

ADM-6.01 - Office of the Ombudsman Policies & Procedures

OFFICE OF THE OMBUDSMAN POLICIES AND PROCEDURES

Administrative Rule Adopted by the City Auditor Pursuant to Rule Making Authority

ARB-ADM-6.01

INTRODUCTION

This document sets forth the policies, intake and case handling procedures for the Office of the Ombudsman of the City of Portland. These policies are to be used by the staff of the Ombudsman's Office in carrying out their duties and as a guideline for complainants and anyone interested in how the Office operates.

OFFICE STANDARDS AND PERSONNEL POLICIES

The policies contained in the Auditor's Employee Handbook apply to ombudsman staff. This handbook can be found online at <http://www.portlandonline.com/shared/cfm/image.cfm?id=98059> if you are logged on to the intranet as an employee. It contains information about basic human resource and office policies that apply to employees of the Auditor's office and the City. Employee benefits information can be found at <http://www.portlandonline.com/omf/index.cfm?c=26588>.

Because the Ombudsman is in the position of investigating the conduct of other City employees and encouraging them to strive for better and higher standards of public service, the standards of the Office of the Ombudsman will go beyond the minimum standards set in the Auditor's Employee Handbook. The goal is that the Ombudsman staff be exemplary employees, holding to the highest standards of conduct for public employees and avoiding behavior that would even suggest a misuse of the public's trust.

INTAKE

We have an informal complaint intake system; no specific complaint form is required. The Ombudsman's Office will accept complaints and requests for information by telephone, through email, delivered mail, by fax, or in person.

We will make reasonable accommodations for complainants with language or other communication barriers, including but not limited to using translation services, TDD phone service and traveling to interview complainants in person.

Intake should include the person's name and a street or email address, fax, or phone number where he or she can be contacted. Even when the person is just making a quick request for information or a referral, obtaining contact information is useful in case more or new information comes to light that could be helpful to the caller. A summary of the substance of the complaint and what information was provided, including what next steps were proposed should be noted at intake.

Complainants who wish to remain confidential will be told of our confidentiality policy stated below. It is our policy to protect a complainant's identity from unnecessary public disclosure, and to avoid internal disclosure when requested, but confidentiality is not automatically guaranteed to complainants. In most cases information related to the complainant will be revealed in the course of investigating the allegations. Before anyone outside the Office of the Ombudsman is contacted with identifying information about a complaint, the complainants should be advised.

Anonymous complaints are not encouraged because they draw into question the complainants' good faith. But if it is possible to investigate serious allegations without knowing the identity of the complainant an anonymous complaint will not be automatically rejected.

Types of contact

When a complaint is received, sufficient information is gathered to categorize the complaint and entered in the electronic case management database program called AIM (Administration Investigations Management). AIM breaks down all calls into these three case type categories: Information Requests, Jurisdictional and Non-jurisdictional. Most Jurisdictional and Non-Jurisdictional calls will be complaints. However we may receive the occasional compliment or commendation. These will be logged as either Jurisdictional or Non-Jurisdictional, depending upon who they are about and designated compliments under the "Type of Call" menu (which is under the "Case Type" field).

INFORMATION REQUESTS

While the primary work of the Office of the Ombudsman involves the investigation and resolution of complaints about City agencies, the Office of the Ombudsman receives many different kinds of inquiries. Questions that are not complaints are logged as Information Requests. When a person contacts the Office of the Ombudsman and requests information or advice, it is the responsibility of the staff member to whom the person speaks or writes to provide the information or refer the person to the proper source.

If someone has a complaint about a private party and they are seeking a City agency's assistance in correcting the problem, the complaint may be logged as an Information Request. While it is a complaint, it is not a complaint about a City bureau

and should not indicated as such. (If the complainant charges that the bureau involved is not responding appropriately to the concerns, then it would become a complaint against the City bureau.)

Requests for information are not reviewed for jurisdiction. Reasonable effort should be made to provide accurate, prompt information and referral whether or not the inquiry concerns a City agency. Never guess on a referral. If you don't know the answer, or are not sure, research the question in order to provide a proper referral and call the complainant back at a later time. The City's Information and Referral Line, (503) 823-4000, may also be used as a resource or referral point. Inaccurate or inappropriate referrals seriously harm the credibility of this Office.

