
MUNICIPALITY OF ANCHORAGE
OFFICE OF THE OMBUDSMAN
2008 ANNUAL REPORT



Municipality of Anchorage
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October 27, 2009

Members of the Anchorage Assembly:

In order to provide you with a summary view of the Ombudsman's Office and its work, I am pleased to submit to you the 2008 Annual Report.

Although a cursory review of 2008 concerns submitted to the Ombudsman's Office might create the impression that maladministration is common within the Municipality, a careful reading of this report will reveal that inaccuracies, unfairness and discourtesy are the exception. The successful operation of the Ombudsman's Office is a reflection of the cooperation of the administration and the assistance of many Municipal employees. Their understanding of the role of this office and their responsiveness to our inquiries play a significant part towards successful resolution of concerns brought before us.

I would like to thank the Mayor's office, the directors of the various departments, and countless Municipal employees for their support and cooperation in helping our office resolve citizen concerns and inquiries. I would also like to express my appreciation for the Associate Ombudsman, Patty Smith, for her dedication to this office and her countless efforts to help make Municipal government processes navigable to members of the community.

I consider it a privilege to serve you and the public in this capacity and look forward to the continuing challenges our work brings. I welcome your comments and questions.

Respectfully submitted,

Kristin D. Cada
Ombudsman

Office of the Ombudsman in Review

Information Requests

In 2008, the Ombudsman's Office added additional capabilities to the existing computerized case management system, enabling us to better capture requests for information that often resulted in a referral to another Municipal or outside agency, rather than resulting in an ombudsman inquiry or investigation.

A summary of information requests to this office breaks down as follows:

Municipal agencies	495
Landlord/tenant	234
State agencies	159
Miscellaneous	113
Consumer complaints	52
<u>Federal agencies</u>	<u>13</u>

Total Information Requests 1,066

Some callers simply sought the name and number of the office or agency which could help with their problem. Some typical questions included: Where do I find out about what snowmobile trails are located in the Municipality? Where can I obtain a marriage certificate? Who can help me get rid of a junk car which was abandoned on my property? Many other citizens wished to register a complaint about a Municipal office, and were referred to the proper division or department head, with the assurance that the Ombudsman's Office would review the concern if the citizen was not satisfied.

Citizens with landlord/tenant questions and other minor civil disputes call many different Municipal offices for help. Given the large number of landlord/tenant calls to this office alone—from both landlords and tenants—it is helpful that the Municipality's Code Enforcement Section has more recently begun to respond to concerns relating to a landlord's failure to provide or maintain essential services to tenants, such as electricity, heat, water, sewer, etc.

Investigation of Concerns

Why does the office exist? Anchorage Municipal Charter guarantees to the people of Anchorage the "...right to the assistance of a municipal ombudsman in dealing with grievances and abuses." Anchorage Municipal Code reaffirms our purpose and value to the community when it states we exist: "...to recommend appropriate changes toward the goals of safeguarding the rights of person and of promoting higher standards of competency, efficiency and equity in the provision of municipal services."

Who do we investigate? We accept concerns about:

Municipal departments and offices,
Municipal commissions, committees, and councils,
Municipal institutions and corporations,
Contractors providing a service to the public on behalf of the Municipality

What do we investigate? We listen to allegations of discourtesy, unfairness, inaccuracy, impropriety, inefficiency, and obfuscation on the part of the Municipality. Our authority is far-reaching, and can include concerns about:

"...an action, omission, decision, recommendation, practice, policy, or procedure which may be contrary to law, unfair, based upon an error, based upon improper grounds, inadequately explained, discourteous or inefficient, or otherwise erroneous." (AMC 2.60.160)

Once we investigate those concerns, we recommend solutions, and persuade adoption of policies and practices which promote responsiveness to the public and efficiency in government. The right to an ombudsman is assured to the people of Anchorage by the Municipal Charter. The volume and nature of calls to our office indicate an ever-increasing exercise of this right by the citizens of Anchorage.

