

ARIZONA STATE SENATE

RESEARCH STAFF



TO: JOINT LEGISLATIVE AUDIT COMMITTEE

MIKE HANS
LEGISLATIVE RESEARCH ANALYST
GOVERNMENT COMMITTEE
Telephone: (602) 926-3580

DATE: January 17, 2020

SUBJECT: Sunset Review of the Office of the Ombudsman-Citizens Aide

Attached is the final report of the sunset review of the Office of the Ombudsman-Citizens Aide, which was conducted by the Senate Government and House Government Committees of Reference.

This report has been distributed to the following individuals and agencies:

Governor of the State of Arizona
The Honorable Douglas A. Ducey

President of the Senate
Senator Karen Fann

Speaker of the House of Representatives
Representative Russell Bowers

Senate Members
Senator David Farnsworth, Co-Chair
Senator Sonny Borrelli
Senator Lela Alston
Senator Vince Leach
Senator Juan Mendez
Senator Frank Pratt
Senator Victoria Steele

House Members
Representative John Kavanagh, Co-Chair
Representative Kevin Payne
Representative Walter Blackman
Representative Isela Blanc
Representative Domingo DeGrazia
Representative Diego Espinoza
Representative Jennifer Jermaine
Representative Warren Petersen
Representative Steve Pierce
Representative Lorenzo Sierra
Representative Bob Thorpe

Office of the Ombudsman-Citizens Aide
Arizona State Library, Archives & Public Records

Secretary of the Senate
Senate Resource Center
Senate Republican Staff
Senate Democratic Staff
Senate Research Staff

Office of the Chief Clerk
House Republican Staff
House Democratic Staff
House Research Staff

Senate Government and House Government Committees of Reference Report

Office of the Ombudsman-Citizens Aide

Background

The Office of the Ombudsman-Citizens Aide was established in 1995 to service citizens' complaints by investigating the administrative acts of state agencies and annually report to the Governor, Legislature and public on its activities (Laws 1995, Chapter 281). The Ombudsman-Citizens Aide is nominated by a selection committee consisting of members appointed by the President of the Senate, Speaker of the House of Representatives and Governor and approved by the passage of a bill with a two-thirds vote of each chamber ([A.R.S. § 41-1373](#)). The Ombudsman-Citizens Aide must be an Arizona resident for at least 6 months, be 25 years of age and have investigatory experience ([A.R.S. § 41-1374](#)).

The powers and duties of the Ombudsman-Citizens Aide include: 1) investigating the administrative acts of state agencies; 2) annually preparing a written report to the Governor, Legislature and public that contains a summary of the activities during the previous fiscal year; 3) appointing a deputy ombudsman; 4) prescribing the duties of employees or contractors necessary to administer the duties of the Office of the Ombudsman-Citizens Aide ([A.R.S. § 41-1376](#)). Upon receiving a complaint, the Ombudsman-Citizens Aide may investigate or refuse to investigate based off specified statutory criteria ([A.R.S. § 41-1377](#)). The Ombudsman-Citizens Aide must notify a complainant of the decision to investigate or not investigate within 30 days of receiving a complaint ([A.R.S. § 41-1378](#)).

The Office of the Ombudsman-Citizens Aide is statutorily set to terminate on July 1, 2020, unless legislation is enacted for its continuation ([A.R.S. § 41-3020.22](#)).

Committee of Reference Sunset Review Procedures

The Senate Government and House Government Committees of Reference held one public meeting on January 9, 2020, to consider the Office of the Ombudsman-Citizens Aide's responses to the sunset factors and to receive public testimony.

Committee Recommendations

The Senate Government and House Government Committees of Reference recommended that the Legislature continue the Office of the Ombudsman-Citizens Aide for eight years until July 1, 2028.

Attachments

1. Meeting Notice
2. Minutes of Committees of Reference Meeting
3. Office of the Ombudsman-Citizens Aide Presentation
4. Chairperson's Letter Requesting the Office of the Ombudsman-Citizens Aide's Response to the Sunset Factors
5. The Office of the Ombudsman-Citizens Aide's Response to the Sunset Factors

ARIZONA STATE LEGISLATURE

INTERIM MEETING NOTICE OPEN TO THE PUBLIC

SENATE GOVERNMENT COMMITTEE OF REFERENCE AND HOUSE GOVERNMENT COMMITTEE OF REFERENCE FOR THE SUNSET REVIEWS OF THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS, LEGISLATIVE COUNCIL, OFFICE OF THE AUDITOR GENERAL, OFFICE OF THE OMBUDSMAN-CITIZENS AIDE AND STATE BOARD ON GEOGRAPHIC AND HISTORIC NAMES

Date: Thursday, January 9, 2020

Time: 1:00 P.M.

Place: SHR 109

AGENDA

1. Call to Order
2. Roll Call
3. Sunset Review of the Arizona State Library, Archives and Public Records
 - a. Presentation by the Arizona State Library, Archives and Public Records
 - b. Public Testimony
 - c. Discussion and Recommendations
4. Sunset Review of Legislative Council
 - a. Presentation by Legislative Council
 - b. Public Testimony
 - c. Discussion and Recommendations
5. Sunset Review of the Office of the Auditor General
 - a. Presentation by the Office of the Auditor General
 - b. Public Testimony
 - c. Discussion and Recommendations
6. Sunset Review of the Office of the Ombudsman-Citizens Aide
 - a. Presentation by the Office of the Ombudsman-Citizens Aide
 - b. Public Testimony
 - c. Discussion and Recommendations
7. Sunset Review of the State Board on Geographic and Historic Names
 - a. Presentation by the State Board on Geographic and Historic Names
 - b. Public Testimony
 - c. Discussion and Recommendations
8. Adjourn

Members:

Senator David C. Farnsworth, Co-Chair
Senator Lela Alston
Senator Sonny Borrelli
Senator Vince Leach
Senator Juan Mendez
Senator Frank Pratt
Senator Victoria Steele

Representative John Kavanagh, Co-Chair
Representative Walter Blackman
Representative Isela Blanc
Representative Domingo DeGrazia
Representative Diego Espinoza
Representative Jennifer Jermaine
Representative Kevin Payne
Representative Warren Petersen
Representative Steve Pierce
Representative Lorenzo Sierra
Representative Bob Thorpe

01/03/2020

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For questions regarding this agenda, please contact Senate Research Department.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting the Senate Secretary's Office: (602) 926-4231 (voice). Requests should be made as early as possible to allow time to arrange the accommodation.

ARIZONA STATE LEGISLATURE

SENATE GOVERNMENT COMMITTEE OF REFERENCE AND HOUSE GOVERNMENT COMMITTEE OF REFERENCE FOR THE SUNSET REVIEWS OF THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS, LEGISLATIVE COUNCIL, OFFICE OF THE AUDITOR GENERAL, OFFICE OF THE OMBUDSMAN-CITIZENS AIDE AND STATE BOARD ON GEOGRAPHIC AND HISTORIC NAMES

Minutes of the Meeting
January 9, 2020
1:00 p.m., Senate Hearing Room 109

Members Present:

Senator David C. Farnsworth, Co-Chair
Senator Lela Alston
Senator Sonny Borrelli
Senator Vince Leach
Senator Juan Mendez

Representative John Kavanaugh, Co-Chair
Representative Walter Blackman
Representative Isela Blanc
Representative Diego Espinoza
Representative Warren Petersen
Representative Steve Pierce
Representative Lorenzo Sierra
Representative Bob Thorpe

Members Excused:

Senator Frank Pratt
Senator Victoria Steele

Representative Domingo DeGrazia
Representative Jennifer Jermaine
Representative Kevin Payne

Staff:

Michael Hans, Senate Research Analyst
Stephanie Jensen, House Research Analyst

Senator Borrelli called the meeting to order at 1:03 p.m. and attendance was noted.

SUNSET REVIEW OF THE STATE BOARD ON GEOGRAPHIC AND HISTORIC NAMES

Presentation by the State Board on Geographic and Historic Names

Dennis Preisler, State Archivist, State Records Officer, Chairman, Geographic Names Board, distributed and explained a PowerPoint presentation entitled "Arizona State Board on Geographic and Historic Names, Sunset Review Presentation" (Attachment A) and distributed a letter from Katie Hobbs, Secretary of State (Attachment B). Mr. Preisler answered questions posed by the Committee.

