Robin K. Matsunaga
Ombudsman

DEPT. COMM. NO. 146

Yvonne M.F. Jinbo
First Assistant

OFFICE OF THE OMBUDSMAN
STATE OF HAWAII
465 South King Street, 4th Floor
Honolulu, Hawaii 96813
Tel: 808-587-0770 Fax: 808-587-0773 TTY: 808-587-0774
complaints@ombudsman.hawaii.gov

December 15, 2023

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 House Speaker Scott Saiki, of electronic submittal of reports to the Legislature, our Annual Report 54 for fiscal year 2023 has been transmitted electronically.

In accordance with Section 93-16, HRS, we will be transmitting a printed copy of this report to the Legislative Reference Bureau Library.

The report is available on our website at: 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.

Sincerely yours,

ROBIN K. MATSUNAGA
Ombudsman

RKM:cy

cc: Legislative Reference Bureau Library

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December 15, 2023

Honorable Scott K. Saiki
Speaker of the House of Representatives
State Capitol, Room 431
415 S. Beretania Street
Honolulu, HI 96813

Dear Speaker Saiki:

Pursuant to Sections 93-16 and 96-16, Hawaii Revised Statutes (HRS), and the November 16, 2018 Memorandum from Senate President Kouchi and House Speaker Scott Saiki, of electronic submittal of reports to the Legislature, our Annual Report 54 for fiscal year 2023 has been transmitted electronically.

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Sincerely yours,

ROBIN K. MATSUNAGA
Ombudsman

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cc: Legislative Reference Bureau Library

Office of the Ombudsman
State of Hawaii
Fiscal Year 2022-2023
Report Number 54

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**
website: **ombudsman.hawaii.gov**

State of Hawaii

Report of the Ombudsman

For the Period July 1, 2022 - June 30, 2023
Report No. 54

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

December 2023

Mr. President, Mr. Speaker, and Members of the
Hawaii State Legislature of 2024:

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 2022-2023. This is the fifty-fourth annual report since the establishment of the office in 1969.

I would like to thank the State Legislature for its ongoing support of the Office of the Ombudsman and allowing us to continue to serve as a link between the people and their government. We remain committed in our efforts to ensure the lawful, fair, and impartial delivery of government services.

The Office of the Ombudsman would not be able to resolve complaints or bring about administrative improvements without the full cooperation of the executive branches of the State and County governments. For their continued cooperation and assistance, I extend my sincere appreciation to the Governor, the Mayors of the various counties, and the State and County department heads and employees.

I would also like to personally thank each of the staff of the Office of the Ombudsman for their continued commitment to independently and impartially investigate citizen complaints against government and to improve the level of public administration in Hawaii.

Respectfully submitted,

ROBIN K. MATSUNAGA
Ombudsman

December 2023

TABLE OF CONTENTS

Chapter I

THE YEAR IN BRIEF

Total Inquiries Received

During fiscal year 2022-2023, the office received a total of 4,797 inquiries, a 5.7 percent decrease from the prior fiscal year. Of the total inquiries, 3,708, or 77.2 percent, may be classified as complaints within the jurisdiction of the office. The remaining inquiries consisted of 468 requests for information and 621 non-jurisdictional complaints.

We received 114 more non-jurisdictional complaints during fiscal year 2022-2023, an increase of 22.5 percent over the prior fiscal year. The number of jurisdictional complaints decreased by 10.3 percent from the prior fiscal year. Complaints involving the State's adult corrections programs decreased by 15.2 percent, while the number of other complaints decreased by 0.5 percent.

A comparison of inquiries received in fiscal year 2021-2022 and fiscal year 2022-2023 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
2022-2023	4,797	468	621	3,708	2,348	1,360
2021-2022	5,089	446	507	4,136	2,769	1,367
Numerical Change	-292	22	114	-428	-421	-7
Percentage Change	-5.7%	4.9%	22.5%	-10.3%	-15.2%	-0.5%

Staff Notes

In October 2022, Analyst Ryan Yeh celebrated 20 years of employment in public service. Prior to joining our office, Mr. Yeh was employed by the City and County of Honolulu, the Department of Commerce and Consumer Affairs, and the University of Hawaii. Congratulations and thank you, Mr. Yeh, for your contribution, dedication, and hard work.

In January 2023, Analyst Fahzeela Mohamed resigned from her position. We thank Ms. Mohamed for her hard work and contribution to our office, and wish her well in her future endeavors.

