

# ALASKA'S OMBUDSMAN AND COMPLAINTS ABOUT THE CHILD PROTECTION SYSTEM

Alaska State Ombudsman Report to the  
Citizen's Review Panel

August 26, 2017

- ▶ Introduction of Ombudsman, Kate Burkhart
- ▶ How the Ombudsman Investigates Complaints
- ▶ Overview of Data, 2010-2017
- ▶ Major Issues Presented, Recommendations
- ▶ Strategic Plan, 2017-2022

## OVERVIEW

## Mission

The Alaska State Ombudsman investigates citizen complaints about administrative acts of state agencies and determines appropriate remedies. A.S. 24.55

## Vision

The Alaska State Ombudsman promotes fair and efficient government through objective inquiry and well-reasoned recommendations for meaningful, measurable improvement.

MISSION & VISION OF THE OFFICE OF THE OMBUDSMAN

- ✓ Contrary to Law
- ✓ Unreasonable
- ✓ Unfair
- ✓ Unnecessarily Discriminatory
- ✓ Unnecessarily Oppressive
- ✓ Abuse of Discretion
- ✓ Arbitrary or Capricious
- ✓ Insufficient or No Grounds
- ✓ Improper or Irrelevant Grounds
- ✓ Mistaken or Erroneous Grounds
- ✓ Performed Inefficiently
- ✓ Performed Discourteously
- ✓ Otherwise Erroneous

## Evidentiary Standard

**preponderance of the  
evidence**

OMBUDSMAN STANDARDS

- ▶ Domestic violence attorney/program coordinator, Legal Aid Society of Middle TN 1999-2001
- ▶ Public interest lawyer with Alaska Legal Services 2001-2006
  - ▶ Served Nome/Seward Peninsula; Juneau/Southeast; statewide domestic violence
    - ▶ Included representing parents, children & youth in CINA cases
- ▶ Assistant Ombudsman 2006-2007
- ▶ Executive Director, Alaska Mental Health Board & Advisory Board on Alcoholism & Drug Abuse 2007-2017
- ▶ Executive Director, Statewide Suicide Prevention Council 2010-2017
- ▶ Member, Alaska Safe Children's Act Task Force 2015-2016
- ▶ Member, board of directors Southeast Alaska Independent Living 2012-present
  - ▶ President of the board, 2016-present

**J. KATE BURKHART**



When  
someone  
contacts us



Deciding  
whether to  
investigate



Investigating  
Complaints



Finding  
solutions



# COMPLAINT PROCESS



When  
someone  
contacts us

The Intake Team of three people handle all incoming complaints. Intake is centralized in Anchorage, to ensure consistency and responsiveness.

**In 2016, the Ombudsman received 2,664 contacts.**

The Intake Team provides information and referral to people with complaints outside our jurisdiction (non-profits, city governments, etc.).

People calling about OCS are referred to the agency's grievance process **first**, and encouraged to call us back if they are not satisfied with the agency's response (or receive no response). Exceptions to this policy can be made for emergency situations or when the person has a disability or limitation that prevents them from effectively using the grievance process.

If the person's complaint is a) jurisdictional and b) ripe for review, it is reviewed by the full staff during weekly complaint review meetings.

## INTAKE PROCESS



Deciding  
whether to  
investigate

The Intake Team is often able to identify the root of the person's problem and resolve it quickly with a review of ORCA and/or a call to the supervisor of the case.

Complaints that are not easily determined and resolved are reviewed by the full staff each week. Investigators and the Intake Team discuss the facts alleged, whether it presents evidence of a pattern or systemic problem, and whether resolution is possible.

An Investigator (or team of investigators) will accept the complaint for more in-depth review and investigation.

## COMPLAINT REVIEW





## Investigating Complaints

The Ombudsman is **OBJECTIVE**.

Investigators look at each complaint without bias or preconception, though they do look at individual complaints in the context of past investigations and larger systems issues.

An investigation typically includes extensive review of ORCA, case files, court files/records, interviews of interested parties, and other information. The Ombudsman can subpoena information and witnesses, and can depose witnesses.

