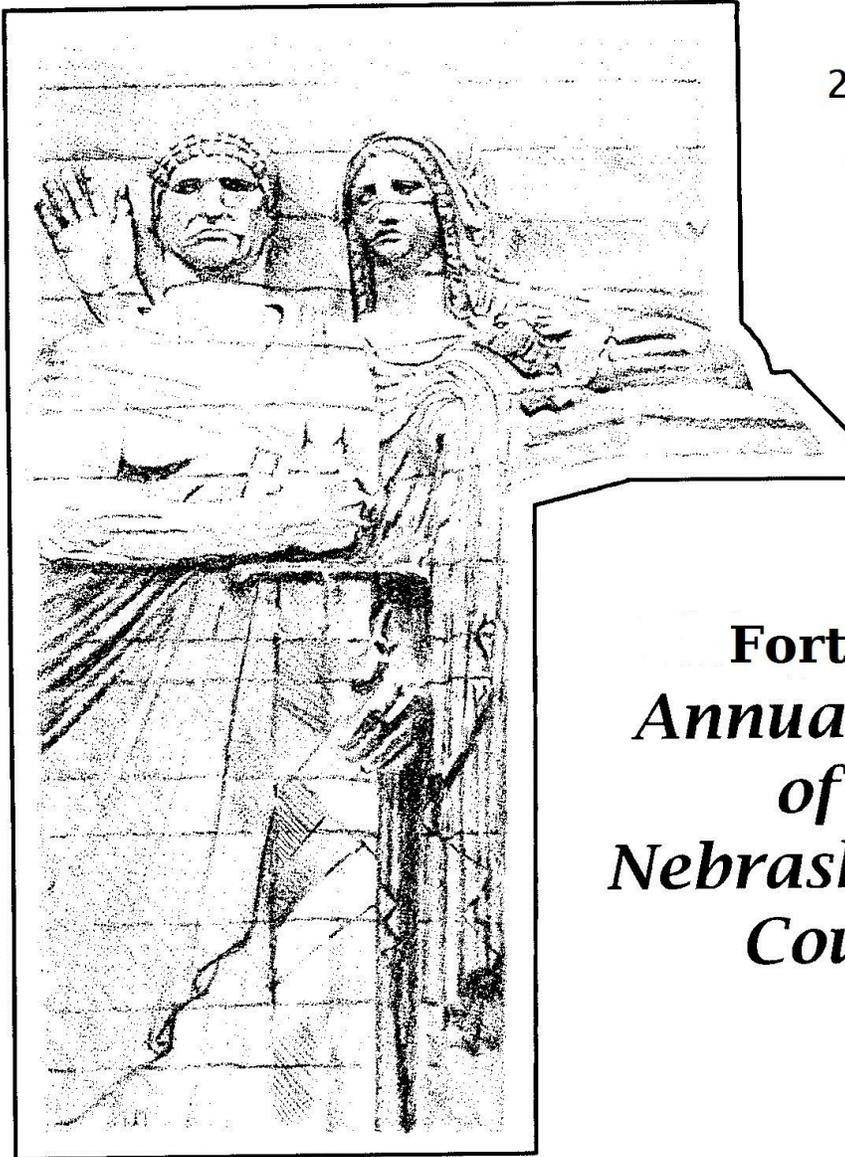


2011



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

***The
Ombudsman***

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of the
Nebraska
Public Counsel*

**THE
OMBUDSMAN**

2011



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NEBRASKA PUBLIC COUNSEL'S OFFICE

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

John Milton, *Areopagitica*

MISSION STATEMENT

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

EXPOSITION

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

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

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

TRANSMITTAL

Section 81-8,251, R.R.S. 1943, provides that the Public Counsel shall each year report to the Clerk of the Legislature and to the Governor concerning the exercise of the functions of the office during the preceding calendar year. Pursuant to Section 81-8,251, this Fortieth Annual Report of the Nebraska Public Counsel's Office has been prepared as the annual report for the calendar year 2011, and is hereby respectfully submitted.

THE OMBUDSMAN CONCEPT

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

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

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

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

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

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

The ombudsman institution made its first appearance in North American

government in the 1960's. In his ground breaking books *When Americans Complain* and *Ombudsmen and Others*, Professor Walter Gellhorn of Columbia University promoted the ombudsman concept as a means of providing an "external critic of administration" for American government. In 1967, Professor Gellhorn 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, 2005, and 2011.

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

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

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

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

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

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

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

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

STAFF

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

The staff of the Office of the Public Counsel consists of eleven full-time and two part-time employees. Ten of the full-time staff members (Public Counsel Marshall Lux, Deputy Public Counsel Carl Eskridge, Deputy Public Counsel for Corrections James Davis III, Deputy Public Counsel for Institutions Oscar Harriott, Deputy Public Counsel for Welfare Services Marilyn McNabb, and Assistant Public Counsels Barb Brunkow, Jerall Moreland, Julie Pham, and Gary Weiss) are actively involved in casework. The other employees (Rebecca Dean, Marge Green, and Kris Stevenson) serve as mostly as case-intake personnel, and have significant contact with the public in fielding telephone calls, emails, etc., 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 twelve years, an average which would be higher but for the addition of three new employees in 2008. This means that the employees of the Public Counsel's Office are not only experienced in the minutia of state government, but that they are also highly experienced in the fine art of complaint-handling. They have refined the needed human skills for dealing with people under stress. They have developed the analytical skills for untangling complicated issues presented in complaints. They have acquired the negotiation skills necessary for bringing citizens and bureaucrats together for the resolution of difficult problems.

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

A Special Note – On December 11, 2011, Administrative Assistant Marge Green retired. Marge had been an employee of the Public Counsel's Office for more than twenty years, and had long been one of our most valued employees. Over her years with the Public Counsel's Office, Marge saw the Administrative Assistant position evolve from that of a classic secretary - typing, filing, and answering the telephone - into a much more complex and performance-sensitive job involving case intake. Those of us on the Public Counsel's staff who know and worked with Marge over her two decades of service with the State of Nebraska wish her long health and happiness in retirement.

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 2011.

Department of Health and Human Services

Case # 104 - Food Stamps Not Provided as Promised

The complainant said that she had been receiving Food Stamps for over one year. She said that she was called in for an interview around Thanksgiving of 2010, but because she was five minutes late for that interview, they rescheduled the interview for about two weeks later. The complainant said that she completed the interview on December 1 or 2, and that she was told that they were going to reinstate her Food Stamp benefits. Subsequently, on December 12 the complainant was told she needed to refile for benefits. She said that she filled out the paperwork online two or three times in December, and sent in the same documentation via mail. She said that she also took things into the office, and requested that they scan the documents into her file right away. The complainant said that she was told that she would receive \$668 in January. She said that her pay date was supposed to be January 3. However, she has not received any Food Stamps as she was promised. She said that she has had a very hard time getting a telephone call through to her Caseworker, or having her calls returned by the Caseworker or the Caseworker's supervisor.

Case #112 - Grandmother of State Wards Wants to Know Why She Was Not Approved as the Foster Home

The complainant is the paternal grandmother of three children, ages three, two, and one, who are State wards. The children were placed in a foster home after being removed from their parents' custody. The complainant said that about a year ago she asked for a letter from Child Protective Services explaining the reasons why she was not approved to have custody of her grandchildren. However, she was told that the agency was not going to supply such an explanation. The complainant said that the agency is going back to a situation from thirteen year ago, among other

things, as an excuse not to consider her home as a placement. She wonders why she cannot at least have a letter telling why they do not want her to have custody of these children. The complainant said that she is currently allowed one 3 1/2 hour visit with her grandchildren per month. She would like to have over-night visits with the children every other Friday.

Case #332 - Former Foster Parents Reported Concern to Child Abuse Hotline and Are Now Banned from Further Contact with Former Foster Child

The complainants, a husband and wife who were a State-approved foster home, said that they had previously been the foster parents to a drug-addicted infant who was placed in their home by the State. Eventually, the child was reunited with her biological mother, and the mother's boyfriend. The complainants had reason to suspect that substance abuse, physical abuse, and sexual abuse might be going on in the biological mother's home, and so they contacted the Child Abuse Hotline to report their concerns. However, the findings of the resulting investigation were inconclusive, and now the complainants have been banned from further contact with the child. The complainants believe the child welfare system in Nebraska is failing this child.