In January 2023, Shannon McMahon joined our office as an Analyst. Prior to joining our team, Ms. McMahon was employed in the private sector and prior to that was a Benefits Audit Specialist at the Hawaii Employer-Union Health Benefits Trust Fund, Department of Budget and Finance.

In January 2023, Jonathan Gonzalez also joined our office as an Analyst. Mr. Gonzalez was employed as a Management Analyst with the US Department of Housing and Urban Development prior to joining our office.

In March 2023, Analyst Abdulrahman Omar resigned from his position. We thank Mr. Omar for his dedication to public service and commitment to the service our office provides. We wish him well.

In March 2023, Analyst Megan Ito-Shigetomi resigned from her position. We thank Ms. Ito-Shigetomi for the excellent service she provided to the public and her valued contribution to our office. We wish her the best in her new endeavors.

In March 2023, Yvonne Jinbo was appointed First Assistant. As First Assistant, Ms. Jinbo serves as second in command to the Ombudsman, and is responsible for supervising the Analyst staff. Ms. Jinbo previously served as an Analyst from May 2002 to March 2023.

In March 2023, Administrative Assistant Sheila Alderman retired after more than 22 years of service with the State of Hawaii, all of which has been as a member of our team. She was a valuable asset with a wealth of institutional knowledge. We were very fortunate to have Ms. Alderman as a team member and extend our gratitude to her for her dedication and commitment to our office.

In April 2023, the appointment of our former First Assistant, Melissa Chee, ended. We thank Ms. Chee for her dedication and contribution to our office, and wish her the best in her new endeavors.

In May 2023, Carly Shriver-Kealoha joined our office as an Administrative Assistant. Prior to joining our team, Ms. Shriver-Kealoha was employed at the Disability and Communications Access Board, Department of Health.

At the end of fiscal year 2023, our office staff consisted of Ombudsman Robin Matsunaga; First Assistant Yvonne Jinbo; Analysts Jonathan Gonzalez, Matthew Kajiura, Shannon McMahon, Marcie McWayne, and Ryan Yeh; Administrative Services Officer Cindy Yee; and Administrative Service Assistants Jessen Corpuz, Debbie Goya, and Carly Shriver-Kealoha.

Staff Activities

In August 2022, Ombudsman Robin Matsunaga met with newly appointed Washington DC Ombudsman for Children, Shalonda Cawthon, via Zoom regarding setting up her new office. The Washington DC Ombudsman was created to promote child safety and well-being and serves as an impartial liaison to constituents seeking resolution to issues for children and young people's rights.

In September 2022, the United States Ombudsman Association held its 41st Annual Conference as an in-person event in New Hampshire at the Sheraton Portsmouth Harborside Hotel. In attendance were Analyst Matthew Kajiura, Analyst Abdulrahman Omar, and Ombudsman Matsunaga.

In October 2022, our office provided the Hawaii Election Advisory Council (EAC) with a representative to serve as an official observer during the 2022 state election. Analyst Marcie McWayne attended training sessions in order to prepare for her duties. Her participation as an official observer helped ensure the honesty and efficiency that Hawaii's citizens expect from the officials who conduct the elections.

In March 2023, Ombudsman Matsunaga met via Zoom with Christin Johnson, Oversight Coordinator of the Hawaii Correctional System Oversight Commission to discuss the similarities and differences in the purpose and function of the two agencies. In 2019, the Hawaii State Legislature created this five-member, independent commission to help improve Hawaii's corrections system, including prison overcrowding.

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 2022-2023

Month	Total Inquiries	Jurisdictional Complaints	Non-Jurisdictional Complaints	Information Requests
July	356	262	47	47
August	378	303	31	44
September	403	320	42	41
October	403	336	33	34
November	451	331	83	37
December	436	327	57	52
January	437	341	61	35
February	368	290	49	29
March	365	272	51	42
April	384	284	63	37
May	474	372	62	40
June	342	270	42	30
TOTAL	4,797	3,708	621	468
% of Total Inquiries	--	77.3%	12.9%	9.8%

