



DEPT. COMM. NO. 258

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Ombudsman

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STATE OF HAWAII

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December 23, 2024

Honorable Ronald D. Kouchi  
President of the Senate  
State Capitol, Room 409  
415 S. Beretania Street  
Honolulu, HI 96813

Dear President Kouchi:

Pursuant to Sections 93-16 and 96-16, Hawaii Revised Statutes (HRS), and the November 16, 2018 Memorandum from Senate President Kouchi and former House Speaker Scott Saiki, of electronic submittal of reports to the Legislature, our Annual Report 55 for fiscal year 2024 has been transmitted electronically.

In accordance with Section 93-16, HRS, we will also be transmitting printed copies of this report to the Legislative Reference Bureau Library, Hawaii State Library, and Hamilton Library at the University of Hawaii.

The report is available on our website at: [ombudsman.hawaii.gov](http://ombudsman.hawaii.gov).

Should you have any questions about this report, please do not hesitate to contact our office at (808) 587-0770, or via email at [complaints@ombudsman.hawaii.gov](mailto:complaints@ombudsman.hawaii.gov).

Sincerely yours,

ROBIN K. MATSUNAGA  
Ombudsman

RKM:cy

cc: Legislative Reference Bureau Library  
Hawaii State Library, Document Center  
University of Hawaii, Hamilton Library



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December 23, 2024

Honorable Nadine Nakamura  
Speaker of the House of Representatives  
State Capitol, Room 431  
415 S. Beretania Street  
Honolulu, HI 96813

Dear Speaker Nakamura:

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Sincerely yours,

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cc: Legislative Reference Bureau Library  
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Office of the Ombudsman  
State of Hawaii  
Fiscal Year 2023-2024  
Report Number 55





As a service to the public provided by the legislature, the Office of the Ombudsman receives and investigates complaints from the public about injustice or maladministration by executive agencies of the State and county governments.

The Ombudsman is a nonpartisan officer of the legislature. The Ombudsman is empowered to obtain necessary information for investigations, to recommend corrective action to agencies, and to criticize agency actions; but the Ombudsman may not compel or reverse administrative decisions.

The Ombudsman is charged with: (1) accepting and investigating complaints made by the public about any action or inaction by any officer or employee of an executive agency of the State and county governments; and (2) improving administrative processes and procedures by recommending appropriate solutions for valid individual complaints and by suggesting appropriate amendments to rules, regulations, or statutes.

By law, the Ombudsman cannot investigate actions of the governor, the lieutenant governor and their personal staffs; the legislature, its committees and its staff; the judiciary and its staff; the mayors and councils of the various counties; an entity of the federal government; a multistate governmental entity; and public employee grievances, if a collective bargaining agreement provides an exclusive method for resolving such grievances.

**Kekuanaoa Building, 4th Floor  
465 South King Street  
Honolulu, HI 96813**

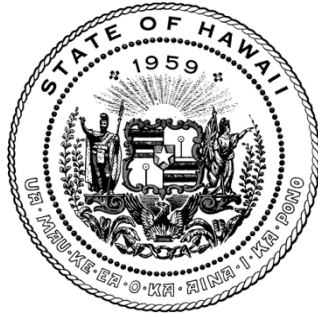
**Phone: 808-587-0770  
Fax: 808-587-0773  
TTY: 808-587-0774**

**Neighbor island residents may  
call our toll-free numbers.**

**Hawaii 808-974-4000  
Maui 808-984-2400  
Kauai 808-274-3141  
Molokai, Lanai 1-800-468-4644**

**Telephone extension is 7-0770  
Fax extension is 7-0773  
TTY extension is 7-0774**

**email: [complaints@ombudsman.hawaii.gov](mailto:complaints@ombudsman.hawaii.gov)  
website: [ombudsman.hawaii.gov](http://ombudsman.hawaii.gov)**



State of Hawaii

## Report of the Ombudsman

For the Period July 1, 2023 - June 30, 2024  
Report No. 55

Presented to the Legislature  
pursuant to Section 96-16 of  
the Hawaii Revised Statutes

December 2024



Mr. President, Madam Speaker, and Members of the  
Hawaii State Legislature of 2025:

In accordance with Section 96-16, Hawaii Revised Statutes, I am pleased to submit the report of the Office of the Ombudsman for fiscal year 2023-2024. This is the fifty-fifth annual report since the establishment of the office in 1969.