Case #776 - Foster Children Removed from Home and Foster Care License Being Revoked Without Adequate Investigation

The complainant was licensed as a foster parent, and had two boys who were placed in foster care in her home. The complainant said that on January 14, 2011, she received a telephone call from the police concerning an incident with one of her foster children. She said that the seven year old child had made an allegation about being struck in the mouth. The complainant denied any knowledge about the child being struck or abused in her home. On the following Wednesday, January 19, 2011, the complainant was informed that the boys were not coming back to the her home because of an ongoing investigation. The complainant was told that on January 20 that she would be contacted by someone to follow-up on the case, but that never happened, and no statement or information was ever taken from her at all. Finally, the complainant received a certified letter which stated that her name was being placed on the Child Abuse Central Registry, and that the State was in the process of revoking her foster care license.

Case #780 - Medicaid Recipient With Diabetes Is Unable to Get Medicaid Approval for Alternative Medication

The complainant said that she has type II diabetes and has been on SSI for several years. She said that the medications that she has been taking that are approved by Medicaid make her feel sick. For over a year, her doctor has tried to prescribe an alternate medication for her to try, but these medications have always been denied. The complainant said that for the last two months she has been seeking approval for a new medication, and today she has learned that this alternative medication has been denied. The complainant is frustrated about this situation. She said she is particularly concerned about losing her eyesight, and wants to be able to try to find a medication that may not make her sick.

Case #866 - Mother of Children in State Custody Having Problems with KVC Caseworker Over UA Tests and Visitations

The complainant said she is the mother of three children who were removed from her home because she "took them out of state." She said that she is allowed to have two supervised visits with her children per week. On May 12, 2011, the children's foster mother told the complainant that the Caseworker, who was employed through KVC (a contract provider), had canceled a visit with the children because the complainant was not being cooperative with doing the required UA tests in conjunction with the visits. The complainant said that she was not aware that there were to be UA's in conjunction with the visits, and so she called the individual responsible for supervising the visits to find out whether the subject of UA's in conjunction with the visits had been mentioned to her. That person told the complainant that the Caseworker would not authorize their agency to do the UA's. The complainant said that she has consistently had clean UA tests for two years, and has never had issues with any other Caseworker. She also said that the Caseworker had scheduled a team meeting and did not tell her about it, although the Caseworker did tell the foster mother that she did not want the complainant to be informed of the meeting. She believes that the Caseworker has "gone out of her way" to make things difficult for her, and that the Caseworker has had some inappropriate conversations with her children, and has also violated confidentiality rules.

Case #1073 - Believes that Her Granddaughter is in a Potentially Dangerous Home Situation

The complainant has some concerns about the safety of her granddaughter, who is one year old. She said that the child had been taken out of the parent's home in 2010, and had been placed with the complainant because of violence in the home. She said that both of the child's parents have serious mental health issues. Now, the Juvenile Judge has returned the child to her parents, and the parents have left the State of Nebraska and are living in another state. The complainant said she is very concerned about the safety of her granddaughter, and she believes that the Caseworker who had been assigned to the case had "dropped the ball" in terms of making certain that the Court was aware of the severity of the situation.

Case #1339 - No Insurance Coverage Being Provided for Two Children in a Subsidized Adoption

In 2011, the complainant adopted two year old twins after having the twins in her home in foster care for nearly eighteen months. She said that because the twins have many health problems, including asthma, she signed a subsidized adoption agreement to help facilitate the adoption. The complainant said that the subsidized adoption agreement included a monthly allowance for medical insurance and daycare, and that she was told that the children would have medical insurance, so she would not need to include them on her insurance. The window to include the children on her insurance is a time up to 30 days after the adoption, and that time has now elapsed. The complainant said that one of the children developed an ear infection two weeks ago, so she took him to the doctor's office. At that point, she discovered that the children have no health insurance coverage. The complainant said that one of the twins had an appointment with his allergy doctor, but that had to be canceled because there is no insurance. Also, the children are within three days of running out of their asthma medications. The complainant said that she has called several people from KVC and HHS, but nobody will address this problem.

Case #1374 - Lost Food Stamps and Hours of Respite Care for Alleged Failure to Work the Required Number of Community Service Hours

The complainant provides home care for his disabled son, and receives respite care

and Food Stamps through HHS. Now, the complainant has learned that his Food Stamps have been reduced as a result of his being sanctioned for failure to work the required number of community service hours. His respite care hours had also been cut by a total of twelve hours. The complainant said that he did work all of his required community service hours, but that his Caseworker did not check to see whether the information was correct. The complainant believes that this situation is unfair, and that his Caseworker should have done a better job of verifying the information that he gave to the agency relating to his community service hours. The complainant said that he has always done his required number of community service hours, and needs to have the respite care hours restored.

Case #1543 – Family Wants to Adopt Their Niece Who Has Been in the Foster Care System for 30 Months

The complainants want to adopt their niece, who is not quite three years old, and has already been in the foster care system for more than two years. The mother's parental rights have already been terminated, however, the State is considering the biological father as a possible placement for the child. The complainants said that they do not understand why the biological father is even being considered for a possible placement, in light of his criminal history. They say that the father is a “career criminal,” who is presently awaiting trial for felonies charges, and has been in jail before. Since the child has already been in the foster care system for about thirty months, the complainants do not understand why HHS is not pressing more for a closure on this case and a placement that promises some permanency.

Case #1856 - Grandparents Who Had Formerly Been the Foster Parents to Grandchildren Are Now Not Allowed to See Grandchildren

The complainant said that her daughter went to drug addiction treatment and during this time, which was about six months, she and her husband were the foster parents for the daughter's three children. She said that the grandchildren are now around the ages five and four. During the complainants' time foster parenting their grandchildren, the contractual service provider was Boys and Girls Home. However, when Boys and Girls Home ceased working with HHS, the State of Nebraska's position was that the children should have never been placed with the complainant at all. The complainants' daughter is now out of drug treatment, and

her children are living with her. The complainant is frustrated and upset because she and her husband are not allowed to be around the children, and the children are not allowed to come to their house. She believes the reason this has happened is because the Caseworker dislikes them because her husband had once accused the Caseworker of being dishonest with them. The complainant wants to be able to see her grandchildren. She said when she was foster parenting them, the grandchildren were well-cared for in their home.

Case #2102 - Developmentally Disabled Son Deemed Ineligible for Services

The complainant has a son who is developmentally disabled. She says that she has applied twice for services for her son via the Developmental Disability Division of HHS (most recently in July of 2010), but he was denied services both times because they say her son does not meet the eligibility criteria for developmental disability services. The complainant says that her son, who is now 20 years old, was diagnosed with Pervasive Developmental Disorder, which is one of three forms of Autism Spectrum Disorders. The complainant says that her son has also been diagnosed with other brain disorders, namely Obsessive-compulsive Disorder, and bipolar disorder. She says that under the eligibility guidelines her son meets five of the seven criteria (the guidelines require the applicant to meet three of the seven criteria). She says that the only criteria that her son does not meet are that he is not immobile, and his IQ is 81. The complainant believes that HHS is focused on her son's IQ, and psychiatric diagnosis, and are missing the fact that he is eligible for services under the eligibility standards. She points out that her son's disability prevents him from functioning independently. The complainant is very concerned that her son will be denied the services that he deserves. She says that her son's doctor sees many patients whose conditions are not as complex as her son's, and that those cases nevertheless receive developmental disability services.

Department of Motor Vehicles

Case #443 - Problems Obtaining a Photo ID

The complainant said that she is having a difficult time getting a photo ID from the Department of Motor Vehicles because of the information they have been asking for to verify her identity before they will issue an ID card. She said her mother had

changed her name from what appears on the Birth Certificate, although her original name is very similar to the name that she now uses. The complainant said that her mother is no longer alive, and getting information relating to her education is also difficult, since she spent part of her life in California, and some school records just do not exist any more. The complainant said that she has not driven an automobile in about ten years, so she has not had to have a driver's license to use as identifying information. She said that there is nothing in her background that should give DMV any cause for concern about the veracity of her identifying information, but the Department keeps demanding more documentation that she does not have.