Public Testimony

Senator Borrelli put out a call for public testimony, however, no one came forward.

Discussion and Recommendations

The Committee discussed the number of years for the continuation of the State Board on Geographic and Historic Names.

Representative Kavanagh moved that the Senate Government and House Government Committee of Reference recommend the State Board on Geographic and Historic Names be continued for eight years. The motion CARRIED by voice vote.

SUNSET REVIEW OF THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS

Presentation by the Arizona State Library, Archives and Public Records

Allie Bones, Arizona Assistant Secretary of State, distributed and explained a PowerPoint presentation entitled "State Library Archives and Public Records" (Attachment C) and distributed a letter from Katie Hobbs, Secretary of State (Attachment D). Ms. Bones answered questions posed by the Committee

Holly Henley, Arizona State Librarian, Director, Arizona State Library, Archives and Public Records, gave an overview of the Library and Archives.

Ms. Bones answered additional questions posed by the Committee.

Janet Fisher, Administrator, Arizona Talking Book Library, gave an overview of the Arizona Talking Book Library and answered questions posed by the Committee.

Ms. Bones answered additional questions posed by the Committee.

Michael Hans, Senate Research Analyst, answered questions posed by the Committee.

Ms. Bones answered additional questions posed by the Committee.

Public Testimony

Senator Borrelli put out a call for public testimony, however, no one came forward.

Senator Borrelli stated that a letter addressed to the Sunset Commission would be read into the public record.

Representative Kavanagh read a letter from Ted Hale into the record regarding several concerns. (Attachment E).

Ms. Bones answered additional questions posed by the Committee.

Discussion and Recommendations

Representative Kavanagh moved that the Senate Government and House Government Committee of Reference recommend the Arizona State Library, Archives and Public Records be continued for eight years. The motion CARRIED by voice vote.

SUNSET REVIEW OF LEGISLATIVE COUNCIL

Presentation by Legislative Council

Mike Braun, Executive Director, Arizona Legislative Council, introduced Patricia Probst, Assistant Director, Legislative Council and Steve Primack, Associate Director, Legislative Council. Mr. Braun distributed a letter addressed to Senator David Farnsworth (Attachment F) and gave an overview of the primary purpose of the Council.

Senator Borrelli and Representative Thorpe offered comments.

Public Testimony

Senator Farnsworth put out a call for public testimony, however, no one came forward.

Discussion and Recommendations

The Committee discussed the number of years for the continuation of Legislative Council.

Representative Kavanagh moved that the Senate Government and House Government Committee of Reference recommend the Legislative Council be continued for eight years. The motion CARRIED by voice vote.

SUNSET REVIEW OF THE OFFICE OF THE OMBUDSMAN-CITIZENS AIDE

Presentation by the Office of the Ombudsman-Citizens Aide

Dennis Wells, Arizona State Ombudsman, introduced Joanne MacDonnell, Deputy Ombudsman and Danee Garone, Staff Attorney. Mr. Wells distributed and explained a PowerPoint presentation entitled "Arizona Ombudsman-Citizens' Aide Office" (Attachment G) and a "Sunset Review Report, 2019 Office of the Ombudsman-Citizens'

Aide" (Attachment H). Mr. Wells gave an overview of the Ombudsman-Citizens' Aide Office and answered questions posed by the Committee.

Public Testimony

Senator Farnsworth put out a call for public testimony, however, no one came forward.

Discussion and Recommendations

Representative Kavanagh moved that the Senate Government and House Government Committee of Reference recommend the Office of the Ombudsman-Citizens Aide be continued for eight years. The motion CARRIED by voice vote.

SUNSET REVIEW OF THE OFFICE OF THE AUDITOR GENERAL

Presentation by the Office of the Auditor General

Lindsey Perry, Arizona Auditor General, distributed a report entitled "Office of the Auditor General, Sunset Review Response" (Attachment I) and gave an overview of the Arizona Auditor General's Office. Ms. Perry answered questions posed by the Committee.

Discussion and Recommendations

Senator Farnsworth offered comments.

Ms. Perry answered additional questions posed by the Committee.

Representative Blanc, Senator Alston, Senator Farnsworth and Representative Thorpe offered comments.

Senator Farnsworth offered additional comments.

Representative Kavanagh moved that the Senate Government and House Government Committee of Reference recommend the Office of the Auditor General be continued for eight years.

Senator Farnsworth offered additional comments.

The motion CARRIED by voice vote.

Attached are forms noting the individuals who submitted a Speaker Slip on the agenda items (Attachment J).

There being no further business, the meeting was adjourned at 2:25 p.m.

Respectfully submitted,

Toy Brown
Committee Secretary

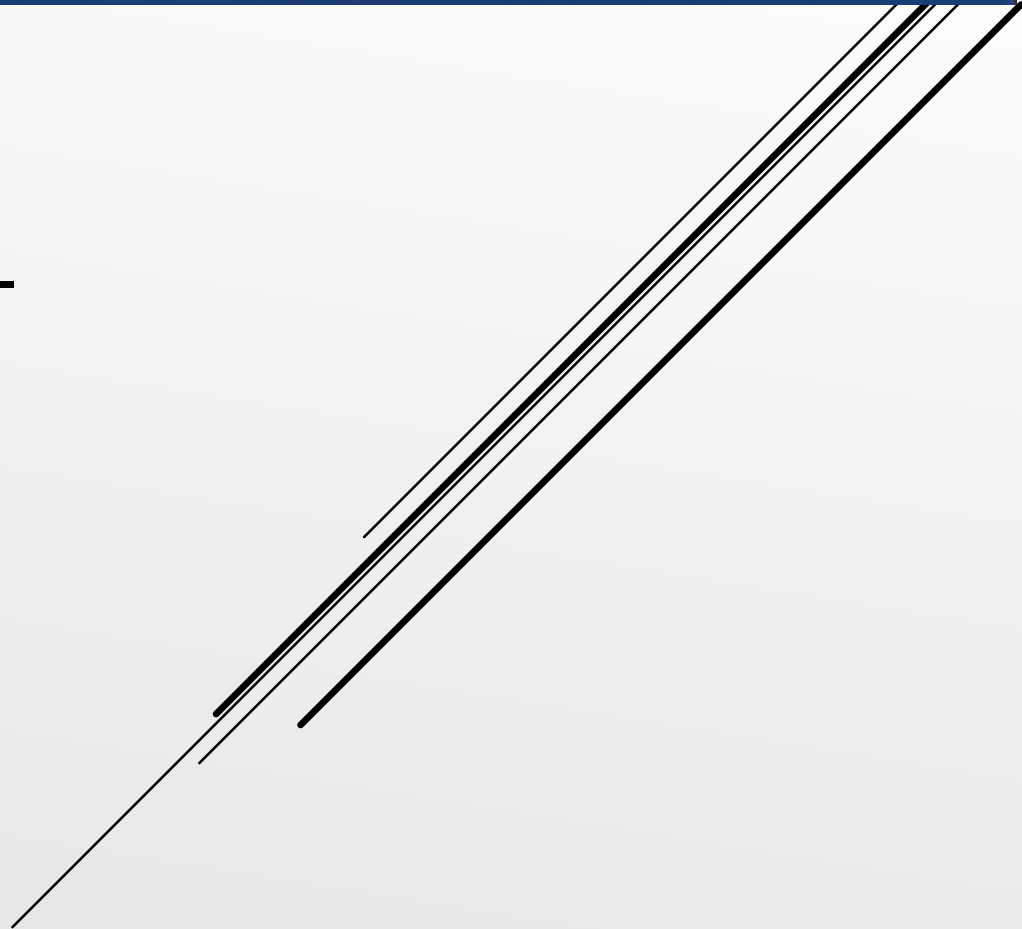
(Audio recordings and attachments are on file in the Secretary of the Senate's Office/Resource Center, Room 115. Audio archives are available at <http://www.azleg.gov>)



ARIZONA OMBUDSMAN- CITIZENS' AIDE OFFICE

Arizona Ombudsman
CITIZENS' AIDE


Dennis Wells




THE ARIZONA OMBUDSMAN-CITIZENS' AIDE

- Receives public complaints since 1996
- Independent agency of the Arizona Legislature
- Investigates administrative acts of agencies
- Aim for lawful, fair and appropriate remedies
- Experts on public record and open meetings
- Services are free
- Must keep confidential matters confidential or be subject to felony prosecution
- Nonpartisan. Staff may not engage in political activities or investigate any elected officials.