TABLE 2
MEANS BY WHICH INQUIRIES ARE RECEIVED
Fiscal Year 2022-2023

Month	Telephone	Mail	Email	Fax	Visit	Own Motion
July	323	6	27	0	0	0
August	327	9	42	0	0	0
September	368	21	14	0	0	0
October	355	12	35	0	0	1
November	413	9	29	0	0	0
December	400	2	34	0	0	0
January	390	23	24	0	0	0
February	319	19	30	0	0	0
March	318	2	45	0	0	0
April	353	9	22	0	0	0
May	439	6	26	0	3	0
June	312	6	21	0	3	0
TOTAL	4,317	124	349	0	6	1
% of Total Inquiries (4,797)	90.0%	2.6%	7.3%	0.0%	0.1%	0.0%

TABLE 3
DISTRIBUTION OF POPULATION AND INQUIRERS BY RESIDENCE
Fiscal Year 2022-2023

Residence	Population*	Percent of Total Population	Total Inquiries	Percent of Total Inquiries
City & County of Honolulu	995,638	69.1%	3,704	77.2%
County of Hawaii	206,315	14.3%	433	9.0%
County of Maui	164,433	11.4%	376	7.8%
County of Kauai	73,810	5.1%	101	2.1%
Out-of-State	--	--	183	3.8%
TOTAL	1,440,196	--	4,797	--

*Source: The State of Hawaii Data Book 2022, A Statistical Abstract. Hawaii State Department of Business, Economic Development, and Tourism, Table 1.06, "*Resident Population, by County: 2020 to 2022.*"

TABLE 4
DISTRIBUTION OF TYPES OF INQUIRIES
BY RESIDENCE OF INQUIRERS
Fiscal Year 2022-2023

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	2,888	77.9%	436	70.2%	380	81.2%
County of Hawaii	339	9.1%	68	11.0%	26	5.6%
County of Maui	292	7.9%	57	9.2%	27	5.8%
County of Kauai	83	2.2%	7	1.1%	11	2.4%
Out-of-State	106	2.9%	53	8.5%	24	5.1%
TOTAL	3,708	--	621	--	468	--

TABLE 5
MEANS OF RECEIPT OF INQUIRIES
BY RESIDENCE
Fiscal Year 2022-2023

Residence	Total Inquiries	Means of Receipt					
		Telephone	Mail	Email	Fax	Visit	Own Motion
C&C of Honolulu	3,704	3,409	58	230	0	6	1
% of C&C of Honolulu	--	92.0%	1.6%	6.2%	0.0%	0.2%	0.0%
County of Hawaii	433	378	11	44	0	0	0
% of County of Hawaii	--	87.3%	2.5%	10.2%	0.0%	0.0%	0.0%
County of Maui	376	329	13	34	0	0	0
% of County of Maui	--	87.5%	3.5%	9.0%	0.0%	0.0%	0.0%
County of Kauai	101	90	1	10	0	0	0
% of County of Kauai	--	89.1%	1.0%	9.9%	0.0%	0.0%	0.0%
Out-of-State	183	111	41	31	0	0	0
% of Out-of-State	--	60.7%	22.4%	16.9%	0.0%	0.0%	0.0%
TOTAL	4,797	4,317	124	349	0	6	1
% of Total	--	90.0%	2.6%	7.3%	0.0%	0.1%	0.0%

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

Agency	Juris-dictional Complaints	Percent of Total	Completed Investigations		Discon-tinued	Declined	Assisted
			Substan-tiated	Not Substan-tiated			
State Departments							
Accounting & General Services	16	0.5%	1	2	4	5	4
Agriculture	1	0.0%	0	0	0	1	0
Attorney General	34	1.0%	0	2	6	23	3
Budget & Finance	55	1.6%	2	5	5	28	15
Business, Economic Devel. & Tourism	6	0.2%	0	2	2	2	0
Commerce & Consumer Affairs	43	1.2%	1	4	3	31	4
Defense	6	0.2%	0	2	0	3	1
Education	37	1.0%	1	1	7	27	1
Hawaiian Home Lands	11	0.3%	1	1	1	8	0
Health	89	2.5%	3	3	14	57	12
Human Resources Development	5	0.1%	0	0	1	4	0
Human Services	413	11.7%	4	22	28	202	157
Labor & Industrial Relations	101	2.9%	3	7	23	64	4
Land & Natural Resources	44	1.2%	3	1	19	21	0
Office of Hawaiian Affairs	4	0.1%	0	0	0	4	0
Public Safety	2,263	63.9%	61	344	409	1,236	213
Taxation	26	0.7%	1	1	2	17	5
Transportation	35	1.0%	3	1	5	24	2
University of Hawaii	10	0.3%	0	0	9	2	0
Other Executive Agencies	21	0.6%	0	0	15	5	1
Counties							
City & County of Honolulu	233	6.6%	2	12	34	174	11
County of Hawaii	55	1.6%	0	0	4	49	2
County of Maui	24	0.7%	0	3	3	18	0
County of Kauai	11	0.3%	0	2	3	4	2
TOTAL	3,543	--	86	415	597	2,009	437
% of Total Jurisdictional Complaints	--	--	2.4%	11.7%	16.9%	56.7%	12.3%