Before making an agency inquiry or referral that includes identifying information such as name or address make sure that you have the complainants' authorization.

NON-JURISDICTIONAL COMPLAINTS

People are sometimes not sure what the Ombudsman does. Callers often contact our office looking for help with a problem unrelated to the actions of the City. If the complaint is outside of the jurisdiction of our Office, we will try to make an appropriate referral. The following types of complaints are non-jurisdictional:

- complaints against City elected officials or their personal staff;
- complaints against other governmental entities—U.S. federal agencies, the State of Oregon, County governments, Metro, Tri-Met, the Port of Portland, or Public Schools; and
- complaints against private individuals or companies.

In addition, we are prohibited from investigating "matters currently in litigation; covered by collective bargaining agreement grievance procedures; or employee or applicant discrimination complaints." PCC 3.77.120C.

JURISDICTIONAL COMPLAINTS

City code authorizes the Office of the Ombudsman to investigate the "administrative acts" of City "agencies." An administrative act is defined as "an action, failure to act, omission, decision, recommendation, practice, policy or procedure." An agent or agency is defined as "any bureau, office, institution, corporation, authority, board, commission, committee of the city and any officer, employee, or member of the forgoing entities acting or purporting to act in the exercise of their official duties, EXCEPTING: elected officials and their personal staff." PCC 3.77.020. A complaint that falls within these definitions and not excluded under PCC 3.77.120C described above, is classified as "Jurisdictional."

A jurisdictional complaint can be handled in one of several ways depending upon the amount of investigation done, resolution obtained or whether a finding of fault/no fault can be made. A complaint can be referred, declined, assistance can be provided, it can be discontinued or investigated.

In the AIM database, this classification is made in the "Details" tab on the first draw down menu labeled "Case type." This field should be filled out before a case is closed.

Refer and Monitor

The Office of the Ombudsman must not become a substitute or replacement for an agency's normal complaint resolution mechanism. All City offices and bureaus should have a system in place to receive and respond to public or employee grievances that involve them. This is a basic and important management practice. Our goal is to ensure those internal grievance systems are producing effective and just resolutions to complaints. We do that, in part, by encouraging people to use those systems and monitoring the fairness of the results. One of the first steps at intake is to determine if there are administrative options or appeals within the bureau and if the complainant has taken advantage of them. If the complainant has not yet brought the complaint to the attention of the bureau or has not yet exhausted all administrative remedies, we normally refer the matter to the bureau to offer them an opportunity to resolve the problem, unless the complaint was of such a sensitive nature that we would want to assist with bringing it to the attention of the appropriate persons.

In some cases the referral is made by transferring a caller directly to another City staff member's phone extension. In other cases we send an email with information about the complaint to the bureau explaining that we are referring the complaint for a review. Complainants should always be advised to re-contact us, if after going through the agency process, they feel they have been treated unfairly.

We do not require complainants to seek assistance through an elected official's office. However, where appropriate we do inform complainants of this option. If bureau staff and/or staff from a Commissioner's or the Mayor's office has been contacted but has not yet responded, we will inform the other people involved that we have been contacted and inquire whether they would prefer to respond to the complainant or if they would like us to investigate the matter. Our goal is to coordinate between various parties and to avoid duplication of effort.

Decline

Some complaints may be declined, even though they are within the jurisdiction of the Office of the Ombudsman. The list of reasons why the Ombudsman may decide not to investigate a complaint includes the following:

- the complainant has delayed too long
- the complainant does not have enough of a personal interest
- the complaint is being made in bad faith or to be vexatious
- the complaint is trivial or frivolous
- there are insufficient resources to adequately investigate
- other complaints are more worthy.

We may choose to investigate an untimely complaint for other reasons, such as if the magnitude of the problem is significant, or if it represents an earlier instance of an emerging pattern of problems.

These categories are described below.

Delayed too long

The Ombudsman has the discretion to decline a case if too much time has elapsed from the time the incident occurred. Someone who has not taken any action or been in contact with the City for a year or more has probably delayed too long.

Complaint lacks personal interest

The type of complaint declined under this category include complaints following a publicized agency error made by upset individuals who are not personally affected by the incident. (In Portland, most of those calls usually come into the Mayor's office.)