UPON A COMPLAINT, WE LOOK INTO WHETHER THE AGENCY ACTED:

- ▶ **Contrary to law.**
 - ▶ **Unreasonably, unfairly, oppressively, arbitrarily, capriciously, abused their discretion or behaved unnecessarily discriminatory, even though they may be in accordance with law.**
 - ▶ **Based on a mistake of fact.**
 - ▶ **Based on improper or irrelevant grounds.**
 - ▶ **Unsupported by an adequate statement of reasons.**
 - ▶ **Performed in an inefficient or discourteous manner.**
 - ▶ **Otherwise erroneous.**
- 

DEFEND OR RECOMMEND A FIX?

- If we conclude the complaint **is not justified**, we explain our reasoning to the citizen and defend the agency.
 - If we conclude the complaint **is justified**, we work with the person and the agency to fix it and find a fair solution.
 - We might ask the agency to fix an error, change a practice or create a rule.
 - Sometimes we find no error on the part of the citizen or the agency, however, the law leads to an unintended bad result. We might suggest the legislature change a statute.
- 

IN SUM, WE DO NOT START AS AN ADVOCATE, BUT WE MIGHT END AS ONE . . .

- The ombudsman is not an advocate or someone who will *initially* take the complainant OR the agency side in a conflict.
- Our job is to consider all sides of a question in an impartial and objective way.
- Unlike mediators (who must be neutral no matter the facts), we come to a conclusion after sifting the facts.
- We ask, “**IS IT RIGHT?**” We use the statutes and other navigational boundaries to guide us.
- We have no power to summarily order changes in statutes, rules, policies or procedures. We work by persuasion, not force.
- We shed light on confirmed problems and offer constructive remedies.

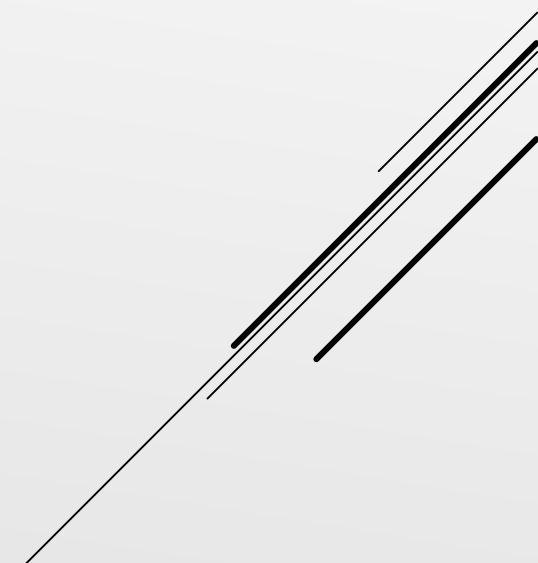
Big Picture

- ▶ Constitution – State and U.S.
- ▶ Federal law

However, our investigations focus more on

- ▶ Arizona Revised Statutes
- ▶ Arizona Administrative Code/Rules
- ▶ Case Law
- ▶ AG Agency Handbook
- ▶ Substantive agency policies

OUR NAVIGATIONAL
BOUNDARIES



KEY STATUTES

Key statutes -

- ▶ A.R.S. §41-1376. Powers & Duties
- ▶ A.R.S. §41-1376.01. Additional powers & duties; definitions
- ▶ A.R.S. §41-1377. Scope of investigations
- ▶ A.R.S. §41-1378. Complaint; investigation; investigative authority; violation; classification
- ▶ A.R.S. §41-1379. Procedures after an investigation
- ▶ A.R.S. §41-1380. Ombudsman-citizens aide protections
- ▶ A.R.S. §41-1381. Ombudsman-citizens aide political activity
- ▶ A.R.S. §41-1382. Ombudsman-citizens aide office
- ▶ A.R.S. §41-1383. Violation; classification
- ▶ Plus more in Title 4, Title 8, Title 42 and Title 32
- ▶ Plus annually in the budget bill and periodically in Chapter laws.

WHO BENEFITS FROM THE OMBUDSMAN OFFICE?

- Citizens
- Arizona Legislature
- State agencies
- Other public bodies



AN OMBUDSMAN OFFICE SERVES CITIZENS AND STATE EMPLOYEES



We:

- Are a safe place to voice a complaint – illegal for agency staff to retaliate.
- Are a cost-effective second opinion and alternative to litigation.
- Listen and help people navigate their way through government systems.
- Check that agencies are operating within the law, are fair and consistent, and reasonably timely.

The Ombudsman Office Serves Agencies

We:



- Provide impartial, outside information to help them determine if something is amiss in their operations, is a violation of law or is a systemic problem.
- Propose remedies when we substantiate a wrong has been done or when we find situations that cause unnecessary conflicts.
- Give agencies a place to send dissatisfied people.
- Help exonerate agencies and administrators from unjustified criticism when a wrong has not been done.
- Provide open meeting and public record training to cities & towns, counties, school boards, special districts, and agencies.
- Help resolve complaints without litigation.

The Ombudsman Office Serves Legislators

- Agencies are subject to
 - Oversight
 - Accountability
- We identify
 - Unintentional impact of well-intentioned laws
 - Where agencies have misinterpreted statutes
- We provide
 - Resolutions to complex constituent problems before they escalate
 - Cost-saving solutions for citizens beyond state government
 - Investigations of agencies with unresolved issues
 - We create semi-annual ombudsman reports to provide a measure of public satisfaction with state government.
 - Feedback to lawmakers and agencies



LEGISLATURE EXPANDED OUR MISSIONS

- In January 2007, the Legislature expanded our mission to include investigating public access complaints. They also asked us to serve as the primary trainer for agencies and the public regarding public records and open meetings.
- Since 2014, and renewed annually in each Arizona budget ever since, the Legislature has instructed, *“It is the intent of the Legislature that the Ombudsman-Citizens’ Aide prioritize the investigation and processing of complaints relating to the Department of Child Safety.”*



2018 COMPARISON OF THE FIVE CLASSICAL OMBUDSMAN OFFICES

STATE	APPROPRIATION	CASE CONTACTS	FTEs	CASES PER FTE	POPULATION	REPORTS
Alaska	1,277,000.00 ¹	1855	10	185.50	737,438	1
Arizona	875,700.00	6378	9	708.67	7,171,646	2 ²
Hawaii	1,402,429.00 ³	4325	14	308.93	1,420,491	1
Iowa	1,924,497.00	5128	16	320.50	3,156,145	1
Nebraska	1,929,000.00	3006	18	167.00	1,929,268	1 ⁴

¹ Alaska has pooled IT and telecom services, so not all of these costs are directly borne by the agency's appropriation. The AK legislative agency IT division pays for their phone and server equipment, security, tech support. AK has two physical offices - one in Juneau and another in Anchorage.

² Arizona is required to issue both a CY and FY annual report.

³ Hawaii's ERE of \$588,000 is paid out of a fund separate from its main appropriation.

⁴ Nebraska Ombudsman Office is comprised of the Public Council and the Inspector Generals of Corrections & Child Welfare. The former issues a CY report. The latter two sections issue FY reports.

PLEASE SEE THE ARIZONA OMBUDSMAN-CITIZENS' AIDE 2019 SUNSET REVIEW REPORT FOR MORE INFORMATION

Sunset Review Report, 2019 Office of the Ombudsman-Citizens' Aide

Factors

1. The objective and purpose in establishing the agency.

Purpose

According to Laws 1995, Chapter 281, Section 7, the purpose of the office is "to service citizens' complaints by investigating the administrative acts of state agencies and to annually report to the governor, the legislature and the public on its activities."

The Office of the Ombudsman–Citizens Aide opened on July 1, 1996. The Legislature created the office to be a place where citizens could take their complaints about state agencies and receive an impartial review by someone who was independent of agency management.

Mission

The mission of the Arizona Ombudsman–Citizens' Aide is to improve the effectiveness, efficiency, and responsiveness of state government by receiving public complaints, investigating the administrative acts of state agencies and, when warranted, recommending a fair and appropriate remedy. In addition, the Ombudsman–Citizens' Aide promotes open government throughout the state by providing assistance and education to state and local government officials and members of the public, resolving disputes, and investigating complaints in matters relating to public access laws.