Case #1330 - Being Required to Pay a Fee for Reinstatement of is Driver's License

The complainant said that in January of 2011 he received a speeding ticket in Colorado. He said that he sent in cash as payment of the fine, but the Colorado Department of Motor Vehicles never received it. The second time he paid the fine he used a money order, and had to pay court costs as well. The complainant said that because of this situation in Colorado Nebraska Department of Motor Vehicles considers his driver's license to be suspended, and is requiring him to pay a \$50 reinstatement fee in order to restore his license. The complainant said that he has proof that he attempted to pay the Colorado fine on time, and that, therefore, his driver's license should have never been suspended in the first place. He said that he has paid the Colorado fine twice, plus court costs, and he cannot afford to pay the \$50 reinstatement fee at this time.

Case #2214 - Received Ticket for Not Having Proof of Financial Responsibility

In November of 2011 the complainant's received a traffic ticket for driving without proof of automobile insurance coverage. On the following day, the complainant received another ticket for the same offense. The complainant said that she went to court and entered a plea of guilty, but she did not know that her license would be suspended. Although the complainant said that she "doesn't have a problem" with paying the fines, she does object to her license being suspended by the Department of Motor Vehicles. She also believes that it is "totally unfair to get put on SR 22" [high-risk insurance]. She believes the law should be changed to allow for a "grace period" after getting caught without insurance, so that one has a chance to secure

the insurance. Most of all, the complainant would like to avoid being required to provide proof of the high-risk insurance as a result of what has happened.

Department of Correctional Services

Case #37 - Facility Staff Will Not Return Inmate's Legal Brief

The complainant is an inmate at the Tecumseh State Correctional Facility. He was working on a personal legal brief, and needed a copy made. However, when he turned the brief over to the Library staff for copying, the TSCI Librarian took his brief and would not return it because it supposedly had another person's name mentioned throughout. The complainant said that the individual in question is mentioned in the police reports relating to his criminal case, and so that is why that person's name appears in the legal brief. He also said that the facility staff have confiscated his copies of the police reports, as well as the brief. They would not give him the brief back, and they are also withholding the \$63.00 check that he gave them for making copies that he never received.

Case #92 - Care for a Broken Finger Delayed

The complainant is the mother of an inmate at the Penitentiary. The mother said that her son had previously been residing at the Community Corrections Center in Lincoln, and seriously injured his finger while visiting his family on furlough. The mother said that when her son was injured, the family wanted to take him to be seen by a doctor, but the staff at the Community Corrections Center would not allow them to do that. The complainant said that after her son returned to the Center he had the finger examined, and it was found to be broken. Subsequently, the finger also became infected, and so the complainant's son had to be taken to the Hospital twice because of the infection. Her son is currently at NSP on antibiotics for the infection. The complainant would like to know how her son is doing, and she also questions whether he should have been allowed to have a doctor's care immediately after the finger was broken.

Case #872 - Delay in Providing Medical Care for Broken Ankle

The complainant, an inmate at the Nebraska Work Ethic Camp, fractured his ankle when he fell from his top bunk on April 22, 2011, a Friday. He complained to staff about the injury, but he had to walk on a broken ankle for two and half days before he received finally medical attention. He said that put in three requests to have the ankle looked at by the medical staff, but they were denied. The complainant also says that his requests for ice to control the swelling were denied. He did not actually see a doctor until April 25. The complainant believes that walking on the ankle made the injury much worse.

Case #912 - Seventeen Year Old Inmate at WEC Harassed by Older Inmates

The complainant is seventeen years old, and is an inmate at the Nebraska Work Ethic Camp. He said that he had been harassed sexually, mentally, and physically by other, older inmates. He wants the situation to be addressed by the WEC administration, and offered a description of the harassment, and the names of the inmates who have harassed him. The complainant said that the harassment is causing him problems with sleeping and eating. He said that he has been moved to another dorm at WEC, but he still feels like the situation has not been properly handled by the WEC staff.

Case #1146 - Risks to the Health of Inmates Working in the TSCI Laundry

The complainant is an inmate at the Tecumseh State Correctional Institution who used to work for Correctional Industries Laundry at the facility. The complainant said that he quit his job at the Laundry because he felt that his health was being endangered. He described situations where the inmate workers were receiving needle punctures from sorting through the dirty clothes. He thinks that the workers need better protection from needles, but when he grieved this issue he was told the cotton gloves that they are given are good enough. The complainant also thinks eye protection for the inmate employees in the Laundry would be a good idea. He was also concerned that the inmate employees were being exposed to low levels of radiation from the x-ray machine, which they must use with no protection. The complainant believes that the administration of the facility is not doing enough to address the health risks in the Laundry.

Case #1198 - Mentally Disabled Inmate Incapable of Preparing His Own Legal Documents

The complainant is an inmate at the Lincoln Correctional Center, and is housed in the Mental Health Unit at that facility. He said that he has brain damage, and has a resulting mental disability. The complainant said that when he tries to write legal materials for his criminal case, he loses track of where he is at, and even forgets what year it is, and generally gets things messed up when he tries to write. The complainant said that he had talked to an ADA Coordinator, and asked her whether the Department of Correctional Services was willing to supply the necessary help. She told the complainant that she was going to look into the matter, but that was last December, and he has never heard from her again. The complainant said that he has a limited amount of time to get his legal documents submitted to the court, and he cannot do it without help.

Case #1335 - Inmate's Medication for Controlling Back Pain Discontinued

The complainant is a new inmate at the Nebraska Correctional Center for Women. She said that before she was incarcerated she was receiving a particular medication prescribed by her doctor for severe back pain. The complainant said that since her arrival at NCCW, she was taken off that medication. She said that she is having severe pain in her back. She also said that her doctor had told her not to go “cold turkey” from that medication because it could result in her having seizures. The complainant said that she had been receiving the medication in question for about one year. She said that other woman at NCCW are receiving that medication, and she believes that the only reason she is being denied that medication is because of her crime.

Case #1411 - Inmate Wants to Be Transferred to a Different Facility So That He Will Not Have to be Placed on Protective Custody

The complainant is an inmate at the Nebraska State Penitentiary. Presently, he is being held in protective custody at NSP. The complainant is concerned about the possibility of his being transferred to the Tecumseh State Correctional Institution or to the Omaha Correctional Center. He reports that he has dangerous enemies at TSCI and OCC, and that he would need to be placed in protective custody in those

institutions as well. However, the complainant believes that he could safely live in the general population at the Lincoln Correctional Center, and so he wants to go to LCC. He says he has written to the Warden and to the unit manager about this situation, but he does not seem to be making progress.

Case #1701 - Medical Staff Not Responding to Inmate's Concerns About Chest Pains

The complainant is an inmate at the Nebraska Correctional Center for Women. She said that she feels that the medical staff at NCW are not taking her complaints seriously, and checking into her reports of chest pains and seizures. She said that she is having chest pains every day. She also said that the medications she was receiving were making her tremble, and making her feel nervous and on edge. She has stopped taking the medication because of those problems, and she is concerned that no one from medical looked into her issues, or tried to change the medications to something that she could tolerate.

Case #1855 - Staff Opening Inmates' Privileged Mail

The complainant is an inmate at the Tecumseh State Correctional Institution. He said that there have been increasing problems with facility staff opening inmate's privileged mail. Under the rules of the Department of Correctional Services, mail to inmates from courts, attorneys, and public officials must be opened only in the presence of the inmate addressee. The contents of this mail can be examined for contraband, but staff may not read the contents of privileged mail. The complainant said that there have been many occasions in recent months where this practice was ignored, and privileged mail was delivered to inmates already opened. The complainant also sent in a petition signed by many TSCI inmates over the issue of the opening of privileged mail.

Case #1878 - Inmate Fired from Correctional Industries Job

The complainant is an inmate at the Nebraska State Penitentiary. He said that he had worked for several years in Correctional Industries, and that the inmates who

work in that area have to pass through a metal detector to make sure that they do not smuggle out pieces of metal that can be used to make weapons. However, according to the complainant he has now been fired from his Correctional Industries job because he has had a joint transplant that will set off the metal detector. The complainant believes that this is unfair, and that since his condition is well known by staff they should make some kind of accommodation to allow him to keep his job.

Case #2243 - Inmate Being Held in Administrative Segregation

The complainant is an inmate at the Lincoln Correctional Center who is being held in administrative segregation. The complainant said that he was involved in an altercation with another inmate, and both he and the other inmate were found guilty of fighting. However, the other inmate was soon released back to general population, while the complainant was sent to administrative segregation status, where he has remained for several months. The complainant said that recently the Unit staff had carried out a periodic review of his case, and Unit case staff had recommended that the complainant should be released back to general population, but the facility's chief administrators, after considering that recommendation, had decided that he should remain on administrative segregation. The complainant said that he believes that the administration should respect the decision of the Unit staff.