I am honored to head the oldest classical ombudsman office in the United States. I sincerely appreciate the continued support of the State Legislature, which has allowed my office to impartially investigate the administrative acts of state executive branch and county government agencies of the State of Hawaii. Through our investigations, we have been able to improve the level of public administration in Hawaii.

These improvements would not have been possible without the cooperation of the Governor, the Mayors of the various counties, and the State and County department heads and employees. On behalf of the members of my office, I would like to express my appreciation for their continuing cooperation and assistance.

Finally, I would like to acknowledge the members of my team at the Office of the Ombudsman for their continued dedication and commitment to our mission.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Robin K. Matsunaga', with a long, sweeping horizontal line extending to the right.

ROBIN K. MATSUNAGA  
Ombudsman

December 2024





## TABLE OF CONTENTS

	Page
LETTER OF TRANSMITTAL	
I. THE YEAR IN BRIEF .....	1
Total Inquiries Received .....	1
Two-Year Comparison .....	1
Staff Notes.....	2
Staff Activities.....	3
II. STATISTICAL TABLES .....	5
1. Numbers and Types of Inquiries .....	5
2. Means by Which Inquiries Are Received.....	7
3. Distribution of Population and Inquirers by Residence.....	9
4. Distribution of Types of Inquiries by Residence of Inquirers ....	11
5. Means of Receipt of Inquiries by Residence .....	13
6. Distribution and Disposition of Jurisdictional Complaints by Agency.....	15
7. Distribution and Disposition of Substantiated Jurisdictional Complaints by Agency.....	17
8. Distribution of Information Requests .....	19
9. Distribution of Non-Jurisdictional Complaints .....	21
10. Inquiries Carried Over to Fiscal Year 2023-2024 and Their Dispositions, and Inquiries Carried Over to Fiscal Year 2024-2025 .....	23
III. SELECTED CASE SUMMARIES .....	25



## Chapter I

### THE YEAR IN BRIEF

#### Total Inquiries Received

During fiscal year 2023-2024, the office received a total of 4,390 inquiries, an 8.5 percent decrease from the prior fiscal year. Of the total inquiries, 3,375, or 76.9 percent, may be classified as complaints within the jurisdiction of the office. The remaining inquiries consisted of 486 requests for information and 529 non-jurisdictional complaints.

We received 92 fewer non-jurisdictional complaints during fiscal year 2023-2024, a decrease of 14.8 percent over the prior fiscal year. The number of jurisdictional complaints decreased by 9.0 percent from the prior fiscal year. Complaints involving the State's adult corrections programs decreased by 14.4 percent, while the number of other complaints increased by 0.3 percent.

A comparison of inquiries received in fiscal year 2022-2023 and fiscal year 2023-2024 is presented in the following table.

#### TWO-YEAR COMPARISON

Years	Total Inquiries	Information Requests	Non-Jurisdictional Complaints	Jurisdictional Complaints		
				Total Jurisdictional	Prison Complaints	General Complaints
2023-2024	4,390	486	529	3,375	2,011	1,364
2022-2023	4,797	468	621	3,708	2,348	1,360
Numerical Change	-407	18	-92	-333	-337	4
Percentage Change	-8.5%	3.8%	-14.8%	-9.0%	-14.4%	0.3%

## Staff Notes

In July 2023, Jonathan Gonzalez resigned from his position as an Analyst. We thank Mr. Gonzalez for his contribution to our office and wish him well in his future endeavors.