The fact that the complainant is not the affected individual is not necessarily grounds to deny the case. Examples of appropriate third parties to lodge complaints include:

- a parent on behalf of a child,
- a child on behalf of an elderly parent,
- someone who is fluent in English on behalf of someone who is not,
- someone assisting a person with a disability, and
- an employee of a property owner.

Bad faith, vexatious

If the Ombudsman believes that a complaint is being made for the purpose of annoying or harming an individual or agency, it can be declined as being in bad faith or vexatious.

Trivial, frivolous

A complaint where the action complained of is extremely unimportant or has no basis in fact may be declined as trivial or frivolous.

Insufficient resources

The code grants discretion to the Ombudsman to limit investigations based on the available resources. Factors to be considered include:

- Can the complaint only be properly investigated with the services of professionals with specialized skills that we are unable to obtain or contract for?
- Is necessary testimony or information relating to the complaint unavailable?

Does the complaint present issues that have been considered in a previously closed case and there is no evidence to believe that circumstances have changed since the original closure?

Additional categories

The AIM database has additional categories to classify declined cases. The full list is as follows: Available Alternate Process, Bad Faith/Vexatious, Complainant does not Provide Information, Complaint Resolved, Delayed too Long, Insufficient Resources or Expertise, Lost Contact, Necessary Identification not Provided, No Personal Interest, Non-jurisdictional Issue, Ombudsman Discretion, Previously Investigated-No New Information, Review Shows Lack of Merit, Trivial/Frivolous, and Withdrawn by Complainant.

Police Policy Issues

It is the policy of the Office of the Ombudsman to decline to investigate complaints about the Portland Police. While these cases are not technically outside our jurisdiction, by creating the Independent Police Review Division under the Auditor in 2001, City Council provided a clear avenue to address Police conduct complaints. This Office will refer Police conduct and policy issues to either the Independent Police Review Division or - the Commissioner in Charge respectively. This is a discretionary policy decision by the Ombudsman in consultation with the Auditor that could be re-examined in a particular case if it were demonstrated that an investigation by our Office would be the most appropriate course of action.

Assist

When we resolve a complaint informally by aiding in the agency's action or by providing an explanation of the status of the administrative act to the complainant, the case is categorized as an "assist." Administrative acts that lend themselves to handling as assists are typically those in which the complainant has encountered or experienced delay; the complainant usually either wants expedited action on the administrative act or some reasonable explanation of the reason for the delay.

The characteristic of an assist is its informality and its orientation toward obtaining a result. In processing a complaint as an assist, these are common features:

- the investigator strives for an informal resolution of the grievance through the active involvement of the Office;
- "minimal" inquiry is made of the agency; and
- the Office does not formally make and does not publicly issue a finding and recommendation.

Procedurally, when handling a complaint as an assist, we telephone or email directly the person who is responsible for the decision or who has custody of the records to communicate the complaint informally. The inquiry focuses on the complainant's problem (not any related program or policy concern). The goal is to effect a resolution satisfactory to both the complainant and the agency rather than to verify or substantiate a particular allegation.

Whether we assist someone or refer the case directly to the agency can depend on factors such as:

- if the delay in service appears to be unnecessarily long
- prior attempts the person has made to resolve the issue,
- if the issue involves more than one City bureau,
- if it is a new problem that we would like to understand ourselves,
- whether the person needs extra assistance communicating.

Discontinue

A case that was opened as a jurisdictional complaint might be discontinued prior to resolution. The distinction between a "declined" complaint and a "discontinued" investigation turns largely on the degree of effort after intake. On AIM the reasons for discontinuing a case are indicated in the same place as the reason for declining a case.

If after some investigative effort to determine the facts of the situation further investigation is unnecessary for reasons such as the problem is resolved, we lost contact with the complainant, the complainant pursues another remedy or facts emerge that make a complete investigation impossible, the case will be classified as a "discontinue." A rule of thumb is to make 3 attempts to contact a complainant before closing a case for lack of contact.

Investigate

Complaints which are jurisdictional and which are "appropriate subjects for investigation" may be investigated. Appropriate subjects for investigation are described in the City Code as allegations that an action or decision falls into one of the following categories:

- contrary to law, regulation, or agency practice;
- unreasonable, unfair, oppressive, arbitrary, an abuse of discretion, or unnecessarily discriminatory even though in accordance with law;
- based on mistaken facts or irrelevant considerations;
- unclear or not adequately explained;
- performed in an inefficient or discourteous manner;
- otherwise erroneous or objectionable.

