature reappointed Mr. Lux to successive terms in 1987, 1993, 1999, 2005, and 2011.

Throughout its history, the Public Counsel's Office has been the subject of

legislative initiatives that have refined and extended the scope of the office's role in Nebraska government. The first of these developments was seen in 1976, as policy-makers around the country were searching for new ways to reform the corrections system in the wake of the Attica riots. The Nebraska Legislature responded to that situation in part by amending the Public Counsel Act to create the new position of the Deputy Public Counsel (Ombudsman) for Corrections. In creating this new position, the Legislature was, in effect, saying that it wanted to give special emphasis to resolving prison complaints and to have someone on the Legislature's staff who could act as an expert in that area. It was anticipated that this new position would not only offer inmates an effective avenue for obtaining administrative justice and the redress of grievances, but that it would also serve the interests of the state by helping to reduce sources of anger and frustration that led to inmate violence, and by decreasing the number of inmate lawsuits relating to prison conditions and operation. The Deputy Public Counsel for Corrections is Mr. James Davis III.

A significant issue before the Nebraska Legislature in 1989 was concerned with demands by Native Americans, particularly the Pawnee Tribe, that the Nebraska State Historical Society repatriate to the tribes those human remains and artifacts that archaeologists had recovered over the decades from Native American burial sites. The Legislature met these demands by adopting the Nebraska Unmarked Human Burial Sites and Skeletal Remains Protection Act, which established procedures that allowed the tribes to seek the repatriation of human remains and burial goods that were being held in the collections of the Historical Society and other museums across the state. The Ombudsman's Office was given an important role in this procedure by being designated by the Legislature as the body responsible to arbitrate any dispute that arose between the tribes and the museums in the repatriation process. The Ombudsman's Office was actually called upon to perform this arbitration role on two occasions in disputes between the Pawnee Tribe and the Historical Society.

In 1993, in an effort to find new ways to encourage efficiency and discourage misconduct in state government, the Nebraska Legislature passed the State Government Effectiveness Act. Among other things, the Act contemplated that the Ombudsman's Office would become a focal point for the investigation of allegations of significant wrongdoing in state agencies. The Act also provided for a new procedure designed to protect state employees who acted as whistleblowers to disclose wrongdoing in state government from being retaliated against by their supervisors. The Ombudsman's Office was given the key role in investigating and responding to these retaliation complaints and has, over the years, addressed many

such cases. Early in 1997, the Nebraska Supreme Court found one important provision of the Act to be unconstitutional under the theory that it was a violation of the principle of separation of powers. *State ex rel. Shepherd v. Nebraska Equal Opportunity Commission*, 251 Neb. 517, 557 N.W.2d 684 (1997). However, those constitutional objections, as well as several other perceived difficulties with the functioning of the Act, were addressed by the Nebraska Legislature in LB 15 of 1997, which was signed by the Governor on March 10, 1997.

One of the most important issues before the Nebraska Legislature in 1994 was an initiative to restructure the state's system for the delivery of welfare services. In the process of changing this system, it was recognized that the recipients of welfare services would need to have a special problem-solver to help in dealing with the redesigned welfare system. It was also recognized that the Legislature itself would benefit from having the input and expertise of a staff person who was directly involved in addressing the day-to-day problems that arose in the implementation of the new welfare system. Responding to these needs in much the same way that it had in 1976, the Legislature created the new position of Deputy Public Counsel for Welfare Services as a part of the legislation that ultimately enacted the changes to the state's welfare system. The Deputy Public Counsel for Welfare Services is Ms. Julie Pham.

In 2008, the Nebraska Legislature passed LB 467, which had been introduced by Senator Ernie Chambers. LB 467 made two significant changes to the Public Counsel's authority and focus. One part of LB 467 extended the Public Counsel's jurisdiction to include complaints that come from Nebraska's county and city jails. Since its inception, the authority of the Public Counsel's Office has been limited to addressing complaints that involve administrative agencies of State government. However, LB 467 changed that for the first time, and carved out a small segment of local governmental authority to place under the Public Counsel's jurisdiction. The State of Nebraska currently has over seventy active jail facilities that now fall under the Public Counsel's jurisdiction. The second element of LB 467 created a new position in the office for a Deputy Public Counsel for Institutions. This new position was created to provide for a person in the Public Counsel's Office who will have primary responsibility to examine complaints received from the state's non-correctional institutions, which includes the regional centers (mental health facilities), the state's veterans homes, and the Beatrice Developmental Center, the State's only residential facility designed to treat, rehabilitate, and train the developmentally disabled. LB 467 also contemplated that the Public Counsel's jurisdiction and services would "follow" individuals involved in the State's system for behavioral health and developmental disability services who were transitioned

out of State-run facilities to receive care in the community. Mr. Oscar Harriott, who has been on the Public Counsel's staff for many years, was designated to serve as the Deputy Public Counsel for Institutions, and is being assisted in that capacity by Assistant Public Counsel Gary Weiss.

A Very Important Retirement

On February 29, 2012, the Deputy Public Counsel for Welfare Services, Marilyn McNabb, retired. Marilyn had a long and distinguished history working for the State of Nebraska, mostly within the legislative branch. For approximately three and one-half years, from June of 1976 through January of 1980, Marilyn worked as a Legislative Aide to former State Senator Steve Fowler. She was then employed as a legal counsel for the Nebraska Energy Office, until she finally came to work in the Public Counsel's Office as an Assistant Public Counsel, commencing on August 29, 1988. On July 1, 1994, Marilyn was promoted to the newly created position of Deputy Public Counsel for Welfare Services, an appointment which gave her the enormous, and crucial, job of coordinating our response to issues and complaints that pertained to Nebraska's human services/public welfare system.

I can think of no other individual, myself included, who has had more of a positive and profound influence on the basic thematic and overall direction of the Public Counsel's Office than did Marilyn. From her we learned the important insight that good works can often be accomplished through very modest steps carried out over a long season of time, like tending a garden. Throughout her nearly 24 years with the office, I found that I relied heavily on Marilyn's advice and good sense. She had the perfect balance between conscientiousness and pragmatism, and her sense of exactly where in a given situation justice might be found was flawless. In September of 1988, shortly after Marilyn joined our office, I received a letter from her previous supervisor in the Energy Office, Bonnie Ziemann. The subject matter of the letter was routine stuff, but it closed with the comment by Ms. Ziemann that she "already miss(ed) Marilyn's counsel." Now, I know what she meant.

Marshal Lux
Public Counsel

STAFF

The chief asset of the Public Counsel's Office is not its statutory powers or mandate. It is not even the high level of support that the Office receives from the public and the Legislature, although those factors are certainly important to the Public Counsel's success. The chief asset of the Public Counsel's Office is its staff, the men and women who carry out the routine duties of the Office.

The staff of the Office of the Public Counsel consists of eleven full-time and two part-time employees. Ten of the full-time staff members (Public Counsel Marshall Lux, Deputy Public Counsel Carl Eskridge, Deputy Public Counsel for Corrections James Davis III, Deputy Public Counsel for Institutions Oscar Harriott, Deputy Public Counsel for Welfare Services Julie Pham, and Assistant Public Counsels Barb Brunkow, Jerall Moreland, Sean Schmeits, and Gary Weiss) are actively involved in casework. Also, commencing in July of 2012 Ms. Julie L. Rogers was appointed to serve as the Inspector General of Nebraska Child Welfare, a new official affiliated with the Public Counsel's Office. The other employees of the Public Counsel's Office (Rebecca Dean, Carla Jones, and Kris Stevenson) serve mostly as case-intake personnel, and have significant contact with the public in the fielding of incoming telephone calls, emails, etc., and in providing immediate responses to questions from citizens.

It is, of course, always difficult to conveniently describe or characterize any group of people, even a group as small as the staff of the Nebraska Public Counsel's Office. The people who make up that staff are, after all, individuals, who bring diverse backgrounds and a wide range of unique talents to their jobs. Many of the professional employees of the Public Counsel's Office came to the office with previous experience in state government. Some had worked first in the office as volunteers before becoming permanent professional employees of the office. Four of the professionals in the office have law degrees, and some on the professional staff have advanced degrees in other areas as well. All of these backgrounds and associated talents contribute in many important ways to the success of the Public Counsel's Office. Viewed collectively, however, the most important characteristic of the staff of the Public Counsel's Office is its experience.

While the details of their backgrounds are remarkably diverse, one characteristic that many of the Public Counsel's Office staff have in common is their experience in working for other agencies of Nebraska state government. Nearly every member of the Public Counsel's Office professional staff had prior experience

working in Nebraska state government before joining the Public Counsel's Office. In some cases, that prior experience was extensive. The professional staff of the Public Counsel's Office has an average of nearly eighteen years of service with the State of Nebraska. This wide range of experience both in and out of the Public Counsel's Office has given the staff a meaningful exposure to the day-to-day functioning of state government and the issues that are common to its operation and have made the staff a true collection of professionals in the handling of complaints against state administrative agencies.

Beyond its experience in state government generally, the staff of the Public Counsel's Office has the additional advantage of continuity. The rate of turnover of the Public Counsel's staff is very low, even for such a relatively small office. The average Public Counsel's Office employee has been with the office for more than twelve years, an average which would be higher but for the addition of three new employees in 2008. This means that the employees of the Public Counsel's Office are not only experienced in the minutia of state government, but that they are also highly experienced in the fine art of complaint-handling. They have refined the needed human skills for dealing with people under stress. They have developed the analytical skills for untangling complicated issues presented in complaints. They have acquired the negotiation skills necessary for bringing citizens and bureaucrats together for the resolution of difficult problems.

Dealing effectively with citizen complaints requires an uncommon combination of talents and expertise. The professional training and background of the Public Counsel's staff is both diverse and extensive. That background together with the uncommon continuity of the staff has enabled the Public Counsel's Office to develop and maintain a strong foundation in what can truly be described as the profession of complaint handling.

COMPLAINT SUMMARIES

The following summaries are offered as thumbnail descriptions of the kind, source, and variety of a few of the routine complaints presented to Public Counsel's Office in 2012.

Department of Health and Human Services

Case # 11 - Medicaid Benefits Stopped

The complainant said that she had been on Medicaid since September of 2011, but was recently told that she made too much money to qualify, and would be bumped off of Medicaid. She was also told that her Snap benefits (Food Stamps) were dropping from \$126 per month to \$70 per month. The complainant said that she has serious medical issues, and needs help.

The complainant said that she is on Social Security Disability, and is receiving \$13,000 per year in disability benefits. HHS has told the complainant that if she received \$70 less per month, then she would qualify for Medicaid again. The complainant said that HHS could not explain to her why she was put on Medicaid before, but is now supposedly ineligible. The complainant said that while she has been trying to get this problem resolved she has also spent over 30 minutes on hold waiting for an ACCESSNebraska worker to help her.

Case #387 – ACCESSNebraska a Barrier to Resolving Benefits Issue

The Department of Health and Human Services has established a new system called ACCESSNebraska which is supposed to direct all inquiries pertaining to welfare benefit inquiries and applications through a system of telephone banks. The system was conceived of as a replacement for the traditional model, where all cases had their own HHS caseworkers who could be contacted by the recipient as needed. For many months, the Public Counsel's Office has received complaints about the new ACCESSNebraska system, with many of those complaints featuring concerns about long waits on hold, and dropped calls.

The complainant in this case said that she had applied for Medicaid, Food Stamps, Energy Assistance, and emergency assistance in January of 2012. She also applied

for ADC, but later decided against accepting it. As of February 1, the complainant said, she has been eligible for benefits, and is currently receiving medical coverage and Snap benefits. However, the complainant still has not received any Energy Assistance or emergency assistance.

The complainant said that since Tuesday, February 21, she had spent "hours and hours" on hold with ACCESSNebraska. She had finally spoken with two State workers, but they had not been helpful. The complainant said that one of these workers is "supposedly" working on her case. However, while this worker leaves messages for the complainant, she never leaves a direct number - only the 800 number for ACCESSNebraska, resulting in the complainant's being on hold for hours when she tries to call back. The complainant said she has also called the system's complaint line, but nothing had been resolved. The complainant said that she is frantic because she is "facing being homeless."

Case #562 - Benefits Being Cut Under the Employment First Program

The complainant has been participating in the Employment First program, which requires those receiving benefits to work a certain number of hours in order to remain eligible. The complainant said that she had just received a letter informing her that she faces sanctioning and a reduction in her benefits due to being low on work hours. According to the complainant there is an obvious mathematical error on the hours statement from the employer. She said that she has been trying to contact the employer to clear this situation up, but they will not call her back, and will not meet with her.

The complainant said that the problem is definitely with the employer's report. She said she had tried to call ACCESSNebraska, and the worker there told her that they cannot help her with her situation because the employer is a private contractor outside of their control. The complainant said that her former caseworker from the Department of Health and Human Services was supposed to give her some excused hours during the last week of February. However, that caseworker is not employed by the Department of Health and Human Services anymore. The complainant said that she needs help with this situation because she has a baby to care for, and cannot afford to be sanctioned.

Case #1070 - HHS Will Not Place Two Siblings in the Same Foster Home

The complainant said that she has been a foster parent for the last ten years. In 2006, two state wards who were siblings were placed with her family, and were in her home for twenty-two months. Afterward, the two boys were returned to their mother, but the situation in the mother's home had deteriorated, and the mother's parental rights were terminated in April of 2012. One of the boys, who is fourteen years old, was again placed with the complainant. However, the younger boy, who is six years old, was placed with another foster family, and has been with them for about eighteen months.

The complainant said that the older boy wants to live with his brother. However, the Department of Health and Human Services apparently believes that removing the younger boy from his current foster home and placing him in the complainant's home would threaten his stability. The complainant said that she disagrees with this idea. She feels that the Department of Health and Human Services is simply not trying to put the two boys together. The complainant emphasized that, "our home is willing to do permanency for both boys." Meanwhile, the complainant said that she understands that younger boy's foster family is not willing to have the older sibling living in their home.