Arizona State Senate

June 12, 2019

Dennis Wells
Arizona Ombudsman-Citizens' Aide
7878 N. 16th St. Ste. 235
Phoenix, AZ, 85020

Dear Mr. Wells,

The sunset review process prescribed in Title 41, Chapter 27, Arizona Revised Statutes, provides a system for the Legislature to evaluate the need to continue the existence of state agencies. During the sunset review process, an agency is reviewed by legislative committees of reference. On completion of the sunset review, the committees of reference recommend to continue, revise, consolidate or terminate the agency.

The Joint Legislative Audit Committee (JLAC) has assigned the sunset review of the Arizona Ombudsman-Citizens' Aide to committees of reference comprised of members of the Senate Government Committee and the House of Representatives Government Committee.

Pursuant to A.R.S. § 41-2954, the committee of reference is required to consider certain sunset factors in deciding whether to recommend continuance, modification or termination of an agency. Please provide your agency's response to the factors listed below:

1. The objective and purpose in establishing the agency and the extent to which the objective and purpose are met by private enterprises in other states.
2. The extent to which the agency has met its statutory objective and purpose and the efficiency with which it has operated.
3. The extent to which the agency serves the entire state rather than specific interests.
4. The extent to which rules adopted by the agency are consistent with the legislative mandate.
5. The extent to which the agency has encouraged input from the public before adopting its rules and the extent to which it has informed the public as to its actions and their expected impact on the public.
6. The extent to which the agency has been able to investigate and resolve complaints that are within its jurisdiction.
7. The extent to which the attorney general or any other applicable agency of state government has the authority to prosecute actions under the enabling legislation.
8. The extent to which agencies have addressed deficiencies in their enabling statutes that prevent them from fulfilling their statutory mandate.
9. The extent to which changes are necessary in the laws of the agency to adequately comply with the factors listed in A.R.S. § 41-2954.

10. The extent to which the termination of the agency would significantly affect the public health, safety or welfare.
11. The extent to which the level of regulation exercised by the agency compares to other states and is appropriate and whether less or more stringent levels of regulation would be appropriate.
12. The extent to which the agency has used private contractors in the performance of its duties as compared to other states and how more effective use of private contractors could be accomplished.
13. The extent to which the agency potentially creates unexpected negative consequences that might require additional review by the committee of reference, including increasing the price of goods, affecting the availability of services, limiting the abilities of individuals and businesses to operate efficiently and increasing the cost of government.

Additionally, please provide written responses to the following:

1. Identify the problem or the needs that the agency is intended to address.
2. State, to the extent practicable, in quantitative and qualitative terms, the objectives of the agency and its anticipated accomplishments.
3. Identify any other agencies having similar, conflicting or duplicative objectives, and an explanation of the manner in which the agency avoids duplication or conflict with other such agencies.
4. Assess the consequences of eliminating the agency or of consolidating it with another agency.

Your response should be received by September 1, so we may proceed with the sunset review and schedule the required public hearing. Please submit the requested information to:

Mike Hans
Arizona State Senate
1700 West Washington
Phoenix, Arizona, 85007

Thank you for your time and cooperation. If you have any questions, please feel free to contact me at 602-926-3020 or Mike Hans, the Senate Government Committee Research Analyst, at 602-926-3580.

Sincerely,



Senator David Farnsworth

cc: Representative John Kavanagh, House Government Committee, Chair
Stephanie Jensen, House Government Committee, Analyst

Sunset Review Report, 2019

Office of the Ombudsman-Citizens' Aide

Factors

1. The objective and purpose in establishing the agency.

Purpose

According to Laws 1995, Chapter 281, Section 7, the purpose of the office is "to service citizens' complaints by investigating the administrative acts of state agencies and to annually report to the governor, the legislature and the public on its activities."

The Office of the Ombudsman–Citizens Aide opened on July 1, 1996. The Legislature created the office to be a place where citizens could take their complaints about state agencies and receive an impartial review by someone who was independent of agency management.

Mission

The mission of the Arizona Ombudsman–Citizens' Aide is to improve the effectiveness, efficiency, and responsiveness of state government by receiving public complaints, investigating the administrative acts of state agencies and, when warranted, recommending a fair and appropriate remedy. In addition, the Ombudsman–Citizens' Aide promotes open government throughout the state by providing assistance and education to state and local government officials and members of the public, resolving disputes, and investigating complaints in matters relating to public access laws.

Objective

The Ombudsman-Citizens' Aide is an independent agency of the Arizona Legislature that was established to make government more responsive to the public. It is the office that Arizona citizens can turn to when they feel they have been treated unfairly by a state agency, department, board or commission. The Ombudsman–Citizens' Aide's services are free and confidential. The Arizona Ombudsman-Citizens' Aide aims for lawful, fair, and appropriate remedies. The Ombudsman–Citizens' Aide process shines a light on our government and works by persuasion, not force.

The Ombudsman-Citizens' Aide is an independent and neutral official to whom people can go with grievances about the administration of state government broadly or local forms of government regarding public access disputes. The office promotes citizen involvement in government and enhances the public accountability of governmental administrators.

- For the public, the Ombudsman-Citizens' Aide helps ensure that justice is done and that state agencies treat constituents fairly, promptly, and respectfully. The office is a place to address legitimate individual grievances, and it provides a practical alternative option between merely voicing a complaint and resorting to litigation. The office listens and helps people navigate their way through government systems.
- For agencies, the Ombudsman-Citizens' Aide office provides an independent check to make sure that mistakes are discovered and corrected. The Ombudsman-Citizens' Aide strives to assist agencies to identify undesirable practices to prevent recurrence of complaints. When a wrong has been done, the Ombudsman-Citizens' Aide proposes remedies. When a wrong has not been done, the Ombudsman-Citizens' Aide exonerates administrators from unjustified criticism. The Ombudsman-Citizens' Aide office gives agencies a place to send dissatisfied people for an independent review of their complaint. The Ombudsman-Citizens' Aide office provides free open meeting and public record training to cities and towns, counties, school boards, special districts, and state agencies. The office helps to resolve open access complaints without litigation.
- For the Legislature, the Ombudsman-Citizens' Aide can identify the unintentional impact of well-intentioned laws and point out where agencies have misinterpreted statutes. The office can also investigate and help resolve particularly complex constituent problems. Agencies know they are subject to oversight and accountability. Periodic reports provide a measurement of public satisfaction with the state government.

The Ombudsman-Citizens' Aide will not investigate a complaint until after the complainant has exhausted reasonable avenues of relief within the agency. The office does not replace existing complaint resolution systems. Rather, it supplements those systems by checking to ensure they work effectively and by providing an alternative avenue to resolve those few disputes that do not fit the existing process.

Every state in the union has at least one ombudsman office with jurisdiction over some aspect of government operations. Examples include long-term care, child safety, public access, and corrections ombudsmen. However, five states¹ have general jurisdiction ombudsmen established to oversee state agencies. The Arizona Ombudsman-Citizens' Aide office is one of these.

In November 1998, the Legislature expanded the mission of the office to include the investigation of complaints relating to child protective services. In January of 2007, the Legislature again expanded the mission of the office to include the investigation of complaints

¹ Alaska, Arizona, Hawaii, Iowa, and Nebraska

concerning the open meeting law and access to public records. The office also trains public officials and educates the public on the rights of the public and the responsibilities of public agencies under public access laws. For this additional mission, the Legislature expanded the office's jurisdiction to include public access matters across the political subdivisions within the state.

Starting in 2014² and renewed annually in the Arizona budget ever since, the Arizona Legislature has instructed the Ombudsman-Citizens' Aide, "It is the intent of the Legislature that the Ombudsman-Citizens Aide prioritize the investigation and processing of complaints relating to the Department of Child Safety." Additionally, in 2014, the Legislature amended the Arizona Revised Statutes, so that section 41-1001.01(C) requires each state agency that conducts audits, inspections, or other regulatory enforcement to post on its website and within its inspection notice that the regulated person may contact the office of the Ombudsman-Citizens' Aide.

2. The effectiveness with which the agency has met its objectives and purpose and the efficiency with which it has operated.

The office has met its objectives and fulfilled its purpose in an efficient manner. It has responded to public inquiries, informed and educated citizens, empowered citizens to be their own advocates, helped members of the public resolve problems with state agencies, conducted investigations, and recommended improvements in the effectiveness, efficiency, and responsiveness of state government.

