



## Alaska Ombudsman 2013 Annual Report

December 30, 2014

In accordance with our statutory reporting requirements, the Office of the Ombudsman is pleased to provide you with our 2013 Annual Report.

As part of the Ombudsman annual report requirement, we also post summaries of Ombudsman investigations in the Matrix of Ombudsman Investigations on the Ombudsman Web site. The matrix includes summaries of formal Ombudsman investigations from 1995 to the present. It also includes summaries of some cases where Ombudsman intervention resulted in systemic changes without formal investigations. The matrix can be found at: <http://ombud.alaska.gov/Matrix.pdf>

In addition to the Ombudsman Matrix of Investigations, this year the Ombudsman added to its Website a feature called Ombudsman Case Notes which includes summaries of a sampling of the cases that Ombudsman staff have resolved in the past months. The Case Notes can be found at <http://ombud.alaska.gov/Case-Notes.pdf>

Additionally, we have updated our Ombudsman complaint form so that complaints can be submitted electronically instead of printing the form and mailing or faxing it. The new form is located at: [http://ombud.alaska.gov/complaint\\_form\\_online.php](http://ombud.alaska.gov/complaint_form_online.php)

Calendar 2013 saw another increase in the number of complaints filed with the Ombudsman office. Staff opened 1,193 complaints in 2013, compared to 1,153 complaints filed in 2012.

Complaints closed in 2013 increased compared to 2012. Ombudsman staff closed 1,202 complaints in 2013 compared to 1,143 in 2012.

As in past years, the largest portion of complaints filed in 2013 were filed against four Departments and their high-profile divisions: the Department of Health and Social Services, primarily its Office of Children's Services (OCS) and Division of Public Assistance (DPA); the Department of Corrections (DOC), primarily its Division of Institutions; the Department of Revenue, primarily its Child Support Services Division (CSSD) and Permanent Fund Division (PFD); and the Department of Administration, primarily its Division of Motor Vehicles (DMV), Public Defender, and Office of Public Advocacy (OPA).

In 2013, complaints filed against the Department of Corrections totaled 397; the Department of Health and Social Services totaled 281; the Department of Administration totaled 150; and the Department of Revenue totaled 74 complaints. Complaints against the Court System totaled 48. No other department in state government registered more than 38 complaints.

## Department of Health and Social Services

Calendar year 2013 saw a small decrease in complaints filed against the Department of Health and Social Services.

Complaints against all DHSS agencies comprised 24 percent of total Ombudsman caseload in 2013. Complaints filed against H&SS agencies numbered 281 in 2013 compared to 290 in 2012 when H&SS complaints amounted to 25 percent of all Ombudsman complaints opened.

The majority of H&SS complaints involved the Office of Children's Services (OCS), 173 complaints for 62 percent of all H&SS complaints received in 2013. This again is a drop from 2012 numbers when OCS complaints totaled 182

The Division of Public Assistance accounted for 19 percent of H&SS complaints in 2013, a smaller percentage than in 2012 when DPA complaints constituted 21 percent of H&SS complaints.

The remainder of complaints against H&SS were spread among the remaining H&SS divisions.

### Office of Children's Services

Complaints opened against the Office of Children's Services in 2013 showed a small decrease over 2012 complaints received. The Ombudsman received 173 new complaints against OCS in 2013 compared to 182 in 2012. However, OCS complaints accounted for 15 percent of the 2013 Ombudsman **total** complaint caseload, one percentage point off of 2012.

The Ombudsman closed 183 complaints against OCS in 2013.

The Ombudsman also completed one full formal investigation of OCS in 2013. Like many OCS investigations, much of the information uncovered by the Ombudsman is confidential by law. The Ombudsman, therefore, did not issue a public report of this investigation. The issues involved adoption, discourteous behavior, failure to investigate reports of harm, insufficient cause, placement, unfair removal, and visitation. The complaint was resolved with a finding of partially justified. The Ombudsman submitted two recommendations to the agency, which accepted both of them. A summary of this investigation is provided later in this document.

### 2013 Office of Children Services Complaint Categories

Category	Number of cases	Percentage of overall total
Unfair Removal Insufficient Cause	60	34%
Unresponsive	52	30%
Visitation	46	26%
Delay	41	23.3%
Placement	40	22.7%
ICWA	34	19%
Not Investigate ROH	22	19
Foster Parent/Home/etc	21	12%
Grandparent	21	12%
Discourteous/Discriminatory	20	11%
Lack of Notice of Actions	15	11%
Grievance or Appeal	15	9%
Breach of Confidentiality	6	3%
Harassment/intimidation	5	3%

Complaints against the Wasilla office of OCS fell in 2013 for the third year in a row. Wasilla OCS complaints hit a high of 36 percent of all OCS complaints in 2011 but dropped to 27 percent of OCS complaints in 2012 and dropped again to 16 percent of all OCS offices in 2013.