How do we investigate? We listen to the complainant and to the Municipal staff representative. Each concern brought to our office is kept confidential; personal information relating to each case is only shared when required due to the nature of the concern or by court ordered subpoena. We ask questions, review files, speak with employees at all levels who were involved with the complaint, check relevant statutes, procedures, and other law. We can review any Municipal document or take testimony relevant to our investigation. If information is not forthcoming voluntarily, Anchorage Municipal Code authorizes us to subpoena both documents and

authorizes us to subpoena both documents and testimony, with enforcement powers upon application to the Superior Court. Subpoena power was not exercised in 2008, an indication of the high level of cooperation extended to this office by Municipal staff.

After obtaining all facts, we must reach an impartial, objective decision. Before offering a formal report or recommendation critical of a department or person, we are required to consult with that person or department. If the department and our office “agree to disagree” the complaint may be pursued to the highest Municipal level necessary for resolution.

The formal provisions of the Municipal Code do not reflect our unique office personality. As part of the legislative branch rather than the administration, our perspective is independent from Mayoral policy. Informality characterizes our methods of operation; almost all citizens complain over the telephone. Occasionally, we initiate an investigation on our motion. Our success in remedying problems at the lowest possible level results in a low profile. However, we are not hesitant to approach the Mayor or Assembly for support or assistance if necessary.

We promote good government, yet maintain a healthy skepticism about bureaucratic processes. The ability to think for ourselves must be tempered by a willingness to be open to divergent viewpoints. Persuasiveness and persistence must be interwoven with patience and tact. The intellectual ability to analyze and synthesize complicated facts should be complemented by the emotional wherewithal to listen, empathize, and put ourselves in the complainant’s perspective.

We are generalists in the role of handling complaints. In the course of investigating, we must become familiar with ideas, processes, and jargon which are second nature to Municipal staff. We appreciate the efforts Municipal staff puts forth assisting us during our self-education on issues they are acutely familiar. It is essential we understand the rationale for a Municipal viewpoint so we can better assist the complainant towards resolution.

Concerns by Department

<i>Department</i>	<i>2007</i>		<i>2008</i>	
	<i>Count</i>	<i>Percent</i>	<i>Count</i>	<i>Percent</i>
Assembly	2	0.57	1	0.26
Boards and Commissions	1	0.29	4	1.03
Planning	11	3.11	3	0.77
Employee Relations	3	0.84	2	0.51
Equal Rights Commission	0	0	3	0.77
Finance	28	7.88	27	6.68
Fire	11	3.11	6	1.54
Health and Human Services	49	13.77	31	7.97
Information Technology	0	0	3	0.77
Merrill Field	0	0	1	0.26
Municipal Attorney	5	1.41	14	3.6
Municipal Manager	4	1.12	6	1.54
Parking Authority	69	19.4	27	6.94
Port	0	0	2	0.51
Public Transportation	8	2.25	5	1.29
Purchasing	0	0	1	0.26
School District	19	5.34	17	4.37
Solid Waste Services	2	0.56	10	2.57
Water and Wastewater	9	2.53	14	3.6
Office of the Mayor	0	0	1	0.26
Development Services	25	7.03	54	13.88
Traffic	2	0.57	8	2.06
Police	61	17.14	80	20.57
Project Management and Engineering	5	1.42	11	2.83
Maintenance and Operations	22	6.18	17	4.37
Office of Economic & Community Dev.	0	0	2	0.51
Community Development	3	0.84	6	1.54
Parks and Recreation	8	2.25	12	3.08
Library	1	0.28	1	0.26
Office of Equal Opportunity	1	0.28	1	0.26
Not Department Specific	7	1.97	19	5.14
TOTALS:	356	100	389	100

Concerns by Assembly District

	2007		2008	
<i>Assembly District</i>	<i>Count</i>	<i>Percent</i>	<i>Count</i>	<i>Percent</i>
01 - Downtown Anchorage	55	15.45	64	16.45
02 - Eagle River / Chugiak	33	9.27	48	12.34
03 - West Anchorage	53	14.89	57	14.65
04 - Midtown	59	16.57	74	19.02
05 - East Anchorage	53	14.89	61	15.68
06 - South Anchorage	50	14.04	46	11.83
00 - Not District Specific	53	14.89	39	10.03
TOTALS:	356	100.00	389	100.00

Analysis of Statistics

Since the Office of the Ombudsman is the only office within the Municipality specifically charged with complaint investigation, some readers may view our statistical compilations as a means of determining the extent of Municipal maladministration. Such an interpretation is erroneous. The complaints we receive are only a small representation of the total number of complaints actually received and addressed within the Municipality. All Municipal offices receive complaints which are handled internally.