Department of Revenue

Case #584 - Delay in Processing Tax Return

The complainant said that she has been helping her elderly parents to prepare and file their State income tax return. After mailing in the return, the complainant's parents received a notice from the Nebraska Department of Revenue advising that the agency had received her parents' income tax information. However, the notification included a statement advising her parents that it might take up to four months to process the tax return, whereas if they would have filed their return online they would have received their tax refund within ten days. The complainant feels that four months is an unusually long time to wait for a tax refund, and she believes that her parents are, in effect, being penalized for not using the computer to file their tax return.

Case #1057 - Small Business Person Being Told That She Should Have Been Collecting Sales Tax

The complainant operates a small business that decorates for weddings. She said that she is having a disagreement with the Nebraska Department of Revenue over whether she should be collecting sales tax in connection with her business. She said that the Department of Revenue is insisting that her business is a “rental business,” and not a “services business.” This all has relevance to the issue of collecting sales tax that must be remitted to the State. The complainant explained that she sets up the decorations herself, she does not let the bridal party rent the items, and then set them up for the wedding. She believes that the Department of Revenue staff just do not understanding what her business is really all about. The complainant said she has an appointment with the an agent from the Department of Revenue soon, and she is supposed to have five years of documentation to show to the Department. She is worried about what is going to happen to her business, if she should have been collecting sales tax, but neglected to do so.

Case #1621 - Taxpayer Being Charged a Fee for Late Submission of Income Tax Payment

The complainant said that she wrote a personal check to cover her Nebraska income taxes on March 23, 2011, and that she put that check in the mail addressed to the Nebraska Department of Revenue on March 24. The complainant said that she received a notice from the Department of Revenue that she is being charged a fee for being late in submitting her tax payment. She does not understand why she is being charged a penalty when she was not actually late in paying her taxes. She said that someone at the Department of Revenue had told her that the envelope containing her payment had two cancellations by the Post Office with two different dates, April 18, and April 22. The complainant does not understand how this could have happened, since she mailed the check to the Department in March.

Game and Parks Commission

Case #1328 - Plans to Demolish a Cabin at a State Recreation Area

The complainant is concerned about the plans of the Game and Parks Commission to demolish a cabin located at the Lake Enders State Recreation Area. She said

that when she discovered that the cabin has been scheduled to be demolished, she contacted the Game and Parks Commission and told the agency that she would like to have an opportunity to bid on, purchase, and renovate the cabin. However, the complainant said that the Game and Parks Commission would not allow this because of "rules and regulations handed down by the Bureau of Reclamation." The complainant thinks that, in light of the special circumstances, an exception to these rules and regulations would be desirable in this case. The complainant would like the Game and Parks Commission to at least reconsider the plans to demolish the cabin.

Department of Roads

Case #727 - Highway Improvement Project Causing Water Run-off Problems for Property Owner

The complainant said that in 2007 road improvement work had been done near her property along a State highway. At that time, she had concerns about water from the construction area that was draining onto her property, and into her basement, and that was also filling up her septic tank. She said that she complained to the Department of Roads about the situation in 2007, and was eventually able to come to an agreement with the Department of Roads on the water run-off issue. Now, however, the complainant reported that mud is filling up the ditch on her property. She said that she had agreed with the Department of Roads regarding the flow of water, but not mud. She is concerned that they will now have to deal with cleaning out the ditch. She also indicated that a neighbors who owns a nearby cornfield is planning a lawsuit based on the water that is cutting through their field, rather than through the natural drainage area.

State Patrol

Case #2038 - "Over-Enforcement" of Trucking Rules

The complainant is an interstate truck driver who has been involved in delivering drought-relief hay to Texas. He said that he thinks that the Nebraska State Patrol is "nitpicky" in its enforcement of rules relating to the truckers involved in this project. The complainant said the State Patrol has been pulling the trucks over and "finding anything they can to give anyone a ticket," especially on Highway 83. He said that he had recently been ticketed for having an oversized load after dark.

However, he said that this situation happened only about twenty minutes or so after sundown. He does not understand why Nebraska has daylight restrictions like this. He said that South Dakota and the other neighboring states have waived all of their restrictions in the case of the delivery of drought-relief hay.

Case #2158 - "Asset Forfeiture" After Search of a Vehicle

The complainant said that in October of 2011 he was driving on Interstate 80 through Nebraska on his way to California, when he was stopped by the Nebraska State Patrol for "pull[ing] in front of a car too closely." He said that he believes that he actually was stopped because of racial profiling, and because he was driving an out-of-state vehicle. The complainant said that the Trooper who stopped him searched his van and found that its contents included a safe. The safe contained \$35,250, which he claimed was his inheritance from his recently deceased father. However, the Trooper accused the complainant of being a "drug trafficker," and informed him that he was keeping the van and everything in it. The complainant denied that he was a "drug trafficker," and said that the State of Nebraska is stealing money from people driving through their state.

Department of Labor

Case #25 - Needs Assistance from the Department of Labor in Obtaining Pay Records

The complainant said that he applied for Unemployment Compensation benefits about two months earlier, but was told that he should wait two months and then apply again. The complainant was under the impression that he would qualify for benefits at the end of those two months. He has applied for Unemployment Compensation benefits again, but now he has encountered a problem with his former employer. He said that his former employer is claiming that he only earned \$600 while working there, when he had, in fact, earned more than that. He said that the business where he had cashed his pay checks would have a copy of each check he cashed, but they told him that they would not supply those records to him unless they were subpoenaed. He believes that the Department of Labor should request those records. He said that if he is not able to receive Unemployment Compensation benefits, then he will end up being homeless.

Case #48 - Problem Using the Automated Telephone System

The complainant said that he has been experiencing continuing problems with the Labor Department's automated telephone system for Unemployment Compensation matters. He said that when he attempts to use the automated system via a touch-tone telephone, he gets a "Technical Difficulties" message after he enters his Social Security number. The complainant said that he has to call in every two weeks, and he said that it is almost impossible to get through on the system on Mondays and Tuesdays. The complainant said he once suggested to a Department of Labor staff person who he did speak with that the automated telephone system's problem with his Social Security number was something that could be repaired, but in response, the Unemployment Compensation office employee hung up on him.

Case #601 - Problems Accessing the Department's Website

The complainant said that he has been unemployed since January 18, 2011. Since then, he has been applying for Unemployment Compensation benefits. However, the complainant said that he has had problems trying to log on to the Department of Labor web site to complete the weekly certification, and thus has not received the payments that he believes he was eligible to receive. He said that he has tried to contact the Department of Labor about this problem, but his telephone calls have not been returned.

Case #1155 - Application for Unemployment Compensation Benefits Denied

The complainant said that he was terminated from his job on May 28, 2011, and that he had filed for Unemployment Compensation benefits shortly thereafter. He said that prior to the termination he had filed a formal complaint with his employer about the way he was being treated at work. He said that for a time things on the job were better, but then he felt that he was being harassed again, and he became angry and said some things he probably should not have said. He was fired based on that incident. Recently, the complainant was notified that he would not qualify for Unemployment Compensation benefits. He feels that the Department of Labor adjudicator who handled his case sided with the employer just to get the paperwork off of his desk. The complainant said that he would like to have his case looked at again based upon the information that he has already given the Department, and on

some information that he should have given them initially, but did not provide.

Case #1520 - Money to Cover Unemployment Insurance Contributions Being Taken from Small Business

The complainant operates a small business in Omaha. He said that the Nebraska Department of Labor claims that his business has employees, when it does not have any employees. The complainant said that the Department of Labor is taking money out of his bank account to cover Unemployment insurance contributions that the agency believes his business should be making. Thus far, the Department of Labor has taken some \$6,000 from his bank account. He said that he has asked the Department to supply him with the names and Social Security numbers of the employees he is supposed to have, but he has been told that they do not have that information. The complainant insists that these supposed employees do not exist. The complainant wonders whether there is any way to stop the agency from taking more money from his account.