### Division of Public Assistance

The 53 complaints against the Division of Public Assistance (DPA) comprised 4.4 percent of all 2013 Ombudsman complaints and about 19 percent of H&SS complaints in 2013. None of the DPA complaints required a formal finding and report.

## Department of Corrections

The total number of DOC complaints opened in 2013 increased from 298 in 2012 to 395 in 2013. DOC complaints filed in 2013 constituted 33 percent of all Ombudsman complaints, as compared to 26 percent in 2012.

Complaints against the **DOC Division of Institutions** comprised the bulk of 2013 DOC complaints, totaling 338 of 399 DOC complaints, or 85 percent of all complaints filed against the DOC. Complaints against the Division of Institutions numbered 260 in 2012 or 86 percent of all DOC complaints for 2012 .

Beginning in March 2012, DOC started operating its newest correctional facility, Goose Creek Correctional Center in Wasilla. Full operation of the facility began in October 2013. As of December 31, 2013 Goose Creek had 1,365 inmates in residence. The Ombudsman received 31 inmate complaints about Goose Creek in 2013. That number had more than doubled as of the writing of this report.

Complaints against the **DOC Division of Probation and Parole** totaled 34 in 2013 compared to 31 in 2012.

### Department of Corrections Division Breakdown

	<b>2012</b>	<b>2013</b>
<b>All DOC complaints</b>	298	397
<b>Division of Institutions</b>	254	357
<b>Division of Probation and Parole</b>	36	31
<b>Remaining Divisions</b>	10	27

### 2013 Department of Corrections Complaints Sorted by Institution

An institutional breakdown of complaints shows that ACC-East and West in Anchorage garnered the highest number of complaints in 2013.

<b>FACILITY</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
<b>ACC-EAST</b>	21	33	24	34	12	21	25	88	122
<b>ACC-WEST</b>	12	18	20	10	13	10	10	33	55
<b>ANVIL MT.</b>	2	2	4	2	1	8	3	5	4
<b>AZ. CNTRL</b>	2	1	4	10	3	1	--	--	--

<b>FCC</b>	6	13	10	6	3	3	4	7	10
<b>GCCC</b>	0	0	0	0	0	0	0	8	32
<b>HMCC</b>	8	3	6	7	16	15	35	22	25
<b>HUDSON</b>	--	--	--	--	1	23	30	3	2
<b>KCC</b>	4	1	4	4	3	12	8	5	4
<b>LCCC</b>	6	6	4	9	17	15	12	8	13
<b>MAT-SU</b>	1	2	2	3	1	6	5	7	6
<b>M.CREEK</b>	5	1	--	--	--	--	--	--	--
<b>PCC</b>	7	3	6	7	6	14	2	9	29
<b>PT. MACK</b>	0	3	0	1	1	2	2	2	2
<b>SCCC</b>	7	14	21	19	44	28	26	23	16
<b>Wildwood Correctional</b>	2	2	4	4	6	15	12	2	9
<b>Wildwood Pre-Trial</b>	6	4	10	6	6	4	1	5	3
<b>YKCC</b>	1	2	2	1	0	2	7	4	--
<b>Institution Miscellaneous</b>	21	19	27	20	12	27	17	20	6
<b>TOTAL</b>	<b>102</b>	<b>119</b>	<b>132</b>	<b>112</b>	<b>133</b>	<b>185</b>	<b>199</b>	<b>254</b>	<b>338</b>

### DOC Complaint Category breakdown

*Many complainants present more than one allegation to the Ombudsman and not all issues are included in the following, therefore the numbers do not add up to 100 percent.*

- Complaints involving **health issues** comprised 36 percent of complaints about state correctional facilities. These 123 complaints broke down as follows:
  - Allegations about problems with **medical care in general** were included in 74 complaints.
  - Allegations about **medications** appeared in 29 complaints.
  - Allegations about **dental problems** appeared in 4 complaints.
  - Allegations involving **mental health** issues arose in 16 complaints.

- Allegations about DOC staff **failing to respond** to questions or requests arose in 12 percent of complaints about state correctional facilities;
- Allegations about **delayed agency responses or decisions** on grievances and appeals arose in 20 percent of correctional facility complaints,
- Allegations about DOC **responses to grievances and appeals** arose in 19 percent of correctional facility complaints.
- Allegations about **time accounting** arose in 26 percent of correctional facility complaints.
- Allegations about **access to law library materials, law library computers, records, and legal forms** arose in 4 percent of complaints.
- Allegations about **physical abuse or assault** arose in 7 percent of the complaints.
- Allegations about **administrative or punitive segregation** arose in 7 percent of complaints.
- Allegations about **classification/custody level** arose in 6 percent of complaints about correctional facilities.
- Allegations about **inmate property** arose in 6 percent of complaints.
- Allegations about **disciplinary** actions arose in 7 percent of complaints.