Case #1124 - Foster Children Removed from Home and Foster Care License Being Revoked Without Adequate Investigation

The complainant is guardian of an adult daughter, who is taking medications for mental illness. The daughter is covered by Medicaid, and her Medicaid coverage was recently supposed to have been renewed. The Department of Health and Human Services claims that a letter of notification of the necessary renewal was sent to the complainant on May 22. However, the complainant said that she did not receive it because it was sent to the wrong address. Due to the delay, some of the forms did not reach HHS in time, and the daughter's coverage was terminated. The complainant has now been told that there will be "no Medicaid for June." Workers at ACCESSNebraska told the complainant that their "protocol" means it will take from 30 or 45 days to restart the daughter's coverage. The complainant said they cannot wait that long. She said that her daughter must be on Medicaid by Monday, June 11. The daughter needs medications so that she can continue doing well.

Case #1143 - Grandmother Wants Old Citation for Child Neglect Removed from Central Registry

The complainant said that she had been charged with child neglect in 1996. This case was entered on the Central registry of child abuse/neglect cases, and now, some fifteen years later, the complainant has found that having this charge on her record is impeding her ability to see her grandchildren. The complainant said that she has a grandson who is currently in foster care. She said that she was advised by the Department of Health and Human Services that she needed to take parenting classes and substance abuse treatment in order to be allowed to visit with her grandson. She said that she is currently in therapy, but she would also like to get the neglect charge expunged from her record. The complainant said that it was her therapist who referred her to the Public Counsel's Office.

Case #1158 - Needs to Reschedule a Medicaid Interview, but Cannot Get Through to ACCESSNebraska

The complainant said that she is terribly frustrated with ACCESSNebraska. She said that her mother, who is 94 years old, and lives in a nursing home, needs to be certified as a Medicaid recipient. The complainant has been working for a month to get her mother on Medicaid, but without having much success. She said that the Department of Health and Human Services had sent her a letter informing her that there would be a conference call and interview that would be held on Friday, June 15, at 1 p.m. However, the complainant is supposed to be leaving on a trip on Friday, and expects to be in an air terminal at the scheduled interview time. The complainant would like to reschedule the interview for either later today (June 13) or for tomorrow (June 14). However, the complainant said that she cannot reach anyone at ACCESSNebraska to assist her in making different arrangements for the conference call. The social worker at the nursing home warned the complainant not to miss or cancel the interview because, if she does, then she might get "kicked out of the system," and need to start the process all over. The complainant would like to reschedule the interview time, and have it before she has to leave on Friday.

The complainant said that she has called ACCESSNebraska three different times today, and that each time she has called she has been placed on hold for at least 25 minutes. Then she said that the telephone rings for another 25 minutes, but no one ever answers. The complainant said that she also called the local HHS office, and learned that "the phones are down" or something of that nature, but there is no

message informing callers to ACCESSNebraska about the problem when they call. "Their phone system is so bad, it's almost an embarrassment," the complainant said. She wondered how successfully elderly people who are on their own are able to navigate the ACCESSNebraska system.

Case #1450 - Medicaid Coverage for Prenatal Services

The complainant said that she had applied for Medicaid in June of 2011 due to her need for prenatal care because of her pregnancy. She said that in May of 2011 she started seeing doctors for complications with her pregnancy, and it was at that time that she applied for Medicaid. The complainant said that she had been approved for Medicaid, however, there were issues concerning her birth certificate, and the Department of Health and Human Services had trouble getting her Birth Certificate from another state. She said that whenever she asked she was repeatedly told that her medical needs were covered by Medicaid, but that they would have to mark it "pending" until they could get the birth certificate, which did not arrive until early December.

The complainant said that after her daughter was born in December, she has had no problems with Medicaid. However, the bills that were acquired before December have mostly been turned over to collection agencies. The complainant explained that due to the complications of her pregnancy she was frequently receiving care from May to December. She said that HHS had never gone back and paid those bills, and so that is why collections agents are after her. She says that she has a \$500 pharmacy bill, and she is concerned that the pharmacy may not continue to serve her. The complainant said that she has called the ACCESSNebraska hotline numerous times, and they always tell her that they see what the problem is and that they will get it fixed, however, the problem is never resolved.

Case #1514 - Mother of Autistic Son Wants HHS Agencies to Share Relevant Information for Consideration in Connection with Her Son's Application for Developmental Disability Services

The complainant is the mother of a twenty-five year old son who she said has been diagnosed as being autistic. In 2011, the complainant had applied for help and access to services for her son through the Developmental Disabilities Division of

the Department of Health and Human Services. However, on September 6, 2011, she was informed that her son had been found to be ineligible. Since then, the son had been approved for SSI and Medicaid benefits.

In mid-2012, the complainant had reapplied for developmental disability services for her son. Years before when the son was in high school, he got into trouble and was involved in the State's juvenile justice system. Eventually, he had been sent to the Youth Rehabilitation and Treatment Center in Kearney, and he had also went to the substance abuse treatment program operated at the Hastings Regional Center. The complainant said that when she applied for developmental disability services the first time in 2011, she had contacted the YRTC in Kearney, and requested that her son's records be sent by YRTC to the Developmental Disabilities Division for purposes of reference, and to support her son's 2011 application for developmental disability services. However, she has since learned that the records were never sent to or shared with the Developmental Disabilities Division of HHS, even though she had been assured that they were. The complainant said that she wanted to make sure that in 2012 the documents and information from the YRTC would be sent to the Developmental Disabilities Division for consideration in connection with the application for services.

Case #1914 - Failure to Pursue an Investigation of a Complaint Made Against a Hospital

The complainant said that in September of 2012 she had filed a complaint with the Department of Health and Human Services against a hospital in Omaha due to an incident that involved her mother, who had been a patient at the hospital from September 7 thru 10. The complainant said she now believes that her mother may have been assaulted by someone during her hospitalization, with the incident in question occurring on September 8. However, the hospital is now claiming that there was no record that the complainant's mother had even been admitted to the hospital during the day in question, and that their their records have the mother as being admitted to the hospital on September 9, and being discharged on September 10. The complainant eventually contacted the Licensure Unit of the Department of Health and Human Services by telephone in order to complain about the situation at the hospital.

In late September, the complainant received a letter from HHS that stated that the Department of Health and Human Services had conducted a review of the case,

and that the agency had determined that "no Medicare condition of participation was violated." The complainant was confused by this reference to Medicare, because she had never mentioned Medicare in her original complaint to HHS about the hospital. Her concern was about what had happened to her mother while at the hospital, and the possibility that there was an assault, and she wanted HHS to stop the hospital from "covering-up" the incident. The complainant said that she then called an HHS regulator, and attempted to follow up on her complaint about the hospital, and at that point she was informed that the agency would "go back and check out the report of the original complaint." Now, however, the complainant has been informed by HHS that no record of her telephone call to HHS about the hospital exists, and that, as far as the HHS records are concerned, no complaint had been filed by the complainant. The complainant is very upset about this, and wants to know why, if HHS is supposed to investigate complaints against hospitals, there has not there an investigation of her complaint in this case.

Case #2027 – Argument Over Who Must Pay for the Psychiatric Evaluation of a Troubled Child

The complainant said that his adopted ten year old son is on Medicaid. He said that the adopted son, who may have prenatal alcohol syndrome, had exhibited very aggressive behaviors at an early age, and is currently placed at a treatment facility. The treatment facility has ordered a psychiatric evaluation for the boy, however, Magellan, the "gatekeeper" for Medicaid coverage, says that the treatment facility must pay for the evaluation. The treatment facility believes Medicaid should pay for the evaluation. The complainant simply wants his son to get the treatment that he needs. The complainant believes that if the child was a State ward, then he would probably be able to get the treatment that he needs without problems like this, but he is "trying to avoid signing the child over as a State ward."

Case #2050 - HHS Had Removed Foster Children from a Foster Home Based Upon Misinterpreted Information

The complainant said that she is a licensed foster parent providing foster care for State wards through her association with a private agency. She said that a couple of weeks ago on a Wednesday she received a telephone call from the agency that she works with. The agency informed the complainant that they had received a

call from the Department of Health and Human Services, and were being directed to remove all foster children from the complainant's home. When the complainant asked about the reason for this move, she was told that they learned that she had been charged with criminal allegations in July, but did not report that fact to the agency.

The complainant said that she was unaware of the criminal charges that they were referring to, and so she went to the Police Department to follow up. She said that the Police told her that they had nothing on her in the way of pending charges. The complainant said that the agency later called her again, and asked her if she had been involved in an assault and an indecent exposure situation in July. The complainant said she told them that she was the witness/victim in that incident, and that she had received a letter from the County Attorney in reference to the situation that characterized her as being the "victim." The complainant said that she then took a copy of the County Attorney's letter, and the related Police Report on the incident, to the foster care agency, and the foster children were brought back into her home. However, the complainant was concerned that HHS and the foster care agency had not investigated the issue more thoroughly before removing the children, and that the foster children had been traumatized by the incident.

Case #2150 – Application for Developmental Disability Services Denied

The complainant's son, who is twenty years old, has had a hydrocephalus condition since his birth. She said that tests that were conducted over the summer of 2012 found her son to be autistic, and he scored a 79 on an I.Q. Test. The son was, however, able to attend school, and had technically graduated from high school. Shortly after he completed high school, the complainant's son had to undergo an emergency surgery to repair a ventricular shunt on the right side of his skull. The complainant's son is also epileptic, and has a torn retina, although he could not communicate his sight problem.

The complainant said that she had recently applied with the Department of Health and Human Services seeking developmental disability services for her son, turning in all paperwork in to HHS in July 2012. After months, the complainant received a notice from HHS, dated October 19, informing her that her son did not meet the eligibility requirements for developmental disability services. The complainant disputes the Department of Health and Human Services finding, and believes that her son, given his condition, should definitely qualify for the services in question.

Case #2167 – The Mother of State Ward Wants to Have Visits with the Child Restored

The complainant reported that she has had an open Child Protective Services case dating from August of 2011, and that her four year old daughter is a State ward. The complainant admitted that she had served time in jail, and then had moved to a different state with the idea of settling there, although that did not work out, and she was now back in Nebraska. While the complainant was serving time in jail, the daughter was placed in the home of a man who was thought to be the girl's biological father, although a DNA test later showed that she was, in fact, not his child. Later on, the daughter was removed from this man's home because the State had concluded that it was an inappropriate placement, since the man had a felony record. At that point, the State placed the girl in a different foster home.

The complainant believes that the CPS case should be closed, and her daughter returned to her custody. The complainant said that she has not seen her daughter since April of 2012, although she had been allowed to have visits before. She said that she had to suspend visits with her daughter while she was in training for a job because she could not miss work. Later, the complainant had tried to get visits reinstated, but this has been denied because she is supposed to go through treatment first. The complainant claims she has been trying to get into a treatment program since November of 2011, but without success. She said it took two months to get her evaluation completed, and although she had offered to pay for treatment through Lutheran Family Services herself, and the State would not allow this.

The complainant is also concerned about her daughter's current foster placement. After the daughter was removed from her last foster home, she was again placed with the man who was caring for her when the CPS case began. The complainant cannot understand why the State has made this man her daughter's foster parent again, when he had been deemed to be an unsuitable foster placement in the past.

Case #2343 - Five Children Removed from Mother's Custody, but Mother's Sister Not Considered as a Foster Placement

The complainant has five children ranging in age from fifteen to seven years. One of the children had previously been made a ward of the State, and was living in a foster placement in the same town where the mother resides. The complainant is

being allowed to have visitations with this child several times per week. The complainant and the other four children had been living together in the home of the complainant's mother, and the complainant's sister, who lived nearby, was able to provide coverage and care for the children when the grandmother was away. After approximately two years of the children being in the foster care system, a new Child Protective Services Caseworker had been assigned to the case. There were several conflicts with this new Caseworker involving daycare issues, as well as other issues. However, the Department of Health and Human Services would not agree to appoint a different CPS Caseworker to handle the complainant's case. The family feels that these conflicts with the Caseworker have had an effect on the way that the case is being handled.

Now, because the complainant supposedly had a positive UA, the complainant's other four children have been removed from her home, and placed in a foster home located in a distant Nebraska city. The complainant has plans to go through a drug rehabilitation program treatment as soon as a bed opens up. In the meantime, the complainant's sister wants the complainant's children to live in her home. As it is, the foster placement of the four children at a distant site separates them from their sibling, and complicates visits of the children by their family members.

Department of Motor Vehicles

Case #26 - Driver's License Suspended After Cancellation of Insurance

The complainant said that approximately three months earlier the Department of Motor Vehicles informed him that he no longer had to keep his SR-22 liability insurance after going through court for his traffic offense, which had occurred in March of 2011. The complainant said that someone at DMV told him this, and that he also received this information from the Department's website. Because of this, the complainant had canceled his SR-22 insurance when his insurance premium was due last month. Now, however, the complainant has received a letter from the Department of Motor Vehicles informing him that his license is under suspension.

The complainant said that he called the Department of Motor Vehicles and asked if the license suspension could be lifted, if he reinstated the SR-22. However, he said that he was told that in order to have his license reinstated, he would also have to pay the reinstatement fee, and the standard licensing test. The complainant said that he has already paid the reinstatement fee three times, and taken the test three times as well, and all for one traffic offense. The complainant is angry, and said

that he is tired of getting the "runaround from the State, all the time." He said that he intends to continue driving because he does not consider his license to be suspended, since he was told by DMV that he could cancel the SR-22 after going through court.

Case #617 - Difficulties Experienced by Stroke Victim in Having His Driver's License Renewed

The complainant is trying to renew his driver's license, but because he had a stroke in 2009, he has been told by the Department of Motor Vehicles that he to turn in a form relating to his medical condition signed by his doctor. He said he had called the Department of Motor Vehicles office in Lincoln, and the person who he talked to told him to "just have the doctor fill out the part of the form that is relevant" to his situation. However, the complainant said that the form that he was given by DMV is a "complete physical examination" form.

The complainant said that his doctor will not fill out the DMV form without giving him a complete physical. The complainant said that this will cost him at least \$100. The complainant is unhappy about the amount of doctor's costs and time that he is required to invest in order to get his driver's license renewed. He said that he particularly dislikes the Department's "one size fits all" approach.