Attempts to make departmental comparisons are misleading as well. Our statistics may show several concerns regarding one department, but further analysis may show that these concerns relate to clerical errors inevitable in a high-volume operation, errors which the department readily admits and corrects. On the other hand, a department may have only one concern, but one which represents a major area of concern, impacting many citizens. Although our statistics will indicate a higher percentage of concerns for the first department, the single concern in the second department gives greater cause for concern.

Any comparisons between departments can be misleading. Generally, departments with the most direct public contact generate the most concerns. There are several factors which might account for a low volume of concerns. A lack of calls to our office about a particular department can indicate that a department is performing properly in all aspects. It can also mean that the department itself has an effective complaint mechanism so that the services of our office are rarely required. Another explanation might be that complaints exist, but citizens are unaware that the Office of the Ombudsman is available to assist them. Still other departments have little direct public contact and are shielded from daily complaints. Therefore, we do not make an objective determination that one department ranks higher in public responsiveness or in proper functioning based on number of concerns received. Below is an overview of departments with concerns of particular interest:

Assembly

Concerns received for the Assembly Department typically relate to the functions of the Clerk's Office, including concerns involving the election process, public records requests and business licenses. Some examples of concerns in 2008 were relating to inadequate handicapped access to polling places, inadequate hours of polling places and encounters with discourteous employees. Only one formal concern was filed in this department relating to inappropriate discussions by election workers while staffing voting stations. Training guidelines for election staff were reviewed and improvements made where appropriate.

Development Services

Development Services is second only to the Police Department in numbers of concerns received by this office and more than doubled from 2007. It should again be noted that the Department has a large amount of public contact and so inherently provides for justification of a greater number of concerns and inquiries. The Divisions within Development Services that receive the most concerns and inquiries are Building Safety, Right-of-Way, and Land Use Enforcement.

Building Safety related concerns mostly involve permitting processes and plan review. Areas of concern included code interpretations and allegations of unfairness. Citizens frequently allege code deficiencies discovered by a homeowner subsequent to inspection. Callers aware of AS 09.65.070, which precludes liability of the Municipality in specified situations, express confusion and indignation over what is perceived as yet another example of lack of governmental accountability to the public. This climate does not assist a relatively hard-working division which is striving to demonstrate public accountability. Concerns associated with this division typically require extensive collaborative oversight from our office to reach resolution.

The Right of Way Division, although prominent in this department's listing of concerns, only modestly experiences justified concerns relating to areas of right-of-way. Most of the concerns relating to this division are due to the fact that the public is still undereducated when it comes to how rights-of-way are allocated, maintained and treated within the Municipality. Although this division has done a fair amount of informational campaigns regarding areas of rights-of-way, the public consistently benefits from informational data provided when first bringing a concern to this division or our office.

Land Use Enforcement Division by far receives the most concerns of any other single division within the Municipality. This is mostly due to the fact that land use concerns involve a broad range of types of enforcement activity relating to planning, land use, subdivision, and non-conforming uses of land. For most concerns brought to this office identifying non-conforming land uses, there are nearly an equal number of concerns supporting the associated non-conforming use. Currently, Title XXI is being critically reviewed and modernized to better address concerns prioritized by the public and the administration.

Employee Relations

Concerns received for the Employee Relations Department have increased significantly in the past several years, including severity of allegations. Numerous concerns relating to unfair hiring practices, hostile work environment and wrongful termination were received. The two cases

listed were for hostile work environment in which one was resolved through mediation counseling and in the other the employee chose to leave the Municipality's employ. The seriousness of this incident was discussed at length with the Director and systemic behavioral adjustments were made to ensure a safe, nonthreatening workplace.

Equal Rights Commission

The three concerns received for the Equal Rights Commission were procedural and unsubstantiated. Numerous complainants were referred directly back to this department for redress and subsequent follow-up indicated the process was available and utilized appropriately.