TABLE 7
DISTRIBUTION AND DISPOSITION OF SUBSTANTIATED JURISDICTIONAL COMPLAINTS BY AGENCY
Fiscal Year 2022-2023

Agency	Substantiated Complaints	Complaints Rectified	Not Rectified/ No Action Necessary
State Departments			
Accounting & General Services	1	1	0
Agriculture	0	0	0
Attorney General	0	0	0
Budget & Finance	2	2	0
Business, Economic Devel. & Tourism	0	0	0
Commerce & Consumer Affairs	1	1	0
Defense	0	0	0
Education	1	1	0
Hawaiian Home Lands	1	1	0
Health	3	3	0
Human Resources Development	0	0	0
Human Services	4	4	0
Labor & Industrial Relations	3	3	0
Land & Natural Resources	4	4	0
Office of Hawaiian Affairs	0	0	0
Public Safety	61	58	3
Taxation	1	0	1
Transportation	2	2	0
University of Hawaii	0	0	0
Other Executive Agencies	0	0	0
Counties			
City & County of Honolulu	2	2	0
County of Hawaii	0	0	0
County of Maui	0	0	0
County of Kauai	0	0	0
TOTAL	86	82	4
% of Total Substantiated Jurisdictional Complaints	--	95.3%	4.7%
% of Total Completed Investigations (501)	17.2%	16.4%	0.8%

TABLE 8
DISTRIBUTION OF INFORMATION REQUESTS
Fiscal Year 2022-2023

Agency	Information Requests	Percent of Total
State Departments Accounting & General Services	6	1.3%
Agriculture	1	0.2%
Attorney General	9	1.9%
Budget & Finance	6	1.3%
Business, Economic Devel. & Tourism	0	0.0%
Commerce & Consumer Affairs	14	3.0%
Defense	0	0.0%
Education	4	0.9%
Hawaiian Home Lands	2	0.4%
Health	20	4.3%
Human Resources Development	0	0.0%
Human Services	19	4.1%
Labor & Industrial Relations	7	1.5%
Land & Natural Resources	3	0.6%
Office of Hawaiian Affairs	0	0.0%
Public Safety	71	15.2%
Taxation	6	1.3%
Transportation	3	0.6%
University of Hawaii	1	0.2%
Other Executive Agencies	7	1.5%
Counties City & County of Honolulu	43	9.2%
County of Hawaii	4	0.9%
County of Maui	3	0.6%
County of Kauai	1	0.2%
Miscellaneous	238	50.9%
TOTAL	468	--

TABLE 9
DISTRIBUTION OF NON-JURISDICTIONAL COMPLAINTS
Fiscal Year 2022-2023

Jurisdictional Exclusions	Number of Complaints	Percent of Total
Collective Bargaining	2	0.3%
County Councils	3	0.5%
Federal Government	60	9.7%
Governor	17	2.7%
Judiciary	101	16.3%
Legislature	17	2.7%
Lieutenant Governor	2	0.3%
Mayors	0	0.0%
Multi-State Governmental Entity	9	1.4%
Private Transactions	409	65.9%
Miscellaneous	1	0.2%
TOTAL	621	--

TABLE 10
INQUIRIES CARRIED OVER TO FISCAL YEAR 2022-2023 AND THEIR DISPOSITIONS, AND INQUIRIES CARRIED OVER TO FISCAL YEAR 2023-2024

Types of Inquiries	Inquiries Carried Over to FY 22-23	Inquiries Carried Over to FY 22-23 and Closed During FY 22-23	Balance of Inquiries Carried Over to FY 23-24	Inquiries Received in FY 22-23 and Pending	Total Inquiries Carried Over to FY 23-24
Non-Jurisdictional Complaints	3	3	0	2	2
Information Requests	6	6	0	0	0
Jurisdictional Complaints	119	115	4	165	169
		Disposition of Closed Complaints: Substantiated 21 Not Substan. 62 Discontinued 32 115			
TOTAL	128	124	4	167	171

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 54, please visit our website at 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

DEPARTMENT OF HEALTH

(22-04964) Department of Health did not pay a former employee the correct amount for her unused vacation time. We received a complaint from a former Department of Health (DOH) employee who believed she was not paid the correct amount for her unused vacation time because Social Security taxes, Medicare taxes, State of Hawaii income tax withholdings, and federal income tax withholdings were deducted from her gross vacation payout. The complainant informed us that the payment for the vacation time was supposed to go into her deferred compensation account and should not have been subject to taxes.

