

*Thirty-Seventh  
Annual Report  
of the  
Nebraska  
Public Counsel*

**THE  
OMBUDSMAN**

**2007**



**Marshall Lux  
Public Counsel/Ombudsman  
State Capitol Building  
Eighth Floor  
Lincoln, Nebraska 68509  
(402) 471-2035  
Toll-Free (800) 742-7690  
[ombud@unicam.state.ne.us](mailto:ombud@unicam.state.ne.us)**

# TABLE OF CONTENTS

<b>Mission Statement.....</b>	<b>3</b>
<b>Transmittal.....</b>	<b>5</b>
<b>Forward.....</b>	<b>6</b>
<b>The Ombudsman Concept.....</b>	<b>8</b>
<b>Information and Referral.....</b>	<b>11</b>
<b>History of the Office.....</b>	<b>12</b>
<b>Staff.....</b>	<b>15</b>
<b>Complaint Summaries.....</b>	<b>17</b>
<b>Statistical Analysis.....</b>	<b>57</b>
<b>Appendix – Public Counsel Act.....</b>	<b>70</b>
<b>Bibliography.....</b>	<b>75</b>

# NEBRASKA PUBLIC COUNSEL'S OFFICE

## 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, it is the duty of the Public Counsel's Office to approach the relevant administrative agency with recommendations for 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 Thirty-seventh Annual Report of the Nebraska Public Counsel's Office has been prepared as the annual report for the calendar year 2007, and is hereby respectfully submitted.

## FORWARD

Herein presented is the *Thirty-seventh Annual Report* of the Nebraska Office of the Public Counsel for calendar year 2007. For the Nebraska Public Counsel's Office, 2007 has been another year of maintaining our established caseload standards and consolidating our work in some important areas of State government, particularly corrections and health and human services. Although there were no statutory developments for the Public Counsel's Office in 2007, there are possible changes of consequence on the horizon that may substantially alter the work of the office in the future. Specifically, two pieces of legislation have been introduced that will have an impact in terms of changing the focus of the office somewhat.

LB 107, introduced by Senator Dwight Pedersen, would create a new position in the office for a Deputy Public Counsel for Institutions. The new Deputy would have authority over the State's regional centers (mental health facilities), veteran's homes, and the Beatrice State Developmental Center (placement for citizens with developmental disabilities). This proposal arose after federal inspectors made critical findings relating to the operation of the Developmental Center and one of the veteran's homes. The basic concept behind the bill is to create a position with a higher profile to deal with complaints relating to these facilities, in the hope that the Ombudsman's Office can have the same impact there that we have had in the area of corrections.

The other proposal is LB 467, which is sponsored by Senator Ernie Chambers. LB 467 would extend the jurisdiction of the Public Counsel's Office to include the authority to address complaints relating to county jail facilities. Historically, the jurisdiction of the Public Counsel's has been limited to administrative agencies of state government. This means that while the Public Counsel's staff handles many complaints from inmates at state correctional facilities, the jurisdiction of the Public Counsel's Office has not included complaints relating to the operation of county jail facilities. Although the Nebraska Jail Standards Board periodically inspects jails to see that they meet general physical and operational standards, there are no entities in Nebraska government that have the direct mission of addressing complaints about the operation of county jail facilities, in the way that the Public Counsel's Office has with complaints originating in state correctional facilities. LB 467 would extend the authority of the Public Counsel's Office to make it clear that the Public Counsel's

and the Public Counsel's staff could investigate and attempt to resolve county jail complaints, just as they have handled complaints from state correctional facilities for many years.

**Marshall Lux, Ombudsman**

## 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 prepared a "Model Ombudsman Statute" and in 1969 the American Bar Association adopted a resolution which 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 it 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, and 2005.

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. Oscar Harriott.

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. Marilyn McNabb.

## 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 eight full-time and three part-time employees. All of the eight full-time staff members (Ombudsman Marshall Lux, Deputy Public Counsel Terry Ford, Deputy Public Counsel for Corrections Oscar Harriott, Deputy Public Counsel for Welfare Services Marilyn McNabb, and Assistant Public Counsels James Davis III, Carl Eskridge, Anna Hopkins, and Hong Pham) are actively involved in casework. The part-time employees (Carla Jones, Marge Green, and Kris Stevenson) serve as clerical personnel and have significant contact with the public in fielding telephone calls and 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 fourteen years. 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 2007.

### Department of Health and Human Services

#### Case #30

It is January, and the complainant says that she can not get Food Stamps to help feed herself and her baby, because she cannot go to the local HHS office. She said that she has no transportation to get there. She does not want to take the baby out in the cold on the bus. The complainant said that the HHS staff will not give her a telephone interview. She said that the case aide has told her that there is nothing that they can do for her. The complainant said that she has been without Food Stamps for two weeks, and she has no food in the house. She said that the baby gets its milk from the WICK Program.

#### Case #31

The complainant said that her children have been removed from her home by Child Protective Services, and she wants to get her children back into her custody as soon as possible. She said that she had a "domestic argument" in front of her children, but now the other party involved is out of the home, and has been out of the state for 30 days. The complainant said that she was not charged in connection with the domestic situation, and noted that others have also had domestic disputes in front of their children, and the same caseworker who is handling her case has not taken the children out of those homes. She said she feels that, since she had been dating a woman, and the domestic dispute was with this female, the caseworker does not like this, or is uncomfortable with the fact, and is taking it out on her.

The complainant feels that the caseworker has tried to "pushed" her and is causing further stress. The caseworker has told her she is not being consistent, but she feels the caseworker is not being consistent either. She said that her therapist referred her to the Public Counsel's Office.

### **Case #72**

The complainant is only one semester short of graduating from the College of St. Mary's Nursing School Program and has been receiving help while she gets her training, so that she can be financially independent. The complainant receives AFDC, Medicaid, and Food Stamps and, last semester, HHS also paid for her books. This semester, however, they are refusing to pay for the books, and that is placing the whole plan at risk of failure.

The complainant says that she has maxed out on all of her Pell Grants and student loans. If she does not receive the money for the books, then she will not be able to finish school. The complainant said that she has tried to obtain money for the books through the indigent program at St. Mary's, but has been unsuccessful. School is scheduled to begin in six days.

### **Case #134**

The complainants are a husband and wife who have been a licensed foster care home for seven or eight years. Now, there are being told by HHS that their license will not be renewed. They would like to know why they have been denied renewal of their Foster Care License.

The complainants feel that they have not been given "due process" in this situation. They said that they had been requesting a meeting with HHS officials to discuss the concerns of the Foster Care Process Team for the last 3 months, but were denied a meeting. They feel that they have the right to protect their reputation and that this denial will hurt them in any future work in their chosen profession.

### **Case #156**

The complainant is seven months pregnant and has run into trouble in connection with her application for AFDC. She currently receives Medicaid benefits, and \$10 in Food Stamps, but no AFDC. The complainant says that she is living in a room in the home of the parents of her baby's father. The problem is that the HHS caseworker is demanding proof of paternity, but the father will not cooperate.

The complainant says that the father's parents have written a statement verifying that the complainant rents a room from them, yet the caseworker will not take their

word for this. The HHS caseworker believes that the complainant is not telling the truth, and will not accept the verification that she has given. The complainant has also spoken to the caseworker's supervisor, who also does not believe her.

#### **Case #424**

The complainants are a husband and wife who are the uncle and aunt of two children who are State wards. After the parental rights of the children's mother were terminated, and the children were placed in the foster home of another family. The complainants said they very much approved of the children going to that home, and had a wonderful relationship with the foster parents. The complainants were satisfied with the foster home and, after talking it over with the caseworker, they were under the impression that if their niece and nephew were ever up for adoption and taken from the foster parent's home, then they would be the first ones that HHS would contact for possible adoption of the children.

The complainants said that they did not realize that there had been a change of caseworkers, until a recent phone call to the foster parents, when they found out that the children were going to be taken out of the foster parent's home and adopted by people who were not blood relatives. The prospective adoptive family were instead the aunt and uncle of the children's father's older half-sister. The complainants are concerned about this plan because the father has a criminal record. They also want to adopt the children themselves now, and stressed that they had made it very clear to the caseworker that they would want to adopt their niece and nephew, if they were ever to be removed from the foster parent's home. The complainants feel strongly that they should be given a chance at adoption of these children.

#### **Case #437**

The complainant said that her three grandchildren had been taken into the custody of the State. She said that up until about one month ago, HHS was planning on allowing her three grandchildren to live with her. However, she was also told that the children would only be able to move in with her, if she found a larger apartment. She was also told that HHS would help her to pay the rent on another apartment, if she moved.

The complainant said that she did find a bigger apartment, but then HHS decided to place the children with the biological father instead of with her. She said now she has an apartment that is too expensive for her, and HHS has not paid the first deposit or rent like they had told her they would. The landlord is wanting to be paid, and the complainant cannot afford the rent.

#### **Case #448**

The complainant said that there are two foster children, a boy, age 6, and a girl, age 5, who have been in their care for about 3 and 1/2 years. The complainant's family are a foster/adoptive home for these children. They are concerned that the children are not receiving the type of foster services they are entitled to receive from HHS and that their case is not progressing as it should.

The complainant said that the children have not had the regular court reviews or CPS reviews that are normally provided for State wards. Also, they have never even met the guardian ad litem, and the case is not moving towards parental termination and adoption. Apparently, there is one other sibling in the system, and they are working on having him united with his siblings. The complainant feels the termination of parental rights should have taken place by now, so that the children could have a permanent placement and home.

#### **Case #499**

The complainant has cerebral palsy and has to use crutches to get around. For over ten years, the complainant has had the same personal care aide/chore aide to help him out with his daily needs. Suddenly, the complainant had to find another care aid/chore aide, and although he now has a personal care aide/chore aide, he is being told by HHS that his hours of service are being reduced.

The complainant said that, for the past ten years, he has been receiving 11 hours per day in aide service, seven hours for personal care and four hours for a chore aide. However, HHS said that the services were being cut to 43 hours per week. No explanation was given for this change. The complainant said that he is the same person, with the same needs, and is not "over the cap" that is allowed by the State. He said that when the new aide was hired, they were assured "it would all stay the same," however, it has not stayed the same. The complainant feels that he needs the benefits for at least seven hours per day. The League of Human Dignity

is providing this service, under a contract with HHS. The complainant has spoken with the HHS supervisor, but she cannot explain why the hours were cut.

### **Case #505**

The complainants have been the foster parents for a State ward. They were told late on a Friday that their foster/adoptive child was being removed from their home and placed instead with the sister of the child's biological father. The biological father is currently in jail. The child's mother is also in prison for having killed foster child's sibling.

The complainants are surprised by the somewhat sudden departure of the foster child from their home. They have raised and bonded with the child since the second day of her life, and they believed that they were well along in the process of an eventual adoption of the child. However, they feel that the direction of the case was reversed once a new caseworker took over the case. They said that they believe that HHS is in a hurry to carry out the transfer. The complainants feel that the process should have moved more slowly, and the case should be looked into, since there has not been a home study since June of last year.