Of the 390 DOC complaints **closed** in 2013, 62 percent were immediately declined, usually with referral to the agency grievance or appeal process; 33 percent were closed with some form of assistance or advice, usually about the DOC grievance/appeal process; review was discontinued in 5 percent of the complaints in accordance with Ombudsman regulatory guidelines after a more extensive review; and 1 case was fully investigated.

The fully investigated case involved an allegation that the prison unreasonably suspended commissary privileges for an inmate in segregation who was losing weight because the number of meals for prisoners in the segregation unit decreased on weekends. The investigation found that inmates in that unit were not being fed a breakfast within 14 hours of the evening meal, as required by agency policy. The Ombudsman offered recommendations to the department, which were accepted. A summary of this investigation is provided later in this document.

## Department of Revenue

Department of Revenue complaints constituted 6.2 percent of Ombudsman complaints opened in calendar year 2013, or 74 complaints. This represents a 20 percent decrease in Revenue complaints received compared to 2012.

## Child Support Services Division

Child Support Services Division (CSSD) complaints totaled 4 percent of all 2013 Ombudsman complaints and 64 percent of all complaints filed against the Department of Revenue in 2013. In comparison, CSSD complaints constituted 5.4 percent of all 2012 Ombudsman complaints and 67 percent of complaints about Revenue agencies in 2012.

- Forty-three percent of the CSSD complaints alleged **inefficiency** by the agency for failing to collect on a Permanent Fund Dividend, failing to properly credit payments to the support obligation, failing to process paperwork, failing to make timely payments to custodial parents, or by failing to notify a case party of an event or requirement.
- Twenty-five percent of complaints filed against CSSD alleged a **calculation error**.
- 19 percent of the cases alleged CSSD staff **didn't respond** to the complainant's contacts.
- In five percent of complaints, complainants alleged the agency had **failed to honor a court order**, had **overpaid** the custodial parent, or had **failed to collect** the full amount of support due the custodial parent.
- Fifteen percent of complaints alleged CSSD error due to **misinformation**, i.e. a child support order was based on incorrect information, a support order was established despite evidence the child was in the custody of the non-custodial parent, the agency charged arrears for support already paid, or the agency improperly reported a child support debt to another agency.

*Again, many complainants presented more than one allegation to the Ombudsman and not all issues are included in the preceding list, therefore the numbers do not add up to 100 percent.*

Of the CSSD complaints closed in 2013, 19 percent were closed with some form of assistance and review; 81 percent were declined, usually because the complainant had not used the agency complaint resolution process first or because the issue had been decided in court; none were discontinued as resolved and none were formally investigated.

## Permanent Fund Division

Permanent Fund Dividend Division complaints comprised 1.6 percent of all Ombudsman complaints in 2013 and 26 percent of all complaints filed against Revenue in 2013. In 2012 CSSD complaints constituted 2.7 percent of all Ombudsman complaints and 34 percent of all complaints filed against Revenue agencies.

- Thirty-two percent of the complaints filed against the Permanent Fund Division alleged that the Division improperly **denied dividends**.

- Thirty-two percent of complaints alleged improper dividend attachment or **garnishment**.
- Sixteen percent complained about the **eligibility requirements** to qualify for a PFD.
- Sixteen percent complained that the agency **delayed paying** PFDs for which they were entitled to receive.
- Five percent of complaints alleged agency staff not answering the **phones** or difficulty navigating the agency's telephone system.
- No complaints about agency discourtesy were received
- No complaints that the agency was non-responsive were received.
- No complaints alleging that the agency lost documentation or failed to return documentation to the complainant were received.

Of the PFD complaints closed in 2013, 32 percent were closed with some form of assistance, and 68 percent were closed as declines, usually after providing referral information to the PFD complaint resolution process or because the complainant was already involved in the appeal process. None of complaints were discontinued and none were formally investigated.

## Department of Administration

Department of Administration complaints comprised 13 percent of all 2013 Ombudsman complaints, or 150 complaints. These numbers are nearly identical to those of 2012, when citizens filed 145 complaints, which constituted 13 percent of overall Ombudsman complaints. Four DOA agencies accounted for the most complaints: Retirement and Benefits, Division of Motor Vehicles, Office of Public Advocacy, and the Public Defender Agency.

### Division of Retirement and Benefits

The Ombudsman received 15 complaints against the Division of Retirement and Benefits in 2013, about 13 percent of all complaints against the DOA. R&B complaints constituted less than 2 percent of all complaints filed with the Ombudsman in 2013.

- Complaints about **insurance coverage** were included in 47 percent of all R&B allegations.
- Allegations that R&B was **unresponsive** were included in 7 percent of complaints.
- Allegations that R&B provided **misinformation** were included in 20 percent of complaints.

- **Refusal to reimburse** excess retirement contributions, premium payments for insurance, or allowing hardship withdrawals from retirement accounts was alleged in 20 percent of complaints.
- No complaints about delayed payment was alleged in 2013
- No one alleged that R&B had delayed issuing decisions in pending appeals were filed in 2013.
- Allegations involving **disability payments** were included in 7 percent of complaints.
- **Failure to notify** of reduction in benefits was alleged in 7 percent of complaints.