We spoke to staff at the DOH and confirmed that the complainant was paid for her unused vacation time, and pursuant to the complainant's request, the vacation payout was deposited into the complainant's deferred compensation account. We also confirmed that Social Security taxes, Medicare taxes, State of Hawaii income taxes, and federal income taxes were deducted from the complainant's vacation payout.

We reviewed the Hawaii Revised Statutes (HRS) applicable to deferred compensation under Chapter 88; the Hawaii Administrative Rules applicable to deferred compensation under Title 14, Chapters 41-44; and the Internal Revenue Code (IRC) applicable to deferred compensation under Title 26 of the Code of Federal Regulations (CFR), Section 457. We found that the maximum deferral amount per taxable year in the State's deferred compensation plan is identical to the limits established in Title 26 of the CFR, Section 457. We also found that the amount of compensation deferred under a deferred compensation plan is includible in gross income only for the taxable year in which the compensation is paid to the participant or beneficiary or is otherwise made available to the participant or beneficiary.

We also reviewed the HRS applicable to withholding of tax on wages under Chapter 235 and Internal Revenue Service (IRS) Publications applicable to taxable and nontaxable income under Publication 525 and applicable to withholding of employee taxes under Publication 15. We found that employers in the State of Hawaii are generally required to withhold from an employee's wages an amount of state income tax imposed upon each employee's annual wage, as estimated from the employee's current wage in any withholding period. We also found that employers are also generally required to withhold federal income tax and deduct from the employee's earned wages Social Security taxes and Medicare taxes. For the year 2022, the Social Security tax rate was 6.2%, and the Medicare tax rate was 1.45%.

We reviewed the IRC applicable to tax implications for excess deferrals under Title 26 of the CFR, Section 1.457-4. We also reviewed IRS Publications applicable to Social Security and Medicare Withholdings under IRS Topic No. 751 and applicable to basic elective deferral limits. We found

that Social Security and Medicare taxes are determined by the gross amount of income earned. We also found that the maximum deferral limit for the year 2022 was $20,500.00.

Although the complainant was an employee of the DOH, deductions from her pay were processed by the Department of Accounting and General Services (DAGS), which is the State's centralized payroll processing agency. We spoke to the Administrator of the Accounting Division of DAGS about the withholding of State of Hawaii and federal income taxes from payouts for an employee's unused vacation time that are deposited into the employee's deferred compensation account. The Administrator confirmed that deferrals in excess of the maximum deferral limit are subject to State of Hawaii and federal income tax withholding.

We found that the complainant's entire vacation payout was subject to Social Security and Medicare taxes. We also found that the complainant's vacation payout, which was deposited into her deferred compensation account, exceeded the maximum deferral limit. Therefore, the portion of the complainant's vacation payout that exceeded the deferral limit was subject to State of Hawaii and federal income tax withholding. We found that the correct amount of Social Security and Medicare taxes, based on the complainant's gross amount of income earned, had been withheld from the complainant's vacation payout. We were unable to determine if the exact amount of State and federal income taxes had been withheld, but we were able to determine that the amounts withheld were not more than what should have been withheld from the complainant.

Based on our investigation, we determined the DOH did not act improperly under State of Hawaii and federal law and that the deductions of the various taxes were proper. We notified the complainant and the DOH that we did not substantiate this complaint.

DEPARTMENTS OF LAND AND NATURAL RESOURCES AND TRANSPORTATION

(23-00330/23-00331) Parking along Pali Highway for persons hiking the Maunawili Trail. A man complained that the Division of Forestry and Wildlife (DOFAW), Department of Land and Natural Resources, directed hikers to park in a restricted parking area along Pali Highway when hiking the Maunawili Trail. The hiker also complained that the Department of Transportation (DOT) did not post signs in the area notifying motorists that parking for more than two hours was prohibited.

