

## **Ombudsman Case Notes**

### ***Ward's Emails Lost to Spam Filter***

The Office of Public Advocacy was appointed as the public guardian for a disabled woman. The woman wanted to receive extra spending money from her account and she needed to receive a new Medicaid card so she could receive physical therapy, but the public guardian was not responding to emails sent by the ward or her care coordinator.

The Ombudsman advised the ward to address the requests for additional funds through the grievance process, but offered to follow-up with the agency to determine why the agency was not responding to her request for a replacement Medicaid card.

The Ombudsman soon learned that the ward's emails were being diverted to a Spam folder after the ward had sent inappropriate emails to the public guardian. The guardian was supposed to be checking the Spam folder once a week, but this did not appear to be the case because the ward's emails went unanswered. This, however, did not explain why the public guardian was not responding to the care coordinator's emails.

By the time the Office of Public Advocacy received the client grievance, the public guardian had provided the ward with the majority of her permanent fund dividend check, which resolved the money issue.

After the Ombudsman contacted the Office of Public Advocacy Supervising Attorney many times, a Medicaid card was finally issued to the ward. Although the ward's issues were resolved through the Office of Public Advocacy grievance process and through contact with the Ombudsman, the problems the ward encountered due to the agency being non-responsive may be included in an open Ombudsman-initiated investigation of the Office of Public Advocacy. (A2015-2505)

### ***Waiting and Waiting For Food Stamps***

The complainant contacted the Ombudsman because the complainant's application for food stamps had not yet been processed after three months. Repeated calls by the complainant to the Division of Public Assistance resulted in a response of "We're still working on it." The Ombudsman contacted the Division of Public Assistance to find out about the delay. A manager reviewed the case and determined it had been pended, but it could be processed with just one additional item needed from the complainant. The manager forwarded the case information to a supervisor who was directed to contact the complainant for the necessary information. The supervisor then contacted the Ombudsman the following day and relayed that the application had been processed. (A2016-0219)

### ***Grandfather Denied Placement, Visitation***

The complainant contacted the Ombudsman because he believed the Office of Children's Services caseworker judged him negatively as a placement option for his grandchild simply because he has a woodstove. He also complained that the Office of Children's Services was not allowing him to have visitation with his grandchild who was hospitalized out of state.

The Ombudsman did not find evidence to support his allegation of wood-stove prejudice. The issues addressed during the home visit appeared to be valid safety concerns for when the child would become mobile, because the child could easily come in contact with the hot wood stove. Although there were no immediate safety concerns due to the young age of the child, the potential concerns were brought to the complainant's attention so he could address them once the child became mobile and was moving about the house.

Ombudsman review showed that the Office of Children's Services was not keeping the complainant from visiting his grandson. The child was admitted to the hospital for surgery to correct a medical condition and, while the complainant was at the hospital with the child, hospital staff observed the complainant, his spouse, and his daughter (the mother of the child) acting erratically and inappropriately. Therefore, the hospital staff notified the Office of Children's Services that they could not allow them to visit the child without supervision.

The hospital did not have staff to supervise visits and the Office of Children's Services did not have anyone on scene. The Office of Children's Services supervisor tried to work with the hospital to arrange a final visit for the family prior to returning to Alaska, but the hospital was not able to accommodate their request. Under the circumstances and despite the supervisor's efforts, it did not appear that the supervisor had the authority to force the hospital supervise a visit. The child has since been returned to Alaska where the agency can supervise visitation. (A2016-0131)

### ***Zombie Taxes Reanimate After 30 Years***

Alaska employers are required to file quarterly unemployment insurance (UI) tax returns and pay into the trust fund that provides unemployment benefits. A couple of businesses went under and left behind unpaid UI taxes, not to mention unemployed workers. This would not have been remarkable, except that the delinquent taxes were due in the 1980's and were still on the books at the Employment Security Tax office (part of the Department of Labor and Workforce Development, Division of Employment and Training Services) about 30 years later.

In 2014, the Employment Security Tax (EST) office decided to reanimate several hundred ancient tax accounts, and began sending out "Statement of Account" notices. EST also began attaching bank accounts. Two former business owners complained to the Ombudsman, alleging that it was unfair and possibly illegal for the state to resume trying to collect the UI taxes. One of these former employers had not been in contact with EST for 19 years; for the other former employer, it had been 27 years. Both of the debtors had been in Alaska for most of last 30 years. They were not particularly hard to find.

Collection of UI taxes is subject to a five-year statute of limitations under AS 23.20.270. But the Attorney General's Office advised EST that as long as the agency served a Notice of Assessment on the debtor within five years of the unpaid tax, the statute of limitations would not run. The Ombudsman suggested that EST check with their Assistant Attorney General about whether

that really made sense. EST said that they were advised that they were on a sound legal footing.

The statements sent to the debtors included interest assessed at 12 percent per year since January 1999, so that by 2015 the agency was assessing 17 years' worth of interest for years in which EST had taken no action whatsoever to collect the outstanding tax debt. This roughly tripled the debt, compared to the original 1980's delinquencies.

The Ombudsman concluded that even if these delayed collection efforts were legal, they were not fair and equitable. Unpaid UI taxes carry a statutory rate of interest of 12 percent per year, providing a potential rate of return comparable to a Madoff investment fund. The Ombudsman concluded that EST should not profit from burying these tax accounts and then digging them up to demand payment decades later. The Ombudsman recommended that EST write off accrued interest on all pre-1999 UI tax accounts and pursue only the original taxes due (principal). The agency accepted the recommendation. (A2015-1199, A2015-1374)

### **DOC Name Game**

An inmate called to complain that the Anchorage Correctional Complex staff refused to acknowledge him by his legal name when processing his outgoing mail. The inmate had legally changed his name in 2009 by court order. However, despite this, ACC staff insisted that he use his former name. He said he'd also had the same problem while incarcerated at Goose Creek Correctional. Because of this, both his outgoing correspondence and legal filings to the court had been returned and weren't mailed out by DOC.

The Ombudsman attempted to resolve the issue by contacting the facility's assistant superintendent, but was instead referred back to the facility standards officer. Unfortunately, the referral was futile. Despite acknowledging the inmate did have a legal name change, the facility standards officer justified the ongoing practice of requiring the inmate to address his outgoing correspondence with his committed name, citing to DOC policy 810.03 as authority. However, contrary to the FSO's assertion, the Ombudsman noted that this policy did not require that an inmate address their outgoing correspondence with their committed name. It stated simply, "prisoner name." The prisoner's name was legally changed in 2009 by court order. If he continued to address his mail with his former name, the Ombudsman noted that this practice in fact would violate DOC policy as written.

After contacting DOC's Director and Deputy Commissioner, the complaint was resolved. The director confirmed that if DOC had a copy of the court order, he would ensure that ACOMS was updated to reflect the inmate's legal name change and that he would notify staff that they should allow the inmate to address his outgoing correspondence with his legal name. The Deputy Commissioner also acknowledged that if an inmate had legally changed their name, they should be able to address their mail with their legal name. Current DOC policy does not support requiring an inmate who had legally changed their name to address outgoing correspondence with a former name, contrary to what the FSO told the Ombudsman. The Ombudsman obtained a copy of the court order documenting the legal name change, provided it to the agency director, and the complaint was resolved. (J2016-0080)

### ***Travel Voucher Confusion Straightened Out***

A Southcentral woman receiving Medicaid benefits complained that the Division of Health Care Services (DHCS) would not approve travel vouchers for her so that she could be treated by her dentist and her eye doctor for injuries sustained in a car accident.

In response to her complaint, the Ombudsman contacted the DHCS Transportation Program Manager to discuss the complaint. The manager reviewed the complainant's case and determined that the agency had not denied any travel assistance requests for the complainant. In fact, several requests had been approved through the end of that month. If the agency had denied any requests, a denial notice would have been issued and it would include notice of the recipient's right to appeal. The Ombudsman determined that it was likely that the complainant had received incorrect information from her medical provider or the agency's fiscal agent. The Ombudsman relayed this information to the complainant and referred her to the manager who was willing to discuss the transportation assistance request and approval process directly with the complainant.

The Ombudsman then closed the complaint. (A2016-0745)

### ***EMS Rules Change, Regulations Don't***

An Anchorage woman complained that the Division of Public Health, Emergency Medical Services (EMS) section was advising EMT instructors that they are no longer required to take the EMT exam for recertification, which is required by regulation, creating a potential threat to public safety.

The agency acknowledged that it is no longer requiring EMS instructors to retest and pass the certification exam biennially in order to be recertified, which is at odds with existing regulation. However, the agency said that it was in the process of changing its regulations to eliminate the re-testing requirement.

While this complaint was open, the division director responded to the Ombudsman complaint in writing and outlined in detail numerous reasons for the change in practice ahead of regulatory changes. The agency explained that the change in practice was made based on a federal assessment and in an effort to bring Alaska's certification and training of its EMS instructors in alignment with national standards. The agency provided the following reasons for its decision to eliminate the instructor retesting requirement: (1) decreasing availability of EMS standardized tests outside the national testing platform; (2) existing concerns regarding potential overexposure of Alaska's EMS tests; and (3) support for the state's adoption of national standards for EMS by the Alaska Council on EMS and the EMS regions. The division stated that the changes were made in consultation with the Attorney General's Office and they are now in the process of drafting changes to regulation to match current practice.

Based on review of the available information, the division's response and explanation of the change in practice and proposed changes to regulations appear sound and reasonable. The Ombudsman also found that it was unlikely that the elimination of the certification exam retesting requirement would present a public safety threat. That is because while EMT instructors are no longer required to retest and pass the certification exam - a test they previously took and passed, they are still required to demonstrate their competency for recertification through ongoing, new, and increased training and education requirements.

The Ombudsman relayed this information to the complainant in writing and closed the complaint. (A2016-0316)

### ***Parole Revocation Based on Overturned Results***

An inmate complained that the Palmer Correctional Center reported to the Parole Board that the complainant had failed a drug test, but his disciplinary finding was later overturned because proper UA procedures were not followed.

The circumstances in this case were that the complainant, an inmate, received a write-up for a high-moderate infraction – contraband and failure to pass a drug test – around the same time that he was due to be released on mandatory parole. DOC held a disciplinary hearing and found the complainant guilty of the infraction. The complainant appealed the decision and several weeks later DOC reversed the decision and dismissed the disciplinary case.

In the interim, the Board held a parole revocation hearing and, based on the guilty finding in the disciplinary case, which was still valid then, the Board revoked his parole. The decision the Board made was based on the information it had at the time that there was probable cause to believe that the complainant had violated the conditions of his parole. The Board's decision was in accordance with established guidelines.

The Ombudsman contacted the Board administrator to discuss the fact that the disciplinary case had been dismissed on appeal and to determine if the board had yet held or scheduled a final hearing on the parole revocation on this matter as this was the next step in the administrative process. The administrator stated there was a final hearing scheduled the following week, however, based on this new information, the administrator advised that she would review the matter to determine if it was appropriate to quash the parole warrant.

That same day, the Board issued a Parole Warrant Action to quash the parole warrant as the disciplinary case that resulted in the parole revocation had been dismissed on appeal and the inmate was promptly released from DOC custody.

In the review of this complaint, the Ombudsman also learned that the institutional probation officer had notified the Board that the disciplinary case had been dismissed via e-mail on the day of the dismissal. The Board staff member who received the e-mail filed it in the complainant's parole file and failed to follow up on the information.

The Ombudsman addressed this with the Board Administrator who advised that the Board would be addressing this situation in its upcoming meeting. The administrator also said that she has now asked the institutional probation officers to provide information such as this to the entire Board staff and not just one member to prevent this from happening again in the future. In addition, the administrator said that the agency will be incorporating this type of issue in its training on the rescission process in its annual academy training.

The Ombudsman closed the complaint as resolved. (A2016-0520)

### ***OCS Leaves Grandparents in the Dark***

A grandmother complained to the Ombudsman that OCS had placed her grandchild with another relative without ever contacting her for placement and now refuses to allow unsupervised visitation for arbitrary reasons.

During investigation of the complaint, the Ombudsman added a second allegation specifically that OCS failed to notify the grandparent of both court hearings and administrative reviews in a Child in Need of Aid case as required by state statute and agency policy.

Based on the Ombudsman's review, both allegations were justified. OCS did not contact the paternal grandparents for placement of their grandson when agency staff concluded protective custody was necessary. Instead, the agency placed their grandson with the maternal grandmother on an emergency basis, without making any contact with the paternal grandparents. OCS did not invite the paternal grandparents to a team decision meeting, even though agency staff knew how to contact them.

OCS failed to timely notify the paternal grandparents that the agency had taken custody of their grandson, without providing a reasonable explanation for this failure. After contacting the attorney general's office, the Ombudsman learned that the assigned AAG eventually sent the paternal grandparents a copy of the petition for custody five months after-the-fact and notice of one hearing, but the paternal grandparents did not attend the hearing. However, OCS then failed to notify the paternal grandparents of any other court hearings or any administrative reviews held by the agency as required by state statute and OCS policy 6.6.3. The Ombudsman has previously investigated this systemic issue and made recommendations to both OCS and the Department of Law. Despite this, the lack of consistent grandparent notification and inclusion in the CINA court process is an on-going problem for the agency. The Ombudsman requested that the OCS worker update the agency's records to ensure that the paternal grandparents are notified about any future court hearings or administrative reviews.

OCS asserted that the paternal grandparents could not have unsupervised visits with their grandson because the paternal grandmother was not protective and might allow her son to have unsupervised visits with the grandchild. However, even after the son was no longer living in the home, the agency continued to require supervised visits and did not reasonably articulate what the ongoing safety concerns were. Curiously, the maternal grandparent, who is the adoptive placement, did not share the agency's safety concerns. The Ombudsman advised the complainant that although the agency's decision did seem unfair, the Ombudsman cannot force the agency to change its position on this issue. The complainant is able to have weekly supervised visits with her grandson and once the maternal grandparent adopts the child next month, the maternal grandparent is agreeable to providing the complainant with liberal visitation. (A2016-0403)

### ***Inmate Gets Wheels***

An inmate with multiple medical conditions contacted the Ombudsman for assistance getting a wheelchair. He said that DOC medical staff had ordered for him to have one but that security staff told him he could not use it within his housing unit. The Ombudsman contacted DOC's chief medical doctor and learned that the medical staff had ordered the use of a wheelchair for long distances but was trying to encourage the complainant to use a DOC-provided walker for shorter distances. The doctor explained that some of the complainant's medical conditions are made worse by prolonged sitting. However, he did agree to have the facility health provider

meet with the complainant to ensure that his needs were being met. The complainant later called back and informed the Ombudsman that DOC had changed the medical order to allow him to use the wheelchair within his housing unit. (A2016-1058)

### ***Confusion About State Lien Cleared Up***

A Southcentral woman complained that the Department of Health and Social Services, through the Attorney General's Office, recently refiled a lien to recover medical assistance costs paid on behalf of the complainant. She said the state had already recovered those costs from a cash settlement she had received.

The Ombudsman learned that the state had sought to recover medical expenses paid by Medicaid in two separate matters. The first case related to a national tort lawsuit in which the complainant was a plaintiff and received a cash settlement late last year. The second case related to a subrogation matter arising out of a car wreck several years prior in which the complainant was involved.

For the first case, the state had already received reimbursement from the complainant's settlement proceeds after she signed a settlement agreement and the case was settled through a third party lien administrator.

For the second case, there is an active civil lawsuit involving the complainant in which the state is seeking Medicaid reimbursement for medical expenses the complainant incurred in the car accident. When the lawsuit was first opened, the state filed a lien but later released it when they learned that the complainant was at fault and would not receive an award. The state most recently refiled the lien when the state learned that the lawsuit was active again and the complainant was now seeking an award in the lawsuit.

The Ombudsman determined in speaking with the complainant that she had confused the two cases and believed that the lien the state had recently re-filed was for additional Medicaid reimbursement from the tort lawsuit. The Ombudsman clarified the state's role in both matters, which the complainant seemed to now understand. (A2016-1411)

### ***Diabetic Inmate's Diet Passes Ombudsman Muster***

An inmate complained that the Department of Corrections failed to consistently provide him with a high protein diabetic diet as ordered by DOC Medical.

The Ombudsman learned DOC has prescribed and continues to prescribe a diabetic diet for the complainant and recently renewed the complainant's annual diabetic diet order including the order to provide extra protein to the complainant for the breakfast meals in which certain high carbohydrate food items are served.

While this complaint was open, the facility medical provider and DOC medical doctor reviewed the complainant's case and said his blood sugar was stabilized and his weight and BMI were normal, indicating he is receiving adequate and appropriate nutrition. Also, the DOC medical records reflect that for the last few months, DOC medical staff have been closely monitoring the complainant's diabetes and seeing him almost daily.

Just prior to filing this complaint, it appears there may have been a few times when the complainant did not receive the substituted protein for his breakfast meals as ordered by DOC medical. However, DOC addressed and resolved the issue after the complainant filed a grievance on the matter.

The Ombudsman explained to the complainant that in this case it appeared DOC has followed its policies and procedures and established guidelines with regard to his diabetic diet. (A2016-1006)

### ***Disabled Father's Child Support Debt Cut***

A disabled father contacted the Ombudsman for assistance to reduce his monthly child support obligation and past child support arrears. The Ombudsman confirmed with CSSD staff that the Social Security Administration recently determined that the complainant was disabled and had filed a request for modification of his support obligation based on his disability status. However, both state and federal law prohibited retroactive modification of any child support arrearage that had accumulated while the complainant's disability application was pending. CSSD cannot retroactively modify a child support arrearage unless there is a binding decision disestablishing paternity to a child. That was inapplicable in the complainant's case.

Social Security disability payments are not exempt from garnishment for child support obligations. CSSD was within its legal authority to seize a portion of the complainant's disability payments to partially satisfy his past child support obligation. The payment was appropriately applied to his arrearage balance. However, as of this writing, CSSD is in the process of calculating a new monthly support amount based on the complainant's disability and change in income. This should substantially reduce the amount of his monthly support obligation.

The Ombudsman also provided information to the complainant about how he could to apply for Social Security Children's Insurance Benefits for his children. If the application is approved by the Social Security Administration, CSSD would then be required to offset any benefits paid to his children against his monthly child support obligation. This could reduce the amount of child support arrearage the complainant is obligated to pay.

The complainant verified with the Social Security Administration that his son had qualified for this monthly insurance benefit. He requested CSSD apply the monthly CIB payment to his outstanding child support obligation as suggested by the Ombudsman. CSSD complied, and this action resulted in reducing the sum due by over \$10,000. Any future monthly child support obligations will also be offset by the monthly child insurance benefit, reducing the complainant's ongoing monthly support obligation to zero.

The Ombudsman also confirmed with CSSD that though the complainant's social security disability benefits would continue to be withheld to satisfy outstanding arrears, the monthly withholding order would be substantially reduced, a \$500/month reduction. (A2016-1200)

### ***Inmate Loses on Shorts and Shoes***

An inmate housed at Spring Creek Correctional Center complained that the employees harassed him by treating him differently than other inmates at the institution. He said that Spring Creek staff confiscated his shoes during a disciplinary incident and then refused to return them unless he removed metal buckles from the shoes, which damaged the shoes. He felt this was unfair

since he had been approved to purchase the shoes without any modifications by both medical and property staff at the facility. In addition, other inmates at the facility have the same shoes, without any required modifications. He also took issue with Spring Creek staff confiscating a pair of his shorts because they contained too much polyester. The staff then disposed of the shorts without proper notice to the inmate. He contacted the Ombudsman seeking reimbursement for his property.

Many of the complaint allegations raised by the inmate occurred several years prior to his contact with the Ombudsman. Accordingly, the Ombudsman advised the complainant that these allegations were untimely for investigation. However, the Ombudsman agreed to review two property issues, specifically whether staff intentionally damaged the inmate's shoes and whether the staff improperly disposed of his shorts.

There was insufficient evidence to conclude that the corrections staff damaged the complainant's shoes. However, there was documented evidence showing that multiple staff had previously approved the shoes. Other staff then asserted the shoes were no longer approved items, and confiscated the shoes from the inmate and forced him to remove metal buckles from the shoes before he could get them back. The Ombudsman could not get a clear explanation from the current superintendent why there was an obvious inconsistency in the staff's actions. As a result of subsequent staff's determination that the shoes were no longer allowable property, the inmate was forced to remove metal buckles from the shoes before he could get them back, resulting in permanent damage to the shoes. He also asserted that corrections officers had further damaged the shoes by slicing air bubbles on the sides of the shoes before they returned them to him. However, there was insufficient evidence to support this allegation.

Regarding the alleged improper disposal of the inmate's shorts, the Ombudsman concluded this allegation was without merit. (A2016-0315)

### ***Early API Releases Highlight Interrelated Problems***

In complaint **A2015-1157** the Ombudsman received a complaint that Alaska Psychiatric Institute released a patient with late-stage cancer who was unable to take care of herself adequately. The patient fell and broke her leg within 12 hours of leaving the institution.

The Ombudsman determined that the patient's court-appointed guardian placed the client in an unsafe housing situation due to the inability to find a long-term care provider willing to take her. As a result, the client was placed in a hotel after she was discharged from API, lacked appropriate supervision after discharge, and subsequently fell down the stairs injuring herself. The client was considered a difficult-to-place client and had been evicted from other housing. The guardian participated in the discharge planning team meeting, but objected to the plan and wanted the patient kept at the facility longer. However, ultimately, as the patient's guardian, she was responsible for finding appropriate housing.

In complaint **A2015-1656** the Ombudsman received a complaint alleging that Alaska Psychiatric Institute is releasing vulnerable adults without collaborating with other agencies to determine if the release plan is safe.

Alaska law requires that API discharge a patient from its facility if they no longer meet the medical/legal criteria for a continued psychiatric hold. API medical staff determined that the client no longer met the necessary criteria, and discharged the patient. API has limited bed

space and is not a long-term care facility. The agency is required to treat patients based on emergent need and space availability.

The complainant disagreed with a medical decision to discharge a patient from the facility. However, the Ombudsman lacks the necessary medical expertise to second-guess this decision.

API is facing severe staffing shortages and limited bed space to treat patients that are admitted to the facility. As of January 2016, API management reported half the required psychiatric staff available to treat its patients and the closure of one of its treatment units due to the lack of staffing. As a result, some patients have been turned away and sent to other medical facilities for evaluation and treatment. Others are released as soon as they are considered medically stable, even if they will likely destabilize once they are released back to the community.

The case also presented an example of a greater systemic problem; the lack of long-term housing options and case management services available to patients with severe mental illness. Additional funding is necessary to create more housing options for Alaska's aging mental health population and additional community partners are needed to provide case management services to these patients once they have been discharged. This is not a remedy the Ombudsman can provide. DHSS Behavioral Health is working with AHFC and the Alaska Mental Health Trust to expand permanent supportive housing opportunities, and has created the Integrated Housing & Services Unit within this department. The Integrated Housing & Services unit will focus on providing funding to community partner programs who offer wrap-around services to the mentally ill and homeless population. (A2015-1157 & A2015-1656)

### ***Wide-footed Inmate in Shoe Kerfuffle***

An inmate at Goose Creek Correctional Center complained that the facility does not sell the correct size shoe to accommodate his extra wide feet. He said that the facility first denied his request to purchase shoes from an outside vendor because he did not show a medical need. However, once the medical need was verified, he said, the staff still denied the shoe purchase for security reasons. Investigation revealed that the inmate did not have a medical necessity for specialty shoes as he asserted. Wide feet are not considered a medical condition requiring a prosthetic device. In 2013, medical staff had given the inmate their blessing to either order shoes from commissary or have family purchase shoes and send them into the facility, but only with security approval. Security staff denied the inmate's efforts to purchase shoes from an unapproved vendor on several occasions. The Ombudsman explained to him that he would need to order shoes from an approved vendor.

After Ombudsman contact, the facility standards officer (FSO) contacted other vendors to see if they offered the shoe size needed by the complainant and found one that offered the larger, wider sizes. The FSO informed the complainant that he could order the shoes through that vendor but, as of this writing, the complainant had not done so. (A2016-1089)

### ***Mom Stands Up for Incarcerated Son***

The mother of a juvenile delinquent in state custody complained that that her son's probation officer was treating her son unfairly and being much harder on him than was warranted by his relatively minor offense.

The Ombudsman learned that the complainant's son was in state custody following his sentencing on an assault charge. The court ordered that the youth be remanded into state custody and placed in a detention center. The boy was subsequently placed in a residential treatment center after he refused to enter into a conduct agreement with DJJ.

The Ombudsman did not find that DJJ had been excessively punitive toward the youth in its handling of his case and its recommendations made to the court given the youth's prior history of assault, a recent incident of assault, his current behavior toward DJJ, law enforcement, and the court, and the results of his psychological evaluation. Ultimately, the court holds the jurisdiction and authority to decide the repercussions for the youth based on the crime for which he was adjudicated. Thus, the Ombudsman declined further review of the issue.

The Ombudsman referred the complainant to the DJJ formal grievance process if she wished to pursue a grievance regarding specific actions of agency employees.

Regarding the complainant's claim that AST Judicial Services officers used unreasonable force in restraining her son during a court hearing, the Ombudsman referred the complainant to the Department of Public Safety's Office of Professional Standards for information on filing a formal complaint with the department.

The Ombudsman relayed this information to the complainant and closed the complaint. (A2016-0859)

### ***Parents Challenge Relative Placement***

The father of three children in state custody complained that the Office of Children's Services issued a foster license to a family member who lived with an alleged sexual perpetrator and then placed the complainant's children in the foster home.

The Ombudsman learned that the alleged incident of sexual abuse happened years ago when the alleged perpetrator was an adolescent and the alleged victim, who is the complainant's former step-child, was about 8 years old. The complainant's children who are now in custody were placed in a relative's home where their eldest son, the alleged perpetrator, resides. The son is in his late teens.

OCS was aware of the alleged incident and conducted a safety assessment of the home. OCS and the foster parent developed a supervision plan whereby the eldest son is not allowed to be around the complainant's children unsupervised. Ultimately, in its assessment of the home for safety, OCS found no licensing violations and did not have concerns about the well-being of the children in the home. OCS continued the children's placement in the relative home.

The Ombudsman acknowledged the complainant's concern, but advised him that OCS has the discretionary authority to determine the placement of a child in state custody. As the parent of a child in state custody, he has the right to request a placement review hearing, which would allow him an opportunity to bring the matter before the court for a decision. (A2016-0486)

### ***Fisherman Says License Requirement Smells Fishy***

A dip netter in South Central Alaska wrote that the Board of Fisheries should not require personal use fishers to purchase an annual sport fishing license, because personal use fisheries

such as dip netting are not legally the same as sport fishing. The Board of Fisheries had put the license requirement in a regulation, and the complainant contended that the regulation was illegal.

The Ombudsman noted that in statute, "personal use fishing" and "sport fishing" were both defined as taking fish for personal, non-commercial use, and were distinguished by only by gear type. Given the Board's broad authority to regulate both types of fishery, the Ombudsman also doubted that the regulation was illegal. Furthermore, the Ombudsman did not find it inequitable that the personal use fishers are required to purchase an annual license just like sport fishers. The Ombudsman declined further investigation of this complaint. (A2016-1217)

### ***DOC Rejects Inmate's Medications***

The complainant has had coronary bypass surgery, is diabetic, and has macular degeneration. When remanded, he arrived at the Anchorage Correctional Complex with all of his prescriptions and supplements. The Department of Corrections (DOC) medical staff did not use the medications the complainant brought with him, as they consider such medications to be potential contraband, even though they were in labeled containers with the pharmacy contact information. The medical provider on duty substituted the medications he believed were "critical." This meant that the complainant received a smaller daily dose of aspirin, and DOC medical staff substituted a lower dose of a less expensive statin (cholesterol-lowering medication). Then DOC discontinued that statin, and the complainant did not receive any statins for about two weeks. The complainant contacted the Ombudsman, alleging the he was in danger of "sudden death" due to DOC's refusal to provide all of his medications.

The Ombudsman contacted DOC's chief medical officer, who said that after reviewing the complainant's medical records, DOC had decided to prescribe the medications and dosages the complainant had previously received. This was about three weeks after the complainant's remand to DOC custody. The chief medical officer said that the complainant was not in danger, because he had received "life critical" medications, and temporary stoppage of other drugs, such as the statin, did not endanger the complainant.

The complainant had also been taking an over-the-counter supplement formula for "eye health," and alleged that he would go blind from macular degeneration if he was deprived of it. DOC generally does not prescribe supplement formulas, and the supplement combination was not available through DOC's commissary. However, the Ombudsman noted that the National Institute of Health has evidence supporting the use of a specific supplement combination for patients with macular degeneration. The Ombudsman forwarded the information to DOC's chief medical officer and DOC agreed to make that supplement combination available as a non-formulary prescription for inmates with documented macular degeneration. (A2016-1085)

### ***Employee's Widow Too Young For Free Health Coverage***

The complainant enjoyed a long marriage to a state employee who retired in the early 2000's. As a spouse, she was covered under her husband's employee health insurance, and then under his retiree health insurance, for which the state paid the premiums. Her husband had elected a survivor benefit, and apparently he and the complainant presumed that system-paid health insurance was part of the survivor benefit. But when the complainant's husband died, she learned that her health insurance coverage terminated unless she began paying the full

premium (\$832/month). The Division of Retiree and Benefits told her that she was not eligible to receive system-paid insurance until she turned 60 which was four years away. She contacted the Ombudsman.

The Ombudsman reviewed the statutes controlling the retirement health insurance provided by the Public Employees Retirement System (PERS), which in this case were the Tier II provisions in effect when the complainant's husband was hired by the state. The statute governing retiree and survivor's health insurance, AS 39.35.535, required the result that the complainant objected to. The complainant has the option of paying the full premium for the health insurance, but is not eligible as a survivor to have the premiums covered by the state until she turns 60.

The Ombudsman suggested that the Division of Retirement and Benefits (DRB) needs to provide retirees' survivors with better information much sooner. In this case, the survivor apparently did not receive notice of her loss of system-paid coverage until over a month after her husband died; fortunately she had not made any medical claims during that time. DRB has drafted changes to its web page for reporting a retiree's death, including a warning stating: "Depending on your age and the Tier of your deceased spouse, system paid medical coverage may end." DRB also revised the death information form to add an email address field, to facilitate emailing information to the survivor when feasible, instead of waiting for paper mail to be delivered. (A2016-0589)

### ***Ombudsman Plays Tooth Fairy***

The complainant was upset because a dentist had provided dentures that the complainant said were painful, and the dentist's efforts to adjust the fit had failed. Understandably, she wanted a different dentist to do a new set of dentures. However, Medicaid had already paid the first dentist, and would not pay for another set of dentures unless the dentist first returned the money to Medicaid. That dentist was not inclined to the money. He offered to continue trying to make the complainant's dentures fit, a solution satisfactory to Medicaid but not to the complainant.

The Ombudsman referred the complainant to the Alaska Dental Society, a voluntary professional organization with a peer review process. The complainant's dentist was a member. The complainant contacted the Alaska Dental Society. Shortly after that, the dentist agreed to reimburse Medicaid, which freed the complainant to go to a new dentist for replacement dentures. (J2016-0025)

### ***Inmate Wants Prison for Better Medical Care***

The complainant had been shipped from Lemon Creek Correctional Center (LCCC) to Sitka for sentencing. After being sentenced, he called the Ombudsman from the Sitka jail and said that he needed medical attention and wanted to be returned to LCCC immediately because the Sitka jail had no medical staff and would not call anyone to look at him.

The Ombudsman called the Department of Corrections (DOC) medical administrator, and learned that the Sitka jail is run by the Sitka Police Department, so DOC is not responsible for medical care at that jail. The Ombudsman suggested that DOC's medical social worker call the Sitka police department immediately and inquire about the inmate's status, because DOC would soon be responsible for him and for any medical conditions made worse by delay in treatment.

The Sitka police told DOC that the inmate had not requested medical care (contrary to the inmate's version), and that he would be returned to LCCC in four days or maybe in a week. However, DOC's online offender management system showed that Sitka's police department transported the inmate back to LCCC the next day. (A2016-0071)

### ***Resident Miffed at Mat-Su ROW Clearing***

A Mat-Su Valley resident complained that the Mat-Su Borough and private contractors were clearing a state right-of-way without proper permits and not according to specifications determined by the project manager.

The Ombudsman learned that the public project is a Mat-Su Borough capital project which is being constructed on both Mat-Su Borough and Alaska Department of Transportation (DOT) rights-of-way (ROW). The project is being funded through a combination of Mat-Su Borough bond proceeds and a state grant from the Alaska Department of Commerce, Community, and Economic Development. However, this is not a state project nor is the portion of the project that is being done in the DOT ROW being managed or overseen by the state. Rather, the Mat-Su Borough is responsible for the construction and management of the project. The DOT has issued the Mat-Su Borough the proper authorizations and permits for construction of the project in the state right of way. DOT is aware that the project includes land clearing in the state right of way to construct the project, increase the roadside clear zone, and improve drainage.

Thus, because the project is a Mat-Su Borough project and is overseen by the borough, the complaint is non-jurisdictional for the Ombudsman. Further complaints that the complainant may have about the construction and management of the project should be directed to the Mat-Su Borough.

The Ombudsman relayed this information to the complainant and closed the complaint. (A2016-1326)

### ***No Engine. No Inspection. No Title.***

The complainant contacted the Ombudsman after the Division of Motor Vehicles refused to issue vehicle titles for three vehicles that were abandoned on the complainant's property. Because the vehicles were abandoned, the complainant did not possess a vehicle title to transfer ownership. Instead, the complainant followed the procedures to obtain a title for an abandoned vehicle except the vehicle had not been inspected. Due to the lack of titling documents, the Division of Motor Vehicles requires an abandoned vehicle to be inspected to verify that the correct vehicle identification number will be used to create the title document. The complainant stated that the vehicles would not pass an inspection because they were junked vehicles and did not have the equipment required by state and federal law for the vehicles to be considered assembled street legal vehicles. The Division of Motor Vehicles informed the complainant that they could not issue an Alaska vehicle title for vehicles that are not assembled and street legal.

The Ombudsman reviewed applicable statutes and determined that the agency may make any investigation it considers necessary and can require additional information before an application for a vehicle title is approved – such as a vehicle inspection. Additionally, statutes allow the Division of Motor Vehicles to refuse to issue a title for a vehicle that has been scrapped, dismantled, or destroyed beyond repair. The Ombudsman relayed the review findings to the

complainant and informed him that the Division of Motor Vehicles could issue Alaska vehicle titles to the vehicles once the vehicles were in full working order and inspected by the agency. Zoom. Zoom. (A2016-0864)

### ***Ridiculous or Reasonable Rate for Records Request?***

An Anchorage resident wanted motor vehicle records purged off of the Division of Motor Vehicles' (DMV) database for vehicles in his name that were either junked, sold, or no longer in the state to help clean up unnecessary information in DMV records. When the resident contacted the DMV, he discovered that the fee for a vehicle record was \$10 per record and with approximately 33 vehicles registered in his name, he believed the fee was ridiculous. The resident wanted the DMV to print a list of the vehicles and charge \$10 for the list.

The Ombudsman contacted the DMV which stated that vehicle records are not public information and staff must pull each record under a person's name to confirm they are not releasing someone else's information to the requestor. Vehicle records cannot be searched by specific identifying information like a driver's license number, social security number, or date of birth. The Ombudsman confirmed that the vehicle records were not public information and that Alaska Administrative Code required a \$10 charge per vehicle record, which appeared to be reasonable because a staff person would have to verify each record individually before releasing it to the requestor. Although the resident's intentions were thoughtful in helping the DMV increase available space for other records in their system, the DMV was acting in accordance with the statutes and regulations concerning the rate for records requests.

The Ombudsman was, however, able to provide a referral for a data service business that purchases DMV records and would search the records for \$5 per record if the resident wanted to ascertain what vehicles remained in his name. (A2016-0844)

### ***Widow Disputes ME Finding***

A citizen of a foreign country complained that the Medical Examiner should have performed an autopsy on her late husband immediately upon his death at a remote worksite in southeast Alaska. She was also dissatisfied that the Medical Examiner determined that her husband died of natural causes. The complainant also alleged that the Medical Examiner took an unreasonable length of time to finalize the autopsy report and return the remains of her husband to his country of origin. The Ombudsman found all allegations to be unsupported by the evidence.

Investigation revealed that the husband, who was over 50 years of age, died suddenly while working at a remote camp performing strenuous physical labor. Medical Examiner policy is that no autopsy is performed when a male over 50 years of age dies suddenly with no evidence of foul play, because deaths under those circumstances are almost always due to some form of heart disease. The statistical likelihood that heart disease was the cause of death is so high that the time and expense of performing an autopsy is not considered to be justifiable. This is in accordance with current medical practice nationwide. The Medical Examiner also followed policy later by reversing that determination after receiving reports from another state agency that dehydration was suspected to be a contributing factor in the death. The Medical Examiner performed the autopsy two days after receiving the new information.

During the Autopsy, the Medical Examiner performed a visual inspection of the decedent's body and had laboratory tests done on samples of his blood and vitreous humor, a clear gel located behind the lens of the eye that can be tested for certain elements. The ME found no medical evidence of dehydration. The complainant believed that the ME should have analyzed the blood for triglyceride and cholesterol levels, but the ME explained that those elements begin to breakdown immediately when a person dies, so blood samples drawn after death do not provide meaningful results. The complainant also alleged that the ME misinterpreted the results of the vitreous humor tests. Ombudsman staff are not qualified to second guess the Medical Examiner's medical expertise, but the Ombudsman was easily able to find published research supporting the ME's conclusion.

The Medical Examiner does not have a policy specifying how long the agency has to complete and issue an autopsy report, but, according to agency staff, the ME makes an effort to send requested reports within five days after a case is closed. Forty-five days passed in this case before the autopsy report was finalized and provided to the widow. According to agency personnel, Medical Examiner staff thoroughly evaluate each case for errors before an autopsy report is finalized. The Medical Examiner's office was experiencing staffing shortages during the summer and fall of 2015. When the Medical Examiner is short-staffed it must prioritize urgent cases, such as autopsies required for criminal investigations. Six weeks to provide the report is not ideal, but considering staffing issues ME faced at the time, and the need to prioritize cases pending litigation, the Ombudsman did not find the delay unreasonable.