### **Case #536**

The complainant said she was hospitalized and subsequently her HHS caseworker approved her six month old son for six months of Title XX day care. The child care is to be provided at the day care facility that her son had been going to as a private payee case. However, the Resource Center staff are now telling her that her son cannot be on Title XX, because the day care facility is on probation.

The complainant states that she is aware that HHS has agreed to pay for child care for another Title XX child who started at the same day care facility on the same day as her son. She also stated that there is nothing in writing by HHS to show that a day care cannot accept a Title XX child while on probation. The complainant has called and left several messages with her caseworker, but her calls were not returned.

### **Case # 584**

The complainant and his wife have concerns about their children. Last year, all of their six children were removed from their custody and placed in foster care. Now, the complainant has two of the children living at home with him, but the other four are still out of the home. The complainant said that HHS is now putting his wife up in a hotel.

The complainant said that the HHS staff are supposed to be working toward reunification of the family, but HHS does not seem to be moving along with the case. He said that he gets to see the children, but that his wife is not allowed to see her children, and they are not allowed to see the children while they are together. He said that he felt they were headed toward putting all the children with him, instead of both of them. The complainant is the father of the two boys, and is the step-father of the other four children. The complainant said that he believes that their civil rights are being violated.

### **Case #681**

The complainant is a mother going through a divorce. She has three children living with her, and two of these children are special needs children. The family is currently getting monthly ADC benefits of \$435, Food Stamps worth \$329, and WIC.

The complainant said that she is confused as to how to choose between getting the welfare benefits or the child support that is due to her. One option is to receive the ADC, WIC, and Food Stamps, plus getting half of the child support. The other option is to take just the monthly child support of \$840, and then give up ADC and the rest of her welfare benefits. The complainant said that she is sure that she cannot live off of either amount, because of the needs of the three children that are living with her. She needs help in clarifying how this will all work, and she is not getting that help from her caseworker.

### **Case #696**

The complainant is the grandmother, and until recently has been the foster parent for her grandchildren. The children were placed in her home by the State in June of 2006. Then, about eight months later, the children were removed from her

home by HHS. The complainant said that the caseworker maintains that she that has no control over the children, and that she was not capable of taking care of them.

The complainant said that HHS had reported that she had an operation on her hip in February, and that her health was failing. She said this was not true, although she is using a wheelchair. The caseworker also said that there were too many people living in he complainant's home, although the caseworker knew how many people were living in the home at the time of the original placement. The complainant also questioned the validity of the psychologist's report that was produced by HHS. She said that the psychologist saw the children for only about 30 minutes the first time, and only about 20 minutes the second time. The caseworker also said that the complainant had not called the guardian ad litem or the caseworker every other Tuesday, as was court ordered, however, this directive was not in the court documents.

### **Case #861**

The complainant was involved in an automobile accident about two weeks ago, and was just released from the hospital today. Now, there are concerns for the complainant's family. The family includes the complainant, his wife, and two children, a daughter, age 15 years, and a son, age 13 years. The complainant was the main breadwinner for the family, so there is no income coming into the household. The complainant most likely will never be able to go back to the job that he was doing. Also, the car was wrecked in the accident, and the wife does not drive, so they have no transportation. The accident was not job related, and so there will not be any worker's compensation.

The complainant's mother had to provide \$700 dollars needed for medications that he is on, otherwise he could not have been released from the hospital. The family will soon be in need of Food Stamps, assistance with paying for medication, etc., and they are wondering if there are any benefits that could help the family immediately. They have filled out the necessary paperwork, but qualification for benefits could still take some time. They need help in the meantime.

### **Case #895**

The complainant and his wife adopted two children last fall who had been State wards. Recently, the complainant's family learned that HSS staff had given out the family's address, which ended up in the hands of the biological parents of the adopted children. The complainant said that he used to work for a social services agency, and that he realizes that this information should be treated as being confidential. He knows that the family would have to sign a document to give their consent to the disclosure of such information, and that it is against the law to disclose the information without their consent. Based on what he had already learned, the complainant said that his complaint is directed against his caseworker's supervisor, who was responsible for this situation.

### **Case #905**

The complainant said that her son has a rare genetic condition that causes physical disability. Over the years, the son has been treated by an orthopedic surgeon, a doctor who is from a northeastern state. The son's orthopedic surgeon specializes in treating people with this condition, and has been seeing the son for the last ten years or so, and has been involved in many surgeries for the son. The complainant said that no one in the Midwest has the background to care for a case like her son's.

In the past five years, the family has met with son's doctor at an annual convention of people who treat this condition, and the State has paid for the travel to these meetings. This time, however, they have been denied travel money to go to meet his doctor at the convention. The complainant does not really understand why they have been denied this year. She says that they treat the trip as a extra doctor's appointment, and that this year was very important, because the son is going to be transferring to an adult orthopedic doctor instead of a pediatric orthopedic doctor, and the convention is where they were hoping that their doctor would introduce them to the new doctor who would be treating her son. The complainant said that the family usually receives money for the transportation to the conference, and also for one night's stay at a hotel.

### **Case #944**

The complainant, who admitted that she had been a methamphetamine addict, but is now in recovery, delivered a baby girl in December of 2004. On the following day, the complainant tested negative for methamphetamine, but her daughter tested positive. The complainant had planned to place her daughter for adoption with a couple in California, however, the couple refused to take the child due to the baby's testing positive, and because they feared the medical bills in the future. After thinking it over, the complainant decided to keep her daughter and raise her herself. In the meantime, however, CPS had become involved in the case, and the child was placed in a foster home.

The complainant says that she has completed all of the drug treatment programs, attended all visitations with her daughter, and has consistently tested negative for drugs. A psychologist did a home study and found there was a bond between the complainant and her daughter. However, the visitation was never intensified by HHS. Now, the State is moving to terminate the complainant's parental rights. She feels that she has done everything she was asked to do, and that the State had their agenda for the case from the beginning, which did not include her. The complainant feels that her daughter has been denied her natural mother, and the company of her two brothers and the extended family who love her.

### **Case #1236**

The complainant was recently graduated from cosmetology school, and has already found a job as a cosmetologist. She recently issued a cosmetology license by the State, although she is currently working under a temporary license. The license that was issued to the complainant by HHS is probationary. The terms of this probationary license require that the complainant abstain from consuming alcohol, attend AA meetings every week, and agree to submit to random body fluid testing all at her own expense. The terms of the probation are apparently based on a diagnosis of alcoholism and on convictions for misdemeanor assault and minor in possession when the complainant was younger.

The complainant said that the information that was gathered by the agency and used as a basis for the probationary license is incorrect. The complainant has been told that she can pursue an administrative appeal of the probationary status. However, if she does appeal, then it will take 45 to 60 days to complete the appeal, and the complainant will not be able to work in the meantime.

### **Case #1405**

The complainant said that while she was in the hospital with a ruptured appendix, she had a scheduled appointment with her caseworker to discuss her application for benefits. She said that she called HHS and explained that she was in the hospital and could not make the appointment. She was told that this was acceptable, and that she would just need to mail her information in to the Department. However, the information that she mailed in apparently has not yet been processed by HHS. Eventually, the complainant was told that she had to supply additional information. The complainant said that she had been told at first she did not have to supply this additional information, because the previous caseworker already had it.

The complainant said that she was told by her doctor that she will not be able to return to work immediately and, since she cannot work, all that she has in income is a child support payment of \$746.00 per month. She has to pay her rent and utilities from that money. The complainant said that she also needs money to go to the grocery store. She said that she had been told by her caseworker that her Food Stamps would be ready last Friday. It did not happen, and then she was told that the Food Stamps would be ready by Monday, and that she could then use them on Tuesday. The complainant said that HHS is quick to cut clients off if they do not turn in their paperwork, but that when a client does turn in their paperwork, the Department is not quick to do their part.

### **Case #1509**

The complainant, who lives in Lincoln, has two children, a son and a daughter, both of whom are 15 years old. Both children are also wards of the State. The daughter has been placed at Boys Town, in Omaha. The complainant's son is living with her.

The complainant said that the family's caseworker gave her daughter a clothing voucher earlier in the year, and said he would give the daughter another clothing voucher before the school year started. Now, however, the caseworker says that he cannot provide the promised voucher. The complainant said that she is also having problems getting a clothing voucher for her son. She said that he needs size 14 shoes, and that they are hard to find, and also expensive. The complainant would also like a gas voucher, so that she could go to Omaha and see her daughter at Boys Town, but the caseworker also refuses to give that to her. She does not feel that her caseworker is being fair.

### **Case #1704**

The complainant is the mother of two children, a daughter, age 9 years, and a son, age 7 years. The complainant's children were removed from her home and made wards of the State in 2005. She said that the children were living in a foster care home in the city where she resides, which made it easy for her to have visits with the children.

A few weeks ago, the complainant's children were taken out of the foster home and were placed with their biological father, who lives in a different community about forty miles away. The complainant said that the father is a known sex offender. Since her children are now located in a different city, it will now be difficult for the complainant to visit them. The complainant said that she originally was having two visits with the children per week, but now she is having only one supervised visit per week. This has been going on for the past year. She said that she wants the family to have a new caseworker.

### **Case #1906**

The complainant said that her husband was involved in an automobile accident in April, and was out of work for four months. At that time, the family applied for welfare benefits, and turned in all of their financial information to HHS. This information included reference to the fact that her husband had a IRA account. The complainant said that now they have received a letter from HHS stating that it was an error that the family had previously received Food Stamps, and that they must pay the State back the amount of \$2,600.

The complainant said that her husband is now back to work, but he is the sole wage earner in the family. She said that she could go back to work, but that the resulting daycare costs would eat up all of her income. The family lives on a very tight budget, and the complainant feels, since it was the State's error that HHS gave them the Food Stamps in the first place, then they should not have to pay it back.

## **Case #2158**

The complainant is the mother of a 16 years old son who was placed at the Youth Rehabilitation and Treatment Center in Kearney. The complainant said that she and her husband she have concerns about her son and how his case is being handled at YRTC-Kearney. She said that the boy's guardian ad litem shares these concerns. The complainant said that her son has been living at YRTC-Kearney for about three weeks, and has not had any schooling yet. She said that her son was previously held at the Youth Center in Lancaster County for 105 days, and she feels the authorities have just been "warehousing" him.

The complainant said that there was a hearing for her son scheduled in juvenile court, and she knows that there was a summons issued for the hearing with the HHS caseworker's name on it. However, when the hearing was held, no one from HHS showed up to participate in the hearing. The complainant also said that there was an appointment for her son with an institute in Omaha that is affiliated with the Medical Center, but there was no transportation provided for this appointment. The complainant said the family and the guardian ad litem are all frustrated, and feel the Department is not doing what it needs to do for her son.

## **Department of Motor Vehicles**

### **Case #256**

The complainant said that he went to a Department of Motor Vehicles office get his Commercial Drivers license. However, he was told that he could not have his Commercial license renewed because of his vision problems in that one eye. In the one eye afflicted, the complainant has 20/50 vision, while the vision in his other eye is 20/20. The complainant had been informed that if he had started getting his Commercial license prior to 1996, he would have been "grandfathered" in to the licensing status, and would have been issued a Commercial license even with his currently eye problem, but now he is not able to get the license.