In July 2023, Megan Ito-Shigetomi returned to our office as an Analyst after a short hiatus. We warmly welcome back Ms. Ito-Shigetomi, who we are confident will enhance the level of service we are able to provide the public.

In July 2023, David Kim joined our office as an Analyst. Prior to joining our team, Mr. Kim was employed at the Legislature during several legislative sessions. In October 2023, Mr. Kim resigned from his position as an Analyst. We thank Mr. Kim for his contribution to our office and wish him well in his future endeavors.

In July 2023, Chad Wolke joined our office as an Analyst. Prior to joining our team, Mr. Wolke was a Policy and Data Analyst at the Rural Health Research and Policy Center, University of Hawaii.

In October 2023, Zelda Moleta joined our office as an Analyst. Prior to joining our team, Ms. Moleta was employed at the Office of Health Status Monitoring, Department of Health. In January 2024, Ms. Moleta resigned from her position as an Analyst. We thank Ms. Moleta for her contribution to our office and wish her well in her future endeavors.

In March 2024, Keola Fong joined our office as an Analyst. Prior to joining our team, Mr. Fong was employed as a Staff Attorney at the Securities Enforcement Branch, Department of Commerce and Consumer Affairs.

In March 2024, Simon Ellerbusch joined our office as an Analyst. Prior to joining our team, Mr. Ellerbusch was employed as a Compliance Safety and Health Officer/Investigator at the Hawaii Occupational Safety and Health Division, Department of Labor and Industrial Relations.

In May 2024, Matthew Kajiura resigned from his position as an Analyst and accepted a position with another state department. We thank Mr. Kajiura for his contribution to our office and wish him well in his future endeavors.

At the end of fiscal year 2024, our office staff consisted of Ombudsman Robin Matsunaga; First Assistant Yvonne Jinbo; Analysts Simon Ellerbusch, Keola Fong, Megan Ito-Shigetomi, Shannon McMahan, Marcie McWayne, Chad Wolke, and Ryan Yeh; Administrative Services Officer Cindy Yee; and Administrative Service Assistants Jessen Corpuz, Debbie Goya, and Carly Shriver-Kealoha.

## **Staff Activities**

The 42nd annual conference of the United States Ombudsman Association (USOA) was held at the Westin Atlanta Perimeter North, Atlanta, Georgia, from September 13–15, 2023. In attendance were Ombudsman Robin Matsunaga, First Assistant Yvonne Jinbo, and Analyst Shannon McMahon. Each year, the USOA annual conference provides valuable training specific to the work of governmental ombudsman offices, as well as a venue to network and share information with other ombudsman professionals from across the United States.

At the USOA annual conference, Ombudsman Matsunaga completed 22 years of service as a Director of the USOA Board. He served as Outreach and Membership Committee Chair (1999-2001), President (2001-2003 and 2003-2005), Vice President (2007-2009), Conferences and Training Committee Chair (2009-2011), and President (2011-2013, 2013-2015, 2015-2017, 2017-2019, 2019-2021, and 2021-2023). He also served as an ex-officio member of the USOA Board as Past President from 2005-2007 and currently serves in this same capacity. Ombudsman Matsunaga expressed his deep appreciation to the membership for the privilege and honor to have served as a Director and President of the USOA Board.

In December 2023, Marcus Howell, the Environmental Justice Ombudsperson of Colorado, visited Ombudsman Matsunaga during a visit to Hawaii. As the environmental justice ombudsperson, Mr. Howell provides an independent voice to advocate for disproportionately impacted communities and provides Coloradans with a centralized place to voice their concerns about environmental justice and pollution.

In January 2024, Ombudsman Matsunaga spoke to the USOA Health Care Chapter via videoconference about the Credible Review Process standard for ombudsman offices. The Credible Review Process is one of four categories of standards adopted by the USOA to identify the basic principles, guidelines, and best practices for governmental ombudsman offices. Ombudsman Matsunaga discussed with attendees the authorities and responsibilities inherent in the credible review process standard and how this standard, together with the standards of independence, impartiality, and confidentiality, impact the credibility of an ombudsman office.