PCC 3.77.120.

We gather sufficient information to classify the allegation—the subject of the investigation—beyond what a complainant might perceive as the problem. The allegation or allegations then guide the investigation.

If, for example, a complaint is categorized as a "contrary to law"-type complaint, in the course of investigating the complaint, we will (a) determine what law, if any, applies and (b) evaluate the City agency's conduct in light of that law. If, on the other hand, the allegation is that an administrative act was "arbitrary," a different standard and different method of proceeding in an investigation would be applicable. If the allegation sounded like a claim of "abuse of discretion," still a different approach would apply. In restating the complaint, the manner or choice of categorization of the complaint determines how we approach fact-gathering and subsequent analysis of the issues presented.

In the AIM case management database, there is a tab called "Allegations." To log allegations the City agency or bureau is designated an "employee." There are two possible allegation "types"--individual or systemic. The "Violation" is the definition of the allegation from the categories listed above. The "Title/Name" field is used for a subject matter classification for the complaint. New Title/Name categories can be added. The current list includes: fines or fees disputed, permit sought not granted, request for service not granted, delay, appeal process, public input not taken, lack of notice, permit/variance should

not be granted. As an investigation proceeds allegations can be added or changed.

ALLEGATION/DISPOSITION CATEGORIES

How a complaint is defined shapes its investigation. The following are definitions of typical allegations appropriate for an Ombudsman's investigation.

Abuse of Discretion

The office or bureau has discretion in a matter and either doesn't act at all or makes a finding unsupported by the evidence.

Arbitrary

There is not a valid basis or standard to justify an action or decision.

Based on a Mistake of Fact

A significant part of an agency decision is based on a misperception or misunderstanding of the relevant facts.

Contrary to Law or Administrative Practice

The action complained of violates a federal or state statute, City Code, a judicial order, an agency policy or regulation.

Irrelevant or Discriminatory Factors

The agency's action or decision is based on considerations that the City Council or similar body could not have intended to make relevant or that are not reasonably required for the attainment of the purpose that the action or decision is intended to serve. People in different situations are sometimes treated differently, but the factors applied to making a determination should be only those relevant to fairly implementing the code, not to further a particular bias.

Oppressive

Unreasonable or unjust preconditions were imposed on the complainant such that there is a flagrant inequality between the burden imposed by the City and the benefit received, and/or the complainant was placed at an unreasonable disadvantage relative to all others.

Performed Inefficiently

The agency decision making process or the implementation of an act or service is too slow and/or it requires the complainant to wade through an unreasonable amount of "red tape." An agency performs inefficiently when an administrative act exceeds:

- a limit established by law (statute, regulation, or similar enacted source); or
- a limit or a balance established by custom, good judgment, sound administrative practice, or decent regard for the rights or interests of the person complaining or of the general public.

Performed Discourteously

Unprofessional conduct (complaints alleging that an employee's performance was negligent or failed in a duty that the employee owed to the public apart from misconduct under the state's criminal statute) or individual rudeness or discourtesy.

Unreasonable

A procedure adopted and followed by an agency in the management of a program is inconsistent with, or fails to achieve, the purposes of the program.

Unfair

The action taken or the decision made was flawed because of an inequitable balance between the agency and a complainant in the decision-making process. Elements of due process, such as adequate notice, opportunity to be heard, creation of a record and having an unbiased decision-maker may be lacking.

Unsupported by an Adequate Statement of Reasons

The complainant's concerns are not addressed or explained directly and completely in a decision; the decision of the agency does not plainly state the rule of law and/or the factual assertions on which it is based; the reasons provided are not comprehensible or appropriately documented.

Otherwise Erroneous

When nothing else fits, use this sparingly and with a full explanation of the specifics of the claim.

WHAT IS AN INVESTIGATION?

An investigation is a thorough and systematic attempt to learn all the facts about a complaint and any directly related policy issues. A complete and accurate investigation describes the factual basis of the alleged grievance, examines the principles applicable to making a determination and attempts to define a proper remedy.

There is no single outline of investigative procedures that would cover all points. Recall that, with reference to any complaint, there are usually both the particulars of the complainant's situation and a general policy which applies to many other cases. Any investigation should address both.