Case #825 - Problems in Providing Documentation for Issuance of State ID

The complainant said that he was recently released from prison and now he needs to obtain a State-issued picture Identification Card, so he can get a job, and an apartment. However, the Nebraska Department of Motor Vehicles has refused to accept the documentation he has offered as satisfactory for the issuance of a State ID. The complainant said that he is an Asian-American who was adopted as a child by an American family. He said that he wrote to the State of Arizona for a copy of his Birth Certificate, but he said that his Birth Certificate has a "comment" that states, "This is not evidence of U.S. citizenship." The complainant said that the only documentation of his true identity that he has are his Prison ID, and his Arizona Birth Certificate, but the Nebraska Department of Motor Vehicles will not accept his Arizona Birth Certificate for identification purposes. He said that DMV wants him to get "naturalization papers," which he claims will cost him \$600.

Case #1467 - Difficulty in Securing a Driver's License Due to Name Change

The complainant and her same-sex spouse had been married in the State of Iowa, which recognizes same-sex marriages. The couple was originally from Nebraska, but had moved to Iowa in order to take advantage of the same-sex marriage laws in that state. While the couple was still living in Iowa, their surnames were legally changed to "Jones" by the courts in Iowa after their marriage.

The complainant said that since they moved back to the State of Nebraska, the couple have established all their routine living arrangements in the name of Jones. She said that she was allowed to register to vote as Jones, they receive SNAP benefits under the name of Jones, and her Social Security records are kept under the name of Jones. However, the complainant said that the Department of Motor Vehicles refuses to acknowledge the surname of Jones, supposedly because Jones became her surname due to a same-sex marriage in another state.

The complainant said that the Department of Motor Vehicles is telling her that she has to wait one year to change her name in Nebraska to Jones. The complainant is concerned that Nebraska law states drivers are given only thirty days to obtain their Nebraska driver's license after moving to Nebraska. She is worried that she is in violation of Nebraska law because she cannot get a driver's license, and is driving under a license from another state.

Case #2230 - Cannot Renew His Driver's License Due to a Hold on Another Person with the Same Name in the State of Illinois

The complainant said that he turned 58 years old in October of 2012, and needed to renew his driver's license this year. He said that he has been trying to renew his Nebraska license online because he has a badly broken ankle. He said that he has lived in Nebraska since 1991, and that he has a clean driving record.

The complainant said that the Department of Motor Vehicles is refusing to renew his license because there is a man living in Illinois who has an outstanding hold on his license, and who has the same name and date of birth as the complainant's. He claims the DMV told him that he must send copies of his Birth Certificate, Social Security card, and Driver's License to the State of Illinois, so the State of Illinois can "exonerate him." The complainant said that the State of Nebraska does not know the middle initial or the Social Security number of the person in Illinois who

has the same name and date of birth.

The complainant said that a friend did a quick internet search, and determined that there was a person in Illinois with the same name as his, who was also born on the same calendar day, but not in the same year. The complainant is very frustrated about this situation. "I haven't done anything wrong, and the State is treating me like a criminal," he said.

Department of Correctional Services

Case #18 - Inmate Needs Further Treatment for Wrist and Injured Shoulder

The complainant is an inmate at the Nebraska Correctional center for Women. She said that she has written kites to the medical staff at NCCW concerning her left wrist and her left shoulder. She has been trying to get the Medical Department to "fix" her shoulder, but they just keep giving her injections, and an extra pillow for when she sleeps.

The complainant had a cyst on her left wrist which was drained by a doctor, but the cyst has re-appeared, and she is experiencing associated pain and difficulty writing and using her hand. She said that there are now two more small cysts on her left wrist. The complainant said she was told by the doctors that she would need to see a specialist for her shoulder, and that her wrist would require minor surgery. When the complainant kited the NCCW medical staff about her wrist and shoulder problems, they sent her an answer indicating that there was no further treatment indicated for her shoulder or wrist at that time. The complainant believes that she is receiving poor health care/medical treatment for these issues at NCCW.

Case #121 - Administration Will Not Allow an Inmate to Take an Available Job with Correctional Industries

The complainant is an inmate at the Tecumseh State Correctional Institution. He said that he had applied for a job in the woodworking shop with Correctional Industries. The complainant said that he had been hired by CSI, but the facility's administration refused to allow him to have the job. The complainant has served over ten years of his nearly-60 year sentence. He admitted that he has multiple escapes on his record, but said that those had occurred very early in his sentence.

He said that he had not had a misconduct report in two and one half years, feels that he should not be “punished” for mistakes that he made almost ten years earlier.

Case #276 - Billing of a TSCI Inmate by a Collection Agency for Medical Services Received by the Inmate

The complainant, an inmate at the Tecumseh State Correctional Institution received a billing from GSB General Service Bureau, Inc., a bill collection agency. The billing indicated that there was an unpaid balance of \$219 owed to an association of medical professionals for medical treatment received by the inmate while he was incarcerated. The inmate said that it appeared that somehow the medical staff at TSCI had neglected to pay the bill, and had allowed it this go to a collection agency. The inmate was asking for help in clarifying what the billing was for, and whether it was the Department's obligation to pay it.

Case #509 - D&E Inmate Transferred to Douglas County Jail Cannot Get His Property Sent to the Jail

For a period of time the complainant had been an inmate at the Diagnostic and Evaluation Center, but eventually he was transferred to the Douglas County Jail. The complainant said that his personal property and the cash on his inmate account should have followed him to the Jail, but that did not happen. The complainant has been trying to get his property and money transferred to the Jail, but is not making any progress. He said that his family has contacted the administration at D&E, but the staff there has not been helpful in getting his money and property sent to where he is presently being held. The complainant also asks that if his property can be found at D&E, then he would like to have it sent to his family.

Case #634 - New Inmate Made to Stay Too Long at the D&E

At the end of March in 2012, the sister of an inmate living at the Diagnostic and Evaluation Center contacted the Public Counsel's office to express her concerns about the treatment and handling of her brother. The inmate had been committed to the custody of the Department of Correctional Services in late 2011 to serve a

ten year sentence. The sister was concerned that her brother had been at D&E for so many months before being classified and reassigned to a different institution. The sister hoped that her brother would be assigned to the Work Ethic Camp or work release, because that is the kind of setting that he most needs. She was also concerned about rumors that there have been numerous outbreaks of scabies at D&E while her brother has been there. In addition, she is concerned about her brother's asthma, and she reported that he had recently had a major asthma attack. The sister said that she was especially concerned that her brother had been sitting at the D&E making no progress, when he needs to be getting counseling, and to be working on his "issues."

Case #879 - Prescribed Psychotropic Medications for a Mentally Disabled Inmate Were Discontinued Due to Alleged "Med Abuse"

The complainant is an inmate living at the Community Corrections Center in Lincoln given a Misconduct Report and was transferred to the Diagnostic and Evaluation Center. The allegation was that the complainant, who was receiving certain psychotropic medications, had been "cheeking" this pills, and giving the drugs to his roommate at CCC-L. When the prison doctor who had prescribed the medications for the complainant heard about the allegation, the doctor signed an order discontinuing all of the complainant's psychotropic medication even though the disciplinary hearing on the related Misconduct Report had not yet taken place. The inmate complained that the symptoms that lead to his being approved to receive the medication still existed, and that he had asked to see the doctor about the problem, but that the doctor had refused to visit with him about this matter. The doctor instead simply responded that "all medication (was being) discontinued for med abuse write up."

Case #1114 - Inmate Wants to Transfer to OCC for Programming

The complainant is an inmate currently placed at the Lincoln Correctional Center who will be eligible for parole in 2014. The complainant wanted to be transferred to the Omaha Correctional Center so that he could take the outpatient sex offender treatment program that is offered at OCC. He was aware that he can also receive this programming at the Nebraska State Penitentiary, but he said that there are possible issues with inmates from his home town that might make it difficult for

him to be safe at NSP. The complainant said that the Parole Board had informed him that he would need to be within three years of his Parole Eligibility Date before he will be able to take this outpatient Program, which is now the case. The complainant said that his Case Manger has told him he had 19 classification points, which makes him a minimum custody inmate, and eligible for transfer to OCC. The complainant has applied for a transfer OCC, but that was denied. He appealed the decision, and it was again denied.

Case #989 - Inmate is in Severe Pain Due to Community Corrections Center Staff Taking His Medication Away

A complainant who is on work release and is living at the Community Corrections Center in Lincoln said that he needs to have the medical staff address his chronic pain. In 2011, the Public Counsel's Office had helped the same individual when he was in a county jail and was not receiving adequate treatment for a broken hand. Now, the complainant was at CCC-L, and having problems getting the medication he needs to deal with his chronic pain due to fibromyalgia, a condition involving widespread pain, fatigue, and heightened sensitivity in response to tactile pressure on the skin and muscles at certain points on the body. The complainant said that he had been taking a drug called Neurontin, which was prescribed to deal with his severe pain issues associated with fibromyalgia. In addition, the complainant said that he needed to take the same medication to control his seizure disorder also. The complainant said that since he works on the second shift, he often over-sleeps, and misses the CCC-L med call. Because of this, the CCC-L staff had taken his Neurotin from him, and this was causing serve pain.

Case #1228 - Mental Health Staff Blocking an Inmate's Progression to Work Release

The complainant is an inmate at the Tecumseh State Correctional Institution. He said that he appeared before the Board of Parole in April of 2012, and was set for a final parole hearing in eighteen months. The complainant's unit management put him in for a reassignment to work detail on May 1. However, the Mental Health staff has told the complainant's unit manager that he would need to have another psychological evaluation in order to go to community custody or work detail. The complainant said that he had just been evaluated back in March of 2012, and that

he does not understand why it is taking so long for Mental Health to clear him to go to work release, when the Board of Parole had given him a final, and wants him to go to work detail and work release to get himself ready for parole. The complainant said that he had done everything the Board of Parole and unit staff had asked of him, and that he had not had any write-ups in five years.

Case #1525 - TSCI Staff Will Not Return Inmates' Private Property

The complainant is an inmate who was recently transferred to the Nebraska State Penitentiary from the Tecumseh State Correctional Institution. He said that while he was at TSCI he had a watch with diamonds on the face, and a gold and diamond ring stolen. He said he did not report the property stolen, because he felt he would be labeled as a snitch. The complainant said that the watch and ring were recently found at TSCI, and a Misconduct Report was written involving another inmate, but he has been unable to recover his personal property from TSCI, so that he can turn the items over to his family. The complainant is hoping for help in identifying his property and having the items given to his family.

Case #1780 - Inmate Unjustifiably Removed from Work Release

The complainant was assigned to work release, and was living at the Community Corrections Center in Omaha. However, the complainant was sent to the Omaha Correctional Center from CCC-O due his being mentioned in the contents of a Police Report which alleged that he had harassed his former girlfriend over the telephone. The complainant said that a Misconduct Report had been prepared and a hearing on the allegation was held at OCC, but the Misconduct Report was later dismissed. The complainant now wants to return to CCC-O, but the superintendent at CCC-O will not allow him to return to work release. The complainant feels that because the Misconduct Report was dismissed it is unfair, and a violation of his Due Process rights, to cause him to lose his job and work release status because of an unfounded Police Report based on hearsay. He believes that he should simply be allowed to go back to the status he had at the time that he was removed from CCC-O.

Case #2188 - Department Not Including Jail Time Credit in Calculating the Length of an Inmate's Sentence

The complainant is an inmate living at the Diagnostic and Evaluation Center. He said that he is concerned about how the Department of Correctional Services was crediting jail time to the sentence that he had received from the District Court. The sentencing court had directed that the complainant be given credit for time served in jail prior to sentencing, but the Department had computed the sentence without including any credit for the jail time. In fact, the sentencing court had given the complainant 511 days of credit for time served, but the Department was calculating the sentence in a manner that did not take that jail time credit into account. The situation was being complicated by the fact that the complainant had actually received four different concurrent sentences for four different crimes, and in only one of those sentences did the court make reference to the award of credit for jail time.

Department of Revenue

Case #336 - Taxpayer Has to Absorb Costs Related to Department of Revenue Mistake in Seizing Funds from Taxpayer's Bank

The complainant said that several days earlier he discovered that bank accounts in his own and his mother's name had been seized by the Nebraska Department of Revenue in connection with supposed issues relating to an amended 2010 income tax return. The complainant also said that he not received any notice of this action before it happened. However, a few days later the money was returned to the bank accounts by the Department of Revenue, because it was determined that a mistake had been made, and the money in question was never really owed for taxes.

The complainant said that the remaining problem is that his mother's bank was now charging his mother a \$100 transaction fee in connection with the Department of Revenue transaction. The complainant said that that the bank is willing to refund the \$100, if the State would provide them with information about the mistake, but the Department of Revenue is not willing to help them with this. He said that the officials at the Department of Revenue have told him that he will have to work the bank charge matter out himself, without the Department's help. The complainant also said that he is out about \$20 for the costs of "over-nighting" material to the Department, and \$10 for faxing documents to the Department in connection with this matter, which was fundamentally a mistake by the agency.

Case #745 - Bankrupt Taxpayer Unable to Negotiate Partial Payment of Tax Liability

The complainant filed for bankruptcy, and his debts were discharged in bankruptcy in January of 2012. However, the Nebraska Department of Revenue is now telling the complainant that he owes the State of Nebraska nearly \$5,000 in unpaid taxes. He said that the Department of Revenue is preparing to take money out of his bank account in an amount equal to three months of his gross income. The complainant said that he has attempted to settle this issue with the Department of Revenue, but is not making any progress. During the bankruptcy process, he was originally told that he had to pay the three years of tax liability that survived bankruptcy, and he was willing to do that. The complainant said that his wife is living in a nursing facility, and since he is self-employed with no insurance coverage, he needs to hold on to as much money as he can to help pay for his wife's care.

Case #923 - Department of Revenue Taking Disability Pension Funds in Order to Collect Unpaid Taxes

The complainant said he is disabled and lives mostly on income from a disability pension. He said the Nebraska Department of Revenue had recently "emptied out his checking account," in effect taking his pension income, in order to recover unpaid back taxes. He said that when Region II Behavioral Health agencies were working with him in the past, he was told that the funds from his disability pension would not be subject to being seized for payment of back taxes. The complainant said that the Internal Revenue Service is not trying to go after his pension income, and he always thought that the Nebraska Department of Revenue was supposed to have the same restraints.