We help citizens resolve problems with state agencies. We first assist people by helping them to be their own advocate. If this is not enough to resolve their problem, we will assist by contacting the agency directly to solve the problem. If direct assistance is not enough or new information becomes known, we will conduct an investigation.

In the calendar year 2018, the office responded to 6,405 complaints and requests. We had 4,757, coaching cases, 1,059 assistance cases, and 589 investigation cases.

To explain this further, the office responds to complaints in one of three ways.

Coaching.

In most instances, the citizen simply needs some guidance on how to navigate government and their particular issue. In other words, we help people to help themselves. In coaching, the office helps people:

- Define their specific issue, rights, and interests;
- Identify the options available to them to resolve their problem;
- Contact the person they need to talk to;

² Laws 2014, 2nd Special Session, Chapter 2 footnote

- Understand the process they need to engage;
- Understand how to manage and avoid unnecessary conflict;
- Identify and research information they need in order to prove their case; and
- Develop reasonable expectations.

Assistance.

Sometimes a person needs more than advice and information, they need help. In these situations, the office will:

- Contact the agency on the citizen’s behalf to make sure the problem is brought to the attention of someone who has enough authority to resolve it.
- Help identify and correct mistakes.
- Research the problem and make sure that both parties share a common understanding of the facts, issues, and possible solutions.
- Clear up misunderstandings and miscommunications.
- Open up lines of communication between the citizen and agency.
- Mediate conflicts between citizens and agencies to find a mutually agreeable solution.
- Coordinate actions between different agencies and levels of government.

Investigation.

Some complaints are more serious and do not lend themselves to informal techniques. When the nature of the complaint warrants, the office conducts an investigation. The investigative process consists of five steps.

- Interviewing the complainant and gathering as much information as possible to help understand the complainant’s concerns.
- Distill this information into one or more specific allegations.
- After confirming with the complainant that the allegations accurately reflect the complaint, the office notifies the agency that it is conducting an investigation and presents the allegations it will be investigating.
- The investigator then researches statute, rule, and policy to see how the agency should have handled the situation. The investigator interviews staff and reviews files, including confidential files, to determine how the agency did handle the situation.
- Based on investigation results, the office makes findings and recommendations. The office then works with the agency to implement necessary changes.

Comparison of Classical Ombudsman Offices

We also compared our office and the other classical ombudsman offices with some key benchmarks. The results demonstrate that we do more cases for significantly less cost than our peer offices do while serving a greater population. However, it also shows we are the only office required to produce two annual reports – one calendar year and one fiscal year. We think one annual report is valuable, but two

reports are excessive given the redundancy, the time required to produce the second report, and the negligible value added by the second report.

COMPARISON OF THE FIVE CLASSICAL OMBUDSMAN OFFICES

STATE	APPROPRIATION	CASE CONTACTS	FTEs	CASES PER FTE	POPULATION	REPORTS
Alaska	1,277,000.00 ¹	1855	10	185.50	737,438	1
Arizona	875,700.00	6378	9	708.67	7,171,646	2 ²
Hawaii	1,402,429.00 ³	4325	14	308.93	1,420,491	1
Iowa	1,924,497.00	5128	16	320.50	3,156,145	1
Nebraska	1,929,000.00	3006	18	167.00	1,929,268	1 ⁴

¹ Alaska has pooled IT and telecom services, so not all of these costs are directly borne by the agency's appropriation. The AK legislative agency IT division pays for their phone and server equipment, security, tech support. AK has two physical offices - one in Juneau and another in Anchorage.

² Arizona is required to issue both a CY and FY annual report.

³ Hawaii's ERE of \$588,000 is paid out of a fund separate from its main appropriation.

⁴ Nebraska Ombudsman Office is comprised of the Public Council and the Inspector Generals of Corrections & Child Welfare. The former issues a CY report. The latter two sections issue FY reports.

3. The extent to which the agency has operated within the public interest.

The Ombudsman-Citizens' Aide office has helped tens of thousands of members of the public resolve their complaints against Arizona government agencies since its inception in 1996. Each year the office issues a semi-annual and annual report to Legislative Council that include highlights of cases and statistical information demonstrating our value for the respective periods. These reports are a tangible indication that the agency is operating within the public interest. A few examples stand out –

- We reported the Arizona Medical Board (AMB) failed to follow a rule in the Arizona Administrative Code about thoroughly checking licensees' applications. We informed the Health Committee Members of the Arizona Legislature and the agency relented. This report prompted more dissatisfied AMB employees to come forward with similar allegations. We investigated and confirmed the AMB Director was not following the law in 28 instances – 16 statutes & 12 rules. The AMB Board concurred with our findings and agreed to all but one of our 35 recommendations.
- We found that DCS was not following the law or its own policy concerning cash assistance for kin who take in children. We had similar cases about how DCS workers were not following the law and policies regarding how the agency is supposed to provide specific reasons for removal on temporary custody notices; how the agency is supposed to send denial letters to relatives it rejects as placement; and how the agency is supposed to allow visits with relatives unless a judge views it not in the child's best

interest. We got the agency to focus its workers on these matters and improving the compliance with these laws and policies.

- We guide localities and state agencies on how to comply with open meeting and public record laws. We train local and state elected official, board members and commissioners. The Attorney General's office refers groups and individuals to us for remedial training on occasion. When there are disputes regarding public access issues we investigate and provide legal opinions without any side having to resort to costly litigation. In FY 2019, our office was contacted a total of 505 times regarding matters related to public access.

The office has maintained an earned reputation for its impartial consideration and effective resolution of citizens' complaints.

Prior to the establishment of the Ombudsman-Citizens' Aide office, citizens could not receive independent consideration of their grievances against agencies of state government, except of course, through the courts. Since most citizens do not have the financial resources to take on state government, their complaints were often left unheard or unaddressed.

It was seldom effective for a citizen to complain directly to the agency with which they had a grievance, and taking a complaint directly to an elected official placed the elected official in an awkward position, both legally and ethically.

When a citizen brings a complaint to the Ombudsman-Citizens' Aide office, the citizen receives a fair and impartial review of the complaint. If the complaint is justified, the office works with the agency and the citizen to resolve the issue in a fair and appropriate way.

To sum up the answer, the Ombudsman-Citizens' Aide office has operated in the public interest by resolving citizen complaints, maintaining a highly professional image, and developing a hard-earned reputation for being impartial in solving citizen complaints in an effective manner.

4. The extent to which the rules adopted by the agency are consistent with the legislative mandate.

In October 1996, the Ombudsman-Citizens' Aide office submitted its initial rules to the Secretary of State. The rules were published in Volume 2, Issue 47 of the Arizona Administrative Register. Subsequently, the Ombudsman-Citizens' Aide successfully completed the five-year review of its rules by the Governor's Regulatory Review Council in 2002, 2006, 2011, and 2016. The Governor's Regulatory Review Council has consistently approved the Ombudsman-Citizens' Aide rules. The office has not received any written criticisms regarding the office's enacted rules.

The rules fulfill the statutory rulemaking requirements contained in A.R.S. § 41-1376. The rules effectively achieve their objectives and are consistent with federal and state laws concerning

confidentiality of personal information. They ensure that confidential information that is gathered will not be improperly disclosed. They also establish procedures for receiving and processing complaints, conducting investigations, incorporating agency responses into recommendations, and reporting findings. The rules also ensure that each complainant has exhausted all reasonable alternatives within the agency before the Ombudsman-Citizens' Aide conducts an investigation.

5. The extent to which the agency has encouraged input from the public before adopting its rules and the extent to which it has informed the public as to its actions and their expected impact on the public.

The office completed its initial rulemaking by October 1996. The office gave agencies the opportunity to comment on proposed rules and made several changes based on agency comments. The Governor's Regulatory Review Council and the Attorney General's office also reviewed the initial rules before approval and publication. A number of revisions occurred in both the 2002 and 2006 five-year reviews.

During each of the office's five-year rule reviews,³ the Governor's Regulatory Review Council, publishes our existing and proposed rules, seeks public and agency input, and holds public meetings to seek input from citizens and agencies. We took these suggestions into account and on a number of occasions, we incorporated these comments into our updated rules.