In May 2024, Ombudsman Matsunaga met via videoconference with Mari Dorn-Lopez, Administration for Children and Families, U.S. Department of Health and Human Services, to discuss the establishment of an independent ombudsman for Unaccompanied Children. The purpose of the new office is to receive, investigate, and address concerns about government actions in the Unaccompanied Children Program.



## Chapter II

### STATISTICAL TABLES

For all tables, the percentages may not add up to a total of 100% due to rounding.

**TABLE 1**  
**NUMBERS AND TYPES OF INQUIRIES**  
**Fiscal Year 2023-2024**

Month	Total Inquiries	Jurisdictional Complaints	Non-Jurisdictional Complaints	Information Requests
July	369	293	46	30
August	397	304	59	34
September	445	373	32	40
October	371	286	52	33
November	350	275	34	41
December	306	226	38	42
January	409	319	47	43
February	355	286	32	37
March	336	262	39	35
April	358	262	39	57
May	388	271	60	57
June	306	218	51	37
TOTAL	4,390	3,375	529	486
% of Total Inquiries	--	76.9%	12.1%	11.1%





**TABLE 2**  
**MEANS BY WHICH INQUIRIES ARE RECEIVED**  
**Fiscal Year 2023-2024**

Month	Telephone	Mail	Email	Fax	Visit	Own Motion
July	330	10	27	1	1	0
August	366	4	26	0	0	1
September	397	12	34	1	1	0
October	341	9	20	0	1	0
November	316	7	26	0	1	0
December	285	4	17	0	0	0
January	367	9	32	0	1	0
February	335	4	15	0	1	0
March	314	4	13	1	3	1
April	306	12	34	0	5	1
May	338	7	41	0	2	0
June	269	8	23	0	6	0
TOTAL	3,964	90	308	3	22	3
% of Total Inquiries (4,390)	90.3%	2.1%	7.0%	0.1%	0.5%	0.1%



**TABLE 3  
DISTRIBUTION OF POPULATION AND  
INQUIRERS BY RESIDENCE  
Fiscal Year 2023-2024**

Residence	Population*	Percent of Total Population	Total Inquiries	Percent of Total Inquiries
City & County of Honolulu	989,408	68.9%	3,310	75.4%
County of Hawaii	207,615	14.5%	444	10.1%
County of Maui	164,264	11.4%	297	6.8%
County of Kauai	73,851	5.1%	132	3.0%
Out-of-State	--	--	207	4.7%
<b>TOTAL</b>	<b>1,435,138</b>	<b>--</b>	<b>4,390</b>	<b>--</b>

\*Source: The State of Hawaii Data Book 2023, A Statistical Abstract. Hawaii State Department of Business, Economic Development, and Tourism, Table 1.06, "Resident Population, by County: 2020 to 2023."



**TABLE 4**  
**DISTRIBUTION OF TYPES OF INQUIRIES**  
**BY RESIDENCE OF INQUIRERS**  
**Fiscal Year 2023-2024**

Residence	TYPES OF INQUIRIES					
	Jurisdictional Complaints		Non-Jurisdictional Complaints		Information Requests	
	Number	Percent of Total	Number	Percent of Total	Number	Percent of Total
C&C of Honolulu	2,604	77.2%	339	64.1%	367	75.5%
County of Hawaii	344	10.2%	66	12.5%	34	7.0%
County of Maui	208	6.2%	43	8.1%	46	9.5%
County of Kauai	110	3.3%	14	2.6%	8	1.6%
Out-of-State	109	3.2%	67	12.7%	31	6.4%
TOTAL	3,375	--	529	--	486	--