Game and Parks Commission

Case #800 - Handicapped Person's Application for a Disability Fishing Permit Denied

The complainant said that in April of 2012 he had applied for a "Disability Fishing Permit." The complainant said that his doctor had submitted documentation of his disabling health conditions to the Game and Parks Commission. He explained that his disabilities include arthritis, renal disease, a knee replacement that did not work

out very well, and a colostomy. He said he has a Handicapped Parking permit, and assumed that he would qualify for a Disability Fishing Permit. However, the complainant said that on April 20, he had received a letter from the Game and Parks Commission denying him the Disability Fishing Permit. The complainant is very angry about this situation, and thinks that someone in his condition should qualify for a disability permit. He said that all he wants is to go fishing with his grandson occasionally, and he does not have to pay \$30 to go fishing once or twice in a year. The complainant is also upset because he sent payment of the \$5 application fee with his application and was told that it would be four to six weeks before that money would be refunded.

Case #2354 - Veteran Told that He Does have the Documentation Needed to Qualify for a Retired Veteran's Hunting and Fishing License

State law authorizes the Game and Parks Commission to issue fishing and hunting permits, habitat stamp, aquatic habitat stamps, and Nebraska migratory waterfowl stamps to any Nebraska resident who is a veteran, and who is sixty-four years of age or older, for a fee of only \$5. The complainant said that he had recently turned 64 and applied as a veteran for a free hunting and fishing license. He said that he was in the Navy Reserves, and had served on a warship during the Vietnam War era. The complainant said that due to a technicality he does not happen to have the usual honorary discharge document, the DD214. Instead, he has a letter from the Navy explaining that he was honorably discharged, and why he does not have the DD214. The complainant said that this letter has satisfied the Retirement Board and the Social Security Administration, but Game and Parks will not accept it as proof of his veteran's status in order to give him a \$5 license. He said that his current license has expired and he would like a new one as soon as possible.

Department of Roads

Case #1182 - Highway Improvement Project Causing Water Run-off Problems for Property Owner

The complainant said that he would like someone to review the I-80 roadwork that is going on between Lincoln and York, and that he would particularly like someone to closely examine how the highway construction zone is being managed in terms of protecting the safety of the driving public. The complainant thinks that the way

the Interstate makes the transition from two lanes to one lane, and then back to two lanes at that location is very dangerous. The complainant points out that there is a great volume of traffic on this highway, and he thinks it makes sense to fix it in a hurry, before anyone is injured or killed. However, he said that he has noticed that there is hardly ever anyone working on the project when he drives past it. He said that he is very concerned that a terrible wreck could occur with the way that the construction project is configured, and he would like to have someone check on it.

Department of Labor

Case #218 - Department of Labor Withholding Money from Complainant's Unemployment Compensation Benefits to Cover Previous Overpayment

The complainant had previously been collecting Unemployment Compensation benefits. However, the Nebraska Department of Labor later determined that she had voluntarily quit her job, and thus she should be penalized her for twelve week's of Unemployment benefits. The complainant says that on May 9, 2011, she did receive a notice from a Department of Labor adjudicator which stated that she had received an overpayment of \$3,999 in benefits. However, the complainant said that she had never been served with notice of the adjudication of the issue, and because of that she had failed to present any evidence that she had not left her job voluntarily. The complainant then filed a Notice of Appeal in the case, and was granted a hearing for an upcoming Friday. However, the complainant was unable to participate in the hearing due to her temporary job and the nature of her working conditions. She said that she had asked the hearing officer for a continuance, but the request was denied, the hearing took place without her participation, and the appeal was denied.

The complainant said that she made payments on the \$3,999 that she owed to the State, and paid back part of that amount. Then, when her temporary job ended in October of 2011, she filed for Unemployment Compensation benefits again. She said that she was granted Unemployment Compensation benefits of \$276 per week, however, the Department of Labor is withholding \$100 of her benefits per week towards the balance that she owes on the \$3,999. The complainant disagrees with this withholding of her benefits. She said that she is requesting that the treasury hold from her current benefits be discontinued, and that the amount of money that has already withheld be returned to her.

Case #283 - Unemployment Compensation Benefits Stopped Due to Accidental Injury

The complainant said that he was fired from his job as a ranch hand, and so he had applied for Unemployment Compensation benefits, which he was approved to receive. However, while he was collecting Unemployment Compensation benefits, the complainant was in a serious accident, and suffered a broken neck. Now, the complainant said that he has been told by the Department of Labor that because he was injured, he can no longer collect Unemployment Compensation benefits, because he cannot work. The complainant said that has applied for Social Security Disability, but this process will be likely to take at least 120 days to complete. The complainant said that he is living on a very limited income, and he needs financial help now.

Case #395 – Delay in Processing Unemployment Compensation Claim

The complainant said that he had filed for Unemployment Compensation benefits in early January of 2012. He had his interview, and was told to expect the process to take up to six weeks to complete. He said he was supposed to receive a letter after six weeks; and that, if an issue came up with his Unemployment claim, then the Unemployment office was supposed to make a call to him. The complainant said that on February 13, 2012, he called the Unemployment Compensation office, and was told that he was in the sixth week of the process, and that he should receive a letter during the seventh week. However, he has not yet received a letter as promised, nor has he received any telephone calls from the Department of Labor. Yesterday (February 23, 2012), the complainant once again called the Unemployment Compensation office and told the staff person that he still had not received a letter, or any telephone contacts from the agency. At this point, the complainant is confused by this long, and seemingly endless, process. He said that he is very short of money, and needs his Unemployment Compensation benefits to start.

Case #816 - Unemployment Compensation Benefits Reduced

The complainant said that he had been receiving Unemployment Compensation benefits for about four and one-half months. He said he was first approved for

Unemployment benefits back in December of 2011. The complainant said that in late November and early December he had worked at a day-labor job where he was paid every day. He said that he did this for about two weeks. He said, however, that he had stopped going to this work place because he found that they often were not offering work, and because he began receiving Unemployment Compensation benefits, and was seeking a full-time job.

The complainant said that he had reported all of these day-labor wages to the Department of Labor Unemployment Compensation officials, and he eventually received a letter from the Labor Department that notified him that he had been granted an extension, and that he would continue to receive Unemployment Compensation benefits. He said that after receiving this letter, he had received one benefits check. When he did not receive another benefits check, the complainant called the Labor Department, and was informed that his adjudicator had imposed a four to five week penalty because of his working day-labor back in late November and early December. The complainant said that he does not understand how the Department could make this decision. He said he reported the day-labor wages to the Department of Labor during his application process, and he was approved for an extension of benefits. He cannot see why they have a problem with this now.

Case #1891 - Is Receiving Inconsistent Information as to the Total Amount of Unemployment Compensation Overpayment That is Owed to the State

The complainant said that he had received Unemployment Compensation benefits in the past, but it was later discovered that he had received too much, and that he must now reimburse the State for an overpayment. He said that he would like to know why he is getting inconsistent information from the Department of Labor on the amount of his Unemployment Compensation pay-back. The complainant said that he has received documentation from the Unemployment Compensation office at least monthly stating that he owed one amount, but when calls the Department of Labor they tell him that he should disregard that information, and that he instead owes them a different amount. He wants to know which amount is correct, the mail documentation, or the amount that they give him over the telephone. He said that he has been paying back for over a year, and that he feels that he has paid back all that he owes already.

Youth Rehabilitation and Treatment Centers

Case #933 - Youth at Geneva Facility was Not Given Privilege She Had Been Promised by Staff

The complainant is a resident at the Youth Rehabilitation and Treatment Center in Geneva, a facility for young women involved in the juvenile justice system. The complainant was upset because she was not receiving privileges that she claims to have been promised by supervisor of her cottage. An important part of the programming at YRTC-Geneva is a document that is called an Outcome Sheet, which lists the behaviors that an individual needs to work on, and the desired outcomes, as well as privileges that the individual can expect to receive when they accomplish certain outcomes that are regarded as being desirable. The individual's ongoing progress toward achieving these outcomes are supposed to be reviewed and reassessed occasionally in group meetings.

The complainant felt that she had achieved the things on her old Outcome Sheet, so at the group meeting she got a new Sheet with new outcomes assigned. The youth is then asked to sign the Sheet in order to verify that the document is a product of mutual negotiation between the youth and the staff. The complainant said that she was angry and refused to sign the new Sheet because the supervisor had said that she would not be receiving the 'furlough' home to see her family that she believes was promised to her. The complainant said that the supervisor kept nagging her to sign the sheet, and followed her around her cottage trying to convince her to sign the Outcome Sheet. She also claimed that the supervisor had threatened that the complainant would not be allowed to call her mother or her grandmother, if she did not sign the Sheet. The complainant again refused, and turned in a grievance about the supervisor's behavior.

Case #1971 - Mother of Youth at YRTC-Kearney Wants Her Son Released So that He Can Have Individual Therapy

The complainant said that her son has been placed at the Youth Rehabilitation and Treatment Center in Kearney, a facility for young men involved in the juvenile justice system. The mother is concerned about the treatment and care that her son is receiving at that facility. The mother does believe that her son has progressed at the YRTC, however, she feels that YRTC's programming is no longer useful for her son, and is perhaps even causing him to "deteriorate." She believes that her son

should be released from YRTC as soon as possible, so that he can participate in individual counseling with an accredited therapist.

Department of Education

Case #1778 - Handicapped Man Needs Help from Vocational Rehabilitation Services to Obtain a New Prosthetic Leg

The complainant said that he had been working through the Nebraska Vocational Rehabilitation Services agency, which is formally part of the Nebraska Department of Education, in order to obtain a new prosthetic leg. He said that he had gone through an employment assessment with Vocational Rehabilitation in October of 2011. The complainant is handicapped, and is trying to get a new prosthetic leg, so that he can find a job. He said that the old prosthetic leg was no longer functional after he had hip replacement surgery last year. The complainant explained that he had arranged to have this all done through the Nebraska Vocational Rehabilitation office, but then he moved to Oklahoma in March, at about the time that the leg was almost completed. He said that the company providing the leg had sent the new prosthetic leg to him in Oklahoma, however, it does not work because the final stage of fittings had not been done. The complainant is trying to determine what he needs to do to have the final adjustments done to make the prosthetic leg work.

Veteran's Home

Case #716 - Elderly Couple Being Moved to a Less Desirable Room at the Nebraska Veteran's Home

The complainant said that both of her elderly parents are residing together at the Nebraska Veteran's Home in Grand Island. She said that she has recently learned that the Veteran's Home administration is planing to move her parents to a different room for the fourth time since they had been placed in the Veteran's Home. She said that the staff want to move her parents to a room where they would have to go outside of their room, and walk down a hallway in order to get to the men's and woman's restrooms. The complainant said that she wants her parents to stay in the room that they are currently in, where the bathroom is located within their living area. The complainant said that her mother has had polio, and gets up very often to go to the restroom, and she believes that it would be very hard on her mother to have to go to the restroom down the hall several times every night.

Case #1283 - Veteran's Home Resident Needs a New Wheelchair

The complainant is an elderly veteran residing at the Grand Island Veteran's Home. He said that he has been having problems with his wheelchair. He claims that the wheelchair has been in bad shape for some months, with nothing being done by the Home to see that the situation is corrected. The complainant said that on June 23, 2012, he was by his sink with the wheelchair's brakes locked, and when he tried to stand up, the wheelchair went flying across the room. The complainant said that he was not hurt in this incident, but he is worried that at some other time he could be injured. The complainant maintained that the Occupational Therapist at the Grand Island Veteran's Home is partly responsible for taking care of the issues he has with his wheelchair.

Department of Insurance

Case #456 - Department is Closing the Investigation of Consumer's Complaint Against a Health Insurance Company

The complainant said that after he had suffered a stroke, the premiums of his health insurance went up dramatically. He said that he had filed a consumer complaint against his health insurance company with the Nebraska Department of Insurance, challenging the insurer's actions in increasing his insurance premium rates. Now, the complainant is being told by the Department of Insurance that it is closing the case on his complaint. The complainant does not believe that the Department of Insurance has served their purpose in connection with his consumer complaint, and he doubts that the Department has really looked into the complaint that he had against his insurance company.

Liquor Control Commission

Case #1999 - Bar Owner Objects to the Amount Charged by the Commission for Bar Employee Training

The complainant is the owner of a bar in Lincoln. He said that he had received a letter about four months ago notifying him that he would need to be signed up for training for himself and three other of his employees in order to renew his license. However, he said that the letter had arrived a month after it was too late to sign up for the training. When the complainant later inquired about the training, he was

told that his employees would still need to have the training, and that he had missed the deadline to sign them up. The complainant said that the Nebraska Liquor Control Commission had agreed to create a special training session just for himself and his employees, but then charged him twice the price he would have had to pay, if he would have gotten them signed up for the training earlier. He feels that doubling the price of the training class is unfair.

Regional Centers

Case #37 - Patient Returned to the Lincoln Regional Center from Group Home for Having Corresponded with Another Group Home Resident

The complainant was formerly a patient at the Lincoln Regional Center, but he had recently been released from Regional Center, and had been placed at a group home/treatment community in Omaha. He said that he had been at group home for about eighty-one days when he was dismissed from the program for "violating the conditions of his release." The complainant said that while at group home he wrote a letter to another resident there. He said that somehow a staff member at the group home had intercepted the letter. On November 1, 2011, the complainant was sent back to Lincoln Regional Center. He said the letter did not do anyone any harm, and he does not believe he should be returned to the Regional Center for what he did.

Case #768 - Regional Center Staff Will Not Allow Patient to See a Doctor About Deteriorating Eyesight

The complainant is a patient at Lincoln Regional Center. He said that he believes that he is losing his eyesight, and starting to go blind. He said that he suspects that his loss of eyesight is due to a rare form of diabetes. The complainant claims that he has made several written requests to the Regional Center staff asking them to arrange for him to see a doctor about this, and he has filed grievances when the staff has refused to do so. He said Lincoln Regional Center staff will not let him see a doctor about his concerns about his eyesight, and he wants something done before it is too late.

