



April 10, 2012

The Office of the Ombudsman has initiated an investigation of how executive branch agencies manage public records requests. In the last several years, the ombudsman has received a number of complaints involving records requests. In order to determine whether these complaints reflect a broader trend, the ombudsman is conducting a survey of executive branch offices.

The Alaska Public Records Act (APRA) is codified in Alaska Statute (AS) 40.25.100 – 40.25.350. These statutes are the state equivalent of the federal Freedom of Information Act (FOIA), and requests for records under the state statute are sometimes referred to as FOIA requests. For executive branch agencies, implementing regulations are published in the Alaska Administrative Code at 2 AAC 96. Although the regulations provide a standardized process for responding to requests for state records, the types of requests vary widely, as do the types of records held by state offices.

Not all executive branch agencies will be contacted for our survey; the ombudsman has selected divisions and/or sections from every department. The survey questions are fairly detailed, and the ombudsman wishes to extend thanks to all agency employees who spend time answering the questions.

The survey includes a request for the agency's log of public records requests. After the survey, the ombudsman will follow up by contacting some of the requestors listed in the logs and asking the requestors about the results of their records requests.

This investigation does not originate from an individual complainant. Under AS 24.55.120, the ombudsman may initiate an investigation on her own motion. No specific agency is a "target" of this investigation. The ombudsman hopes to gather information that will demonstrate whether there are systemic problems with the current implementation of the Alaska Public Records Act. If the ombudsman identifies a problem in a specific agency, that agency will receive a confidential preliminary report and be asked for comments on the preliminary report before the ombudsman publishes any findings regarding that agency.

When preparing the investigative report, the ombudsman will not identify state employees who were interviewed unless the employee's identity is necessary to the report. In other words, support staff will probably not be specifically named. An employee who is "designated" by the head of the agency to issue decisions on records requests, however, may be identified. Regional managers and division directors will be identified along with their title.

The ombudsman will prepare a preliminary report of the investigation, and solicit agency responses to the preliminary report. Each commissioner's office and each division contacted for the survey will receive a confidential copy of any preliminary findings specific to that office, along with the overall results of the survey. Pursuant to AS 24.55.180, the ombudsman's preliminary report is not available to the general public.

After the agencies surveyed have had an opportunity to comment on the preliminary findings, the ombudsman will publish a final, public report. This will be provided to all recipients of preliminary findings, and the Alaska Legislature. It will also be published on the Office of the Ombudsman's Web site.

If you have questions about the survey or the course of this investigation, please contact either Ombudsman Linda Lord-Jenkins at 269-5290 or Assistant Ombudsman Beth Leibowitz at 465-4970.