**TABLE 5  
MEANS OF RECEIPT OF INQUIRIES  
BY RESIDENCE  
Fiscal Year 2023-2024**

Residence	Total Inquiries	Means of Receipt					
		Telephone	Mail	Email	Fax	Visit	Own Motion
C&C of Honolulu	3,310	3,081	30	172	2	22	3
% of C&C of Honolulu	--	93.1%	0.9%	5.2%	0.1%	0.7%	0.1%
County of Hawaii	444	380	7	57	0	0	0
% of County of Hawaii	--	85.6%	1.6%	12.8%	0.0%	0.0%	0.0%
County of Maui	297	270	4	23	0	0	0
% of County of Maui	--	90.9%	1.3%	7.7%	0.0%	0.0%	0.0%
County of Kauai	132	120	0	11	1	0	0
% of County of Kauai	--	90.9%	0.0%	8.3%	0.8%	0.0%	0.0%
Out-of- State	207	113	49	45	0	0	0
% of Out- of-State	--	54.6%	23.7%	21.7%	0.0%	0.0%	0.0%
TOTAL	4,390	3,964	90	308	3	22	3
% of Total	--	90.3%	2.1%	7.0%	0.1%	0.5%	0.1%





**TABLE 6**  
**DISTRIBUTION AND DISPOSITION OF**  
**JURISDICTIONAL COMPLAINTS BY AGENCY**  
**Fiscal Year 2022-2023**

Agency	Jurisdictional Complaints	Percent of Total	Completed Investigations		Discontinued	Declined	Assisted	Pending
			Substantiated	Not Substantiated				
<u>State Departments</u>								
Accounting & General Services	19	0.6%	1	3	4	7	0	4
Agriculture	1	0.0%	0	0	0	1	0	0
Attorney General	46	1.4%	0	7	6	20	12	1
Budget & Finance	48	1.4%	0	1	9	32	4	2
Business, Economic Devel. & Tourism	6	0.2%	0	1	0	5	0	0
Commerce & Consumer Affairs	48	1.4%	1	5	7	31	2	2
Corrections & Rehabilitation	2,031	60.2%	45	266	283	1,195	164	78
Defense	1	0.0%	0	0	0	1	0	0
Education	75	2.2%	1	1	14	45	7	7
Hawaiian Home Lands	15	0.4%	0	0	1	12	2	0
Health	171	5.1%	3	15	28	112	9	4
Human Resources Devel.	8	0.2%	0	2	1	4	0	1
Human Services	319	9.5%	3	12	47	153	93	11
Labor & Industrial Relations	118	3.5%	5	3	12	90	1	7
Land & Natural Resources	46	1.4%	1	2	12	26	1	4
Law Enforcement	8	0.2%	0	0	2	5	0	1
Office of Hawaiian Affairs	1	0.0%	0	0	0	1	0	0
Taxation	18	0.5%	0	0	1	10	7	0
Transportation	44	1.3%	3	2	12	23	2	2
University of Hawaii	19	0.6%	1	0	3	14	0	1
Other Exec Agencies	16	0.5%	0	0	10	6	0	0
<u>Counties</u>								
City & County of Honolulu	217	6.4%	1	12	36	138	14	16
County of Hawaii	59	1.7%	2	1	5	49	0	2
County of Maui	21	0.6%	2	1	3	12	1	2
County of Kauai	20	0.6%	0	0	0	20	0	0
<b>TOTAL</b>	<b>3,375</b>	<b>--</b>	<b>69</b>	<b>334</b>	<b>496</b>	<b>2,012</b>	<b>319</b>	<b>145</b>
% of Total Jurisdictional Complaints	--	--	2.0%	9.9%	14.7%	59.6%	9.5%	4.3%



**TABLE 7**  
**DISTRIBUTION AND DISPOSITION OF SUBSTANTIATED**  
**JURISDICTIONAL COMPLAINTS BY AGENCY**  
**Fiscal Year 2023-2024**