Forty-seven percent of R&B complaints were closed with some form of assistance; 47 percent were declined as premature, usually with a referral to the agency complaint process, investigation of one case was discontinued; no complaints were fully investigated.

### **Division of Motor Vehicles**

Complaints against DMV comprised 19 percent of complaints filed against DOA in 2013 and 2.3 percent of all Ombudsman complaints in 2013. In 2012, DMV complaints constituted 21 percent of all DOA complaints and 3 percent of all Ombudsman complaints filed.

Complainants alleged the agency provided incorrect information; unfairly revoked or suspended driver's licenses; made unfair requirements of drivers such as acquiring SR22 insurance, requiring completion of the ASAP program, or requiring retesting/retaking of the written examination; unreasonably refused to refund fees or charged unreasonable fees; required persons to provide unreasonable amounts of documentation in order to obtain a driver's license or state identification card; or that DMV staff were discourteous. Complaints were also received about unfair fees for in-person service and about offices being closed or not easily accessible.

Of DMV complaints closed in 2013, 39 percent were closed as assists; 58 percent were closed as declines with referral to the agency process; one was discontinued after a more extensive level of review; and no full formal investigations were conducted.

### **Alaska Public Defender**

Complaints filed against the Public Defender comprised 3.7 percent of the Ombudsman's 2013 caseload, compared to 3.5 percent of the total caseload in 2012. The Ombudsman received 51 complaints against the Public Defender in 2013.

Complainants primarily alleged that their public defender was non-responsive or ineffective.

Of those complaints, 16 percent were closed as assists; 82 percent were declined, usually with a referral to the agency director, and one was discontinued.

## Office of Public Advocacy

Complaints filed against the Office of Public Advocacy comprised 4.3 percent of the Ombudsman's 2013 caseload, or 51 complaints, slightly more than 2012.

The dual nature of OPA's responsibilities as Public Guardian and alternative public defense attorney for the state's indigent population was obvious in the category breakdown. Eighty-eight percent of complaints received concerned the actions of OPA conservators or public guardians, compared to 12 percent of complaints about OPA defense attorneys.

- Thirty-one percent of complainants alleged that OPA guardians placed **unreasonable restrictions** on finances of those under guardianship or conservatorship by withholding or stealing money, refusing to increase their allowance, refusing to buy requested items, or refusing to allow the person to live where they wanted.
- Complainants alleged OPA staff was **non-responsive** or delayed action in 22 percent of allegations.
- Complainants alleged OPA **failed to take appropriate actions to protect wards** in 14 percent of complaints, and failed to provide adequate medical care to wards in six percent of cases.
- Complainants alleged OPA provided **ineffective assistance** of counsel in 8 percent of complaints.
- **Misconduct** or retaliation by OPA staff was alleged in 8 percent of complaints.
- **Discourteous** OPA staff was alleged in 2 percent of cases.

Of complaints filed against OPA in 2013, 33 percent were closed as assists, 61 percent were declined as premature and referred to agency complaint processes, and 1 was discontinued. No cases were fully investigated.

## Department of Public Safety

Department of Public Safety complaints decreased in 2013; 36 complaints were filed in 2013 compared to 57 in 2012. DPS complaints totaled 3 percent of all Ombudsman complaints filed in 2013 and 5 percent in 2012.

Complaints against the Alaska State Troopers constituted 86 percent of complaints against DPS agencies in 2013, an increase over 2012 when complaints against AST constituted 82 percent. Twenty-one percent of those complaints were closed as assists; 76 percent were declined as premature and referred to the AST complaint process, none were discontinued, and one was fully investigated.

The fully investigated complaint was filed by a woman who alleged troopers were unreasonable when they stopped her in the early morning hours while looking for a

drive-by shooter in a car that matched hers. That complaint is summarized later in this report.

AST complaints broke down into the following categories:

- Allegations that AST **failed to investigate** an incident or investigated inadequately comprised 61 percent of AST complaints.
- Complaints alleging **harassment**, physical **assault** or **excessive force** comprised 12 percent of AST complaints.
- Allegations that AST was **non-responsive** or failed to provide information totaled 21 percent of complaints.
- Allegation that troopers **delayed** in some action comprised 12 percent of complaints.
- No allegations of AST discourtesy were filed.
- The remainder of the complaints included employee **misconduct**, improper charges, falsifying evidence and illegal confiscation.

Of DPS cases closed in 2013, 21 percent were closed as assists; 73 percent were declined and referred to the agency complaint process, none were discontinued and one was fully investigated.

The remaining complaints opened in 2013 were distributed among the other state agencies.

## How Ombudsman Complaints are categorized

Ombudsman staff closed 1,203 complaints in 2013.