Case #2055 - Claimant Inadvertently Provided Incorrect Information When Applying Online for Unemployment Compensation Benefits

The complainant said that she had misread a line when she filled out answers to the online questions when applying for Unemployment Compensation benefits. The question that she filled out incorrectly was concerned with whether she had ever received any bonus payments at her job. The complainant had answered, "yes," however, what the statement on the computer question meant to ask was whether she had received any bonus at the time of the loss of her job, to which the answer should have been, "no." The complainant said that she called the Unemployment Compensation office, and they told her there was nothing they can do about the problem, and they will not change her answer to the question. She said that she has no money coming in, and is unsure of how she will be able to survive without the help of Unemployment Compensation benefits.

Department of Environmental Quality

Case #161 - Told He Must Have a Permit to Wash Out Cattle Trucks

The complainant said that he has been told by the Department of Environmental Quality that he must have a permit to wash manure out of his cattle trucks. He said that he had been washing his trucks out at the same location for the past 22 years, but now he is being told that he must have a permit to be doing this, and that he will also need to check to determine whether the ground water in the area has been contaminated by the practice of washing manure out of the trucks. He said that he does not have the money or resources to do this, and that he feels that DEQ is just out to make money off of someone who cannot pay the hefty fine for a clean up.

Case #1808 - Requesting an Explanation of an Exemption to Environmental Regulations Granted to a Municipal Landfill

The complainant said that the city where he resides has been told by the Nebraska Department of Environmental Quality that the city would not need to follow DEQ regulations requiring the city to cover the working face of the municipal landfill on a daily basis. As a result, the property of nearby landowners is being choked with paper and other debris that the wind blows off of the face of the landfill. The complainant wants to know how DEQ could legally grant an exemption to this city's landfill allowing the city to leave the working face of the landfill uncovered, when there is no provision for such an exemption to be found in the DEQ Rules and Regulations.

Case #2175 - DEQ Refuses to Conduct a Public Health Air Study

The complainant said that he is very concerned about the quality of air in a small Nebraska city, because there are thousands of cattle kept within less than two miles of the city limits. He said that he has seen information that their city has a 167% higher rate of pneumonia than the rest of Nebraska. He said that he thinks that the amount of manure and urine in the air is causing serious health problems in the area, and that the higher rates of illness are due to the confined animal feeding operations that are located very near to town. The complainant said that studies have been performed showing that manure and gases can affect human immune

systems. He said that the Department of Environmental Quality did a study of the air in the city, but they put the air monitors in places where they could not obtain accurate information about the quality and composition of the air. He also said that the air monitors used in the DEQ study were not installed properly. However, the complainant has received a letter from DEQ advising him that DEQ was not going to do more testing because of a lack of funds, and because it would be a waste of time to do more testing.

Department of Education

Case #707 - Special Needs Child Suspended from School

The complainant's son, who is twelve years old, is a child with special needs. On April 14, 2011, the complainant's son was suspended from the public school he had been attending. The complainant believes that this action was not warranted, and said that she still does not know how long her son's suspension is for, or whether he is expelled from school. The complainant believes that the school has violated regulations relating to the education of children with special needs, and has also violated her son's right to confidentiality. She also said she has been slandered by one of her son's teachers. She said that she has contacted the Nebraska Department of Education about this matter, and is hoping for assistance from that agency.

Case #1538 - Demand for Immediate Reimbursement of Food Program Funds Incorrectly Advanced to a Childcare Operation

The complainant operates a childcare business that serves Title XX children, and also participates in the Food Program through the Department of Education. In December 2010, the complainant had received an email from the Department of Education informing her that her business would be receiving a \$48,654.94 Food Program advancement, and a few days later the \$49,275.08 was deposited in her account. The complainant said that on the day that the money was received she called the Department of Education to verify the transfer, and was assured that the amount was approved for her childcare facility. Thereafter, the complainant used some of the money to purchase equipment for the business. However, on March 18, 2011, she received an email from the Department of Education informing her that the payment had been made in error, and that the money transferred to her business in December 2010 was actually supposed to have been paid out to another

grantee altogether. The complainant was told that she would have to return all of the \$49,275.08 to the Department by March 25, 2011. The complainant said that she contacted the Department of Education and told them that she would return the money, but that she would not be able to pay the money back in full immediately, and would need a repayment schedule to return the money in increments. The complainant said that her offer was rejected by the Department of Education, and that has refused to consider any repayment arrangement other than all the money being returned immediately.

Fire Marshal's Office

Case #71 - Fire Inspector is Limiting the Number of Infants Allowed to Be Present in a Daycare Center

The complainant said that he and his wife have started a new in-home daycare center, and that under the rules and regulations of the Department of Health and Human Services they are allowed to have four infants for every adult care-giver in their daycare. However, after having an Inspector from the Fire Marshal's Office inspect their home to determine whether everything was within safety guidelines, the complainants have been told by the Fire Inspector that, in fact, they would only be permitted to have two infants in their daycare. The complainants said that as a matter of practical economics they are unable to run their business with only two infants. The complainants want to know why one agency's rules and regulations say one thing, but then the Fire Inspector will only approve their daycare for two infants, rather than four. The complainants think that there are other daycare centers like their own that are operating with more than two infants.

Regional Centers

Case #39 - Patient Sanctioned for Having Corresponded With Former Patient

The complainant is a patient at the Norfolk Regional Center. He said that he has been writing an individual who had previously been a patient at the Regional Center, but who had been discharged and is currently residing in Madison County Jail. In December of 2010, letters from this former patient were discovered during a shakedown of the complainant's room. Since then, the complainant has been restricted from writing to this former patient, and his mail is being held up by the Regional Center staff. The complainant believes that his civil rights are being

violated. The complainant also claims that he was about to be transferred to the Lincoln Regional Center to continue sex offender treatment there, but he has now been removed from the list of those to be transferred due to what the NRC's staff perceive of as improper "passing and receiving of property." The complainant said that he does not consider this situation to be "passing and receiving" because the individual with whom he had been corresponding is no longer a patient at the Regional Center.

Case #342 – Patient Prohibited from Wearing Certain Tee Shirts

The complainant is a patient at the Norfolk Regional Center who was formerly an inmate in the Nebraska correctional system. He said that while he was in the prison system he was a member of a sanctioned inmate organization known as "MATA." The complainant said that the prison system let the MATA members get tee shirts that have a big Mexican Flag on the back. The shirts also say "Mexican Awareness Through Association," and on the front they have the word "MATA." The complainant said that the NRC administration wants to take these shirts away from him. He thinks that if corrections made these shirts for them, then he should be able to wear them at NRC. The complainant said that there is a Spanish word "matar," which means to kill or murder, and the NRC staff thinks that this is the interpretation that is reflected on the MATA shirts.

Case #656 - Alleged Violation of Patient's Confidentiality Rights

The complainant has been a patient at the Lincoln Regional Center since January of 2011. The complainant said that she had been sent to LRC for an evaluation to determine her competency to stand trial, and is waiting for her doctor to release her so she can go back to court. The complainant said that a Registered Nurse at LRC had violated her confidentiality rights under HIPAA by giving confidential information to the patient's elderly mother during a visit. She said that the nurse had told her mother that she was delusional and believed she would be "home in twelve days." The complainant said that her mother became very upset, and had to have the visit being cut short. The complainant believes that the nurse had no right to give this information to her mother. She said that she had filed a grievance with the Program Coordinator, but she does not think that he, or anyone else, will do anything about what happened.

Case #693 - Patient Denied Access to Group Therapy

The complainant is a patient committed to the Norfolk Regional Center. Although the complainant had been sent to the Regional Center to receive treatment as a sex offender, he said that he has been refused treatment through the group therapy program offered to other patients. The complainant objects to the fact that, having been sent to the Norfolk Regional Center for treatment, they staff there refuse to allow him have the needed group therapy.

Case #1437 - Policy Limiting the Frequency of Patient Telephone Calls

The complainant is the niece of a patient at the Norfolk Regional Center. She said that she wants to have telephone conversations with her uncle, and has called him at the Regional Center from time to time. However, the complainant said that she has discovered that her uncle is only allowed to make or receive one telephone call per hour under new Norfolk Regional Center policies. The complainant said that she believes that her uncle should be able to take her telephone call whenever it is made, since it is a long distance call. She does not understand why his receipt of her calls is limited in this way, and she said that it makes it very difficult for her to talk to her uncle.