The complainant said that he is a five year holder of a Commercial Drivers license. He said that he has not had any tickets, accidents, or any other violation during this time. He stated that commercial driving was his livelihood, and that most of his driving was done within this state. The complainant said that he needs help prior to February 28, when his current Commercial license expires.

### **Case #528**

The complainant bought a new vehicle, a small Japanese-manufactured truck, that he needs to license in the State of Nebraska. However, the Nebraska Department of Motor Vehicles says they will not agree to license this vehicle. The complainant states that this vehicle is acceptable for licensing in the other surrounding states. He said he has a title to the vehicle, and has a Homeland Security stamp of approval. He also says that, in terms of the truck's physical appearance, there should be no reason not to license the vehicle. The complainant believes that the problem has to do with the current state statutes that govern licensing of vehicles in Nebraska.

### **Case #556**

In 2004, the complainant was involved in a automobile accident. The matter was taken to the Small Claims Court, and the complainant was found to be at fault. Although he paid the restitution for the damages through the Department of Motor Vehicles, several months later he received a notice that his driver's license was being suspended for non-payment of the claim on this accident. The complainant later learned that the missing payment was for court costs on the case, which the Department of Motor Vehicles had not included when it had informed him of the amount due. The complainant then paid these court costs, and his driver's license was immediately reinstated.

The complainant said that, since the Department of Motor Vehicles did not notify him that there was more money due, resulting in his license being suspended, his car and house insurance premiums have now gone up. The insurer advised him that the suspension will be on his record for five years. Also, his credit report now shows a 50 point negative, due to the license suspension. The complainant feels that the state should help him to get this situation "cleaned up," since it was the Department of Motor Vehicles which did not notify him of the correct amount due.

### **Case #908**

The complainant is a new resident of the State of Nebraska. She recently went to the Department of Motor Vehicles to license her vehicle in Nebraska, and is upset because she believes that the licensing of her vehicle was very expensive. She said

that she had paid out \$400 dollars to license her vehicle, plus on top of that she also had to pay an additional \$15 to the Department of Motor Vehicles for a special license plate that shows that she is disabled. The complainant wants to know why the Nebraska Department of Motor Vehicles must order her a special license plate for disabled drivers. She wonders why they do not have those plates on hand, as is the case in every other state.

### **Case #1225**

The complainant is an elderly man living in a retirement home. He said that he went in to the Department of Motor Vehicles this morning to take his driving examination for re-issuance of his driver's license. The complainant said he passed the written test and the eye test, but when backing up during the driving test, the emergency brake was on and he stalled the motor. He received a notification from the examiner that he had failed the safety check, and at the bottom of the evaluation form was written the words "unsafe behavior." He said that the examiner said something about his having to get a learners permit.

The complainant said that he had allowed his driver's license expire when he came to live in the retirement home, counting on taking a taxi service. However, he said that the taxi service was terrible, and so he needs a driver's license again. The complainant would like to see if the Department of Motor Vehicles might be able to arrange for him to take the test again with a different examiner.

### **Case #1593**

The complainant said that he needs a photo identification card of the type issued by the Department of Motor Vehicles to non-drivers. However, the complainant said that the Department of Motor Vehicles office in his county want him to first provide them with identifying documentation before they will give him a card. He is not able to provide that documentation.

The complainant said that he has gotten a photo identification card from the Department of Motor Vehicles in the past, and needs a new one now. He said that the staff at the Department of Motor Vehicles already have the information that they are asking for, and that they are simply too lazy to look this information up in their computer records, which they should be able to do because he has supplied it before. The complainant said that he cannot cash his SSI checks until he has a

photo identification card. The Department of Motor Vehicles will not give him the photo identification card until he supplies the needed paperwork. He said he cannot get the documentation that the Department is asking for until he has the money from cashing his SSI check.

### **Case #1948**

The complainant said that he was previously living in Lincoln and was in the process of moving to California, where he currently resides, when he received a traffic citation. He was scheduled to appear in traffic court on the matter, but he had a job waiting for him in California, and thought it would be a simple process to skip the court date and write a letter explaining his situation after he moved. Now the complainant has been transferred to Phoenix, and needs to have the status of his driver's license resolved. He said that he has written to the Nebraska Attorney General and to the courts, but that he has received no replies from them. He wants to get this situation straightened out.

### **Case #2113**

The complainant wants to know why the Department of Motor Vehicles does not share a data base with the Department of Health and Human Services and the county governments, so that he would not have to turn in the same information to HHS and the county, over and over again. He said that he is constantly having to give the same information to HHS and to the county that the Department of Motor Vehicles already has. He feels that this is a waste of time for everyone involved.

## **Department of Correctional Services**

### **Case #9**

The complainant said that she had been scheduled to see the Board of Parole for a review of her case, but that her Case Manager informed the Board of Parole that she had waived her review, and that she was not available to attend the review hearing. The complainant said that she did not waive her review, but that she had, on the contrary, signed paperwork in front of another Caseworker indicating that she wanted to be seen by the Board of Parole. As a result of this situation, the Board of Parole deferred her case to her Mandatory Discharge date, and stated that

the reasons for doing so was her decision not to attend the review hearing. She is upset at her Case Manager for what he has done to her.

#### **Case #45**

The complainant feels that he has unjustly been placed in an institutional substance abuse program. He was placed in this program based upon the recommendations of Department of Correctional Services staff. The complainant said that he is currently attending Alcoholics Anonymous.

The complainant believes that he does not need to go through the substance abuse program, but needs instead to be transferred to a Community Corrections Center, so that he can be on work release and make money to be able to live on when he is released from custody. The complainant said that he suffers from anxiety and depression, and has had these problems since childhood. The complainant feels he needs medication for this condition. He wants assistance in having the substance abuse program removed from his program, so he can get to work release sooner.

#### **Case #102**

The complainant is an inmate at the Nebraska Correctional Center for Women. She was originally in prison in different state, but she was transferred to Nebraska under the interstate compact, in order to be closer to her family. She also felt that NCCW had more programs to offer her.

When the complainant applied for the GED program, she was told that because she is in under a Life sentence, she would be put at the bottom of the waiting list. The complainant feels that this is discrimination, and that, if she ever is released from the institution, then she will be unable to obtain a job without an education. She believes that regardless of her sentence, she should have an right of access to the institution's programs equal to that of all the other inmates.

#### **Case #160**

The complainant is an inmate at the Tecumseh State Correctional Institution and has suffered from elevated blood pressure. Recently, the institution's medical staff changed his blood pressure medication, and he does not understand why this was

done. He said that the other blood pressure medications were working fine for him. The complainant said that since the doctor took him off of the medication that he had been receiving, they have tried two different medications. He said that since the medication was changed he has been dizzy, is having headaches, and his teeth have throbbing.

### **Case #236**

The complainant, who is an inmate at the Tecumseh State Correctional Institution, was placed in a segregation cell on administrative confinement status in October of 2005. This was done in connection with the complainant's alleged involvement in an assault on another inmate. After being in segregation more than a year, the complainant was released into general population on in November of 2006. Three days later, there was a fight on the yard at TSCI, and another inmate was seriously injured. The complainant was questioned about this fight by the staff of TSCI and was eventually placed back on administrative confinement status. Although the complainant maintains that he was not involved in the assault on the yard, the TSCI administration apparently believes that he was connected to the fight in some way, based on the information from a confidential informant.

### **Case #328**

The complainant is the sister of an inmate in the corrections system of another state. She said that the family are now working through the Interstate Compact office in Nebraska to have her brother released on parole in Nebraska. She said that she feels that the Parole Officer that they have been working with has not been treating them very well. Since this is the same Parole Officer who will be her brother's supervising parole officer in Nebraska, if parole is approved, the family is concerned about what might happen when her brother is on parole in Nebraska.

The complainant said that the family is particularly offended by the way the Parole Officer speaks to her mother. She said her mother is not the criminal, but she is treated almost as though she were. She said she realizes that her brother was a criminal, but now he has served his time, and she thought that rehabilitation was the goal. The complainant said that she is reluctant to go to the Department of Corrections with her concerns, because that might just mess things up even more.

### **Case #462**

The complainant is an inmate at the Tecumseh State Correctional Institution who has had a leg amputated. The inmate has to wear a protective sleeve on his stump, in order to avoid irritation caused by the prosthetic device. These sleeves wear out rapidly, and the medical staff at TSCI have said that they will only provide one new sleeve per year. The complainant questions why he should have difficulty obtaining replacement sleeves when needed, and feels that he should be able to get a new sleeve without waiting for one year. He is also concerned about the type of shoe that he has been given, saying that it is not compatible with the prosthesis it was made to accommodate.

### **Case #590**

The complainant is the son of an 84 year old woman who has another son who is an inmate at the Nebraska State Penitentiary. The complainant said that on a recent visit to the Penitentiary, one of the facility's officers refused to let his mother in to the for a visitation because of her "cropped pants." In fact, the pants in question came almost to his mother's ankles, and as far as he was concerned "cropped" means shorts, not pants that end slightly above the ankle. He feels that the officer was very disrespectful in the way she treated his mother.

### **Case #670**

The complainant is an inmate at the Lincoln Correctional Center. He said that he has a medical condition that involves an allergic reaction to an unknown allergen. He has abnormal swelling in his facial area, his feet, hands, tongue, the inside of his throat and, at times, on his arms.

About two weeks ago, the complainant's arm was swollen to twice its normal size. However, when he sought help from the facility's medical staff he was refused any form of medical treatment, until his other arm also became swollen. Finally, the complainant was seen by the medical staff and was given Benadryl. He says that the medical staff is aware that his throat swells to the point of his having trouble swallowing, but they have not done anything but give him an antihistamine, which he feels does not help his condition.

### **Case #748**

The Public Counsel's Office received a Petition with the signatures of a number of inmates living at the Lincoln Community Corrections Center. The Petition states that the inmates in one of the units at CCC-L are not able get hot water or even warm water from the facility's water system. The inmates said that they are told to let the water run for 30 minutes, but that it does not help in terms of producing hot water. The CCC-L staff is getting tired of hearing about this concern, and the inmates feel that without access to hot water they cannot get themselves or their clothes clean. They are concerned that at some point this situation might cause health problems for them.

### **Case #871**

The complainant, an inmate at the Nebraska State Penitentiary, said that he needs immediate assistance with an issue relating to his personnel property. He said that his case manger has informed him that the facility's staff is planning to examine his cell in the next few days to see whether the quantity of personnel property in his cell exceeds the limits set by regulation. The complainant is concerned that this will lead to needed items being removed from his cell.

According to the facility's regulations, each inmate is allowed to have a maximum of three and one-half cubic feet in capacity of personnel property in their cell. However, the inmates are also allowed an additional one and one-half cubic feet of personnel property, if it is legal materials. Any property over the amount set in the regulations must to be sent out to property storage. The complainant says that he has a high quantity of legal materials in his cell, because he has a number of pending cases. He is fearful that these legal materials may be removed from his cell, thereby limiting his ability to work on his cases.

### **Case #979**

The complainant is an inmate at the Tecumseh State Correctional Institution who was recently transferred to that facility from the Nebraska State Penitentiary. He said that since his transfer the staff has taken personal property that he had been allowed to have with him at other facilities. In particular, he said that a neck chain and medallion, a wedding band, and jeans were taken from him. Later, when his

family tried to get these items from the facility, they were told that the items could not to be found.