In summary, the investigator is responsible to:

- obtain from the complainant a statement of the complaint and all the facts bearing on investigation of the complaint;
- classify the allegation(s) to be investigated;
- plan the investigation;
- conduct the investigation;
- evaluate the complaint, the facts obtained, and the applicable law, and present a suggested finding and recommendation to the Ombudsman for disposition of the complaint;
- evaluate the agency's response to findings and recommendations returned by the agency;
- organize and maintain the complaint file; and
- conclude the investigation.

FILE MANAGEMENT

We use both electronic and paper files. Every contact, complaint or information request has a file on AIM. When we receive documents related to a case, we store them in a paper file. There is a place in the "Details" tab on AIM to indicate when there is a paper file.

When a case is closed, the information in the "Details" tab should be filled out. There are fields to indicate how the case was handled, whether or not a resolution was achieved, if findings or recommendations were made, if the case should be remembered for the annual report and if there is a paper file.

According to the City Record's Retention schedule, Ombudsman complaint records are retained for 5 years after the last action. Our general intake records are retained for 3 years. Our investigative and annual reports are retained permanently.

COMMUNICATING WITH COMPLAINANTS

People with grievances about government often have difficulty focusing on, or articulating the basic cause or reason for their complaint. Ombudsman staff should help complainants identify the root causes for their concerns, identify the issues which need to be reviewed and identify if there is an appeal or alternative way to resolve their complaint. If an investigation is necessary, the complaint should be reworded as an allegation using one of the allegation categories listed above.

One of the better ways to identify the important aspects of the complaint is to ask the complainant to relate, both chronologically and then more specifically and systematically, the nature of the problem. In any initial fact-finding intake interview, be sure to ask the complainant:

- What happened? Who, What, Where, When, How?
- What documents or other evidence do you have relevant to the complaint?
- Why do you believe you are entitled to relief?
- What resolution or outcome are you seeking?

It is important to treat complainants with respect. They are likely to perceive us to be less a part of the bureaucracy if we do not treat them impersonally and if we do not require them to hang up and call another phone number. However, in some cases, requiring the complainant to take an affirmative step to attempt to resolve the problem can be empowering and a measure of how important the complaint really is to the person.

A complainant should be prepared to provide all information bearing on the complaint in his or her possession. But, this obligation on their part does not relieve us of our obligation to assist those who do not have sufficient English or verbal skills to express their complaint well. Staff should be especially sensitive in those cases.

The Ombudsman's Office, in turn, has an obligation to maintain communication with the complainant. In some cases it is appropriate to communicate in writing, in others cases, telephone or in-person communication is sufficient. The AIM database notes field should reflect the content of the status information that was shared with the complainant.

We will inform the complainant of a decision to decline a case within 15 days of receiving a complaint or as soon as possible after a decision to discontinue an investigation. Generally, the decision can be communicated in the manner the complaint was received. In certain cases the decision will be best explained in writing. When a complaint is closed without resolution,

we will make every attempt to provide information to the complainant regarding other available assistance.

COMMUNICATING WITH AGENCIES

The Code provides the following regarding communications with agencies:

- A. "The Ombudsman may make recommendations to an agency for the resolution of complaints and inquiries in accordance with this chapter.
- B. In seeking a resolution to a complaint or inquiry the Ombudsman may draw the matter to the attention of any bureau head or division manager, the City Auditor, Mayor, City Commissioner, or the public.
- C. Before formally issuing a report with a conclusion or recommendation that is significantly critical or adverse to an agency, the Ombudsman shall have consulted with that agency and permitted the agency reasonable opportunity to reply. The Ombudsman may require an agency to notify him or her within a reasonable specified time of any action taken on a conclusion or recommendation. The Ombudsman will provide the opportunity to include with a final report a brief statement by the agency." PCC 3.77.130

When a complaint has been accepted as jurisdictional and it has been determined that there are no other administrative avenues for the complainant to pursue we will attempt to identify the bureau representative most knowledgeable about the situation. The Ombudsman will work with the management of each City office or bureau to identify their preferred path for accomplishing this,, although the Ombudsman will retain discretion to proceed as he or she sees fit in any given case. In many instances, we will contact an assistant to the Bureau director, give a short synopsis of the problem, and that person will direct us to the appropriate person within the agency to address the matter. This contact can be made over the phone, by email, or in person. The initial facts sought from the bureau staff will be the following:

- What happened? Who, What, Where When, How?
- What records are available relevant to the complaint?
- What is the relevant City Code section or policy?
- What alternative outcomes are there?