The Ombudsman-Citizens' Aide office uses two primary means to inform the public about its actions and its expected impact. Our primary tool is our updated website. Additionally, we inform the public via our investigative reports, which are available on our website.

In addition to the five-year rule reviews, the office publishes annual and semi-annual reports, as required by A.R.S. 41-1376. These reports provide a summary of the office's work statistical data on the results the office has achieved, and highlights of complaints the office has handled. Aside from our annual reports, our website has other useful information for the public. Examples include our handbook guides regarding open meetings and public records, a list of helpful websites links, a list of toll-free numbers for state agencies, and a tutorial on how to be effective when filing a complaint. Additionally, the website has a section dedicated to explaining the child safety process and another that covers the public record and open meeting law.

The office also publishes an electronic and hard copy newsletter that highlights open meeting and public records issues. The newsletter addresses hot issues, trends, frequently asked questions, legislative updates, summaries of recent attorney general opinions, and information on our regular training opportunities.

³ in 2002, 2006, 2011, 2016

6. The extent to which the agency has been able to investigate and resolve disputes within its jurisdiction.

In the calendar year 2018, the Ombudsman office received 6,405 contacts requesting assistance or complaining involving 260 state and local jurisdictions. During this period, the office coached 4,757 people, assisted 1,059, and conducted 589 investigations.

Of the 589 requests for investigations, we declined 293 pursuant to ARS 41-1377 (C). We completed 198 investigations. We had seventy-eight cases discontinued, resolved, or withdrawn for any number of reasons of the complainant. Thirteen were ongoing as of the end of the calendar year.

Of the investigations, in 25% of the cases we found support or partial support for allegations alleging improper agency acts, 61% of the cases we did not substantiate, and 14%, we found to be indeterminate.

7. The extent to which the attorney general or any other applicable agency of state government has the authority to prosecute actions under the enabling legislation.

The Ombudsman-Citizens' Aide does not fulfill a regulatory function, so there has been no need for the Attorney General to prosecute actions under our enabling legislation.

8. The extent to which the agency has addressed deficiencies in its enabling statutes that prevent it from fulfilling its statutory mandate.

A problematic deficiency was addressed during the office's sunset review process in 2000. The Legislature granted the office the authority to issue subpoenas. This authority, while seldom used, encourages reluctant agencies to produce requested documents and testimony during our investigations. The United States Ombudsman Association's Model Act suggests and endorses subpoena authority for all classical ombudsman offices.

9. The extent to which changes are necessary in the laws of the agency to adequately comply with these factors.

There are several changes to Arizona law, that if made, would allow the Ombudsman-Citizens' Aide office to better and more efficiently carry out its statutory objectives and purposes:

First, a reduction in the required number of annual reports Ombudsman-Citizens' Aide office must produce from two to one. This would better allow the office to focus its attention and resources on its core mission and responsibilities. As the law currently stands, the Ombudsman-Citizens' Aide must produce an annual report to various government entities twice per year:

Annually before January 1 prepare a written report to the governor, the legislature and the public that contains a summary of the ombudsman-citizens aide's activities during the previous fiscal year. The ombudsman-citizens aide shall semiannually present this report before the legislative council and distribute copies of the report to the director of the governor's office of strategic planning and budgeting, the chairperson of the joint legislative budget committee and the cochairpersons of the administrative rules oversight committee.

A.R.S. § 41-1376(A)(2). The way the provision is written, it sounds as though each year, the Ombudsman-Citizens' Aide office is to produce a fiscal year report and provide this report to other government entities twice. The Ombudsman-Citizens' Aide office, with assistance from Legislative Council, has interpreted this provision as requiring the Ombudsman-Citizens' Aide office to produce and provide two reports each year: a report based on the calendar year and a report based on the fiscal year.

The Ombudsman-Citizens' Aide has nine full time employees. Annual reports require significant time and attention. While annual reports are necessary for public accountability, it is inefficient, overly burdensome, and unnecessary for the Ombudsman-Citizens' Aide to produce two similar reports or the same report twice each year. As it now stands, each six month period is accounted for in two different annual reports. Each annual report includes essentially the same information as the latter half of the previous annual report. There is little new or especially probative about a second accounting of the same six-month period. It is repetitive. Our office recommends amending the subsection so that the Ombudsman-Citizens' Aide office be required to produce one annual report (based on either the fiscal year or the calendar year). Such a change would also bring A.R.S. § 41-1376(A)(2) into harmony with § 41-1376.01(B), which refers to "[t]he annual report," implying that there is but a single annual report required of the Ombudsman-Citizens' Aide office.

Two, we recommend the Legislature remove from or amend language in A.R.S. § 41-1376(A)(7) to better synchronize it with the language the Legislature uses every year in the budget instruction to our office. Since 2014, the Legislature has instructed the Ombudsman-Citizens' Aide office to "prioritize the investigation and processing of complaints relating to child protective services or its successor agency." Laws 2014, Chapter 18, Section 54. As a result, it has become necessary for all nine of the Ombudsman-Citizens' Aide office employees, including

the Ombudsman-Citizens' Aide himself, to develop expertise regarding the Department of Child Safety and handle inquiries and complaints concerning the Department. The aforementioned statute has not kept pace with the great demand.

Of the over 6,000+ inquiries and complaints the Ombudsman-Citizens' Aide office now receives on a yearly basis, approximately 37% concern the Department of Child Safety. The number of DCS complaints is significantly higher than when the statute was written. For example, a decade ago, at the time of our last Sunset Report, our office handled 795 DCS complaint cases. Last year, we had 2,391 DCS complaints.

Because of the Legislature's annual budget directive to prioritize DCS matters and the high volume of complaints about DCS, the statute needs to correspond logically. Therefore, we specifically recommend removal of the language requiring the Ombudsman-Citizens' Aide to "[a]ppoint an assistant to help the ombudsman-citizens aide investigate complaints relating to the department of child safety."

Because all employees of the Ombudsman-Citizens' Aide office now handle Department of Child Safety matters, there is no benefit to requiring the Ombudsman-Citizens' Aide to appoint a particular employee as Department of Child Safety assistant. Essentially, all employees of the Ombudsman-Citizens' Aide are assistant ombudsmen who investigate the Department of Child Safety. Similarly, all Ombudsman-Citizens' Aide office employees access Department of Child Safety records, and three Ombudsman-Citizens' Aide office employees currently have direct access to the Department's case management system⁴ (CHILDS). The statutory language about the Ombudsman-Citizens' Aide and his Department of Child Safety assistant having access to DCS records and its case management system is superfluous at a minimum and possibly a restrictive hindrance. For this reason, our office recommends removing the language requiring the Ombudsman-Citizens' Aide office to appoint a Department of Child Safety assistant.

Furthermore, our office also recommends amending the statute to remove the language about Ombudsman-Citizens' Aide office access to Department of Child Safety records and to state that the Ombudsman-Citizens' Aide office, in its entirety, shall have direct access to any automated case management system used by the Department of Child Safety. The language about access to Department records can be removed without affecting Ombudsman-Citizens' Aide office access to Department of Child Safety records because it is redundant; A.R.S. § 41-1378 and § 41-1376.01 already entitle Ombudsman-Citizens' Aide office staff to access the Department of Child Safety records.

Three, amend A.R.S. § 41-1380(D). Subsection D makes "all information the department of child safety and the office of the ombudsman-citizens aide gather during the course of a department of child safety investigation conducted under this article from the time a file is opened until it is closed." The statute makes the information gathered confidential and exempt

⁴ DCS management has recently limited the Ombudsman-Citizens' Aide staff member login access to the Department's case management system to three individuals.

from disclosure under the public records law. Subsection D goes far beyond protecting information and records that are made confidential by law. Arguably, it prohibits the Ombudsman-Citizens' Aide office from revealing anything it learns about DCS in the course of an investigation to anyone except, in some situations, the Attorney General and the county attorneys. This language does not make sense in light of the purpose of the Ombudsman-Citizens' Aide office to investigate complaints against agencies like the Department of Child Safety and report on its findings. This language is even more vexing in light of the Legislature's command to prioritize investigation of complaints into the Department of Child Safety. Our office recommends one of two things:

The Legislature can simply excise subsection D without compromising the confidentiality of legally protected records. A.R.S. § 41-1378(F) already prohibits the Ombudsman-Citizens' Aide office from disclosing other agencies' confidential records. Similarly, with respect to a public records request for another agency's confidential records, subsection F also requires the Ombudsman-Citizens' Aide office to maintain the confidentiality of another agency's records in the same manner the other agency would have had it received the public records request. Additionally, A.R.S. § 41-1378(G) makes it a felony for Ombudsman-Citizens' Aide office staff to knowingly reveal protected information and records. "The ombudsman-citizens aide or any staff member or other employee of the ombudsman-citizens aide who knowingly divulges or makes known in any manner not permitted by law any particulars of any record, document or information for which the law restricts disclosure is guilty of a class 5 felony." As a result, eliminating subsection D would not enable the Ombudsman-Citizens' Aide office to freely disclose confidential Department of Child Safety records and information. Removing subsection D, however, would remove any doubt as to whether the Ombudsman-Citizens' Aide office can carry out its primary function to report its investigative findings, particularly for complaints concerning the Department of Child Safety.