Finance

Concerns received for the Finance Department are relatively numerous and range from typographical errors to allegations of improper taxation. The majority of these concerns are for the Property Appraisal Division. Many concerns can be addressed over the telephone or by accompanying a complainant to the department front counter for clarification and assistance. A large number of concerns related to complainants not receiving mailings, allegations of never receiving written correspondence from this department. In part, some of those allegations seem to originate from what appears to be a lack of public awareness of AMC 12.05.070, which places the burden upon the citizen to notify the department of an address change.

Another large number of concerns for this division relate to the property tax appeal process and range from allegations of being provided improper appeal information to conflicts of interest of Board of Equalization members. The property tax appeal process has been undergoing some adjustments, including better and more consistent training for front counter staff, better communication down the chain of command citing proper policies and procedures, etc.

The department should receive compliments for being responsive to all inquiries and for its attempts, such as newspaper publicity, internet payments, etc. for improving process for property tax payers.

Fire

The Fire Department, with only five concerns filed, continues to address most concerns intra-departmentally. Typical concerns range from requests for increased fire prevention activities to unfair fire inspection fees. One formal concern of significance arose when an allegation of

improper computer security safeguards was reviewed to find that large amounts of computerized private information was not being properly protected, including federally protected health information, private employee information, and database access throughout the department. The Municipality hired an information systems security analyst consultant who assisted the department with creating a more impervious firewall protection system more appropriate for addressing highly confidential and sensitive information.

Health and Human Services

There are two divisions within this department that are the subject of regular inquiries and concerns; the Environmental Protection Division (specifically the Air Quality and Food Safety/Sanitation Sections) and the Human Services Division (specifically the Child Care Licensing and Child Care Assistance Sections). Within the Environmental Protection section, the areas of most concern relate to enforcement or regulatory functions dealing with a variety of public nuisances including cars, noise, trash, pest infestation, restaurant sanitation, air quality, etc. This division continually utilizes an active and dedicated staff, responsive to public concerns.

The Human Services Division receives a smaller portion of concerns that historically lie within the Child Care Licensing and Child Care Assistance Sections, relating to both those seeking child care licenses and those receiving benefits for child care. This division should also be commended on its consistent demonstration of dedication and empathy when dealing with complainants and inquiries brought to them, both from this office and the public.

It should be noted that there are relatively few inquiries or concerns about the performance of health assistance services provided by the Community Health Services Division. This division focuses on the health of the community, providing preventive health care services, including immunizations, family planning services, testing and treatment of sexually transmitted infections, breast and cervical health screening, communicable disease investigations and tuberculosis control.

Information Technology

The Information Technology department enjoyed a concern-free year in 2007, but came back in 2008 with three serious formal inquiries of hostile work environment, sexual harassment, and wrongful termination. This office determined the wrongful termination allegation was not founded, and the detailed outcome suggest that pursuance of civil litigation by the complainant would also fail.

In addition, it seemed both internal and external security breaches were generally acknowledged but not addressed. Gradually, security firewalls were improved, but it is still unclear whether the firewalls are secure enough. Indeed it rings true that any kind of computerized security code that can be devised by humans can equally be undone by them.

Maintenance & Operations

Maintenance and Operations generates a significant number of concerns and inquiries because it is one of the more visible Municipal services. Although Anchorage and its service areas have grown over the years and costs to address these services have increased substantially, taxpayers expect a commitment to cost containment while maintaining a high level of responsiveness. Some procedures used in previous years are no longer economically feasible. Some examples include removal of snow berms from driveways and efforts to avoid pushing snow onto portions of the right-of-way landscaped by homeowners. Such changes in services promote efficiency, but inevitably create citizen dissatisfaction. The Department has dealt with this problem by developing and publicizing written policies explaining scheduling and procedures and making that information available via the internet. This is a commendable and positive attempt to work proactively with a dissatisfied public.

Another matter of concern involves the availability of adequate snow storage sites in the Anchorage Bowl area. As Anchorage density increases, there is a decrease in undeveloped sites suitable for snow storage. With fewer areas available for storage, snow must be hauled greater distances for storage and/or disposal, resulting in increased costs. If a comprehensive snow disposal plan is not devised and implemented, public dissatisfaction in this area will increase, as will costs.