Case #950 - Patient Is Being Charged for New Hearing Aid

The complainant is a patient at the Norfolk Regional Center. He said that he had recently received a new hearing aid, which had a cost of \$389. The complainant said that he had only \$3.72 in his patient account, and the Norfolk Regional Center administration took that money, and told him they will take any and all other funds that come into his patient account in order to cover the cost of the hearing aid. The complainant said that he submitted a grievance about this, and received the same response. The complainant said that he has been at the Norfolk Regional Center since 2005, and that it was always his understanding that the facility will cover the cost of his health care needs, since he is a "ward of the state."

Case #1777 - Investigation of the Assault of a Patient By Another Patient

The complainant is a patient in the Transition Program at Lincoln Regional Center. He said he was assaulted by another patient on Sunday, September 16, 2012, at approximately 2:40 p.m. He said that the Regional Center staff had called the Lincoln Police Department, but the police told the Regional Center staff that the only thing they could do would be to give the assailant a ticket. The complainant is satisfied with this response, although he does not fault the way Regional Center staff had handled what happened to him. He said that the doctor has advised him to pursue a further investigation of the incident, and to "press charges," but the complainant is not clear on how he could do this.

Case #1855 - NRC Patient Wants Access to Legal Materials

The complainant is a patient at the Norfolk Regional Center. He said that he had submitted a grievance to the NRC administration on May 5, 2012, regarding the patients being given adequate access to legal materials. The complainant said that he wanted "immediate access" to up-to-date legal materials, with the allotment of an adequate amount of time to use them. He said that he believes there should be a law library of some kind at NRC. The complainant said that he was concerned about protecting patient privacy rights, and wants to research what the law says on whether the facility's staff may communicate with people outside of the facility concerning a patient's status. The complainant also believes that the grievance process at NRC should be improved. He thinks that those submitting a grievance

should be given a copy of their grievance.

Case #1899 - Patient Not Allowed to Have Items Sent to Him by His Mother

The complainant is a patient at the Norfolk Regional Center. He said that the staff at NRC is refusing to give him items that have been sent to him by his mother via U.S. Mail. He said that he was recently informed that items from anyone on the outside must be approved by staff in advance, before anything can be sent to him. However, he said that his mother had already sent the items in question to him at NRC before he had been told about this rule. The complainant believes that this situation is unfair, and that the staff should not be preventing him from receiving these items sent by his mother.

Case #1966 - Administration Taking Patient's Pension Money

The complainant is a patient at the Lincoln Regional Center. He said that he had been sent to the facility's "prison unit" for acting out. The patient said that he was complaining because he was frustrated with the "illegal money matters at LRC." The complainant said that the administration of the Regional Center is taking his Veteran's pension, in addition to his Social Security benefits. He said that he believes that it is illegal for the facility's administration to take his VA pension.

Case #2291 - NRC Patient Sanctioned for Approved Non-attendance at Group Dinners

The complainant is a patient at the Norfolk Regional Center. He said that he spoke with one of the facility's doctors regarding his coping skills, and about his issues when he is going to the NRC dining hall for meals. The complainant said that he had asked whether it would be acceptable if he would periodically skip the group meals, due to their being very stressful situations for him. The complainant said that this request was granted by the doctor.

The complainant said that a nurse at NRC confirmed that he could request to skip group meals, however, the nurse also said that he would be given a "check," or a

demerit, when doing so. Now, the complainant is being told that his family and friends cannot attend his treatment program review meeting, and that this was due to all of his demerits regarding his dining hall attendance. It is the complainant's opinion that he needs to have his family and friends attend the review meeting, so that they can be involved in the progress of his treatment.

County Jails

Case #53 - Inadequate Medical Attention to an Inmate's Surgical Wound

The complainant is a female inmate in a metropolitan area jail. The complainant said that she has been in the jail for fourteen days, and that she needs help with a medical condition. She said that she had major surgery a couple of weeks before entering jail, and she has a wound in her abdomen that requires the use of a wound vac and lots of sponges. The complainant said that the county jail is not equipped to deal with her health condition.

The complainant said that she has had to instruct the medical personnel at the jail on how to care for her wound. She said she is over 60 years old, has lupus, feels sick, and she does not want to die in the county jail. The complainant said the medical personnel at the jail want to send her to her personal doctor, but she does not want to do that because it would be humiliating to go the doctor, and be seen being escorted in chains. She thinks that the county jail should bring in a medical professional who can care for her wound properly.

Case #394 - Jail Dirty and Provides Only Cold Meals

The complainant is an inmate in the a relatively small county jail. He said that the food served to the inmates in the jail is always served cold. He also said that the jail is very dirty, and that the inmates frequently wake up with bug bites. He claims there is a staph infection that is going around among the jail's inmates. He also complained that the inmates have no hot water in their cells, and get no fresh air at all. The complainant said that he wrote an internal grievance on these issues, but he has not heard anything back from the Sheriff

Case #444 - Inmate Claims that Excessive Force was Used by Jail Staff in Transferring Him to a Segregation Cell

The complainant is an inmate in a jail in a metropolitan area. He is complaining about how he was handled by jail staff when being placed in a segregation cell on January 5, 2012 at around 2:00 a.m. According to the complainant, excessive force was used by the staff, and he suffered cuts on his neck, shoulders, and arms as a result. He also claims to have been slammed against the wall unnecessarily, and says he was not resisting the staff while they were doing this. After being placed in restraints, the complainant said that he was put in a cold cell, with no shirt or shorts on. He said that he filed an internal grievance, but has heard nothing from the jail administration.

Case #1337 - Inmate Fears for Her Safety

The complainant is an inmate in a small county jail. She claimed that she is feeling threatened by other inmates in the jail, and had written numerous grievances about feeling threatened by other inmates, however, nothing has been changed to make her more safe. The complainant said that her anxiety level is very elevated, and she is afraid for her safety. She said she had asked to be moved into another cell, or to another jail, but has been told that this will not be done. The complainant said that she does not believe that her safety is being taken seriously by the staff and administration at the jail.

Case #1865 - Inmate Injured in a Shooting Needs a Different Bed or Cell

The complainant is an inmate in a jail in a metropolitan area. The complainant said that he was recently shot through his left leg with an assault rifle, and the bone was shattered from the ankle to the knee. He is currently rehabilitating the leg, and has been placed in a protective boot. His problem is that he is sleeping in a bed that he has difficulty getting into and out of without hitting the boot, which causes extreme pain. The complainant said that he would like to be placed in a different cell so that mobility would be less impeded, but he said that the staff "laugh" at him when he has suggested it.

Case #1960 - Inmate Not Receiving Medical Attention for Injuries Suffered from Fall in the Jail

The complainant is an inmate in a jail in a metropolitan county. He said that he had fallen off of the top bunk in his cell on October 3, 2012. Since then he has been in severe pain, including sharp pain in his back, going down his left side. The complainant said that he has written numerous messages to the medical staff, but they have refused his request to be seen by a physician. The complainant said that the only medication that they are giving him is Ibuprofen. He said that he will be released from jail soon, and will then see a neurologist, but until then he does not understand why the medical staff will not let him see a physician for attention to his injury.

Case #2348 - Inmate Not Receiving Relief and Treatment for Pain Related to His Dental Problems

The complainant is an inmate in a county jail in a medium size county. He said that he is experiencing a great deal of pain associated with his teeth. He said that the jail's medical staff had put him on antibiotics and Ibuprofen for a few days at a time, but thus far nothing has been done to improve his problems with his teeth. The complainant said that he needs to have several of his teeth pulled, but so far the jail has not allowed him to see a dentist to determine what needs to be done to relieve his pain. He has also been told by jail staff that he will now need to start paying the jail for the Ibuprofen that he is taking. The complainant believes the jail should be responsible for this, if they are not going to let him see a dentist.

Inspector General of Nebraska Child Welfare

During its legislative session in 2012, the Nebraska Legislature created a new oversight entity designed to function as a part of the legislative branch of government, the Office of Inspector General of Nebraska Child Welfare. The legislation in question was part of a much larger and more comprehensive Child Welfare Act (LB 821), a major piece of legislation addressing problems and systemic deficits exposed in a previous legislative examination of Nebraska's child welfare system by the Legislature's Health and Human Services Committee. The Act established the position of Inspector General of Nebraska Child Welfare (see **Neb. Rev. Stat.** §§43-4301 to 43-4331, reproduced in Appendix B) with the intent and expectation that an Inspector General of Child Welfare would be able to provide for increased accountability and legislative oversight of the Nebraska child welfare system. The Inspector General was also expected to investigate and review specific child welfare system matters and cases to determine whether those situations might disclose the existence of latent systematic problems in the state's child welfare system, issues, in other words, that needed to be addressed.

The genesis of the Inspector General of Child Welfare Act was an initiative by the Nebraska Department of Health and Human Services in 2009 to achieve reform of the state's child welfare system through a privatization scheme known as the “Families Matter” initiative. This initiative almost immediately encountered significant problems, and, in light of mounting concerns about the direction about this privatization initiative, the Legislature in 2011 approved a Legislative Resolution, LR 37, which authorized the Legislature's Health and Human Services Committee to review and assess the overall impact and effectiveness of the Families Matter initiative. To assist in this study, the Public Counsel’s Office conducted a survey of foster parents to learn more about their experiences with the Families Matter reform. The Public Counsel's Office also surveyed biological parents who had gone through experiences in the Nebraska child welfare system, to get their feedback as well. (For more information on this effort, please see the Public Counsel's Annual Report for 2011.) All of this led indirectly to the idea that perhaps the Public Counsel's Office could utilize its experience and expertise in dealing with complaints relating to the operation of the Nebraska child welfare system in order to help implement a new idea for more direct and comprehensive oversight of the system. This new idea was the Inspector General of Child Welfare.

This newly created Inspector General position was particularly important to the

ongoing operation of the Public Counsel's Office because the legislation that created the new position designated that the IG to be actively affiliated with the Public Counsel. The idea was that the two functions are complimentary, since both are a part of the legislative branch of government, both are significantly concerned with providing accountability and oversight of state administrative systems, and both are in a position to learn about how Nebraska's child welfare system performs, in practical terms, by investigating and addressing complaints. The Inspector General position is expected to help not only in terms of providing for increased accountability and oversight of the Nebraska child welfare system, but also in terms of improving operations of the Department of Health and Human Services, and private providers, relating to the Nebraska system for the care and protection of children. This is expected to be achieved by the work of the Inspector General either through promoting policy and/or process changes within the Department's internal administration, or through advocating legislative action to improve policies and otherwise restructure the state's child welfare system.

The Nebraska Child Welfare Act of 2012 provided for the Inspector General of Nebraska Child Welfare to be appointed by the Nebraska Public Counsel, subject to the approval of both the Chairperson of the Legislature's Health and Human Services Committee, and the Chairperson of the Legislature's Executive Board. Starting from a pool of about 60 applications, nine individuals were selected to be interviewed for the IG position. Those candidates for the position who were chosen to be interviewed offered a diversity of education, backgrounds, and accomplishments. Following the interviews, Ms. Julie L. Rogers was appointed to serve as the first Inspector General of Nebraska Child Welfare. An attorney, Ms. Rogers was Community Planning Coordinator with the Juvenile Justice Institute at the University of Nebraska at Omaha, and had formerly served as a Policy Analyst with the Nebraska Community Corrections Council. In addition, Ms. Rogers had also formerly been a Legal Counsel for the Legislature's Judiciary Committee, and was a former Deputy Public Defender for Madison County, Nebraska. After having been approved by the Chairs of the Executive Board and Health and Human Services Committee, Ms. Rogers' service as Nebraska's first Inspector General of Child Welfare commenced at the end of July of 2012.

STATISTICAL ANALYSIS

The following tables illustrate the size, nature, and distribution of the caseload of the Nebraska Public Counsel's Office for 2012. As the following statistics reflect, the total caseload of the Public Counsel's Office for calendar year 2012 was 2,462 cases. The 2012 caseload total represents a significant step forward in terms of the Public Counsel's overall workload. From calendar year 1999 through calendar year 2007, the Public Counsel's caseload consistently hovered in the range of 2,200 cases-per-year, as is reflected in the following annual caseloads:

1999	-	2,224 cases
2000	-	2,206 cases
2001	-	2,202 cases
2002	-	2,482 cases
2003	-	2,291 cases
2004	-	2,290 cases
2005	-	2,174 cases
2006	-	2,290 cases
2007	-	2,250 cases
2008	-	2,114 cases

The one significant exception to this pattern came in 2002, when the Public Counsel's caseload total was significantly higher - 2,482 cases. The larger caseload in 2002 was partially the result of the implementation of the State's new system for collecting and distributing child support payments, which was started in January of 2002. Although we are now accustomed to the operation of the new centralized child support system, at the outset in 2002 there were some significant problems with the new system as it was unveiled and started its operation. As a result, the Public Counsel's Office experienced an elevation in its caseload in 2002 that was significant, but only temporary, with the resulting surge of cases subsiding in the ensuing years.

In 2009 the Public Counsel's caseload finally moved into new territory, with a total of 2,328 cases. That new caseload level has continued in 2010 (2,346 cases), and in 2011 (2,302 cases). Now, with our 2012 caseload of 2,462, we have nearly eclipsed our previous high mark in 2002. We believe that this development is very significant, and that it may prefigure a new era of growth of the Public Counsel's caseload after a decade of stability, or at least that is what we are hoping to see.