### **Case #1218**

The complainant is an inmate at the Nebraska Center for Women. Recently, when her room was being searched, staff found two tee shirts in her possession that were not on her inventory of inmate personnel property. As a result, she was given an misconduct report and had to go before a hearing officer on a charge of breaking the institution's rules. The resulting punishment caused her to lose her institutional job assignment. The complainant said that when she moved into her room, she had found the two extra tee shirts there, and that she had planned to place turn them in, but was caught with them before she had that opportunity. She feels that she was unjustly fired from her job for this.

### **Case #1435**

The complainant, who is an inmate at the Nebraska State Penitentiary, had recently had his case reviewed by the Board of parole. When he spoke with the Board of Parole, he specifically suggested that his parole be deferred, so that he could go into a work release program instead. The complainant said that he wanted to make a more gradual transition back into the community, and hoped that going to work release would make it possible for him to find employment and get accustomed to holding a down job, before actually being released into the community. However, the complainant said that he is not getting the support he needs, and feels that he should get, from his caseworker for a transfer to work release.

### **Case #1472**

The complainant is a Nebraska State Penitentiary inmate who is currently assigned to the Protective Custody housing unit. He said that there is a plan to transfer him to the Lincoln Correctional Center, and he is concerned for his safety, if the that transfer is made. The complainant said that while he was in county jail, several other inmates assaulted him, and he is worried that some of them might now be at LCC. He does not want to get beat up again, and is concerned that some of his enemies might now be located at LCC.

**Case #1598**

The complainant is an inmate at the Nebraska Center for Women. She said that she has ringworm on her skin, and that the condition has not been treated by the facility's medical staff. She said that the ringworm seems to be spreading. The complainant said that she has sent written requests to be seen the NCCW medical staff regarding her ringworm condition, but to no avail. She said that she works in the NCCW kitchen and questions how healthy this situation is, and whether it might create a possibility of the problem spreading to other inmates.

**Case #1683**

The complainant is an inmate at the Nebraska State Penitentiary. He said that he has been diagnosed as having Hepatitis C. He has asked the facility's medical department to allow him to be seen by a specialist outside of NSP, but the medical staff would not agree.

The complainant believes that best hope for a recovery is to treat his Hepatitis C before permanent damage can occur. At present, his lab work-ups show that liver damage has already occurred. The complainant is worried about his condition and wants to have a liver biopsy done, which he is willing to pay for himself.

**Case #1862**

The complainant is a community custody inmate who is placed at the Community Corrections Center in Lincoln. He has sought permission for at least three weeks to make telephone calls to half-way houses in order to find a placement for when he is released on parole. He has been told by the Board of Parole that needs a half-way house placement established by the time of his meeting with the Board of Parole scheduled for in December. However, the complainant's Caseworker has not allowed him to make the calls. The complainant believes that this is being done in retaliation for his complaining about an earlier incident at CCC-L.

**Case #2221**

The complainant is an inmate who is assigned to the Tecumseh State Correctional Institution. On October 5, 2007, the complainant's grandmother passed away and,

at the time of the death, his mother made a call to TSCI to inform him of what had happened. He said that his mother spoke with an unknown female staff person who did not pass the news on to the complainant. Because of this oversight, the complainant was unable to attend the funeral. He wants an apology to him and his family due to this staff negligence.

## **Department of Revenue**

### **Case #658**

The complainant is a printing company that has changed the technology that it uses in its printing process. Rather than the old process that used printing plates the new process employs "digital rolls," a process which uses a segment of the digital roll for each printing job that then cannot be reused for subsequent printing jobs. The digital rolls are each used for a given number of printing jobs, and then must be replaced with a new roll. The digital rolls were purchased by the complainant from a printing supply vendor who had not charged or collected any sales tax on those purchases. The complainant also had not paid a related use tax to the State of Nebraska on those purchases. However, in 2003, the Nebraska Department of Revenue had issued a Deficiency Determination finding that the complainant owed the State nearly \$10,000 in unpaid sales/use taxes for the digital rolls that the company had purchased.

The complainant challenged the determination arguing that because the segment of the digital rolls used on each printing job can be used for only one printing job, the rolls are really like the ink and paper, which is exempt from sales tax under the Department's regulations. Eventually, a hearing officer issued an Order in the case which agreed with the Department of Revenue position on the question of sales/use tax liability, but waived the penalty. Because the vendor had not initially charged a sales tax on the digital rolls purchased by the complainant, the complainant had not passed the cost of the sales tax for the digital rolls on to the ultimate purchasers of the company's printing services. Now, the complainant was faced with an unanticipated tax liability, due to the Department's interpretation of the regulation.

### **Case #1022**

The complainant believes that he is entitled to a \$300 dollar tax refund from the Department of Revenue of tax year 2002. He states that he has not received this

refund. The complainant is concerned that under the law any refunds that are not distributed after three years are kept permanently by the State. Although several years have passed, the complainant still wants to get his money back.

### **Case #1182**

The complainant's family owes the State around \$3000 in unpaid taxes for tax year 2005. She said that they had a contract with Department of Revenue to take \$50 out of their checking account each month automatically, in order to pay off the unpaid 2005 taxes. However, the complainant said that for the last three months the Department of Revenue has been taking \$150 from their account. She said that this had caused their account to be overdrawn, and now they are being charged by the bank for being overdrawn on their account. The complainant said that they did not get a notice from the Department of Revenue of the increase in the monthly payments.

The complainant feels that the family should have gotten a notice of the increased withdrawals. She believes that they should now be reimbursed for the bank charges, because the Department of Revenue had made the increased withdrawals without providing them with a notice of the increase, so that they could have the necessary money in their account. The complainant said that her bank had suggested that she contact the Public Counsel's office about getting reimbursed for the charges for being overdrawn on their account.

### **Case #1444**

In 2007, the Department of Revenue decided to start collecting sales/use tax from Nebraskans who purchased cigarettes over the internet. Notices had been mailed out to those citizens who were being charged, including the complainant, who received a letter from the Department of Revenue telling him that he owed \$512 in taxes for cigarettes that he ordered from an out of state company in 2004 and 2005. E-Smoke out of New York. According to the complainant, this amount included penalty and interest, as well as the use tax on the cigarettes. The complainant said this was the first notice that he had received about the tax. Because he had no notice of his liability for the use tax, the complainant said that while he does not mind paying the use tax, he objects to being charged for the penalty and interest.

## **Game and Parks Commission**

### **Case #943**

The complainant is a deer hunter. He said that he is a resident of the State of Nebraska, although he is now living in Kansas temporarily, while his wife is attending college there. Subsequently, the complainant received a ticket from a Nebraska Game and Parks Commission officer for harvesting a deer in Nebraska with a resident permit while being a non-resident. The complainant says that he never had any intention to become a resident of Kansas or to become domiciled in the State of Kansas. He says that he pays his taxes in the State of Nebraska, has and bank accounts in Nebraska.

### **Case #1854**

The complainants are a family that had made reservations to stay two nights, November 2 and 3, in a cabin at Chadron State Park, which is managed by the Nebraska Game and parks Commission. More than a week before the scheduled visit, the family decided that they wanted to cancel the reservation. However, they were told that they would have to go ahead and pay for the two nights that they had already reserved. The complainants want to know if this is consistent with the State's policy.

## **Department of Roads**

### **Case #371**

The complainant is disabled veteran living in a small Nebraska town. He said that his home is located adjacent to a State highway. The complainant said that following a snow storm the Department of Roads had plowed the snow and ice into his driveway so he cannot get out. He said that if he tried to drive through it he would ruin his wife's car. He also complained that the Department of Roads had only plowed one side of the street.

**Case #580**

The complainant said that there is road improvement work being done near her property along a State highway. She said that water from that area is draining directly onto her property and into her basement. The drainage water is also filling up her septic tank. Because of this, the complainant had to have the septic tank drained once, but every time it rains, the tank is filled up, and backing up, again.

The complainant said that she has had the contractor and the Roads Department people out almost every couple of days to show them what is happening to her home and property. So far, she had talked to up to six different people from the Department. She has also talked to the Environmental Health agency and others, but no one wants to do anything about it. She said that they just keep telling her that the property is in a low lying area, and that it is "your problem."

**Case #860**

The complainant said that he has had difficulty getting the Department of Roads to deal with an unsightly situation left by one of the Department's contractors on land nearby his own. He said that the contractor had used a small segment of land for asphalt milling and washing out concrete trucks in connection with a road construction project two years previously. When the project was completed, the contractor did not clean the site up, and the land was left a mess. The complainant said that he was told that the contractor had a year to clean it up, but that has not happened.

**Case #2084**

The complainant objects to so-called "rumble strips" that the Department of Roads had built into a nearby highway. She said that the strips do not serve the purpose for which they are intended, and that the noise from the "rumble" can be heard for literally miles away. The complainant said that highway was always quiet, with very few accidents, but now she has witnessed near accidents due to these strips. The complainant said that these strips, which are in the center of the highway, trap rocks, sand, and gravel, causing debris to be thrown onto windshields, etc. She also suggested that the strips were dangerous because ice does not melt well on the strips, making the highway more hazardous in snowy situations.

## **Department of Insurance**

### **Case #676**

The complainant, an officer of an insurance agency, believed that another agency had stolen information regarding the identity of the complainant's customer base.. Four months previously, the complainant agency, through its attorney, had taken this issue to the Nebraska Department of Insurance in the form of an official complaint against the competitor. In contacting, the Public Counsel's Office, the complainant alleges that in the ensuing four months the Department of Insurance had failed to follow-up with an investigation of their allegation against the competitor.

### **Case #1339**

In 1993, the complainant had purchased pre-paid burial coverage for her husband through a funeral home. Although she had originally invested over \$4,800 in this plan in 1993, in 2006 the complainant learned that the burial coverage fund, which was being held in a segregated account by a Nebraska bank, had a total of only about \$4,700. The complainant was shocked to learn that the pre-paid burial coverage fund has not gained any interest over the years, and so she submitted a complaint to the Nebraska Department of Insurance. In contacting the Public Counsel Office, the complainant said that she was concerned about the slow progress of the investigation by the Department of Insurance, which she believed was taking longer than it should. The complainant said that she would like to have a full accounting from the Department of Insurance of what they have done with the case so far.

### **Case #2087**

The complainant is caring for her elderly mother and has a power-of-attorney to allow her to look out for her mother's financial affairs. In July of 2007, the daughter had filed a complaint with the Department of Insurance against an insurance agent who had sold an annuity to the 80 year old mother. The consumer complaint submitted to the Department of Insurance included a request that the Department assist with action to compel the return of the money to the mother. The complainant had been sent a notice by the Department of Insurance indicating that the case had been received by the Department on July 2, 2007. When the

complainant contacted the Public Counsel's Office in December of 2007, there still has been no response from the Department of Insurance with regard to the status of the original consumer complaint.

## **State Patrol**

### **Case #130**

The complainant had received a speeding ticket that she felt is unjust. According to the complainant, she was driving the vehicle of a friend who was moving, with the cruise control set at 67 MPH. The complainant said that she had passed a truck, and then in turn was passed by a sports car when she was pulled over by a State Patrol trooper. The complainant feels that it was actually the sports car was the car speeding, and that she had been given the speeding ticket in error.