It must also be noted that this department's leadership shines when called upon to address public concerns. Responsiveness, follow-up and ability and willingness to apply unconventional thinking to issues consistently stand out.

Municipal Attorney

This department most often receives a moderate number of concerns, involving primarily some aspect of the vehicle impounds function of the Civil Law Division. There is some public misunderstanding as to the Municipal Attorney's role in Municipal government. Some callers to our office believe that the Municipal Attorney represents a general public interest and is obliged to represent the individual citizen, rather than the interests of the Municipality. This is

particularly true in code enforcement actions. Citizens are confused as to the need for litigation priorities, and as to the guidelines by which the Department sets its priorities. There are clearly internal matters and appropriately within the control of Department management.

Municipal Manager

Divisions of interest in this Department include the Office of Equal Opportunity and the Transportation Inspection Office. Very consistently the Office of Equal Opportunity receives a few allegations of unethical behavior by a few complainants whose basis appears rooted rather in personality than true ethical substance. These allegations have not been substantiated and these individuals have been warned of abusing the redress process to bring about inappropriate and unfounded allegations.

The Transportation Inspection Office also consistently receives a few allegations annually, always surrounding unethical or inappropriate behavior by taxi cab dispatch companies. These concerns are brought by a variety of complainants with allegations that the taxi cab dispatch businesses in

Anchorage operates in an unfair and inequitable manner. Although the Transportation Inspector does have jurisdiction over taxi cab drivers and licensing, he does not have any authority over unfair business practices within a private business, taxi cab dispatch related or otherwise.

Parking Authority

This department typically receives approximately 20% of all inquiries to this office. Due to the overwhelming number of concerns relating to parking citations, parking meters, and discourteous Department employees, combined with the fact that currently there is very little room for administrative discretion with regard to these allegations, these concerns have often been addressed unsuccessfully or marked by only modest process improvement. With the assistance of downtown APD officers and management, progress continues to gradually improve to focus on informing the public rather than punishing the public as they progress through the steps of addressing parking citations. With the coming year, and a renewed commitment from the now Anchorage Community Development Authority leadership, we are hopeful some process improvements can be made in the areas of communication with the public, ease and streamlining of public process, as well as more responsive parking meter maintenance and repair. Efforts with Department leadership are ongoing towards systemic improvements.

Police

The Police Department consistently remains the top earner in numbers of concerns. Keeping in mind the Department has significantly more contact responding to a demographic that is not happy to see them responding. As a matter of practice, this office first allows the Department to address concerns by utilizing their Internal Affairs Office, which does any initial investigation. Many complainants are not satisfied with findings rendered by Internal Affairs, so it is at this point that this office reviews the investigation performed by the Department for process adherence.

Police concerns and inquiries pertain primarily to use of excessive force, degree or application of enforcement, and the handling and return of property and evidence. The four concerns alleging racial harassment or discrimination were referred to the Equal Rights Commission for initial investigation. Two allegations of over enforcement were substantiated, one in the issuance of moving violations and one ending in a wrongful arrest determination. It was recommended to Department leadership that a renewed focus towards identifying and procuring recruits who already possess exemplary customer service skills would be advantageous to the hiring process and tremendously beneficial to the Department as a whole.

Public Transportation

Almost all concerns of delayed buses and other transit scheduling problems are handled directly by the Department, although a few citizens contact our office first. The most common concerns were forwarded regarding route changes, requests for route changes or complaints associated with recently changed routes. The view of the Department was that generally speaking, piecemeal route changes are contrary to sound transit planning, but that occasionally, more immediate route changes benefitted the greater good. This highlighted a slight discourse in two laudable goals: the need for a standardized route change planning system and the desire of riders for immediate route change. Considering the cutbacks in routes currently offered, the process for change was perceived as primarily positive to public requests for route changes.