The complainant stated that the Na Ala Hele Trail & Access Program website, which is administered by the DOFAW, provided information about

access to the Maunawili Trail and directed hikers to specifically park in the scenic lookout turnout area just after the hairpin turn along Pali Highway. The complainant followed the directions as stated on the website. While parking, he did not see any posted signs indicating that parking in that area was restricted. However, when the complainant returned from his hike several hours later, there was a parking citation on his vehicle. The police officer who issued the citation was still in the area when the complainant returned to his car. According to the complainant, the officer explained that the basis for the citation was Section 15-16.4, Revised Ordinances of Honolulu (ROH), which prohibited parking off a federal aid highway for longer than 120 minutes.

Section 15-16.4, ROH, states in relevant part:

Restricted parking on federal-aid highways.

(a) No person shall park a vehicle within any off-street parking area of the federal-aid highway system during the hours of two a.m. to five a.m. . . . .

(b) No person shall park a vehicle within any such off-street parking area for a period of time longer than 120 minutes during the hours of five a.m. to two a.m.

. . . .

(d) The state director of transportation shall install appropriate signs identifying the off-street parking areas and indicating their restricted use for parking only.

We contacted the DOFAW regarding the complaint about erroneous parking directions. We were informed that the DOFAW was aware of the complaint and had updated the information on the Na Ala Hele Trail & Access Program website. In addition, the DOFAW posted a parking advisory on the website for the Maunawili Trail that alerted hikers that parking in the scenic lookout turnout area was limited to two hours. We visited the website and confirmed that the information was updated.

Based on our investigation, we found that the DOFAW should have been aware of the parking restriction in the area in question and provided proper notice on their website accordingly. We were satisfied with the corrective action taken by the DOFAW and had no further recommendations.

Concurrent with our investigation of the complaint regarding the erroneous parking directions, we also investigated the complaint against the DOT regarding the lack of signage in the scenic lookout turnout area. We reviewed Section 291C-111, Hawaii Revised Statutes, which states in relevant part:

Noncompliance with stopping, standing, or parking requirements.

(b) The director of transportation, the counties, and owners of private highways, with the consent of the county official responsible for traffic control with respect to highways under their respective jurisdictions shall place signs or curb markings that are clearly visible to an ordinarily observant person prohibiting or restricting the stopping, standing, or parking of vehicles on the highway. Such signs or curb markings shall be official signs and markings and no person shall stop, stand, or park any vehicle in violation of the restrictions stated on such signs or markings.

We contacted the DOT regarding the complaint about the lack of signage in the scenic lookout turnout area. We were informed that the DOT was aware of the complaint and had submitted a work order to install signs in compliance with Section 291C-111(b), HRS, and Section 15-16.4, ROH. We subsequently conducted an onsite visit of the area and confirmed that the signs were clearly posted and properly informed motorists that parking in the area was restricted to a maximum of two hours.

Based on our investigation, we found that the lack of posted signs by the DOT regarding the parking restrictions was not in compliance with Section 291C-111(b), HRS, and Section 15-16.4, ROH. We were, however, satisfied with the corrective action taken by the DOT and had no further recommendations.

We notified the complainant of our findings and the corrective actions taken by the DOFAW and the DOT. He was happy with the outcome and appreciated our follow up.

DEPARTMENT OF PUBLIC SAFETY

(23-02489/23-02732/23-02837) Inmates held beyond release dates. An inmate in the custody of the Department of Public Safety complained that the correctional facility did not release him pursuant to a court order filed over two weeks earlier. We immediately notified the facility staff, who informed us that they would follow up on the matter. The complainant was subsequently released on the same day he contacted our office. Although the inmate was released, we continued our investigation to find out why the inmate was held beyond his release date.

Within one month of this first complaint, two other inmates at the same facility contacted our office with similar complaints about not being released pursuant to court orders. Immediately after receiving each complaint, we notified the facility staff, who stated they would follow up on the complaints. Although the inmates were released on the same day they contacted our office, we continued our investigations to find out why the inmates were held beyond their release dates.

During our investigations of the three complaints, we were told by the facility staff that the inmates had not been released in accordance with court orders because the facility had not received court paperwork for all three inmates after they had returned from their last court appearance. We further learned that the facility had not made any attempts to get the court paperwork until the day we received the complaints and called the facility.