Case #1693 - Patient Temporarily Excluded form Sex Offender Group Due to Conflict With Another Patient

The complainant is a sex offender who is a patient at the Norfolk Regional Center. He said that he had a verbal conflict with another patient several days ago, and now he cannot go back to Sex Offender Group until the following Tuesday. The complainant said that he does not believe that it is necessary to exclude him from the group sessions, and that he has told the staff that he has no ongoing conflict with the other patient. He added that the other patient has also told the staff that they do not have an ongoing conflict. The complainant said he was sent to the Norfolk Regional Center to go through the Sex Offender treatment there, and he feels that sitting around on the Unit and doing nothing is not why he is at NRC.

Case #1762 - Patient Needs Dental Care

The complainant is a patient at the Norfolk Regional Center. He said that he needs a permanent cap for one of his teeth. However, the complainant has been told by NRC staff that he must pay for this dental work himself. The complainant said that he cannot pay for the dental work himself, in part because his patient account has been frozen. He also disputes the idea that it is his responsibility to pay for the dental work. He believes that as long as he is in State custody, the State has to pay for his dental work.

Case #2071 - Researcher Wants Access to Certain Regional Center Records

The complainant said that she is an amateur genealogist trying to track down records pertaining to deceased family members. As part of her research project, the complainant wanted to obtain relevant records from Norfolk Regional Center. However, when she contacted the Regional Center she was told she needed a court order to obtain access to the Regional Center's records. The complainant said it was her understanding that records over 100 years old are considered to be in the "public domain," but, evidently this is not applicable to mental health records. She would like to know more about the process involved in getting a court order for the records. She said that she had spoken with the records manager at the Norfolk Regional Center, who was very kind and helpful to her, but did not know what the process was for getting a court order to provide access to the records in question.

County Jails

Case #193 – Inadequate Medical Attention for an Inmate Injured in a Fight

The complainant is an inmate in a metropolitan area jail. The complainant said that he was recently assaulted and seriously injured by three other inmates. He claims that he received numerous cuts, bruises, a broken toe, a broken nose, and a currently undiagnosed shoulder injury. He said that he needs medical attention for the broken nose and shoulder injury. However, the jail staff are refusing to allow him see a doctor.

Case #972 - Jail Not “Handicapped-friendly”

The complainant is an inmate in the a county jail in a metropolitan area. He said that he is handicapped and is upset that the jail is not handicapped friendly. He said that he is unable to reach the telephones, and that the cells are barely wide enough to get his wheelchair through the doorway. He said that he has fallen twice since arriving there. He also is starting to have bed sores because of the lack of padding on his bed. The complainant said that he is only getting a shower once per week.

Case #1038 - Personal Property Not Transferred with Inmate Sent to a Jail in a Different County

The complainant is an inmate who was initially committed to a jail located in a metropolitan area. However, he was subsequently transferred to a jail in another county. When he was transferred, the complainant's newly acquired personal property was not transferred. During his tenure at the first jail the complainant purchased a radio and some personal hygiene supplies, but when he was sent to the other jail none of this property was transferred with him. He had to replace these possessions, including the radio, while at the new jail, but when he was thereafter sent back to the original jail, once again the property was not transferred with him. Finally, when the complainant was transferred to the State corrections facility again none of his personal possessions were transferred with him.

Case #1273 - Inmate Needs Medical Attention in Follow-up to Surgery

The complainant is the mother of a son who is an inmate in a county jail in a metropolitan area. The mother said that approximately two weeks ago her son had surgery performed on both of his arms. She said that her son then went to jail on the following day. The mother is concerned that her son is supposed to be having follow-up examinations by his doctor. He is also supposed to be receiving physical therapy. The mother was worried that her son might suffer a permanent disability, if he did not receive proper medical care in follow-up to the surgery.

Case #1548 - Diabetic Inmate Concerned About Medical Treatment

The complainant was an inmate in a county jail in a medium sized county. The complainant said that he is diabetic, and that while he was at a State correctional facility the medical staff there were able to control his condition by giving him four shots per day. He said that what they are doing at the county jail is making his blood sugars soar to a dangerous level. The complainant is also concerned that the jail staff have changed his medications, and he said that he is afraid to take these medications because the dosage and medication is so different than what he was taking at the State correctional facility.

Case #1980 - Inmate Not Receiving Medical Attention for Injuries Suffered During Arrest

The complainant is the wife of an inmate in a jail in a metropolitan county. She said that her her husband was assaulted and badly injured by the police when he was arrested. She said that during the arrest a police officer stepped on her husband's hand and broke it. After the arrest, her husband was allowed to see a doctor, and was told that his hand was broken, but since then nothing has done to treat his injury. She also said that her husband has injuries to his head that bleed, and should be examined by a doctor, but so far the jail staff have not allowed him to see a doctor for those injuries.

Case #2191 - Inmate Denied Vegetarian Meals

The complainant is an inmate in a county jail in a metropolitan area. The complainant said that following a stroke, and on his doctor's advice, he became a vegetarian. He would like to be issued special vegetarian diet food at the county jail, but this has been denied because medical staff claim they have found no evidence that a special diet is necessary for him. When he asked about being allowed to receive a special diet for religious reasons, the complainant said that he was informed that only the chaplain can approve special diets for religious reasons. The complainant said that he has experienced dizziness and he has fainted, and he believes that these experiences are due to his poor diet, and the jail refusing to give him special vegetarian meals.

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 2011 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.

CHILD WELFARE SYSTEM SURVEY

In July of 2009 the Nebraska Department of Health and Human Services embarked on a child welfare reform initiative which the Department referred to as “Families Matter.” According to the Department the basic point of this initiative was to address the growing number of children living in out-of-home placements in the Nebraska child welfare system. The idea behind the initiative was to try to reform the system by privatizing the management of the system through contracts with private entities that would then be given the direct responsibility to manage child welfare cases in different parts of the state. With that in mind, the Department of Health and Human Services selected six different contractors to act as the “lead agencies” assigned to manage child welfare cases in different regions throughout the state.

From the outset, there were concerns that this new privatized system might be underfunded, thus leaving the lead agencies in a situation where they could not economically perform their functions under their contracts with the State. There were also some concerns that the new system had been implemented without the articulation of standards to measure outcomes, and without adequate long-term planning. In April of 2010, CEDARS, one of the lead agencies, announced that it would be discontinuing its contract with the State because of the lack of adequate financial reimbursement. Later Visinet, another lead agency, went out of business, leaving Department of Health and Human Services caseworkers to deal with the challenge of suddenly having to manage services for some 2,000 children in the Department's Southeast and Eastern Service Areas. There was also the additional problem of millions of dollars that were still owed to Visinet subcontractors in the Western, Central, and Northern Service Areas for unreimbursed services that had been provided to children in those regions.

By November 1, 2010, only two lead agencies were still under contract with the Department of Health and Human Services to assist with implementing the child welfare reform initiative. During hearings for an interim study conducted in 2010, the Legislature's Health and Human Services Committee heard additional concerns expressed regarding the failure to pay providers and foster parents promptly and fully, the lack of documentation in records, confusion regarding the division and assignment of responsibilities, and the quality of training and care being provided. In response to this situation, on January 14, 2011, fifteen members of the Nebraska Legislature, including all of the members of the Legislature's Health and Human Services Committee, signed on in support of Legislative Resolution 37, which

authorized the Health and Human Services Committee to investigate, review, and assess the overall impact and effectiveness of the Families Matter reform.

The work on the LR 37 study was particularly detailed and thorough, and included not only technical research and public hearings, but also included the consideration of reports done by the Auditor of Public Accounts, and the Legislative Performance Audit Committee. Health and Human Services Committee Chair Kathy Campbell also asked the Public Counsel's Office to conduct a survey of foster parents to learn more about their experiences with the Families Matter reform. The Public Counsel's Office supplemented this basic survey with a second survey of biological parents who had experiences in the Nebraska child welfare system. From the last week of July to mid-September the Public Counsel's Office presented a 21 question survey to current and former foster parents across the State, ultimately securing the completion of the survey by 269 foster parents. In addition, the Public Counsel's Office surveyed 132 biological parents to obtain information on their reaction to the Nebraska child welfare system.

In the survey of foster parents, the Public Counsel's Office tried to test the "level of satisfaction" of parents in a variety of areas, asking foster parents questions about the adequacy of the system in terms of communication, responses to their requests and problems, transportation, medical and psychological services for the children, visitation schedules, payments, and support services made available to the foster parents, such as respite care. In addition, the foster parents were asked about whether they had received adequate information relating to their foster child before accepting him or her into their home. The survey also tried to measure the foster parents' reaction to, and basic level of satisfaction with, each of the three different components of the child welfare system - the Department of Health and Human Services, the lead agencies, and the other foster care agencies that had been retained by the lead agencies as subcontractors in order to provide specific services to foster children.