The complainant also appeared to misunderstand the Medical Examiner's role in the process for returning the remains of a foreign citizen to his country of origin. Per Alaska Administrative Code at 7.05.470, it is the responsibility of the funeral home to make arrangements with the country of origin to return the remains. Neither Medical Examiner nor any other State of Alaska agency participates directly in making the arrangements. The ME is, however, required to provide a document certifying that the remains are free from contagious disease, on which they made a clerical error regarding the decedent's date of birth. The reason for the confusion is that the decedent had been illegally working in this country using his brother's identification, so when he died, his paperwork initially reflected the brother's personal information. The ME did not catch the mistake when reviewing the final paperwork, but provided a corrected copy shortly after the funeral home pointed out the error. The incorrect birthdate on the document may have contributed to the overall delay of returning the decedent's remains to his native country, but it was a clerical error based on the decedent's own deception and its effect on the process was minimal. (A2016-0461)

### ***Furloughs and Sex Offenders***

An inmate complained that he had been deemed ineligible for furlough because he had been charged with a sex offense. He said that the charge had been dismissed. Investigation revealed that DOC's written policy did not prohibit sex offenders from furlough release. However, the Ombudsman learned that agency policy was to consider inmates with histories of sexual offenses, whether convicted or not, ineligible for furlough. The Ombudsman recommended that DOC revise its policy to specifically identify the eligibility requirements for those with sexual offenses in their records. DOC adopted the recommendation and is in the process of revising its policy. (A2016-0317)

### **Witness Reports Dangerous Texter**

An Anchorage driver called the Ombudsman after she followed a state vehicle through downtown Anchorage and saw the driver swerving in and out of the lane and nearly causing several accidents. The complainant wanted the Ombudsman to notify authorities. She said she pulled up beside the vehicle and saw that the driver was texting. She said the driver drove this way between Gambell and A Street. She was particularly concerned that this might be a vehicle carrying civilians or children. The Ombudsman contacted the Department of Transportation Fleet Manager and determined that the vehicle was assigned to a worker at the Office of Children's Services. The Ombudsman then contacted the administrative manager in charge of the vehicle fleet who worked with the director's office to determine the identity of the driver. The car was not carrying a child at the time. Per 2 AAC 07.910, the Ombudsman may not reveal information about personnel action but the Ombudsman is satisfied that the Division dealt with the situation appropriately. (A2016-1341)

### **Law Explains Position**

A citizen contacted the Ombudsman and complained that the Attorney General's Office would not cite the statutory reasons for declining to investigate a complaint that was being investigated by another agency. He also took issue with the Department's failure to maintain a current organizational chart listing employee names and positions. He asserted that this was contrary to the Americans with Disabilities Act.

The state ADA coordinator forwarded copies of several email communications the complainant exchanged with state employees that indicated Department of Law staff had generally responded appropriately to the complainant. However, the Ombudsman also noted that it took several follow-up emails from the complainant before Law finally provided him with the statutory authority for declining to investigate his consumer complaint and explained in writing the basis for its decision.

Although the Department of Law has investigative and enforcement authority to investigate many consumer complaints, there are exceptions to the general rule, including activities that are regulated by another state entity per AS 45.50.481(a). The crux of the complainant's original consumer complaint alleged unfair billing practices by a utility company, conduct that is regulated by the Regulatory Commission of Alaska. Therefore, the Ombudsman concluded that Law's decision to decline investigation was reasonable.

The Ombudsman also concluded after researching the ADA requirements that, contrary to the complainant's assertion, there did not appear to be a specific legal requirement mandating that public entities publish online organizational charts. The Ombudsman referred the complainant to the U.S. Department of Justice for further information about filing an ADA complaint against a public entity and discontinued investigation of the complaint. (A2016-0201)

### **Goose Creek OKs Sunglasses**

An inmate complained that Goose Creek staff prevented him from obtaining transitional lens glasses even though every other Alaska Correctional Facility allows the lens. He also alleged Goose Creek staff mistreated him by calling him names or making other inappropriate comments as a result of his prior Ombudsman complaint that resulted in changes to staff meals.

The Ombudsman reviewed DOC medical staff's responses to the inmate's grievance about the transitional lens glasses and found it reasonable and in accordance with DOC policy. The complainant does not have a diagnosed medical condition that would justify prescription of transitional lens glasses.

Goose Creek previously prohibited the purchase of sunglasses at the facility due to security concerns. The ban was implemented and has been in effect since the first year the facility was opened, 2012. However, after Ombudsman contact, the superintendent agreed to lift the ban enabling inmates to purchase sunglasses from special commissary. The superintendent consulted with other superintendents and acknowledged that other DOC facilities allow the purchase of sunglasses from commissary. He will issue a memorandum to inmates explaining the sunglass ban lift and outlining the conditions for purchase.

The Ombudsman contacted the superintendent and referred the second allegation to his attention and advised the complainant that he would need to exhaust the agency's grievance and appeals process prior to the Ombudsman reviewing the misconduct allegation. (A2016-1464)

### ***Teenager's Behavior Makes Placement Difficult***

The attorney of a minor in a Child In Need Of Aid case contacted the Ombudsman to complain that OCS was refusing to provide a placement for the child.

In response to the complaint, the Ombudsman discussed the complaint with the minor, his attorney, and OCS supervisors and reviewed the OCS computerized case management records.

The Ombudsman learned the minor complainant is 17 years old and has been on runaway status for many months. The complainant's attorney filed the complaint on his behalf. Since coming into custody as an adolescent, the complainant has been in over 40 placements including residential treatment, therapeutic foster care, and Division of Juvenile Justice facilities. The complainant has also recently been discharged from both the Anchorage and Fairbanks youth shelters reportedly due to behaviors and criminal activity including threats, stealing, possessing and/or distributing drugs, assault, breaking curfew, etc., as well as bragging about gang involvement. The shelters will not allow him back.

Over the past two years, the complainant has either refused to accept or is unwilling to stay in any OCS identified and approved placement. Prior placements have mostly failed because of his verbal and physical aggression and concerning behaviors, which also makes it especially difficult for the agency to find a new placement willing to accept him. Days before the call to the Ombudsman, the complainant left the OCS building, unbeknownst to staff, just prior to a meeting scheduled by OCS with a foster provider who had agreed to meet with the complainant to discuss placement in their home. The complainant misrepresented to his attorney that OCS is refusing to provide him with placement.

The Ombudsman determined OCS has tried and continues to try to find a placement for the complainant and has identified another potential placement option for him as of today, but placement will require his willingness and cooperation with both OCS and the potential placement.

The Ombudsman closed the complaint as OCS is continuing its efforts to find a suitable placement for the complainant. (A2016-1728)

### ***Heating Assistance Clients Out in the Cold***

A citizen contacted the Ombudsman because he had recently learned that the income limits for the Heating Assistance Program had gone down. Based on his last year's income, he no longer qualified for the program. The Ombudsman learned that, during the previous legislative session, state funding for the Heating Assistance Program had been zeroed out. Only the federally-funded portion of the program remained. The federally-funded portion of the program limits benefits to those making up to 150% of the poverty level, whereas the state-funded portion had provided benefits for those earning between 151% and 225% of the poverty level. While the Ombudsman was researching the program guidelines, the complainant contacted the agency staff and learned that they would accept a year-to-date statement from his retirement account to verify his income. Doing so would allow him to use his lower income from this year to qualify for the program. Although this complainant was able to continue to qualify for the program, it is anticipated that others will be left in the cold this winter. (J2016-0145)

### ***University Neglects to Send Records to Requestor***

A citizen contacted us about her public records request that had gone unanswered by the University. The Ombudsman contacted the employee who had been communicating with the complainant about her request. Upon receiving the Ombudsman contact, the employee said that when he had sent the records out via email two weeks prior, he had forgotten to include the complainant's email address. Thus, the complainant never received them. The employee promptly re-sent the documents to the complainant, resolving the complaint. (A2016-1609)

### ***AST Refuses to Intervene in Civil Dispute***

An elderly, terminally ill man who lived in another state contacted the Ombudsman to complain that the Alaska State Troopers were refusing to help him gain possession of a vehicle that he gave to his daughter. The daughter had passed away and her daughter (the complainant's granddaughter) was continuing to use the vehicle. AST refused to intervene because the DA determined there was not enough evidence to move forward with criminal charges against the granddaughter. AST would, however, assist in the event that the man obtained a writ of assistance in small claims court. The Ombudsman provided the small claims filing paperwork to the man. (A2016-0168)

### ***Doctor Wants to Un-do a Deal***

A doctor contacted the Ombudsman to complain about a consent agreement that he entered with the Division of Professional Licensing. The doctor had admitted to failing to include information on his application for licensure and had accepted a fine. He was upset, however, that information about this agreement was publically available. The Ombudsman advised the complainant that licensing actions are considered public record and that there was no administrative process to un-do a consent agreement. (A2016-0537)

***Inmate Application Found in Sink Hole***

A former inmate contacted the Ombudsman to complain that the Department of Corrections failed to process his application for Tenant Based Rental Assistance, a program designed to help inmates transition back into the community in partnership with the Alaska Housing Finance Corporation. The Ombudsman contacted the agency and learned that the complainant had submitted an application the year before but, due to a communication failure, the complainant was never told that his application was incomplete. At the time the complainant contacted the Ombudsman he had already submitted a second application. The Ombudsman confirmed that it was in the queue and, because of the earlier snafu, the agency expedited consideration of the application and it was subsequently approved. (A2016-0676)

***Inmate Gets New Job but Not a New Address***

An inmate wrote to the Ombudsman that he had been fired from his job for being absent, even though a correctional officer had given him permission to be absent due to illness. However, by the time he wrote to the Ombudsman, the Department of Corrections had already granted his grievance appeal, and acknowledged that he should not have been fired. He had received a new job assignment in the institution. The Ombudsman pointed out that his complaint was already resolved. The inmate said that he wanted back pay for the month he was unemployed, but the Ombudsman declined to pursue that part of the complaint.

The inmate also said that he should be transferred to a different prison, because one of the correctional officers at his current location was also a witness in his criminal case. The inmate said that the court had ordered him not to have contact with the victim or witnesses in that case, which meant that the inmate was violating a court order by having any contact with the correctional officer in question. The Ombudsman obtained the written sentencing order, which did not include any no-contact provision. Then the Ombudsman contacted the inmate's institutional probation officer. The probation officer's supervisor responded and indicated that there was nothing in the inmate's file about a no-contact order. The Ombudsman told the inmate that DOC was reasonably relying on the written sentencing order, and did not have any documentation of a no-contact order. Despite the inmate's assertion that there was a no-contact order – possibly as part of the sentencing hearing – the Ombudsman concluded that without documentation, DOC was not obliged to move the inmate to another facility. (A2016-0299)

***P-F-D, where ARE you?***

An Alaskan contacted the Ombudsman saying that the published number for the Permanent Fund Division was out of service. The complainant said he let the phone ring for over two minutes but had received no answer. The caller lived in a remote area without phone reception, so connecting with the agency while he was still able to get phone reception was of particular importance to him. The Ombudsman determined that the complainant been mistakenly dialing the number using the local area code rather than using the toll free code and provided the complainant the direct number for each of the three main PFD offices. The complainant called back later that day to report that he had used over 200 prepaid phone minutes waiting on hold but hadn't spoken with a PFD agent. Because logistical difficulties were a factor, the Ombudsman offered to look up the complainant's PFD status on the agency website. The complainant had correctly guessed that his PFD had been garnished due to a court ruling. The

inmate was very thankful to have his suspicions confirmed and said he was heading back into the woods. (A2014-1626)

### ***DPA Acts Fast to Get Asthma Medication***

A woman called the Ombudsman saying that her daughter's Denali Kid Care recertification paperwork hadn't been processed and the child's asthma medication had run out a week prior. The Ombudsman contacted a DPA supervisor, who earmarked the case for expedited processing. The daughter's Medicaid was reestablished within a few days and she was able to get her medication again. (A2014-1728)

### ***Inmate Makes His Case, Gets Released***

An inmate complained that the Department of Corrections was not giving him credit for nine days of time he served at a halfway house. The inmate believed that if DOC counted those days of service he would be eligible for immediate release. The Ombudsman reviewed the inmate location history and the complainant appeared to be correct. The Ombudsman contacted the institutional records sergeant asking him to review the case and the inmate was released from custody within a few hours. (A2014-1757)

### ***PFD Admits Clerical Error, Issues Two Dividends***

A man came to the Anchorage office complaining that the Permanent Fund Dividend Division denied his wife's two most recent dividends despite approving his own. The Ombudsman contacted the PFD Division appeals manager to find out what was preventing the wife's application from being approved. The manager discovered that when the husband had submitted documentation to verify residency for himself and his wife, the documentation was only partially complete. The husband submitted the missing documentation at PFD's request, but the PFD technician who received the documents added them to the husband's file and did not update his wife's file as agency policy indicated. The appeals manager acknowledged the clerical error and approved the complainant's applications for the current year and the previous year, the first year she had fulfilled the eligibility requirements. The manager also assured the Ombudsman that the PFD Division would review and improve their quality control process to prevent this type of error from occurring in the future. The Ombudsman closed the complaint as resolved. (A2014-1773)

### ***Inmate's Antics Get Him Bumped from Dialysis***

An inmate called the Ombudsman alleging that the Department of Corrections cancelled the complainant's dialysis appointment for no reason. The Ombudsman contacted the assistant superintendent of the facility and learned that the complainant, who suffered from kidney failure, did miss a scheduled appointment that day. However, DOC records indicated that when the complainant was preparing for transport to the outside facility where the dialysis treatment occurs, he exhibited resistant and uncooperative behavior toward DOC transport personnel. Transport personnel determined that taking the complainant to a non-secure facility at that time posed a significant safety and security hazard and cancelled the appointment. No pattern of missed appointments was found in DOC records, so the Ombudsman closed the complaint with a letter to the inmate. (A2014-1919)

### ***Inmate Avoids Extra Weekend in Prison***

An inmate called toward the end of the work week saying charges against him had been dropped and that he was due to be released. The inmate was concerned that if his time accounting was not completed he would be required to stay in prison over the weekend, which had already happened to him on a previous occasion. The Ombudsman contacted the complainant's public defender, who confirmed that the felony charge had been dropped. The PD had provided his client's court paperwork to DOC requesting that the time accounting to be expedited. However, DOC can only accept paperwork directly from the courts, and was waiting for the official copy before discharging the complainant. Another employee at the Public Defender Agency had put in a request to the courts asking them to send the complainant's paperwork, but there was little else that could be done to expedite the process. The Ombudsman informed the complainant that his PD had done everything in his power to get him released, and that he simply had to wait for the courts and DOC to process his paperwork. Review of the complainant's incarceration record the following Monday morning showed that he had been released on Friday evening, and his weekend stay in prison had been avoided. (A2014-1926)

### ***Halfway Holds Inmate Long After Release Date***

An inmate called from a halfway house complaining that his short sentence had expired but he still had not been released. The Ombudsman reviewed the complainant's court record and, upon initial consideration, it appeared that the complainant's assertion that his release was overdue was correct. The Ombudsman contacted the DOC Records Office, who responded within the hour stating that the inmate's time accounting had been processed and the release paperwork had been sent to the facility where he was located. The complainant was released that day. (A2014-1937)

### ***Cameras Shed Light on Inmate's Claims***

An inmate reported that she had a seizure while waiting in a prison booking cell, causing her to hit her head. The inmate said there was "blood all over the place." The Ombudsman contacted DOC medical staff, who promptly reviewed video surveillance footage of the alleged incident. DOC Medical reported that, though they could not be certain the incident was not a seizure, the complainant's behavior indicated in a number of ways that it was unlikely. Regardless, DOC medical staff was notified and responded promptly to the situation. DOC Medical asked the inmate if she had a laceration on her head, and the inmate replied she didn't know anything about a laceration. DOC Medical also told the Ombudsman that the complainant's medical records showed no history of seizures, and the medication the complainant had been taking, though sometimes prescribed to treat seizures, was prescribed to her for a different medical condition. Because DOC had ample documentation of the events, and the inmate did not appear to be credible, the Ombudsman closed the complaint. (A2014-1747)

### ***OCS Delay Nearly Spoils a Party***

A woman called the Ombudsman saying that the Office of Children's Services had not completed the paperwork for the complainant's adoption of her grandchildren, preventing finalization in time for a scheduled OCS adoption event. The Ombudsman contacted a

supervisor at OCS that day, who said there had been a number of factors contributing to the delay. The complainant had moved recently, and, when a home inspector visited the new residence, a family member who was considered a threat to the children's safety was at the home. OCS determined a thorough home review was necessary, but the complainant's case worker was out of the office for an extended period – initially for training and then for vacation.

The supervisor admitted that the case should have been temporarily reassigned and the issue addressed before the scheduled adoption hearing, but the supervisor's requests to a higher ranking supervisor to do so went unanswered. When the complainant's case worker returned to the office she was unable to attend to the situation before leaving the office due to illness. During this time, about three weeks altogether, no OCS employee contacted the complainant to tell her that the adoption proceedings would be postponed until the investigation was concluded. OCS staff was able to draft a report the same day and brought it to the caseworker's home for her to review and sign, and it was submitted before the adoption hearing. The complainant was able to attend the hearing with her grandchildren the next day, where the judge signed the order for adoption, and the family went together to join the festivities OCS had arranged. (A2014-2036)

### ***Prison Wasn't Underfeeding Suicidal Prisoner***

An inmate at an Alaska prison called the Ombudsman saying that the inmate in a neighboring cell was being underfed. The Ombudsman found that the inmate in question was in segregation as a precautionary measure because her behavior indicated she could be suicidal. DOC was providing the required daily calories to the inmate, but the inmate was limited to finger foods because of the suicide precautions. While the diet was certainly monotonous, DOC was in compliance with applicable statute and policy. (A2015-0014)

### ***Thanks for the Food Stamps. Where's My Medicaid?***

A woman complained that the Division of Public Assistance cancelled her Medicaid benefits because they believed she began working full time. However, she was a university student who only worked part time. She believed she should still be eligible for Medicaid. The Ombudsman contacted the employee that had last assisted the complainant to learn more about her case. The case worker stated that he assisted the complainant with her food stamps and cash assistance, but that she made no mention of Medicaid. The case worker explained that DPA currently processes applications in two different computer systems. Food stamps and cash assistance are processed in an old system that has yet to be replaced but Medicaid is processed in a new system, and the two cannot share information. The case worker said there was nothing in the old system to alert him the complainant had a pending Medicaid application. He immediately processed the Medicaid application, and said that the complainant was indeed eligible and would receive her insurance card in 3-5 business days. The Ombudsman relayed the good news to the complainant, who insisted that she told the case worker that she had a Medicaid application filed. Regardless, she was very thankful to know that her health benefits were still in place. (A2015-0025)

### ***Be Careful What You Wish For . . .***

A former ward of the Office of Public Advocacy complained that OPA never informed Social Security to send her SSI benefit checks directly to her now that she is no longer under OPA

guardianship. The Ombudsman had reviewed a similar complaint in the past and found that it is OPA's responsibility to contact Social Security to stop payments when a guardianship is terminated by the courts. The Ombudsman contacted OPA and learned that the agency had failed to report that the former ward was no longer under guardianship. As a result, OPA received the former ward's most recent SSI benefit check. OPA put a block on all incoming funds intended for the complainant and immediately gave her all the funds due to her.

While OPA fulfilled its responsibilities and rectified the situation, the complainant's issue wasn't completely resolved. Social Security requires a client to visit their office in person to update addresses when their OPA guardianship is terminated. The complainant argued that she had no transportation to the SS office and wanted OPA to assist her in making the arrangements. The Ombudsman informed her that since she had petitioned for and won termination of OPA guardianship, she was now responsible to take care of her own business affairs. After termination of guardianship, OPA had spoken to the complainant and her father several times to advise them about various issues, but the agency is under no legal obligation to assist her anymore. (A2015-0060)

### ***Mother Wants More Control***

A woman whose daughter was a ward of the Office of Public Advocacy complained that her guardian did not issue the daughter a check to purchase Christmas gifts as promised. The mother also explained that OPA has not responded to her many requests for a meeting. The Ombudsman contacted OPA to learn more about both issues. It turns out that the daughter did receive the Christmas check, as her bank records showed that it was cashed on December 24th. It turns out that the daughter had a habit of cashing checks from her guardian and telling her mother she never received them so that the mother would give her additional money.

The mother had been requesting that the OPA guardian meet with her because she believed her daughter to be incapable of understanding any discussions about money. The mother felt that she should always be involved in her daughter's monetary affairs. However, the guardian's assessment was that the daughter was capable of understanding financial issues and capable of making financial decisions on her own. Additionally, the mother would often tell her daughter exactly what she could and could not buy, using the money as a way to control the daughter. Because the courts had granted guardianship of the complainant's daughter to OPA, the agency was not legally required to discuss the daughter's finances with the complainant, though they had done so on previous occasions as a courtesy. The mother was dissatisfied with the agency response, explaining that a previous guardian had been much more accommodating to her requests. However, the guardian was acting within her legal authority. (A2014-2179)

### ***DPA Expedites Half of Applicant's Benefits***

A man who had applied to the Division of Public Assistance for food stamps and Medicaid said that the agency scheduled the complainant's intake interview three months in the future, despite DPA policy that states has only 30 days to review an application. The complainant had recently moved to Alaska, was short on food and money, and wanted his case expedited. The complainant had not spoken with an agency supervisor, so the Ombudsman provided direct phone numbers for two supervisors in the office that was handling the complainant's case and emailed the supervisors telling them to expect a call from the complainant.

The Ombudsman called the complainant after a few days and learned that an eligibility technician had been able to expedite the complainant's Medicaid, which was the more critical issue, but declined to expedite his food stamps. The complainant was dissatisfied that his food stamps application would likely take another 2-3 months to process. He said he may have to pack up his family and leave Alaska because he didn't have enough food, but at least he had an appointment to see a doctor soon. (A2015-0362)

### ***How Slow Can You Go?***

An inmate contacted the Ombudsman complaining that a prison was refusing her access to educational materials she had needed to complete a post-graduate degree. The complainant had ordered a book as part of a Master's thesis project, but the prison would not distribute it to her because the book was a work of fiction with a hardcover. Inmates are forbidden to have hardcover books unless they are preapproved books for educational or religious purposes. The prison's position was that a novel, which is a work of fiction, does not qualify as educational.

The inmate had attempted for five months to resolve the issue with her education coordinator and the acting superintendent, but had been unsuccessful. The Ombudsman contacted the acting superintendent, who maintained that the complainant had not followed the proper procedure for pre-approval with her education coordinator, which partially explained the delay. She also acknowledged that the complainant had appealed the decision quite some time before, but the acting superintendent never answered the appeal, leaving the inmate in limbo. Shortly after Ombudsman contact, the acting superintendent reviewed the situation with the education coordinator and decided to give the inmate her book. (A2015-0472)

### ***Mother Helps Expedite Terminally Ill Son's Trial***

An out-of-state mother called the Ombudsman to complain that an Alaska District Attorney was delaying her son's trial. The woman said that her son had terminal cancer and the delay in his court case was preventing him from returning to his home state to die with his family. While matters of court are generally outside the jurisdiction of this office, the Ombudsman determined it would be best to contact the son's public defender due to the severity of the allegation. The Ombudsman discovered that the public defender was unaware of his medical condition, and said that the delays in the case resulted from strategic legal actions the defendant had requested. The son explained that his condition had been relatively stable until about a month prior, but since then had grown considerably worse, and he had spent much of that time in the hospital with an enormous tumor in his abdomen. The public defender agreed to request that the prosecuting attorneys expedite the judicial process in light of the complainant's worsening condition. (A2015-0629)

### ***No Recourse for Wrongfully Imprisoned Inmate***

An inmate at an Alaska prison complained that the Department of Corrections refused to give him credit for time he served previously on a wrongful incarceration. The Ombudsman informed the inmate that if time is served and later determined by a judge to be a wrongful incarceration, that time can be applied to a future sentence only if the sentence stems from the same charge, such as a violation of probation or parole. The complainant was in prison for an entirely different offense, and so was unable to use the credit. The complainant asked if he could be compensated for the days he spent wrongfully incarcerated, but the Alaska Supreme Court

precedent holds that DOC cannot be held financially liable for wrongful incarceration. (A2015-0679)

### ***Paperwork Flub Keeps Inmate in Jail for Six Weeks***

A prisoner contacted the Ombudsman saying a judge had recently ordered that time he spent in a rehabilitation facility should count toward his sentence, which should have resulted in his immediate release. However, six weeks had passed and he was still incarcerated. The Ombudsman determined that the Department of Corrections did not appear to have the record of that court ruling, and per policy could not accept the complainant's copy, as decisions to alter an inmate's time accounting must be based only on official documents received directly from the courts. The inmate had been attempting to contact his Public Defender for assistance, but the PD hadn't answered or responded to his voicemails. The Ombudsman contacted the attorney, who immediately replied that he would request the court send an official copy of the paperwork to the prison. The inmate was released as soon as the court order had been processed. (A2015-0713)

### ***Is Half An Hour Quick Enough?***

An Alaskan contacted the Ombudsman complaining that the Division of Public Assistance had not responded to his requests for written confirmation that DPA will assist with the costs to cremate his recently deceased brother. The complainant was overwhelmed with the many issues that needed addressing following his brother's passing, and needed to leave town shortly and travel to the city where his brother had lived to attend to matters in person. The Ombudsman contacted a supervisor at the public assistance office, who contacted the funeral home, faxed them the paperwork, and contacted the complainant to make sure no other issues were left unaddressed, all within 30 minutes. The supervisor then contacted the Ombudsman to report that the situation was resolved, and also that he was taking measures so that funeral homes promptly receive documentation in the future. That's about as resolved as a complaint can get! (A2015-0898)

### ***Antsy Inmate Advised to Practice Patience***

An inmate contacted the Ombudsman because his prison time accounting had not been processed. DOC Policy requires an inmate's time accounting to be completed within 30 days, but 14 weeks had passed since his sentencing hearing and he still had no time accounting sheet. The complainant had already addressed his concerns to the records supervisor of the institution. The supervisor explained that, due to staffing issues outside the prison's control and ever-increasing prisoner transport in and out of the facility, the Records Department must prioritize the time accounting of inmates who are due to be released immediately or in the near future. The complainant did not fall in that category, and so his time accounting was delayed. Because the delay did not adversely affect the complainant, and because there is no practical remedy the Ombudsman can provide in this instance, the complaint was declined. (A2015-1164)

**Take It to the Boss**

An inmate said that his Public Defender didn't show up for his recent bail hearing, and that the PD was not responding to the complainant's attempts to contact her. The Ombudsman contacted the Public Defender's supervisor, who said he would address the complainant's concerns himself. The complainant had a bail hearing a few days later and was released once bail was posted. (A2015-1554)

**Inmate Feels Cast Aside**

An inmate complained that the prison had not given him a cast for a broken arm he suffered before he was incarcerated, and said he hasn't been able to get medication he needs to treat his Parkinson's disease. The Ombudsman contacted the DOC Director of Health Care Services to inquire about the delay. The Director responded that the complainant had been approved for an orthopedic appointment, but it had been scheduled for nearly two weeks after the complainant got to jail. She added that the inmate had been to the emergency room before he was incarcerated, but did not receive a cast then because the type of injury he suffered is better treated with a splint.

The Director clarified that the inmate had been told that he was scheduled to see an orthopedic physician, not that he would be getting a cast. The Director said that the institution was waiting for medical records from the complainant's physician. Once the prison received the medical records, a prison physician prescribed two medications for Parkinson's disease and a pain killer. The Ombudsman later reviewed agency records and confirmed that he did have the orthopedic appointment as promised. (A2015-1434)

**Man Risks Warrant to Go Hunting**

An Alaskan man complained that the District Attorney served him a summons one week in advance of a scheduled court date. The complainant had every intention of complying with the legal process, but this was his second time being served a court date on short notice. The first time he had cancelled a business trip only to find out upon arrival at the court house that the courts were closed due to a state holiday. This time, the complainant was only days away from leaving on a week-long hunting trip he had scheduled months prior. There was disagreement between the complainant and the District Attorney regarding when the summons had been served to the complainant, but the material question was whether a warrant would be served to the complainant if he failed to appear at his court date.

The complainant had filed a motion to continue the hearing, but the courts were unable to present his motion to the judge before the complainant had to leave on his trip. The DA told the complainant she would place a note in his court file indicating she would not request a warrant. However, while she said it was unlikely the judge would issue the warrant, she could not provide the complainant with a guarantee, as the judge had full authority to issue the warrant or not. In the end, the complainant had to decide whether he wanted to take the risk, which he did. Happy hunting! (A2015-1882)

***Misplaced Application Delays Child's Treatment***

A man contacted the Ombudsman saying that the Division of Public Assistance had not approved his disabled daughter's Denali Kid Care renewal application for several months, preventing her from receiving necessary care. The Ombudsman provided contact information for the manager of the complainant's local field office so he could bring the issue to the agency's attention directly.

The complainant called back to say that DPA had responded to his phone calls, telling him that his application had been lost and he needed to resubmit his entire application packet. The complainant was frustrated at having to recreate the application packet, which requires a lot of documentation, and was also very concerned that the private information in the lost packet may be available to a party outside DPA that would use it to commit identity theft. The Ombudsman contacted the supervisor, who performed a second search and found the original application. The supervisor also stated that applications that turn up missing usually have been misfiled, and provided her assurances that lost applications are never at risk of getting into the hands of an outside party. (A2016-0001)

***Ombudsman Contact Prompts DPA to Swift Action***

A Medicaid applicant complained to the Ombudsman saying the Division of Public Assistance had not processed her application, which she had submitted three months before. The complainant suffered several severe health issues, and some of her medication was running out. She said she had spoken with a supervisor at DPA the week before, who promised to process her application immediately, but her Medicaid approval never came. The Ombudsman contacted the field office manager, who assured the Ombudsman that he would personally ensure the complainant's issue was resolved. The complainant contacted the Ombudsman later that morning to say her application had been processed and she would be getting the medication she needed the next day. (A2016-0120)

***Court Error Leads to Lost Weekend***

An inmate called the Ombudsman on a Monday morning saying he was sentenced in court the previous Friday and should have been released from prison that day. Instead, he had spent the whole weekend incarcerated. The inmate hadn't asked for an explanation from the Records Office, however, so the Ombudsman asked the complainant to contact the records sergeant and then call back later in the day if he was still in custody. The complainant called back in a few hours and reported that he called the courthouse, and the sentencing paperwork had been on the judge's desk since the previous Friday. DOC had never received it. The court faxed the paperwork to DOC immediately and the complainant was released later that day. (A2016-0192)

***Inmate Frets, Then Withdraws Complaint***

An inmate in an Alaska prison called to complain that his probation officer had not arranged his release to a halfway house quickly enough. According to the inmate, the PO also stopped responding to the complainant's calls. The complainant had also attempted to contact the parole officer's supervisor without success. During the initial phone call, the Ombudsman advised the prisoner that inmate complaints must be filed in writing unless they are a life or

safety issue. The complainant mailed in a completed form and started calling every day to find out if the Ombudsman could provide him any new information. The Ombudsman contacted the inmate's PO and learned the halfway house was processing the complainant's application slowly because there were some concerns about the complainant's complex medical history. Before the Ombudsman could relay the information, the complainant called to report that his PO had given him a thorough explanation of the delay and admitted that he had been overzealous in pursuing the complaint due to anxiety and a strong desire to get out of prison as soon as possible. The Ombudsman closed the complaint as withdrawn. (A2016-0385)

### ***DMV Gets Picky on Long-Time Alaskan***

The Division of Motor Vehicles refused to issue a driver's license to an Alaskan because one piece of his identification showed a common diminutive of his first name instead of the full version shown on his other identification. The complainant had held an Alaska Driver License for 60 years and could not understand why the discrepancy had suddenly become a problem. The Ombudsman explained to the complainant that DMV has recently switched to a new computer program that has stricter guidelines for proving an applicant's identity, and DMV staff may not be able to override the program. The complainant said he had already received that explanation from two DMV personnel, and followed their suggestion to obtain a new copy of his Social Security card, which would fulfill the DMV's documentation requirements. However, two months had passed and the complainant had still not received his card. The complainant wanted to know if there was anything the State could do to assist. The Ombudsman referred the complainant to the DMV Driver Services Manager and advised him that if the Manager could not make the exception he needed he would have to contact the Social Security Administration to find out why his new card has been delayed. (A2016-0613)

### ***Court Fails To Inform DOC of Dropped Charge***

An inmate complained that he had been sentenced three months prior, but the Department of Corrections still hadn't completed his time accounting. DOC Policy states that the agency must complete an inmate's time accounting record within 30 days of sentencing. The inmate had a two-year sentence, so his release was not imminent. However, the inmate believed he would be a likely candidate for a prerelease furlough to a halfway house, and DOC will not receive a furlough application until an inmate is sentenced. The complainant's agency grievance was a week overdue and he had still received no word about his time accounting. The Ombudsman contacted the institutional records sergeant, who said the court had failed to notify ACC that one of the charges against the complainant had been dismissed, and the institution cannot generate a time accounting record (TAR) until an inmate is sentenced on all cases. The error had been discovered about a week before the Ombudsman contacted the institution, and the complainant's TAR was completed promptly. The inmate contacted the Ombudsman to thank him for assisting. (A2016-0568)

### ***Caller Pans Conviction of TV Stars***

A caller from a southern state was outraged that the state prosecuted the stars of the "Alaska Bush People" reality television show for fraudulently claiming residency in order to get PFDs. The complainant refused to believe the accused TV stars would take anything that wasn't rightfully theirs, and insisted that it was wrong for the State of Alaska to prosecute them for something they had not done. The Ombudsman referred the complainant to the District

Attorney's Office, as that agency is responsible for determining whether charges will be pursued in criminal cases. The complainant expressed her thanks and advised the Ombudsman to expect similar calls in the future because she had given the Ombudsman's phone number to the Discovery Channel as the appropriate state agency to contact to complain about this issue. The Ombudsman thanked her for the warning. To date, the Ombudsman has received no similar complaints. (A2016-0825)

### ***Troopers Review Stale Case at Ombudsman's Request***

A woman from Southeast Alaska said a relative stole her trailer and had managed to convince the Division of Motor Vehicles to issue a new title in his name without first requiring proof of ownership. The original incident occurred over six years prior to her complaint, which, under Ombudsman regulations, renders the complaint untimely for intervention. However, the Ombudsman made an exception because complainant had recently contacted the Alaska State Troopers about this issue and had not received a response. The Ombudsman contacted the AST Post Commander and learned that the complainant had been advised several times over the years that, because she had willingly loaned the trailer, the matter was a civil issue and Trooper involvement was not justified. Troopers only investigate criminal matters.

During the conversation, the Ombudsman asked the Commander if AST had investigated the allegation that the title had been reissued under false pretenses. The Commander said that if DMV still had documentation that could confirm the allegation, then charges of unsworn falsification could potentially be forwarded to the District Attorney. He warned that the DA may not choose to prosecute, though, because that office must prioritize its resources for prosecuting the most serious criminal cases. Nevertheless, the Commander agreed to assign a Trooper to investigate the issue and said the complainant could contact him in a few weeks for a progress update. The Ombudsman told the complainant what the Commander had said, and the complainant was grateful to see some action on her claim, as there had been no progress in a very long time. (A2016-0662)

### ***Inmate Freed When O Inquiry Reveals Error***

An inmate incarcerated for an alleged parole violation contacted the Ombudsman to complain that he remained in state's custody despite a parole board order that released him effective the previous day. The Ombudsman contacted the Parole Board, who said they had sent the order to the institution the previous day. Apparently, time accounting staff processed the inmate's release paperwork and believed the complainant had been released.

However, after Ombudsman contact, the records supervisor checked the complainant's file and learned that medical staff had put a 24 hour mental health hold on the complainant. The sergeant reviewed the file and determined the hold was placed in error, as inmates under jurisdiction of the Parole Board may not be detained by the institution for any reason if the Parole Board has given the release order. The sergeant contacted medical staff and had the complainant released immediately, sparing the complainant from spending a three-day holiday weekend in prison. The records sergeant also composed a memo to prison management and medical supervisors to clarify when mental health holds can and cannot be placed on prisoners. (A2016-0931)

**Public Defender Seeks Ombudsman Help**

A defense attorney from the Public Defender Agency contacted the Ombudsman on behalf of a client. The PD had assisted the inmate in negotiating a plea bargain which they believed would lead to the inmate's immediate release. The court accepted the plea deal, but, instead of releasing the inmate, the Department of Corrections whisked the offender to a sentenced facility. The Ombudsman contacted the prison records supervisor, who explained that the inmate had additional time to serve on two other cases that he never disclosed to the PD. DOC time accounting staff had determined that the inmate had 30 more days to serve before he was eligible for release. The attorney thanked the Ombudsman for helping him get to the bottom of the mystery. (A2016-0929)

**A She Said/She Said Situation**

An inmate contacted the Ombudsman complaining that the Department of Corrections set her release date months later than she had expected. The complainant said her public defender had assured her that if she took a plea deal on a probation violation, then seven months of time she already served on that case would apply to the new sentence. The Ombudsman reviewed the complainant's time accounting record (TAR) and found that Hiland had treated the time imposed for the probation violation as a new sentence, which is in accordance with the DOC time accounting manual.

The Ombudsman contacted the attorney, who replied that she never assures clients that a sentence will be calculated any specific way, because she is not familiar enough with time accounting. The Ombudsman advised the complainant that, regardless of whether the attorney told her wrong information or not, DOC was obliged to calculate her time accounting according to state law, and it appeared the agency had done so correctly. The complainant was understandably dejected that she was going to spend half a year longer in prison than she expected, but thanked the Ombudsman for clarifying the mistake. (A2016-0947)

**Group Home Not Appropriate for Fragile Child**

The care coordinator for a medically fragile child complained that the Division of Senior and Disabilities Services (DSDS) denied approval of group home services for the child.

The Ombudsman determined that the agency's denial of group home services for the child who is on a Children with Complex Medical Conditions Medicaid Waiver was in accordance with regulation, which only allows group home services for recipients over 18.

When asked about the motivating reasons behind the regulation, the agency explained that children receiving services with a CCMC Waiver are typically children who are medically fragile, technology dependent, and meet the nursing facility level of care. The agency said that the regulation is based on the department's belief that these children are best served by placement in a family habilitation home, such as a foster home, which provides a family living experience through a structured and stable home environment. Also, a family host home environment mirrors the home settings of other children in this age group.

The agency further explained that it does not support the placement of these children in a group home setting, such as an assisted living home, because group homes are intended to

foster as much independence as possible and improve self-help and social skills. It is the department's position that a group home is not the most appropriate environment for medically fragile children who are in need of intense care and nursing.

The Ombudsman relayed this information to the complainant and closed the complaint. (A2015-2418)

### ***OCS Drops the Ball Responding to Grievance***

A mother contacted the Ombudsman to complain about multiple missteps by the Office of Children's Services. She was upset that OCS had taken custody of her infant based on incorrect information, had recently reduced the complainant's visitation with her son without providing an adequate explanation, had not provided the complainant with a case plan, despite having custody of her child for three months. An OCS worker told the complainant a written case plan was unnecessary. She also said that OCS did not follow a court order to establish a safety plan so the complainant's son could be placed with her in the home of family friend. She said that she had also filed a grievance with the agency, but had never received a response from anyone.