Some investigations can be completed in a matter of days, while others can take months. The Ombudsman is committed to **efficiently and effectively investigating complaints.**

# INVESTIGATION



Finding  
solutions

The Ombudsman is not a citizen advocate. The Ombudsman's focus is ensuring that state government serves citizens fairly, effectively, and efficiently.

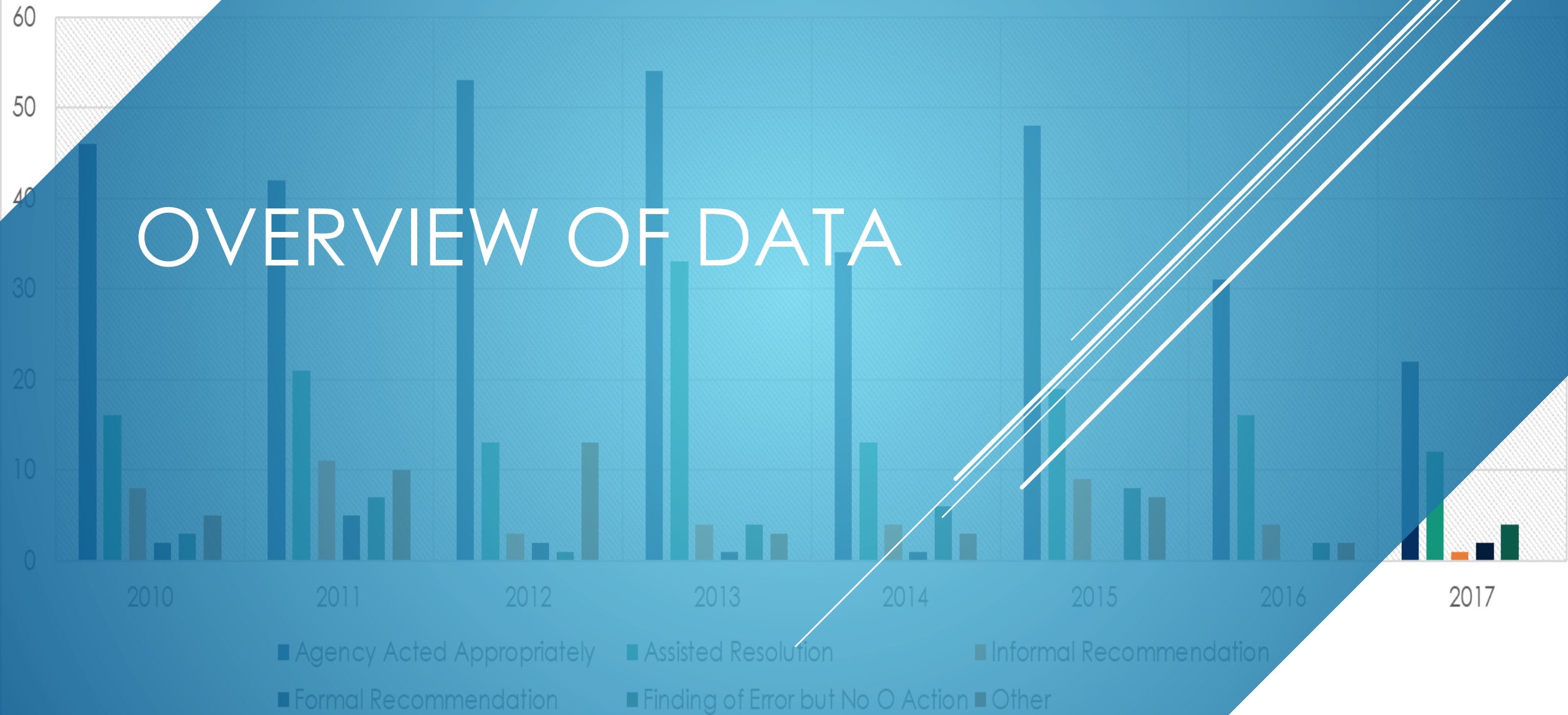
**The Ombudsman offers well-reasoned recommendations for resolving justified complaints and making meaningful, measurable improvement in agency operations.**

Often the remedy sought by the person complaining about OCS is not within the power of the Ombudsman to recommend (or OCS to give). However, the Ombudsman does seek to find acceptable solutions to complaints about OCS whenever possible.