The results of the survey of foster parents indicated that level of satisfaction felt by the foster parents was consistently higher, and often substantially higher, for the foster care agencies working directly with the families in recruiting, training, direct support, and so forth. For example, although the lead agencies and the Department of Health and Human Services received a basic satisfaction rating in the area of communication in the upper 40% range, the subcontracting foster care agencies had a much higher satisfaction rating of 75%. In the answers to the question dealing with timeliness of responses to requests made by foster parents, the lead agencies scored a 53% satisfaction rating, and the Department of Health and

Human Services scored a 49% satisfaction rating, while the foster care agencies scored a 73% satisfaction rating. There was one area where the responses reflected a relatively low level of satisfaction for the performance of the entire system, and that was in regard to the adequacy of the information being provided to the foster parents prior to placement of the foster child in their home. In fact, this was the lowest satisfaction levels recorded for the system generally, including all subject areas.

The survey of biological parents who had recently been involved in the Nebraska child welfare system also produced some very interesting results. Of the biological parents who took the survey, approximately 82% indicated that one or more of their children had been placed outside of their home during the course of their involvement in the system. Also, nearly half of the biological parents surveyed indicated that they had more than two caseworkers in a twelve month period. As with the survey of the foster parents, the survey of biological parents tried to determine how the biological parents who were surveyed reacted to the system, and to learn their perspective on how well the system had met their needs in a number of specific areas. The basic level of satisfaction of the biological parents with the system as measured by the survey indicated that there was a very low level of satisfaction in several areas, specifically with regard to communication, the timeliness of caseworkers' responses to parents' requests, problem-solving by the caseworkers, and the assistance provided by the caseworkers in finding community resources and services. By far the lowest satisfaction rating received from the biological parents were seen in the area of the timeliness of the caseworkers' responses to the parents' requests. More often than not, the lead agencies scored a higher satisfaction rating among the biological parents than did the Department of Health and Human Services, however, there were three notable exceptions to this pattern. The Department of Health and Human Services scored higher than the lead agencies in the areas of handling visits, meeting the psychological needs of the children, and meeting the children's medical needs. Results of the survey also suggested that only approximately one-third of the biological parents felt that their caseworker was adequately involving them in their children's lives and in the case progress, while barely more than half of the biological parents surveyed felt that their caseworker was truly hoping that the biological parents would eventually succeed in being reunited with their children. Finally, one of the more disturbing and worrisome results of the survey of the biological parents was that which indicated that as many as 21% of the cases had been supervised by four or more caseworkers in a year's time.

After the surveys were completed, the Public Counsel's Office prepared a Report

on the survey results, and presented that Report to the Health and Human Services Committee for its consideration. Since the biological parents and foster parents are people who are in a position that will allow them to see the foster care system as it truly is, it was our hope that the overall results of the surveys would help to provide some insights into how effectively the Nebraska child welfare system was functioning, and also provide a sense of the level of satisfaction that foster and biological parents were feeling with the system's several components. We also hoped that the surveys would offer the foster and biological parents a meaningful opportunity to at least “have their voices heard” over the background noise of advocates, administrators, etc., without their opinions be filtered by the proponents or opponents of “privatization,” who may have a point of their own that they would want to make.

STATISTICAL ANALYSIS

The following tables illustrate the size, nature, and distribution of the caseload of the Nebraska Public Counsel's Office for 2011. In 2011, the Public Counsel's total caseload was 2,302 cases. This year's caseload total is consistent with the caseload totals that the Public Counsel's Office has experienced over the last decade. In the last nine years, the Public Counsel's Office has tended to record an annual caseload at or slightly above the 2,300 case plateau. This fact is reflected in the following annual caseloads:

2003	-	2,291 cases
2004	-	2,290 cases
2005	-	2,174 cases
2006	-	2,290 cases
2007	-	2,250 cases
2008	-	2,114 cases
2009	-	2,328 cases
2010	-	2,346 cases
2011	-	2,302 cases

The two obvious exceptions to this 2,300 caseload plateau were in 2005 and 2008, nevertheless the fact that in all of the last three years the Public Counsel's caseload has reached the 2,300 level certainly suggests that the annual caseload has "settled in" at that level. It would not be surprising, however, to see the caseload for 2012 be significantly higher, mostly due to an increase in complaints from local jails, together with many more cases dealing with services being provided by the State to developmentally disabled individuals.

It was in 2008 that the jurisdiction of the Public Counsel's Office was extended to cover local jails. In 2009, the first full year that the office had this new jurisdiction over jails, the Public Counsel's Office received 199 jail-complaint cases. This number of cases remained steady in 2010, when the Office received a total of 204 jail-related complaints. In 2011, however, we have begun to see the onset of a gradual increase in jail cases, with a total of 219 such cases. Although this is still a relatively small number of these jail cases, nevertheless it is, in essence, a 10% increase over the total number of jail cases in 2009 and 2010. The expectation is that the number of jail complaints received by the office will continue grow over the next several years.

**TABLE 1
SUMMARY OF CONTACTS 2011**

Month	Total Inquiries	Complaint	Information
January	191	173	18
February	176	164	12
March	237	218	19
April	169	152	17
May	194	183	11
June	213	200	13
July	190	170	20
August	202	186	16
September	196	176	20
October	203	188	15
November	161	149	12
December	170	154	16
TOTAL	2302	2113	189

TABLE 2
OMBUDSMAN CONTACTS 2011

	Total Logged Inquiries	Total Logged Complaint	Pending Complaint	Justified	Unjustified	Partially Justified	Discontinued	No Jurisdiction	No Jurisdiction But Assisted	Total Logged Information	Info Cases Pending
January	191	173	0	19	53	50	32	6	13	18	0
February	176	164	0	27	41	46	29	8	13	12	0
March	237	218	2	29	60	56	45	6	20	19	0
April	169	152	0	20	35	46	36	6	9	17	0
May	194	183	4	26	42	53	42	6	9	11	0
June	213	200	0	34	40	69	43	6	8	13	0
July	190	170	10	24	34	35	52	5	10	20	0
August	202	186	7	23	37	60	38	10	11	16	0
September	196	176	11	30	34	44	43	6	9	20	0
October	203	188	12	31	52	44	33	10	6	15	0
November	161	149	6	30	36	43	19	10	5	12	0
December	170	154	15	28	36	33	20	8	14	16	0
TOTAL	2302	2113	67	321	500	579	432	87	127	189	0

% of TOTAL	100%	92%	3%	14%	22%	25%	19%	4%	6%	8%	0%
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TABLE 3
ANALYSIS OF NO-JURISDICTION CASES - 2011

	Total No Jurisdiction Cases	Federal Jurisdiction	County Jurisdiction	Municipal Jurisdiction	Other Subdivisions of Government	Legislative or Policy Issues	Issues Before Courts	Private Matters Between Individuals	Issues Involving Governor or Staff
January	19	3	0	2	0	0	8	6	0
February	21	2	2	1	1	0	10	5	0
March	26	1	5	0	0	1	6	13	0
April	15	1	3	0	1	0	7	3	0
May	15	1	1	1	1	1	2	8	0
June	14	2	2	1	1	0	4	4	0
July	15	0	6	1	0	0	5	3	0
August	21	1	5	2	1	0	11	1	0
September	15	3	2	1	0	0	4	5	0
October	16	3	1	1	0	0	10	1	0
November	15	2	2	1	0	3	5	2	0
December	22	1	3	2	0	0	8	8	0
TOTAL	214	20	32	13	5	5	80	59	0

PERCENT	100%	9%	15%	6%	2%	2%	37%	28%	0%
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**TABLE 4
MEANS OF RECEIPT AND LOCATION 2011**