Alternatively, the Legislature could instead amend A.R.S. § 41-1380(D). The subsection could be amended to make all records and information gathered by the Ombudsman-Citizens' Aide office confidential and not subject to disclosure, with two exceptions: first, for when the records and information are included as part of a public investigation report produced and published pursuant to A.R.S. §§ 41-1376(B) and 41-1378 (which the agency at issue gets a chance to review and to which it can attach its own response); second, for when information, minus personally identifying information, is included in case summaries for the Ombudsman-Citizens' Aide office's required annual report(s). This would apply only to Department of Child Safety records and information that are *not* made confidential elsewhere in law. It would still be a felony under A.R.S. § 41-1378(G) for Ombudsman-Citizens' Aide office to knowingly divulge records and information made confidential by law.

Four, remove from A.R.S. § 41-1376.01(A) language requiring the Ombudsman-Citizens' Aide to hire "two assistants [. . .] to help the ombudsman-citizens aide investigate complaints relating to public access laws" Subsection A requires the Ombudsman-Citizens' Aide to hire two

assistants to deal with the office's public access responsibilities. One of the assistants must be an attorney. Due to the general increase in complaints and the specific increase in Department of Child Safety complaints, it is impractical for the Ombudsman-Citizens' Aide office to devote two of its nine positions *exclusively* to public access matters. We recommend that the Legislature change the requirement for two public access assistants to one (who must be an attorney) so that the other position can assist where there is the greatest need, whether that be public access or other matters. In addition, the Ombudsman-Citizens' Aide intends to request one additional attorney position in our fiscal year 2021 budget request because our work increasingly needs legal expertise and the volume of this work has outstripped our ability to keep pace.

10. The extent to which the termination of the agency would significantly harm the public health, safety or welfare.

The public deserves to have an independent, impartial, and confidential place to go with their grievances against the government. The Ombudsman-Citizens' Aide serves this function.

Without the Ombudsman-Citizens' Aide office, many private citizens would be forced to accept less than fair treatment from their government because they could not afford to take grievances to the courts. Eliminating the Ombudsman-Citizens' Aide option would create an atmosphere of distrust and lack of respect for the institution of government.

The Ombudsman-Citizens' Aide office is the place to go with grievances against the state government and in some cases local government and districts.

If the office did not exist, many citizens would be forced to choose between accepting an unfair government act and taking their complaint into a court of law, thereby incurring the high cost of litigation.

In addition to the above factors, without the office, no other state agency is empowered to conduct an independent investigation of a government program based solely on a citizen complaint.

This independent review process benefits both the government and the citizens of Arizona. Through the investigative process, the office identifies inefficiencies in government operations by providing an independent check to make sure mistakes are caught and corrected. Without this external check, systemic problems would often go unnoticed until a major problem erupted.

11. The extent to which the level of regulation exercised by the agency is appropriate and whether less or more stringent levels of regulation would be appropriate.

The Ombudsman-Citizens' Aide office is not a regulatory office nor does it fulfill a regulatory function. The office has the appropriate level of authority as it pertains to regulation.

The office has what might be considered an imbalance of strength and weakness. On the one hand, the office is empowered to investigate government agencies and has nearly unrestricted access to government facilities and records, including most confidential records. On the other hand, the office lacks the authority to enforce its findings and recommendations.

Counter-intuitively, the balance between strength and weakness enhances the effectiveness of the office. The authority to investigate gives the office the ability, in most cases to discover the truth. The authority to recommend but not compel means the office can only cause change if its arguments are sound and persuasive. The power to investigate can protect against abuses by agencies, and the lack of power to compel can protect against abuses by the Ombudsman-Citizens' Aide.

12. The extent to which the agency has used private contractors in the performance of its duties and how effective use of private contractors could be accomplished.

The use of private contractors by the agency is occasional. We are a small agency and occasionally use contractors to gather facts and render an expert opinion in cases where staff members lack technical expertise. For example, we used a doctor to opine on the effects of a prescription and a computer expert to opine on a dispute about a computer system.

The office also uses contractors to provide technical support for its server and computer systems, its case management system, and its website. Their combined fees for FY 19 came to less than \$10,000, which is substantially less than a full-time employee would cost.

ADDITIONAL QUESTIONS

1. Identify the problem or needs that the agency is intended to address.

The agency addresses the problems citizens have, perceived or real, with government agencies. Perhaps they experienced excessive red tape or they disagreed with an agency decision. It does not have to be willful misconduct by a state employee. Maybe an administrator made a mistake, misplaced a file, or based a decision on inaccurate or incomplete information. The Constitution gives citizens the right to petition their government for a redress of their grievances. Citizens can exercise this right by coming to the Ombudsman office in these situations.

The Ombudsman-Citizens' Aide office was created to give citizens a way to voice their grievances and to receive a fair and impartial review of their complaints. The office fills a unique niche because it provides four essential services.

- The office provides an alternative to litigation. Litigation is expensive for all parties and usually produces a “win-lose” result. The Ombudsman Citizens’ Aide resolves disputes without going to court. Often the office can reach a solution in which neither party feels they have lost.
- The office holds administrators accountable for fulfilling their obligations, just as the administrator holds citizens accountable.
- The office levels the playing field between citizen and government. As an office of the Legislature, it operates on the same level as an agency director when it investigates a citizen complaint.
- The office provides an administrative review of the administrative acts of state agencies. Because the Ombudsman-Citizens’ Aide is not an employee of the executive branch and is appointed for a fixed term of five years, he or she has the ability to look at a problem without being unduly influenced by senior administrators, political considerations or interagency politics.

2. State to the extent practicable, in quantitative and qualitative terms, the objectives of the agency and its anticipated accomplishments.

Objectives

- ✓ Help citizens interact more effectively with the government by arming them with information about their rights, agency policies and procedures, and opening channels of communication between citizen and administrator.
- ✓ Redress individual grievances by investigating complaints and working with citizens and agencies to resolve legitimate problems and disputes.
- ✓ Prevent recurrence of similar complaints by identifying and correcting patterns of undesirable administrative practices.
- ✓ Exonerate state administrators when criticism is unwarranted.
- ✓ Respond to requests for assistance from state legislators by investigating especially complex constituent complaints.