Agency	Substantiated Complaints	Complaints Rectified	Not Rectified/ No Action Necessary
<u>State Departments</u>			
Accounting & General Services	1	1	0
Agriculture	0	0	0
Attorney General	0	0	0
Budget & Finance	0	0	0
Business, Economic Devel. & Tourism	0	0	0
Commerce & Consumer Affairs	1	1	0
Corrections & Rehabilitation	45	40	5
Defense	0	0	0
Education	1	1	0
Hawaiian Home Lands	0	0	0
Health	3	3	0
Human Resources Development	0	0	0
Human Services	3	3	0
Labor & Industrial Relations	5	1	4
Land & Natural Resources	1	1	0
Law Enforcement	0	0	0
Office of Hawaiian Affairs	0	0	0
Taxation	0	0	0
Transportation	3	3	0
University of Hawaii	1	1	0
Other Executive Agencies	0	0	0
<u>Counties</u>			
City & County of Honolulu	1	1	0
County of Hawaii	2	1	1
County of Maui	2	2	0
County of Kauai	0	0	0
<b>TOTAL</b>	<b>69</b>	<b>59</b>	<b>10</b>
% of Total Substantiated Jurisdictional Complaints	--	85.5%	14.5%



**TABLE 8**  
**DISTRIBUTION OF INFORMATION REQUESTS**  
**Fiscal Year 2023-2024**

Agency	Information Requests	Percent of Total
<u>State Departments</u>		
Accounting & General Services	5	1.0%
Agriculture	2	0.4%
Attorney General	4	0.8%
Budget & Finance	14	2.9%
Business, Economic Devel. & Tourism	2	0.4%
Commerce & Consumer Affairs	19	3.9%
Corrections & Rehabilitation	79	16.3%
Defense	0	0.0%
Education	5	1.0%
Hawaiian Home Lands	0	0.0%
Health	30	6.2%
Human Resources Development	1	0.2%
Human Services	27	5.6%
Labor & Industrial Relations	5	1.0%
Land & Natural Resources	4	0.8%
Law Enforcement	1	0.2%
Office of Hawaiian Affairs	0	0.0%
Taxation	2	0.4%
Transportation	2	0.4%
University of Hawaii	0	0.0%
Other Executive Agencies	1	0.2%
<u>Counties</u>		
City & County of Honolulu	43	8.8%
County of Hawaii	3	0.6%
County of Maui	2	0.4%
County of Kauai	0	0.0%
Miscellaneous	235	48.4%
<b>TOTAL</b>	<b>486</b>	<b>--</b>



**TABLE 9**  
**DISTRIBUTION OF NON-JURISDICTIONAL COMPLAINTS**  
**Fiscal Year 2023-2024**

Jurisdictional Exclusions	Number of Complaints	Percent of Total
Collective Bargaining	17	3.2%
County Councils	2	0.4%
Federal Government	30	5.7%
Governor	2	0.4%
Judiciary	75	14.2%
Legislature	9	1.7%
Lieutenant Governor	1	0.2%
Mayors	3	0.6%
Multi-State Governmental Entity	4	0.8%
Private Transactions	381	72.0%
Miscellaneous	5	0.9%
<b>TOTAL</b>	<b>529</b>	<b>--</b>





**TABLE 10  
INQUIRIES CARRIED OVER TO FISCAL YEAR 2023-2024 AND  
THEIR DISPOSITIONS, AND INQUIRIES CARRIED OVER  
TO FISCAL YEAR 2024-2025**

Types of Inquiries	Inquiries Carried Over to FY 23-24	Inquiries Carried Over to FY 23-24 and Closed During FY 23-24	Balance of Inquiries Carried Over to FY 24-25	Inquiries Received in FY 23-24 and Pending	Total Inquiries Carried Over to FY 24-25
Non-Jurisdictional Complaints	2	2	0	3	3
Information Requests	0	0	0	1	1
Jurisdictional Complaints	169	163	6	145	151
		Disposition of Closed Complaints:			
		Substantiated      23			
		Not Substan.        77			
		Discontinued        63			
		<u>        </u>			
		163			
<b>TOTAL</b>	171	165	6	149	155



## **Chapter III**

### **SELECTED CASE SUMMARIES**

The following are summaries of selected cases investigated by the office. Each case summary is listed under the State government department or the county government involved in the complaint or inquiry. Although some cases involved more than one department or involved both the State and the county, each summary is placed under what we believe to be the most appropriate agency.