## RESOLUTION & RECOMMENDATIONS

# Ombudsman Investigations of OCS Complaints 2010-2017

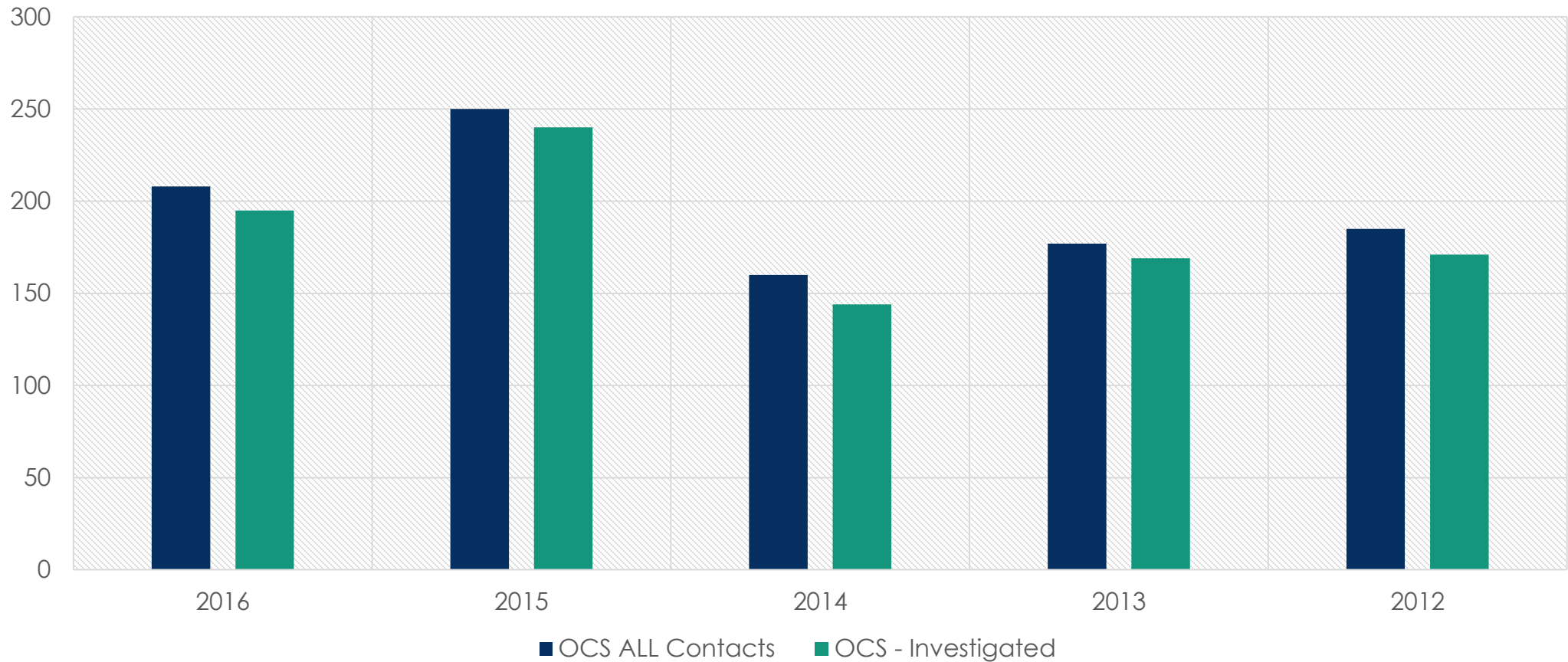
## OVERVIEW OF DATA



A thorough review of quantitative and qualitative data on complaints about OCS received and investigated since 2010 was conducted in Summer, 2017.