Our goal is to have an open and neutral approach, explaining that while we are communicating the complaint to the bureau we are not necessarily agreeing with the complaint. We will be looking for all the relevant factual information to find a resolution that benefits the City and the complainant, and one that represents fair and just public policy.

A record of phone calls made to City bureaus and agencies should be logged in the notes section of the database. Email messages are cut and pasted into the AIM notes field. Sometimes they are also printed out and stored in a paper file.

CONFIDENTIALITY POLICY

Two sections of the City Code provide for the confidentiality of information regarding complainants and witnesses. They are as follows:

Powers and Duties

"To maintain confidential any matter related to complaints and investigations to the extent allowable by law, except as the Ombudsman deems necessary to discharge the Ombudsman's duties or as directed by the District Attorney pursuant to a public records request."

PCC 3.77.110F

Investigations of Complaints

"The Ombudsman shall protect the confidentiality of complainants or witnesses coming before him or her consistent with the requirements of the Oregon Public Records Law, except insofar as disclosures may be necessary to enable the Ombudsman to carry out his or her duties or the disclosure of records is directed by the District Attorney."

PCC 3.77.120E

The purpose of offering to keep complaint and witness information confidential is to encourage citizens to bring their concerns or complaints to the attention of the Ombudsman and to encourage witnesses and City employees to speak freely about what could possibly be controversial issues.

However, all documents received or created by the Office of the Ombudsman are considered to be "public records" within the meaning of the Oregon Public Records Law. The Public Records Law conditionally allows certain public records to be exempt from disclosure. Oregon Revised Statutes 192.502 (4) contains the following conditional exemption from the public records disclosure requirement: "Information submitted to a public body in confidence and not otherwise required by law to be submitted, where such information should reasonably be considered confidential, the public body has obliged itself in good faith not to disclose the information, and when the public interest would suffer by the disclosure."

State law regarding mediation found at ORS Chapter 36 and the confidentiality provisions of ORS 36.220 may pertain to the work of the Ombudsman. State law defines mediation as "a process in which a mediator assists and facilitates two or more parties to a controversy in reaching a mutually acceptable resolution of the controversy and includes all contacts between a mediator and any party or agent of a party, until such time as a resolution is agreed to by the parties or the mediation process is terminated." ORS 36.110(6). While this could be interpreted to include the work of an Ombudsman, the role of an Ombudsman is traditionally seen as distinct from that of a mediator.

In order to assert the confidentiality of Ombudsman file documents, we have a form to be filled out and signed by the person requesting confidentiality. **[Attached as Appendix 1]**. This form constitutes a commitment by the Office of the Ombudsman to exempt documents submitted by the complainant from public disclosure, to the extent permitted by this statute. This means that the Office of the Ombudsman will seek to have records exempted from public record requests when the form has been filed. It is not however, an absolute guarantee that a court or the District Attorney might not order production of the documents.

The issue of whether or not complaint information must be released under a public records act request is separate from how an investigator handles information about a complainant. A complainant can remain totally anonymous, however without a name or contact information, we cannot report our progress or follow-up with questions to the complainant. Complainants who are hesitant to have their identity shared with the office or bureau with which they are having a problem should be informed of PCC 3.77.210 which prohibits reprisals against complainants.

REPORTS

There are two types of reports written and issued by the Office of the Ombudsman: Investigation Reports and Annual Reports.

Investigation Reports

Portland City Code states: "If, after investigation, the Ombudsman is of the opinion that an agency should:

1. consider the matter further,
2. modify or cancel an act,
3. alter a regulation, ruling, practice, policy or procedure,
4. explain more fully the act in question,
5. rectify an omission, or take any other action,

the Ombudsman shall state any conclusions, recommendations and reasons therefor to the agency...After a reasonable period of time has elapsed, the Ombudsman may issue his or her final conclusions or recommendations to the Auditor, the Mayor and City Commissioners, a grand jury, the public, or any other appropriate authority." PCC 3.77.150 A-B. Normally, the Auditor is given an opportunity to review a draft report before it is released to others.