**Jurisdictional Assists:** In 2013, staff closed 31 percent of all Ombudsman complaints as "jurisdictional assists." In those cases staff contacted the agencies involved, researched statutes, regulations, policies, procedures and practices, and interviewed pertinent witnesses. This level of Ombudsman action is in reality a mini-investigation, but issues presented did not rise to the level of a full formal investigation involving major policy or systemic issues or affecting large numbers of people. Therefore, the complaints were closed as an assist with the issue resolved or relevant information provided to the complainant.

**Jurisdictional Declines:** In 2013, staff closed 63 percent of all complaints as "jurisdictional declines." In those cases, staff reviewed the complaint and, if the complainant had an available grievance or appeal process available, the Ombudsman advised the complainant to use the agency complaint process.

Ombudsman staff tries to teach complainants how to deal with their government before we become involved. In such cases, the complainant is encouraged to return the

complaint to the Ombudsman if they believe the agency handled their appeal or grievance improperly. In that way, the Ombudsman can review how the agencies handle complaints about its actions.

The Ombudsman also declines action if a complaint involves activities that occurred more than one year prior to the complaint; if the matter was the subject of a court action; if the complaint was trivial or made in bad faith; if the complainant lacks sufficient personal interest; if the issue is subject to a collective bargaining agreement; or if the Ombudsman lacks resources to investigate the complaint. (AS 24.55.110).

**Discontinued:** In 2012, 6 percent of all complaints closed were discontinued. This may occur for several reasons: the Ombudsman resolved the issue with the agency, the complaint became subject to a court ruling, the Ombudsman lacked resources to pursue the complaint to full formal investigation, or for other reasons as articulated in 21 ACC 20.200.

**Fully Investigated:** In 2013 the Ombudsman concluded five investigations with formal reports. Cases selected for formal investigation are those that involve health and safety issues, that have potential to affect agency policy, that affect large numbers of citizens, or that involve serious allegations that warrant independent review such as allegations of police brutality or employee misconduct.

**Informational Referrals and Non-Jurisdictional Declines:** In 2013, the Ombudsman documented 872 contacts from citizens seeking Ombudsman assistance or information on how to address problems with entities not subject to Ombudsman jurisdiction. This is a 13 percent decrease from 2012. Ombudsman front-desk/intake staff usually handles these calls.

Ombudsman staff does their best to provide the best, most accurate referral information so citizens can address their problems with the proper entity. Non-jurisdictional declines are complaints to the Ombudsman about agencies over which the office has no statutory jurisdiction such as a private party, the federal government, the Social Security Administration, or local government. If a complaint is not proper for Ombudsman review, agency staff strives to make the most appropriate referral to the proper venue.

## Fully Investigated and Discontinued/Resolved Complaints

Summaries of complaints that were fully investigated and a sample of cases discontinued as resolved follow below.

### **A2009-0208: Office of Children's Services**

A South-central Alaskan couple called the Ombudsman to complain that OCS in Palmer had mishandled the investigation of charges that 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 into 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 and were subjected to verbal and physical abuse by the other relative. The couple 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 they 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 also determined that OCS had unfairly required the couple to have supervised visitation with the children even after the Attorney General had reversed the substantiated report of harm. OCS for years did not change its on-line case management database to reflect that the finding had been reversed. The Ombudsman could not determine what happened with respect to the couple's claim that 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.

### **J2009-0217 & J2009-0224: Permit Denial Prompts Complaints**

The owners of a commercial jet boat operation contacted the Ombudsman in 2009 to complain that Department of Fish and Game (F&G) and Department of Natural Resources (DNR) employees led the owners to believe that the necessary permits for connecting a private marina to the Chilkat River were forthcoming. This led the couple to spend thousands of dollars constructing a marina and access route prior to final permitting approval. The agencies then denied the permits. The owners 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 agencies 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 its change of heart on the project.

Southeast Regional DNR staff initially supported the couple's project. Later, 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, almost a year-and-a-half after the project was initially proposed. The Ombudsman also 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 evidence 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 excavation efforts, whether they intended this result or not.

The Ombudsman recommended that both agencies pay one-third of the expenses 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 Ombudsman referred the couple to Risk Management and their legislators for further assistance, because the Ombudsman cannot enforce its recommendations.

The Ombudsman also recommended that DNR provide additional training to its staff concerning statewide policy permitting restrictions to ensure that accurate and consistent information is provided to the public when there are multiple agency project approvals needed.

Although this final recommendation was directed at DNR, both agencies jointly responded, accepting this recommendation. DNR has since implemented a centralized permitting process, and modified the permit application process. F&G has implemented written guidelines for staff to follow to improve the permitting process and increase permitting consistency among staff and regions across the state.

### **A2010-0228: Frightening Traffic Stop Prompts Complaint against AST**

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, and keeping her outside in the cold while they questioned her husband in the car.

AST responded that it had received a 911 report of shooting in the area, and 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 follow 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. Not long after this complaint was filed the agency created its Office of Professional Standards to handle citizen complaints.