MONTH	Location					Means of Receipt				
	Metropolitan Lincoln	Metropolitan Omaha	Non Metropolitan	Out Of State	State Instiution	Letter	Visit	Telephone	Email	Fax
	C I	C I	C I	C I	C I	C I	C I	C I	C I	C I
January	27 7	21 1	46 6	2 1	77 3	89 4	5 2	66 8	13 4	0 0
February	32 5	13 0	38 4	1 0	80 3	82 2	3 1	67 5	11 4	1 0
March	44 4	18 2	46 3	4 4	106 6	118 5	7 0	74 8	18 6	1 0
April	26 4	12 2	30 6	5 2	79 3	83 2	2 0	57 13	10 2	0 0
May	38 3	11 0	47 2	1 0	86 6	92 3	4 0	77 3	10 5	0 0
June	39 1	14 4	53 5	3 1	91 2	105 2	0 0	82 8	13 3	0 0
July	23 3	8 2	51 6	6 1	82 8	87 7	5 0	63 9	13 4	2 0
August	25 3	20 3	45 6	7 0	89 4	98 3	7 0	71 10	10 3	0 0
September	35 3	15 1	41 10	5 2	80 4	81 7	6 0	77 9	12 4	0 0
October	23 6	23 1	31 5	2 1	109 2	111 1	1 0	59 13	16 1	1 0
November	24 3	14 1	37 4	2 1	72 3	80 2	7 0	51 7	11 3	0 0
December	28 6	19 1	28 5	5 1	74 3	81 3	4 1	61 10	8 2	0 0
TOTAL	364 48	188 18	493 62	43 14	1025 47	1107 41	51 4	805 103	145 41	5 0

* C = Complaints, I = Information

**TABLE 5
OFFICE OF THE OMBUDSMAN - 2011 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	2	0	2	4	2	1	2	1	1	1	0	17
Aging	0	0	0	0	0	1	0	0	0	0	0	0	1
Agriculture	1	1	0	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	1	0	0	0	1	0	1	1	3	1	0	1	9
Auditor	0	0	1	0	0	0	0	0	0	0	0	0	1
Banking	0	1	0	0	0	0	0	0	0	0	0	0	1
Brand Committee	0	0	0	0	0	0	0	0	0	0	0	0	0
Claims Board	0	0	0	0	0	0	0	0	0	0	0	0	0
Corrections	79	78	101	71	86	85	83	85	78	99	65	68	978
County	0	3	4	7	3	1	5	3	1	2	0	1	30
Courts	7	7	5	6	1	8	4	13	4	13	6	9	83
Crime Commission	0	0	0	0	0	0	0	0	0	0	0	0	0
Economic Development	0	0	0	0	0	0	1	0	0	0	0	0	1
Ed. Lands & Funds	0	0	0	0	0	0	0	0	0	0	0	0	0
Education	1	1	0	1	0	0	0	1	0	1	0	1	6
Environmental Quality	1	1	1	0	0	0	1	0	0	1	0	1	6
Equal Opportunity	0	0	0	0	0	0	0	2	2	1	0	0	5
Ethanol Authority	0	0	0	0	0	0	0	0	0	0	0	0	0
Educational Television	0	0	0	0	0	0	0	0	0	0	0	0	0
Fair Board	0	0	0	0	0	0	0	1	0	0	0	0	1
Federal	0	2	1	0	1	2	0	0	1	0	3	1	11
Fire Marshal	1	0	0	0	1	0	0	0	0	0	0	0	2
Foster Care Rev Bd	0	0	0	0	0	1	0	1	0	0	0	0	2
Game and Parks	1	0	0	0	0	1	1	0	0	0	0	0	3

Governmental Subdivision	1	0	0	2	0	0	2	0	2	0	0	3	10
Governor	0	0	0	0	0	0	0	0	0	0	0	0	0
Nebraska Commission for the Deaf and Hard of Hearing	0	0	0	0	0	0	0	0	0	0	0	0	0
Hearing Impaired	0	0	1	1	1	0	0	0	0	0	0	0	3
HHS Benefits	12	13	12	19	23	21	15	14	13	10	18	13	183
HHS BSDC	0	0	3	0	0	0	0	0	0	1	0	0	4
HHS Child Welfare	19	20	20	10	17	14	18	20	22	20	16	20	216
HHS Misc	12	7	11	4	11	12	11	11	12	12	8	6	117
HHS Regional Centers	1	11	8	7	7	5	5	8	9	2	5	2	70
HHS Regulation	5	0	1	1	1	4	1	1	1	0	4	1	20
HHS Vets Homes	0	0	1	3	1	0	2	0	1	0	0	1	9
HHS Visually Impaired	0	0	0	0	0	0	0	0	0	0	0	0	0
Historical Society	0	0	0	0	0	0	0	0	0	0	0	0	0
Indian Comm	0	0	0	0	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	2	0	0	0	0	0	0	0	0	2
Investment Council	0	0	0	0	0	0	0	0	0	0	0	0	0
Labor	7	0	3	4	1	4	3	1	2	0	5	1	31
Legislative	6	3	6	4	3	4	5	2	4	8	3	6	54
Library Comm	0	0	0	0	0	0	0	0	0	0	0	0	0
Liquor Control	0	0	0	0	0	0	0	0	0	0	0	0	0
Mexican Amer Comm	0	0	0	0	0	0	0	0	0	0	0	0	0
Motor Vehicles	0	0	1	0	1	1	3	0	2	0	1	3	12
Mtr Veh Dealers Lic Bd	0	0	0	0	0	0	0	0	0	0	0	0	0
Municipal	2	1	1	0	1	0	0	1	0	1	2	0	9
National Guard	1	1	0	0	0	0	0	0	0	0	1	0	3
Natural Resources	0	0	0	0	0	0	0	0	1	0	0	0	1
Pardons Board	1	1	0	1	0	0	0	1	0	0	1	0	5

Parole Board	0	0	4	1	1	3	2	2	0	4	2	2	21
Patrol	1	0	1	0	0	0	0	0	2	1	1	1	7
Personnel	0	1	0	0	0	0	0	0	0	0	0	0	1
Private Matter	3	5	11	6	6	3	3	4	8	3	3	8	63
Probation Adm	0	0	2	0	0	0	0	1	2	2	0	1	8
Public Service Comm	1	0	0	0	1	0	0	0	1	0	0	0	3
Real Estate Comm	0	0	0	0	0	0	0	1	0	0	0	0	1
Retirement Systems	0	0	1	0	0	0	0	1	0	0	0	0	2
Revenue	0	0	3	2	1	4	0	0	2	0	0	2	14
Risk Management	0	0	0	0	0	0	0	0	0	0	0	0	0
Roads	3	0	0	1	1	2	0	3	0	1	0	0	11
Secretary of State	0	0	0	0	0	1	0	0	0	0	1	0	2
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	0	0	0	0	0	1	0	1	0	2
Status of Women	0	0	0	0	0	0	0	0	0	0	0	0	0
Electrical Division	0	0	0	0	0	0	0	0	0	0	0	0	0
Treasurer	4	3	4	2	0	1	1	4	1	1	0	0	21
University	1	1	1	0	0	0	0	3	0	0	0	2	8
Veterans Affairs	0	1	0	0	0	0	0	0	0	0	0	0	1
Commission for the Blind	0	0	0	0	0	0	0	0	1	0	0	0	1
Racing Commission	0	0	0	0	0	0	0	0	0	0	0	0	0
Capitol Commission	0	0	0	0	0	0	0	0	0	0	0	0	0
HHS-Juv Justice	0	1	0	0	0	0	0	1	0	1	0	0	3
HHS-Juv Justice - Geneva	0	1	3	0	1	0	0	0	0	1	0	0	6
HHS Juv Justice-Kearney	0	0	0	0	0	0	0	0	0	1	1	0	2
County Jail	20	10	26	13	18	32	21	18	16	16	13	16	219
Athletic Commission	0	0	0	0	0	0	0	0	0	0	0	0	0
Board of Public Accountancy	0	0	0	0	0	0	0	0	0	0	0	0	0

Table 6
Case Duration Report

Days Open	Record Count	% of Total
1	229	10%
2	87	4%
3	55	2%
4	60	3%
5	68	3%
6	69	3%
7	79	4%
8	58	3%
9	31	1%
10	33	1%
11	29	1%
12	37	2%
13	36	2%
14	40	2%
15	31	1%
16	18	1%
17	19	1%
18	16	1%
19	21	1%
20	20	1%
21 to 30	155	7%
31 to 60	232	10%
Over 60	812	36%

APPENDIX

PUBLIC COUNSEL ACT

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

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

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

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

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

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

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

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

recommendations, and proposals.

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

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

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

revealed; or

- (6) Inefficiently performed.

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

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

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

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

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

81-8,249.

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

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

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

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

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

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

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

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

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.