The formal mechanism for releasing an opinion and recommendations is through an investigation report. A report will typically contain the following:

- a statement of the complaint,
- the case history,
- a description of the steps taken in the investigation,
- findings,
- recommendations, and
- the agency's response.

The complaint file should contain documentation to verify the significant elements of the findings, which can be presented in a more summary manner for the benefit of the reader.

City Code requires that: "Before formally issuing a report with a conclusion or recommendation that is significantly critical or adverse to an agency, the Ombudsman shall have consulted with that agency and permitted the agency reasonable opportunity to reply." PCC 3.77.130.

The Ombudsman can set a reasonable deadline for the agency to respond before publication of the final report. If the agency does make a response, it will be included with the report. If the agency does not respond that fact will be noted in the final report.

The report will be posted on the Office of the Ombudsman website. It is preferable to obtain the complainants' consent before using their names or other identifying information. The Ombudsman may remove the names of City employees from reports when asked, although this is not a requirement. In some cases the report will be called to the attention of the media in consultation with the subject bureau and in consideration of the potential public interest.

Annual Reports

The Annual Report functions as an outreach tool to inform the public about the issues being addressed by the Office, as a

mechanism to increase government accountability by describing the types of complaints that arise, and as a management tool to advise the Auditor and City Council about the activities of the Office.

The Annual Report may include articles on the following topics:

- Case types
- How to Contact the Office
- How to File a Complaint
- Caseload Statistics
- Selected Case Stories
- Citizen Satisfaction Survey Results
- Administration and Development
- Acknowledgements, and
- Future plans.

The Annual Report is required by City Code. PCC 3.77.170. It is normally available in print and on the Ombudsman website.

STAFF MEETINGS

We hold staff meetings Monday mornings at 10 am, unless there is a scheduling conflict. Past and current agendas are kept in a folder in the Ombudsman directory (O drive) along with minutes. During the week, staff can add items they would like to discuss to the upcoming agenda. Each week we will conduct a case review at the staff meeting, going over a printout of the list of open cases.

APPENDIX 1

Ombudsman Office - Document Confidentiality Evaluation Form

Portland City Code, Chapter 3.77 established a City Ombudsman. In order to encourage people to bring their concerns or complaints about a City action to the attention of the Ombudsman, the Office of the Ombudsman will, when requested, exempt documents submitted by complainants from disclosure subject to the limitations described in this evaluation form and applicable law. If it concludes an exemption from the disclosure requirement is available, the Office of the Ombudsman will assert that exemption until a District Attorney or court determines pursuant to a public records request that the exemption does not apply. Separate forms must be filled out for separate document submissions, since a determination of exemption must be made on a document-by-document basis.

All documents received or created by the Office of the Ombudsman are "public records" within the meaning of the Oregon Public Records Law. The Public Records Law conditionally allows certain public records to be exempt from disclosure. ORS 192.502 (4) contains the following conditional exemption from the public records disclosure requirement: "Information submitted to a public body in confidence and not otherwise required by law to be submitted, where such information should reasonably be considered confidential, the public body has obliged itself in good faith not to disclose the information, and when the public interest would suffer by the disclosure." This form constitutes a commitment by the Office of the Ombudsman to exempt documents submitted by the complainant from public disclosure, to the extent permitted by this statute.

The State Attorney General's Public Records Manual lists five conditions that must be met for the exemption to apply. Describe below why each condition is satisfied. Two of the conditions are already addressed, because this form provides a basis for responding to those elements of the statutory test.

1. The informant (person) must have submitted the information on the condition that the information would be kept confidential.

Applies because complainant, by signing this form, is requesting confidentiality to the extent permitted by the Public Records Law.

2. The informant (person) must not have been required by law to provide the information.

Applies because:

3. The information itself must be of a nature that reasonably should be kept confidential.

Applies because:

4. The public body must show that it has obliged itself in good faith not to disclose the information.

Applies because the Office of the Ombudsman, by providing this form to complainant, is undertaking to exempt documents provided by complainant from public disclosure as described above.

5. Disclosure of the information must cause harm to the public interest.

Applies because:

DESCRIPTION OF ATTACHED DOCUMENTS TO WHICH THIS REQUEST APPLIES:

Person: _____

Date: _____

HISTORY

Approved by City Auditor and filed for inclusion in PPD October 1, 2003.