The Ombudsman assisted the complainant with refiling a grievance with OCS to ensure that the document was received by the agency. The Ombudsman also contacted the complainant's attorney and determined that he had been meeting regularly with OCS and some progress was being made with services offered to his client. Part of the delay was attributed to waiting on a therapist's recommendations for services.

The complainant has multiple weekly visits with her son for three hours at a time, and on Sundays at the home of a family friend. A family friend is seeking placement of the complainant's son in her home, with the complainant, and has initiated the foster care licensing process. Based on the Ombudsman's review, reasonable progress is being made; the complainant has both her attorney and family friend to help her navigate the process, both of whom appear to be strong advocates.

A month later, the mother contacted the Ombudsman again to complain that OCS had not contacted her in response to the grievance she filed a month prior with assistance from the Ombudsman. The Ombudsman contacted the agency's deputy director and her staff confirmed that the grievance had been received and forwarded to the staff manager for further handling. However, the staff manager never followed through with contacting the mother or making any attempt to address the grievance. After further Ombudsman inquiry, an agency supervisor confirmed she had met with the complainant and her advocate and had resolved some of the issues grieved. The complainant confirmed that some progress was being made and that another meeting was scheduled with the agency the following week to finalize the case plan. (J2015-0069)

### ***O Gets More Food Stamps for Senior***

A gentleman contacted the Ombudsman to complain that Public Assistance only approved him for \$12 in monthly food stamps when he only receives \$600 a month disposable income for expenses other than rent. They also did not provide him with any information on appealing the decision.

The Ombudsman contacted the regional manager and discussed the complainant's situation. The manager agreed to review his application to determine if the calculated amount of food stamps was accurate based on the complainant's current income and assets. Upon review, the manager determined that the complainant should be receiving \$40 per month, instead of \$12. The complainant was happy with this news. (J2015-0089)

### ***Inmate Chaffs at Medical Segregation***

An inmate complained DOC Medical had unfairly kept him in the medical segregation unit for several years. In addition, he complained that staff at the Anchorage Correctional Complex (ACC) withheld audio books from him that he had ordered even though they were approved by DOC.

The Ombudsman contacted the DOC Medical Director and learned that the complainant has been designated to the Medical Segregation Unit (MSU) based on the recommendations of the entire MSU treatment team due to his chronic medical conditions and lack of mobility and the need for medical staff to closely monitor and provide medical care for him. The Medical Director explained that DOC does not have any non-medical units within its system that have the resources and skills needed to care for the complainant at the level he requires. While the complainant may appeal his designation to the MSU, the Medical Director stated that MSU treatment team and the Medical Advisory Committee would have to approve of his placement in a non-medical unit, which was unlikely.

The Ombudsman relayed this information to the complainant and explained that the Office of the Ombudsman does not have the medical expertise to evaluate or second-guess the medical opinions or treatment decisions of licensed medical professionals. In this case, the MSU treatment team has recommended his placement in medical segregation. Also, DOC policy gives the agency the authority and discretion to place an inmate in medical segregation for medical reasons. Thus, our office was discontinuing review of this complaint issue.

The Ombudsman also contacted the Facility Educational Coordinator in response to the complaint that DOC was not allowing him access to audio books. The Ombudsman learned that DOC has been working to provide the complainant with access to audio books through a free interlibrary audio book loan service program for qualifying individuals offered by the Utah State Library. Previously, the Alaska State Library had offered this service, but outsourced it to Utah in July 2015. DOC submitted the required application forms for the complainant and within the past couple of weeks, the complainant received several audio books from Utah. In addition, at DOC's recent request, the Utah State Library has agreed to substantially increase the number of audio books it will allow the complainant to have on loan. The Ombudsman determined that DOC was working with the complainant to access these materials, and the delays that the complainant was experiencing in receiving these materials were not within DOC's control. DOC is also exploring the possibility of the complainant being able to receive audio books through an outside vendor.

The Ombudsman relayed all of this information to the complainant and closed the complaint. (A2015-1818)

### ***Mother Complains OCS is Breaking Up Her Marriage***

The mother of a child in state custody complained that the Office of Public Advocacy was recommending that she have no contact with her son.

The mother also complained that the Office of Public Advocacy guardian ad litem assigned to her son in a Child in Need of Aid Case was using coercion to destroy the complainant's marriage by threatening to not allow her son, to whom her parental rights had been terminated, to be placed with her husband if he did not divorce the complainant.

The Ombudsman reviewed relevant Alaska law as well as the OCS case management records for this case. In addition, the Ombudsman reviewed the Relinquishment of Parental Rights and Responsibilities signed by the complainant.

The Ombudsman determined in reviewing the relinquishment of parental rights and Alaska Statutes that the complainant did not retain contact and visitation privileges in the agreement. This appears to have been a misunderstanding on the part of the complainant. Thus, OCS is under no legal obligation to provide contact of any kind between the complainant and her child as her parental rights were terminated several years ago. Also, because the child remains in the custody of OCS, the agency has the discretion to determine whether or not to allow the complainant to have contact with the child. OPA is in agreement with OCS that there should be no contact between the complainant and child.

Regarding the complainant's claims that OPA is using coercion to destroy her marriage, based on the available information, it appears that OPA may have told the complainant's husband that it will not support placement of the child with him if he is still in a relationship with the complainant and she is residing in the family home. The complainant is preparing to release from prison and return to the family home. While it may seem like coercion to the complainant, the reality is that OCS is not now allowing her to have contact with her child, which OPA supports.

The complainant's parental rights were terminated and because of that it is likely that OPA and OCS believe that any contact between the complainant and her child, especially with her living in the family home, would pose a threat to the child's safety and not be in the child's best interests. This is not an unreasonable position for OPA and OCS to take as they are responsible for protecting the child and making decisions that they believe are in the child's best interests. This is a discussion that would have to occur between OPA, OCS, and the complainant's husband as he is seeking placement of the child. (A2015-0225)

### ***The Cup, the Bowl, and the Soap Dish***

An inmate complained to the Ombudsman that when he was transferred from one prison to another, some of his personal items were confiscated as not allowed in the new facility. The new facility demanded that he replace, at his expense, the confiscated items--a cup, bowl, and soap dish, from items on its commissary list that were only slightly different. The inmate believed this to be an unfair burden and expense and wanted his original items to be allowed at the new facility. DOC supported the confiscation because different facilities are designed to house different types of inmates and therefore, have different levels of security. Although the Ombudsman doesn't normally involve itself in matters of such trivial nature as a cup and a

bowl, the bigger issue at stake was whether the policy placed an unfair burden on a large number of inmates because of the high number of transfers between facilities on a daily basis.

The Director of Institutions explained that allowing each facility to develop a commissary list in keeping with its mission and make-up, rather than one list that is accepted in every facility, allows for broader choices in some facilities. This was believed to be a greater, longer-lasting benefit to a larger number of inmates rather than limiting all inmates to a single list of lowest common denominator items. He also pointed out that the inmate was issued an acceptable cup and bowl upon arrival in the new facility, leaving only the soap dish to be replaced. However, the Director agreed with the Ombudsman that the policy was ambiguous and added it to the list of policies the agency intends to update. The inmate was stuck with bearing the \$1.85 cost to replace the cup, the bowl, and the soap dish. (A2016-0108)

### ***Grandma Gets Consistent Notice***

A grandmother asked for Ombudsman assistance when she received legal notice of court hearings for a case concerning one of her grandchildren, but was not receiving notice for a case concerning a second grandchild. OCS told the Ombudsman that the first case originated in a different city and the grandmother was getting proper notice. But when the case transferred to a new caseworker three months earlier, the grandmother was accidentally left off the list of those to be legally noticed. Grandma was added to the list when she brought it to the new caseworker's attention and before Ombudsman contact. Grandma is now receiving proper legal notice for both of her grandchildren. (A2016-0289)

### ***Inmate Wins Reimbursement***

An inmate complained that a prison had lost some of his property and was refusing to accept a claim for reimbursement from him. The Ombudsman discovered that the property in question accompanied the inmate when he was transferred from a contract facility in Hudson, Colorado back to an Alaska prison in 2013. The inmate has remained at the same facility since that transfer. At the time of transfer the inmate had several items that were not then, and never have been, allowed in the Alaska prison. By policy, and by the admission of prison staff, the items were supposed to be stored in the inmate's excess property box. Quite by accident, the inmate recently discovered that these items were no longer in his excess property. The facility refused to accept the inmate's lost property claim stating that it was untimely. The facility was unable to give the Ombudsman an adequate explanation for the disappearance of the property. Without the paper trail, the superintendent agreed to reimburse the inmate for the property. (A2016-0438)

### ***The Check Is In the Mail – to the Wrong Address – Twice***

A man requested the Ombudsman's help after waiting weeks for a check that the Division of Public assistance promised was in the mail. The man had recently terminated his Social Security payee and, despite receiving the proper and timely notification of the termination, DPA mistakenly sent his money to the payee anyway. When the man continued to pester the agency with inquiries about the money—which it believed had been properly paid—he was banned from the office. The man turned to the Ombudsman for help. After Ombudsman contact, the terminated payee attempted to return the man's funds to DPA. However, the first time she failed to properly address the envelope—causing it to be returned. Then she returned it to an

office in a city across the state. That office forwarded the check to the correct office, which then had to deposit the funds, reissue a check, and mail it to the man, who had since moved to a remote village. The whole process took nearly three months and required constant Ombudsman shepherding, but finally ended happily when the man confirmed he had received the long-overdue money. (A2016-0638)

### ***O Sidesteps Parrot Custody***

A woman requested the Ombudsman's aid retrieving her pet parrot from the person that was caretaking it while the woman attended her husband through a terminal illness. The woman revealed to the Ombudsman that she had already completed the small claims process and the judge did not find in her favor. The Ombudsman informed the woman that the Ombudsman does not have the authority to question a decision made by a judge in a court of law and would not be able to help her in her quest to regain custody of the parrot. (A2016-0400)

### ***Man Can't Fax Medicaid Office***

A man complained to the Ombudsman that the fax number listed on the state website for the Medicaid Coastal Field Office was incorrect, and that he was given two more wrong fax numbers by agency staff. The man said it took him more than three hours on hold over multiple telephone calls to try to get the correct fax number. The Ombudsman talked to a staff person who assured the Ombudsman the fax number was correct. However, a test fax sent by the Ombudsman failed. A supervisor reported the problem and the line was checked by a telephone repair technician who determined it was working, but that because of the high volume of faxes the agency receives, the queue fills up and it may take several tries before a fax goes through. The man grudgingly accepted this explanation. (A2016-2526)

### ***DOC Pays Inmate for Unsecured Property***

An inmate accused the Department of Corrections of failing to conduct a proper inventory of his property which, he said, resulted in the loss of his property when he was transferred from one facility to another. The Ombudsman learned that the two facilities involved were Goose Creek and Pt. Mackenzie and that DOC considers Pt. Mackenzie as part of Goose Creek and so does not conduct inventories when transferring inmates between the two. However, the Ombudsman discovered that the man was transferred back to Goose Creek because of bad behavior. When this happens, the wayward person is taken to segregation. When an inmate is taken to segregation, he is unable to secure his property and it becomes the responsibility of the agency.

In this case, instead of getting lost, it is far more likely that other inmates stole the inmate's unprotected property while he was being secured in segregation. The Director of Institutions granted the inmate's partial relief in his appeal for reimbursement, capping the amount of the claim, reducing it for various consumable commissary, and requiring him to work with the facility on the remaining items. In light of this, the facility decided to demand a new list of the "lost" items and when it did not match the old list exactly, the entire claim was denied. The Ombudsman spoke to the facility Superintendent who agreed that the original list was sufficient and instructed that the inmate be reimbursed for the capped amount suggested by the director. (A2016-0591)

***Big OPA Goof, Big ALF Debt***

A social worker at an assisted living facility (ALF) turned to the Ombudsman when one of his clients, an OPA ward who was supposed to be on Medicaid, owed the facility more than \$200,000 for his care. Apparently, the man's public guardian had allowed his Medicaid to lapse. After the Ombudsman discussed the case with an agency supervisor, the ward's Medicaid was reinstated with retroactive coverage and the ALF was provided with information necessary to submit retroactive billing. After receiving the Medicaid payment, the remainder of the ward's medical bills were paid from the ward's trust. Mark this file: Paid In Full. (A2016-0787)

***OCS Delay Stalls Mother's Attempt to Join Parenting Class***

A woman came to the Ombudsman with multiple complaints about the way OCS was handling her case. She said that she had been told a month ago she was getting a new caseworker, but she still had the same one. A check of the agency computerized database revealed that her case had been assigned a new case worker that day, without Ombudsman involvement. She then complained that OCS failed to get paperwork to a provider in time for the woman to participate in a required parenting class. The woman said that not being able to participate delays progress on her case plan. When the Ombudsman contacted an OCS supervisor, she accepted responsibility for the delay and explained that the caseworker went on vacation and the supervisor was not aware the paperwork needed to be submitted. She sent it immediately after it was brought to her attention, but alas, it was indeed too late for the woman to participate in the class. Luckily, the woman found a different class to attend and OCS completed the paperwork and sent it in in time for the woman to take the class. Finally, the woman complained that OCS was requiring her to complete substance abuse treatment with no evidence of substance abuse. Ombudsman review showed that the agency based its decision on the results of a professional assessment. The Ombudsman told the woman that the agency decision did not appear unreasonable based on the circumstances of her case. (A2016-1516)

***DOC Slow to Credit Absconder Account***

An inmate who walked away from a halfway house and had his offender account funds forfeited to DOC won return of the funds when he appealed to DOC Commissioner Dean Williams in July. The inmate contacted the Ombudsman in early September when the funds still had not been returned to his account. He had addressed the problem with institutional staff without success but was unable to determine who else to contact because the employee name on paperwork relating to the issue was unintelligible. The Ombudsman contacted the division director for administrative services to find out who the inmate should contact. The director researched the issue and determined that the \$2,086 had indeed not been refunded to the inmate. She directed that it be returned to his offender account, resolving the complaint. (A2016-1524)

***No Evidence State Behind Spamming***

A resident of another state complained that the Alaska Alcohol Safety Action Program (ASAP) had sold his email address to advertisers, who were now sending him spam email for services in Alaska. Although there was no direct evidence indicating that the agency had done this, the complainant inferred the act because he lived in another state and had not released his email address to anyone else in Alaska. Since contacting ASAP, he had been inundated with spam advertising services in Anchorage. The agency contacted state IT security officials, who were

not able to find a breach in security that would have resulted in the release of the complainant's email address to any third parties.

The complainant's email address contained "@yahoo.com". A review of Yahoo Mail's online Terms of Use and Privacy Policy show that the email provider analyzes all communications and accesses the user's computer and browser history for information to use for targeted advertising. The Ombudsman found it more likely that the spam was the result of the complainant's online activity, such as using a search engine to look up ASAP's phone number, or sending or receiving an email with the word "Alaska" in it. The agency responded promptly to the complainant's allegation and found no evidence of wrongdoing. (A2016-1389)

### ***If All Else Fails, Read the Directions***

A citizen missed his Unemployment Insurance hearing and was upset that the agency accepted his former employer's word over his, and that he did not get a chance to present his side of the story. He contacted the Ombudsman for help. The Ombudsman learned that he missed his hearing because he mistakenly marked the wrong day for the hearing on his calendar. He also admitted that he noted the date and time of his telephonic hearing and disregarded the rest of the information contained in the formal hearing notice that directed him to contact the office and provide a telephone number for the hearing. As a result, he did not provide his telephone number for the hearing. He acknowledged that had he done so, he likely would have been advised of the correct day or been at home when the agency contacted him on the correct day. He now has the option of writing a letter to the commissioner and explaining why the circumstances causing him to miss the hearing were beyond his control. (2016-0264)

### ***It Hurts, But Not That Bad***

An inmate complained that the DOC Medical Advisory Committee (MAC) had exceeded the allowable time-frame for responding to his medical grievance. The Ombudsman learned that the inmate's case was reviewed by the MAC, but not because he filed a grievance (he did not), rather, because it was brought for review by a provider. Because there was no grievance, there was no response from the MAC. The substance of the issue was that the inmate did not believe he was receiving adequate treatment and pain medication for his Sickle Cell Anemia. The Ombudsman learned that DOC offered the inmate a treatment plan, including pain medication, but required that he be housed in medical segregation until the plan demonstrated it was working, at which time he could potentially return to general population. The inmate refused this plan and waived his right to pain medication because he did not want to be confined in medical segregation where he was allowed fewer possessions and rights. DOC policy 804.01 VII A(4) gives DOC the authority and discretion to place an inmate in medical segregation for medical reasons. This would have allowed the agency to more closely monitor the inmate's condition and control the administration of potent pain medication in the prison setting. The Ombudsman thought that DOC's decision was reasonable and in accordance with policy, and in light of the inmate exercising his right to waive the medication there was nothing further the Ombudsman could do for him. (A2016-1433)

### ***Inmate Challenges Counselor's Creds***

An inmate contacted the Ombudsman to complain that a private company hired by DOC sent an unqualified program coordinator to conduct substance abuse assessments in Alaska prisons. The complainant alleged the contractor's employee also inappropriately shared information obtained from this assessment with other agency staff.

Before the complainant filed his Ombudsman complaint, he also contacted the Alaska Commission for Behavioral Health Certification and filed an ethics complaint against the contractor who conducted his substance assessment. The Commission found a violation of two ethical principles by the contractor's employee and recommended additional training. The Commission determined that it was improper for the contractor to share the inmate's assessment information with DOC staff, without the express written permission of the inmate. The contractor and DOC are challenging the board's findings.

Ombudsman investigation revealed that the contract employee did not meet the minimum qualifications for serving as the institutional program coordinator at the institution, contrary to prior assertions by DOC staff in their correspondence to the inmate. However, DOC had approved the staff member serving as the "acting coordinator" while the contractor pursued certification with the Commission as a Level 1 Chemical Dependency Counselor. The current contract between DOC and the contract company requires that the facility program coordinators should meet or exceed the qualifications of a Level 2 Chemical Dependency Counselor. The contract company staff member in question did not meet the minimum requirements. But, DOC also had discretionary authority to appoint an acting coordinator while waiting to approve a permanent coordinator to fill the position in order to continue with program operations.

The DOC Program Administrator and contract company asserted that the employee received the required level of clinical supervision (eight hours minimum per month) for serving as the acting program coordinator, met the definition of a "substance abuse counselor" as defined by Alaska regulation 7 AAC 70.990(32), and was qualified to conduct substance use disorder assessments. The contract company's clinical supervisor stated that the company provided weekly telephonic/email supervision to the employee, and also visited the facility on multiple occasions to provide direct supervision, exceeding the required eight-hour per month clinical supervision, contrary to the complainant's assertions.

DOC cited to federal regulation 42 CFR Part 2.12 for the proposition that DOC has direct administrative control over the Life Success Substance Abuse Treatment (LSSAT) program, therefore the informed consent provisions of this regulation did not specifically apply to drug and alcohol information shared between the contract program staff and DOC. The Ombudsman reviewed the regulation and concluded that based on DOC's description of their administrative authority over the operations of the contractor, the federal regulation appeared to support DOC's position that no written consent was required from the inmate. And although the complainant did not initially provide written consent prior to the coordinator conducting the substance assessment, the complainant provided it approximately one month after the assessment was completed and signed a program contract to participate in the Residential Substance Abuse Treatment program offered at the institution.

The Ombudsman concluded that the complaint was not supported by the evidence and discontinued further investigation. (J2016-0151)

***Ombudsman Gets Wheel Chair to Ill Inmate***

An elderly and chronically ill inmate complained that DOC had removed his wheelchair from his cell and was limiting his use of the wheelchair even though he was unable to walk.

In response to the complaint, the Ombudsman reviewed relevant DOC computerized offender case management records and contacted the DOC Chief Medical Officer. The Ombudsman explained that the complainant said that because DOC had removed the wheelchair from his cell, the complainant was unable get out of his bunk to use the bathroom area of the cell and retrieve his medications at med call from the cell door tray slot.

The Chief Medical Officer was familiar with the complainant and aware that he had a special medical equipment order for the wheelchair that was renewed every 90 days. The Chief Medical Officer immediately contacted the facility medical provider and learned the provider was unaware that the complainant's order had been revised to allow for full-time use of the wheelchair. The prior order had originally only allowed for use of the wheelchair for more than 100 feet and a walker for shorter distances. That order had been changed in July to allow for full-time use. The provider said they had inadvertently referenced the older of the two orders when the provider renewed the order.

DOC remedied the problem by correcting the renewed order for full-time use and by bringing the wheelchair back to the complainant allowing him to keep it in his cell.

The complainant called the Ombudsman back the following day and confirmed DOC had returned the wheelchair to his cell for full-time use. The Ombudsman then closed the complaint as resolved. (A2016-1775)

***Parent's Behavior Leads to Limits on School Visitation***

A parent of a child in the custody of the Office of Children's Services wanted to visit their child at school on the child's birthday. The parent wanted to bring cupcakes for a classroom birthday celebration. The parent stated that the Office of Children's Services would not allow the visit and would not explain the reason for the denial.

The Ombudsman contacted the Office of Children's Services and determined that the caseworker believed it was not appropriate for the parent to have a visit at the child's school because the parent was still having issues with drug use and had previously showed up at the school unannounced and then demonstrated a pattern of poor behavior in front of the children. Therefore, it seemed appropriate that the caseworker would place boundaries on visitation and not allow visits to take place at the school.

Because arrangements could not be set up for a visit at the school, the caseworker agreed to pick up the child from the foster home on the child's birthday and meet with the parent for a 2-hour birthday breakfast. The caseworker had also offered to set up a regular visitation schedule for the parent, but had not done so in the past because the parent continued to tell the caseworker that they were leaving town. However, the parent never left. The caseworker again informed the parent that a visitation schedule would be established if the complainant was not leaving town and if the parent contacted the caseworker to set up a schedule.

The Ombudsman relayed the review findings to the parent who confirmed that the caseworker informed the parent of the birthday visit. The complaint was closed because OCS was working

with the parent to accommodate the visit the parent requested and was also offering to set up a more permanent visitation schedule should the parent wish to do so. (A2016-1773)

### **Corrections Considers Crude Comments**

An inmate contacted the Ombudsman to complain that a DOC employee was harassing the inmate by calling him homophobic names and by making lewd comments related to the inmate's sexuality. The inmate stated that he was fired from his job after he filed a DOC grievance against the employee. The inmate believed that DOC did not properly respond to his grievance.

DOC investigated the inmate's concerns so the Ombudsman could review the agency personnel records. Due to the nature of the comments made by the employee, the Ombudsman contacted the Professional Conduct Unit to address alleged unprofessional conduct by DOC staff.

The Ombudsman also contacted the Prison Rape Elimination Act Office because it appeared the comments would qualify as sexual misconduct by a DOC employee. The PREA office said that the allegations should have been brought to the PREA office's attention when the inmate originally filed the grievance. The PREA office counseled staff on this misstep and ensured the Ombudsman that the PREA hot-line reporting number was posted in all facilities and all inmate handbooks. The inmate was advised to file a PREA complaint by calling the hot-line reporting number so the PREA office could thoroughly review the complaint. The Ombudsman confirmed that the inmate filed the PREA complaint and that it was being investigated by the PREA office.

The Ombudsman also confirmed that the allegations were being reviewed by the Department's Professional Conduct Unit. The inmate was informed that if any action were taken by the DOC, the Ombudsman would not disclose the information because personnel matters are confidential by law. The Ombudsman was satisfied that the agency was taking the necessary steps to address the inmate's allegations; therefore, the complaint was closed. (A2016-0856)

### **Ombudsman Facilitates Property Release**

An individual contacted the Ombudsman to complain that the Department of Law failed to authorize a municipal police department to release the complainant's backpack to him after the closure of a criminal case. The Ombudsman contacted the District Attorney's office and, within an hour, the agency had sent over a release to the police department. (J2016-0075)

### **Unpaid Medical Bill Haunts Inmate**

An inmate who was about to be released from prison contacted the Ombudsman to complain that he was suddenly receiving billing notices from a collections agency connected to the Anchorage Fire Department Rescue Squad. The notices claimed that the inmate owed more than \$1,300 for his transport from Anchorage Correctional Center to Alaska Regional Hospital nearly two years before. The inmate contended that he did not call for the ambulance. ACC medical staff did. Therefore, he said, DOC should be responsible for the cost. He also told the Ombudsman that hospital staff determined nothing was wrong with him. He provided paperwork to show that he had attempted to resolve the problem through DOC complaint processes up to the Director of Institutions, to no avail.

He was also concerned that once he was out of prison he wouldn't be able to get DOC to listen to his grievances about the matter. The Ombudsman reviewed policy and procedure and learned that inmates can continue to press their grievances or appeals if they notify the facility standards officer five days before their release that they want to pursue it.

In the meantime, the Ombudsman contacted DOC's medical administrator who checked the complainant's medical file and saw that he had been transported because of some concern about his heart. She said that DOC paid the hospital and physician bills but not the transport cost. She immediately directed that the invoice be paid. In the meantime, the complainant was released. (J2016-0024)

### ***Inmate Balks at Extended Stay***

An inmate contacted the Ombudsman because he believed that the jail had not received the paperwork from his sentencing hearing the day before, which meant he could not be released. The Ombudsman reviewed the DOC's case management system and discovered that the jail had received the paperwork and completed the inmate's time accounting record. However, the release date was weeks in the future, not immediately.

The Ombudsman reviewed the records and discovered that DOC had missed five weeks of prior service on the case. The Ombudsman notified DOC Records of the mistake and the inmate was released later the same day. (A2016-0057)

### ***Like Magic***

An inmate complained because his time accounting had not been finished, which resulted in him being held past his release date. As he had just been sentenced, the Ombudsman instructed him to give the records department a little more time and to call back if the issue was still unresolved.

The complainant did not call back, but his attorney did a few days later. The Ombudsman reviewed the inmate's record and found that his time accounting had been completed just minutes before the Ombudsman inquired. The complainant was released the same day. (A2016-0136)

### ***Easy Fix***

An inmate alleged he had not received a reply to a grievance he filed with the Office of Public Advocacy (OPA) against his OPA Public Defender. The Ombudsman reviewed the OPA grievance policy and the complainant's court case information and determined that it was more likely than not that OPA had discussed his grievance with him. According to OPA policy, a grievance is considered resolved if a person has a court representation hearing after filing the grievance. This is because the judge's decision at the representation hearing overrides anything OPA decides. The complainant had been granted a representation hearing prior to filing the grievance and had the hearing shortly after filing the grievance. OPA was removed as the complainant's attorney at the complainant's request and he began representing himself.

However, during the complaint review, the Ombudsman noted that one section of the OPA grievance policy was not clear regarding the grievance closing procedure. The Ombudsman contacted the OPA supervisor responsible for the grievance process and the supervisor

immediately agreed that the policy could be clearer and agreed to review and update the section in question. (A2016-0476)

### ***Clerical Error Lands Man in the Pokey***

An inmate wrote to the Ombudsman, claiming to not know why he was in jail. He was told it was for a parole violation, but the inmate claimed he had served all of his parole time and been released from custody a month earlier.

The Department of Corrections computerized inmate management system supported the inmate's claim. The Ombudsman immediately contacted the Parole Board. The Board administrator saw that the complainant's old parole violation warrant, had never been removed from the Alaska Public Safety Information Network, so police believed it was an active warrant and arrested him. As he was not actually on parole, there was no parole officer to notify the Parole Board of the arrest and apparently none of the Anchorage Correctional Complex (ACC) employees followed-up on his concerns--or at least did not follow-up effectively.

The Parole Board notified ACC that the man should be released. The release occurred approximately two hours after the Ombudsman received the complaint in the mail. The Ombudsman wrote a letter to the complainant at his home address and explained the error and referred him to Risk Management for possible monetary compensation. (A2016-0553)

### ***Recording Refutes Faulty Memory***

An inmate complained that a DOC disciplinary hearing officer misinformed him that the hearing decision and sanction imposed would not negatively impact the complainant's classification and matrix scoring. Based on this information, the complainant said that he decided not to file an appeal of the hearing decision.

A recording of the disciplinary hearing showed that the complaint was not misinformed about the ramifications of the findings and how they would affect his classification. The Ombudsman relayed this information to the complaint and explained that our office was unable to substantiate his claim and was closing his complaint. (J2016-0007)

### ***Masseur Gets a Rub Down***

A massage therapist complained that the State Board of Massage Therapists had taken more than seven months to process his license application and had not yet issued him a license. The complainant said that the delay had caused him to lose clients, was preventing him from obtaining employment, and was creating a financial hardship for him. The complainant had previously been licensed by the Municipality of Anchorage prior to the State of Alaska taking over the licensing of massage therapists.

The Ombudsman contacted the Division of Corporations, Business and Professional Licensing Section to discuss the complaint. The division director acknowledged that the agency had "dropped the ball" in processing the complainant's application. The director explained that first staff had asked the complainant to supply information that he already provided and then failed to follow up and request pertinent information, which resulted in the delay. The director ordered that the complainant's application be fast-tracked for processing and promised that she

would call the complainant herself, explain the delay, and offer her an apology, which she did. (A2016-0429)

### **CSSD Resolves Interstate Error**

A custodial parent complained that the Child Support Services Division incorrectly sent payments intended for her to another state's child support division and would not reissue the money to her.

The Ombudsman discussed this complaint with staff in the CSSD Complaint Resolution Office. The Ombudsman learned that CSSD had disbursed payments it had received on the complainant's child support case to another state's child support office based on interstate computer interface information from the other state, which indicated the complainant had assigned her rights to support to that state because she had received public assistance there. However, the information provided by the other state was old, outdated, or incorrect. CSSD was aware of the problem and had been working with the other state to recover the money from that state and redirect it to the complainant.

While this complaint was open, CSSD recovered the funds from the other state and was working to post the funds to the complainant's CSSD debit card within 2-3 days.

The Ombudsman relayed this information to the complainant by telephone and closed the complaint as resolved. (A2016-0434)

### **Approved Education Course – Not Really**

A nurse applied to the Board of Nursing for an Alaska license, based on her licensure in another state. Because she did not have sufficient work hours within the last five years, Alaska's regulations required that she complete a refresher class, described as "proof of completion of a course of study approved by the board." Approved courses were listed on the board's web site. The nurse selected one of the listed courses and completed it.

After she turned in her application materials, the licensing examiner noticed that the university providing the course no longer included clinical hours in the curriculum, unlike when the board originally approved it. The licensing examiner told the applicant that the course failed to meet the regulatory requirements, and refused to consider her license application. The applicant said that the licensing examiner told her that clinical hours could only be obtained through an academic program, which would mean completing another refresher course. The applicant pointed out that she had already spent several months and two thousand dollars on the course she had just completed, *which she had picked from the board's own web site*.

The Ombudsman looked at the Board of Nursing's regulations, and then tried calling the licensing examiner. The board's newly-hired executive administrator returned the call. After reviewing the regulation, the executive administrator agreed that the licensing regulation did not actually specify clinical hours, but merely specified a board-approved course. The executive administrator admitted that the course completed by the applicant was approved by the Board of Nursing when the complainant enrolled and completed it. In fact, at the time of the conversation, the board had not yet acted to reverse its approval, so the course was still board-approved (but not for long).

The executive administrator hastily added the applicant's case to the board's scheduled meeting, which started the next day. Although the applicant had technically met the licensing requirements by completing an approved course, the board was concerned that she had not actually done the clinical hours the board meant to require. The applicant was willing to complete supervised clinical hours, as long as she did not have to pay for another university course and repeat classroom time she had just completed. The board and the nurse-applicant agreed that the board would accept hours worked under supervision of a nurse preceptor with an employer, rather than through a university, and that the board would issue the complainant a temporary license while she completed the supervised hours. The complainant considered the agreement a fair resolution. (J2016-0069)

### ***Gift Card – Deal Me In***

The complainant is an adult ward of the Office of Public Advocacy (OPA). The public guardian assigned to him restricts his access to cash, and instead provides him with a weekly gift card for a local grocery store that does not sell liquor. The ward complained to the Ombudsman, saying that the guardian had refused to give him a food card and he was hungry.

The public guardian said that the complainant had demanded two food cards at once, because he had been hospitalized for about two weeks. When the guardian explained that OPA would only issue him one card (for the current week), and would not issue an additional card for a past week when the hospital had fed him, the complainant left in a huff. The guardian first said that the complainant had been given his weekly food card, but then learned from her office staff that the complainant had stomped out without picking up even his one allotted weekly food card. The Ombudsman retrieved the gift card and gave it to the complainant when he returned to the Ombudsman's Office that afternoon.

A week later, the complainant again told the Ombudsman that he had not gotten his food card for the week. It was not clear whether he was complaining about lack of the usual weekly food card, or about not receiving the extra card that he still felt he was owed. When the Ombudsman called OPA, the staff could not tell whether the complainant had actually picked up his weekly card, because they were relying upon personal recollection – the OPA office did not keep any record of the weekly disbursement. There were at least two wards receiving weekly grocery gift cards in lieu of cash. The Ombudsman told OPA they have a responsibility to keep track of disbursements, including whether an individual actually receives a card purchased with his or her funds. OPA began having the wards sign for the food cards upon receipt. (J2016-0055)

### ***DOC Owns Up***

An inmate complained that the Department of Corrections committed errors during her disciplinary proceedings and denied her due process, which resulted in her unfairly being found guilty of a rule violation.

During the Ombudsman's review of this complaint, the prison superintendent conducted her own review of the case. DOC subsequently reopened the disciplinary case, granted the complainant a new hearing, and found her not guilty of the infraction. The superintendent explained that the hearing officer decided to reverse the disciplinary finding because there was

not enough evidence to prove that the complainant was more likely than not guilty of the rule violation.

DOC dismissed the disciplinary case and pulled all of the disciplinary records from the complainant's inmate file and the agency's computerized case management system. (A2015-1663)

### ***Odd, but Consistent***

An inmate contacted the Ombudsman because she was not receiving credit for time served on Department of Corrections (DOC) Electronic Monitoring (EM). The complainant originally was given a suspended sentence, with time to serve as "shock incarceration." She applied to serve this time on DOC EM, and was approved. The courts had since revoked her suspended sentence, but she was not granted credit for the time spent on ankle monitoring. The Ombudsman contacted DOC and learned that they considered this time pre-sentencing time, and until a recent statute change, inmates could not receive credit for time on ankle monitoring if they were not yet sentenced. If DOC had not approved her application to be on EM, she would have served the time at a jail facility or a Community Residential Center and been given credit for the time.

Intake reviewed the statutes and case law, and determined that while the situation seemed odd, as the complainant was placed on ankle monitoring by DOC and not the court, there was no clear indication that this was a misinterpretation of statute. Intake could not find a specific Alaska ruling regarding when a person on suspended sentence is considered sentenced, but rulings in other states indicated that until the suspended sentence is revoked or set-aside, the person is considered un-sentenced, supporting DOC's stance. Intake explained this conclusion to the complainant and suggested she speak to her attorney about filing for credit against the sentence under the new statutes. (A2015-2074)

### ***You Have to Be Charged First***

An inmate contacted the Ombudsman because he believed he was entitled to a Public Defender for a disciplinary hearing at Lemon Creek Correctional Center. He argued he should have an attorney because the disciplinary issues could result in criminal charges. The Ombudsman reviewed the Department of Corrections disciplinary policies and regulations and the Public Defender Agency (PDA) statutes. While an inmate is allowed counsel at a disciplinary hearing that may result in felony charges, this counsel must be arranged and paid for by the inmate. The PDA can be appointed only under specific circumstances related directly to court processes. (A2015-2132)

### ***Who Knows This?***

A citizen called the Ombudsman's office because she wanted to know how much the state paid in "Hold Harmless" payouts related to the Permanent Fund Dividend and Public Assistance. The "Hold Harmless" fund reimburses individuals who lose benefits such as social security payments due to receiving the PFD. The Ombudsman contacted Public Assistance and confirmed the correct person to answer the citizen's questions. The Ombudsman provided the person's name and phone number to the caller. (A2015-2160)

***Do-It-Yourself Calling***

An inmate contacted the Ombudsman because Department of Corrections staff would not help him make a phone call to his wife. He was an indigent inmate and entitled to a certain number of free local phone calls under the newly approved phone tariff. The Ombudsman contacted DOC staff and determined that the complainant did not need a staff member to assist him to make the free calls. Indigent inmates automatically had a certain number of free local calls linked to their phone pin number. The Ombudsman relayed this information to the complainant in writing and asked him to reply if he had further issues. He did not reply, hopefully meaning he was able make the calls himself. (A2015-2342)

***Life and Death***

A citizen contacted the Ombudsman because the Division of Public Assistance (DPA) had not approved his Medicaid application. As a consequence, he was notified that he would be removed from an organ transplant list. The Ombudsman contacted the DPA regional manager, who reviewed the case and responded that DPA had requested and received additional information from the complainant. However, the information had not yet been processed. The manager had a technician evaluate the application immediately, resulting in approval of the citizen's Medicaid on the same day. (A2015-2361)

***Ombudsman Looks at Foster Parent Process***

A foster parent contacted the Ombudsman's office asserting that two foster children had been removed from her custody without due cause. The foster parent was concerned that OCS had removed the children based on an old report that had been investigated and found without merit, but that a judge had upheld the removal without knowing about the previous investigation.

The Ombudsman's office does not review judicial decisions, so the Ombudsman was not able to help the parent get the children back. The Ombudsman did look into the parent's allegations about the case worker and home study process being biased and ultimately influencing the court decision. The Ombudsman saw that OCS had not followed proper procedure in sharing the results of the home study with the foster parent, and that their notification process failed to inform foster parents adequately of the rights to use a grievance procedure within the agency before turning to a court hearing.

OCS included home study procedure in a training with its workers in response to the discussion and redrafted its policy and notification forms to better inform foster parents of their rights. Hopefully, the process will be clearer and simpler for other parents in the future. The children in this case were eventually adopted by a relative and are doing well in their new home. (A2012-0071)

***No One Worries Like a Mother***

A concerned mother contacted the Ombudsman's office because her daughter had told her that she had not received her check from the Office of Public Assistance to purchase Christmas presents and could not get an appointment to talk to her daughter's guardian. The Ombudsman

reached out to OPA for its side of the story and learned that the mother in this case did not have legal guardianship. Consequently, the mother had no standing to request meetings without her daughter, who had not asked for a meeting. In addition, the Christmas check had been sent and cashed before the holiday, so chalk this one up to miscommunication. The Ombudsman let the mother know that we closed her complaint but that her daughter was welcome to contact us in the future if she needed assistance. (A2014-2179)

### ***Grandma Dissuaded From Double-Dip***

A grandmother contacted the Ombudsman's office to help her get reimbursed for in-home care provided to her grandchildren for a limited time in fall 2014. The grandmother had applied to become a licensed foster care provider while the children were in her custody, but never completed the application and eventually requested that the children be removed from her custody due to an ongoing medical issue.