### **Case #1269**

The complainant said that officers from the State Patrol had been involved in the recent arrest of her son. Apparently, the son had been arrested in Grand Island on suspicion of possession of methamphetamine. The complainant alleged that the State Patrol officers had used excessive force and physically abused her son in the course of his arrested in Grand Island.

### **Case #1347**

The complainant had recently visited the State Office Building in Lincoln with her daughter, who is developmentally disabled. While they were in the building's basement food area, the daughter became loud, and the mother corrected her. When mother and daughter subsequently left the building and went to a nearby bus stop, and were approached by the building's security staff, who are supervised by the State Patrol. The complainant said that she and her daughter were required to go back into the building, and the daughter was accused of damaging the pop machine in the basement area. However, when they checked the machine, it was not broken. The discussion then turned to the daughter having been loud when they were in the building. The complainant said that she explained to the security officers that she needed to catch a bus to make it to a doctor's appointment, but they would not listen. The complainant and her daughter were finally allowed to

leave to catch the bus, but the complainant objected to their having been detained for so long over such a trivial matter.

### **Case #2039**

The complainant said that he had been pulled over on the highway by a State Patrol officer. The complainant said that he refused to let the State Patrol search his car, but they brought in a canine unit to have the vehicle examined by a dog. During the course of the dog's activities, the dog apparently indicated that it had found the smell of drugs in the complainant's vehicle. However, the complainant was not charged with possession of drugs. Now, the complainant says that he wants his record cleared, and that he is concerned that prospective employers might be able to get into the records relating to this event.

## **Department of Labor**

### **Case #63**

The complainant said that she works for an employer in Omaha. The complainant said that for two years she has received Unemployment Compensation claims for people who she has never heard of, and who had never worked for her company. The complainant said that there is another company in Omaha that had a similar name to their own company, and she speculated that the people involved in the claims may have worked for this other company. She said that she had talked to a number of people in the Department of Labor concerning this problem, and that she would like to get this point of confusion settled once and for all.

### **Case #129**

The complainant had been receiving Unemployment Compensation benefits, but found a new job. Shortly thereafter, however, the complainant was laid off by his new employer. At that point, the complainant called the Department of Labor to reinstate his Unemployment Compensation benefits, and was told he had to file as a new case, and that he would also need to have an interview conducted by telephone. The complainant said that the Department of Labor interviewer later told him that the Department would have to wait to receive the documentation from his most recent employer, before opening his case. However, according to

the complainant, his most recent employer had already sent the documentation. The complainant said that he is broke and needs his Unemployment Compensation benefits now, and that, apparently, the documentation had been lost by the Department.

### **Case #140**

The complainant said that he is on a seasonal layoff from his job, and went in to the Department of Labor file an Unemployment Compensation claim in December of 2006. However, the Department of Labor staff told him that the program goes by quarters, and that he needed to file in January. Mr. Casper said that he then filed a claim on January 2nd or 3rd, but the Department had not explained to him that their year ended on January 6th, and so he received a letter saying he did not qualify, because he did not have enough quarters. The complainant said that he talked to Department of Labor staff about this situation, and finally was told that, although their year ended January 6th, he could re-file for Unemployment benefits. The complainant has now been told that he is qualified for benefits, and that the Unemployment Compensation benefits would start at once. However, when he asked about the two weeks that he had missed due to being denied previously, they said that he would not receive benefits for those two weeks. The complainant said that the missed two weeks of Unemployment Compensation benefits amounts to about \$600, and he believes that he should receive those benefits.

### **Case #209**

The complainant had lost his job and applied for Unemployment Compensation benefits on December 29, 2006. The complainant was then apparently told by the Department of Labor caseworker handling the case that she would process his Unemployment Compensation claim. However, by the beginning of February the complainant had not received any benefits, and the Department of Labor worker has not returned any of his telephone messages. The complainant claimed that he had left approximately five or six messages for the worker, and two for her supervisor. The complainant would like to know what he is suppose to do now. He has been told by other staff that there is a hold on his benefits, and that only the worker assigned to his case can release the information on the status of the case to him.

### **Case #268**

The complainant said that he was an employee at a lawn care company, and had worked for that employer all summer in 2006. He said he also works at a snow removal job in the winter months. The complainant said that he was working at this snow removal job, but had to take two days off to get medications and food for his family. Later, the complainant said, he did not go back to work, because they had enough people, and did not need his help. However, his boss thought that he had quit, although the complainant said that he had not quit. The complainant said that he should receive a check today for Unemployment Compensation benefits, but he is concerned that he will be penalized because the boss thought that he had quit.

### **Case # 400**

The complainant said that she worked for a company, but was recently terminated from that job, and now wants Unemployment Compensation benefits. She said she was put on a three day suspension without pay by the employer, but that during the three day suspension she got a letter from the employer saying she was no longer welcome back. She feels she was wrongfully terminated, because she was engaged in what was essentially a whistleblower situation, and was reporting the number of injuries in the work environment. The complainant said that after she was fired, she applied for Unemployment Compensation benefits, but the application came down to the issue of whether she was wrongfully terminated. There was an administrative hearing on the issue, and the complainant was eventually told that she did not provide sufficient evidence to support her case.

### **Case #778**

The complainant is involved in a dispute with the Department of Labor over an Unemployment Compensation issue and has filed an administrative appeal with the agency. He said that he had arranged for a telephone hearing, but has had to cancel the hearing because the Department would not listen to his requests that certain evidentiary materials be provided to the administrative hearing officer in advance. The Department of Labor also would not agree to setting a particular time for the telephone hearing. The complainant believes that the Department of Labor is sabotaging his appeal.

### **Case #1208**

The complainant said that he is having serious problems with the Unemployment Compensation division of the Department of Labor. He said that he had been receiving benefit checks of \$243, but then one check did not come in, and so the Department sent out another check to him as a replacement. In the meantime, however, a check did come in, and the complainant cashed it. Now, he is being told that he owes the Department money for having cashed the check. The agency is also telling him that he was not terminated from his job, but that he chose to leave of his own volition. The complainant said he had quit his job because of a on-the-job injury to his back.

### **Case #1219**

The complainant stated that the Veterans Workforce owes him money for finding a job. He explained that the purpose of the Veterans Workforce is to help veterans find a job, and that the Workforce agency pays \$500 dollars to the veterans when find a job, and then another \$500 after 15 to 30 days of keeping the job. According to the complainant, there was a mix up because the Workforce agency had a wrong telephone number for him. The Workforce agency called the wrong number over and over again, and assumed that he was ignoring them. The complainant said that he left several messages and believes that the reason he never received a answer from the agency is because of the wrong telephone number that they were using. Now, the Veterans Workforce agency does not want to pay him the money promised because it is past the end of their fiscal year.

### **Case #1468**

The complainant said that she injured her back at home, and had to be off of work for quite some time. However, her employer informed her that she could not be off from work, but that she would be expected to do the work from home. Then, about a week later, the employer changed its mind, and said that it wanted to have paperwork for Family Medical Leave completed by the complainant. However, the physicians involved refused to complete the Family Medical Leave paperwork, and also declined to provide a letter stating why they would not complete the paperwork. As a result, the complainant was terminated from her job, due to the lack of the requested Family Medical Leave paperwork. After the termination, the complainant was initially granted Unemployment Compensation benefits, but that

decision was subsequently overturned by the Appeal Tribunal on an appeal by the employer. The complainant complained that the Appeal Tribunal was wrong to find against her in the Unemployment Compensation benefits case, and now she is faced with no remedy but to appeal to the District Court, and she has no idea how to go about doing that.

### **Case #1961**

The complainant had a case pending before the Appeal Tribunal concerning his application for Unemployment Compensation benefits. He said that because the Tribunal had put his telephone number on the wrong page of a document, he will not get a hearing. As a result of this mistake, the complainant claims that he will now lose out on some \$3,300 in Unemployment Compensation benefits. The complainant said that he feels that since the correct telephone number was on the paperwork, but on a different page, the administrative law judge should have been able to figure out what his telephone number was and call him.

### **Case #2058**

The complainant had applied for Unemployment Compensation benefits, but her former employer has told the Department of Labor that she had quit her job. The complainant says that former employer considers her to have voluntarily quit her job, but that she was, in fact, away from work with a knee strain. The complainant said that she had a doctor's note to verify this. She said that she needs the \$170 per week that she was getting from Unemployment Compensation. She believes that the Department of labor should simply recognize that the employer let her go over her knee strain, and that she had not left her job voluntarily.

## **University of Nebraska**

### **Case #614**

The complainant is a diabetic and was being treated by a doctor at the University of Nebraska Medical Center. The complainant was also on her second cycle of chemotherapy treatments. Yesterday, the complainant was escorted out of UNMC by security staff after having a round of disagreements on treatment issues with the doctor. The complainant said that the doctor wanted to put her in the hospital for

three weeks, poking her finger every twenty minutes to check her blood sugar. The complainant told the doctor she was not going to agree to have her finger poked every twenty minutes for the duration of the stay in the hospital. Ms. McCain said that she was also told by her Doctor that she had missed chemo treatment appointments, but she denies this. The complainant said that the doctor also told her that while she was a patient of his she had no rights. The complainant does not feel that the behavior of the doctor towards her was professional under the circumstances. She said that she might have agreed to the three weeks stay, if they would have checked her sugar level like they did during the first three weeks stay in January, when the blood was checked four times a day.

### **Case #910**

The complainant works nights at one of the University system campuses. He had several complaints about his co-workers and his supervisor. The complainant said that some of his co-workers on the night shift sleep and play on the computers, and fail to do any of the tasks that they are assigned to do. He said that one of the co-workers who usually sleeps most the night has not been given a reprimand, but was instead promoted into a better position. The complainant feels that, in general, the department is managed very poorly, and that the good workers have quit, because they have to do all the work for the lazy employees.

### **Case #2010**

The complainant had written a letter and petition to the University of Nebraska Medical Center about the status of her doctor, but after three weeks she had not received a response to that letter. She said that the doctor who had been caring for her is a renowned specialist in the treatment of her disease. However, it would appear that the doctor has been let go from UNMC. The complainant wants a response and further explanation about the decision to let the doctor go. According to the complainant, her care is now in the hands of a physician's assistant, and she wants to know how that is equivalent to the treatment that she was receiving directly from the doctor.

### **Case #2061**

The complainant said that she had completed her course of study for her Ph. D. and wrote her dissertation based on the recommendations of her advisor. She said that the advisor worked very closely with her, and that she had also met with the readers. The complainant said that she had been given the impression that the dissertation was acceptable. However, five weeks later, she was told that it was rejected. The complainant was shocked by this, and felt that she had been misled, ill advised, and misinformed. Now, the complainant believes that the advisor, who was not in the department that she was graduating from, did not mentor her completely or accurately. She also believes that she did not fully understand the requirements for the dissertation.

