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Chapter: Special Considerations	Subject: Ombudsman Initiated Investigations	

OMBUDSMAN-INITIATED INVESTIGATIONS

4105.1 Legal Authority

AS 24.55.120 provides “The ombudsman may investigate the administrative act of an agency on the ombudsman’s own motion if the ombudsman reasonably believes that it is an appropriate subject for investigation under AS 24.55.150.”

4105.2 Sources of Complaints

The Ombudsman may initiate an investigation based on information from any source which provides a “reasonable” basis for deciding that an administrative agency’s action or inaction is appropriate for investigation under ombudsman standards. These include but are not limited to:

- a. a complaint from a whistleblower;
- b. a complaint from a third party on behalf of someone aggrieved by a government action;
- c. an anonymous complainant;
- d. a series of complaints from multiple people making the same or substantially similar allegation;
- e. statements by agency leadership about an administrative action; or
- f. a referral from a grand jury convened under Alaska Constitution Article I, Section 8.

In order to be grounds for an ombudsman-initiated investigation, an anonymous complaint must include specific and credible information that could reasonably be corroborated by an investigation (*see* 21 AAC 25.030). Otherwise, the Ombudsman may refer an anonymous complaint to the commissioner or chief executive officer of the agency, the Department of Law, or law enforcement agency as appropriate.

4105.3 Scope of Investigation

An ombudsman-initiated investigation is typically reserved for inquiries into systemic complaints that impact many Alaskans, or for complaints of significant public interest that cannot be, or are not being, addressed by other organizations.

4105.4 Grand Jury Referrals

All referrals from a grand jury shall be carefully considered by the Ombudsman. However, the Ombudsman is not required to initiate an investigation based solely on the receipt of the referral.

Upon receipt of a grand jury referral, the Ombudsman shall:

- (1) review the referral with investigatory staff;
- (2) meet with the Assistant Attorney General making the referral on behalf of the grand jury, to ensure that the questions referred and intent of the grand jury are understood; and
- (3) conduct any additional research necessary to corroborate the allegations being made.

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If the referral presents a reasonable basis to believe that an administrative action or inaction falls within ombudsman standards for investigation, the Ombudsman may initiate an investigation. If the referral does not present a reasonable basis to believe that an administrative action or inaction falls within ombudsman standards for investigation, the Ombudsman will not investigate further. Whatever the Ombudsman decides, a written response will be provided to the Department of Law.

4105.5 Notice to the Agency

In addition to the usual notice of investigation given to an agency, the Ombudsman may decide to have an introductory meeting with agency leadership to explain the genesis of the allegations, the unique nature of an ombudsman-initiated investigation, and the anticipated course of action.

4105.6 Conducting the Investigation

An ombudsman-initiated investigation is conducted in the same manner as any other complex investigation, typically with a team of investigators. Given that these are most often systemic investigations, the Ombudsman may choose to provide a more detailed investigative plan to the agency.

In some cases, the Ombudsman initiates an investigation because there is reason to believe the agency will obstruct an inquiry into its actions. This may result in the Ombudsman issuing a public announcement about the investigation, relying on formal investigative tactics like subpoenas and depositions, and preparing to seek judicial assistance in the exercise of the Ombudsman’s powers.