Under Alaska guidelines, an unlicensed relative caregiver may be eligible to receive one of two types of government financial assistance to care for a child in state custody. These options include foster care payments and public assistance benefits. In order to receive foster care payments, the relative must become a licensed foster care provider. Additionally, a relative may not receive both types of assistance at the same time.

Because the grandmother in this case had never completed her license application, she was ineligible for foster care payments. She had, however, applied for and received public assistance benefits covering the majority of the time the children were in her custody. The Ombudsman relayed the review findings to the complainant and explained that the Ombudsman could not support her claim for additional payment for child care. (A2014-1999)

### ***Right Place, Right Time, Right Out***

An inmate contacted the Ombudsman's office because his parole paperwork seemed to have gotten lost in the mail between his probation office (PO) and the institution. The Ombudsman confirmed that the PO sent the files and that the prison had no record of receiving them. Before the Ombudsman could solve the mystery, the inmate, who worked in the booking office, found the missing file on top of a stack of paperwork in the office. He notified a corrections officer, who took the file to the records office to complete the inmate's time accounting. The inmate was released the following day. (A2015-1171)

### ***The Things We Do For Love***

An inmate contacted the Ombudsman to complain that he was being unfairly written up for attempted escape from the halfway house. On the night in question, the inmate was supposed to have been working when his probation officer came to check on him. He could not be found. It turned out the inmate's girlfriend had come to visit. The two were discovered later in a locked office, not in the parking lot where the inmate had told his coworkers he would be. The complainant's appeal of the write-up had been denied because he also lied to his probation officer about the situation. The Ombudsman's office told him he could continue to appeal through the court system, but that it appeared DOC was acting within its authority to charge him with the infraction. (A2015-0046)

***Pick a Name, Any Name!***

A woman asked the Ombudsman to help her get a driver's license. The woman had just moved to Alaska, and the DMV clerk she spoke to was struggling to determine the woman's legal name for the license forms. The clerk had requested documentation of how her name had changed from the name on her birth certificate to her current name, by way of four marriages. The Ombudsman advised the complainant to contact the local DMV supervisor, who reviewed the issue and provided the complainant an exemption to get her license...as soon as she passes the written exam. (A2015-0026)

***A History of Escape***

An inmate contacted the Ombudsman's office to request that a ten-year-old conviction for walking away from a community residential center not be considered in his current application for an offsite work placement because of the age of the conviction and because he left the center to care for his ill mother. One of the eligibility factors established by the Department of Corrections for the offsite work program was no history of escapes. The Ombudsman explained that the courts consistently found eligibility requirements most fair when they were applied consistently and when the requirement is clearly relevant to the program. A history of escape is a relevant consideration when selecting inmates to work offsite and an automatic eligibility denial without taking into account the individual circumstances means it is being applied fairly and consistently. (A2015-1941)

***The Name Game***

A retired state employee contacted the Ombudsman because the Division of Retirement and Benefits (R&B) had not authorized a withdrawal from her account in a timely manner and she had not been able to get an explanation from them. The Ombudsman got in touch with R&B and discovered that the problem was in the record of her name: she was known to R&B under one name, had another name on her social security card, and was known to the private account contractor under a third. Once R&B re-registered her with all three agents using her legal name, a check was sent and the complainant received it the following week. (A2015-0651)

***Complainant Fails to Pursue Poop Complaint***

An Alaskan contacted the Ombudsman with a complaint that the Department of Environmental Conservation had failed to investigate his reports of a private company dumping sewage onto his property. After getting his borough to look at the property, the complainant was unhappy with their assessment that any sewage that had been dumped had dissipated. He then reported the issue to DEC. While discussing the case with the complainant, the Ombudsman learned that he had only contacted DEC once, more than a year previously, and had never followed up with them or with a supervisor. The complaint was dismissed due to the complainant's failure to pursue the issue using the resources and time available to him. (A2015-1568)

***Always Read the Fine Print***

An inmate contacted the Ombudsman with a concern that her sentences were being counted consecutively, instead of concurrently. After tracking down the court judgments, the

Ombudsman found that while one of the sentences was concurrent, the others would need to be served consecutively and that the Department of Corrections time accounting was indeed correct. The Ombudsman relayed this information to the complainant, who thanked us for looking out for her. (A2015-1583)

### ***Sometimes Even Troopers Get Confused***

A woman contacted the Ombudsman to help her track down the police report she needed for her court appearance. The Alaska State Troopers had told her they did not handle the case and suggested she check with the Anchorage Police Department, but APD had no record of the report. The Ombudsman checked the court papers and found the report number and the name of the Ombudsman, who turned out to be a Trooper after all. The Ombudsman contacted the AST records department to confirm they did actually have the report, then relayed to the complainant how to request the report online and asked her to get back in touch if she didn't get the report this time. (A2015-1727)

### ***A Little Red Tape Goes a Long Way***

The owner of an assisted living facility contacted the Ombudsman's office because she had not received payment for a year for a resident who should be covered by a Medicaid waiver. At the time of first contact with the Ombudsman, there were two issues causing problems. The first was that the Department of Health and Social Services was not evaluating additional information demonstrating the level of care the resident needed that had been submitted by the care coordinator. The second issue was that a decision on appeal of the waiver status had not been issued by the Office of Administrative Hearings even though it was due months before.

The Ombudsman first contacted the Office of Administrative Hearings and found that a large caseload was delaying written decisions after hearings. After reviewing the file, OAH noted that the judge assigned to write the decision was leaving the office soon and would not be able to write it, so it was assigned to another judge to write. OAH stated they expected to issue the decision in the next week.

Next, the Ombudsman called DHSS to find out what had been done with the additional information submitted to them. DHSS determined that because of the pending appeal, new information for the file was submitted by the appeal attorney to the agency attorney, bypassing immediate review by the assessor. After being informed of the additional information and that OAH was issuing a decision in the next week, a DHSS assessor reviewed the new information.

The OAH decision was in the resident's favor. DHSS had already decided to issue the waiver based on the new information and was beginning the process to determine a care plan and payment rate, so the complaint was closed.

The complainant re-contacted the Ombudsman's office a couple months later when things seemed to have stalled again. Initial review showed that the case had recently transferred to the Department of Public Assistance to approve the care plan, and DPA requested more information from the complainant and care coordinator. The information was sent, but neither the complainant nor the care coordinator had gotten confirmation that the information had arrived at DPA. After the complainant and the care coordinator on the case both tried again to contact members of the Department of Public Assistance, the Ombudsman contacted DPA on

their behalf. Even though DPA was well within the expected timeline to review the care plan, the extraordinary delays in the case appeared to warrant an expedited review if possible.

The Ombudsman confirmed that DPA received the additional paperwork they needed and also informed of the delays in the case prior to it arriving at DPA to see if an extra push could be given. DPA quickly finished their review and a check was sent to the complainant the next week. (A2015-1110, A2015-1111, & A2015-1467)

### ***Lights Out***

An inmate complained that a prison had begun to install 24-hour lighting inside the prison cells. The inmate was concerned about the detrimental health effects caused by constant light. After Ombudsman contact with the Director of Institutions, the agency decided not to proceed with installing the lighting system and reverted to the previous policy of turning off cell lights at 10 pm. The inmate was relieved when the Ombudsman advised him of the agency decision. The complaint was closed as resolved. (A2015-1891)

### ***Fishing for Child Support Debtors***

A custodial parent complained to the Ombudsman that CSSD should be able to find out what fishing boat her ex-husband crewed on and collect the child support he owed through garnishment of his earnings. Although this solution was not achievable, the Ombudsman discovered that another state agency collected a list of crew members while conducting vessel inspections at the beginning of the fishing season. At the Ombudsman's suggestion, the two agencies began working together to find a way to share information to improve collection of child support debts. The Ombudsman relayed this information to the complainant, who remained unhappy that CSSD was thus far unable to collect the support owed to her. (A2015-2055)

### ***I'm not a Doctor, but...***

An inmate contacted the Ombudsman's office with concerns about getting additional medical care for a shoulder injury. The Ombudsman noted that the grievance filed by the complainant had been screened out by a non-medical employee and the appeal of the screening was denied, which meant the complainant never had the opportunity for the grievance to be meaningfully reviewed by someone not currently involved in his care. The Ombudsman contacted the prison superintendent, who agreed to review protocol for medical grievances with the screening officers and to allow this complainant to file another grievance, which would not be screened, to give him the opportunity to appeal his medical care to the Medical Advisory Committee. (A2015-0684)

### ***Ombudsman Helps OCS Kick Loose a New SSN***

A foster parent contacted the Ombudsman to complain that OCS failed to apply for a Social Security number for a child in her care. The complainant said that she had asked OCS for the number on several occasions so that she could complete her income tax returns. The IRS had granted her a filing extension, but now that deadline was quickly approaching as well. The

Ombudsman contacted OCS and learned that staff had recently finished gathering the necessary information to file the application and planned to do so in person. The Ombudsman kept the complaint open until the foster parent confirmed receipt of the number less than two weeks later. The complaint was closed as resolved. (A2015-1679)

### ***Inmate Wants DOC to Finish His Root Canal***

An inmate received assurance from DOC that a problem tooth would be extracted. However, after waiting in pain for a month, the inmate complained to the Ombudsman. The Ombudsman contacted the DOC Dentist and the Health Care Administrator and the inmate soon received the first procedure of a root canal.

The inmate contacted the Ombudsman again because, after seven weeks, the root canal had not been completed. The Ombudsman contacted the Health Care Administrator again and learned that the second half of the root canal could be performed at any time, as soon as DOC caught up on backlogged dental issues of a higher priority.

The inmate also complained about not receiving a response to his grievance appeal to the Medical Advisory Committee. The Health Care Administrator located the grievance and provided a written response to the inmate. (A2015-1299)

### ***Prison Loses Study Pack, Will Cough Up Dough***

An inmate complained that DOC was not allowing her access to some of the pre-approved educational materials she had purchased. The complainant claimed that DOC was thwarting her educational goals.

The prison superintendent told the Ombudsman that the complainant's educational materials were received at the facility, sent to property, and then lost.

The superintendent agreed that the facility would reorder the materials for her. But, the superintendent then learned from the facility's administrative officer that the matter could not be handled this way. Instead, DOC will reimburse the inmate for the cost of the materials plus shipping, so that she can reorder the materials herself.

The superintendent met with the complainant and explained this and reassured her that her pre-approval for educational materials remained valid. The Ombudsman closed the complaint as resolved. (A2015-1723)

### ***Inmates File Baseless Complaints***

The Ombudsman received 12 identical complaints against the Department of Corrections. They alleged that DOC was making them sick by feeding them meat and produce from uninspected inmate-run facilities. Investigation revealed that the inmate-run slaughterhouse is the only USDA approved slaughterhouse in South Central Alaska. Further, the produce grown at the Pt. Mackenzie Correctional Farm is subject to inspection by Department of Environmental Conservation under the Alaska Food Code. None of the inmates responded to the Ombudsman's

request for information regarding their alleged food-borne illnesses. The Ombudsman found the complaints without merit.

The inmates also complained about the department's policy of adding a surcharge to commissary orders to fund the Inmate Welfare Fund. The inmates claimed that they saw no benefit from the fund and had no say in how funds are spent. Investigation on this issue revealed that the Inmate Welfare Fund is spent on numerous items that benefit inmates, such as exercise equipment, televisions and appliances for common areas of the institutions, potlatches, and hobby craft items. Further, each institution was queried and indicated that inmates can participate in how funds are spent by submitting individual or group requests. (A2015-1384)

### **After Complaint OCS Fast-Tracks Changes**

A foster parent of a medically fragile foster child contacted the Ombudsman with a complaint against OCS. The foster parent complained that OCS was conducting a licensing investigation against her and would not explain why. She said OCS had failed to reimburse her for respite care services she had paid for while the foster child was in her care. Further, she said OCS had failed to provide adequate case management services for the foster child to ensure that the child received appropriate services and supports.

The Ombudsman learned that OCS had opened a licensing investigation of the foster parent because the agency received a report that met the criteria for investigation. The investigation had been opened a few days before the complainant filed a complaint with this office. Shortly after the complaint was opened, OCS met with the complainant and explained to her the reason for the investigation. Thus, this portion of her complaint was resolved.

The Ombudsman learned that the agency was in the process of working with Division of Behavioral Health (DBH) to ensure that the complainant was reimbursed for respite services for the child through a DBH individual service agreement (ISA). Reimbursement for this type of service for a child in state custody who is covered by an ISA is not payable by OCS, but by DBH. DBH issued the reimbursement payment to the complainant.

The Ombudsman found merit to the complaint that OCS had failed to provide adequate case management services for the medically fragile child who had been placed in the complainant's foster home, and the agency acknowledged this. This appeared to be attributable to a breakdown in information sharing and communication between two regional offices, confusion among staff concerning their roles and responsibilities in the case, and a general lack of experience among staff regarding how to handle and manage a case involving a medical fragile child with complex medical needs. The Ombudsman also noted a lack of knowledge of the specialized programs and services available for these children.

The OCS Deputy Director acknowledged that the agency previously recognized it had deficiencies in providing case management services to medically fragile children in state custody. Consequently, OCS began working with DSDS in 2014 to identify and address these deficiencies, improve its delivery of supports and services, and promote continuity of care for the children that are served by both agencies.

After collaborating with DSDS, OCS began implementing changes in this area. These changes included implementing centralized tracking of children in state custody who have intellectual

and developmental disabilities and/or complex medical conditions and who are Medicaid eligible; documenting the waiver services and supports these children are eligible to receive, are currently receiving, or have been wait-listed to receive; having OCS staff nurses available for caseworkers to consult; issuing a new written guide to staff for regarding children who are eligible for a DSDS waiver program or who are receiving program benefits; implementing new webinar training for staff in this area; and developing new policies and procedures around this issue.

Given that the agency is actively working to improve its case management services to medically fragile children and has begun making needed changes, the Ombudsman discontinued further review of this complaint as there was no additional remedy the Ombudsman could provide. As well, the Ombudsman learned that since this complaint was opened, OCS has been working more closely with this child's care coordinator, medical providers, and DSDS to ensure the child is receiving the supports and services that she needs. (A2015-1065)

### ***Outnumbered Inmate Protests***

An inmate complained that DOC used excessive force against her.

The Ombudsman learned that the incident occurred just out of camera range. The available information and records stated that the complainant was non-compliant and combative with DOC staff prior to and during the scuffle, during which the complainant sustained only minor scrapes and bruising. The incident involved eight correctional officers. In the reports written by these officers, the officers were consistent in their description of what led up to the incident, the complainant's non-compliance and physical resistance, as well as the actions they took to restrain the complainant during the incident. The complainant acknowledged in discussion with the Ombudsman that she was non-compliant and physically resisted the officers and that she received only minor scrapes and bruises in the incident.

The Ombudsman was not able to corroborate the complainant's claim that DOC staff used excessive force. Rather, the available evidence suggested that DOC staff followed proper protocol and guidelines in the use of force and that the use of force was warranted and reasonable in this situation. (A2015-1347)

### ***O Cuts Red Tape Just in Time***

A Southeast man contacted the Ombudsman on behalf of his disabled brother who was trying to get into a nursing home for care. The brother, with the assistance of family members, had applied for Medicaid in January 2015 but his application was pending. A nursing home room opened up for the brother if Medicaid approved his application, but the home would only hold the room for two weeks maximum.

The brother's family members said they repeatedly called Medicaid's Long-Term Care line but they sat on hold for hours without getting through to a live person and there was no option to leave a message.

The Ombudsman called the phone numbers provided by the family with similar results. She then called an office supervisor and explained the situation. The supervisor said the disabled brother had not provided his Blue Cross insurance card which the Southeast man said he had sent to Medicaid several times. It later turned up in the file. The supervisor assigned the

application for review and it was approved three days later, allowing the brother to move into the nursing home.

The supervisor also reviewed the case to determine what went awry. She said that Medicaid denied the brother's first application in January because he had excess income so the family set up a trust in April 2015. However, they didn't submit a new application for their brother until May. Medicaid asked for more information in June and the family said they submitted it but caseworker did not have it. The caseworker also did not notify supervisors that information was missing. When the Ombudsman contacted Medicaid the supervisors searched for and found the missing information.

The Ombudsman also pointed out that the family members were unable to leave a voicemail when their phone calls were unanswered and they were left on hold for long periods. The Ombudsman suggested DPA add a menu option so callers could leave a voice mail specifically for the long-term care Medicaid section. (J2015-0062)

### ***Bum Home Builder Walks***

A Soldotna resident complained to the Ombudsman because the Criminal Division in the Department of Law failed to prosecute a home builder and a home inspector the complainant believed had committed fraud. An out-of-state home builder constructed 12 recreational homes on the Kenai Peninsula during 12 Alaskan summers. All 12 home inspections were performed by the same inspector.

While the homes appeared to be of sound construction, the homeowner later discovered through problems with the home and subsequent home inspections that there were many structural, electrical, and overall poor quality construction issues. These issues were not revealed in the original home inspections because the inspector failed to properly inspect the homes, the complainant alleged. The homeowner filed a criminal complaint with the Alaska State Troopers, which presented criminal charges to the Department of Law for review. The charges were Scheme to Defraud, Offering a False Instrument for Recording in the First Degree and Falsifying Business Records. The Department of Law declined to prosecute stating that there was "insufficient evidence of the necessary culpable mental state for the conduct to be a crime."

The Ombudsman reviewed all documents submitted by the complainant, including the investigation documents from the Alaska State Troopers that had been forwarded to the Department of Law for review. The Ombudsman then contacted and obtained additional documentation from the Department of Law, Deputy Attorney General. The Department of Law concluded that the investigation established negligent home construction and faulty inspection, but there was not enough evidence to establish beyond a reasonable doubt *criminally* fraudulent conduct on the part of the home builder or home inspector. Additionally, the decision had been reviewed at several levels of supervisors at Law and all agreed with the decision to not to prosecute. The Ombudsman determined that the Department conducted a complete and thorough review of the case. The Department declined to prosecute because there was not sufficient evidence to establish beyond a reasonable doubt criminally fraudulent conduct.

Under statute and case law, the Department of Law prosecutors may make any disposition of the state's litigation they think best. The Ombudsman cannot and will not substitute our

judgement or our discretion over the legal opinions of professional attorneys. The complainant wanted the Ombudsman to compel the Department of Law to pursue criminal charges, but the Ombudsman cannot force the department to prosecute a case. Although the Office of the Ombudsman sympathized with the complainant's position, the Ombudsman was unable to find evidence that the attorneys who reviewed the case were inappropriately influenced. Therefore, a summary of the Ombudsman review was provided to the complaint and the case was discontinued. (A2015-0188)

### **Secret Number Stalls Vehicle Title**

A licensed vehicle dealer was unable to obtain a vehicle title from the Division of Motor Vehicles (DMV) for a vehicle purchased through a government auction because only one of two vehicle identification numbers could be located. The dealer was able to provide the original federal government ownership document, the inspection for the vehicle identification number under the windshield, and a current Carfax report with the matching number, and believed the documentation was sufficient to obtain an Alaska vehicle title. DMV did not.

The Ombudsman contacted DMV and learned that the agency was requiring an inspection of the second "hidden" vehicle identification number due to numerous attempts by individuals to obtain fraudulent title documents. The agency cited AS 28.05.041, which gives the agency broad authority to "approve or disprove any application for registration of, or certificate of title for, a vehicle... and make any investigation it considers necessary and may require additional information before approving an application."

Although the agency was being diligent in its attempt to prevent fraud, the agency did not have specific regulations or policies and procedures requiring a second vehicle identification number. However, the agency was in the process of updating regulations to provide more direction about the requirement to inspect the second identification number. Additionally, their website information and the agency forms did not inform individuals of the requirement. When the Ombudsman brought this to their attention, the website and forms were updated.

To resolve the complainant's issues, DMV arranged for the Alaska State Troopers to perform an inspection for the second "hidden" vehicle identification number and the complaint was closed after the number was located and a vehicle title was issued. (A2015-0669)

### **The Case of the Expired Safety Plan**

A mother complained to the Ombudsman because the Office of Children's Services was requiring her to abide by a safety plan that had expired months ago. The mother said her calls to the OCS caseworker were not answered and messages were not returned.

The Ombudsman contacted the OCS supervisor and caseworker who stated that they had erred in not extending the safety plan after it had expired. They stated that due to staff shortages and heavy caseloads the caseworker was not able to travel to the mother's village to discuss extending the safety plan. OCS determined the safety plan needed to be extended because of concerns that the mother was still consuming alcohol, creating a potential risk for her children. The OCS caseworker then agreed to visit with the mother within the next five to ten business days to discuss extending the safety plan.

The issue with the caseworker not responding to the mother's calls and messages appeared to be a game of phone tag. The caseworker stated she tried many times to contact the mother or return her calls, but she did not answer or return messages left by the caseworker.

The Ombudsman contacted the mother and relayed the information received from OCS staff and advised her to contact the Ombudsman for further assistance if the caseworker did not visit her within the scheduled timeframe. The Ombudsman later reviewed OCS's electronic case records and determined that the caseworker went to the village, met with the mother, extended the safety plan and informed the mother the case would close after 60 days if she continued to do well under the safety plan. (A2015-1265)

### ***Feisty Senior Miffed at F&G***

A life-long Alaska resident called the Ombudsman to complain that the Department of Fish and Game uses the Permanent Fund Dividend recipient list as residency proof for senior licenses, making it difficult for him to get the senior license since he does not apply for the PFD.

The Ombudsman learned that the complainant's perception was not entirely accurate. The agency does not require applicants for the senior license to apply for and receive a permanent fund dividend. However, on the application form, one of the questions asks if the applicant received a dividend last year, prior to applying for the license. The agency's administrative director indicated that the reason why this question is asked as part of the process for issuing the senior card is because the licensing staff can readily check the other agency's database to verify this information and eligibility for the dividend, like the senior card, is also conditioned on Alaska residency. A senior does not need to apply for or receive a dividend in order to get the senior license.

There are other forms of proof a senior can submit as proof of residency. The Ombudsman clarified for the complainant the application process and documentation process and encouraged him to work with the agency to obtain the benefit card. The senior was miffed that he had to provide additional documentation to the agency. (A2015-1015)

### ***Mom Targets OCS, Misses***

A parent complained to the Ombudsman that an Office of Children's Services employee said she would exaggerate the complainant's substance abuse issues to ensure that a judge would approve her request for OCS to take custody of the complainant's children. She also complained that the worker had not responded to her request that her children be moved to a different placement due to concerns about the care they were receiving.

The Ombudsman learned that a judge granted OCS's request for temporary custody of the complainant's children based on ample evidence of substance abuse and domestic violence by both parents, irrespective of any inappropriate statements purportedly made by the worker to the complainant. In any event, the Ombudsman does not have authority to override a judge's decision.

Concerning the second allegation, the Ombudsman reviewed the agency's electronic records and contacted the caseworker. It appeared that the worker did not receive a message from the complainant as alleged. The worker acknowledged that she had recently spoken to the

complainant, and advised her that the agency supported placing one child with her at an inpatient treatment center. But, the agency had not looked at alternative relative placements because the original plan was to place all three children with the complainant at another treatment facility, as the permanency goal has changed from adoption to reunification; unfortunately, the complainant walked out of the first facility within two days of being admitted.

The second facility will only allow one child under three years of age. The worker told the complainant that if she wished for OCS to consider other relative placements, they could, but given that the current relative placement is an ICWA preferred relative placement and the children are stable in the placement, the agency likely would not grant the request. The worker advised the complainant that if she disagreed, she could request a placement review hearing with the court. The Ombudsman concluded this was an appropriate response. (A2015-1140)

### ***Parent Critical of Child's Placement***

A parent complained that OCS made multiple errors in the handling of her child-in-need-of-aid case. Specifically, she argued that the agency erred in removing her child from a foster placement and placing the child with family; that the agency failed to notify her of the nine-month review meeting; and that the agency misrepresented information in its permanency report.

The Ombudsman determined that the mother's complaint regarding her child's placement was without merit. The child had been placed with a non-relative foster placement and was moved after family members requested placement. The family is a higher placement priority, so the agency was bound to change the placement accordingly.

The Ombudsman determined that the complainant's other allegations had merit. The first, regarding the lack of notice for the review meeting was true, but there was little in the way of remedy that could be offered to the complainant. With regard to the misrepresentation in the agency report to the court however, the Ombudsman convinced the agency to submit a correction. (A2014-1955)

### ***Ombudsman Nagging Results in Inmate Reimbursement***

An inmate complained that a corrections officer called him a slanderous name, prompting another inmate to assault him. He also complained that the same CO allowed inmate workers to confiscate his property but did not provide a report of seizure.

After contact by the Ombudsman, the agency agreed to reimburse the inmate for several items of property he said were stolen by other inmates following an assault. (A2015-0423)

### ***Mom Skips Visits, Blames OCS***

A parent of a child complained that OCS had allowed the complainant to have only 18.5 hours of visitation with her child during the 30-week period that the child had been in state custody.

The Ombudsman reviewed the agency's computerized case management records in response to the complaint. The records showed that OCS facilitated visits and established a Family Contact Plan after taking the complainant's child into custody. OCS set up supervised visits once a week

for the complainant with her child. This is the standard OCS visitation schedule for parents with children in out-of-home placement in cases where the agency deems supervised visits are necessary.

During the time that her child had been in OCS custody, OCS records reflect that the complainant had a significant history of cancelled visits, late arrivals to visits, no-shows, and failure to follow the visitation rules.

Based on review of the available information, the Ombudsman decided that the actions taken by OCS with regard to visitation in this case were reasonable under the circumstances and within the agency's discretion. (A2015-1486)

### ***Multiple Momma Presents Multiple Issues***

A woman with multiple children in state's custody lodged multiple complaints against the Office of Children's Services. She complained that OCS: (1) had not begun a trial home visit for two of the complainant's sons; (2) unnecessarily delayed filing paperwork with the court to release custody of another child back to the her; (3) would not place her daughter in her family's community, keeping her isolated from her family in a large city; (4) forwarded copies of confidential email communications the parent sent to the OCS worker to a foster parent and other relatives resulting in threats of physical harm; and (5) failed to timely respond to email communications from the complainant.

The Ombudsman determined that the agency gradually increased visitation between the complainant and her youngest son, including one overnight a week, with the goal of a trial home visit starting the following month. However, the complainant's teenage son refused to have contact with the complainant and had expressed to the court (through his attorney and guardian ad litem) his desire to be adopted by his current foster mother. The agency supported the son's request and will be pursuing termination of the complainant's parental rights to her oldest son. The complainant will need to challenge this action through a contested termination trial with the assistance of counsel.

Concerning the second allegation, the evidence suggested that OCS unreasonably delayed filing paperwork with the courts to release custody of the complainant's daughter to her. After inquiring about the reasons for the delay, OCS filed the necessary paperwork. This issue was resolved during Ombudsman investigation.

Regarding the third allegation, the complainant agreed during mediation to place her oldest daughter in a therapeutic foster home. She was represented by an attorney through this process. The complainant later changed her mind. The Ombudsman determined that this issue had already been addressed by the court through the mediation program and was not appropriate for further Ombudsman investigation. OCS also recently filed a petition with the court for extended custody. If the complainant disagrees with the petition, she will need to object to it with the assistance of her attorney.

The fourth allegation was determined to be without merit. The complainant assumed that the OCS worker had forwarded her confidential emails to a foster parent, without any evidence that this occurred.

Concerning the fifth allegation, the Ombudsman determined that the OCS supervisor did not respond daily to the multiple emails the complainant sent to her. However, she did respond several times a week by email to many of the complainant's communications. Some of the communications were not particularly courteous; however, neither were many of the complainant's communications. The Ombudsman concluded that the amount of daily email contact desired by the complainant was unreasonable. During Ombudsman review, the complainant then demanded that the OCS supervisor stop emailing her and the supervisor acquiesced to this request. Currently, the complainant is only corresponding by email with her current caseworker. (A2015-0238)

### ***No Nepotism Here***

The Ombudsman received a complaint two siblings were working together in the same office in a state agency in Anchorage. The complainant alleged that one of the siblings was supervising the other in violation of AS 39.90.020, the state nepotism law. The statute prohibits persons who are related by blood and within the second degree of kindred from supervising one another. The complainant also alleged that agency management did not know the two were siblings because they had different surnames.

The Ombudsman researched applicable regulations and found that 2 AAC 07.950 allowed related employees to work in the same office or agency if one does not supervise the other. The employees also must be granted a nepotism waiver prior to employment application.

The Ombudsman reviewed information in the siblings' personnel files and concluded that no violation of Alaska law or regulation had occurred. The Ombudsman was unable to release further details to the complainant because personnel files are confidential under AS 39.25.080. (A2015-0927)

### ***OCS Pays Foster Parent Care***

A woman contacted the Ombudsman because she had not been paid for five months of foster care. She provided care for children that the Office of Children's Services placed in her home before she was officially licensed. Three months later OCS still had not reimbursed her. The Ombudsman contacted the agency's Provider Payment unit and learned that because these payments are outside agency regulation, they require a special process for payment called Audit Exception. In this case, the approval process was nearly complete, and it was, in fact, on the desk of the final approving authority. The agency quickly approved and processed the payment the same day of the Ombudsman called, resolving the complaint. (A2015-1186)

### ***Ombudsman: Corrections Needs Correcting***

The complainant, an inmate at Palmer Correctional Center, complained that his rights had been violated in two related prison disciplinary hearings. The complainant alleged that in one case he had been found guilty even though the incident report, which is the charging document, had not been prepared by an employee with direct knowledge of the alleged incident, as required by law. In the second case, the hearing officer had dismissed the charge, because it was duplicative of the accusation in the first case; the complainant alleged that the superintendent had unlawfully resurrected the second case and imposed punishment, even though the case

should have remained closed because the inmate did not appeal the hearing officer's decision to dismiss.

Investigation revealed that the complainant was correct in both cases. The Department agreed with the Ombudsman's recommendation to vacate the unlawfully resurrected case, although it was not clear that the Department was doing so for the correct reasons. The Department agreed to reverse the guilty finding in the first case.

The Ombudsman recommended that the superintendent and the deputy director of institutions take the one-day training class that the Department offers for hearing officers, as these officials are charged in appeals with determining whether the hearing officers were correctly applying the law. The Department rejected this recommendation, stating that it had redesigned the disciplinary process instead. The Department declined to elaborate as to what the alleged "redesign" of the process consisted of. However, the Ombudsman learned that the Acting Director of Institutions directed that all DOC Disciplinary Board Chairmen attend a training on D-Board due process in the spring of 2015. Additionally, after subsequent Ombudsman investigations of DOC resulted in Ombudsman recommendations that superintendents and Facility Standards Officers take training on the disciplinary and grievance process, the Interim Commissioner and the new Acting Director of Institutions ordered that the training be conducted. That training was held in February, 2016 with Ombudsman staff in attendance. ([A2014-1425](#))

### ***DOC Thumbs Nose At Due Process***

Three inmates complained that they had been accused and found guilty of attempting to escape from Palmer Correctional Center without due process of law.

The complainants each stated that they had been found guilty based on the word of an unnamed confidential informant. The complainants asserted that they were denied an opportunity to question the informant and to call witnesses in their favor. The complainants also asserted that they could not defend themselves or prepare meaningful appeals, because they were not told what specific acts they had allegedly committed that constituted an offense, or when and where any misconduct had occurred. The complainants were among seven inmates who had each been accused and found guilty of attempting to escape from Palmer Correctional Center (PCC). The accusations had originated from an anonymous confidential informant. While the informant had stated that the seven inmates were planning to escape, he did not say how he knew this, or what any of the inmates might have actually done to further a conspiracy.

Contrary to state law, the disciplinary committee did not make any findings of fact to explain what it believed the inmates had actually done and why it believed they were guilty, nor did it prepare legally required reports documenting reliance on an anonymous confidential informant. Without knowing specifically what they had done wrong, the inmates could not defend themselves or prepare meaningful appeals. The inmates' administrative appeals to the facility superintendent and then to the Director of Institutions were cursorily denied with no indication that they had been given any consideration at all. The Ombudsman found the allegations to be justified.

After one inmate appealed to the Superior Court, the Department attempted to conduct a second disciplinary hearing. When the confidential informant refused to testify or provide any other information, and the security officer who took the original accusation admitted that he did

not take any steps to investigate the veracity of the informant, the hearing officer in the second hearing found that inmate not guilty. The Department then, after the Ombudsman's investigation was complete, reversed the findings against the other inmates. The Department did not provide a substantive response to the allegations of its unlawful conduct, except to say that if any inmate was unhappy he could take the matter to court. The Ombudsman recommended that the Department at least apologize for its unlawful actions and unjustified punishment. The Department rejected this recommendation without comment, except to say that merely reversing the guilty findings against the inmates was sufficient. ([A2014-0895](#); [A2014-1059](#); [A2014-1275](#))

### **DOC Bows to Fed Request; Inmate Spends 2 Years in Solitary**

The Department of Corrections (DOC) kept a federal inmate with no history of violence in Alaska prisons in solitary confinement at Anchorage Correctional Complex for almost two years – 657 days -- based solely on a request from the U.S. Marshals Service. The inmate was first awaiting trial on federal charges then, after sentencing, was awaiting transfer to the Federal Bureau of Prisons. The Ombudsman investigation showed that DOC held the required administrative segregation hearing each month but that the hearings were just pro forma. DOC never provided the inmate with the evidence used to keep him in segregation (the U.S. Marshal's request) and never made any independent findings that the inmate posed a threat to the general population and, thus, needed to be isolated. The inmate had no disciplinary write-ups or lesser disciplinary "informationals" during the time he was in general population or segregation at ACC.

The Ombudsman found the complaint *justified* as there is nothing in law, regulation or departmental policy that allows DOC to defer its decision-making responsibility to an outside agency, such as the U.S. Marshals Service.

The Ombudsman recommended that DOC immediately hold a credible classification review hearing for the inmate but DOC failed to respond to the Ombudsman's report. The inmate was subsequently transferred out of DOC custody thus mooting the original recommendation. As such, the Ombudsman instead recommended that DOC immediately cease its practice of holding inmates in segregation solely based on a request from the U.S. Marshals and schedule classification review hearings for any inmates affect by DOC's current practice. DOC did not respond to that recommendation either, therefore the complaint was closed as *justified* and *not rectified*. ([A2015-0320](#))

### **Poppy Seed Muffin Defense Flops**

The complainant had been released on furlough to a halfway house, but a urinalysis tested positive for opiates. The Department of Corrections (DOC) terminated the complainant's furlough, despite his protests that he tested positive only because he had eaten poppy seed muffins supplied at work that morning. The hearing officer told the complainant that there was no way he could have eaten enough muffins to test positive for opiates.

Review of existing literature, as well as a discussion with a DOC field probation officer, revealed that it was in fact quite possible for Costco muffins to trigger a positive drug test, assuming that the complainant wolfed down two or three of them the day of the test. (His employer confirmed the existence of the muffins at work). Confirmation testing of the complainant's

sample gave results indicative of either drug use or same-day snacking on the poppy seed muffins – the testing did not establish the source of the opiate level.

The fact that he may have been telling the truth did not get the complainant out of trouble: the halfway house had required him to initial a statement that he would not consume poppy seeds while in residence, so the halfway house still had justification for sending him back to prison for violating their rules. However, the complainant was relieved that someone acknowledged that he might actually be telling the truth about what happened.

The Ombudsman provided the DOC hearing officer and the facility superintendent with literature on drug testing and poppy seeds, in hope of promoting accurate understanding of what the drug tests can --and cannot-- prove. (A2015-0349)

### ***OCS a Bad Santa***

An inmate at Fairbanks Correctional Center who had children in the custody of OCS tried to have OCS deliver Christmas gifts to his children. He had someone purchase the gifts and deliver them to the OCS office so the caseworker could take the gifts to the inmate's children. The inmate discovered that the gifts had not been delivered, and after unsuccessful attempts at resolving the issue with OCS, the inmate contacted the Ombudsman for assistance.

The Ombudsman contacted the agency and learned that the gifts had not been delivered because, at that time, there was a restraining order against the inmate that did not allow any contact between the inmate and his children, and also because the mother of the children refused to accept the gifts. The agency then offered the inmate the option of donating the gifts to a local charity or mailing the gifts to the inmate's mother. The inmate chose to have the gifts mailed to his mother. This was done. Therefore, the complaint was closed as resolved. (A2015-0609)

### ***DOC Stops Mother's Mail To Inmate Daughter***

The mother of an inmate complained that the Department of Corrections (DOC) had unreasonably refused to deliver mail to her daughter.

DOC had recently changed its practice to prohibit inmate-to-inmate mail because of problems with the exchange of contraband, information, and materials that DOC determined were detrimental to the order and security of its facilities. While the inmate-to-inmate mail restrictions do not match existing policies and regulations, DOC was in the process of incorporating these restrictions.

Prior Ombudsman review of the mail policy restrictions determined that a similar policy had been upheld by the United States Supreme Court.

In this case, the mail sent by the mother to her inmate daughter contained information about other inmates who were the daughter's friends as well of photos of other inmates. DOC deemed that the information in the letter and the photos of the other inmates circumvented the inmate-to-inmate mail restrictions. Thus, DOC determined that the mail was unacceptable and did not deliver it to the complainant's daughter. The Ombudsman did not think that this was

unreasonable. The Ombudsman notified the complainant of the review in writing and advised that our office was closing the complaint because of security concerns. (A2015-0319)

### **O Sees Grandpa Through Child Protection Morass**

The grandfather of three children who were the subjects of an Office of Children's Services (OCS) child protective services investigation complained that OCS had unexpectedly removed the children from his home while they were visiting.

The Ombudsman learned that the children were removed from the complainant's home by the tribal social services agency. The tribal agency staff were at his home because the tribe and OCS had received a report of harm involving the children. There were several allegations made in the report involving the children's parent, but there was also an allegation alleging possible sexual abuse of one of the children by the complainant. The parent had previously fled during a recent OCS investigation and the agency had been having difficulty in locating the children.

OCS was not able to travel to the remote community and asked the tribe to remove the children and place them in a tribal foster home until a forensic interview could be done. The tribe initially took custody of the children and placed them in tribal foster care. OCS then filed a petition and was granted temporary custody of the children. The tribe gave the complainant notice that it was removing the children because a protective services report had been made involving them but did not provide additional detail.

OCS acknowledged that it had limited its contact with the complainant during the investigation because law enforcement had an open criminal investigation of the allegations. Also, there were confidentiality concerns as the OCS investigation overlapped with the investigation involving the children's parent, since the complainant was not the children's legal guardian or a parent.

OCS and law enforcement concluded its investigation while this complaint was open and OCS did not substantiate the allegations made against the grandfather.

The Ombudsman arranged for OCS to contact the complainant after the agency and the law enforcement investigations had concluded. OCS provided the complainant with a verbal explanation of the children's removal, its subsequent investigation, and findings.