### **Secretary of State**

#### **Case #1909**

The complainant is a member of the city council of a Nebraska city. There is an effort being made to recall of the mayor of the city, and the complainant is seeking answers to some questions concerning the petition process involved in the recall. The complainant is also concerned about possible violations of election law by the county clerk in connection with the recall process. The complainant said that he had already contacted the office of the Secretary of State, but has gotten the run-around from them, or a complete failure to return his calls.

### **Fire Marshal**

#### **Case #3**

The complainant stated that his neighbors were setting off fireworks that were so loud that it could be heard five miles away in a neighboring town. When he complained, however, no one seemed to want to take action. The complainant does not want trouble with his neighbors, but feels that possibly some of the fire works might have been illegal. He also says that he has cattle that are scared of such noises, and that the noise of the fireworks was enough to rattle his windows. The complainant said that he had reported the incident to law enforcement, but that he felt that Fire Marshal's Office did not want to hear about his complaint. He said that, considering that the Fire Marshal's Office would be the agency that regulates

fireworks in Nebraska, he believes that the Fire Marshal's Office should have followed up on this matter.

## **Attorney General**

### **Case #1226**

The complainant said that he had concerns about rising gas prices, and the legality of the practices of certain gas stations in terms of setting their prices. He said that he had called the Attorney General's Office to complain, and that he had received a rude response from the Attorney General's staff when he questioned the current gasoline prices and if the gas stations in Lincoln were "price gauging." He said the prices in Lincoln are \$3.18 to \$3.25 per gallon, while in Omaha they are only \$3.07 per gallon. The complainant said he is particularly troubled about how public officials do not respond to the public like they used to.

### **Case #1303**

The complainant believes that the Attorney General's Office web site is in violation of the Nebraska State Constitution because part of it is written in the Spanish language. The complainant explained that part of the information on the web site is in the English language, but that there is also information on the site that is written in Spanish language. The complainant states this situation is in direct violation of the Nebraska State Constitution, citing Article I, Section 27 of the State's Constitution, which indicates that English is to be the "official language" of Nebraska, and that all official documents shall be in English.

### **Case #2023**

The complainant said that an individual living in his community had committed numerous burglaries, doing a great deal of property damage, and taking a great deal of money and valuable items from some local businesses. The owners of the businesses are upset that this individual received what they consider to be a very light sentence, with no jail time whatsoever. The County Attorney who conducted the prosecution, and who agreed to the plea bargain agreement with the defendant, will not respond to the business owners who were victimized. The complainant said he has tried to contact the Attorney General about the matter, but that he was

frustrated in that effort. The complainant said that he wishes to speak face to face with someone in the Attorney General's Office about his concern.

## **Department of Environmental Quality**

### **Case #537**

The complainant said that a hog confinement facility that was constructed in her neighborhood.. Because the facility was constructed before relevant zoning laws took effect, it was “grandfathered in” to compliance with the applicable zoning ordinances. However, since that time, the hog confinement lot has been sold twice and, therefore, must comply with zoning regulations. The complainant said that, in spite of this, the Department of Environmental Quality will not do anything to close the facility down or to enforce the waste disposal regulations. At present, the hog confinement facility is dumping waste into the state rivers, which is polluting the nearby town’s water supply. The complainant states that she and son are both ill from the improper waste disposal.

### **Case #732**

The complainant wanted authorization to operate a business in Nebraska that involves a new processes that improves the functioning of septic tank systems. However, the Department of Environmental Quality has told the complainant that this remedial process is not a permanent fix, but only temporary, and that therefore the Department would not approved this plan. The complainant said that he has worked with experts on this idea, and the engineers have told him that his plan is workable. In February, the complainant wrote to the Department of Environmental Quality asking for a written explanation as to why he could not go ahead with this business. He had not yet received a response from the Department.

### **Case #1130**

The complainant was interested in the progress of a rulemaking process that the Department of Environmental Quality had initiated to develop state regulations relating to air emission and the “Clean Air Mercury Rule.” In 2006, the agency had held meetings to discuss development of the rules by the Nebraska Department of Environmental Quality, and a meeting of the Nebraska Environmental Quality

Council had been scheduled for June 14, 2007. However, the June meeting was postponed. The complainant was concerned that the postponement of the meeting meant that the public's input on the new mercury regulations for power plants would somehow be ignored by the rulemaking of process.

### **Case #1905**

In May of 2006, the complainant purchased land, and had a well dug and a new septic system installed. The plumber who did the work was supposed to provide a diagram for the complainant to give Department of Environmental Quality to show that state regulations were followed. However, there was no diagram provided, and the Department of Environmental Quality was at the point of concluding that regulatory requirements had not been followed. The Department of Environmental Quality was planning to hold a hearing to settle this issue, but the hearing was cancelled. The complainant wanted to know what was going on with the situation, and why he cannot get anyone to approve the work that was done on his property.

### **Equal Opportunity Commission**

#### **Case #1386**

The complainant had submitted a complaint to the Nebraska Equal Opportunity Commission alleging that he was discriminated against by his former employer. He felt that the NEOC was not doing their investigation of his case in a timely fashion and that the staff person who took his information was very rude and had not done his job properly. The complainant said that he filed the paperwork with the NEOC in August of 2006, and that the case is still unresolved in August of 2007. He said that he is concerned that the completion of the investigation is taking too long.

### **State Historical Society**

#### **Case #2098**

The complainant said that he is interested in historic research, and often uses the Nebraska State Historical Society's library. He is presently concerned about the preservation of small town history through the microfilming of local newspapers.

The complainant was informed that the microfilming work previously being done at the Historical Society has been ended. He said he believes that this would be a significant loss to future research.

## **Department of Administrative Services**

### **Case #1365**

The complainant is one of the owners of the an office building that is presently occupied by staff of two state agencies. A few months ago, when the lease was up, the building's owners were notified that all of the state agencies would be moving out. The complainant said that the reasons given for the move is that the agencies will be moving into state-owned buildings, and that the state needs to save money. In fact, however, the complainant said that some agencies are going to be moving into privately owned office space. She said that when she asked why the owners of their building were not given a chance to bid on the rental space, she was told that only five buildings were "asked" to bid on the space, and that no one else was allowed to make an offer. The complainant wonders whether this is consistent with the law, when everyone is not given a chance to bid. The complainant said that the rental rate at their building was very reasonable, and that, with the related moving expenses, this decision is a waste of taxpayer's funds.

### **Case #1892**

On June 7, 2007, the complainant was involved in an automobile accident caused by the negligence of a state employee. The complainant's vehicle was a total loss as a result of the accident. After the accident, the complainant had submitted a tort claim for recovery of the damages to his vehicle to the state's Risk Management office. However, it is now late October, and the complainant still has been unable to get his tort claim dealt with by the State Claims Board. He said that they have only offered him \$500 in damages, and that is not an adequate amount.

## **Retirement Systems**

### **Case #710**

The complainant is a former state employee who resigned from her state job. She said that she was told by the staff of the Retirement System that she could cash out of the system and have the money from her retirement fund paid out to her within from two to three weeks. The complainant is now being told that it will take 90 days before she receives the money. She said that she was relying on receiving the money sooner than in 90 days.

### **Case #1719**

The complainant quit his job with the state in May, and went to work for the railroad. However, he is now back to work with the state after only two months. The complainant has received a letter from the Retirement System informing him that he has to pay back the retirement money that he cashed out when he quit in May, because he came back to work with the state before 120 days had expired. The letter informed him that he is expected to pay the money back at a rate of over \$700 per month. He said that his monthly paycheck is about \$1,000, and that would not even leave him enough money to pay his rent and child support obligations. The complainant is wondering whether there are any exceptions to this “120-day rule,” because he says he was not told about this stipulation when he resigned in May.

## **Public Service Commission**

### **Case #2134**

The complainant often has to use taxi services in Omaha, and is interested in several issues relating to the quality of the Public Service Commission’s oversight of taxi services in Omaha. The complainant said that the taxi’s in the city are in poor mechanical condition, and are not reliable. She also has concerns about the safety records of the operators. She believes that there needs to be better of the taxi industry by the State.

It is emphasized that the complaints that have been described in this section can be appropriately characterized as being routine cases of the Office of the Public Counsel. Many of the complaint cases worked on by the Public Counsel's Office in 2006 were similar, in many respects, to those which are described here. On the other hand, many other complaint cases that were handled by the Office of the Public Counsel in the last year were substantially different in subject matter, and some presented issues that were more complex, requiring elaborate investigative efforts.

## STATISTICAL ANALYSIS

The following tables illustrate the size, nature, and distribution of the caseload of the Nebraska Public Counsel's Office for 2007. The total caseload of the Public Counsel's Office in 2007 was 2,250 cases. Although this caseload total represents approximately a 1.7% drop in the caseload from the previous year, it is an increase of approximately 3.5% over the 2,174 cases logged by the Public Counsel's Office in 2005.

As we have remarked upon before, the Public Counsel's Office has witnessed an amazing consistency in the annual caseloads recorded by the office for almost a decade. With one exception, the annual caseload of the Public Counsel's Office has consistently remained in the 2.200 case range since 1999. (The one exception was in 2002, when the caseload was almost 2,500 cases, due to flood of cases resulting from the implementation of the State's new child support enforcement system in that year.) Since 1999, the Public Counsel's Office has recorded 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

**TABLE 1**  
**SUMMARY OF CONTACTS 2007**

<u>Month</u>	<u>Total Inquiries</u>	<u>Information</u>	<u>Complaints</u>
January	202	23	179
February	161	19	142
March	195	30	165
April	189	19	170
May	193	24	169
June	191	25	166
July	188	14	174
August	217	15	202
September	186	22	164
October	185	14	171
November	179	11	168
December	164	15	149
<b>TOTAL</b>	<b>2050</b>	<b>231</b>	<b>2019</b>
<b>Percent of Total Contacts</b>	<b>100%</b>	<b>10%</b>	<b>90%</b>

**TABLE 2  
OMBUDSMAN CONTACTS 2007**

	<b>Total Logged Inquiries</b>	<b>Total Logged Complaint</b>	<b>Pending Complaint</b>	<b>Justified</b>	<b>Unjustified</b>	<b>Partially Justified</b>	<b>Discontinued</b>	<b>No Jurisdiction</b>	<b>No Jurisdiction But Assisted</b>	<b>Total Logged Information</b>	<b>Info Cases Pending</b>
January	202	179	0	26	49	34	26	7	11	23	0
February	161	142	0	25	45	24	17	6	6	19	0
March	195	165	0	17	42	44	23	9	12	30	0
April	189	170	0	21	49	40	17	11	11	19	0
May	193	169	1	28	42	36	21	9	15	24	0
June	191	166	0	34	42	27	27	8	17	25	0
July	188	174	0	38	45	28	23	5	15	14	0
August	217	202	1	38	48	35	37	12	12	15	1
September	186	164	1	22	31	33	35	15	7	22	0
October	185	171	0	38	39	25	33	16	7	14	0
November	179	168	1	32	37	34	26	9	8	11	0
December	164	149	1	14	32	29	35	7	14	15	0
<b>TOTAL</b>	<b>2250</b>	<b>2019</b>	<b>5</b>	<b>333</b>	<b>501</b>	<b>389</b>	<b>320</b>	<b>114</b>	<b>135</b>	<b>231</b>	<b>1</b>