#### **A2011-0242: Hungry Inmate Files Complaint Against Spring Creek**

An inmate alleged that the Department of Corrections (DOC) was not providing adequate food service at Spring Creek Correctional Center (SCCC) on the weekends and holidays. He also alleged that the superintendent at SCCC did not follow DOC policy before removing food items from the commissary for the segregation unit.

Investigation revealed that the SCCC superintendent removed all food items from the commissary purchase order for all inmates in administrative segregation. The complainant believed the superintendent failed to follow DOC policy when making this decision. Policy 808.13(A) states the use of the commissary is a privilege and not a right. The superintendent correctly followed department policy when he made his decision. He obtained approval from the director of the Division of Institutions and the Commissioner, which meets the requirements of 22 AAC 05.170. That allegation was found to be not supported.

Investigation also revealed that SCCC was in violation of DOC policy 805.01 (A) because it exceeded the amount of time between meals and provided only a piece of fruit as a snack on weekends and holidays. Investigation showed that all other DOC institutions provided a more substantial snack. The investigation also showed that DOC had not followed its policy 805.01(B)(2) requiring a qualified nutritionist to review the master menus and the modified menus for each facility annually. This allegation was found to be justified.

The Ombudsman recommended that Spring Creek Correctional Center review its institution's meal times to ensure no more than 14 hours elapses between the next meal or snack as required by DOC policy 805.01, and that DOC Division of Institutions have a qualified nutritionist review the master menus at all DOC institutions to ensure adequacy of food services. The nutritionist should review SCCC policy to determine whether serving a single piece of fruit as a snack meets the meal requirement.

## **Other Cases Closed During 2013**

The cases summarized below are a few of the 1,203 cases closed by the Office of the Ombudsman during 2013. For more summaries of assists and discontinued cases, go to the Ombudsman web site at <http://ombud.alaska.gov/Case-Notes.pdf>.

### **A20121015 Restitution Collection Lags**

The victim of embezzlement contacted the Ombudsman after the person who stole \$200,000 from her business failed to make any restitution payments. The complainant alleged the probation officer who supervised the embezzler was failing to collect monthly payments and wasn't notifying the judge with relevant information about the embezzler's failure to pay. The judge had ordered the defendant to reimburse the victim \$82,272 at a rate of \$100 per month. Documents obtained by the Ombudsman showed that the defendant had made only two \$50 payments.

After Ombudsman contact with the DOC probation office, the defendant made a payment and the probation supervisor provided a plan to review restitution payments more closely by conducting an assessment of the probationer's ability to pay, making a payment plan of not less than any payment plan ordered by the court, assessing the plan on a quarterly basis, and documenting any deviation from the payment plan.

The Ombudsman determined that this change in monitoring restitution represented a systemic improvement and closed the case.

### **A20121139, A20121317 & J20120424 Prison Law Library Computers Fail**

Inmates at three different prisons contacted the Ombudsman to complain that the inmate law library computers had not worked for weeks so they were unable to participate in their legal defense or appeal convictions. An inmate at Anvil Mountain, another at Anchorage Correctional Complex East, and a third at Spring Creek Correctional filed complaints about their law library computers.

After Ombudsman contact, DOC acknowledged the law library computers were breaking down and they replaced them with a new system that provided a better design, added security and more reliability. ACC East also committed to providing inmates with hard copies of department policies if inmates were unable to access the information on-line through the closed DOC computerized law library.

### **A20121474 Medical Personnel Doubt OCS Plan to Protect Scalded Child**

A doctor and hospital worker contacted the Ombudsman to report that they feared OCS was going to return a child to his parent despite their suspicion that the parent had either deliberately immersed the child in scalding water or failed to supervise the child sufficiently and the child's siblings had immersed it. The complainant said that they had notified OCS of their suspicions based on experience in dealing with abused children but OCS was not responding to them.

The investigator referred the complainants to the OCS director and monitored the case. The OCS director put a high priority on the case and sent the case and medical records to experts at the Kempe Center in Colorado for assessment and another opinion. Kempe physicians conferred with the complainant physicians and concluded that the injury probably was accidental rather than intentional. The Ombudsman reviewed the OCS records in the case and determined that the case was being actively and appropriately reviewed by the agency.

### **A20121739 Division of Insurance Requires Removal of No Trespassing Sign**

A business owner complained to the Ombudsman that the Division of Insurance was requiring her to provide documentation that other companies were not required to provide in order to reinstate her business license. The owner also complained that the Division required her to remove a no trespassing sign from her private property because she also ran a bond business from the property.

The Ombudsman found that the owner had agreed to provide the documentation in order to regain her license but changed her mind. The Ombudsman found nothing wrong with the division requiring the information.