The children remained in tribal foster care and the grandfather is not a placement option due to the rules of the senior housing complex in which he resides.

While frustrating for the complainant, it appears the OCS delay in communicating with him about the removal and its investigation was due to the involvement of law enforcement, which is consistent with agency policy.

Prior to the closure of this complaint, OCS also facilitated a visit between the complainant and his grandchildren and were in discussions with the complainant to set up an ongoing visitation schedule. (A2015-0418)

***Out of Contact; Out of Mind***

The complainant has the Office of Public Advocacy (OPA) as her court-appointed guardian. She complained that she was not receiving either public assistance or a monthly allowance from her guardian, and that her guardian did not return phone calls. The Ombudsman contacted the OPA employee assigned as the complainant's guardian and also spoke with the employee's supervisor.

The guardian claimed that the lack of contact was due to the complainant moving around and not providing contact phone numbers or addresses; the complainant maintained that the problem was the guardian not returning the complainant's phone calls. Regardless of who was more at fault, the Ombudsman insisted that the guardian make contact with the complainant as soon as possible. A few days later, the complainant confirmed that she had had a telephone conversation with her guardian, and also that she expected to stay in phone contact with her guardian weekly.

The guardian initially told the Ombudsman that the complainant was receiving Temporary Assistance benefits, but it turned out that the complainant's Temporary Assistance benefits had been cut off a couple of months before, due to the complainant's failure to update her address with the Native Temporary Assistance program. Although the OPA supervisor had recently become aware of this problem, the guardian had not. Therefore the guardian had not followed up on a new application for benefits. After the Ombudsman spoke with the supervisor and the guardian, the guardian proceeded with a new application on behalf of the complainant. (A2015-0307)

***Complainant Tossed Off  
Public Housing Wait Lists***

The complainant had applied to the Alaska Housing Finance Corporation (AHFC) to be on wait lists for two separate senior/disabled housing complexes and for general public housing (owned by AHFC). Then the complainant was charged with misdemeanor assault. When AHFC reviewed two of her applications and conducted a background check, the agency discovered the pending criminal charge, and sent her notice that she was being removed from the waitlists but could ask for an "informal review" of that decision. The complainant said she never got the notice, although she also said she had not been picking up her mail; therefore she missed the appeal deadline.

The criminal charge was later dismissed, and the complainant wanted to be reinstated to the wait lists using her original application date. AHFC refused to do this for the two wait lists from which it had removed the complainant due to the pending criminal case. The Ombudsman pointed out that the criminal charge was dismissed and so the grounds for removing her from the AHFC wait lists no longer existed. The AHFC manager refused to reinstate the complainant, maintaining that the removal from the wait lists was valid at the time, and that the complainant did not timely dispute the decision. However, the AHFC manager discovered that complainant's application for the third wait list (for one of the two senior housing complexes) had never been processed due to AHFC error. Because the complainant had not been placed on that waitlist when she applied, and therefore had not received an opportunity to dispute removal from it, the AHFC manager rationalized that she could put the complainant on that wait list backdated to her original application date. The complainant indicated that she was satisfied with being on

the wait list for the one senior housing complex, so the Ombudsman closed the complaint. (J2015-0015)

### ***DOC Mishandles Inmate's Request for Documents***

An inmate complained that DOC had instructed staff at the Goose Creek Correctional Center (GCCC) not to allow inmates to mail any paperwork documenting communication between staff and inmates. He complained that GCCC had repeatedly denied his requests for copies of cop-outs from his inmate file. The inmate also claimed that the GCCC administration recently issued a memo to facility staff on this subject.

The Ombudsman learned that GCCC had not issued or implemented any new memos, policies, or practice changes that prohibit inmates from accessing copies of documents from their inmate files including copies of cop-outs, grievances, and appeals.

The GCCC Facility Standards Officer reviewed the complainant's recent Request for Interview forms in which he requested copies of cop-outs from his inmate file, and she acknowledged that it appeared GCCC staff failed to adequately respond. As a result, she advised that she and the complainant's institutional probation officer would be working directly with the complainant to respond to his copy requests and address his complaint issues.

As well, the GCCC Facility Standards Officer informed the Ombudsman that she would remind staff how to properly handle inmate copy requests, particularly requests for legal documents from indigent inmates, as this appeared to be an area in which staff needed additional clarification.

The Ombudsman relayed this information to the complainant in writing and closed the complaint as resolved. (A2015-0512)

### ***Court Sends Redundant Paperwork***

A Fairbanks man complained that the court had sent him yet another copy of a judgment for him to pay restitution, which he had paid months ago. The complainant was confused because he believed his court fines had been paid in full and his court case closed.

The Ombudsman learned that the Alaska Rules of Court require the clerk of court to distribute court paperwork to all parties to the case. Although the complainant's court case had been closed nearly a year ago, the District Attorney's Office had made errors on the filing that needed to be corrected, and a corrected order signed by the judge needed to be distributed again to all the parties.

The court confirmed that the complainant's court case remained closed and his fines and fees were paid in full. The clerk of court said that the complainant should not receive any additional paperwork from the court on this case. This was a paperwork formality, but an unnecessarily confusing one. (A2015-0584)

## **Complainant Claims CSSD Mis-Accounted His Case**

A father contacted the Ombudsman to complain that the Child Support Services Division (CSSD) overcharged him by nearly \$2,000 over the past 18 months due to poor bookkeeping practices.

The complainant had previously attempted to work out his complaint issues directly with his CSSD caseworker, supervisor, and Complaint Resolution Staff, but he was not satisfied with the agency's response and the outcome. The complainant account issues involving a medical credit, direct payment credit, and questions about how payments had been applied on his CSSD account since January 2015.

The complainant provided the Ombudsman with numerous documents supporting his complaint, which he said he had previously provided to the agency. The Ombudsman reviewed the documents, and with the complainant's permission, forwarded many of the documents to CSSD including proof of medical coverage for his children, and proof of direct payments made to the custodial parent.

In response, CSSD conducted a manual audit of the account showing how all payments made on the account had been processed and applied. CSSD also initiated the formal process to address the issue of the medical credit and direct payment credit for the complainant through the administrative review process. This process allows for due process in the event that custodial parent contested the medical and direct payment credit.

CSSD advised the Ombudsman that it appeared that the complainant would receive a medical credit and potentially credit for direct payments made to the custodial parent.

The Ombudsman relayed this information to the complainant in writing and closed the complaint as the agency was actively addressing the complainant's remaining complaint issues through the administrative review process. (A2015-0360)

## **Man Withholds Income Info, Displeased with Result**

A Southcentral man complained that the Child Support Services Division (CSSD) charged him for child support for his teenage daughter for a time period when she was at a residential treatment facility and the complainant was providing full financial support to her young son. The complainant did not think he should have to pay child support for his teenage daughter if he was caring for her young child.

The Ombudsman learned that CSSD established a child support order against the complainant for a period that the complainant's daughter was in the custody of the Division of Juvenile Justice and placed in out-of-home care in a state facility. Under Alaska law, parents have a legal obligation to financially support their children while they are in state-sponsored foster care or state custody.

During the establishment process, the complainant failed to respond to CSSD's request for income information. Thus, the order was not based on his actual income or ability to pay.

Although the deadline has passed for the complainant to contest the establishment of the support obligation and order, CSSD advised that the complainant may qualify for a default order review as he did not provide income information during the establishment process. Under this process, the complainant's original child support order may be vacated and replaced with a new order that is based on his actual income and earning ability.

The Ombudsman concluded that the actions taken by CSSD to establish and enforce a child support order in this case appeared to be reasonable and in accordance with Alaska law. (A2015-0507)

### **Citizen Wants Parolee Contact**

A woman contacted our office because the Division of Probation and Parolee decided that a parolee could not have contact with her. She had been verbally advised of this decision multiple times by several staff at the agency. However, she believed that she was entitled to a written notice specifying the reasons that contact was prohibited.

The Ombudsman opined that (1) the agency's decision affected the parolee and that, if he was dissatisfied with the decision, he could take steps to challenge it, (2) the agency had already told the complainant multiple times that contact was prohibited, and (3) there was nothing in law or policy that required the agency to respond in writing when it was apparent that it had already responded and provided the requested information verbally. (A2015-0480)

### **Must Take Class to Drive, But Must Drive to Class**

The complainant, after being convicted of driving under the influence, was court-ordered to complete the Alcohol Safety Action Program (ASAP). ASAP monitors clients for compliance with treatment recommendations, but actual treatment is provided by private providers. The complainant's substance abuse assessment recommended outpatient classes, and she began sessions at a provider in Anchorage. The complainant, however, lives in the Eagle River-Chugach area and did not have reliable friends to drive her to class; she dropped out of the program. ASAP then referred the complainant to the only approved provider in Eagle River, but the provider did not accept Medicaid and the complainant could not afford to pay that provider's fees out-of-pocket.

The complainant wanted ASAP to recommend that she receive a temporary driver's license so she could drive to classes in Anchorage. ASAP refused to do that, because the complainant was not currently enrolled in treatment and had previously dropped out of a treatment program. The Ombudsman gave the complainant the reality check that no one was going to give her any kind of driver's license until she was at least enrolled in outpatient treatment, and that she needed to proceed before the court issued a warrant for her arrest due to noncompliance.

The Ombudsman asked the ASAP manager whether any approved providers used telemedicine to deliver services. Apparently one provider in the south central region does at least some classes by telephone or video, so the Ombudsman provided that provider's contact information to the complainant. The Ombudsman also encouraged the complainant to find out whether any

Anchorage-area providers had schedules that worked with the limited public transportation options available in the complainant's area.

The Ombudsman remains concerned about the apparent Catch-22 that affects ASAP participants in rural and suburban areas, where public transit is mostly nonexistent and it is a long walk to the nearest provider. In this case, however, the complainant had not yet explored all possible options for obtaining outpatient treatment. (A2015-0447)

### ***DOC Failed to Serve Warrant on Jailed Woman***

A complainant incarcerated at Hiland Mountain Correctional Center contacted the Ombudsman because she had not been released from custody even though she said the Department of Corrections should have released her earlier that day. Based on Ombudsman review, it appeared that the complainant's release date was changed due to a new charge of failure to appear; however, the failure to appear charge came about while the complainant was in the custody of the Department of Corrections. A warrant was issued, but it was not served because no one checked to see that she was in the custody of the Department of Corrections at the time. Had someone checked with the Department of Corrections, the complainant and her attorney could have addressed the warrant and there would not have been an issue at the time of her scheduled release date.

The complainant's attorney addressed the complainant's specific situation and the complainant was released from custody approximately one week after contact with the Ombudsman, but the Ombudsman kept the case open to determine if there was a systemic issue with warrants not being served on inmates during their incarceration.

The Ombudsman was unable to identify that the problem continued to occur after further review of the complaint issue. It was determined that at the time the complaint was filed, warrant entry staff was following instructions from management to not check the Department of Corrections' records prior to issuing/serving warrants. However, practices were changed and it appeared that warrant entry staff returned to checking to determine if individuals were incarcerated allowing warrants to be properly served, thus resolving the issue. (A2014-0121)

### ***Misinformation Irks Inmate***

A Palmer Correctional Center inmate contacted the Ombudsman to complain that the information used to deny his appeal of a furlough decision was incorrect. The appeal was denied by the deputy commissioner, who had since been appointed acting commissioner, and the reason for denial stated that the inmate had been returned to custody multiple times during this furlough placement. The inmate had not been on furlough during this incarceration and so could not have been returned. The inmate wanted his furlough granted and the misinformation corrected. The Ombudsman contacted the director of institutions who agreed to have a senior probation officer review the furlough, make any corrections or clarifications, discuss it with the inmate, and allow him a renewed opportunity to appeal if he wished. The denial of the appeal stood, but this time, on correct information. (A2015-0084)

**Broken Elevator No Joy Ride**

An inmate at a Community Resource Center contacted the Ombudsman to help with the facility's broken elevator. The inmate had a recent surgery on his ankle and was not supposed to put any weight on it. However, with the elevator not working, the inmate was forced to go up and down stairs several times a day. CRC's are private businesses that contract with the Department of Corrections and are outside the jurisdiction of the Ombudsman, but because of the nature of the issue, the Ombudsman contacted the DOC liaison that handles complaints against CRCs. DOC agreed to investigate the broken elevator situation, and if it was not repaired within 24 hours, the inmate would be transferred to a different CRC with a working elevator. The inmate reported later that he had been transferred to a different CRC. (A2015-0413)

**Prison Declines To Be Long-Term Storage**

An inmate complained to the Ombudsman that DOC unfairly disposed of his property before he had a chance to disburse it. After investigation, the Ombudsman learned that the prison delivered a notice to the inmate giving him 90 days to disburse his excess property. 56 days later, the inmate was transferred to a different facility for medical reasons. The inmate requested a 90-day extension for the disbursement shortly after the transfer. However, he never received a response to the request and so assumed it had been granted.

It turns out that he was granted a 30-day extension, but the notice was never delivered to the inmate. When he got back to the original facility, he learned that his property had been disposed of. The Ombudsman determined that the original notice was not invalidated because the inmate did not receive a reply to his request for an extension, and while this was unfortunate, he had more than 120 days to disburse his property, and the agency followed proper protocol before the disposal. (A2015-0339)

**O Helps Woman Get Medicaid**

A woman called the Ombudsman because her Medicaid Waiver was terminated and she didn't understand why or how to get it reinstated. Ombudsman contact with the agency revealed that the woman had been properly notified of the termination, the reason for it, and her right to appeal through the fair hearing process, but she did not appeal. The Ombudsman learned that the woman had recently been diagnosed with a lethal form of cancer. This change in her medical condition made her eligible to immediately reapply for a Medicaid Waiver instead of having to wait the usual 365 days after a termination.

The agency told the Ombudsman that the woman needed to retain a care coordinator to assist her with completing the application and gathering documentation of the new medical diagnosis. The agency also provided an avenue for the woman to obtain a list of the care coordinators available in her area, and the name and telephone number of her most recent care coordinator. The woman was satisfied with this action and the Ombudsman closed the complaint as resolved. (A2015-0598)

***He Asked, But We Can't Tell.***

A man called the Ombudsman to complain that CSSD was very aggressively pursuing him for a small child support obligation, but had done nothing to collect the \$40,000 in arrears owed to him by his child's mother. CSSD replied to the Ombudsman inquiry that while it appeared CSSD had arbitrarily increased the support obligation owed by the man, it had not. The calculation for the monthly support was based on the original court order. What changed was the custody arrangement. When custody went from shared to primary, it increased the monthly amount.

CSSD assured the Ombudsman that it was taking all legal action possible to recover the arrears on the man's behalf, but confidential issues concerning the custodial parent prevent either the agency or the Ombudsman from fully explaining to the man the reasons the arrears cannot be collected from the woman. Even so, the man remained skeptical and voiced his intention to explore his options in the courts. (A2015-0585)

***Woe is Me, But I Long to Be Free***

A woman called to complain that the Department of Corrections was not providing adequate medical treatment for her incarcerated daughter, who had sustained severe burns before her incarceration. Further questioning of the mother revealed that the daughter had two recent visits from the DOC physician. The Ombudsman learned that the daughter admitted to DOC staff that she lied to her mother about the seriousness of her condition. Still, because of the medical risk associated with the condition, the Ombudsman told the mother to have her daughter call us directly, which she did.

The Ombudsman explained to the daughter how to file an emergency medical grievance with DOC, and that she should do that if she believed her situation warranted. The daughter was also advised to call the Ombudsman right away if she did not get an immediate response to the emergency grievance. The daughter said she understood. When the Ombudsman checked a few days later, the daughter had not filed an emergency grievance and had been released from prison. (A2015-0524)

***Dad's Calls Unanswered***

A father whose parental rights had been terminated complained that the Office of Children's Services would not provide him with address information to send correspondence and gifts to his children and would not return his phone messages.

The Ombudsman initially referred the father to an OCS supervisor. The complainant contacted the Ombudsman again to report that he had called the supervisor, but the supervisor also had not returned his call. The Ombudsman could not conclusively determine who the complainant had left messages for. The case had recently been reassigned to another worker and supervisor. The last documented contact with the complainant was in February 2015. It's possible that the father left messages for another worker and supervisor.

The Ombudsman notified the new worker and supervisor of the complaint and requested that they contact the complainant. The worker called the complainant and asked him to bring any correspondence and gifts for his children to the OCS office; the worker would then deliver the items to his children. The worker also advised the Ombudsman and the complainant that his children would be relocating in the next couple of months for adoption by a relative and that

she would request that the adoptive parent set up a post office box where the complainant can continue to send correspondence and gifts for his children. The Ombudsman advised the father to stay in contact with the worker and notify her of any address or phone number changes. Complaint closed as resolved. (A2015-0559)

### ***A Long, Long Trail***

A man complained to the Ombudsman that the Department of Natural Resources unnecessarily delayed granting trail easements for a snow machine club to maintain and groom three public trails. Due to ever-changing standards, he complained that the club was required to conduct repeated expensive trail surveys and respond to duplicate information requests over a fourteen-year span.

With some prompting by the Ombudsman, the agency eventually issued written decisions proposing that public easements to the three trails be issued pending any appeals that might be received. A final agency decision is expected pending the lapse of the appeal deadline and additional survey information from the complainant's engineer; if no appeals are filed, and the complainant provides the necessary survey information, the decisions will become final. At that point, public easements will be granted for use by the complainant's snow machine club for purposes of grooming and maintaining the trails.

The Ombudsman concluded that there was an unreasonable delay by the agency in processing the easement applications. However, this was partially caused by the original applicant withdrawing from the process in 2008, and the complainant's club becoming the new applicant in 2010. While the agency's decision-making process was lengthy, the agency had not been sitting on the club's application for 14 years as alleged by the complainant. There also was a dispute with private property owners that had to be resolved over the location of portions of the proposed public easements. Also, the agency insisted that the survey information provided to date by the complainant's engineer was insufficient to meet the requirements of a trail location diagram and requested additional information, which the complainant refused to do initially. However, now the complainant and his engineer are continuing to work with the agency to provide the required survey information based on specific written survey instructions. Once the survey is completed, the agency decision will be finalized pending any appeal that may be filed.

The Ombudsman determined that further Ombudsman involvement was unnecessary because the complainant, his engineer, and the agency staff are working with one another to resolve the complaint. (A2014-1710)

### ***Grievance Lost, But OCS Works It Out***

A father complained to the Ombudsman that the Office of Children's Services never responded to his grievance. Several weeks later, when he asked about it, the agency realized the grievance was lost, but did not respond to his requests to have his issues addressed. OCS told the Ombudsman that an agency representative met with the man to address the issues shortly after the grievance was filed but did not generate a summary letter to document the meeting and the agreed upon actions. OCS agreed to another meeting and this time provided a summary letter for the father. He was satisfied with this response and the Ombudsman closed the complaint as resolved. (A2015-0590)

### ***Inmate Pays Off Child Support***

An inmate contacted the Ombudsman asking for help because DOC continued to collect child support through a garnishment of the man's inmate account for several months after the man supplied proof that his child support obligation was paid. The Ombudsman coordinated between CSSD and DOC to ensure that DOC had the documentation necessary to remove the CSSD garnishment from the inmate's account. The same day the Ombudsman made contact with the respective agencies, DOC removed the garnishment and refunded the man's account \$68. CSSD sent him a refund check for \$104. This complaint was closed as resolved. (A2015-0630)

### ***The Truth Shall Set You Free – Not!***

An inmate contacted the Ombudsman because DOC was adding time to her sentence from an old case that she had already served time for. She stated a judge had already ruled on the issue and made her older cases concurrent, so there should be no residual time to serve.

The Ombudsman reviewed the time accounting and determined that, while DOC had incorrectly calculated the complainant's time accounting in the past resulting in remaining time to serve, the complainant also made a mistake when she said a judge had already ruled on the issue. The Ombudsman reviewed the court order and found that it actually said that time accounting was not appropriate for a judicial finding, as it was a question of how to apply the time accounting standards. In light of this ruling, the Ombudsman found that DOC applied time accounting standards in a reasonable and internally consistent manner. (A2015-0040)

### ***I'll Make a Notary of That!***

An elderly Alaskan who was homebound wanted to know if there was anyone who would provide notary services at his home. The Ombudsman contacted the local Aging and Disability Resource Center and obtained the name of a mobile notary who offers reduced rates to seniors. (A2015-0123)

### ***Data Entry Miscue Behind Bonus Incarceration***

An inmate contacted the Ombudsman because his time accounting was not done and he believed he was past his release date. Prior to Ombudsman intervention, the time accounting was completed, but the complainant believed months of time had not been credited to him.

The complainant had two criminal cases with concurrent sentences entered. However, the Department of Corrections showed that he had only been booked on one case during a period of several months, and time can only be applied to cases you are actually incarcerated on. Therefore, both sentences would not run completely concurrent as he could only get credit for the second case for time he was in jail on that case.

The Ombudsman noted that the cases had been treated by the court as related and the complainant had bail hearings on the current case during the time that DOC was crediting to the other case only. Intake advised the records sergeant that it appeared he was in custody on both cases, as he would have to post bail for both cases to be released. The records sergeant adjusted the time accounting to give credit for the other dates, resulting in the complainant's immediate release. (A2015-0167)

### ***Illness Complicates Custodial Duty***

A court approved third-party custodian contacted the Ombudsman because the person she was responsible for keeping within her sight and sound 24 hours a day had been hospitalized for a medical emergency and she could not remain with him constantly. The patient's attorney warned the complainant that both she and the patient could be arrested if the complainant left.

The Ombudsman advised the complainant that a bail hearing would be necessary to change the bail requirements, but also offered to find out how the issue was usually handled. The Ombudsman learned that as long as the District Attorney and the attorney of the person on bail were notified of the situation, it was highly unlikely either individual involved would face adverse consequences. In addition, the attorney of the patient arranged a bail hearing set for the following business day. (A2015-0245)

### ***Inmate Wrong About the Reason, But Gets the Right Result***

An inmate contacted the Ombudsman because he believed his time accounting had an incorrect arrest date, which was causing his release date to be a month later than it should be.

The Ombudsman determined that the issue was not an incorrect arrest date, but that the complainant's Petition to Revoke Probation and Parole Revocation were not credited concurrently. When neither the judge nor Parole Board specifies the two sentences are consecutive, they are considered concurrent because they arise from the same behavior and the same case. Intake contacted GCCC time accounting, who reviewed the issues and adjusted the complainant's time accounting, moving his release date back one month, as expected. (A2015-0267)

### ***When it is Complicated, It Takes More Time***

An inmate contacted the Ombudsman because his time accounting was not finished and he thought he was past his release date. The Ombudsman contacted the Department of Corrections, which stated the complainant had multiple cases and multiple impositions of time on each case. All of these have to be reviewed to make sure all time in each case is being properly applied, which slows the process. Even then, his time accounting was completed the same day and the complainant was released. (A2015-0382)

***“I Agreed to What?!”***

An inmate contacted the Ombudsman because he believed a court clerk had incorrectly recorded the sentence that was agreed to in a plea deal. The complainant stated he would have never agreed to the amount of time that they were giving to him. The Ombudsman spoke to the complainant's attorney, who stated that the judgement did correctly reflect the plea deal and a court employee listened to the hearing again to verify what had been said during the hearing. The recording reflected the complainant verbally agreeing to the sentence that was written in the judgement. (A2015-0454)

***Parole Success Causes Heartburn Later***

An inmate contacted the Ombudsman because he believed his time accounting was incorrect and resulted in a release date that was nine months later than it should be.

The Ombudsman learned that the complainant had been placed at a Community Residential Center (CRC) by the Parole Board a few years ago. He successfully completed his parole, so no additional time was imposed. He later was arrested on a probation violation for the same case. However, the CRC time was not applied to that sentence because the Parole Board has to order credit for the time spent at the CRC and the successful completion of his parole meant that no action was taken by the Board. He was released on mandatory parole again and when he violated that parole, the Board ordered the time credited to him.

The complainant does have remaining excess service, but the excess service is noted and will be applied to the case if further time is imposed. The time cannot be applied to any other cases though. The Ombudsman opined that the actions taken by the Department of Corrections were reasonable and, as there was no further resolution to offer, closed the complaint. (A2015-0455)

***State Called to Do the Dishes***

A citizen contacted the Ombudsman's office because she wanted to know who to call about an old, inoperable satellite dish that belonged to the State of Alaska and was no longer welcome at its current location, which is local school district property. The satellite dish was part of the old RATNET (Rural Alaska Television Network), known in its current incarnation as ARCS (Alaska Rural Communications Service).

The Ombudsman learned that the Department of Administration is the controlling entity of most state owned telecommunications devices. The DOA Property Officer confirmed that she is the correct person to contact, and the Ombudsman provided contact information to the complainant so they can dish-cuss it. (A2015-0485)

***Inmate Wants Out***

An inmate contacted the Ombudsman because the Department of Corrections had not released him, even though his case was dismissed over a week before. The Ombudsman learned that the complainant had two cases, one of which resulted in a short jail sentence and one that was

dismissed. The complainant's time accounting had not been completed because the jail had not received the paperwork showing that the second case was dismissed. The jail record section contacted the court for a copy of the dismissal paperwork, and the complainant was released the same day. (A2015-0486)

### ***Inmate Trapped in Run-on Sentence***

An inmate contacted the Ombudsman's office because the Department of Corrections told him that he was both sentenced and unsentenced on the same case, which meant he could neither bail out nor get time accounting showing his release date. The Ombudsman reviewed the complainant's case and learned that a judge had issued a sentence on his case with a future remand date. The complainant did not remand himself, so a warrant was issued. However, the warrant specified a bail, which created the conundrum. The judge was likely trying to assist the complainant by offering him an opportunity to bail out and show that he had complied with requirements of the court that would negate the sentence, but the complainant had not complied and needed to serve his sentence, which was not possible as long as he was held on bail. Intake advised the complainant that his attorney needed to file to get the bail dropped so he would show as sentenced and DOC could complete his time accounting. (A2015-0495)

### ***Another Prison Time Kerfuffle***

An inmate contacted the Ombudsman because he had not been given credit for all of the time he was placed at a Community Residential Center (CRC) by the Parole Board. The Ombudsman learned that the complainant was given credit for all of the time at the halfway house. However, when the time was applied to his sentence, it resulted in immediate release without all of the time being used. Now that he has been arrested on the same case, if more time is imposed, the days will be credited on his new time accounting.

The complaint was reopened a few days later when the complainant re-contacted the Ombudsman's office and stated that the issue was not that he does not believe that the credit is being applied to his sentence, but that because the amount of time was in excess of his mandatory parole time, he should not have been released on mandatory parole because those days would cover any possible revocation. Intake explained that until mandatory parole is revoked, there is no sentence for previous excess service to apply to. Release to mandatory parole is mandatory unless the Parole Board rescinds the parole and requires you to remain in jail to serve the mandatory parole without being released.

It is possible that he could have requested rescission prior to release on mandatory parole and if the board granted it, the previous excess service would have been applied and he would have been released without mandatory parole. However, the Parole Board would have been within their authority to deny the request. At this time, the complainant is incarcerated on a new charge and parole hold. Even if the Parole Board credited all of the time today and removed the hold, the complainant would not be released. Intake suggested that the complainant speak with his parole attorney about possible options. (A2015-0548)

***O's the Name, But Punishment's Not Our Game***

A citizen contacted the Ombudsman because the Office of Children's Services released confidential health information that affected the complainant's housing voucher from Alaska Housing Finance Corporation. The caseworker notified the complainant of the mistake and both the caseworker and caseworker's supervisor apologized. They also contact AHFC to attempt to resolve the voucher issue.

However, the complainant wanted enforcement action taken against OCS. The Ombudsman advised the complainant that the Ombudsman's office is not an enforcement agency and referred her to the United States Department of Health and Human Services Office for Civil Rights to file a Health Insurance Portability and Accountability Act complaint. (A2015-0557)

***Probation File Takes Slow Boat to Records***

An inmate contacted the Ombudsman's Office because his time accounting had not been completed, resulting in him being held past his release date. Intake contacted Anchorage Correctional Complex and determined that the needed probation file had been delivered to the jail, but not taken to records, where the time accounting is completed. The records sergeant located the file and the complainant was released one day after contacting the Ombudsman. (A2015-0568)

***Waiting for Something that will Never Arrive***

An inmate contacted the Ombudsman because his time accounting had not been completed, resulting in him being held past his release date. The Ombudsman determined that the complainant had two court cases. For one case, he had an unsecured bond. The complainant was sentenced on the other case. However, when the jail contacted the Community Residential Center where the complainant was placed to have him complete the bond paperwork, the jail was notified that the complainant was at court. Therefore, the jail waited to receive paperwork from the court. The jail records sergeant told the Ombudsman that the hearing had been continued, which meant no new paperwork would be forthcoming. The complainant was released the day after contacting the Ombudsman. (A2015-0572)

***Research!***

An Alaskan wanted to know if a job offer was a scam. The Ombudsman advised the person that the type of employment promised often results in unfair practices against employees and referred her to an online FAQ posted by the State of Georgia, where the job is located. The FAQ was created to guide people before accepting job offers in Georgia. (A2015-0603)

***DOC Pays Inmate For Not Protecting Her Property***

An inmate's property was stolen out of her locked cell after she "rolled up" because she was going into segregation. Initially, DOC refused to pay her claim so she contacted the Ombudsman. The Ombudsman asked the agency to review the claim as it appeared to have

merit. The agency agreed to do so, and decided to pay the woman for the documented amount of the stolen property. (A2015-0520)

### ***O Pushes OCS: Take Boy to Prison***

An inmate in Spring Creek Correctional Center contacted the Ombudsman when OCS failed for more than six months to facilitate a visit with his son. Coordinating the requirements and schedules of two state agencies turned out to be more complicated than expected. DOC requires that minor children be accompanied by legal guardians and provide documentation and identification to prove guardianship. DOC also requires a minimum 24-hour advance notice of the visit. Further, there are only certain times the maximum security prison allows visitation.

On the OCS side, coordinating transportation from Wasilla, (where the child lives) providing the facility with the proper advance notice and making time to accompany the child within the prison's visitation schedule took some doing. It turns out that the OCS office in Seward, where the prison is located, is a one-person office already struggling with a demanding schedule. After persistent Ombudsman attention, the details were worked out and the man and his son enjoyed a visit. Monthly visits are now scheduled. Good luck! (A2015-0411)

### ***No, But Nice Try...***

An inmate complained to the Ombudsman that the Department of Corrections should have released him, but they hadn't. The Ombudsman learned that DOC was correctly holding the man according to conditions set by the court; his assumption about his release date was wrong. The Ombudsman referred the man to his attorney if he was unhappy with the conditions imposed by the courts. (A2015-0433)

### ***Tennis, Anyone?***

An inmate contacted the Ombudsman because DOC had lost his tennis shoes and then wouldn't respond to his grievance about them. The inmate was wearing his tennis shoes when he was transferred from Goose Creek Correctional Center to Anchorage Correctional Complex for a court hearing held at ACC. At ACC a court rover confiscated his tennis shoes. The inmate was told his shoes would go into his property box. He was transferred back to Goose Creek the following day wearing prison issue shoes. His tennis shoes never showed up and DOC did not respond to his grievance about them. The Ombudsman notified the agency of the unanswered grievance, which they promptly answered. This allowed the inmate to continue the agency grievance/appeal process up to the Director of Institutions who authorized ACC to reimburse the inmate for his lost tennis shoes. (A2015-0008)

### ***Ombudsman Helps Woman Obtain Medical Care***

A woman contacted the Ombudsman complaining that, even though she was receiving Social Security for a disability, she had been turned down when seeking medical care. The Ombudsman contacted the Division of Public Assistance and learned that the mailing address

the agency had on file for her was no longer correct. The agency corrected the address and mailed out new Medicaid coupons that day, allowing the woman to get the medical treatment she needed. (A2015-0952)

### ***DOC Policies Give O Double Vision***

An inmate complained to the Ombudsman that DOC was charging him for a pair of glasses that DOC policy says will be provided at department expense. After reviewing agency policy, the Ombudsman said the complaint appeared to have merit. However, when the Ombudsman brought it to the agency's attention, DOC maintained that it was charging co-pays that were allowed under a different policy. The agency agreed the different policies made the issue confusing but declined to waive the co-payment, stating the charges were appropriate. The agency did agree to clarify the policies during an update that was in process and is scheduled to be complete by the end of the year. The complaint was closed as unresolved. (A2015-0194)

### ***“Barrier Condition” Prevents Adoption***

A relative caregiver of a child in OCS custody complained that she had an OCS “barrier condition” because the agency had previously revoked her foster care license. A barrier condition prevents a person from certain employment, adopting children, and various licenses, such as those for foster care and child care.

At the time her foster care license was revoked, the agency did not remove the child from her home, and now she was attempting to adopt that child through OCS.

In response to the complaint, the Ombudsman contacted OCS managers and an Assistant Attorney General and reviewed the OCS computerized case management records as well as relevant documents from the OCS case file and Alaska law. The Ombudsman learned that the revocation of the complainant's foster care license is indeed a barrier condition under Alaska law.

The Ombudsman learned that the OCS revocation of the complainant's foster care license occurred several years ago. The complainant chose not to appeal the revocation at the time because OCS left the foster child in her home and that was then her priority. The complainant said she was not aware that the revocation action created a barrier condition to future involvement with children.

The Ombudsman noted that the OCS Notice of Violation and Revocation for her foster care license did not inform the complainant that the revocation would result in her placement on a central registry and create a barrier for her. Because of this, OCS and the Department of Law agreed to accept a late filed appeal from the complainant. Although the outcome of the appeal is not guaranteed, it does provide the complainant with an opportunity to exercise her due process rights now that she understands the ramifications of the revocation and is aware that it creates a barrier condition.

The Ombudsman relayed this information to the complainant, who indicated that she intended to file an appeal. (A2015-0570)

**O Looks at Inmate's Treatment**

The Ombudsman received a complaint that DOC had failed to treat an inmate's severe medical condition, resulting in him being medevacked to the hospital for emergency treatment. The inmate also complained that a correctional officer had kicked him when he was ill.

The Ombudsman learned that the inmate's illness came on very suddenly and he had not filed a cop-out or grievance requesting medical care prior to onset of the illness. Once DOC became aware of the inmate's medical condition, DOC medical staff promptly attended to him and he was transported to the local emergency room. DOC subsequently medevacked the inmate to an Anchorage hospital for treatment. This all occurred within a 12-hour period. Thus, based on the Ombudsman's review, it appears that DOC provided timely and adequate medical care to the inmate and continued to do so during his recovery process.

Regarding the inmate's claim that he may have been mistreated by a DOC correctional officer, the Ombudsman was unable to substantiate this claim. The inmate said that he had very little memory of the events that occurred at the onset of his medical crisis because he suffered from hallucinations for about a five-day period due to the nature of his illness. The inmate admitted it was likely that he had hallucinated that he had been mistreated by a DOC correctional officer. (A2015-0600)

**O Paves Way for OCS Grievance**

A mother believed OCS took custody of her child (a child with disabilities and a low immune system) based on a false report made by an OCS caseworker. She was concerned that OCS did not take action on concerns she reported about the care of her child in the foster home. The mother also said that OCS would not allow her to appeal a substantiated child protective services finding.

The Ombudsman informed the parent that the court reviewed and approved the information provided in the Child In Need of Aid petition, which was the basis for the removal. The Ombudsman encouraged the parent to work with her attorney to address her concerns directly to the court because the Ombudsman has no authority to override a court's order.

The Ombudsman contacted OCS staff and determined that, although action had been taken on the parent's report, OCS had not entered record of such in the electronic case file. After contact with the Intake Unit Supervisor, the Ombudsman could confirm that the report was properly entered. The Ombudsman also learned that agency staff attempted to notify the parent of their review, but staff was unsuccessful in making contact with the parent.

The Ombudsman learned that OCS was initially confused by the complainant's written appeal, because it referenced an open investigation instead of an investigation that resulted in a substantiated finding. At the agency's request, the parent provided more information to OCS and the request for the appeal was forwarded to the Office of Administrative Hearings. The parent confirmed that she received written notice that the appeal was received and was scheduled to be heard by the Office of Administrative Hearings. (A2015-0230)

***CSSD Levied Bank Account in Accordance with Alaska Guidelines, But Agrees to Return Funds Due to Extreme Hardship on Obligor***

A father contacted the Ombudsman to complain that the Child Support Services Division (CSSD) had levied his bank account and emptied it after he had made a large payment a few days prior through wage garnishment.

The Ombudsman learned that CSSD had provided the complainant with written notice of the enforcement action and that the actions taken by CSSD to levy the complainant's bank account were in accordance with Alaska law. The complainant's child support case met the criteria for a bank levy as outlined in regulation. However, because the complainant contended that the bank levy had created an extreme hardship for him, CSSD put a hold on the levied funds and agreed to work with the complainant to potentially return some or all of the funds if the complainant could prove that this created a hardship for him through the Administrative Review process.

The Ombudsman relayed this information to the complainant and closed the complaint.

The Ombudsman learned from CSSD within a couple days that the entire amount of bank levy funds received by the agency had been returned to the complainant and that the complainant's request for a hardship to modify his ongoing wage withholding order was granted. The Ombudsman contacted the complainant and relayed this information to him. The complainant was satisfied with this resolution and thanked the Ombudsman for assistance with his complaint. (A2015-0458)

***Ombudsman Punts to Office of Victims' Rights***

The complainant said she was afraid for her safety due to a former legislator getting in her face, yelling at her, and following her to her car while continuing to pile on verbal abuse. The complainant said that the Alaska State Troopers and the District Attorney were both dragging their feet in the assault case, and she believed that the case would not be pursued because of the accused's political connections. Furthermore, the District Attorney's Office would not provide the complainant with information on the status of the case. Almost four months after the incident, the District Attorney declined to file charges. The Ombudsman referred the complainant to the Office of Victims' Rights, which has specialized expertise to evaluate the District Attorney's decision and the delay involved. (A2015-0071)

***OCS Finally Moves on Grievance***

A mother complained that OCS failed to timely respond to a grievance she had filed. OCS had recently investigated the mother for neglect, but the allegations against her were not substantiated. The mother had filed an OCS grievance regarding the agency's handling of the investigation.

The Ombudsman contacted OCS managers and a supervisor in response to the complaint. The Ombudsman noted that OCS had delayed in responding to the complainant's grievance. The community relations manager accepted responsibility for the initial delay; she said she had forgotten to quickly assign the grievance to the regional manager for response. Then, there was a reassignment of managers to the case, as well as a several day long statewide manager's meeting which created further delay. The Ombudsman facilitated contact between the

complainant and the manager and supervisor assigned to the case. The manager began the process of responding in writing to the complainant's grievance and the supervisor was able to work through and address some of the complainant's grievance issues in conversation with the complainant.