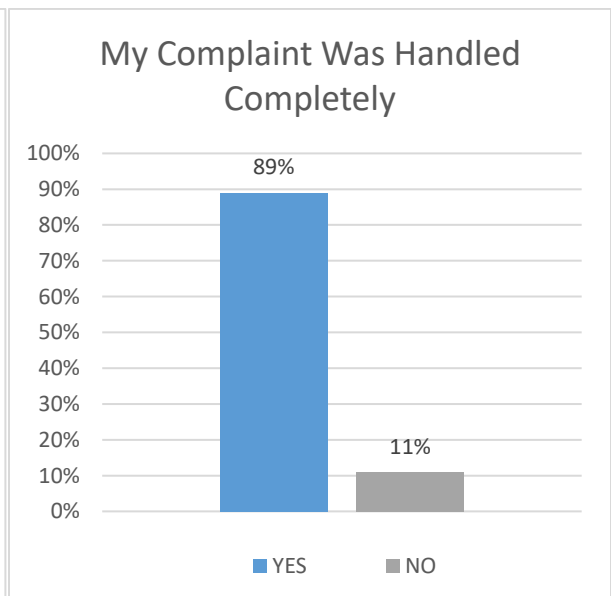
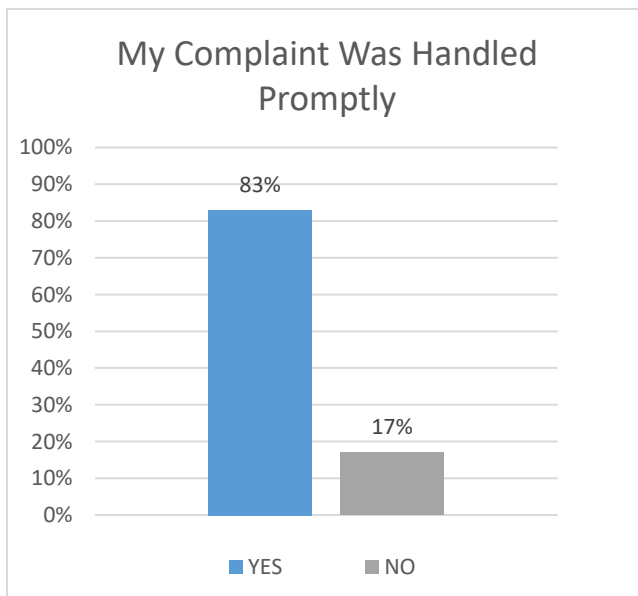
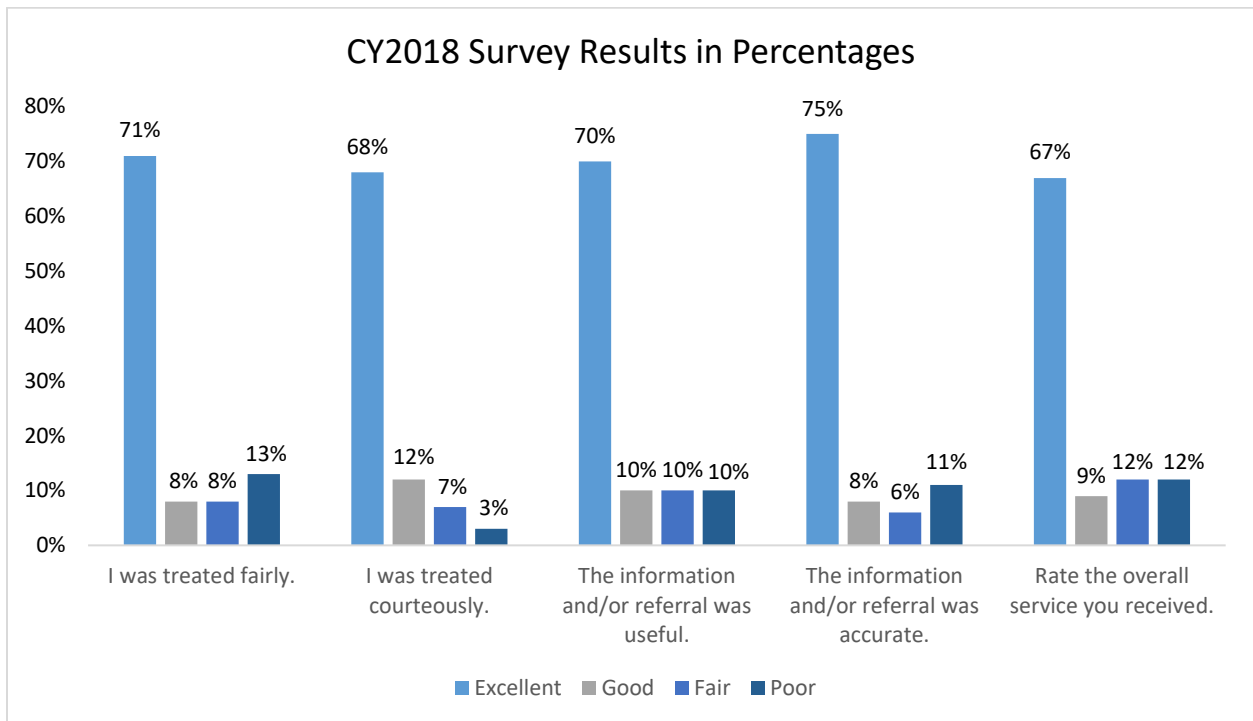
Standards

The office identified six standards that describe how it should respond to citizen complaints. To monitor how well it is meeting these standards, the office conducts a periodic customer satisfaction survey. The standards are:

- Respond **promptly** to citizen inquiries.
- Provide as **complete** a response as possible.

- Provide **useful** solutions to citizens.
- Provide **accurate** responses to citizen complaints.
- Treat everyone **fairly**.
- Treat everyone **with courtesy and respect**.

The following chart summarizes the results of the survey for the calendar year 2018:



Performance Measures

As part of our annual program summary, we report on eight performance measures. The following is our report for CY 2018:

Goal 1. To help more citizens redress their legitimate grievances with governmental agencies.

Performance Measure 1: Number of individuals assisted in FY 2019 = 6,026 and in CY 2018 = 6,405 –This represents a 22% increase in our caseload in one year.

Goal 2. To respond to citizen complaints in a timely manner.

Performance Measure 2A. Percent of initial responses to citizen inquiries made within two business days: 98%

Performance Measure 2B. Percent of notification of investigation sent within 30 days: 98%

Performance Measure 2C. Percent of investigations completed within 3 months: 99%

Performance Measure 2D. Percent of citizens responding "strongly agree" or "agree" to timeliness question on customer satisfaction survey: 83%

Goal 3. To prevent recurrence of similar complaints by identifying and correcting patterns of undesirable administrative practices.

Performance Measure 3A. Percent of recommendations accepted by agencies: 94%

Goal 4. To provide courteous and impartial service to citizens.

Performance Measure 4A. Percent of citizens responding "strongly agree" or "agree" to courtesy question on customer satisfaction survey: 80%

Performance Measure 4B. Percent of citizens responding "strongly agree" or "agree" to impartiality question on the customer satisfaction survey: 79%

3. Identify any other agencies having similar conflicting or duplicative objectives and an explanation of the manner in which the agency avoids duplicative or conflict with other such agencies.

Virtually every government agency has some kind of formal or informal problem resolution process. The Ombudsman-Citizens' Aide does not duplicate these efforts.

Problem resolution programs that are contained within an agency are subject to oversight by agency managers and policies. These managers and policies are often what caused the problem in the first place. The Ombudsman-Citizens' Aide, on the other hand, is free to take an independent and impartial view of a situation because it is located within the legislative branch.

To avoid duplication of effort the office has implemented A.A.C. Rule R2-16-301 that requires a complainant to exhaust reasonable alternatives within the agency before the office intervenes.

The office has also implemented a rule that requires it to defer action in a matter that is being litigated in the courts or is the subject of a current formal administrative procedure unless the Ombudsman-Citizens' Aide determines that immediate investigation is necessary to protect the public health, safety or welfare.

Elected officials also receive complaints from their constituents and often intervene to ensure that their constituents are treated fairly by government agencies. The Ombudsman-Citizens' Aide does not duplicate these efforts either. Rather, members of the Legislature refer their constituents to the Ombudsman-Citizens' Aide when an investigation is warranted, or when a particularly complex problem requires more time than the legislator has available to devote to it.

4. Assess the consequences of eliminating the agency or combining it with another agency.

Consolidating the Ombudsman-Citizens' Aide with another agency would not save administrative costs. Since the office already receives administrative services from the Legislative Council, it does not have any administrative staff itself. It receives human resources, financial accounting, and information technology support from the staff of the Legislative Council. This practice allows the small operational staff to function with little overhead.

Since the office provides a unique service, eliminating it would mean that citizens would be deprived of the opportunity to have an independent and impartial review of their grievances, other than taking their concern to the courts.

Since using the courts is expensive, many citizens will have no other choice than to accept what they believe to be unfair treatment by their government. On the other hand, if more citizens take their grievances to court, the state will incur the additional expense of litigating more lawsuits.

The process starts with a complaint from the very people who are adversely affected by government action. This allows the office to serve citizens by investigating their real problems. Having the ability to independently investigate complaints allows the office to serve agencies by detecting mistakes and inefficiencies so they can be corrected. Eliminating the Ombudsman-Citizens' Aide would deprive both citizens and agencies of this service.

Since members of the Legislature refer especially complex constituent complaints to the Ombudsman-Citizens' Aide, eliminating the office would deprive legislators of this service.