<b>% of TOTAL</b>	<b>100%</b>	<b>90%</b>	<b>0%</b>	<b>15%</b>	<b>22%</b>	<b>17%</b>	<b>14%</b>	<b>5%</b>	<b>6%</b>	<b>10%</b>	<b>0%</b>
-----------------------	-------------	------------	-----------	------------	------------	------------	------------	-----------	-----------	------------	-----------

**TABLE 3  
ANALYSIS OF NO-JURISDICTION CASES - 2007**

	<b>Total No Jurisdiction Cases</b>	<b>Federal Jurisdiction</b>	<b>County Jurisdiction</b>	<b>Municipal Jurisdiction</b>	<b>Other Subdivisions of Government</b>	<b>Legislative or Policy Issues</b>	<b>Issues Before Courts</b>	<b>Private Matters Between Individuals</b>	<b>Issues Involving Governor or Staff</b>
January	18	1	6	0	1	0	5	1	0
February	12	1	5	1	1	0	3	1	0
March	28	1	9	4	0	0	9	3	0
April	24	1	6	2	0	0	7	1	1
May	27	0	8	3	3	0	7	3	0
June	26	3	5	0	0	0	8	8	0
July	22	1	9	1	2	0	5	2	0
August	26	1	9	1	1	0	7	5	0
September	24	0	3	3	0	0	4	2	0
October	24	2	6	1	0	0	11	4	0
November	19	3	2	2	1	0	6	2	0
December	25	0	9	2	0	0	6	5	2
<b>TOTAL</b>	<b>275</b>	<b>14</b>	<b>77</b>	<b>20</b>	<b>9</b>	<b>0</b>	<b>78</b>	<b>37</b>	<b>3</b>
<b>PERCENT</b>	<b>100%</b>	<b>5%</b>	<b>28%</b>	<b>7%</b>	<b>3%</b>	<b>0%</b>	<b>28%</b>	<b>13%</b>	<b>1%</b>

**TABLE 4  
MEANS OF RECEIPT AND LOCATION 2007**

MONTH	Location					Means of Receipt				
	Metropolitan Lincoln	Metropolitan Omaha	Non Metropolitan	Out Of State	State Instiution	Letter	Visit	Telephone	Email	Fax
January	25 5	8 4	44 6	3 6	99 2	100 5	7 0	64 12	6 6	0 0
February	21 7	4 0	20 7	6 4	91 1	87 6	3 0	45 11	6 2	0 0
March	27 5	6 2	25 13	8 6	99 4	97 7	4 1	54 14	9 8	0 0
April	35 10	13 1	32 2	4 3	86 3	100 2	4 2	60 11	4 4	0 0
May	29 6	3 0	37 13	4 2	96 3	89 9	4 1	57 9	16 5	0 0
June	37 2	6 3	25 7	9 6	89 7	89 10	4 0	61 9	12 6	0 0
July	28 4	7 0	26 5	7 3	106 2	98 3	4 0	60 11	8 0	0 0
August	40 3	9 2	37 5	6 3	110 2	109 1	8 1	72 10	11 2	0 0
September	37 6	13 2	32 4	9 3	73 7	80 8	10 1	61 7	9 5	0 0
October	29 5	11 0	26 4	7 3	98 2	95 3	1 0	67 9	7 2	0 0
November	30 5	8 1	26 4	8 1	96 0	93 1	11 0	49 7	13 3	0 0
December	21 5	4 3	26 6	5 1	93 1	87 4	5 0	46 11	11 1	0 0
<b>TOTAL</b>	<b>359 63</b>	<b>92 18</b>	<b>356 76</b>	<b>76 41</b>	<b>1136 34</b>	<b>1124 59</b>	<b>65 6</b>	<b>696 121</b>	<b>112 44</b>	<b>0 0</b>

\* C = Complaints, I = Information

**TABLE 5**  
**OFFICE OF THE OMBUDSMAN - 2007 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	1	4	2	0	2	1	3	3	3	3	1	2	25
Aging	0	0	0	0	0	1	0	0	0	0	0	0	1
Agriculture	0	0	2	0	0	0	1	0	0	0	0	0	3
Arts Council	0	0	0	0	0	0	0	0	0	0	0	0	0
Attorney General	3	0	0	1	2	0	4	1	0	2	3	1	17
Auditor	0	0	0	0	0	1	0	1	0	0	0	0	2
Banking	0	0	0	0	0	0	0	0	1	0	0	0	1
Brand Committee	0	0	0	0	0	1	0	1	0	0	0	1	3
Claims Board	0	1	0	1	0	1	0	0	0	1	1	2	7
Corrections	98	93	94	89	93	87	96	111	80	87	84	80	1092
County	6	9	12	2	10	4	8	9	3	7	2	8	80
Courts	7	3	12	9	9	11	5	6	9	13	9	6	99
Crime Commission	0	0	0	1	0	0	0	0	0	0	1	0	2
Economic Development	0	0	0	0	0	0	0	0	0	0	0	0	0
Ed. Lands & Funds	0	0	0	0	0	0	0	0	0	0	0	0	0
Education	3	1	1	1	1	2	2	0	0	2	0	0	13
Environmental Quality	0	0	1	1	1	1	0	1	0	1	0	1	7
Equal Opportunity	1	0	0	2	1	2	0	1	1	1	2	1	12
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	1	0	0	0	0	0	0	1	0	0	0	0	2
Federal	4	3	3	4	2	6	1	2	1	2	2	1	31
Fire Marshal	2	0	1	0	0	0	0	0	0	0	0	0	3
Foster Care Rev Bd	0	1	1	2	0	1	0	1	1	0	1	0	8
Game and Parks	0	0	2	3	4	4	1	2	0	1	0	1	18

**TABLE 5 - Continued**

Governmental Subdivision	0	0	0	0	3	0	0	2	1	0	0	1	7
Governor	0	0	0	1	0	0	0	0	0	0	0	1	2
Health	0	0	0	0	0	0	0	0	0	0	0	0	0
Hearing Impaired	0	0	1	0	1	0	0	0	0	0	0	0	2
HHS Benefits	18	5	15	12	7	6	12	12	19	7	9	10	132
HHS BSDC	2	1	0	0	2	2	1	0	0	2	0	0	10
HHS Child Welfare	19	13	17	13	17	17	12	24	21	21	11	15	200
HHS Misc	8	9	10	14	9	12	9	10	12	13	16	8	130
HHS Regional Centers	7	3	2	5	3	6	6	6	6	4	3	2	53
HHS Regulation	2	1	1	1	1	2	1	2	1	3	1	0	16
HHS Vets Homes	0	2	0	0	4	1	1	1	0	0	2	0	11
HHS Visually Impaired	0	0	0	0	1	0	0	0	0	0	0	0	1
Historical Society	0	0	0	0	1	0	0	0	0	0	1	1	3
Indian Comm	0	0	0	0	0	0	0	0	0	0	0	0	0
Institutions	0	0	0	0	0	0	0	0	0	0	0	0	0
Insurance	0	0	0	1	0	0	0	2	0	0	0	2	5
Investment Council	0	0	0	0	0	0	0	0	0	0	0	0	0
Labor	4	3	3	0	2	2	2	1	1	1	3	2	24
Legislative	14	7	15	7	8	11	2	5	16	7	5	3	100
Library Comm	0	0	0	0	0	0	0	0	0	0	0	0	0
Liquor Control	0	0	0	0	0	0	1	0	0	0	0	0	1
Mexican Amer Comm	0	0	0	0	0	0	0	0	0	0	0	0	0
Motor Vehicles	1	2	2	1	2	0	3	4	4	0	1	2	22
Mtr Veh Dealers Lic Bd	1	0	0	0	0	0	0	0	0	0	0	0	1
Municipal	2	1	4	3	2	1	2	1	4	3	2	1	26
National Guard	0	0	0	0	1	1	0	0	0	1	0	0	3
Natural Resources	1	0	0	0	0	0	0	0	0	0	0	0	1
Pardons Board	0	0	0	0	1	0	0	0	0	0	2	1	4
Parole Board	4	1	1	1	0	3	2	4	2	2	4	8	32

**TABLE 5 - Continued**

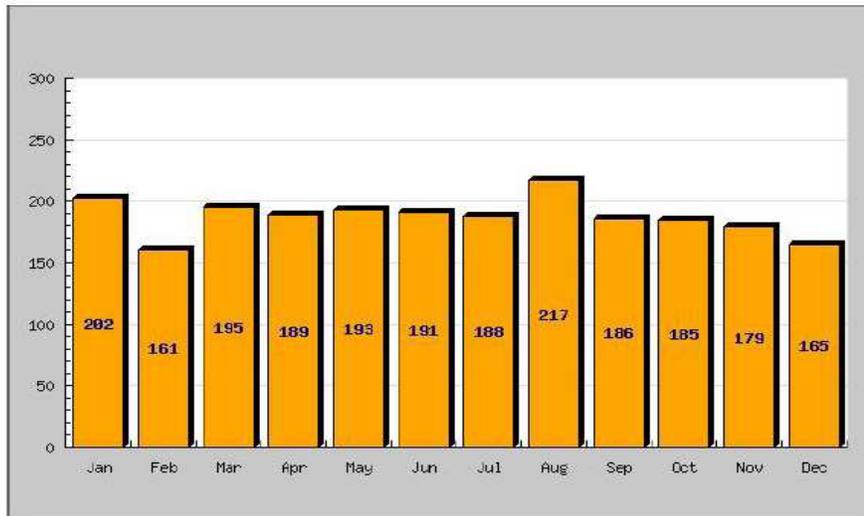
Patrol	4	0	1	1	2	2	3	2	0	0	1	0	16
Personnel	0	0	1	1	0	1	0	0	0	0	0	1	4
Private Matter	4	1	5	8	6	6	7	1	7	5	8	8	66
Probation Adm	0	0	0	1	0	1	1	0	0	0	0	0	3
Public Service Comm	0	0	0	0	0	0	0	0	1	0	0	1	2
Real Estate Comm	0	0	0	0	0	0	0	0	0	0	0	1	1
Retirement Systems	0	0	0	1	0	0	0	0	1	1	1	1	5
Revenue	1	0	0	2	1	2	1	2	0	0	0	0	9
Risk Management	0	1	0	0	0	0	0	0	0	0	0	0	1
Roads	2	1	1	3	2	4	1	0	0	1	3	0	18
Secretary of State	0	0	0	1	1	1	0	0	0	1	1	0	5
St. Board of Equalization	0	0	0	0	0	0	0	0	0	0	0	0	0
St. Surveyor	0	0	0	0	0	0	0	0	0	0	0	0	0
State Colleges	0	0	0	1	1	0	0	1	1	0	1	0	5
Status of Women	0	1	1	0	0	1	0	2	0	0	0	0	5
Electrical Division	0	0	0	0	0	0	0	0	0	0	0	0	0
Treasurer	0	3	3	1	0	3	5	1	0	2	1	0	19
University	2	1	2	3	1	0	0	0	0	2	4	2	17
Veterans Affairs	1	0	0	0	0	0	0	0	0	0	0	0	1
Commission for the Blind	1	0	0	0	1	0	0	1	0	0	2	1	6
Racing Commission	0	0	0	0	0	0	0	0	0	0	0	0	0
Capitol Commission	1	0	0	0	1	0	0	0	0	0	0	0	2
HHS-Juv Justice	0	0	0	0	0	0	0	0	0	0	0	0	0
HHS-Juv Justice - Geneva	4	0	0	1	0	0	0	1	2	5	5	1	19
HHS Juv Justice-Keamey	0	0	0	0	0	0	1	0	0	0	0	0	1
County Jail	0	0	0	0	0	0	0	0	0	0	0	0	0
Athletic Commission	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>TOTALS CASES</b>	<b>239</b>	<b>175</b>	<b>220</b>	<b>205</b>	<b>211</b>	<b>214</b>	<b>200</b>	<b>234</b>	<b>207</b>	<b>205</b>	<b>199</b>	<b>182</b>	<b>2491</b>

(NOTE: Case totals in this table are greater than the sum of all cases because a single case may involve in multiple agencies.)