To view a cumulative index of all selected case summaries that appeared in our Annual Report Nos. 1 through 55, please visit our website at [ombudsman.hawaii.gov](http://ombudsman.hawaii.gov) and select the "Cumulative Index" link from the home page.

If you do not have access to our cumulative index via the Internet, you may contact our office to request a copy.



## LIST OF SUMMARIES

Page

### DEPARTMENT OF CORRECTIONS AND REHABILITATION

Inmate found guilty of lying based on his statement  
to the investigator that he was not guilty of a  
suspected misconduct.....29

### COUNTY OF HAWAII

Mass Transit Agency operated bus route on private  
roads without permission.....30



## DEPARTMENT OF CORRECTIONS AND REHABILITATION

*[Please note that the reference in the summary below to the Department of Public Safety reflects the name of the agency when the complaint was received, prior to the agency being reorganized and renamed on January 1, 2024, to the Department of Corrections and Rehabilitation.]*

**(23-01925) Inmate found guilty of lying based on his statement to the investigator that he was not guilty of a suspected misconduct.** An inmate complained that a facility adjustment committee (AC) found him guilty for violating the following sections of Department of Public Safety (DPS) Policy No. COR.13.03, titled, "Adjustment Procedures Governing Serious Misconduct Violations and the Adjustment of Minor Misconduct Violations" (effective November 13, 2017):

### **5.0 MISCONDUCT RULE VIOLATIONS AND SANCTIONS**

.....

.3 High Misconduct Violations (7).

a. ....

7(15) Possession, introduction, or use of any tobacco/nicotine, tobacco/nicotine product, or tobacco/nicotine paraphernalia. This does not apply to inmates in a community based furlough program, unless authorized by the Institutions Division Administrator (IDA).

.....

.4 Moderate Misconduct Violations (8).

a. ....

8(13) Lying or providing false statements, information, or documents to a staff member, government official, or member of the public.

During our investigation, we reviewed the AC documents, the facility's investigation report of the incident, and the relevant DPS policies. According to the facility's investigation report, the complainant was observed smoking with another inmate, but when questioned by the investigator, he denied that he was smoking. According to the AC documents, the AC determined that

there was sufficient evidence to find that the complainant had been smoking by the window with another inmate. Based on this determination, the AC also determined that the inmate had not been truthful in his response to the investigator when asked if he was smoking. Therefore, the AC found the complainant guilty of the 7(15) and 8(13) violations.

We found that the guilty finding for the 7(15) violation was supported by the evidence and reasonable. However, we did not believe that the guilty finding for the 8(13) violation was reasonable because an inmate should be allowed to state to the investigator that he is not guilty of the violation being investigated without having that statement used as the basis for finding the inmate guilty of lying to the investigator. In addition, based on other investigations we had conducted, it was not a common practice for an AC to find an inmate guilty of an 8(13) violation because the inmate denied committing a separate misconduct violation but was subsequently found guilty by an AC of that separate misconduct violation.

We informed the DPS Institutions Division Administrator (IDA) of our concerns regarding the AC's decision on the 8(13) violation and asked the IDA to review this case. After reviewing the case, the IDA agreed with our assessment and finding. As a result, the IDA agreed to overturn the guilty finding for the 8(13) violation.

We notified the complainant of our findings and the action taken by the IDA regarding the 8(13) misconduct.