However, the investigator determined the Division lacked legal authority to require the complainant remove a no trespassing sign from the residential property that was 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 trespassing sign was the equivalent to a physical barrier to the public. However, the investigator determined after conducting extensive legal research that a no trespassing sign, by itself, 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 investigator suggested that the division enact regulations that set forth the legal requirements for public accessibility.

The division did not agree with the investigator's conclusions. However, it did acknowledge that public accessibility regulations would be beneficial.

### **A20121741 Dad Wants to Change Records Linking Him to Black Sheep Son**

A father whose son had the same name contacted the Ombudsman to see if they could make the Court System include suffixes to denote the difference between people with the same names. The father said his son had a criminal record but the complainant had never run afoul of the law. He said that potential business clients were put off by confusion over his son's criminal record, and he was losing business.

The Ombudsman contacted the Court System and had the complainant write a letter to the Court outlining the problem. The Court System made changes to its CourtView on-line records system months later and the suffixes Sr and Jr are among the information added.

### **A20130170 Confusion Over Sabbatical and LWOP Causes Teacher Grief**

A teacher contacted the Ombudsman after the Division of Retirement and Benefits refused to accept one year of contributions from the complainant's employer for the time the complainant was on sabbatical and leave without pay. R&B said the teacher did not return to a teaching position immediately after her sabbatical had ended.

The Ombudsman reviewed statutes concerning sabbatical leave and found they did not appear to require that the complainant return to teaching immediately after sabbatical leave ended; however, the information obtained from the Division of Retirement and Benefits indicated that the complainant's employer never reported the sabbatical leave, but only reported two years of leave without pay.

The Ombudsman referred complainant back to her employer to request that they accurately report the sabbatical leave and request that the employer make the retirement contributions as required for approved sabbatical leave. Once the leave reporting is corrected, then the complainant could address her request to receive credit for the sabbatical leave to the Division of Retirement and Benefits. The Ombudsman investigator provided agency referrals and closed complaint.

The teacher contacted the Ombudsman again after the employer told her they would not report the sabbatical leave based on information located in Division of Retirement and Benefits' publications. The publications indicated the teacher must return to the teaching position after sabbatical leave ends. The complainant took sabbatical leave and then took an additional year's leave of absence. Therefore, based on the publication information on sabbatical leave credit, the employer considered the complainant to be ineligible for the retirement credit.

The Ombudsman investigator contacted an Assistant Attorney General for the Department of Education to clarify the correct interpretation of the Department of Education statutes referenced in the Division of Retirement and Benefits' publications.

The Department of Education Assistant Attorney General reviewed the applicable statutes and did not believe there was a requirement to return to teaching immediately after sabbatical leave ended.

The Ombudsman investigator then contacted the employer to present the information collected in the review of the complaint and requested that they discuss the information with the school district management staff. After the employer reviewed the information provided by the investigator, they determined that the leave should be reported as sabbatical leave to the Division of Retirement and Benefits.

The Ombudsman investigator then contacted the Division of Retirement and Benefits Director's office to suggest changes to agency publications concerning sabbatical leave credit. The agency informed the investigator that they were currently working with their Assistant Attorney General on updating all agency publications related to sabbatical leave credit.

### **A20130456 Employee Accused of Misusing Cash/Credit Card**

An anonymous person contacted the Ombudsman to report that a state employee had misused a State of Alaska credit card for personal use. The reporter refused to provide

their name but did provide the name and work site of the employee and sufficient information to suggest that the allegation had merit.

In this case, the Ombudsman contacted a department official who supervised the employee's division and requested that the official quietly research the employee's use of the card. The official found that there had been several irregularities in how the employee used the card but each time the employee made a mistake with the card the mistake was immediately corrected. Nevertheless, department staff agreed that the employee should no longer be allowed to use a SOA cash/credit card, and it was revoked. The employee retained employment.

### **J20130130 Inmate Encounters Difficulties Getting Out of Jail, Twice**

An inmate complained to the Ombudsman that he was due to be released but was still being held. He also said ACC's time-accounting staff had not responded to his copouts.

The complainant was sentenced to serve 12 months in prison. However, he was due to be released because the court granted him several months of credit the same day as the sentencing hearing.

His release was delayed because the temporary order forwarded immediately to Anchorage Correctional Complex (ACC) after the hearing did not include reference to the credit, possibly because the judge signed the order granting credit after the sentencing hearing that day.

It took approximately three days for the court to forward the order for credit to ACC. The order reached ACC late on a Friday afternoon and it was processed the following Monday. The complainant was released on a Tuesday morning, a week after the court's orders. The court system administrator responded that if the complainant's attorney had indicated at the sentencing hearing that the complainant was "time-served," then the court would have expedited the processing of the order for credit, but the attorney did not raise this during the hearing.

The inmate also complained that after another court hearing the court had ordered him released to a halfway house (third-party custody), but ACC was not following the court order.

The investigator determined the complainant was incarcerated due to another petition to revoke probation. The court ordered that he could post bail and be released to third-party custody if a halfway house would accept him. That was on a Friday before a holiday weekend.