## OVERVIEW OF DATA

## OCS Contacts & Complaints 2012-2016



CONTACTS & INVESTIGATIONS

The issues presented by people complaining about OCS have not changed much since 2010:

- Lack of communication, responsiveness
- Visitation
  - Supervision
  - Frequency
- Grandparents
  - Placement
  - Visitation
  - Notice
- Grievances
  - Timely response
  - Written response
- Investigation of Protective Services Reports
  - Not investigating reports
  - Not notifying reporters of status
  - Not closing unsubstantiated reports timely
  - Investigating too many reports



## MAJOR ISSUES OVER TIME

The issues presented by people complaining about OCS have not changed much since 2010 (continued):

- Compliance with ICWA
- Case planning
  - Timeliness
  - Relevance
- Foster care licensing & reimbursement
- Background checks & barriers
- Relative placement
- Interstate Compact on the Placement of Children
- Access to services
  - For parents working case plan
  - For children in custody

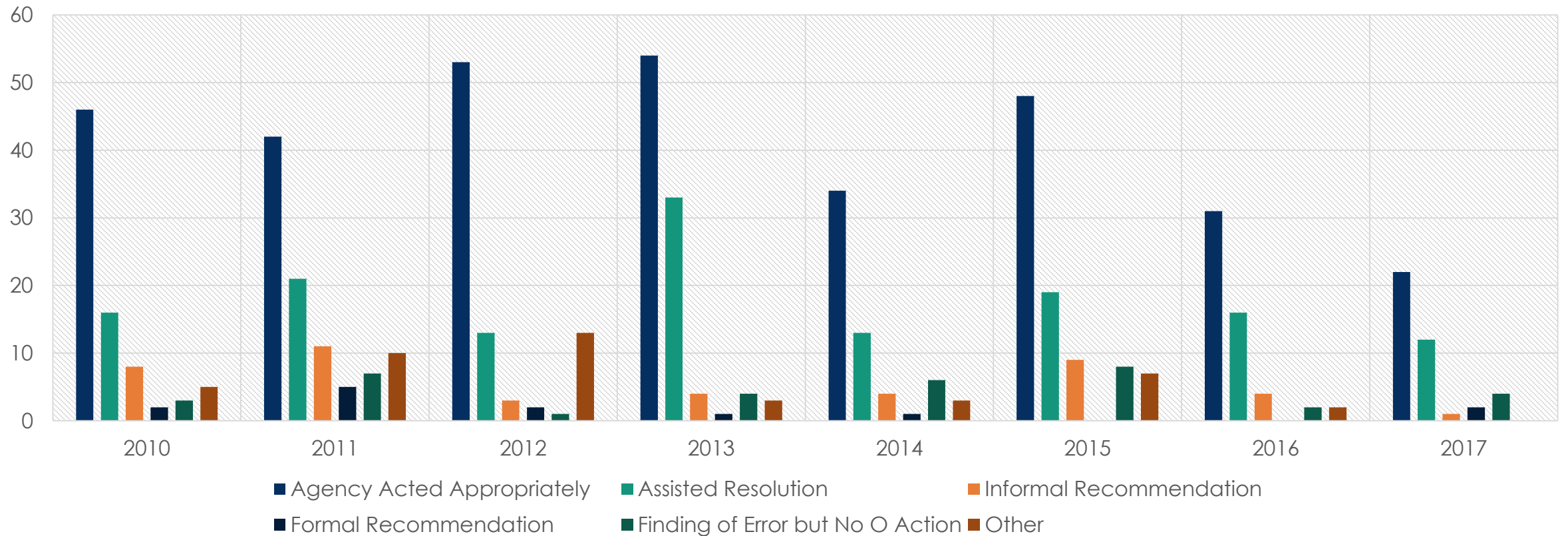
A significant number of complaints that are presented as being about OCS are in fact about the Courts (disagreement with decisions), Attorney General's office (notice of hearings, etc.) or the Office of Public Advocacy (zealousness of counsel, GAL, etc.).

## MAJOR ISSUES OVER TIME



Between January 1, 2010 and June 30, 2017, the Office of the Ombudsman closed 538 investigations of complaints about OCS.

### Ombudsman Investigations of OCS Complaints 2010-2017





Complaints that are reviewed and investigated by Investigators are resolved in a variety of ways:

- The agency is determined to have acted according to law, policy, and reasonable practice;
- A resolution is possible by providing the person with information about their case, encouraging OCS to respond to the person, or other brief assistance;
- The Investigator works with the agency to resolve a complex or systems problem without the need for formal report and recommendations;
- The Ombudsman issues a formal report and recommendations for addressing justified complaints.