## **COUNTY OF HAWAII**

**(22-04683) Mass Transit Agency operated bus route on private roads without permission.** A member of the public complained that the Mass Transit Agency (MTA), Hawaii County (HC), was operating a bus route on the private roads of his subdivision. The complainant stated that the HC was not providing any compensation to the community that owned the private roads to account for the wear and tear to the roads caused by the buses.

The complainant stated that he attempted to address his concerns with the MTA, but the MTA Administrator merely stated that the agency was engaging in ongoing talks about this issue with various private subdivision community associations, including his own. The complainant felt that the MTA should cease the operation of the bus route as there was no formal agreement between the MTA and his private subdivision's community association (CA) to continue the operation of the bus route on the CA's roads.

During our investigation, we contacted the MTA Administrator, who confirmed that there had been discussions between the MTA and the



complainant's CA regarding the running of buses on subdivision roads after the MTA received complaints about the operation of the bus route on private roads. The MTA Administrator stated that his understanding was that the CA wanted the bus route to continue.

When we asked the MTA Administrator about any sort of agreement between the MTA and the CA prior to the implementation of the bus route, the MTA Administrator informed us that the planning and implementation of the bus route had predated his tenure at the MTA. The MTA Administrator referred us to the HC Transit Master Plan (Master Plan) drafted in 2018, which created the subject bus route.

When we reviewed the documentation relating to the implementation of the subject bus route, including the Master Plan, we found that the MTA sought to expand its services in 2018 by creating the subject bus route that partially ran on private roads after running bus routes exclusively on public roads in the area. However, in our review, we could not find any mention that the complainant's CA had approved the subject bus route prior to implementation. We also did not find any written agreement between the MTA and the complainant's CA that allowed the MTA to operate the subject bus route.

During a subsequent conversation, the MTA Administrator admitted that there was no formal agreement with the complainant's CA before the MTA implemented the bus route. According to the MTA Administrator, the MTA was attempting to find a way to make direct payment to the complainant's CA for use of its roads. However, after speaking with the complainant's CA, there appeared to be a disagreement as to whether the CA had given explicit approval to the MTA to continue to use its roads pending approval of the payment referred to by the MTA Administrator. When asked, the MTA Administrator was unable to provide a written confirmation that the CA had given its explicit approval to the MTA to continue to use its roads. We later learned that the MTA was unable to obtain approval for payments to the CA.

In addition to the Master Plan, we reviewed the relevant laws and caselaw. Based on our review, we could not find any legal authority that gave the MTA the right to operate the bus route on the private roads without the CA's prior permission. The MTA also could not provide any legal authority that allowed it to continue unauthorized use of the private roads.

Based on this review of materials and our discussion with the MTA and the CA, we informed the MTA Administrator of our finding and concerns about the continued use of the CA's roads without the clear written consent of the CA. The MTA Administrator did not share our concerns and believed that the MTA should continue its service if the CA did not explicitly tell the MTA to cease operations. The MTA Administrator also stated that, in his opinion, the

bus operations were akin to emergency service operations on private roads and asked that we provide our recommendations in writing.

We wrote to the MTA Administrator detailing our concerns and recommended that the MTA obtain explicit approval from the CA to continue operation of the bus route, and if none was provided by a certain time period, then the MTA should cease operations on the CA's roads. The MTA Administrator disagreed with our recommendation and reiterated his position that the MTA did not need the CA's explicit approval continue its operations.

We informed the MTA Administrator that we would address the matter with the HC Mayor, which we did via letter. In response to our letter to the Mayor, we received a telephone call from the HC Corporation Counsel (COR) regarding this matter. We discussed the matter with the COR and explained our concerns and findings. The COR agreed with our assessment. The COR informed us that it would work with the MTA to implement our office's recommendations on this matter. Due to administration changes at the MTA, including the resignation of the MTA Administrator with whom we spoke, there were delays in implementing our recommendations, but eventually the recommendations were carried out, and we were informed the MTA scheduled to cease operating the bus route on the CA's roads.

We notified the complainant of the action taken by the MTA.