TABLE 1
SUMMARY OF CONTACTS 2012

Month	Total Inquiries	Complaint	Information
January	212	199	13
February	208	192	16
March	226	211	15
April	211	196	15
May	217	205	12
June	214	198	16
July	180	168	12
August	226	216	10
September	177	160	17
October	195	180	15
November	199	187	12
December	197	194	3
TOTAL	2462	2306	156

% of Total	100%	94%	6%
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**TABLE 2
OMBUDSMAN CONTACTS 2012**

	Total Logged Inquiries	Total Logged Complaint	Pending Complaint	Justified	Unjustified	Partially Justified	Discontinued	No Jurisdiction	No Jurisdiction But Assisted	Total Logged Information	Info Cases Pending
January	212	199	0	31	49	68	31	6	14	13	0
February	208	192	1	40	52	41	34	7	17	16	0
March	226	211	5	52	44	59	20	14	17	15	0
April	211	196	2	45	50	55	25	7	12	15	0
May	217	205	1	38	52	55	36	10	13	12	0
June	214	198	4	41	49	55	38	3	8	16	0
July	180	168	3	16	50	56	28	8	7	12	0
August	226	216	5	38	57	63	37	5	11	10	0
September	177	160	6	28	43	49	23	2	9	17	0
October	195	180	12	36	41	53	29	4	5	15	0
November	199	187	8	37	44	50	27	7	14	12	1
December	197	194	19	46	34	39	37	5	14	3	0
TOTAL	2462	2306	66	448	565	643	365	78	141	156	1

% of TOTAL	100%	94%	3%	18%	23%	26%	15%	3%	6%	6%	0%
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**TABLE 3
ANALYSIS OF NO-JURISDICTION CASES - 2012**

	Total No Jurisdiction Cases	Federal Jurisdiction	County Jurisdiction	Municipal Jurisdiction	Other Subdivisions of Government	Legislative or Policy Issues	Issues Before Courts	Private Matters Between Individuals	Issues Involving Governor or Staff
January	20	1	8	3	2	0	2	4	0
February	24	1	5	1	2	0	10	5	0
March	31	3	5	3	1	1	8	10	0
April	19	0	0	3	0	0	4	12	0
May	23	2	2	0	1	0	6	11	1
June	11	2	3	0	1	0	4	1	0
July	15	1	3	0	3	0	5	3	0
August	16	0	0	5	2	0	4	5	0
September	11	0	1	1	2	0	5	2	0
October	9	0	3	0	0	0	3	3	0
November	21	2	2	3	3	0	6	5	0
December	19	1	2	1	0	0	10	5	0
TOTAL	219	13	34	20	17	1	67	66	1

PERCENT	100%	6%	16%	9%	8%	0%	31%	30%	0%
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**TABLE 4
MEANS OF RECEIPT AND LOCATION 2012**

MONTH	Location					Means of Receipt				
	Metropolitan Lincoln	Metropolitan Omaha	Non Metropolitan	Out Of State	State Instiution	Letter	Visit	Telephone	Email	Fax
January	35 4	11 2	44 5	3 0	106 2	114 1	6 0	69 10	10 2	0 0
February	31 2	21 5	41 3	5 2	94 4	109 4	5 0	68 10	8 1	2 1
March	49 3	23 1	44 7	3 1	92 3	98 4	3 0	90 9	19 2	1 0
April	38 5	20 2	55 7	2 1	81 0	95 5	6 0	79 5	15 5	1 0
May	43 6	25 1	41 3	4 0	92 2	99 4	3 0	81 5	22 3	0 0
June	28 3	12 2	50 8	2 0	106 3	121 7	5 0	57 9	14 0	1 0
July	30 4	11 2	37 1	7 0	83 5	95 4	4 0	58 3	9 5	2 0
August	39 3	21 2	44 3	7 0	105 2	116 1	7 0	81 4	12 5	0 0
September	29 2	15 5	36 8	7 2	73 0	83 1	6 1	58 14	13 1	0 0
October	28 7	20 0	48 5	5 2	79 1	83 3	5 0	72 7	19 5	1 0
November	27 2	26 1	42 5	3 0	89 4	111 5	3 0	66 6	7 1	0 0
December	35 0	17 1	38 2	4 0	100 0	117 0	4 0	64 2	7 1	2 0
TOTAL	412 41	222 24	520 57	52 8	1100 26	1241 39	57 1	843 84	155 31	10 1

* C = Complaints, I = Information

**TABLE 5
OFFICE OF THE OMBUDSMAN - 2012 AGENCY CONTACTS**

AGENCY	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL
Accountability & Disclosure	0	0	0	0	0	0	0	0	0	0	0	0	0
Administrative Services	2	2	0	2	4	7	3	0	2	4	0	2	28
Aging	0	0	0	0	0	0	0	0	0	0	0	0	0
Agriculture	0	0	0	0	0	0	0	0	0	0	0	0	0
Arts Council	0	0	0	0	0	0	0	0	0	0	0	0	0
Attorney General	2	1	0	1	1	0	0	0	0	0	0	0	5
Auditor	0	0	0	0	0	0	0	0	1	0	0	0	1
Banking	0	0	0	0	0	0	0	0	0	0	0	1	1
Brand Committee	0	0	0	0	0	0	0	0	0	0	0	0	0
Claims Board	0	0	0	0	0	0	0	0	0	0	0	0	0
Corrections	104	93	98	78	93	100	78	106	68	73	89	88	1068
County	3	1	6	1	1	2	3	2	3	2	1	1	26
Courts	1	10	7	3	6	7	7	3	6	2	6	8	66
Crime Commission	0	0	0	0	0	0	0	0	0	0	0	0	0
Economic Development	0	0	0	0	0	0	0	0	0	1	0	1	2
Ed. Lands & Funds	0	0	0	0	0	0	0	0	0	0	0	0	0
Education	0	1	1	0	0	1	0	2	1	1	1	0	8
Environmental Quality	0	0	0	0	0	0	0	0	0	0	0	0	0
Equal Opportunity	0	0	2	0	0	1	0	2	1	0	0	0	6
Ethanol Authority	0	0	0	0	0	0	0	0	0	0	0	0	0
Educational Television	0	0	0	0	0	0	0	0	0	0	0	0	0
Fair Board	0	0	0	0	0	0	0	0	0	0	0	0	0
Federal	1	1	3	1	1	2	0	1	2	0	4	1	17
Fire Marshal	0	0	0	0	0	0	0	0	0	0	0	0	0
Foster Care Rev Bd	0	0	0	0	0	0	1	0	0	0	0	1	2
Game and Parks	0	0	0	1	0	0	0	1	0	0	1	1	4

Office of the Ombudsman - 2012 Agency Contacts (continued)

AGENCY JAN FEB MAR APR MAY JUNE JULY AUG SEPT OCT NOV DEC TOTAL

Governmental Subdivision	2	2	0	1	1	2	0	2	1	0	3	1	15
Governor	0	0	0	0	0	0	0	0	0	1	0	0	1
Nebraska Commission for the Deaf and Hard of Hearing	0	0	0	0	0	0	0	0	0	0	0	0	0
Hearing Impaired	0	0	0	0	0	0	0	0	0	0	0	0	0
HHS Benefits	13	14	9	11	14	7	11	23	13	17	19	15	166
HHS BSDC	2	0	1	1	2	2	1	3	1	0	0	0	13
HHS Child Welfare	24	20	25	29	16	19	11	17	16	23	18	19	237
HHS Misc	10	7	14	12	18	12	14	7	7	10	5	8	124
HHS Regional Centers	8	6	4	3	8	7	7	4	8	10	8	8	81
HHS Regulation	1	2	1	1	3	0	1	3	2	6	0	2	22
HHS Vets Homes	0	0	1	3	0	3	0	1	0	0	0	0	8
HHS Visually Impaired	0	0	0	0	0	0	0	0	0	0	0	0	0
Historical Society	0	0	0	0	0	0	0	0	0	0	0	0	0
Indian Comm	0	0	0	0	1	0	0	0	0	0	0	0	1
Institutions	0	0	0	0	0	0	0	0	0	0	0	0	0
Insurance	1	0	1	0	0	0	1	0	0	0	0	0	3
Investment Council	0	0	0	0	0	0	0	0	0	0	0	0	0
Labor	0	7	3	4	1	0	3	5	3	2	1	1	30
Legislative	3	5	5	4	2	3	1	2	7	2	2	1	37
Library Comm	1	1	0	0	0	0	0	0	0	0	0	0	2
Liquor Control	0	0	0	0	0	0	0	0	0	1	0	0	1
Mexican Amer Comm	0	0	0	0	0	0	0	0	0	0	0	0	0
Motor Vehicles	2	1	3	2	5	2	0	3	1	1	2	1	23
Mtr Veh Dealers Lic Bd	0	0	0	0	0	0	0	0	0	0	0	0	0
Municipal	3	1	3	2	2	0	0	2	0	2	1	1	17
National Guard	0	0	0	0	0	0	1	0	0	0	0	0	1
Natural Resources	0	0	0	0	1	0	1	0	0	1	0	0	3
Pardons Board	0	0	2	0	0	0	2	0	1	1	0	1	7

Office of the Ombudsman - 2012 Agency Contacts (continued)

AGENCY JAN FEB MAR APR MAY JUNE JULY AUG SEPT OCT NOV DEC TOTAL

Parole Board	1	5	0	0	0	0	1	0	0	0	0	1	8
Patrol	0	2	0	6	2	0	3	1	1	0	0	0	15
Personnel	0	0	0	0	0	0	0	0	1	0	0	0	1
Private Matter	3	5	8	11	8	1	2	4	3	3	4	2	54
Probation Adm	0	0	0	0	0	0	0	0	0	0	0	1	1
Public Service Comm	1	0	0	0	0	0	0	1	0	0	0	1	3
Real Estate Comm	0	1	0	0	1	0	0	0	0	0	0	1	3
Retirement Systems	0	0	0	0	0	1	0	0	0	0	1	0	2
Revenue	0	1	1	3	1	1	2	1	2	0	1	1	14
Risk Management	0	0	0	0	0	0	1	0	0	0	0	0	1
Roads	2	2	0	0	0	3	1	0	0	0	0	0	8
Secretary of State	0	1	0	0	0	0	0	0	0	0	0	0	1
St. Board of Equalization	0	0	0	0	0	0	0	0	0	0	0	1	1
St. Surveyor	0	0	0	0	0	0	0	0	0	0	0	0	0
State Colleges	1	0	0	0	0	0	0	0	1	0	0	0	2
Status of Women	0	0	0	0	0	0	0	0	0	0	0	0	0
Electrical Division	0	0	0	0	0	0	0	0	0	0	0	0	0
Treasurer	0	1	0	0	0	1	1	1	1	0	1	1	7
University	1	1	2	2	1	2	0	2	2	3	1	0	17
Veterans Affairs	0	0	0	0	1	0	0	0	0	0	0	0	1
Commission for the Blind	1	0	1	0	0	0	0	0	0	1	1	0	4
Racing Commission	0	0	0	0	0	0	0	0	0	0	0	0	0

Energy Office, Nebraska - Agency 71	0	0	0	0	0	0	0	0	0	0	0	0	0
Inspector General	0	0	0	0	0	0	0	0	0	0	0	0	0

TOTALS CASES	214	208	226	211	218	214	182	226	177	195	199	197	2467
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(NOTE: Case totals in this table are greater than the sum of all cases because a single case may involve in multiple agencies.)

Case Duration - 2012

Days Open	Record Count	% of Total
1	178	7%
2	77	3%
3	59	2%
4	71	3%
5	79	3%
6	103	4%
7	108	5%
8	88	4%
9	44	2%
10	47	2%
11	45	2%
12	38	2%
13	64	3%
14	63	3%
15	33	1%
16	24	1%
17	16	1%
18	24	1%
19	28	1%
20	33	1%
21 to 30	216	9%
31 to 60	270	11%
Over 60	686	29%
TOTAL COUNT	2305	100%

APPENDIX A - PUBLIC COUNSEL ACT

81-8,240. As used in sections 81-8,240 to 81-8,254, unless the context otherwise requires:

- (1) Administrative agency shall mean any department, board, commission, or other governmental unit, any official, or any employee of the State of Nebraska acting or purporting to act by reason of connection with the State of Nebraska, or any corporation, partnership, business, firm, governmental entity, or person who is providing health and human services to individuals under contract with the State of Nebraska and who is subject to the jurisdiction of the office of the Public Counsel as required by section 73-401, any regional behavioral health authority, any community-based behavioral health services provider that contracts with a regional behavioral health authority, and any county or municipal correctional or jail facility and employee thereof acting or purporting to act by reason of connection with the county or municipal correctional or jail facility; but shall not include (a) any court, (b) any member or employee of the Legislature or the Legislative Council, (c) the Governor or his personal staff, (d) any political subdivision or entity thereof, (e) any instrumentality formed pursuant to an interstate compact and answerable to more than one state, or (f) any entity of the federal government; and
- (2) Administrative act shall include every action, rule, regulation, order, omission, decision, recommendation, practice, or procedure of an administrative agency.

81-8,241. The office of Public Counsel is hereby established to exercise the authority and perform the duties provided by sections 81-8,240 to 81-8,254. The Public Counsel shall be appointed by the Legislature, with the vote of two-thirds of the members required for approval of such appointment from nominations submitted by the Executive Board of the Legislative Council.

81-8,242. The Public Counsel shall be a person well equipped to analyze problems of law, administration, and public policy, and during his term of office shall not be actively involved in partisan affairs. No person may serve as Public Counsel within two years of the last day on which he served as a member of the Legislature, or while he is a candidate for or holds any other state office, or while he is engaged in any other occupation for reward or profit.

81-8,243. The Public Counsel shall serve for a term of six years, unless removed by vote of two-thirds of the members of the Legislature upon their determining that he has become incapacitated or has been guilty of neglect of duty or misconduct. If the office of Public Counsel becomes vacant for any cause, the deputy public counsel shall serve as acting public counsel until a Public Counsel has been appointed for a full term. The Public Counsel shall receive such salary as is set by the Executive Board of the Legislative Council.