During the review of this complaint, OCS acknowledged the delays in responding to the complainant's grievance and apologized to the complainant. The Ombudsman closed this case after ensuring that OCS is responding to the complainant's grievance and after establishing contact between the complainant and OCS. (A2015-0057)

### ***Man Complains He Did Not Receive PFD (For Which He Did Not Apply)***

An Alaskan complained that the PFD had denied his application for 2014 and was being unresponsive to his requests for information regarding his application.

The Ombudsman learned that the complainant did not file for a 2014 PFD. The complainant acknowledged that he had not filed a timely application and sent several email inquiries to the agency about filing a late application. The agency responded to the complainant's emails and advised him that he had missed the 2014 filing deadline.

The manager explained that there are only two provisions in Alaska law that would allow an individual to file an adult 2014 application late. These provisions involved disability and military services. Although it does not appear that these provisions apply in this case, the manager agreed to mail the complainant a 2014 PFD Adult Application. If the complainant chooses to file, the application will likely be denied for being late. However, the complainant will have appeal rights once the denial letter is generated. There is also a \$25 appeal fee, and the complainant will have to show that the division applied the laws incorrectly in order to get the decision overturned.

The Ombudsman relayed this information to the complainant and closed the complaint. (A2015-0258)

### ***OCS in SloMo***

A mother complained that her OCS worker claimed she had not received copies of her children's birth certificates that she had provided several weeks before. The mother believed this was unnecessarily delaying the completion of an inter-state agreement to send her children to live with her out of state. She said that both she and her attorney had tried to contact the worker several times, with no response. The Ombudsman learned that the worker had in fact received the birth certificates but delayed forwarding the information to the interstate compact coordinator for several weeks. During Ombudsman review, the worker forwarded the birth certificates to the coordinator. The coordinator determined that other information was still needed from the worker in order to process the request. The Ombudsman confirmed that the additional information has now been received and that the receiving state has 60 days to approve or deny the request. (A2015-0304)

***Too Many Caseworkers?***

A parent contacted the Ombudsman because OCS staff had not responded to the parent, had assigned 10 caseworkers, which she said hindered her ability to reunify with her children, and had canceled numerous family visits.

OCS cases move through several stages – Intake, Initial Assessment and Family Services – and often involve one to two caseworkers in each stage. The assignment of 10 caseworkers was a direct result of the case moving through these stages. However, even after the case was in the Family Services Unit, there had been five caseworkers. The Ombudsman learned that, although five caseworkers in 15 months seemed unusual, the changes were due to worker turnover or other changes not within the agency's control. Since being assigned to the case, the current caseworker had been responding and working with the parent. Therefore, the Ombudsman did not review the issue further.

OCS said the cancelled visits were mainly due to no shows by the mother, and the mother did not have evidence to challenge this. After the complaint was filed, it appeared that most family visits were being held as scheduled. The Ombudsman encouraged the complainant to maintain a log of all scheduled family visits and then provide the information to the caseworker or supervisor if she felt there was a pattern of missed or late visits. The Ombudsman also invited the parent to contact the Ombudsman again if the caseworker or the supervisor did not adequately address her concerns. (A2015-0148)

***Contrary to Mom's Belief, OCS Not Out to Get Her***

A mother complained that OCS repeatedly told her that they are closing her case but then fail to do so, that they have given her conflicting information to her and her family members, and that OCS workers failed to investigate issues that they were ordered by the court to investigate.

The Ombudsman learned that the reason the complainant's case had not been closed was because the agency kept receiving reports of harm involving the mother and her child. The Ombudsman explained to the mother that the agency is required to investigate all reports that meet the criteria for investigation, regardless of whether the reports are similar in nature.

As for the complaint about the worker telling the mother and her family different things, it appeared that the mother's disability and shifting family dynamics may have played a role in the confusion.

Finally, the complainant had alleged that OCS failed to investigate its worker, as ordered by the court. However, the agency was actually ordered to investigate the complainant during the pendency of one of the guardianship cases initiated by the complainant's parents. The agency's documentation indicates that the agency did investigate the allegations against the mother and found them to be unsubstantiated. (A2015-0086)

***Contractor Scrooges Christmas Calls***

The mother of an inmate told the Ombudsman that even though she had consistently paid for phone service to allow her son to call home, her phone number had been blocked and her son

had been unable to phone her for at least a month (including Christmas). Previously he had called almost daily.

The Ombudsman called the Department of Corrections and learned that the department had not blocked the calls; instead, the mother's phone number was actually blocked by Securus, the Department's contractor for inmate phone service. A Securus technical support employee told the Ombudsman that the block was due to an unspecified billing problem. However, the technical support staff could not access billing information or directly contact the billing service staff. He said that the inmate's mother should call the designated 800 number for the Securus billing service.

The next day, the mother told the Ombudsman that she tried to contact the Securus billing service at the 800 number, but was unable to reach a live person through the phone tree. The Securus technical support employee acknowledged to the Ombudsman that it was in fact very difficult to reach anyone using that 800 number. He also said that even though he could not contact the billing service, he could ask a technical support manager to contact a billing service manager. The Ombudsman suggested that this needed to happen immediately.

Somewhat to the Ombudsman's surprise, the Securus managers actually communicated with each other. A billing service representative contacted the mother within 24 hours. (The mother's regular long-distance provider had discontinued its agreement to "pass through" the Securus charges, so the mother needed a new direct billing account with Securus). The inmate's mother reported back to the Ombudsman that she had a new account with Securus and had already received a phone call from her son. (J2015-0002)

### ***OCS Drags Feet on Jet Fare***

Grandparents of a child in OCS custody were told that OCS would pay for a trip to visit their grandchildren. The grandparents purchased tickets and traveled from New York to Oregon and enjoyed a nice visit with their grandchildren. The grandparents submitted to OCS the appropriate receipts with a request for reimbursement for the airline tickets the following month. No reimbursement was forthcoming despite multiple contacts with the agency over seven months. Finally, the grandparents contacted the Ombudsman. When the Ombudsman asked OCS for an explanation for the delay, the agency claimed the grandparents failed to get formal authorization prior to purchasing the tickets, which put the reimbursement "outside of its spending matrix and required several additional approvals and an extensive memo to authorize the funds." With constant Ombudsman shepherding, it still took two more months before OCS finally issued the promised reimbursement for the tickets. (A2014-0828)

### ***Pawn May Checkmate Broker***

A pawnbroker contacted the Ombudsman and complained that the Department of Natural Resources (DNR) would not give him title to land that a client used as collateral for loan that is now in default. DNR instead advised the complainant that he should consult with an attorney. The pawnbroker contended that he was now the legal owner of the land, which was valued at nearly \$30,000, and DNR should title it in his name.

A review of the pawnbroker and land conveyance statutes revealed that the statutes do not provide for the pledge of real property in a pawn transaction. The statute only allows for the pledge or exchange of personal property. In addition, pawn transactions are limited to a value of \$750. Furthermore, the pawnbroker did not have the proper land conveyance documents, such as a valid deed, needed by DNR to title the land in his name.

The Ombudsman relayed this information to the pawnbroker and advised him that he may need to seek legal assistance in order to recoup the money owed to him by the client under the pawn agreement. (A2015-0145)

### ***Mother Complains, Then Vanishes***

A mother was upset that OCS placed her children in a foster home that was under an investigation that resulted in the foster home's license being revoked. She also claimed that the agency failed to notify her when they moved her children to another home in a rural community. She further complained that the caseworker had not scheduled a face-to-face visit with her children for several months.

The Ombudsman reviewed the agency's records and saw that the complainant's children were removed from the foster home several months ago, and that the foster home's license was revoked. Licensing took appropriate steps to investigate the foster home after receiving reports from community members. The complainant's children were then moved to a relative's home at the complainant's request. She was verbally notified of the placement change and agreed to it.

There were issues coordinating a face-to-face visit between the complainant and her children for several months. However, it was not completely due to agency error, but also to failure of the complainant to maintain regular contact with her OCS caseworker and to provide current contact information.

The complainant wished to travel to the relative's home for the visit, but the relative was unwilling to allow the complainant into the home for legitimate reasons. They agreed to travel with the children to the complainant's location. The Ombudsman contacted the OCS worker and finalized arrangements for visitation. Unfortunately, the complainant did not respond to multiple contacts by both the OCS worker and the Ombudsman. (A2014-2137)

### ***Father Fears Child Will Be Placed with Sex Offender Mother***

An upset father contacted the Ombudsman because he believed OCS was promoting reunification between a child and her biological mother, who had sexually abused her. Ombudsman investigation revealed that the mother is appealing her criminal conviction and the judge allowed visitation if OCS could set it up safely. The agency was not promoting or facilitating reunification; rather, they were complying with the judge's orders. Several steps must be taken before the supervised visitation can begin. The child has not cooperated with any of the agency's attempts to begin the process. The Ombudsman explained this to the father, much to his relief. The Ombudsman then closed the complaint, because a judicial decision it is non-jurisdictional for the Ombudsman. (A2014-2007)

***Everybody Get Together, Right Now***

An inmate contacted the Ombudsman because the jail had not completed his time accounting, which meant he couldn't be released on bail on another active case he had. The Ombudsman contacted the Records staff, who said they completed the time accounting, but all of the necessary people had not arrived at the jail together for the bail release. The complainant was being released on electronic monitoring and to a third party custodian, so the electronic monitoring company and the third party custodian needed to pick up the inmate, and only the company showed up. The day after the inmate contacted the Ombudsman all parties arrived at the jail and he was released. (A2015-0058)

***Ombudsman Helps Grandma***

A grandmother complained that OCS denied her placement request and refused to give her an explanation of why her request was denied. She further complained that the OCS caseworker failed to establish phone contact and in-person visitation between her and her grandchildren after she moved to the same town as the children. Ombudsman review revealed that OCS had, in fact, sent the grandmother the placement denial notice as required but failed to send it to the correct mailing address. The Ombudsman provided the complainant with a copy of the notice and suggested that she request a placement review hearing if she disagreed with OCS's decision. Review also revealed that the agency had recently set up supervised visitation for the grandmother but that she believed that the scheduled was insufficient. The Ombudsman determined that the schedule was a normal one for grandparent visitation. The Ombudsman asked the caseworker about the lack of phone contact. The caseworker claimed that she had provided the complainant's phone information to the foster parent after the complainant's move. She agreed to work with the family and the foster parent to facilitate a phone contact schedule. The complaint was closed as resolved. (A2014-2129)

***Crime Fails to Pay***

The Department of Public Safety Violent Crime's Compensation Board declined to compensate a citizen with emergency funds because she was also charged with a crime for the incident. Alaska Statute 18.67.130 states that the Board will not pay compensation to a victim if the victim violated a law that contributed to their own injury. While the Board has the option to provide emergency funds to a victim prior to a meeting of the Board, they must only release emergency funds when it is probable that the compensation will be approved at a regular meeting. Since the citizen was charged in association with the incident, it was reasonable for the Board to evaluate her claim at a meeting to determine if she contributed to her own injury. (A2014-2171)

***Message on Board Leads to Drubbing***

A Goose Creek Correctional Center (GCCC) inmate filed a complaint with the Ombudsman alleging that two other inmates assaulted him after a corrections officer (CO) posted a message about him on a dry erase board visible to other inmates. He said that immediately after the CO

wrote the note, other inmates started asking if he knew about the note, and if he was ratting on other inmates.

The inmate said approximately two days after the note had been posted, he spoke with the CO and his sergeant and requested it be removed because it was causing him problems with the other inmates. He said they refused. Later, two other inmates who had read the note on the dry erase board accused him of being a snitch and assaulted him. He claimed the two beat him because the posted message implied he was giving guards information about other workers for preferential treatment.

The Ombudsman found the inmate's complaint justified and also found that agency staff had improperly screened out the inmate's grievance about the dry erase board contrary to Department of Corrections' policy. ([A2013-0859](#))

### ***Inmate Disciplined for Mystery Class-A Felony***

An inmate at Palmer Correctional Center complained that his right to due process of law had been violated in a prison disciplinary hearing. The complainant stated that he had been disciplined for heroin that had allegedly been found in his cell while he was in segregation. The complainant alleged that a correctional officer had taken the alleged substance home, kept it overnight, and then brought it back in to the facility the next day before testing it. The complainant said that the drug was not his, that he did not know how it came to be in his cell. The complainant asserted that there was no way for him to defend himself because he had no information about where the material came from and what the officer had done with it while it was outside of the facility.

Investigation revealed that the complainant had been accused and found guilty of committing a Class A or unclassified felony while in prison. Unclassified and Class A felonies are the most serious offenses in this state, and include crimes such as first degree murder, arson, and sexual assault. The complainant had never been told specifically which Class A or unclassified felony he supposedly had committed. Possession of heroin is a Class C felony and would not support the far more serious disciplinary finding that the complainant had committed an unclassified or Class A felony.

Also, contrary to well established state and federal law, the disciplinary report had not been written by the person with the most direct knowledge of the alleged crime. As the charging document in a prison discipline case, it should have been written by the person who had direct knowledge of where the alleged contraband had come from and why it was believed to have belonged to the inmate. Instead, the report had been written by an officer who had been handed the substance for placement in an evidence locker. He was not present when the material was discovered and had no direct knowledge linking it to the complainant.

The agency did not call any witnesses at the complainant's disciplinary hearing. The only evidence was the report stating that the material had been handed to the reporting officer, who was told it belonged to the complainant. The report stated that the officer put the material in a cargo pocket, took it home, brought it back the next day, and tested it, whereupon the officer learned that it was heroin.

Contrary to state law, the disciplinary committee did not make any findings of fact to explain what it believed the inmate did and why it believed he was guilty. While the facility has the burden of proving allegations by a preponderance of the evidence, in this case there was no evidence to support commission of any crime other than, potentially, possession of heroin. The finding that the complainant had committed an unspecified Class A or unclassified felony was plain error. Even for a Class C felony, the facility would have had to present evidence and make findings of fact before it could find the inmate guilty. In this case there had been no evidence presented that directly linked the inmate to the contraband.

While it was true that the correctional officer took the alleged contraband home before bringing it back to the facility for testing, the Ombudsman did not find that this constituted a violation of due process. The complainant could have called the officer to testify about the chain of custody, but did not. The Ombudsman found this part of the complaint to be unsupported.

The Ombudsman recommended that the inmate be released from punitive segregation and that the findings of guilt be vacated. While the agency did not dispute that it had violated the inmate's constitutional rights, it characterized the violations as minor technicalities. The agency stated that it had conducted a new hearing to remedy the errors in the first hearing, but it did not provide any documentation. ([A2014-1621](#))

### ***OPA Forgets Dead Ward***

The Ombudsman received a complaint alleging that an OPA guardian failed to notify a ward's family of his death. The family only learned of his passing months later after staff at the ward's assisted living home sent a sticky note with condolences attached to some of the ward's card and letters found in his room.

Investigation revealed that the agency was appointed guardian after the ward was diagnosed with terminal cancer. The ward died several months later. The guardian failed to complete any end-of-life planning with the ward or locate his next-of-kin. The ward's body was stored by the funeral home for several months, until the family learned of his death, which resulted in \$1000 storage fee against the ward's estate.

The Ombudsman found the complaint justified and recommended that the agency implement a system to track deceased wards' remains, conduct training on finding relatives and next-of-kin, and that the agency reimburse the ward's estate for the storage fees that would not have been incurred but for the guardian's lack of advance planning.

The agency disputed the Ombudsman's findings but agreed to implement the recommendations. The complaint was closed as justified and rectified. ([A2014-0269](#))

### ***"Rush" is in the Eye of the Beholder***

A citizen complained that DMV took longer than three weeks to return a "rush" automobile renewal to him. The Ombudsman learned that part of the delay was due to the staff person conducting training at a remote location. In fact, the staff person had processed the paperwork

and mailed it out the day Ombudsman called. The citizen called two days later and verified that he received the renewal. (A2014-1947)

### ***Ombudsman Coaches Agency To Follow the Law***

A former state employee contacted the Ombudsman when the Division of Personnel and Labor Relations refused to release his personnel file to him as provided by law. The Ombudsman reminded the agency that a recent Ombudsman investigation, A2010-0552, addressed this issue. After several additional contacts by the Ombudsman, the agency finally released the file. (A2014-1244)

### ***Inmate Finds Wishing Doesn't Make It So***

An inmate complained that the Department of Corrections refused to recognize his legal marriage and subsequently denied his wife visiting rights, returned her mail and packages, and would not allow him to wear his wedding ring. The Ombudsman contacted the Bureau of Vital Statistics and learned the complainant was not legally married. Because the complainant's intended demonstrated a willingness to help the complainant thwart DOC policy and procedure governing inmate marriage, the agency had cause to restrict her visits, letters, and packages. (A2014-1886)

### ***Retiree Learns Old Info Is Bad Info***

A state retiree wanted to upgrade his long-term care benefit based on information in an on-line brochure, but the agency said he could not. The agency advised the Ombudsman that the brochure was developed in early 2000 when the upgraded options were first introduced. Members were given a one-time opportunity to upgrade their coverage, and the brochure was part of the packet of information provided to assist retirees in decision making. The agency acknowledged that the brochure has been available without being edited to remove the references to the upgrades. The agency agreed to take immediate steps to correct the brochure to remove information that conflicts with the regulations and policies that govern the long-term care plans. The agency advised the complainant that he could file a formal appeal. The complainant told the Ombudsman he intended to do just that. (A2014-1806)

### ***Application to Cross Tracks Expensive***

A citizen who was considering applying for a railroad crossing permit contacted the Ombudsman because he felt the \$500 application fee was excessive, especially because he had been told his permit likely would be denied. The Ombudsman contacted the Alaska Railroad Corporation (AKRC) and determined the fee was reasonable in light of the number of people that had to evaluate a potential crossing. However, the real estate manager noted that the complainant's

permit application would likely not make it past the first safety review, because the area of the requested crossing is dangerous. The real estate manager stated that AKRC would evaluate the application to see if it would pass the first safety review before requiring the complainant to pay the \$500 fee, because the fee is meant to cover personnel costs that would not be incurred until later in the process. (A2014-0336)

### ***Ombudsman Corrects Corrections***

An inmate contacted the Ombudsman because he believed he was past his release date. His time accounting had not been finished, so he was still being held. The Ombudsman contacted the Anchorage Correctional Complex records office and they completed the inmate's time accounting, but the Ombudsman noted that an incorrect sentence length was used, creating a release date weeks in the future. The Ombudsman informed the records office and the inmate was released later that day. (A2014-0779)

### ***Ombudsman Looks at Difficult Foster Placement***

A mother contacted the Ombudsman because she believed that the Office of Children's Services had placed a sexually aggressive foster child in the home of the complainant's ex-spouse, giving the aggressive child access to the complainant's child. Intake reviewed OCS records and determined that the complainant's child was never alone with the other child. In the meantime, OCS removed the foster child when the possibility that the children had been alone together was expressed. The foster parents were aware of the sexual aggression and had multiple safeguards in place. Further OCS investigation showed that the concern the children were alone together was not valid. Intake advised the complainant that OCS had responded appropriately and that her child was likely never in danger. (A2014-0155)

### ***No More Cell Call Waiting***

The Department of Corrections was not allowing inmates to call cellular phones from some institutions. The Ombudsman contacted the Director of Institutions and learned that the ban arose from the prison phone contractor not allowing accounts to cell phone numbers for security reasons. However, cell phone technology had advanced to the point where cell phone calls posed no security threat, and the prison phone contractor now was okay with them. The Ombudsman advised the Director of Institutions of the new situation, and he stated phone calls would now be allowed to cellular phones. (A2014-0736)

### ***Billing Error Reveals Child's Location***

The Division of Public Assistance (DPA) continued to bill the insurance of a parent whose rights had been terminated. The child's grandparent contacted the Ombudsman because this billing meant the parent could learn the child's location. This location was confidential for the child's safety.

The complainant had contacted DPA, but had not received a response to her complaint. The Ombudsman contacted the DPA Director's Office and learned that DPA had multiple supervisors working toward a solution and change in procedures to prevent the issue from occurring again. The complainant was satisfied that DPA was addressing her complaint thoughtfully and thoroughly. (A2014-0450)

### ***Check-Box Error Threatens PFD***

A woman contacted the Ombudsman about a problem with her Permanent Fund Dividend. She explained that she and her husband had received every PFD issued since the program began until this year. She said that this year she and her husband made a mistake while completing the online applications. They had been out-of-state visiting their daughter when they applied and accidentally checked the box indicating that they were completing the applications in-state.

She said that PFD requested a bunch of documentation from them in order to determine their eligibility, including credit card statements from before and after their trip out-of-state. She said that they had provided the documents as requested and that PFD had approved her husband's application but not hers. The eligibility technician told her that she needed to submit statements in her name only, but the complainant only held credit cards jointly with her husband. She said the agency had accepted joint statements to approve her husband's application, so she could not understand why those documents were not sufficient for her application.

The Ombudsman contacted the PFD Eligibility Manager about the complaint and asked her to review the complainant's application. After doing so, the agency approved the complainant's application with no other documentation required. The Ombudsman closed the complaint as resolved. (J2014-0320)

### ***Woman Complains About Rent Increase; Ombudsman Helps Her Get Decrease***

A woman complained that Alaska Housing Finance Corporation (AHFC) increased her portion of rent based on a new policy. She had just received notice that her portion of rent was due to increase by several hundred dollars a month. The woman lived with her disabled adult son in a two-bedroom apartment. She said that the rent increase would force her to move to a cheaper one-bedroom unit.

The Ombudsman walked the complainant through the process of requesting an informal conference with AHFC regarding the rent increase. The complainant ultimately requested a reasonable accommodation due to her son's disability. The accommodation, which the agency granted, increased their subsidy level and decreased the amount of rent that the complainant was responsible for paying.

The Ombudsman also followed-up with the agency regarding the new "policy" cited by the complainant. It turned out that the complainant was confused about why her rent had increased. AHFC had changed its subsidy levels several years ago – going from a bedroom-based subsidy level to levels based on the number of people in the household. In making this change, the complainant went from a two-bedroom subsidy to a Level One subsidy (which

consists of households of 1-2 persons). The new subsidy level simply dictates the amount of money the agency contributes towards the client's rent. The complainant had been listed as a Level One subsidy recipient for about two years before receiving the rent increase notice.

The reason for the rent increase, AHFC explained, had nothing to do with the several years old policy change but was due instead to her increase in income. When the agency recertified the complainant, it began counting her earned income when calculating her portion of rent. But, because the agency granted her request for a reasonable accommodation, she was able to stay in the two-bedroom apartment with her son. The Ombudsman closed the complaint as resolved. (A2014-1344)

### ***Man Complains About Complaining***

A man complained to the Ombudsman that the Regulatory Commission of Alaska failed to provide reasonable accommodations for his disability so he could effectively complain to them about a regulated utility. He further alleged that the agency had redacted information from his utility complaint.

The Ombudsman learned that the agency had provided the following accommodations: tape recording and transcribing his complaint so that he would not have to write it out, and providing an audio recording of the agency's statutes and regulations so he would not have to read them.

The complainant was upset that the portions of the recording where he discussed his request for reasonable accommodations was not included in the transcript that was prepared for his use as a formal complaint against the utility. However, the Ombudsman would not have expected those conversations to be included in the complaint materials as they were not germane to the actual utility complaint.

The Ombudsman closed the complaint as being without merit and referred the complainant to the U.S. Department of Justice if he still felt that the agency had violated the Americans with Disability Act. (A2014-1075)

### ***Ombudsman Likes Willow Wattles But Complainant Not Appeased***

The Ombudsman received a complaint from a homeowner regarding work underway on a DOT right-of-way adjacent to his home. The complainant alleged that DOT removed all of the trees in its right-of-way which reduced his privacy, increased noise from the roadway, and caused drainage problems along his driveway.

The agency agreed to some mitigation, including installing willow wattles along the right-of-way and hydro-seeding the cleared area. However, the complainant had no evidence to support his allegation that the clearing had caused drainage issues and the agency disputed that it had taken action which could have caused any drainage problems.

The Ombudsman closed the complaint after determining that the agency had taken reasonable measures to address the problems it had caused. There was no evidence, however, to support the complainant's allegation that DOT caused the drainage problem.

At last note, the complainant has threatened suit against DOT. (A2014-0359)

### ***OPA Makes Beneficial Mistake***

A former ward of the state complained that the Office of Public Advocacy (OPA) failed to notify the Social Security Administration that her guardianship had terminated. As a result, SSA continued to send checks to OPA, delaying the complainant's ability to pay her bills.

Investigation revealed that OPA's policy requires staff to notify SSA of payee changes, which they failed to do. On the other hand, the complainant herself still needed to contact SSA and let them know where to direct her funds. If OPA had followed policy, it likely would have resulted in a longer delay for the complainant, because SSA would have simply held the complainant's benefits until she contacted that agency directly – which she did not do for several months. In this instance, however, OPA was receiving and redirecting the funds to the complainant in a timely fashion, generally within two business days.

Because the agency acknowledged that it needed to revise its policies to include information on how to deal with a guardianship that has been terminated for reasons other than the death of the ward, the Ombudsman determined that a full investigation was not warranted in this case. (A2014-0099)

### ***No Good Deed Goes Unregulated***

A community member of a small Alaska town contacted the Ombudsman and complained that the Department of Environmental Conservation (DEC) was prohibiting him from providing school lunches at his own expense to needy children at the local school.

The Ombudsman learned that the school had discontinued its school lunch program several years ago due to budgetary constraints. The complainant then began to volunteer his time and personal funds to prepare hot lunches at his home for needy students.

DEC recently learned that the school was allowing school lunches to be distributed to the students in this manner, which is a violation of DEC standards and regulations that govern food service in a public facility. DEC cited requirements that school meals be prepared in a permitted kitchen and served immediately after preparation. Food not prepared and served in this manner creates a public health issue as there is an increased risk of foodborne hazards and contamination, according to DEC.

In an attempt to resolve the problem, DEC reactivated the school's kitchen permit to allow community members to prepare lunches in the school kitchen. The Ombudsman closed the complaint as it appeared DEC took reasonable steps to address the problem and provide options to the school and the complainant so that the food being provided for school lunches complies with DEC standards and regulations. (A2014-1712)

### ***Ombudsman Looks at Inmate Medical and Mental Concerns***

An inmate complained to the Ombudsman that (1) Spring Creek Correctional Center staff had failed to respond to two medical grievances filed several months ago; (2) that staff terminated the inmate's mental health treatment; and (3) that DOC has not provided reasonable accommodations for the inmate's disability.

After contact with the DOC Deputy Director of Inmate Health Care, the Ombudsman learned that the institutional staff had improperly routed the complainant's medical grievances, which led to the grievances being stuck in never-never land. However, after Ombudsman contact, the deputy director found the grievances and responded. The next step for the inmate is an appeal to the Medical Advisory Committee.

Concerning the inmate's allegation that DOC staff had terminated his mental health services, the agency provided contrary information that the inmate was in fact receiving daily mental health services and had self-reported an improvement in symptoms. The complainant was advised that the Ombudsman lacked the necessary medical expertise to second-guess the opinions or treatment recommendations of medical professionals.

With respect to the ADA accommodation complaint, the agency had no record of the complainant requesting an accommodation. Accordingly, the Ombudsman provided the inmate with information on how to request an ADA accommodation. The complaint was closed as partially resolved. (A2014-1289)

### ***Agency Imitates Rip Van Winkle; Ombudsman Wakes It Up***

A woman complained to the Ombudsman that she had filed an appeal with Retirement and Benefits concerning her survivor's benefits, but she had not received any further information from the agency concerning the status of her appeal, despite multiple requests. The Ombudsman contacted the appeals manager to prompt action after it became clear that he failed to respond to the complainant.

In July 2014, the agency had advised the complainant by letter that her claim was denied and advised her she could appeal the decision to the Office of Administrative Hearings (OAH), which she did. The R&B appeals manager then failed to respond to multiple contacts by the complainant for two months and did not explain the situation. The complainant understandably assumed her appeal was pending because she had filed the paperwork provided to her by the agency.

However, after Ombudsman contact, the agency said that the complainant could not appeal the decision because it was made by an intermediate manager, not the chief pension officer. Thus, there was no "final" agency decision to appeal.

After more prompting by the Ombudsman, the chief pension officer issued a final decision denying the claim. The complainant said that she has now filed an appeal with OAH. Further Ombudsman investigation was discontinued per 21 AAC 20.010(a)(2)(A) which states that the Ombudsman may not investigate a complaint that is currently the subject of an administrative hearing or administrative appeal. (A2014-1372)

### ***Preferred Provider Switcheroo Causes Retiree Grief***

A man called the Ombudsman to complain that his retiree health insurance benefits were not paying for a procedure it had previously covered. The Ombudsman learned that the hospital the man went to was a preferred provider at the time of the first procedure, but after the division changed third-party administrators, it is now considered out-of-network. The man was advised to use the appeal process available to him and to ask the hospital to reduce the charges to equal the amount covered by insurance. (A2014-1432)

### ***Court Scare Burns Inmate***

An inmate complained that even though DOC received the documents from the court stating his time was to be served concurrently, his time was being counted consecutively. The Ombudsman contacted the agency and learned that the original paperwork sent by the courts did not indicate that the sentence was to be served concurrently and corrected paperwork was delayed because the court experienced a bomb scare and the computer network was down. The court has since provided the corrected documents, the inmate's time accounting has been updated and he has been released. The complaint was closed as resolved. (A2014-1441)

### ***Inmate Plays Allergy Card***

An inmate complained that the Department of Corrections was not treating his Crohn's Disease adequately. Contact with the agency medical administrator revealed that the inmate claimed to be allergic to all medications used to treat Crohn's, except Vicodin. DOC ordered full allergy testing and learned that he was not allergic to standard medications and was started on a regimen that included a non-narcotic pain medication, a dietary supplement, and an exercise program. The Ombudsman verified with the inmate that the treatment appeared to be working—without narcotics. (A2014-1287)

### ***Agency Helps Man With Memory Problems***

A man said that he received a letter advising him that his Medicaid coverage was being canceled, and now he needs surgery and is unable to contact the Medicaid office to get the matter resolved. The complainant stated that he had waited on hold and was unable to contact a live person to help him. The man said he had lost the cancellation letter and had trouble dealing with agencies because of memory problems resulting from a traumatic brain injury.

An Ombudsman called the Division of Public Assistance and was able to talk to a live representative after a short wait on hold. The division advised the Ombudsman that it had several cases open for the man and that he should have no problem continuing to receive coverage. The division's records show that because of the complainant's memory problems, it usually deals with an authorized representative. The division stated that it would immediately call the complainant directly to let him know his coverage was in effect and see if there were any other problems. (J2014-0202)

### ***O Helps Clear Man's Name***

A personal care assistant contacted the Ombudsman to complain of a notice from the Department of Health and Social Services' Background Check Program (BCP) that he had a barrier to employment due to his involvement in an Office of Children's Services (OCS) and court Child In Need of Aid (CINA) case.

An Ombudsman learned that OCS had substantiated a protective services report against the complainant for physical abuse of a child, and OCS took emergency custody of that child. However, the child was not the complainant's child. The child's mother had abandoned the child and left him with the complainant. The mother stipulated to probable cause and adjudication in the CINA court case for abandonment and neglect of the child.

The Ombudsman questioned the validity of the barrier determination made against the complainant and whether the complainant had received due process. That was because the complainant was not a party to the CINA court case and the court did not make any findings related to the complainant or the allegations of physical abuse of the child by the complainant in the CINA court case.

The BCP consulted with OCS and the Attorney General's Office and determined that the barrier determination for the complainant had been made in error. The BCP rescinded the determination, changed the complainant's status in its computerized case management system to show a clear background check, and sent the complainant and his employer notice of the error and change. (A2014-1237)

### ***Ombudsman Pushes Aid for Diabetic***

The Division of Public Assistance was not timely in processing the complainant's recertification for Chronic and Acute Medical Assistance, even though the complainant needed the assistance to obtain diabetic medication. An Ombudsman contacted the Division of Public Assistance Central Region Manager and determined that the Chronic and Acute Medical Assistance application should have been processed, but was not because an interview for food stamp benefits was needed. The manager had a supervisor pull the application so that it could be processed quickly and instructed the supervisor to ensure that the interview for food stamps was also completed. (A2014-1360)

### ***DMV Suspicion Lacks Evidence***

The Division of Motor Vehicles refused to process titles for a man they believed was acting as an automobile dealer without a license. Ombudsman investigation revealed that the agency did not have evidence to back up its suspicion. The agency agreed to rescind the ban against the man, but said it will keep track of his transactions, and if he exceeds the statutory limit, the ban will be reinstated. (A2014-0332)

***Troopers Fast on the Tow***

A citizen called to complain that when the State Troopers found her stolen vehicle, they first called a tow truck and impounded the vehicle before giving her a chance to retrieve it and avoid the towing and impound fees. After Ombudsman intervention, the troopers volunteered to reimburse the citizen for the charges. (A2014-0661)

***Who Needs Witnesses?***

An inmate complained that Department of Corrections' staff failed to call his requested witnesses to his disciplinary board hearing. When the Ombudsman contacted the agency superintendent, she acknowledged the failure and promptly sent out a directive to all facility staff to ensure that regulation and policy and procedure governing disciplinary board hearings are strictly adhered to. However, the superintendent allowed the finding of the D-board to stand pending an appeal of its decision. Further Ombudsman review at this juncture is premature. (A2014-0021)

***Woman Complains of Slow Study***

A woman complained that the Interstate Compact for the Placement of Children office was taking too long and OCS would not give her a status report on the process. The Ombudsman learned that the study was complete but, because of staff shortages, it did not get written up and forwarded to the Juneau approval office in a timely manner. The write-up was completed and forwarded the same day the Ombudsman contacted the agency. The agency confirmed that the completed study was forwarded to the appropriate state for further action. (A2014-0492)

***Dividend Denial Followed Protocol***

A man called to complain that the Permanent Fund Division was taking too long—more than three years—to respond to appeals for three dividends his adult son had applied for. The son died and the man was attempting to manage his estate. Ombudsman investigation revealed that the agency responded timely to the appeals for the dividends. The son registered a change of address with the agency and all correspondence was sent to that address in a timely manner. The appeals were denied because the son did not provide requested information for one dividend and exceeded the time-frame for appeal on another without explaining why an exception to the time-frame should be made. The third dividend was garnished by the Department of Law for restitution and notification was sent to the address on record. (A2014-0424)

***Agency Reduces Risk of Info Leak***

A woman called to report that her ex-husband's new wife was a CSSD employee and was abusing her position to get involved in the caller's custody battle. The woman received a Notice of Withholding regarding her recent employment and believed the only way the agency could have known about it was from the new wife. The Ombudsman learned that the agency gets frequent updates from the Federal Case Registry, including the National Directory of New Hires,

which provided the employment information. These lists were created to aid in the tracking and collection of child support nationwide. Further, the agency has the ability to track anyone who accesses case records and determined the new wife had not accessed the caller's records. The agency took the additional precaution of moving the file to an office in a different city to reduce the risk of inappropriate access. (A2014-0418)

### ***Airport Contractor Plagues Residents***

A contractor running an airstrip in a remote village appeared to be closing the strip when conditions did not warrant it, as a personal vendetta against certain travelers. The village residents complained to the Department of Transportation, but they said nothing happened. An Ombudsman contacted DOT and the agency issued a stern warning to the contractor that any unwarranted closures would result in termination of his contract. The Ombudsman was satisfied that the agency action was appropriate, but the complainant was not. He said he was considering legal action. (A2014-0362)

### ***Inmate Mistakenly Released, Then Charged with Escape***

A Community Residential Center mistakenly released an inmate from custody. When the error was discovered a warrant was issued for the man's arrest. At the court hearing the judge recognized he was released in error, quashed the warrant, and remanded him back to DOC custody with the recommendation he be returned to the CRC. Instead, DOC held a disciplinary hearing and found him guilty of escape. The Ombudsman intervened and the agency agreed to remove the discipline from the man's file and return him to the CRC. (A2014-0634)

### ***Inmate Complains of Mail Restrictions***

An inmate contacted the Ombudsman because DOC had implemented a new policy preventing inmate-to-inmate mail, with exceptions only for immediate family members. The inmate complained both that he was being prevented from writing to his incarcerated siblings and that the policy was unconstitutional.

The Ombudsman reviewed the current case law and found that DOC's new policy was essentially modeled on a similar policy that had previously been upheld by the United States Supreme Court. As such, it was likely that DOC's new policy would pass muster. Additionally, the Ombudsman contacted DOC regarding the inmate's allegation that he was being prevented from writing to his siblings and learned that DOC had verified the sibling relationship and added the siblings to his approved list for correspondence. (J2014-0081)

### ***Agency Prodded to Correct Date of Death***

The Division of Senior and Disability Services contacted an assisted living facility requesting repayment for services for a client that had been transferred to a hospital in a different city and had passed away there. The facility realized that the agency had an incorrect date of death for the client but was unable to get it corrected because it no longer had authorization to access to

the client's records. The agency was unwilling to consider that there had been a mistake. The facility administrator contacted the Ombudsman.

Ombudsman staff contacted the agency. The person who signed the request for repayment, agreed to verify the data and found that the date of death was indeed incorrect. The division corrected its information and then wrote a correction letter to the facility acknowledging the error. Instead of demanding repayment, the agency now requested a billing for the additional funds it owed to the assisted living facility. The complaint was closed as resolved. (A2014-0396)

### ***Man Blocked from Auction Site***

A man called the Ombudsman saying he had been unfairly blocked from bidding on the Internet auction site that disposes of state surplus property. He said he was blocked because he posted comments about some of the processes that seemed questionable to him. When he contacted the auction site, he was informed he had been blocked by the Division of General Services. When he contacted the division, the supervisor said he was unaware that they had the capability to block someone and assured the complainant that he had not done so. When the Ombudsman contacted the agency, the supervisor took action that successfully removed the block and the complainant was again able to bid on the electronic auction site. (A2014-0374)

### ***Agency Excels at Bureaucratic Runaround***

A mother applied for child care assistance from the Division of Public Assistance and, after the initial interview, the agency requested additional information. The applicant provided the information in a voicemail message and asked for a return call to confirm receipt of the information. She did not get a call. After three additional phone calls over the next two weeks, she was still without a response. The applicant called the receptionist and asked that person to check on her application. She was told the staff person working her case was on medical leave and a supervisor would review the situation and contact her that day. Four days later she had not been contacted. She called the office again and spoke with a senior staff person who promised to look into her application and try to get it processed. She said she would call the mother back. She never did. The mother contacted the agency again the next day and was told by the person answering the telephone that she would email the senior staffer she spoke with earlier and that she should expect a phone call that day. She didn't get one. She called again the following day and had to leave a voice mail for the senior staff person and requested a call back. She did not receive a call back. The following day the mother contacted the Ombudsman.

In the meantime, the mother had lost a place at a daycare and was facing the prospect of missing work because she had no daycare.