## OUTCOMES

Recommendations have been made to improve the child protection system in most, if not all, the major areas presented by complaints to the Ombudsman:

## General Operations

- 2010 Conduct supervisory case reviews according to policy
  - Accepted, continuing ed and coaching provided to OCS supervisors
- Support staff to use ORCA to increase efficiency, compliance
  - Accepted by OCS, Law with action plan to follow
- Collaborate with Court Improvement Project to improve policies, access to telephonic participation
  - CIP took up these issues in 2011; administrative order issued July, 2016

# RECOMMENDATIONS

## Grandparents

- 2010 Additional training on statutory notice requirements
  - Revise policies and procedures to comply with statutory notice requirements
  - Department of Law should be responsible for notice of hearings to grandparents; OCS should be responsible for notice of meetings/conferences
    - Accepted by OCS with action plan to follow
      - Intent to pilot ORCA generated notices in Juneau, Anchorage (investigated in 2014 but not implemented due to cost, level of effort)

## Relative Placement

- 2011 Additional training on identifying, locating absent parents
  - Accepted, continuing ed, new on-the-job training to supplement classroom training
  - Improve oversight to ensure timely search for absent parents
    - Accepted, all admin review facilitators will check at first review for notice to all parents

# RECOMMENDATIONS

## Case Planning

- 2011 Additional training on case planning requirements  
Accepted, new parent engagement, protective capacity assessment, case planning training implemented May, 2011  
Improve oversight to ensure timely case planning  
Accepted, all admin review facilitators will check at first review for case plan

## Investigation of Protective Services Reports

- 2010 Establish guidance for intake, initial assessment processes when one parent is a sex offender  
Accepted, continuing ed on OCS policies clarifying that whenever a parent is an alleged, convicted, etc. sex offender the report is assigned a Priority 1 rating
- 2012 Clarify standards of proof for initial assessment, process to appeal substantiation  
Streamline internal appeals process (for substantiation)  
Informal recommendations – no formal response from OCS

# RECOMMENDATIONS

## Grievances

- 2012 Repeal, replace grievance regulations to be simple, accessible, linear, separate from DJJ  
Accepted, with intent to begin regulatory process in July, 2012
- Repeal, replace grievance policies & procedures to reflect new regulations  
Accepted, with intent to follow new regulations within 60 days
- Track grievances via uniform, agency-wide electronic tracking system  
OCS agreed to “explore available options” – since then, has developed a soon-to-be launched incident tracking system that can also track grievances
- Institute ongoing grievance training for OCS staff (after new regulations, P&P)  
Accepted

## Background Check/Barriers

- 2013 Twelve recommendations re: centralized registry, application of law, overturning erroneous findings of barriers, policy re: entire program (not just OCS)  
DHSS accepted 4 of 12  
New regulations adopted in 2017

# RECOMMENDATIONS

## **Mission**

The Alaska State Ombudsman investigates citizen complaints about administrative acts of agencies and determines appropriate remedies. A.S. 24.55

## **Vision**

The Alaska State Ombudsman promotes fair and efficient government through objective inquiry and well-reasoned recommendations for meaningful, measurable improvement.

## Core Values

Objectivity  
Curiosity  
Respect  
Integrity  
Public Service

**Goal 1: All Alaskans are aware of the role, work, and value of the Alaska State Ombudsman.**

**Goal 2: The Alaska State Ombudsman provides welcoming, accessible, and safe environments for people to come for help with their problems.**

**Goal 3: Ombudsman investigations are conducted and reported in a timely fashion.**

**Goal 4: Ombudsman recommendations are tracked for implementation and evaluated for effectiveness.**

**Goal 5: Internal ombudsman operations are efficient and effective.**

**Goal 6: The Alaska State Ombudsman has capacity to investigate complex, technical, and systemic complaints.**

**Goal 7: State agencies appreciate the role of the Alaska State Ombudsman and the value that it offers to public systems.**

**Goal 8: The Alaska State Ombudsman is a source of expertise and technical assistance on complaint resolution policies and procedures.**

QUESTIONS?  
COMMENTS?

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***Thank you!***