By the middle of the following week, the complainant contacted the Ombudsman to complain that he had posted bail but was not being sent to a halfway house. He alleged that he had filed a copout but that ACC staff had responded that they had no record indicating he was supposed to be released.

The Ombudsman investigator was unable to confirm the existence of the copout and response, as the complainant did not provide a copy and DOC claimed that no copout existed.

The Ombudsman investigator contacted institutional probation officers and the assistant superintendent at ACC. First, ACC staff said that the problem was that the complainant had not filed an application for release to a third-party custodian. It was not clear whether this was due to the complainant's failure to file a copout asking for the application packet, or to the fact that the probation officer who processed most of the third-party packets was on leave that week.

Once the complainant had been given an application packet, the probation officer noted that part of the required court order was missing from his file, and apparently told the complainant that complainant's attorney should provide the missing documentation. The Ombudsman investigator suggested that the ACC records office request the missing part of the order, instead of going through the complainant and his attorney. ACC obtained the missing paperwork, and a halfway house accepted the complainant. This took place eight working days after the court allowed the complainant's release to a CRC.

The Ombudsman investigator suggested that ACC make it standard procedure to have the ACC records office request missing court orders from the clerk of court, instead of waiting for the inmate and/or the inmate's attorney to contact the clerk of court. ACC's assistant superintendent responded that ACC's process for releasing inmates to third-party custody works well, and did not require any improvement.

The Ombudsman investigator provided the complainant with a referral to the Division of Risk Management, as the division indicated that it would review the claim.

### **A2013-1263: 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 investigator 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 investigator suggested the form be changed to prevent future confusion and the form was updated the same day.

### **A2013-1726: 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's 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.

### **A2013-1398: 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 investigator 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 for collection 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.

### **A2013-1259: 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, then announced they would change the plan based on new information, 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 investigator 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 investigator 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 investigator 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. The investigator 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.

### **A2013-1082: 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 investigator contacted the caseworker and tribal representatives and reviewed the agency's computer records. From what the investigator 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 investigator 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 investigator 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 investigator again to complain that the OCS worker would not allow her to provide background information to her grandson's therapist. The investigator 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 investigator 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 investigator offered to contact the clerk of court again to see if a hearing could be scheduled based on this evidence.

**A2013-1449: 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.

**J2013-0262: 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 investigator determined after reviewing the lease agreement, agency policies and procedures, and federal guidelines, that the extra fee was not unreasonable. However, the investigator 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.

**A2013-0944: 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 investigator contacted AHFC Public Housing Director and reviewed relevant agency and federal policies as well as state law in response to complaint. The investigator 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 investigator also found that AHFC appears to be following federal guidelines for the implementation of smoke-free housing policies by public housing agencies. Thus, the

investigator did not see that the action taken by AHFC to implement a smoke-free housing policy was unreasonable or contrary to law. The investigator relayed the review findings to the complainant in writing and closed the complaint.

**A2013-0867: 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 investigator 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 investigator confirmed that the agency was now taking appropriate steps to protect the ward.

**A2013-0899: 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 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 investigator 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 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 investigator 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.

### **A2013-0897: 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 investigator 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 investigator 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 investigator'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 investigator 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 investigator 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.

### **A2013-0755: Fired Ferry Worker Walks the Plank**

The 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 assumed that the non-referral was based on negative performance letters that he believed existed. The investigator 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 investigator 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.

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In addition to the information in this report, the Ombudsman posts a table of investigations on the Ombudsman web site at <http://ombud.alaska.gov/Matrix.pdf>.

In the table, investigations are sorted by department and division and then chronologically and include the following information:

- An explanation of the allegations made by the citizen and related issues identified by the Ombudsman as having possible systemic impact.
- An explanation of the results of the investigation and the Ombudsman's final finding of record indicating whether the evidence supported the allegations.
- An explanation of recommendations made by the Ombudsman to the agency and the agency's response to the recommendations.
- The final disposition of the case based on the Ombudsman's assessment of the agency's commitment to make constructive changes.
- A notation of whether the Ombudsman issued a public version of the final investigative report. In most cases, a redacted public version of the investigation has been produced.
- The table includes many cases in which the Ombudsman discontinued investigation because the agency resolved the complaint and/or issue after contact with the Ombudsman.
- The table includes an easy cross-reference guide which helps readers quickly identify and locate any other agencies included in an investigation.

This electronic version has links to investigative summaries and redacted public reports which can be key word searched using the computer browser "find" feature. This Web page is updated regularly and provides legislators and staff fast and convenient access to our work. Printed copies of all public Ombudsman investigative reports also are available upon request.

If you have any questions about this annual report, the Investigations Matrix, any specific case, or about Ombudsman's office work in general, please feel free to call me in Anchorage at 269-5290 or e-mail me at [Linda.Lord-Jenkins@akleg.gov](mailto:Linda.Lord-Jenkins@akleg.gov).