81-8,244. The Public Counsel may select, appoint, and compensate as he or she sees fit, within the amount available by appropriation, such assistants and employees as he or she deems necessary to discharge the responsibilities under sections 81-8,240 to 81-8,254. He or she shall appoint and designate one assistant to be a deputy public counsel, one assistant to be a deputy public counsel for corrections, one assistant to be a deputy public counsel for institutions, and one assistant to be a deputy public counsel for welfare services. Such deputy public counsels shall be subject to the control and supervision of the Public Counsel. The authority of the deputy public counsel for corrections shall extend to all facilities and parts of facilities, offices, houses of confinement, and institutions which are operated by the Department of Correctional Services and all county or municipal correctional or jail facilities. The authority of the deputy public counsel for institutions shall extend to all mental health and veterans institutions and facilities operated by the Department of Health and Human Services and to all regional behavioral health authorities that provide services and all community-based behavioral health services providers that contract with a regional behavioral health authority to provide services, for any individual who was a patient within the prior twelve months of a state-owned and state-operated regional center, and to all complaints pertaining to administrative acts of the department, authority, or provider when those acts are concerned with the rights and interests of individuals placed within those institutions and facilities or receiving community-based behavioral health services. The authority of the deputy public counsel for welfare services shall extend to all complaints pertaining to administrative acts of administrative agencies when those acts are concerned with the rights and interests of individuals involved in the welfare services system of the State of Nebraska. The Public Counsel may delegate to members of the staff any authority or duty under sections 81-8,240 to 81-8,254 except the power of delegation and the duty of formally making recommendations to administrative agencies or reports to the Governor or the Legislature.

81-8,245. The Public Counsel shall have power to:

- (1) Investigate, on complaint or on his or her own motion, any administrative act of any administrative agency;
- (2) Prescribe the methods by which complaints are to be made, received, and acted upon; determine the scope and manner of investigations to be made; and, subject to the requirements of sections 81-8,240 to 81-8,254, determine the form, frequency, and distribution of his or her conclusions,

recommendations, and proposals.

- (3) Conduct inspections of the premises, or any parts thereof, of any administrative agency or any property owned, leased, or operated by any administrative agency as frequently as is necessary, in his or her opinion, to carry out duties prescribed under sections 81-8,240 to 81-8,254;
- (4) Request and receive from each administrative agency, and such agency shall provide, the assistance and information the public counsel deems necessary for the discharge of his or her responsibilities; inspect and examine the records and documents of all administrative agencies notwithstanding any other provision of law; and enter and inspect premises within any administrative agency's control;
- (5) Issue a subpoena, enforceable by action in an appropriate court, to compel any person to appear, give sworn testimony, or produce documentary or other evidence deemed relevant to a matter under his or her inquiry. A person thus required to provide information shall be paid the same fees and travel allowances and shall be accorded the same privileges and immunities as are extended to witnesses in the district courts of this state, and shall also be entitled to have counsel present while being questioned;
- (6) Undertake, participate in, or cooperate with general studies or inquiries, whether or not related to any particular administrative agency or any particular administrative act, if he or she believes that they may enhance knowledge about or lead to improvements in the functioning of administrative agencies; and
- (7) Make investigations, reports, and recommendations necessary to carry out his or her duties under the State Government Effectiveness Act.

81-8,246. In selecting matters for his attention, the Public Counsel shall address himself particularly to an administrative act that might be:

- (1) Contrary to law or regulation;
- (2) Unreasonable, unfair, oppressive, or inconsistent with the general course of an administrative agency's judgments;
- (3) Mistaken in law or arbitrary in ascertainment of fact;
- (4) Improper in motivation or based on irrelevant considerations;
- (5) Unclear or inadequately explained when reasons should have been

revealed; or

- (6) Inefficiently performed.

The Public Counsel may concern himself also with strengthening procedures and practices which lessen the risk that objectionable administrative acts will occur.

81-8,247. The Public Counsel may receive a complaint from any person concerning an administrative act. He shall conduct a suitable investigation into the things complained of unless he believes that:

- (1) The complainant has available to him another remedy which he could reasonably be expected to use;
- (2) The grievance pertains to a matter outside his power;
- (3) The complainant's interest is insufficiently related to the subject matter;
- (4) The complaint is trivial, frivolous, vexatious, or not made in good faith;
- (5) Other complaints are more worthy of attention;
- (6) His resources are insufficient for adequate investigation; or
- (7) The complaint has been too long delayed to justify present examination of its merit.

The Public Counsel's declining to investigate a complaint shall not bar him from proceeding on his own motion to inquire into related problems. After completing his consideration of a complaint, whether or not it has been investigated, the Public Counsel shall suitably inform the complainant and the administrative agency involved.

81-8,248. Before announcing a conclusion or recommendation that expressly or impliedly criticizes an administrative agency or any person, the Public Counsel shall consult with that agency or person.

81-8,249.

- (1) If, having considered a complaint and whatever material he deems pertinent, the Public Counsel is of the opinion that an administrative agency should (a) consider the matter further (b) modify or cancel an administrative act, (c) alter a regulation or ruling, (d) explain more fully the administrative act in question, or (e) take any other step, he shall state his recommendations to the administrative agency. If the Public Counsel so

requests, the agency shall, within the time he has specified, inform him about the action taken on his recommendations or the reasons for not complying with them.

- (2) If the Public Counsel believes that an administrative action has been dictated by a statute whose results are unfair or otherwise objectionable, he shall bring to the Legislature's notice his views concerning desirable statutory change.

81-8,250. The Public Counsel may publish his conclusions and suggestions by transmitting them to the Governor, the Legislature or any of its committees, the press, and others who may be concerned. When publishing an opinion adverse to an administrative agency he shall include any statement the administrative agency may have made to him by way of explaining its past difficulties or its present rejection of the Public Counsel's proposals.

81-8,251. In addition to whatever reports he may make from time to time, the Public Counsel shall on or about February 15 of each year report to the Clerk of the Legislature and to the Governor concerning the exercise of his functions during the preceding calendar year. In discussing matters with which he or she has dealt, the Public Counsel need not identify those immediately concerned if to do so would cause needless hardship. So far as the annual report may criticize named agencies or officials, it must include also their replies to the criticism. Each member of the Legislature shall receive a copy of such report by making a request for it to the Public Counsel.

81-8,252. If the Public Counsel has reason to believe that any public officer or employee has acted in a manner warranting criminal or disciplinary proceedings, he shall refer the matter to the appropriate authorities.

81-8,253. No proceeding, opinion, or expression of the Public Counsel shall be reviewable in any court. Neither the Public Counsel nor any member of his staff shall be required to testify or produce evidence in any judicial or administrative proceeding concerning matters within his official cognizance, except in a proceeding brought to enforce sections 81-8,240 to 81-8,254.

81-8,254. A person who willfully obstructs or hinders the proper exercise of the Public Counsel's functions, or who willfully misleads or attempts to mislead the Public Counsel in his inquiries, shall be guilty of a Class II misdemeanor. No employee of the State of Nebraska, who files a complaint pursuant to sections 81-82,40 to 81-8,254, shall be subject to any penalties, sanctions, or restrictions in connection with his employment because of such complaint.

APPENDIX B - Inspector General of Nebraska Child Welfare Act

43-4301. Act, how cited.

Sections 43-4301 to 43-4331 shall be known and may be cited as the Office of Inspector General of Nebraska Child Welfare Act.

Source: Laws 2012, LB821, § 8.

43-4302. Legislative intent.

(1) It is the intent of the Legislature to:

(a) Establish a full-time program of investigation and performance review to provide increased accountability and oversight of the Nebraska child welfare system;

(b) Assist in improving operations of the department and the Nebraska child welfare system;

(c) Provide an independent form of inquiry for concerns regarding the actions of individuals and agencies responsible for the care and protection of children in the Nebraska child welfare system. Confusion of the roles, responsibilities, and accountability structures between individuals, private contractors, and agencies in the current system make it difficult to monitor and oversee the Nebraska child welfare system; and

(d) Provide a process for investigation and review to determine if individual complaints and issues of investigation and inquiry reveal a problem in the child welfare system, not just individual cases, that necessitates legislative action for improved policies and restructuring of the child welfare system.

(2) It is not the intent of the Legislature in enacting the Office of Inspector General of Nebraska Child Welfare Act to interfere with the duties of the Legislative Performance Audit Section of the Legislative Performance Audit Committee or the Legislative Fiscal Analyst or to interfere with the statutorily defined investigative responsibilities or prerogatives of any officer, agency, board, bureau, commission, association, society, or institution of the executive branch of state government, except that the act does not preclude an inquiry on the sole basis that another agency has the same responsibility. The act shall not be construed to interfere with or supplant the responsibilities or prerogatives of the Governor to investigate, monitor, and report on the activities of the agencies, boards, bureaus, commissions, associations, societies, and institutions of the executive branch under his or her administrative direction.

Source: Laws 2012, LB821, § 9.

43-4303. Definitions; where found.

For purposes of the Office of Inspector General of Nebraska Child Welfare Act, the definitions found in sections 43-4304 to 43-4316 apply.

Source: Laws 2012, LB821, § 10.

43-4304. Administrator, defined.

Administrator means a person charged with administration of a program, an office, or a division of the department or administration of a private agency or licensed child care facility.

Source: Laws 2012, LB821, § 11.

43-4305. Department, defined.

Department means the Department of Health and Human Services.

Source: Laws 2012, LB821, § 12.

43-4306. Director, defined.

Director means the chief executive officer of the department.

Source: Laws 2012, LB821, § 13.

43-4307. Inspector General, defined.

Inspector General means the Inspector General of Nebraska Child Welfare appointed under section 43-4317.

Source: Laws 2012, LB821, § 14.

43-4308. Licensed child care facility, defined.

Licensed child care facility means a facility or program licensed under the Child Care Licensing Act or sections 71-1901 to 71-1906.01.

Source: Laws 2012, LB821, § 15.

Cross References

Child Care Licensing Act, see section 71-1908.

43-4309. Malfeasance, defined.

Malfeasance means a wrongful act that the actor has no legal right to do or any wrongful conduct that affects, interrupts, or interferes with performance of an official duty.

Source: Laws 2012, LB821, § 16.

43-4310. Management, defined.

Management means supervision of subordinate employees.

Source: Laws 2012, LB821, § 17.

43-4311. Misfeasance, defined.

Misfeasance means the improper performance of some act that a person may lawfully do.

Source: Laws 2012, LB821, § 18.

43-4312. Obstruction, defined.

Obstruction means hindering an investigation, preventing an investigation from progressing, stopping or delaying the progress of an investigation, or making the progress of an investigation difficult or slow.

Source: Laws 2012, LB821, § 19.

43-4313. Office, defined.

Office means the office of Inspector General of Nebraska Child Welfare and includes the Inspector General and other employees of the office.

Source: Laws 2012, LB821, § 20.

43-4314. Private agency, defined.

Private agency means a child welfare agency that contracts with the department or contracts to provide services to another child welfare agency that contracts with the department.

Source: Laws 2012, LB821, § 21.

43-4315. Record, defined.

Record means any recording, in written, audio, electronic transmission, or computer storage form, including, but not limited to, a draft, memorandum, note, report, computer printout, notation, or message, and includes, but is not limited to, medical records, mental health records, case files, clinical records, financial records, and administrative records.

Source: Laws 2012, LB821, § 22.

43-4316. Responsible individual, defined.

Responsible individual means a foster parent, a relative provider of foster care, or an

employee of the department, a foster home, a private agency, a licensed child care facility, or another provider of child welfare programs and services responsible for the care or custody of records, documents, and files.

Source: Laws 2012, LB821, § 23.

43-4317. Office of Inspector General of Nebraska Child Welfare; created; purpose; Inspector General; appointment; term; certification; employees; removal.

(1) The office of Inspector General of Nebraska Child Welfare is created within the office of Public Counsel for the purpose of conducting investigations, audits, inspections, and other reviews of the Nebraska child welfare system. The Inspector General shall be appointed by the Public Counsel with approval from the chairperson of the Executive Board of the Legislative Council and the chairperson of the Health and Human Services Committee of the Legislature.

(2) The Inspector General shall be appointed for a term of five years and may be reappointed. The Inspector General shall be selected without regard to political affiliation and on the basis of integrity, capability for strong leadership, and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, investigation, or criminal justice administration or other closely related fields. No former or current executive or manager of the department may be appointed Inspector General within five years after such former or current executive's or manager's period of service with the department. Not later than two years after the date of appointment, the Inspector General shall obtain certification as a Certified Inspector General by the Association of Inspectors General, its successor, or another nationally recognized organization that provides and sponsors educational programs and establishes professional qualifications, certifications, and licensing for inspectors general. During his or her employment, the Inspector General shall not be actively involved in partisan affairs.

(3) The Inspector General shall employ such investigators and support staff as he or she deems necessary to carry out the duties of the office within the amount available by appropriation through the office of Public Counsel for the office of Inspector General of Nebraska Child Welfare. The Inspector General shall be subject to the control and supervision of the Public Counsel, except that removal of the Inspector General shall require approval of the chairperson of the Executive Board of the Legislative Council and the chairperson of the Health and Human Services Committee of the Legislature.

Source: Laws 2012, LB821, § 24.

43-4318. Office; duties; law enforcement agencies and prosecuting attorneys; cooperation; confidentiality.

(1) The office shall investigate:

(a) Allegations or incidents of possible misconduct, misfeasance, malfeasance, or violations of statutes or of rules or regulations of the department by an employee of or person under contract with the department, a private agency, a licensed child care

facility, a foster parent, or any other provider of child welfare services or which may provide a basis for discipline pursuant to the Uniform Credentialing Act; and

(b) Death or serious injury in foster homes, private agencies, child care facilities, and other programs and facilities licensed by or under contract with the department and death or serious injury in any case in which services are provided by the department to a child or his or her parents or any case involving an investigation under the Child Protection Act, which case has been open for one year or less. The department shall report all cases of death or serious injury of a child in a foster home, private agency, child care facility or program, or other program or facility licensed by the department to the Inspector General as soon as reasonably possible after the department learns of such death or serious injury. For purposes of this subdivision, serious injury means an injury or illness caused by suspected abuse, neglect, or maltreatment which leaves a child in critical or serious condition.

(2) Any investigation conducted by the Inspector General shall be independent of and separate from an investigation pursuant to the Child Protection Act. The Inspector General and his or her staff are subject to the reporting requirements of the Child Protection Act.

