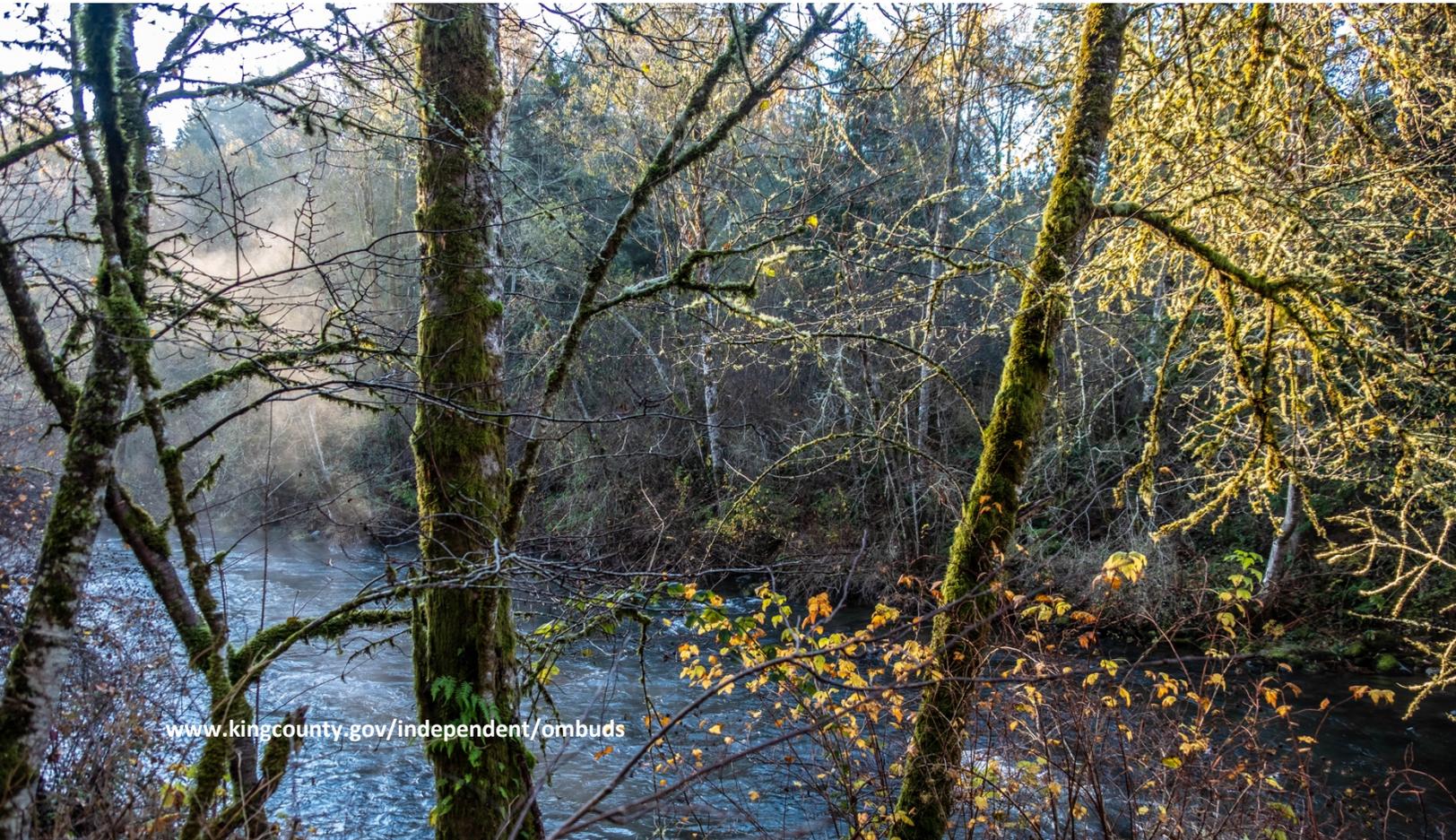


KING COUNTY OMBUDS OFFICE

# Semi-Annual Report

March 1, 2018 – December 31, 2018



## Background

The King County Ombuds Office was created by the voters of King County in the County Home Rule Charter of 1968 and operates as an independent office within the Legislative branch of county government.

The Ombuds Office resolves issues informally where possible and investigates county agency conduct in response to complaints received from the public, county employees, or on its own initiative. This includes investigating alleged violations of the Employee Code of Ethics (KCC 3.04), Lobbyist Disclosure Code (KCC 1.07), and the Whistleblower Protection Code (KCC 3.42). In addition, the Tax Advisor section of the Ombuds Office provides property owners with information regarding all aspects of the property tax assessment process and offers specific guidance for those who are considering an appeal of their valuation.