The Ombudsman contacted the senior staff person who had little information about the applicant and brushed off the unreturned telephone calls because of caseloads and that one of her colleagues had a similar name and people frequently confused the two. The senior staffer advised the Ombudsman that she was turning everything over to the supervisor and that he would research the problem and get back to the applicant and the Ombudsman. This never happened.

Four days later the Ombudsman called and emailed the supervisor and cc'd the program manager, requesting return contact. Finally, two days later, the supervisor contacted the Ombudsman. He said he was out ill the previous day, and that the staff person had not advised him she was turning the file over to him. He promised to look into the mother's application that day and give her a call. He also said he would let the Ombudsman know the outcome. The supervisor did not call until the following day and advised that the mom's application was approved. The Ombudsman verified with the applicant that the supervisor had indeed contacted her.

The Ombudsman and the program manager discussed the agency's poor performance. The program manager advised that there was already a meeting scheduled to address staff issues and these concerns would be included. The Ombudsman closed the complaint as resolved. (A2014-0361)

### ***Victim Questions Sex Registry Decision***

A victim in a criminal case contacted the Ombudsman to report that a probation officer in the Division of Probation and Parole was not taking action against a probationer after he failed to register as a sex offender as ordered by the court.

Alaska Statute requires a person convicted of a sex offense to register as a sex offender. Although the probationer was charged with a sex offense, the offense was reduced to an assault charge. As a result of the conviction for a reduced charge – a non-sex offense, the offender did not meet the statutory requirement to register as a sex offender and the Department of Public Safety, by law, could not register and place the offender on the sex offender registry.

Review of the audio of the criminal court hearing and the plea agreement reflected that the offender must **apply** for registration as a sex offender even though he had not been convicted of a sex offense. Unfortunately, the victim believed this would result in the offender being placed on the sex offender registry. The court record was clear that the offender would be in compliance with the court order and condition of probation if he applied for registration as a sex offender – even if the Department of Public Safety did not register him. The Division of Probation and Parole was following the court order as the probation officer had obtained proof of the offender's application for registration as a sex offender and subsequent notice from Department of Public Safety that the offender did not meet the statutory requirements to be placed on the registry. The decision to require the offender to apply for registration without a sex offense conviction was a court action, which cannot be overridden by the Ombudsman. The complaint was discontinued because there was no further assistance the Ombudsman could provide. (A2013-1571 & A2013-1576)

### ***Woman States Her Case and Wins It***

A woman became involved with the Department of Health and Social Services licensing section to address violations at her assisted living home. The violations were discovered after the complainant reported the death of an individual receiving hospice services in the home. She was also seeking a license for a second assisted living home. The complainant contacted the Ombudsman, who advised her that she could request a violation conference to address the violations and the proposed enforcement action, which was

non-renewal of the license. The complainant testified at the violation conference, and the agency rescinded its original enforcement and renewed the license for the first assisted living home.

Although some confusion continued about the status of the second assisted living home license, the agency eventually approved it. (A2013-0153)

### ***Ombudsman Concludes Woman Was Heard***

A woman contacted the Ombudsman alleging that the chairperson silenced her and did not allow her to provide public testimony at a public Board of Game meeting. An Ombudsman reviewed the recording of the meeting and determined that the complainant had been allowed to provide public testimony at the meeting. In addition to the opportunity to provide public testimony at the meeting, Board of Game records included written testimony submitted by the complainant, which was included in a meeting workbook distributed to each board member. The Ombudsman was unable to find specific and credible evidence to support the complainant's allegation, and the complaint was closed. (A2014-0464)

### ***Background Check Program***

A woman complained that the Department of Health and Social Services, Health Care Services, Background Check Program (BCP) used a Municipal Child Care License revocation as a barrier condition when the incident that caused the license revocation did not involve a concern of neglect, abuse or failure to protect by the complainant.

The Ombudsman reviewed documentation provided by the complainant and interviewed the BCP managers and the Municipal Child Care Program manager.

The BCP determined that a barrier condition existed after the discovery of a municipal child care license revocation. After intervention by the Ombudsman and the complainant, the municipality consulted with its legal counsel and determined that the license status would be changed from revoked to closed, because the incident that resulted in the license revocation was not an allegation of harm against the complainant. Additionally, there was no reason to believe that the complainant was not being protective as the complainant had self-reported the incident to the Municipality Child Care Program.

After the municipality changed the database record from revoked to closed, the BCP issued a valid criminal history check to the complainant and there was no longer a permanent barrier condition. (A2014-0795)

### ***Grandma Protests Child Placement—Too Late***

A grandmother complained that OCS denied her placement of her grandchild. She wanted the agency to place the child with her immediately. Investigation revealed that the placement decision took place more than a year earlier. At that time, the agency had two potential placements: the complainant and another family that had previously had placement of the child and had subsequently adopted the child's two half-siblings. Additionally, at the time of the placement decision, the child's mother supported the placement. At the time the complainant contacted our office, both parents had already relinquished their parental rights and OCS was

working toward adoption with the foster placement. The Ombudsman advised the complainant that it was too late for any intervention to be beneficial. (A2014-1340)

### ***Litigation Slows New Child Support Order***

The complainant contacted the Ombudsman and complained that the Child Support Services Division (CSSD) was collecting child support based on an old order, which complainant could not afford. The complainant said he was working through the courts to get the support reduced, but that CSSD would not reduce the support obligation until a new order was issued.

The Ombudsman contacted CSSD and learned the agency was enforcing the existing child support order, which is a court divorce decree / child support order. The complainant had requested a modification through the courts of the existing child support order. However, the modification of the order has been delayed due to the parties' ongoing litigation concerning visitation provisions in the order. CSSD cannot interfere with the court modification process and is not responsible for the delay in modifying the complainant's child support order. The Ombudsman also learned that the complainant does not qualify for a hardship or wage withholding reduction through CSSD because he is not current on his monthly support obligation. The Ombudsman relayed this information to the complainant and closed the complaint. (A2014-1339)

### ***Bank Abbreviation Stalls Contractor's Bond***

The State of Alaska requires contractors to provide a surety bond or a "negotiable security," such as a certificate of deposit, with the ownership listed on its face as "State of Alaska in Trust for [contractor]." A licensed contractor told the Ombudsman that the Division of Corporations, Business and Professional Licensing was threatening to cancel his license, even though he had provided the required certificate of deposit. He had provided a certificate of deposit, but his bank had not included his full business name on the certificate title. The bank listed only a partial name of the business, apparently because bank's software provided a limited number of characters to input ownership of the certificate. The Ombudsman suggested to the contractor that his bank needed to provide a more completely titled certificate of deposit as a customer service issue. The contractor contacted his bank, which figured out how to issue a certificate of deposit with an accurate, complete title. The state agency confirmed that the problem was resolved and that the contractor's license was secure. (A2014-1233)

### ***DOC Loses Inmate's Money—Twice***

An inmate alleged that the Department of Corrections (DOC) lost \$60 in cash when he was transferred to Anchorage Correctional Center East (ACCE) from a municipal jail. After the Ombudsman contacted DOC, the agency reassessed the inmate's property claim and reimbursed him for the loss.

While this resolved the inmate's immediately complaint, questions remained about ACCE's property processes. These concerns were underscored when ACCE lost a much larger amount of the inmate's money a few months later while the Ombudsman investigation was pending. In the second instance, ACCE had counted the money in front of the inmate who signed the

property inventory, but the cash went missing the next day and was never recovered. ACCE promptly reimbursed the inmate without Ombudsman involvement.

The Ombudsman found the complaint partially justified and made several recommendations. The Ombudsman is not releasing the recommendations publicly because they relate to security at the institution. DOC accepted some, but not all, of the recommendations. (A2013-0210)

### **Complaint Reveals Sketchy Grant Process**

The complainant alleged that the Alaska Energy Authority flubbed the initial grant cycle for the Emerging Energy Technology Fund by failing to enforce eligibility requirements, failing to provide notices of key agency meetings, failing to award grants in accordance with statutory priorities, and allowing a contractor's conflict of interest.

Investigation revealed that two of the complainant's allegations were justified. AEA did, in fact, allow an ineligible applicant to proceed past the initial phase of the grant process. And, while the agency had issued public notice of the two meetings in question in accordance with state law, it failed to also send notices of the meetings via its list-serve, established to send notices to parties specifically interested in the grant fund. The Ombudsman did not find, however, that AEA failed to utilize the statutory priorities for awarding grants or that a conflict of interest existed with the agency's contractor.

The Ombudsman recommended, for future grant cycles, that it enforce the eligibility requirements and provide notices in a consistent fashion. (A2012-1355)

### **Foster Kids Removal Flawed**

The foster mother of three children in state custody complained to the Ombudsman that the Office of Children's Services (OCS) had removed the foster children from her home for insufficient reasons and without considering all relevant factors. During the investigation, the Ombudsman added several more complaints.

The investigation showed that OCS had not considered all relevant factors prior to moving the children to another foster home. In fact, during the investigation, OCS returned the children to the foster parent's home after talking with the children's therapist and *guardian ad litem*.

Prior to taking the children, OCS had failed to notify the foster mother about her rights to grieve the non-emergency removal. The OCS caseworker admitted that she was unaware of a foster parent's right to grieve removal of a foster child. OCS had also failed to notify the biological parents of the children's return to the foster home, as required by Alaska law and agency policies and procedures.

An OCS caseworker took more than six months to complete her investigation of the protective services report made against the foster mother. Because foster parents are also subject to OCS licensing requirements, a licensing worker also investigated the allegations. That worker did not complete his report of investigation for almost a year from the date of the first report.

Investigation showed that OCS child protective services and licensing workers failed to document interviews and meetings on several occasions, and that OCS caseworkers had not conducted in-home visits with the children as required by policy.

The Ombudsman made the numerous recommendations to the agency, regarding notice, procedures, and staff training. (A2009-1454)

### ***Jail Meal Plan Juggled***

An inmate at Spring Creek Correctional Center (SCCC) complained about meal service at the prison. Some of his complaints were not justified, but his allegations about the food service on weekends and holidays were found justified. The Ombudsman found that SCCC was in violation of Department of Corrections policy because of excessive time between meals and because it offered only a piece of fruit as a snack on those days. The Ombudsman recommended that SCCC review its meal schedule to ensure that no more than 14 hours elapses between meals or snacks and that a nutritionist review menus and determine whether serving a single piece of fruit is a sufficient snack. As a result, SCCC changed its meal schedule on weekends and holidays, and a nutritionist reviewed menus at all institutions. (A2011-0242)

### ***Corrections Fails Inmate with MS***

A woman inmate complained that the Department of Corrections was not providing appropriate medication for her multiple sclerosis. She said she had not received any of the medications usually prescribed to delay the worsening of MS. She also complained that the prison had run out of the muscle relaxant that prison medical staff had prescribed for her symptoms, causing her to suffer muscle spasms and difficulty swallowing.

The Ombudsman found both allegations were accurate. Investigation revealed that the inmate arrived in prison with a known diagnosis of MS and remained there almost a year before receiving appropriate medication. The Ombudsman also found that prison staff did not follow DOC's own pharmacy procedures, causing the inmate to suffer unnecessarily.

DOC accepted the Ombudsman recommendation that DOC begin necessary medical treatment of an inmate's chronic conditions immediately upon taking custody of the prisoner. DOC also accepted a recommendation that it improve its policies and procedures for stocking its pharmacies. (J2008-0161)

### ***ADF&G Fails to Provide Info***

A citizen complained that ADF&G staff engaged in official misconduct by opposing the citizen's efforts to build new trails in a state park and violated ethics laws by participating as a private citizen on the board of a local community council. Lastly, the citizen alleged that the agency failed to provide documents requested under the Alaska Public Records Act (APRA).

After investigation, the Ombudsman found the last allegation justified and recommended that the agency provide the withheld documents and provide staff training on the APRA requirements. The agency adopted all of the Ombudsman's recommendations. (A2009-1640)

### **Ombudsman Questions OCS Decision**

A father complained that the Office of Children's Services subjected his four young children to invasive sexual abuse exams without any evidence indicating the exams were necessary. The father, who had recently been awarded sole custody of his children in a civil suit, was also a registered sex offender. As a young man, the father had been twice convicted of sexual abuse of a minor – his victims were both 15 at the time.

The man's family came under OCS scrutiny after the agency received a report that the father was engaged to a woman with a teenage daughter, who was around the same age as the father's victims. The agency initiated a safety plan for the mother and the teenage daughter was voluntarily placed with a relative outside the home so the agency could assess the family for safety. All four of the complainant's children remained in the home. OCS had received reports of harm involving the family in the past, was well aware of the father's criminal past, and had never expressed concern that he was a danger to the family. Two months later, when the safety plan was about to expire, the mother indicated to OCS that she intended to bring her daughter home. Only then did OCS express concern for the father's children being in the home with him because he was a registered sex offender. OCS then required that his children be examined.

OCS subsequently took custody of the father's four children. From there, the questionable decisions kept coming. The agency placed the children with their mother even though the mother had a history of substance abuse and had not demonstrated a pattern of sobriety.

Although OCS disputed the Ombudsman's findings, it agreed to reevaluate the case and also establish investigative policy to guide caseworkers in dealing with cases involving parents with prior sex offenses. (A2010-1326)

### **Personnel Refuses Ex-Employee Access to His File**

A terminated state employee complained that the Division of Personnel and Labor Relations refused to give him a copy of its investigative file that resulted in his firing. After prolonged discussion between the Ombudsman and agency staff, the agency relented and provided the complainant with the file, which he was legally entitled to receive. (A2010-0552)

### **Dad Reunified with Sons, No Thanks to OCS**

A *guardian ad litem* complained that the Office of Children's Services failed to take steps toward family reunification under the Indian Child Welfare Act. Investigation revealed that the OCS caseworker failed to meet agency contact requirements with the family and failed to refer both

the parents and children for necessary services – sometimes delaying referrals for months at a time.

Despite these failings, the father was extraordinarily proactive and sought out services on his own, eventually convincing the court to order reunification. OCS agreed with the findings and agreed to give refresher training to all supervisory staff to ensure that cases do not fall through the cracks. (A2010-1040)

### **Agencies Did Not Dig Marina Proposal**

The owners of a commercial jet boat operation contacted the Ombudsman in 2009 to complain that employees of the Department of Fish and Game (F&G) and the Department of Natural Resources (DNR) led the owners to believe that the necessary permits for connecting a private marina to the Chilkat River were forthcoming. Consequently, the couple spent thousands of dollars constructing a marina and access route prior to final permitting approval. The permits then were denied.

They also complained that DNR staff required them to pay for the costs of repair to a riverbank adjacent to their property that was breached naturally by rising water in the river, failed to timely notify them of the agency's change in position on their special use permit application, and failed to adequately explain the agency's reasons for opposing the connection of a private marina to the river.

Investigation revealed that both DNR and F&G bore some responsibility for the complainants' decision to begin construction of the marina prior to final permitting approval. The Ombudsman also determined that DNR had failed to timely notify the couple about a change of heart on the project. Southeast Regional DNR staff initially supported the couple's project. However, later on, DNR upper management backed away from supporting the project and then threatened to take away the couple's commercial use permit if they did not fill in the marina.

The Ombudsman questioned DNR's reasoning when considering whether to approve the couple's special use permit request. There did not appear to be enough evidence that the marina was incompatible with the Chilkat Eagle Preserve or Fish and Game standards. DNR's stated reasons for not supporting the project lacked sufficient support and appear to be based on speculation and the threat of a lawsuit. The Ombudsman concluded that DNR should have provided additional evidence to support its conclusions. However, the Ombudsman did not determine that it was unreasonable for DNR to require the owners to pay for the costs of repair to the adjacent riverbank, because evidence suggested that the breach of the riverbank was caused in part by the owners' excavations, whether they intended this result or not.

The Ombudsman recommended that both agencies pay one-third of the expense incurred by the couple for excavation and construction of the marina, restoration of the riverbank, and filling in the marina. The agencies rejected this recommendation. The couple was referred to Risk Management and their legislators for further assistance, because the Ombudsman cannot enforce recommendations. The Ombudsman also recommended that DNR should provide additional training to its staff concerning statewide permitting restrictions to ensure that accurate and consistent information is provided to the public. Although this recommendation was directed at DNR, both agencies accepted it. DNR has since implemented a centralized permitting process and modified the permit application process. F&G has also written

guidelines for staff to follow to improve the permitting process and increase permitting consistency among staff and regions across the state. (J2009-0217 & J2009-0224)

### ***Ombudsman Investigates, OCS Apologizes***

A couple called the Ombudsman to complain that OCS had mishandled an investigation of whether they had physically and emotionally harmed three young relatives for whom they were providing foster care. They complained that OCS erroneously found the reports of harm to be substantiated. They also complained that, after OCS removed the children from their home, caseworkers placed the children with another relative who had abused and neglected her own children. They claimed that the children's caseworker failed to look into the other relative's background and reports of harm filed against her while the three foster children were in her care. They believed that the children were not safe in this placement. They believed that OCS improperly restricted their visitation with the children after they had been removed from their home, and refused to reconsider them as foster or adoptive parents. They said that the caseworker was discourteous and failed to respond to their contacts and requests for information. They asked the Ombudsman to help remove an OCS substantiated finding of abuse from OCS files and wanted the children returned to their care.

The Ombudsman concluded that OCS had failed to conscientiously consider evidence that the second set of foster parents had exposed the children to domestic violence. However, the Ombudsman also determined that OCS had not mishandled its investigation against the complainants. The Ombudsman determined that OCS had unfairly required the couple to have supervised visitation with the children even after the Attorney General reversed the substantiated report of harm. OCS for years also did not change its on-line case management database to reflect that the finding had been reversed. The Ombudsman could not determine whether an OCS caseworker was discourteous to them.

The Ombudsman recommended that OCS issue a written apology letter to the complainants acknowledging its failure to amend agency records, which resulted in an unnecessary requirement for supervised visitation with the children. The Ombudsman also recommended that OCS modify or amend its records to reverse the substantiated finding against the couple, as the Attorney General's office previously indicated would occur. The agency did not dispute the Ombudsman's findings and accepted both recommendations. OCS sent the complainants an apology letter acknowledging the agency's errors. The agency's records have since been amended. (A2009-0208)

### ***DOT Flubs Simple Hiring***

A woman complained to the Ombudsman about the Department of Transportation (DOT) and Department of Administration's Division of Personnel and Labor Relations (Personnel) regarding their hiring practices. She said she had applied by mail for a full-time permanent position with DOT as an Office Assistant in July 2009. She indicated that DOT offered her the position in August 2009, and she accepted the offer. She had quit a part-time job in reliance on the new position. However, DOT and Personnel required her to reapply for the position because, they said, she did not apply properly. She then reapplied on-line for the position in August 2009.

DOT interviewed her again, but this time DOT selected another candidate for the position. DOT informed the complainant of its decision in an e-mail on October 1, 2009.

She filed a complaint with Personnel on October 15, 2009. She requested Personnel and DOT provide information on the hiring process, as well as information on the candidate who was hired after the second application process. She asserted that her skills and experience surpassed those of the other candidate. She also alleged that both DOT and Personnel staff acted unreasonably and unprofessionally and blacklisted her from future employment with the State of Alaska.

The Ombudsman found that DOT staff had offered the woman the job initially, and then revoked the job offer. The Ombudsman also found that DOT failed to provide the complainant with a clear explanation of the reasons DOT rescinded the job offer, failed to rank and score the applicants for the position prior to extending the job offer as required by 2 AAC 07.106, and failed to retain recruitment documentation as required by 2 AAC 07.113.

The Ombudsman proposed three recommendations to DOT: (1) DOT should provide the complainant with a written apology for its mishandling of the complainant's employment application and subsequent job offer without Personnel approval. The letter should clearly acknowledge the errors made in the recruitment and hiring process; (2) DOT should consider paying the complainant a reasonable sum of money to compensate her for her financial loss; (3) Recommendation 3 is not public information in accordance with Alaska confidentiality statutes and cannot be included here.

In the months after an investigation, the Ombudsman often requests a state agency report back on its progress in implementing the Ombudsman recommendations that the agency has accepted. After multiple contacts over five months, DOT finally issued an apology letter to the complainant. DOT then reversed its agreement to Recommendation 2 despite previously accepting it. DOT determined it was inappropriate to spend public funds to compensate the complainant for her financial loss. The Ombudsman closed the complaint against DOT as justified and partially rectified.

The Ombudsman also determined that Division of Personnel's on-line application instructions were unreasonably confusing to prospective applicants and failed to achieve the purposes of the application process. The Ombudsman proposed that Personnel review and revise all future recruitment notices to clarify the appropriate process a prospective applicant should follow when applying for a position by U.S. mail. Personnel has since clarified this information on current job postings on the Workplace Alaska website, this may prevent similar problems from recurring. Therefore, the complaint against Personnel was closed as rectified. (A2009-1571 & J2010-0144)

### ***Woman Ruffled by Traffic Stop***

A woman complained to the Ombudsman about her experience with an Alaska State Trooper (AST) during an early winter morning "high-risk" vehicle stop. The complainant said the trooper and back-up police vehicles shined bright lights on her and ordered her to get out of her car, humiliating her by exposing her to the view of passing traffic and frightening her by pointing a gun at her, shouting at her, and restraining her with handcuffs outside in the cold while they questioned her husband in the car.

The trooper explained that AST had received a 911 report of shooting in the area from which a car resembling the complainant's car had fled the scene with a male and female in it. The complainant said the officer should have known from their auto license that neither she nor her husband had a record of criminal or traffic offenses. The woman said the trooper was unprofessional and did not perform according to proper procedures. She said she felt violated by the trooper's actions.

The Ombudsman found that the trooper failed to activate his recording device and failed to advise the complainant immediately why he stopped her car as required by AST procedures. However, the Ombudsman also found that the traffic stop was warranted by the evidence and lasted just three minutes. The Ombudsman found the complaint partially justified. Shortly after this complaint was filed, AST created its Office of Professional Standards to handle citizen complaints. (A2010-0228)

### ***Smoker Irked by Smoke-Free Housing***

A recipient of public housing assistance complained about a new smoke-free housing policy that the Alaska Housing Finance Corporation is implementing in its state-subsidized public housing apartments. The complainant opposes the smoking ban and believes it is a violation of his rights.

The Ombudsman contacted AHFC Public Housing Director and reviewed relevant agency and federal policies as well as state law in response to complaint. The Ombudsman learned there are no federal or state laws that prohibit a landlord or housing authority from adopting a smoke-free housing policy. Similarly, neither federal nor state laws make smokers a protected class, and courts that have considered the issue found that no fundamental "right to smoke" exists. Bottom line: landlords and housing authorities may restrict or prohibit smoking in their properties.

The Ombudsman also found that AHFC appears to be following federal guidelines for the implementation of smoke-free housing policies by public housing agencies. Thus, the Ombudsman did not see that the action taken by AHFC to implement a smoke-free housing policy was unreasonable or contrary to law. The Ombudsman relayed the review findings to the complainant in writing and closed the complaint. (A2013-0944)

### ***OPA Drags Feet, Ignores Client***

A superior court judge appointed the Office of Public Advocacy as temporary guardian and conservator for a complainant's mentally ill parent who resided in another community. However, OPA contested the appointment because it believed the court lacked authority to make the appointment. OPA failed to notify the court of its position for several weeks after the appointment and failed to take actions necessary to protect the ward. The complainant feared that her parent would be evicted from her apartment for non-payment of rent. She contacted the Ombudsman for assistance.

The Ombudsman concluded after reviewing the court's order and email correspondence

between the complainant and OPA staff, that an OPA staff member delayed taking action because he erroneously determined that the court did not have authority to issue the order based on jurisdictional grounds. However, the Ombudsman questioned this interpretation and brought the issue to the agency's supervisor for action. As confirmed by the supervisor, the court order was valid. The agency has since filed a motion with the court to reconsider the appointment order, but until that time, OPA is required by law to take appropriate action to assist the complainant's disabled parent. The Ombudsman confirmed that the agency was now taking appropriate steps to protect the ward. (A2013-0867)

### **O Finds Lack of Foster License Not Agency Fault**

The relative of a child in state custody contacted the Ombudsman to complain about the Office of Children's Services (OCS). The complainant explained that OCS had placed her niece in her home on an emergency basis in early 2013. The complainant said OCS told her it was going to issue an emergency license to her and pay her foster care payments for the care of her niece. OCS later removed the child from the complainant's home at her request three months later. The complainant complained that OCS did not license her as a foster parent while the child was with her and failed to adequately reimburse her for niece's care. The complainant was seeking to be reimbursed at foster care rates for the period the child as in her home.

The Ombudsman determined that because several OCS offices were involved in this case, it was possible that the complainant may have been given conflicting and perhaps even inaccurate information about the foster care licensing process early on by OCS staff. However, OCS did provide the complainant with the foster care application packet in a timely manner and the complainant then failed to timely submit the application. When the complainant finally submitted the application, it was incomplete. OCS processed the application immediately once it was received.

During the licensing evaluation, OCS identified concerns regarding the complainant's background that required additional information. The complainant failed to respond to OCS requests for additional documents, which were required to evaluate the complainant for licensure, and she eventually refused to cooperate with the agency. OCS ended up closing the complainant's licensing application as incomplete.

OCS could not reimburse the complainant for foster care payments because the complainant did not complete the licensing process and become licensed. However, OCS did provide the complainant with a small discretionary voucher for the care of the child. In addition, the complainant received some DPA ATAP and Food Stamp benefits on the child's behalf while the child was in her care.

The Ombudsman relayed the review findings to the complainant and explained that the Ombudsman could not provide her with the remedy she requested and was closing the complaint. (A2013-0899)

### **OCS Fixes Notice Problems**

A grandfather contacted the Ombudsman to complain about the Office of Children's Services (OCS). He raised three issues: (1) OCS failed to inform him of the reasons he was denied

placement of his grandchildren; (2) OCS failed to notify him of court hearings and administrative meetings relating to his grandchildren; (3) OCS delayed facilitating face-to-face visits and telephone visits between the complainant and his grandchild.

The Ombudsman determined that the OCS caseworker had in fact failed to provide the complainant with a written denial of his request for placement and information on how to appeal the agency's decision as required by law and OCS policy. The Ombudsman brought this issue to the worker's attention, and the worker subsequently issued a written denial with the appeal information to the complainant. He has since filed a motion with the court to challenge the agency's decision. Accordingly, this issue was inappropriate for further Ombudsman review.

Concerning the second allegation, there was conflicting evidence whether the agency had properly notified the complainant about court hearings and administrative meetings. The caseworker said that she had verbally notified the complainant about court hearings, and that other agency staff were responsible for notice of administrative reviews. The complainant participated or attended both, according to the Ombudsman's review of the agency's records, with the exception of case planning meetings, which the complainant would not necessarily be invited to attend. The Ombudsman directed the worker's attention to OCS policies addressing grandparent written notification both for court hearings and administrative reviews, with limited exceptions. In response, the worker took appropriate steps to ensure the complainant received written notice for all further court hearings and administrative reviews.

Concerning visitation problems, the Ombudsman contacted the secondary worker on the child protection case, as well as the grandchild's therapist to coordinate both face-to-face visits and telephone visits between the complainant and his granddaughter. (A2013-0897)

### ***Fired Ferry Worker Walks the Plank***

Complainant alleged that the Alaska Marine Highway System refused to provide him with copies of negative reference letters that prevented him getting future employment with AMHS. The agency, in 2011, had issued a non-referral letter to the complainant's union after the complainant was dispatched to work on a state ferry. The complainant had the option of challenging this decision under the union's grievance process but did not.

The complainant believed that the non-referral was based on negative performance letters that he believed existed. The Ombudsman contacted AMHS and the agency's human resources staff was able to locate an email and two letters that were, most likely, the documents that the complainant has been looking for and sent copies of those documents to the complainant. The Ombudsman also learned that the agency had issued the non-referral letter because the complainant had previously been terminated from the agency for cause and not due to allegations of poor work performance during the 2011 job as the complainant believed. (A2013-0755)

### ***Freezer Dumps Tenant In Hot Water***

An Alaska Housing and Finance Corporation tenant complained that he was being required to pay an extra monthly utility fee for having a freezer in his apartment. However, he alleged that

agency staff ignores other residents' flagrant abuse of AHFC housing rules, such as allowing "guests" to live there and use both laundry facilities and electricity.

The complainant signed his lease agreement in March 2013. Part of the lease agreement set forth certain extra utility charges that could be imposed in addition to the monthly rental fee. At that time, the complainant agreed to an extra fee for a washer/dryer unit in his apartment. Later he and his wife purchased a freezer. Freezers are subject to an additional excess utility charge of ten dollars per month. While the complainant felt he should not have to pay the additional utility charge, the Ombudsman determined after reviewing the lease agreement, agency policies and procedures, and federal guidelines that the extra fee was not unreasonable and the complainant was notified at the time of signing the lease that extra fees could be imposed for a freezer. However, the Ombudsman also concluded that the agency had failed to properly notify the complainant of his right to grieve the extra utility fee, if he wished to do so.

When initially contacted about access to the agency's grievance process, the AHFC Housing Director said that excess utility fees could not be grieved, as they were a part of the lease agreement. However, after further inquiry, the director ultimately agreed that both the terms of the lease and agency policy did in fact allow a tenant to grieve an excess utility charge. Accordingly, the agency sent a revised notice to the complainant to advise him of this right to challenge the fee. (J2013-0262)

### ***Ombudsman Gets Inmate Out On Time (more or less)***

An inmate was held in jail beyond his release date because the Department of Corrections did not receive the order from the courts. After Ombudsman contact, the court agreed to fax the information to DOC, and the inmate was released the following day. (A2013-1449)

### ***Ombudsman Looks at ICWA Actions***

A grandparent contacted the Ombudsman to complain that the Office of Children's Services was not following policy and procedures relating to ICWA placement and notification of court hearings.

An Ombudsman contacted the caseworker and tribal representatives and reviewed the agency's computer records. From what the Ombudsman was able to determine, OCS had not violated ICWA by placing the children with the paternal grandparents rather than the maternal grandmother; both maternal and paternal grandparents are considered preferred relative placements under ICWA.

ICWA treats non-Indian extended family members the same as Indian extended family members, with regard to placement preferences, although a family member's ability to foster or maintain an Indian child's connection to his or her tribe or culture is an appropriate factor to consider in determining placement of the child.

According to the agency's records, the complainant had expressed preference for only one grandchild, not both, because of the difficulty handling both children. OCS concluded it was in the children's best interests to be placed together in the same home, and the paternal

grandparents were willing to take both children. While the complainant disagreed with this conclusion, it was not a clear violation of ICWA.

However, the Ombudsman determined that the caseworker had failed to provide written notification of court hearings and administrative meetings to the complainant as required both by statute and agency policy. The Ombudsman provided the worker with information on the applicable legal requirements for grandparent notification and the worker said that she would ensure that written notice is provided to the grandparent for future hearings and administrative meetings.

The complainant contacted the Ombudsman again to complain that the OCS worker would not allow her to provide background information to her grandson's therapist. The Ombudsman reviewed the agency's records and email communications with the complainant. This allegation was determined without merit. Ultimately, the decision to accept information from relatives is subject to the therapist's discretion, not OCS's.

The complainant also said that her tribe filed a request with the court for a placement review in July 2013, but a hearing had not been scheduled. The Ombudsman reviewed the court file, which contained no record of a motion for a placement review on behalf of the complainant. Until a formal request is made in writing, the court has no reason to schedule a placement review hearing. If proof of service could be provided by the tribe, the Ombudsman offered to contact the clerk of court again to see if a hearing could be scheduled based on this evidence. (A2013-1082)

### ***O Clears Case Confusion***

A parent contacted the Ombudsman to complain that OCS had not provided any documentation relating to her case.

She also complained that an OCS supervisor said they were going to close her case, but instead required a safety plan, and was going to change the plan based on new information they received, but would not tell the complainant what the concern was. She also took issue with OCS interviewing her son at school and failing to notify her about it until a meeting later in the week.

The Ombudsman contacted an agency supervisor and requested that she provide the complainant with a copy of the safety plan. Although the supervisor insisted that the complainant should have been provided with a copy of the safety plan at the end of a team decision meeting, she also conceded that she did not know for certain if this had occurred. The Ombudsman suggested that to resolve this issue, it would be simpler to provide it to the complainant again, since she insisted she was not provided with a copy. The supervisor ultimately agreed and provided a copy to the complainant.

The OCS supervisor disagreed that she told the complainant she had new, scary information, but she conceded that she had told the complainant there was new information about her case that might require additional discussion. However, a meeting was not scheduled, leaving the complainant in limbo for several weeks and resulting in anxiety as to what the new information was and how it affected her case.

Concerning the notification of her child being interviewed at school, the Ombudsman advised her that though state statute does require that immediately after OCS conducts an interview of a child at school, OCS shall make every reasonable effort to notify a parent, guardian or

custodian of the interview, it also provides that OCS can disregard the required notice if the department believes it could endanger the child. Further, the statute does not specifically provide a required timeframe for the notice, nor the required method of delivery. In this instance, the complainant found out about the school interview at a team decision meeting that occurred four days after the interview was completed and was verbally notified of the interview. The Ombudsman did not find a clear violation of the law by OCS.

After Ombudsman contact, the supervisor contacted the complainant and advised her that her case would be closed pending verification of her compliance with the case plan. The complainant was satisfied with this outcome. (A2013-1259)

### **Law Writes Off Delayed Debt**

A woman complained that the Department of Law had seized a portion of her PFD to pay a court judgment that she said had long been satisfied. The Ombudsman contacted Law and learned that the problem originated in how the local court had referred the debt for collection. Only part of the debt had been turned over to the Collections Section for services, which most likely was an error. The issue came to light after the court referred the outstanding portion several years after the complainant had satisfied the other portions of the judgment. The complainant understandably believed that she had paid everything off. Although the debt was valid, the Department of Law agreed to write off the late-referred portion of the judgment and refund the portion of the PFD it had seized. (A2013-1398)

### **Woman's Fears About Children's Safety Soothed**

A woman contacted the Ombudsman because she feared that OCS was taking no action to protect children who may have been sexually abused. After Ombudsman contact, the agency agreed to meet with the complainant to discuss her concerns and possible agency action. The complainant confirmed that the meeting took place and that she was satisfied with the agency action. (A2013-1213)

### **Man's Cash Released, But Troopers Keep His Weed**

A man complained that even though his case had been dismissed by the DA more than three weeks ago, State Troopers would not release \$1,800 that had been seized as evidence. When the Ombudsman office contacted the Troopers, they said they could not release the property without a form, and they could not find it. When the Ombudsman pressed the agency about how long the man would have to wait for AST to find the form and what the process was for releasing property if the form was never located, the agency agreed to make a diligent effort to find the form. AST called the Ombudsman a few hours later and advised that they found the form and notified the man he could come and pick up his money and his cell phone-- but they were keeping his marijuana. (A2013-1726)

### **Phonebook Gets Overdue Correction**

A woman contacted the Ombudsman because she had attempted to contact the Department of Labor Job Readiness Hotline but instead found herself the target of an attempted fraud. The

Ombudsman determined the phone number was an old number that had been taken out of service when the Department of Labor centralized job services. However, someone else began using it and the phone directory in one area had not been updated. The Ombudsman contacted DOL, which coordinated with the phone directory to be certain that the number would not appear in the next printing. (A2013-0835)

### ***Confusing Form Gets Prompt Update***

A man contacted the Ombudsman's office because he had not received his new vehicle tabs. When he contacted the DMV, he discovered the two-day processing time he was expecting was actually a month. The Ombudsman contacted the DMV and determined that the form mailed out to remind people to renew their tabs included a processing time for Internet vehicle renewals, but the way it was worded could be interpreted as all methods of renewal being processed within two days. A supervisor found the complainant's renewal and processed it immediately. The Ombudsman suggested the form be changed to prevent future confusion and the form was updated the same day. (A2013-1263)

### ***Ombudsman Facilitates Grievance for Inmate***

An inmate contacted the Ombudsman's office because his time accounting had not been completed, even though he had been sentenced months before. He had filed a grievance, but had not received a response. The Ombudsman contacted the jail records department and discovered that the grievance had never been forwarded to them. After being notified of the situation, records completed the complainant's time accounting, resulting in a projected released date a few weeks in the future. (A2013-1296)

### ***Ombudsman Bird-Dogs Time Accounting***

An inmate contacted the Ombudsman because he believed he should have been released the previous day, but his time accounting was not done. The Ombudsman contacted the jail records department, and learned they had been waiting for records associated with his separate federal charge to complete the time accounting. They had received the records earlier that day and completed the time accounting, which resulted in the release of the inmate. (A2013-1273)

### ***Ombudsman Facilitates Appeal***

An inmate contacted the Ombudsman because she had not received a response to her appeal to the Medical Advisory Committee. The Ombudsman contacted medical administration, which had no record of the appeal. The facility where the inmate was housed said they had sent the appeal to medical administration. After being informed it could not be found, they sent another copy. The appeal was reviewed by the Medical Advisory Committee the following week and a response was forwarded to the inmate. (A2013-1170)

### ***Corrections Vies for Inefficiency Award***

An inmate contacted the Ombudsman because he had not received a response to a grievance about his time accounting or to his appeal about his classification. The Ombudsman contacted the Anchorage Correctional Center and determined that, while his grievance had been decided, the answer had not been forwarded to him. Apparently, the employee responsible for forwarding the responses had not been processing them. After the Ombudsman's office contacted the employee, the response was given to the inmate.