(3) Notwithstanding the fact that a criminal investigation, a criminal prosecution, or both are in progress, all law enforcement agencies and prosecuting attorneys shall cooperate with any investigation conducted by the Inspector General and shall, immediately upon request by the Inspector General, provide the Inspector General with copies of all law enforcement reports which are relevant to the Inspector General's investigation. All law enforcement reports which have been provided to the Inspector General pursuant to this section are not public records for purposes of sections 84-712 to 84-712.09 and shall not be subject to discovery by any other person or entity. Except to the extent that disclosure of information is otherwise provided for in the Office of Inspector General of Nebraska Child Welfare Act, the Inspector General shall maintain the confidentiality of all law enforcement reports received pursuant to its request under this section. Law enforcement agencies and prosecuting attorneys shall, when requested by the Inspector General, collaborate with the Inspector General regarding all other information relevant to the Inspector General's investigation. If the Inspector General in conjunction with the Public Counsel determines it appropriate, the Inspector General may, when requested to do so by a law enforcement agency or prosecuting attorney, suspend an investigation by the office until a criminal investigation or prosecution is completed or has proceeded to a point that, in the judgment of the Inspector General, reinstatement of the Inspector General's investigation will not impede or infringe upon the criminal investigation or prosecution. Under no circumstance shall the Inspector General interview any minor who has already been interviewed by a law enforcement agency, personnel of the Division of Children and Family Services of the department, or staff of a child advocacy center in connection with a relevant ongoing investigation of a law enforcement agency.

Source: Laws 2012, LB821, § 25.

43-4319. Office; access to information and personnel; investigation.

(1) The office shall have access to all information and personnel necessary to perform the duties of the office.

(2) A full investigation conducted by the office shall consist of retrieval of relevant records through subpoena, request, or voluntary production, review of all relevant records, and interviews of all relevant persons.

Source: Laws 2012, LB821, § 26.

43-4320. Complaints to office; form; full investigation; when.

(1) Complaints to the office may be made in writing. The office shall also maintain a toll-free telephone line for complaints. A complaint shall be evaluated to determine if it alleges possible misconduct, misfeasance, malfeasance, or violation of a statute or of rules and regulations of the department by an employee of or a person under contract with the department, a private agency, or a licensed child care facility, a foster parent, or any other provider of child welfare services or alleges a basis for discipline pursuant to the Uniform Credentialing Act. All complaints shall be evaluated to determine whether a full investigation is warranted.

(2) The office shall not conduct a full investigation of a complaint unless:

(a) The complaint alleges misconduct, misfeasance, malfeasance, violation of a statute or of rules and regulations of the department, or a basis for discipline pursuant to the Uniform Credentialing Act;

(b) The complaint is against a person within the jurisdiction of the office; and

(c) The allegations can be independently verified through investigation.

(3) The Inspector General shall determine within fourteen days after receipt of a complaint whether it will conduct a full investigation. A complaint alleging facts which, if verified, would provide a basis for discipline under the Uniform Credentialing Act shall be referred to the appropriate credentialing board under the act.

Source: Laws 2012, LB821, § 27.

Cross References

Uniform Credentialing Act, see section 38-101.

43-4321. Cooperation with office; when required.

All employees of the department, all foster parents, and all owners, operators, managers, supervisors, and employees of private agencies, licensed child care facilities, and other providers of child welfare services shall cooperate with the office. Cooperation includes, but is not limited to, the following:

(1) Provision of full access to and production of records and information. Providing access to and producing records and information for the office is not a violation of confidentiality provisions under any law, statute, rule, or regulation if done in good faith for purposes of an investigation under the Office of Inspector General of Nebraska Child

Welfare Act;

- (2) Fair and honest disclosure of records and information reasonably requested by the office in the course of an investigation under the act;
- (3) Encouraging employees to fully comply with reasonable requests of the office in the course of an investigation under the act;
- (4) Prohibition of retaliation by owners, operators, or managers against employees for providing records or information or filing or otherwise making a complaint to the office;
- (5) Not requiring employees to gain supervisory approval prior to filing a complaint with or providing records or information to the office;
- (6) Provision of complete and truthful answers to questions posed by the office in the course of an investigation; and
- (7) Not willfully interfering with or obstructing the investigation.

Source: Laws 2012, LB821, § 28.

43-4322. Failure to cooperate; effect.

Failure to cooperate with an investigation by the office may result in discipline or other sanctions.

Source: Laws 2012, LB821, § 29.

43-4323. Inspector General; powers; rights of person required to provide information.

The Inspector General may issue a subpoena, enforceable by action in an appropriate court, to compel any person to appear, give sworn testimony, or produce documentary or other evidence deemed relevant to a matter under his or her inquiry. A person thus required to provide information shall be paid the same fees and travel allowances and shall be accorded the same privileges and immunities as are extended to witnesses in the district courts of this state and shall also be entitled to have counsel present while being questioned.

Source: Laws 2012, LB821, § 30.

43-4324. Office; access to records; subpoena; records; statement of record integrity and security; contents; treatment of records.

(1) In conducting investigations, the office shall access all relevant records through subpoena, compliance with a request of the office, and voluntary production. The office may request or subpoena any record necessary for the investigation from the department, a foster parent, a licensed child care facility, or a private agency that is pertinent to an investigation. All case files, licensing files, medical records, financial and administrative records, and records required to be maintained pursuant to applicable licensing rules shall be produced for review by the office in the course of an investigation.

(2) Compliance with a request of the office includes:

(a) Production of all records requested;

(b) A diligent search to ensure that all appropriate records are included; and

(c) A continuing obligation to immediately forward to the office any relevant records received, located, or generated after the date of the request.

(3) The office shall seek access in a manner that respects the dignity and human rights of all persons involved, maintains the integrity of the investigation, and does not unnecessarily disrupt child welfare programs or services. When advance notice to a foster parent or to an administrator or his or her designee is not provided, the office investigator shall, upon arrival at the departmental office, bureau, or division, the private agency, the licensed child care facility, or the location of another provider of child welfare services, request that an onsite employee notify the administrator or his or her designee of the investigator's arrival.

(4) When circumstances of an investigation require, the office may make an unannounced visit to a foster home, a departmental office, bureau, or division, a licensed child care facility, a private agency, or another provider to request records relevant to an investigation.

(5) A responsible individual or an administrator may be asked to sign a statement of record integrity and security when a record is secured by request as the result of a visit by the office, stating:

(a) That the responsible individual or the administrator has made a diligent search of the office, bureau, division, private agency, licensed child care facility, or other provider's location to determine that all appropriate records in existence at the time of the request were produced;

(b) That the responsible individual or the administrator agrees to immediately forward to the office any relevant records received, located, or generated after the visit;

(c) The persons who have had access to the records since they were secured; and

(d) Whether, to the best of the knowledge of the responsible individual or the administrator, any records were removed from or added to the record since it was secured.

(6) The office shall permit a responsible individual, an administrator, or an employee of a departmental office, bureau, or division, a private agency, a licensed child care facility, or another provider to make photocopies of the original records within a reasonable time in the presence of the office for purposes of creating a working record in a manner that assures confidentiality.

(7) The office shall present to the responsible individual or the administrator or other employee of the departmental office, bureau, or division, private agency, licensed child care facility, or other service provider a copy of the request, stating the date and the titles of the records received.

(8) If an original record is provided during an investigation, the office shall return the original record as soon as practical but no later than ten working days after the date of

the compliance request.

(9) All investigations conducted by the office shall be conducted in a manner designed to ensure the preservation of evidence for possible use in a criminal prosecution.

Source: Laws 2012, LB821, § 31.

43-4325. Reports of investigations; distribution; redact confidential information; powers of office.

(1) Reports of investigations conducted by the office shall not be distributed beyond the entity that is the subject of the report without the consent of the Inspector General.

(2) Except when a report is provided to a guardian ad litem or an attorney in the juvenile court pursuant to subsection (2) of section 43-4327, the office shall redact confidential information before distributing a report of an investigation. The office may disclose confidential information to the chairperson of the Health and Human Services Committee of the Legislature when such disclosure is, in the judgment of the Public Counsel, desirable to keep the chairperson informed of important events, issues, and developments in the Nebraska child welfare system.

(3) Records and documents, regardless of physical form, that are obtained or produced by the office in the course of an investigation are not public records for purposes of sections 84-712 to 84-712.09. Reports of investigations conducted by the office are not public records for purposes of sections 84-712 to 84-712.09.

(4) The office may withhold the identity of sources of information to protect from retaliation any person who files a complaint or provides information in good faith pursuant to the Office of Inspector General of Nebraska Child Welfare Act.

Source: Laws 2012, LB821, § 32.

43-4326. Department; provide direct computer access.

The department shall provide the Public Counsel and the Inspector General with direct computer access to all computerized records, reports, and documents maintained by the department in connection with administration of the Nebraska child welfare system.

Source: Laws 2012, LB821, § 33.

43-4327. Inspector General's report of investigation; contents; distribution.

(1) The Inspector General's report of an investigation shall be in writing to the Public Counsel and shall contain recommendations. The report may recommend systemic reform or case-specific action, including a recommendation for discharge or discipline of employees or for sanctions against a foster parent, private agency, licensed child care facility, or other provider of child welfare services. All recommendations to pursue discipline shall be in writing and signed by the Inspector General. A report of an investigation shall be presented to the director within fifteen days after the report is presented to the Public Counsel.

(2) Any person receiving a report under this section shall not further distribute the report or any confidential information contained in the report. The Inspector General, upon notifying the Public Counsel and the director, may distribute the report, to the extent that it is relevant to a child's welfare, to the guardian ad litem and attorneys in the juvenile court in which a case is pending involving the child or family who is the subject of the report. The report shall not be distributed beyond the parties except through the appropriate court procedures to the judge.

(3) A report that identifies misconduct, misfeasance, malfeasance, or violation of statute, rules, or regulations by an employee of the department, a private agency, a licensed child care facility, or another provider that is relevant to providing appropriate supervision of an employee may be shared with the employer of such employee. The employer may not further distribute the report or any confidential information contained in the report.

Source: Laws 2012, LB821, § 34.

43-4328. Report; director; accept, reject, or request modification; when final; written response; corrected report; credentialing issue; how treated.

(1) Within fifteen days after a report is presented to the director under section 43-4327, he or she shall determine whether to accept, reject, or request in writing modification of the recommendations contained in the report. The Inspector General, with input from the Public Counsel, may consider the director's request for modifications but is not obligated to accept such request. Such report shall become final upon the decision of the director to accept or reject the recommendations in the report or, if the director requests modifications, within fifteen days after such request or after the Inspector General incorporates such modifications, whichever occurs earlier.

(2) Within fifteen days after the report is presented to the director, the report shall be presented to the foster parent, private agency, licensed child care facility, or other provider of child welfare services that is the subject of the report and to persons involved in the implementation of the recommendations in the report. Within forty-five days after receipt of the report, the foster parent, private agency, licensed child care facility, or other provider may submit a written response to the office to correct any factual errors in the report. The Inspector General, with input from the Public Counsel, shall consider all materials submitted under this subsection to determine whether a corrected report shall be issued. If the Inspector General determines that a corrected report is necessary, the corrected report shall be issued within fifteen days after receipt of the written response.

(3) If the Inspector General does not issue a corrected report pursuant to subsection (2) of this section, or if the corrected report does not address all issues raised in the written response, the foster parent, private agency, licensed child care facility, or other provider may request that its written response, or portions of the response, be appended to the report or corrected report.

(4) A report which raises issues related to credentialing under the Uniform Credentialing Act shall be submitted to the appropriate credentialing board under the act.

Source: Laws 2012, LB821, § 35.

Cross References

Uniform Credentialing Act, see section 38-101.

43-4329. Report or work product; no court review.

No report or other work product of an investigation by the Inspector General shall be reviewable in any court. Neither the Inspector General nor any member of his or her staff shall be required to testify or produce evidence in any judicial or administrative proceeding concerning matters within his or her official cognizance except in a proceeding brought to enforce the Office of Inspector General of Nebraska Child Welfare Act.

Source: Laws 2012, LB821, § 36.

43-4330. Inspector General; investigation of complaints; priority and selection.

The Office of Inspector General of Nebraska Child Welfare Act does not require the Inspector General to investigate all complaints. The Inspector General, with input from the Public Counsel, shall prioritize and select investigations and inquiries that further the intent of the act and assist in legislative oversight of the Nebraska child welfare system. If the Inspector General determines that he or she will not investigate a complaint, the Inspector General may recommend to the parties alternative means of resolution of the issues in the complaint.

Source: Laws 2012, LB821, § 37.

43-4331. Summary of reports and investigations; contents.

On or before September 15 of each year, the Inspector General shall provide to the Health and Human Services Committee of the Legislature and the Governor a summary of reports and investigations made under the Office of Inspector General of Nebraska Child Welfare Act for the preceding year. The summaries shall detail recommendations and the status of implementation of recommendations and may also include recommendations to the committee regarding issues discovered through investigation, audits, inspections, and reviews by the office that will increase accountability and legislative oversight of the Nebraska child welfare system, improve operations of the department and the Nebraska child welfare system, or deter and identify fraud, abuse, and illegal acts. The summaries shall not contain any confidential or identifying information concerning the subjects of the reports and investigations.

Source: Laws 2012, LB821, § 38.

Bibliography

Anyone interested in learning more about the ombudsman concept as that concept has been implemented through the Nebraska Office of the Public Counsel is invited to read the following materials:

Frank, *The Nebraska Public Counsel - The Ombudsman*, 5 Cumberland-Samford L. Rev. 30 (1974).

Lux, "State Ombudsman Office: Cost Effectiveness Estimates." *Journal of Health and Human Resources Administration* 15 (Winter 1993): 306-312.

Miewald and Comer, "Complaining As Participation: The Case of the Ombudsman." *Administration and Society* 17 (February 1986): 481-499.

Miewald and Comer, "The Nebraska Ombudsman: An American Pioneer." *International Handbook of the Ombudsman - Country Surveys*, edited by Gerald E. Caiden, Connecticut; Greenwood Press, 1983.

Wyner, *Complaint Resolution in Nebraska: Citizens, Bureaucrats and the Ombudsman*, 54 Neb. L. Rev. 1 (1975).

Wyner, *The Nebraska Ombudsman: Innovation in State Government*. Berkeley: Institute of Government Studies, University of California, 1974.