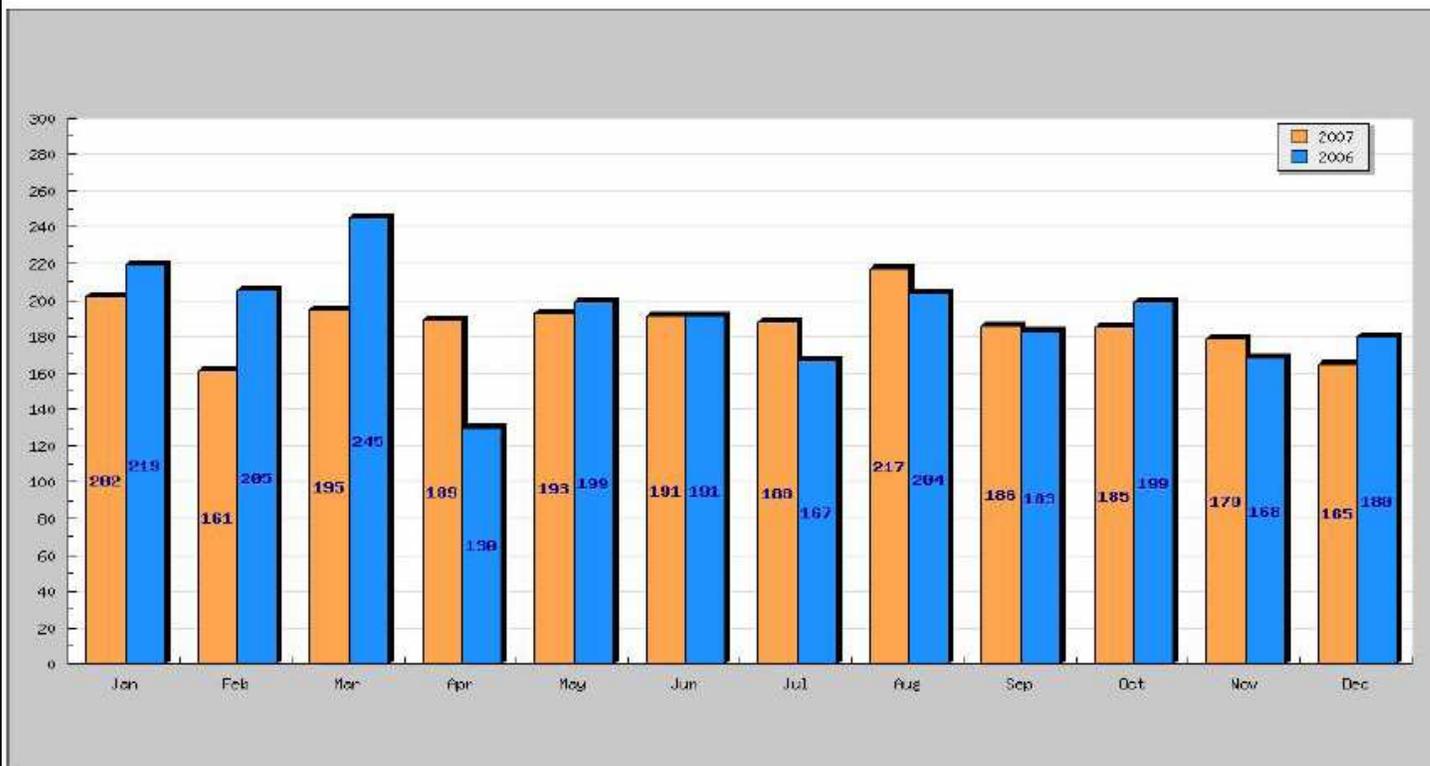
## **CASE DURATION REPORT 2007**

<b>Days Open</b>	<b>Record Count</b>	<b>% of Total</b>
1	358	16%
2	125	6%
3	92	4%
4	74	3%
5	89	4%
6	119	4%
7	113	5%
8	67	3%
9	44	2%
10	36	2%
11	36	2%
12	39	2%
13	41	2%
14	53	2%
15	32	1%
16	24	1%
17	25	1%
18	23	1%
19	19	1%
20	27	1%
21 to 30	166	7%
31 to 60	218	10%
Over 60	389	17%
<b>Total Count</b>	<b>2245</b>	<b>100</b>

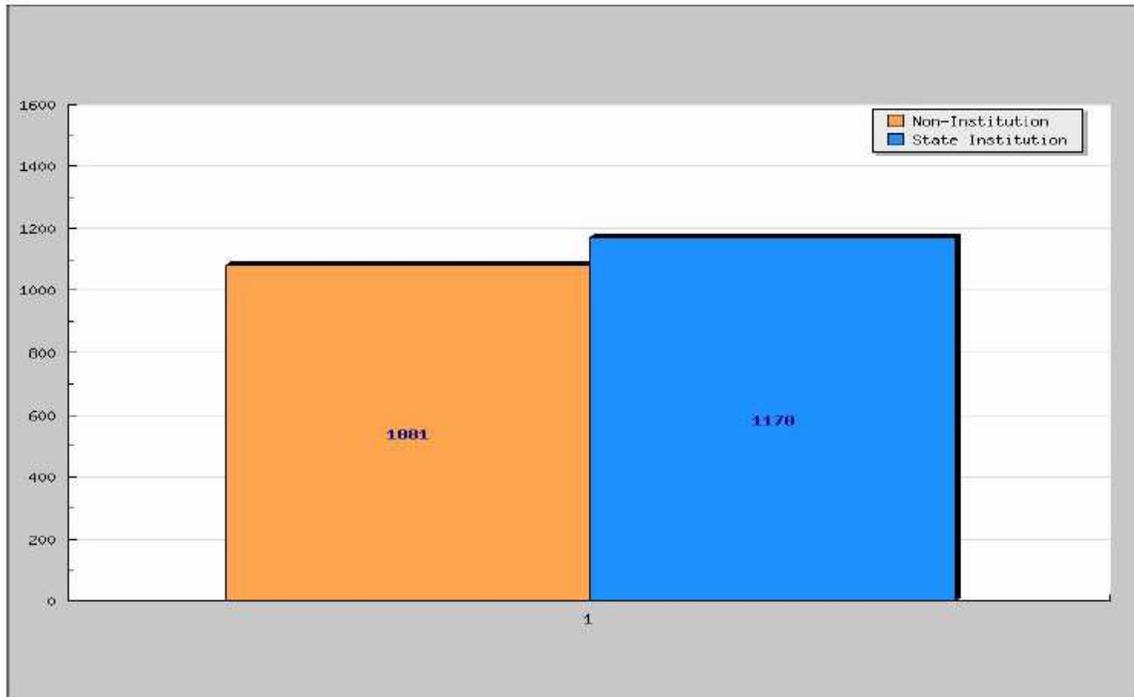
**TOTAL NEW CASES BY MONTH - 2007**



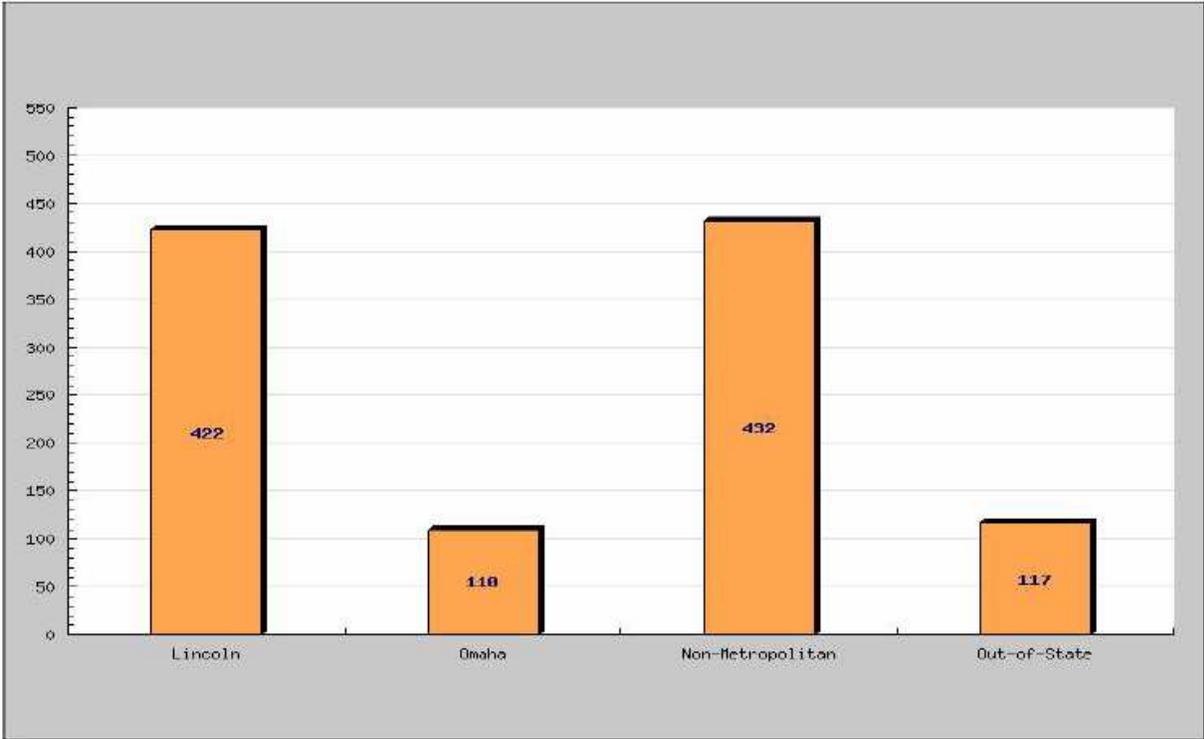
**TOTAL NEW CASES**  
**Monthly Comparisons for - 2006 and 2007**



### Non-Institution VS. State Institution Cases -2007



Non-Institution Cases By Location -2007



# 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; 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 may see fit, within the amount available by appropriation, such assistants and employees as he may deem necessary to discharge his responsibilities under sections 81-8,240 to 81-8,254. He shall appoint and designate one of his assistants to be a deputy public counsel, and another assistant to be a deputy public counsel for corrections, 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. 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 his staff any of his 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 81-8,240 to 81-8,254, shall be subject to any penalties, sanctions, or restrictions in connection with his employment because of such complaint.

## 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.