We had learned during our investigation of an earlier complaint that this facility had a procedure to address situations where an inmate returned from court without any court hearing disposition paperwork. The procedure called for the inmate's file to be placed in an "Update" tray for the facility's records office staff to review and process. The records office staff who checked the "Update" tray had access to eCourt Kokua, the State Judiciary's online system to access court records, which allowed them to find out what happened at a court hearing and to obtain a copy of the paperwork without relying on the court to provide the paperwork. The records office staff could then update the inmate's file and process the inmate's release. This procedure was established to ensure that inmates are timely released even if the facility does not have any paperwork from the court.

Thus, we informed the facility that it did not appear it had followed its procedures when the complainants returned from court without any paperwork. The facility staff stated that it appeared the procedure was not followed and agreed that the complainants would have been released earlier if the procedure had been followed. We asked whether the procedure was written and shared with the facility records staff. The facility staff informed us that the procedure was not in writing.

We substantiated all three complaints and recommended to the facility that it put its procedures in writing, email the procedures to the facility records staff, and post the procedures in the records office. The facility staff acknowledged the errors and agreed to implement our recommendations.

As all the complainants were no longer in custody and had not provided us any other contact information, we were not able to notify the complainants of our findings and the actions taken by the facility.

CITY AND COUNTY OF HONOLULU

(23-02579) Elderly Affairs Division requires an annual recertification interview for transportation benefits. We received a complaint that the Elderly Affairs Division (EAD), Department of Community Services, City and County of Honolulu, requires an annual recertification interview for transportation benefits, which the complainant found intrusive and unnecessarily repetitive.

We spoke to the EAD about the complaint and confirmed that the complainant does go through an annual recertification interview for transportation benefits. EAD staff informed us that the annual reassessment is in accordance with an internal policy designed to comply with the reassessment requirements of the "Kupuna Care Statute" under Section 349-17, Hawaii Revised Statutes (HRS), and the annual reassessment identifies the needs, challenges, and eligibility of the kupuna applicant.

We reviewed the "Four-Year Area Plan on Aging, October 1, 2019 – September 30, 2023" presented by the EAD. According to the Four-Year Area Plan on Aging, the Kupuna Care program is a "state-funded program designed to meet the long[-]term care needs of older adults unable to live at home without adequate help to perform their activities of daily living (ADLs) and instrumental activities of daily living (IADLs)."

According to Chapter 349, HRS, titled "Executive Office on Aging," the Executive Office on Aging (EOA), Department of Health, State of Hawaii, is the lead State agency in the coordination of a statewide system of aging and family caregiver support services. Pursuant to Section 349-17, HRS, the area agency on aging, designated as the EAD for Oahu, shall implement the kupuna care program on behalf of the EOA.

In order to assess whether a kupuna qualifies for the kupuna care program, the EAD must determine whether the "care recipient" meets certain qualifications defined in Section 349-16, HRS, which states in pertinent part:

"Care recipient" means an individual who:

(1) Is a citizen of the United States or a qualified alien; provided that for the purposes of this paragraph, "qualified alien" means a lawfully admitted permanent resident under the Immigration and Nationality Act;

(2) Is sixty years of age or older;

(3) Is not covered by any comparable government or private home- and community-based care service, except or excluding kupuna care services;

(4) Does not reside in a long-term care facility, such as an intermediate care facility, assisted living facility, skilled nursing facility, hospital, adult foster home, community care foster family home, adult residential care home, expanded adult residential care home, or developmental disabilities domiciliary home; and

(5) Has impairments of at least:

(A) Two activities of daily living;

(B) Two instrumental activities of daily living;

(C) One activity of daily living and one instrumental activity of daily living; or

(D) Substantive cognitive impairment requiring substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or another person.

The kupuna care services provided under the program also include case management, which requires follow-up and reassessment to determine a kupuna's needs in order to develop the proper care plan. Based on our investigation, we determined that the EAD had the authority and responsibility to determine whether a kupuna met the specific qualifications for the kupuna care program. We found it reasonable that the EAD required an annual recertification as a kupuna's qualifications or required care could change within a year. While the complainant found the annual recertification interview to be intrusive and unnecessarily repetitive, we found it to be reasonable and in accordance with the law.

When we notified the complainant that we did not substantiate this complaint, she requested information on which State legislators she could contact to change the laws associated with the annual recertification process. As the complainant only provided a temporary residential address, we did not know in which district she was registered to vote. Thus, we referred her to the Chair of the Senate Committee on Health and Human Services and the Chair of the House Committee on Human Services. Then, we notified the EAD that we did not substantiate this complaint.