The inmate's classification was also incorrect. The complainant was classified as maximum. He had been classified as minimum and nothing had changed. Errors included an incorrect age, points for a disciplinary action that had been overturned on appeal, and the wrong offense severity score. He said he filed an appeal, but did not get an answer. The jail had no record of an appeal and the complainant was now outside of the appeal timeframe. However, after the Ombudsman requested other options for the inmate, since the classification was clearly incorrect, the institutional probation officer completed a reclassification, reducing the complainant to minimum custody as expected. (A2013-1155)

### ***Paperwork Expedited, Inmate Released***

An inmate contacted the Ombudsman's office because he thought he was being held past his release date, but his time accounting wasn't done. The Ombudsman learned that the jail records department was waiting for the inmate's probation file to complete the time accounting. Probation was still within time limits dictated by policy and procedure for forwarding the file, but after the Ombudsman's office contacted records, they arranged for the relevant documents to be scanned so the time accounting could be completed. The inmate was released the same day. (A2013-1349)

### ***Completed Paperwork Results in Transfer***

An inmate contacted the Ombudsman's office because his time accounting was not completed, even though he had been sentenced months before. He needed his time accounting done so he could be classified and released to community custody. He was instructed to file a grievance, but then his grievance was incorrectly rejected as an issue that could not be grieved. The Ombudsman contacted the jail records department. Records staff said that the complainant's time accounting was completed, but not entered in the computer system. The computer was updated and the institutional probation office finished the classification within policy timeframes, resulting in his transfer to a community residential center. (A2013-1249)

### ***Paperwork Lost in the Shuffle***

An inmate contacted the Ombudsman because he believed he should have been released the previous day, but the court had not sent his sentencing information to the jail. The Ombudsman contacted the court, who said they had faxed it over but would fax it again. The jail received the paperwork and the complainant was released the next day. (A2013-1500)

***Ombudsman Confirms  
Failure to Apply***

A woman contacted the Ombudsman because the PFD said they never received her application, even though her entire family filed online at the same time. The Ombudsman contacted the PFD Data Manager, who confirmed there had been no reported network issues on the day the family filed. Additionally, the Data Manager explained that the PFD applications have a page-by-page trap, so they can see if any page of an application was completed, even if the application wasn't submitted. There was no record that any part of the application was completed for the complainant. The Ombudsman explained this to the complainant, who was unhappy she wouldn't be getting her PFD, but appreciated knowing about the error so she could make sure it didn't happen again. (A2013-1348)

***Ombudsman Provides  
Appeal Information***

A man contacted the Ombudsman's office because he believed the Department of Natural Resources had incorrectly cited him and towed his vehicle. He explained that he had spilled half a cup to a cup of gasoline in a parking area of a state park. He said a park employee assumed his vehicle was leaking and had it towed. The complainant had written the Parks Superintendent about his concerns and received an unsatisfactory reply. The Ombudsman researched the DNR regulations and told the complainant how to appeal the DNR decision. The Ombudsman also suggested that he request information about DNR's authority to tow his vehicle, as applicable regulations did not seem to give authority for towing. (A2013-1528)

***Ombudsman Unclogs  
Information Flow***

An inmate contacted the Ombudsman's office because the court had not sent all of the necessary information for release to the jail. The Ombudsman contacted the jail records sergeant, who said that he had not received information from the court that several counts had been dismissed. The sergeant then contacted the Department of Law requesting the paperwork. The inmate was released later that day. (A2013-1617)

***Compensation Released  
After Ombudsman Contact***

An inmate contacted the Ombudsman's office because he had not received compensation for a television that broke during transport, even though the compensation had been approved months before. The Ombudsman contacted DOC accounting, who had not received the compensation paperwork from the jail. They requested the paperwork and the funds were applied to the inmate's account within a few days. (A2013-1588)

***Help with Counting Gives  
Inmate Thanksgiving at Home***

An inmate contacted the Ombudsman's office because the Department of Corrections was not crediting the complainant with all of the time he had served, which left him in jail past his

release date. The Ombudsman reviewed DOC records and determined the complainant was originally arrested and later remanded to a contract jail. The contract jail entered the incorrect date of birth at the time of his original arrest. When he remanded, they did not have record of him so a new entry was created. This new entry did not include any of the earlier time he served and it was entered three days after remand, so that time also was not counted.

The Ombudsman contacted the ACC records sergeant and explained the discrepancies. The records sergeant contacted the contract jail and had them find their file on the complainant, which showed five days that the complainant was held that had not been applied to his sentence. His time accounting was adjusted and the complainant was released the day after filing the complaint, just in time for the Thanksgiving holiday. (A2013-1598)

### ***Ombudsman Bails Out DOC***

An inmate contacted the Ombudsman's office because his friends were trying to bail him out of jail, but no one could tell them how to accomplish the task. The complainant was located at a facility that inmates can't bail directly from, even though many inmates there are unsentenced and eligible for bail. The Ombudsman contacted several employees of DOC and the Court System, but no one could explain how the bail could be posted. After contact from the Ombudsman's office, the complainant's institutional probation officer arranged for his transport to another facility so he could bail out.

The Ombudsman contacted the department criminal justice planner and explained that there was no current system for bailing out these inmates, even though they are unsentenced and eligible to bail. An immediate solution was developed, with further review for a more comprehensive process planned. (A2013-1204)

### ***Man Gets Answer About DOT Collision***

A Homer man phoned the Ombudsman because he said the state was not responding to his requests for information about a traffic accident. The man said his vehicle collided with a Dept. of Transportation vehicle in April 2013, and that he and his insurance company had been trying to get information from the state Risk Management claims administrator ever since. He said he called several times over three months and Risk Management never returned his calls.

Ombudsman staff called Risk Management, which denied having received messages from the man. The agency believed that the complainant was responsible for the accident and did not support paying the complainant's deductible or the insurance company's claim. Risk Management, however, called the complainant and provided this information. The complainant was happy at least to get an answer from the agency. (A2013-1479)

### ***O Finds OCS Complaint Without Merit***

A woman contacted the Ombudsman to complain that the Office of Children's Services failed to properly investigate reports of harm about her children and failed to notify her about the results of the OCS investigations.

An Ombudsman received copies of closing letters that OCS mailed certified to the complainant. Based on review of the agency records, all protective service reports were handled in accordance with Alaska statutes and agency policies and procedures, except for two old reports. The two protective service reports in question were too old for the Ombudsman to investigate.

The closing letters for the protective service reports that were investigated were undeliverable by the post office because the complainant moved and did not notify the OCS of her new address. The Ombudsman found no evidence to support the complainant's allegations. The complaint was discontinued with a written summary of the Ombudsman review to the complainant. (A2013-1048)

### ***The Case of the Disappearing Driveway***

The Department of Transportation hired a contractor to reconstruct a portion of the Glenn Highway. The contractor eliminated one of two driveways accessing the complainant's business. The complainant said that the one remaining driveway (on a side street) did not allow easy access for recreational vehicles (RVs), whose owners were the complainant's primary customers. The complainant's concern was that RV drivers needed to be able to pull in and out of his parking lot without having to back up, because most RV drivers would find backing up difficult.

The Ombudsman contacted the DOT project manager. The project manager explained that the slope between the reconstructed highway and complainant's property was now far steeper than before, so it was physically impossible to put the original driveway back. Because the complainant still had one driveway access, the project manager did not consider the complainant inconvenienced.

The Ombudsman explained that the complainant clearly was not satisfied with the situation, given his open complaint with the Ombudsman. Within two weeks, a DOT engineer met with the complainant and proposed a new driveway design that the complainant said would provide adequate access for his customers. The project contractor is set to construct the new access when construction season begins in the spring. (A2013-0947)

### ***“But I’ve been here for years!”***

The Permanent Fund Dividend Division (PFD Division) sent the complainant a letter denying his application for the 2013 PFD. The letter stated that the denial was because the complainant had not responded to the PFD Division's request for documentation showing his residency in Alaska prior to 2012. The complainant told the Ombudsman that he had sent documents, so he did not understand why his application was still denied. The Ombudsman contacted a supervisor in the PFD Division, who checked the complainant's application file. The supervisor responded that the complainant had indeed submitted adequate documentation, although the scanned copies were hard to read. Therefore the complainant was eligible for the PFD, which would be mailed the following month. (J2013-0325)

### ***Retirees Win Battle***

### **Over Medical Tax Coverage**

Retired state employees living in Hawaii have Hawaii's General Excise Tax included on their medical bills. Alaska's Division of Retirement and Benefits' third-party plan administrator had been paying the excise tax. But in 2010 a new third-party administrator began denying payment. Although the insurance administrator apparently paid the tax when medical providers did not itemize it in the overall billing, it refused to pay any amounts that were actually itemized on the claim as excise tax. The complainants, former State of Alaska employees who had retired to Hawaii, appealed the issue to the director of DRB after working their way through the appeal levels within the DRB's third-party administrator.

The Ombudsman's office became involved because DRB's director had not answered the appeal after four months. Shortly after an inquiry from the Ombudsman, DRB's director issued a decision in April 2011. He decided that DRB would pay the disputed amounts on complainants' claims through December 6, 2010 as a courtesy, because the DRB had previously paid the tax by mistake, but that the itemized taxes were not actually covered. That decision letter stated that the complainants could appeal DRB's decision to the Office of Administrative Hearings (OAH). Also, DRB published a plan amendment in March 2011, "clarifying" that itemized taxes were not covered.

After the complainants had sent DRB their request for a hearing and prepared their appeal documents, DRB refused to refer the appeal to the OAH for a hearing. DRB reasoned that because DRB had already paid the specific claims appealed by the complainants, there were no remaining issues to appeal. DRB stated that the director's earlier letter was mistaken about the availability of an appeal.

The complainants wanted the OAH to rule on the general question of whether the itemized tax amounts should be covered. Furthermore, the complainants pointed out that although DRB stated that there was no pending appeal because the specific claims in the appeal had been paid in full, the complainants had not actually received payment on the majority of those claims. (When the Ombudsman asked about this omission, DRB paid the remaining claims several months after the letter stating that there was no appeal because the claims had been paid).

The Ombudsman contacted the director of the OAH. The director of the OAH suggested that the complainants could petition the OAH directly to request that their appeal be heard, and the OAH would then decide whether it had jurisdiction to hear the appeal, despite DRB's position. The complainants petitioned the OAH, and the director of the OAH assigned the case to an administrative law judge to review both the actual appeal and DRB's argument that the OAH lacked jurisdiction.

DRB, through its attorney, reached a settlement with the complainants. This included DRB publishing a new plan amendment in March 2013, stating: "Subject to applicable Plan provisions, any portion of a claim that is itemized as sales, excise, or other tax, and that relates to an otherwise covered expense, is reimbursable." (J2011-0305)

### **Child Support Division Finds Fix for Disabled Parent**

The complainant told the Ombudsman that the Child Support Services Division (CSSD) was charging her \$300 per month for child support, despite the fact that the complainant has been disabled and unemployable for several years due to a traumatic brain injury. At the Ombudsman's request, CSSD's complaint resolution manager reviewed the complainant's child support case. The manager said the complainant had previously appealed this issue, but the appeal had been dismissed because she failed to attend a hearing. Later, CSSD received court paperwork that cited the complainant's injury as reason to appoint a guardian for her children. The complaint resolution manager suggested that the complainant request special relief under a regulation (15 AAC 125.125), which allows CSSD to reopen a modification request when an earlier dismissal was due to excusable neglect -- such as the complainant's disability. CSSD's complaint resolution manager and the Ombudsman created a form for the complainant to use to make the request. The Ombudsman sent the complainant the form along with instructions for making a request for relief. (J2013-0193)

### ***Inmate Release Date Is a Puzzle***

An inmate contacted the Ombudsman's office and alleged that the Department of Corrections (DOC) had misinterpreted the court's sentencing orders, and that he should be released a year earlier than DOC had calculated. An Ombudsman reviewed the court orders and concluded that DOC's calculation might be mistaken. Multiple sentences and probation revocations complicated the inmate's time accounting. The Ombudsman asked DOC's chief time accounting officer to review the inmate's time accounting. The chief time accounting officer reviewed the case and found that the inmate was right and adjusted his release date. Perhaps DOC's time accounting staff would have caught the error eventually, but the Ombudsman's intervention prompted a quicker review of the issue. (A2013-0587)

### ***Ombudsman Pushes Paperwork to Kick Inmate***

An inmate contacted the Ombudsman's office because he believed he was being held past his release date. He said that by the time he was sentenced, he had already served the imposed time. The Ombudsman determined that the complainant had been sentenced a few days prior to contacting the Ombudsman's office.

Although his probation officer told him that his files had been sent to the jail for time accounting, the jail had not yet received them. While not confirmed, it is likely the file was in transit between the probation office and the jail, as a private courier service transports them. While DOC was not outside of the three days dictated by policy for the transfer of records from the probation office to the jail, time accounting requested pertinent records be scanned to them after Ombudsman staff contacted them to ask if they had received the file. The time accounting was completed the same day and the complainant was released. (A2013-0809)

### ***Compound Errors Leave Inmate Past Due***

An inmate contacted the Ombudsman's Office because the jail still had him classified as unsentenced and had not completed his time accounting. He said this resulted in him being held

past his expected release date. The Ombudsman contacted the court and determined the sentencing paperwork had never been prepared for the magistrate's signature and, therefore, had not been sent to the jail. The paperwork was completed and sent to the jail the same day. However, an error on the paperwork forced the jail to return it to the court. The court fixed the mistake and the complainant was released a few days past his actual release date. He was referred to the Division of Risk Management for possible compensation. (A2013-0771)

### ***Incomplete Filing by DA Leaves Inmate in Jail***

An inmate contacted the Ombudsman's Office because he had not been released from DOC custody, even though the District Attorney advised they had dropped the charges. Ombudsman staff reviewed the court record and discovered that only one of the two current charges had been listed on the court paperwork filed by the DA. The Ombudsman told the complainant that only one of the charges had been dropped. He contacted his attorney, who called the DA's office to have the paperwork amended. The complainant was released the next day. (A2013-0607)

### ***Confusion Reigns at Recorder's Office***

A citizen called the Ombudsman's Office because she could not figure out where to file a mechanic's lien against an airplane. Ombudsman staff contacted the State Recorder's Office, who referred the Ombudsman to the Uniform Commercial Code (UCC) office, which is a separate part of the recorder's office. The UCC office referred the Ombudsman back to the main State Recorder's Office. After researching applicable statutes, the Ombudsman determined the lien could be filed with either office or both, as long as it was in the correct format.

The State Recorder agreed to provide additional training for frontline employees so the confusion would not occur again. Additionally, this specific situation was incorporated as an example for future new employee training. (A2013-0678)

### ***Ombudsman Clarifies OCS Records***

The Ombudsman received a complaint from a parent whose parental rights had been terminated by the court. Because this was a judicial decision, the complaint was not jurisdictional for the Ombudsman's Office. However, after reviewing the case records, the Ombudsman noted that a family member believed they were being considered for adoptive placement, while another family had already been told that no other placements were being considered and they would be able to adopt the child. The Ombudsman contacted the case supervisor, who immediately verbally notified the appropriate family that they were being denied placement, and sent a written notification outlining the cause for the denial and appeal options. (A2013-0598)

***PFD Improves  
Collection Notice***

A citizen contacted the Ombudsman after his bank account was levied by the PFD Division to repay a debt owed to the state for a PFD that was issued erroneously. Upon review, it appeared that the division was legally entitled to levy the man's account, but the agency's notice could have stated this more clearly. The Ombudsman suggested that the agency revise its notice to clearly indicate possible bank levy as a consequence of failing to repay a PFD debt. The agency director agreed. (A2013-0483)

***Ombudsman Helps  
Inmate with Refund***

An inmate contacted the Ombudsman's Office because she had not received a large refund from Electronic Monitoring, even though she had requested it two months earlier. She needed the funds to help provide care for her soon-to-be born child.

Ombudsman staff contacted the Electronic Monitoring division staff, who stated that, due to the size of the refund, DOC accounting had to process and approve the amount. Intake contacted DOC accounting and learned that the delay was to staffing issues and interviewing for replacements. After Ombudsman staff explained the situation, an employee completed the review and the funds were applied to the complainant's account the next day. (A2013-0489)

***Complaint Leads to  
More Efficient Court***

A citizen complained that the clerk of court failed to timely submit her application for a substitute birth certificate for the citizen's son after a completed adoption. The Ombudsman learned that, by statute, the court is required to prepare the application for a new birth certificate following an adoption within 30 days but had exceeded the time limit in this instance. The agency said that the citizen's application had been delayed in part due to staffing issues within the clerk's office.

The Ombudsman also learned that the agency groups all of the applications it sends to the Bureau of Vital Statistics on the 11<sup>th</sup> day of the month following the month in which the adoption was finalized. This would cause some applications to be submitted past the 30-day deadline. The agency agreed instead to send the applications for any finalized adoptions on the last day of the month in which the adoption was finalized or the first day of the month following the finalized adoption, which will get all applications to Vital Statistics in a timely fashion. (J2013-0145)

***Citizen Receives Info  
Needed to File Suit***

An Anchorage man contacted the Ombudsman's office for assistance with the Division of Motor Vehicles (DMV). A supervisor at the Fairbanks DMV office incorrectly applied policy when the man was submitting Form 851 in order to find the registered owner of a vehicle that damaged his car in an accident. The man needed the information for a civil suit to collect damages that

his insurance company did not cover. He said the DMV supervisor told him that the agency would not release that information until he proved that he had filed a civil suit. Ombudsman staff spoke with DMV Deputy Director who stated that the man did not have to file a court case in order to get the requested information because his signature on form 851 was certifying, under penalty of perjury, that the information being requested was for filing a case with the court system. The Deputy Director said that he discussed the issue with the Fairbanks staff, and the man should not have further problems in obtaining this information. (A2013-0512)

### ***DMV Forces Driver To Give Honest Weight***

The complainant received a letter from the Division of Motor Vehicles stating that the weight listed on his driver's license was incorrect and his license would be cancelled if he failed to correct it within 30 days. The complainant admitted that the weight listed on his license was a bit less than his actual weight, but he was annoyed that the state would keep such close track of his weight and would cancel his license for under-reporting it.

The Ombudsman contacted a supervisor at DMV who admitted never having seen a cancellation of a person's driver's license because of a weight issue and agreed to check into it. The supervisor found that the way the complainant's weight was written on the application for his driver's license looked like "20" pounds, which would be unusual for an adult male, hence the letter requesting the correction. The supervisor went on to explain that the agency depends on the honor system for weight reporting and is only concerned when the data presents an obvious inconsistency, such as this one. The Ombudsman relayed the information to the complainant, who agreed to work with the agency to correct the information. We closed the complaint as resolved. All of us who have shaved a few pounds off our driver's license can breathe easier. (A2013-0770)

### ***Ombudsman Straightens Out Teacher's Sabbatical***

A teacher contacted the Ombudsman to complain that the Division of Retirement and Benefits (DRB) would not accept retirement contributions from her employer, a local school district, after the complainant returned from sabbatical and leave of absence. The reason given: she did not return to teaching immediately after her sabbatical leave ended.

An Ombudsman determined that the employer had not reported the sabbatical leave to the DRB. Consequently, DRB could not accept retirement contributions from the employer until the sabbatical leave was properly reported. Our Ombudsman referred the complainant back to the employer to request that they accurately report the leave.

The Ombudsman reopened the case after the complainant's employer refused to report the sabbatical based on information located in DRB's publications concerning sabbatical leave credit. The publications indicated that a teacher must return to the teaching position after sabbatical leave ends. The complainant took one year of sabbatical leave and then took an additional year's leave of absence. Based on the information in the agency publication, the employer considered the complainant to be ineligible for the retirement credit.

Ombudsman queried the Attorney General's office about the issue. AG's staff determined that returning to the teaching position for one full year after returning from sabbatical leave would satisfy the teacher's obligation. The complainant had returned to her teaching position for two full years after returning from sabbatical leave.

Based on this information, the school district reported the sabbatical leave to the DRB, and paid the employer's portion of the retirement contributions, which was approximately \$12,000. (A2013-0170)

### ***Furlough Request Lost at DOC***

An inmate at the Hiland Mountain Correctional Center (HMCC) complained to the Ombudsman that the Department of Corrections had not responded to a furlough appeal that had been filed five months ago. HMCC probation officers told the inmate they could not control how long it took Central Office to respond to furlough appeals and asked that she continue to be patient.

The Ombudsman contacted the DOC Deputy Commissioner and HMCC Probation Officers to obtain a status of the furlough appeal. According to the complainant's file, the furlough appeal was sent to the attention of the Deputy Commissioner on January 31, 2013; however, the Deputy Commissioner was unable to find any documentation that the furlough appeal arrived. After inquiries made by the Ombudsman Office, the Deputy Commissioner obtained scanned copies of the furlough appeal from the probation officer, responded to the furlough appeal, and scanned and emailed the response to the probation officer. The probation officer advised the inmate of the response.

The issues in this complaint brought attention to the lack of tracking of furlough appeals between the institutions and the Central Office. To allow electronic tracking of furlough appeals, the Ombudsman suggested to the Deputy Commissioner that all furlough appeals be scanned and emailed to Central Office. The Deputy Commissioner agreed and immediately sent out an email to staff advising everyone to scan and email all furlough appeals to the Deputy Commissioner along with a copy to an alternate DOC employee. (A2013-0713)

### ***One Step Forward, One Step Back***

A Bethel woman asked the Ombudsman for assistance after the Division of Public Assistance (DPA) denied her food stamp application. DPA determined that the value of a vehicle the family owned placed the family over the permitted resource limit for the Food Stamp program. The applicant appealed to the Office of Administrative Hearings, which upheld the DPA determination.

The Ombudsman reviewed relevant DPA policy manual sections and referred to the DPA on-line National Automobile Dealers Association tool to determine the Blue Book value of the vehicle in question. The Ombudsman determined that DPA was using a value that was three times the vehicle's listed value! The Ombudsman spoke with the DPA supervisor who agreed that the original eligibility determination and OAH ruling appeared to be in error. The supervisor sent

the case to review and later notified the Ombudsman that, after updating the case with the correct vehicle value, the family was eligible for food stamps.

However, as DPA reviewed the case, it discovered that it had incorrectly counted deposits to a shared account the applicant had. That income placed the family over the income limit, and DPA ruled again that the family was ineligible for food stamps. (A2013-0474)

### ***Supervisor Steps In, Locates Misfiled Application***

A South Central parent called the Ombudsman to complain that the Division of Public Assistance (DPA) lost her application for the Alaska Temporary Assistance Program, which provides cash assistance. The complainant said that, several weeks after submitting her application, she called to find out the status of her benefits and was told there was no record of her application. She said that DPA staff advised her that she would need to submit a new application and that her benefits would not be backdated to the date of her original application. The complainant contacted the Office of the Ombudsman to complain.

The Ombudsman contacted the site manager for the Gambell DPA office for assistance. The manager dropped what she was doing to investigate and promptly located the complainant's application, which had been misfiled. The manager referred the matter to an eligibility technician, who processed the complainant's application over the phone with the complainant and the Ombudsman. The application was backdated and the complainant received her benefits within days. (A2012-0512)

### ***Ombudsman Enters 'No Trespass' Tiff***

An Anchorage woman complained to the Ombudsman that the Division of Insurance penalized her business for performing the same actions as other companies and required documentation from her that other companies were not required to provide. She also took issue with the Division's requirement that she remove a no trespassing sign from her private property where she also operated a private business.

The first allegation was determined unsupported. The complainant had entered into an agreement with the division to certain requirements as part of reinstatement of her bail bonds license; then she decided she did not wish to comply with the requirements. The division had the legal authority and the discretion to impose the conditions, and the complainant had agreed to the terms with the assistance of legal counsel through the entire process.

The issue of the no trespass sign was a different matter however. The Ombudsman determined that the division lacked the legal authority to require the complainant remove a no trespass sign from her residential property that she also utilized for business purposes. The division cited AS 21.27.330 as their authority for imposing the restriction; however, that statute simply required that a licensee have a place of business that was physically accessible to the public. The division argued that a no trespass sign was the equivalent to a physical barrier to the public. However, the Ombudsman determined after conducting extensive legal research that a no trespass sign, without more, created no such physical barrier. There likewise was no evidence

that the public had actually been prevented from accessing the complainant's business because of the sign. The Ombudsman suggested that the division enact regulations that set forth the legal requirements for public accessibility. The division did not agree with the Ombudsman's conclusions, however, it did acknowledge that public accessibility regulations would be beneficial. (A2012-1739)

### ***Man Objects to Secret Corporate Position, \$25 Fee***

A man complained that DCCED Division of Corporations notified him that the corporation for which he was listed as a registered agent was in noncompliance. The complainant said he contacted the agency to report he had never heard of the corporation and he had never agreed to be its registered agent. He said the agency told him he would need to submit a notarized statement requesting that his name be removed and pay a \$25 fee. The complainant came to the Ombudsman's office for assistance.

The complainant he had never heard of the company and he did not know the people serving as partners in this company. He disagreed with the agency's decision to charge him \$25 to have his name removed from the license.

The Ombudsman contacted the licensing section's program coordinator. She said she had already talked to the complainant and he agreed to send her a letter stating he had never agreed to be the registered agent for this corporation. Once she receives the letter, she said she would remove his name from the corporate listing and waive the \$25 fee. (A2013-0390)

### ***Troopers Clarify Policy on Access to Impounded Autos***

A woman whose car was impounded after her son was arrested and charged with DUI complained that the Alaska State Troopers wouldn't tell her what she needed to do to get her personal belongings out of the impounded car. The Ombudsman contacted the Troopers and learned that they told the complainant she needed to pay towing and impound storage fees before she would be allowed to access personal property in the car.

Troopers based their position on a 2008 supplemental training bulletin that specifically provided that owners of vehicles involved in a felony DUI must pay the fees prior to retrieving item from the vehicle. Troopers were utilizing the bulletin because the agency's policy regarding vehicle impounds was silent on the issue. After Ombudsman contact, DPS decided to revise policy to explicitly address retrieval of belongings in an impounded vehicle. (A2013-0088)

### ***Agency Upheld in Cost-Cutting Decision***

A citizen complained that the Alaska Psychiatric Institute terminated its participation in the National School Lunch Program (NSLP) without cause, terminating as well the citizen's employment contract with the agency. The agency explained that it had stopped participating in the NSLP because the administrative costs often exceeded the reimbursements received under

the program. The Ombudsman contacted several other facilities in the state and confirmed that the agency's professed administrative cost was not unreasonable or inflated. The agency also explained that it had terminated the citizen's employment contract because it was cutting costs agency-wide and the citizen's services were not required by law. (A2013-0182)

### ***Ombudsman Helps Inmate Get Medical Care***

An inmate housed at the Anchorage Correctional Center contacted the Ombudsman to complain he was being denied adequate medical care for a serious medical condition.

In response, the Ombudsman contacted the DOC Medical Deputy Director and reviewed the complainant's DOC medical file. The Ombudsman learned that in a six-week period, the complainant had filed nine requests for medical care to treat his medical condition. During that time, DOC medical staff responded and provided the complainant with medical care for the condition on at least four occasions. DOC medical staff also timely requested and approved a referral for outside medical care for the complainant with a specialist. However, the DOC medical administration office responsible for scheduling the outside medical appointment neglected to do so. In the meantime, the complainant's condition continued to deteriorate while he waited for outside medical care.

Upon inquiry from the Ombudsman, DOC immediately responded by bringing the complainant to the institutional infirmary where it unsuccessfully attempted to relieve the complainant's symptoms related to his medical condition. DOC then transported the complainant that day to the emergency room for treatment. DOC also transported the complainant to the specialist the following day and the specialist scheduled the complainant for surgery the following week.

DOC attributed the delay in scheduling the outside medical appointment to unintentional human error. To prevent this occurring again, DOC began a log and tickler system to track outside medical referrals.

The Ombudsman kept the complaint open for monitoring to ensure that the complainant's surgery and post-operation follow up occurred, which it did. The Ombudsman then closed the complaint as resolved as the complainant received medication treatment for his medical condition and because DOC acknowledged its error and took corrective steps. (A2013-0472)

### ***Ombudsman Helps Family Retain Medicaid, Bury Daughter***

A family from Anchorage contacted the Ombudsman when they learned that their Medicaid benefits would not be recertified. They said without Medicaid, they could not afford to bury their young daughter.

Ombudsman staff contacted the Division of Public Assistance and learned that the family's case was closing because the family neglected to provide the required recertification documents. The Ombudsman forwarded the documents, as well as a burial assistance application, to the family. They completed the forms and submitted them, preventing loss of Medicaid assistance to a needy family. (A2013-0130)

### ***Ombudsman Clears Path for On-Time Release of Inmate***

An inmate at the Anchorage Correctional Complex West contacted the Ombudsman's office because he believed he was being kept in prison past his release date.

The Ombudsman learned that the accounting of his prison time was complicated by a recent change from discretionary to mandatory parole. Prison authorities were awaiting files from the probation field office before they could calculate the prisoner's release date.

Ombudsman staff contacted the parole board, which hurried the field office along. The probation office and prison staff arranged for scanning of the necessary documents so the time accounting could be completed immediately. The complainant was released a short time later. (A2013-0177)

### ***Phone Failure Frustrates***

A man called the Ombudsman's Office because he was unable to make phone contact with the Nome Public Assistance office for a scheduled food stamp interview. Ombudsman staff quickly determined that the Nome office phone line was not working. Ombudsman staff called the Public Assistance Operations Manager who requested the caller be transferred to her so he would not miss the interview. The Operations Manager said that the Nome office phone began having problems the day before and they were actively working on fixing the line. (A2013-0125)

### ***Complainant Blames Probation For Lack of Restitution***

An Alaska citizen alleged that the Division of Probation and Parole failed to properly supervise a probationer, resulting in the probationer's failure to make restitution payments to the complainant. The complainant wanted the probationer's probation revoked for failure to pay.

The Ombudsman reviewed the probationer's file and learned that the probationer had many issues leading to her inability to make restitution payments. She had medical problems, employment and housing instability, she was a single mother of a small child, and she owed child support that had accumulated while she was incarcerated.

After Ombudsman staff contacted the probation officer assigned the case, the probationer began making payments under a revised payment schedule. Under Alaska law, a court cannot revoke probation for failure to make restitution payments unless the failure is willful. In this case, it appeared that the court would be unlikely to revoke probation due to the probationer's financial problems. The agency acknowledged that it could have documented the probationer's financial issues better and pledged to track restitution payments more closely in the future to ensure that probationers comply with the terms of restitution judgments. (A2012-1015)

### ***Communication Prevents Eviction***

A complainant alleged that the Alaska Housing Finance Corporation had not provided 30 days' notice of a rent increase. Ombudsman staff contacted AHFC, which indicated the complainant had not provided timely notice of an income change, which according to the lease, then does not require 30 days' notice. The complainant understood, but felt there was still a misunderstanding regarding notice. As he was to be evicted soon, the Ombudsman agreed to assist the complainant in contacting the agency.

Ombudsman staff spoke with the complainant's caseworker who then met with the complainant. During the meeting, they reviewed all of the paperwork and determined that it was questionable whether the complainant was late in informing AHFC of his increased income. Additionally, his income dropped the following month. Therefore, his rent was reduced to the previous level and he did not have to pay the higher level for the month in question. (A2013-0274)

### ***Ombudsman Weighs in On Urinalysis Debate***

A father contacted the Ombudsman and complained that the Office of Children's Services was requiring him to submit to urinalysis four times a week, which the complainant believed was excessive and unwarranted.

The complainant explained that OCS had removed his daughter from her mother's care and assumed emergency custody of her while he was working out of town. He had just recently been awarded primary custody of his child. However, the complainant worked out of town for extended periods. The judge had ordered him to leave his daughter in her mother's care when he was out of town.

OCS removed the complainant's child at a time when he was flying home and was inaccessible by telephone for several hours. When he arrived home, he retrieved a voicemail message from OCS notifying him that his daughter had been taken into emergency custody and placed in foster care. He was unable to reach OCS by telephone until late in the evening.

OCS advised him then that due to the late hour and timing of the removal, OCS intended to leave his child in foster placement through the weekend and would assess him for safety first thing on Monday. OCS did not return the complainant's daughter on Monday and was requiring him to submit to four urinalysis tests a week. The complainant believed the urinalysis schedule was excessive and the requirement was unwarranted because his daughter had not been removed from his care and he considered himself the "non-offending" parent.

The Ombudsman reviewed the agency's records and contacted the OCS supervisor in response to the complaint. The Ombudsman learned the complainant's daughter had told OCS that her father had substance abuse issues. OCS decided not to place the child back with the complainant until it investigated these disclosures. Within a few days, OCS agreed to place the daughter back in his care on condition that he participate in urinalysis testing.

On the advice of his attorney, the complainant agreed in court to the urinalysis testing as well as temporary supervision of the case by OCS with no custody while the agency concluded its investigation and safety assessment. The terms of the agreement included counseling for his daughter, home visits, and urinalysis testing for the complainant at OCS expense. The

complainant's OCS caseworker then scheduled the complainant to submit to urinalysis testing four times a week.

The Ombudsman determined the OCS requirement for urinalysis testing appeared reasonable in light of the disclosures made by the child. The agency needed to determine and be assured that the complainant was a safe parent and an appropriate for placement of his daughter. However, the Ombudsman contacted the OCS supervisor to question the testing frequency. The supervisor reported she was unaware of the schedule, acknowledged urinalysis testing four times a week was excessive, and reduced the testing to once a week. (A2013-0126)

### ***Complaint Leads Agency to Implement Law for Seniors***

A South-Central man contacted the Ombudsman to complain that the Division of Motor Vehicles (DMV) was requiring him, a senior citizen, to register his vehicle biennially contrary to AS 28.10.108(l). The 1998 law exempted senior citizens and disabled veterans from having to renew their vehicle registration biennially and allowed them to permanently register one vehicle.

The Ombudsman reviewed relevant Alaska law and contacted DMV deputy director in response to the complaint. The director said DMV had not formerly implemented the 1998 statutory provision because it was not compatible with the federal emissions testing program. Under this program, motor vehicle owners in the Municipality of Anchorage (MOA) and the Fairbanks North Star Borough (FNSB) were required to provide proof that their vehicle had passed an emission inspection at the time of registration renewal. According to the DMV deputy director, the division could not effectively monitor and enforce the emissions testing program without having it coincide with biennial vehicle registration renewal. However, DMV then failed to implement the renewal exemption law in areas without the emissions program.

Under federal approval, the FNSB suspended emissions testing in January 2010 and the MOA suspended emissions testing in March 2012. The DMV deputy director said that DMV had inadvertently failed to implement permanent vehicle registration for senior citizens and disabled veterans since then. DMV said the complaint to the Ombudsman led the agency to re-open the issue. It is now planning to make the required updates to its computer program and purchasing permanent vehicle registration tabs for senior citizens and disabled veterans. The DMV projected that it would implement these changes by January 1, 2014. (A2013-0378)

### ***DCCED Requests Exorbitant Fee for Public Records Request***

A man contacted the Ombudsman to complain about the fee he was quoted for a copy of public comments to proposed regulatory changes by the Department of Commerce, Community and Economic Development. The initial quote exceeded \$800, which the complainant felt was excessive and hindered the public's ability to access public information.

He had asked the agency to convert the records to a digitized format. The Ombudsman referred the man back to the agency's regulations specialist to inquire whether the material had already been converted to a digital format for agency use. If not, the agency's request for payment of

photocopies was not unreasonable because the Alaska Public Records Act does not require an agency to convert paper records to a digitized format.

An Ombudsman contacted the complainant to find out if he had followed up. He had, but indicated that the regulations specialist had not responded to his request for information. Ombudsman staff contacted the regulations specialist, who then contacted the complainant. The regulations specialist discovered that many of the records were duplicates. By eliminating them, the copy fee was reduced substantially, to \$70 instead of \$800. (J2013-0040)

### ***Sore Tooth Wrapped In Red Tape***

An inmate housed in a contract jail contacted the Ombudsman to report that his seriously infected tooth had not received dental attention for a month. The contract jail had requested approval for treatment from health care administrators at the Department of Corrections, but the request was denied because it was initially reported as a broken tooth rather than an infection.

A more recent request for dental care had been approved, but paperwork fumbles delayed the approval of antibiotics. Ombudsman staff contacted DOC and advised them of the severity of the infection as reported by the contract corrections officers. DOC responded that the complainant would receive his antibiotics the next day and his tooth would be removed once the antibiotics had reduced the infection.

The inmate later called the Ombudsman's office and reported his tooth had been removed and he now felt better. (A2013-0292)

### ***Public Assistance Helps Stricken Woman with Medicaid***

A woman with terminal cancer contacted the Ombudsman because she was denied Medicaid. The denial was due to payments received from Unemployment Insurance.

Usually when persons are unable to work they are not eligible for Unemployment. However, a Waiver of Availability allows persons to receive payments when they have been on Unemployment but are suddenly unable to work. This waiver can last for up to six weeks, during which time it will appear that the persons have income, even though they might not actually receive Unemployment Insurance payments, because the waiver requires them to continue to apply for jobs.

The Ombudsman's office contacted Unemployment Insurance to see if there was a way to remove the complainant from the waiver so she would be eligible for Medicaid. Two supervisors reviewed the case and said that the federal regulations of the program would not allow them to take the requested action.

The Ombudsman's office then contacted Public Assistance, which determines eligibility for Medicaid, and explained the situation. A supervisor in eligibility and one in policy communicated and found that by contacting Unemployment and confirming that the complainant was not

available for work and would likely not receive the projected funds, the complainant's application would be approved.

A Public Assistance supervisor contacted the complainant and advised her she would begin receiving Medicaid on the first of the next month. The supervisor also invited the complainant to contact her directly with any further issues.

The next month the complainant confirmed to Ombudsman staff that her benefits had begun as promised and she had no further problems. (A2013-0384)

### ***OCS Fails to Timely Initiate an Investigation***

A parent contacted the Ombudsman to report that the Office of Children's Services allowed her children to live in a dangerous home despite police contact and suspected drug use in the home. She also complained that she had left several telephone messages for the worker assigned to investigate a recent report of harm involving her children, and the worker failed to return the calls.

Ombudsman staff reviewed ORCA and determined that the agency had received a protective services report (PSR) concerning the situation and the PSR was screened in for investigation. However, the OCS worker was outside the timeframe for initiating an investigation of the PSR.

The OCS worker admitted the delay and attributed it to workload. After Ombudsman contact with OCS, the worker contacted the complainant to apologize for the delay, as well as for failing to respond to her telephone calls. The worker has not yet completed the initial assessment and based on the results of this assessment, the agency will determine its next course of action. The children are not determined to be in immediate danger, but the worker is assessing impending danger as required by policy.

The Ombudsman also determined that there is an upcoming court hearing in a divorce/custody case between the complainant and her husband, and suggested the complainant bring her safety concerns to the presiding judge as well. She acknowledged she would do so. (A2013-0490)

### ***PFD Makes Collection Notice Clearer***

A citizen contacted the Ombudsman after his bank account was levied by the PFD Division to repay a debt owed to the state for a PFD that was erroneously issued. Upon review, it appeared that the division was legally entitled to levy the man's account but that the agency's notice could have stated this more clearly. The Ombudsman suggested that the agency revise its notice to clearly indicate possible bank levy as a consequence of failing to repay a PFD debt and the agency director agreed. (A2012-0483)

### ***Angry Boss Stalls Worker's Food Stamps***

A citizen contacted the Ombudsman after his application for food stamps was rejected because his employer had not completed the necessary employment verification form. It turned out that the employer refused to complete the form because the citizen had filed a worker's compensation claim against the employer. After the Ombudsman contacted the agency, they reviewed the citizen's application again and issued his food stamps that day. (J2013-0095)

***O Alerts Agency  
To Wrinkled Link***

A citizen complained that the link to report tax fraud was broken on the Department of Revenue website. After determining the link was in fact broken, the Ombudsman contacted the agency webmaster who repaired it and provided the correct link. The Ombudsman forwarded the correct link to the citizen. (A2013-0479)

***Corrections Hard  
Of Hearing***

The Department of Corrections failed to hold a classification review within the prescribed time-frames for an inmate held in solitary confinement. The Ombudsman contacted Corrections, which held the required hearing that same day. (A2013-0477)