School District

The District consistently brings a variety of concerns ranging from students not allowed to bring cupcakes to school for classroom parties to wrongful expulsions to potential teachers deemed ineligible for hire. Complainants include students, parents, teachers and other District

employees, neighboring property owners and administrators. Complainants involved in suspensions and expulsions showed significant satisfaction from Ombudsman staff involvement, sometimes just to bring mediation and collaboration efforts and to provide a sense of fairness over an existing administrative process perceived by some to be punitive and excessive. Complainant satisfaction rate is relatively high involving student and parent involvement, but noticeably low involving teachers. It was noted only twice in 2008 that the District could've improved in student safety, while incidents of inflexibility when addressing student discipline were more typical.

Another somewhat prominent complainant group is parents of mentally or physically disabled and/or disadvantaged students. Significant involvement with Special Education processes and leadership reinforces the District's dedication, but also the challenges faced in working with this demographic. Due to the consistent nature of complaints in this area, the District is commended for its efforts towards collaborative, inclusive and progressive methods and practices while addressing these challenges.

Solid Waste Services

Concerns received for Solid Waste Services increased slightly in 2008 with issues ranging from overcharging of service to dissatisfaction with current code that requires residents to subscribe to solid waste services for property located within the Municipal Bowl area. A major area of confusion relates to service billing charges incurred despite non-use of public refuse collection. Part of the reason for this confusion is that the Municipal Bowl area does not include the entire Municipality as currently allocated. A change to these boundaries to more appropriately reflect current Municipal boundaries would most certainly be perceived as applying a law more fairly to all Municipal residents, rather than relying on outdated boundaries that are often perceived as inherently disparate.

October of 2008 marked the inception of this department's launch of the curbside refuse collection program, designed to transition current customers to a safer, more efficient system of refuse collection, while adding recycling to the curbside services provided. Most of the concerns fielded from this department relate to new fees associated with and container sizes available through the new curbside refuse collection program. Both private and public information notices have been utilized by the Department in an effort to inform customers about the new program, but as with all change come some challenges. Although the challenges continue as customers learn about the new program and how to best utilize the services, most concerns have been readily addressed by a competent and professional staff. Solid Waste Services is another department that routinely surpasses the standard in customer service and responsiveness. Solid Waste Services reliably

addresses a large amount of concerns with extreme professionalism and dedication in the areas of customer care, code enforcement and in the provision of services. The curbside refuse collection program is scheduled to be fully implemented by the end of 2010.

Water and Wastewater

Although the number of concerns increased slightly for the Water and Wastewater Utility, these concerns were predominantly involving disputes over fees assessed for services incorrectly perceived to be publicly provided, rather than accurately perceived as services that benefit a single property owner. Collaborative review of the governing tariff and standard design criteria language consistently sustain AWWU's reputation for a predictably consistent and professional work product.

Not Department Specific

The Office of the Ombudsman answers many questions that do not directly concern Municipal government. These are distinguished from information calls by the amount of work and research required to provide an answer or referral. In some cases, the proper agency or office for the citizen to contact is not evident without research. In other cases, there is no other agency to provide assistance.

For example, calls are somewhat regularly received about refuse collection service in the belief that the Municipality is responsible for all refuse collection. If it was determined that the complainant in question was served by Alaska Waste, the complainant was referred to Alaska Waste for assistance.

The Office of the Ombudsman also receives a large number of complaints and inquiries regarding problems with State government. Although almost all such questions are referred to the State Ombudsman, we may provide some assistance if the information is easily obtained rather than insist the citizen contact yet another agency. We only fully review or investigate the matter if a Municipal jurisdictional determination has been made.

General Overview

The department summaries included in this report present a general analysis of this office's view of Municipal activity regarding public inquiries and concerns. Generally speaking, frequent concerns received by the Ombudsman's Office involve citizens who are frustrated as they attempt to acquaint themselves with Municipal policies or functions. In many areas, procedures and practices are unwritten, and verbally obtainable only upon contacting the proper Municipal official. If procedures are unwritten, there is no assurance of fair and consistent interpretation. It is the view of the Ombudsman that a conscientious effort to draft and enact departmental regulations would serve many functions. A written source of information would decrease the amount of time spent by Municipal officials answering basic questions. It would assist the public by providing visible assurance that procedures are not arbitrary. Public input in the adoption process would assure citizens that the government is dealing not only with organizational concerns, but concerns of the public. This recommendation has been forwarded directly to the applicable departments and offices with an acceptance record of 100%.