The Ombuds Office reports to the Metropolitan King County Council in March and October each year on the activities of the Office for the preceding semiannual period, per KCC 2.52.150. This report summarizes Office activities for March through December 2018.<sup>1</sup>

## Mission

To promote public trust in King County government by responding to complaints in an impartial, efficient and timely manner, and to contribute to the improved operation of County government by making recommendations based upon the results of complaint investigations.

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<sup>1</sup> The King County Council recently changed the Ombuds Office's reporting schedule from three times a year to twice a year (Ord. 18635). To align future reports with the new reporting schedule, this report covers ten months of Office activities.

# The Ombuds Office

The Ombuds Office opened 1232 cases and inquiries from residents and county employees during the report period. Ombuds cases are classified as Investigation, Assistance, or Information.

The Ombuds Office opened 48 new investigations during this period. The allegations that initiated these investigations relate to potential improper administrative conduct, as well as violations of the county's ethics and whistleblower codes, including allegations of conflicts of interest, retaliation, and improper governmental action. We strive to complete these investigations in a thorough and timely manner, and to produce findings and recommendations to improve county operations and promote public trust in county government. Investigations are the most resource-intensive aspect of our work.

# Response to Complaints

The Ombuds Office reviews each complaint individually to determine the appropriate actions. Once we fully understand the complaint, our office responds in one or more of the following ways:

## **INFORMATION:**

Requests for information or advice, which may result in referral.

## **ASSISTANCE:**

Complaints resolved through problem solving, including by agency inquiry, facilitation, counseling, and coaching. Assistance cases can range from simple to complex.

## **INVESTIGATION:**

Complaints resolved through independent fact-finding, which may involve evidence collection including witness testimony, and the analysis of evidence, laws, policies, and procedures. The Ombuds makes findings and may also develop recommendations for change and work with departments to ensure that appropriate actions are taken. Investigation cases can range from simple to complex.

In addition to addressing individual concerns, the Ombuds Office also focuses on identifying patterns which may indicate a systemic issue. We work with departments to ensure that systemic problems are resolved, and necessary changes are made to improve functions going forward.

## Cases Received by Agency

Agencies not listed in the table had no Ombuds cases during the reporting period.

Department	Assistance	Investigation <sup>2</sup>	Information	Total
Adult and Juvenile Detention	143	11	341	495
Assessments	6	3	13	22
Boards and Commissions	0	1	0	1
Community and Human Services	4	2	5	11
County Council	0	0	2	2
County Executive Office	2	1	0	3
District Court	2	0	5	7
Executive Services	23	7	28	58
Natural Resources and Parks	14	6	11	31
Ombuds Office/Tax Advisor <sup>3</sup>	53	0	11	64
Permitting and Environmental Review	64	0	7	71
Prosecuting Attorney's Office	2	0	10	12
Public Defense	1	0	18	19
Public Health	95	8	52	155
Sheriff's Office	6	3	7	16
Superior Court	3	0	13	16
Transportation	20	6	26	52
Non-Jurisdictional <sup>4</sup>	20	0	177	197
<b>Total</b>	<b>458</b>	<b>48</b>	<b>726</b>	<b>1232</b>

<sup>2</sup> Investigations include general jurisdiction complaints, alleged violations of the ethics code, employee whistleblower reports of improper governmental action, whistleblower retaliation, and ombuds-initiated investigations.

<sup>3</sup> Cases coded to the Ombuds Office include inquiries about Ombuds operations and processes, public records requests, PAO litigation holds and records requests, special projects, etc.

<sup>4</sup> The category represents inquiries about non-jurisdictional city, state, federal, non-profit, or other private entities.

## Case Summaries

The Ombuds Office handles cases involving a wide range of issues, circumstances, and County agencies. We employ a variety of tools and methods to research and respond to the nuances of each case. The case summaries below describe how our office resolved some of the cases we closed during the reporting period.

Allegation	Resolution
<p>Ethics inquiry regarding a county Agriculture Commissioner who appeared in an advertisement opposing a statewide ballot initiative that could affect agriculture.</p>	<p>We found that the commissioner's appearance in the advertisement does not implicate the county ethics code. The commissioner did not identify herself as a commission member in the ad, there is no evidence that she used county resources to oppose the initiative, and her actions did not appear to conflict with the proper discharge of her duties or impair her independent judgment.</p>
<p>Property owner applied for a building permit on property with an existing well, but Public Health said a new well was required. After installing the new well, the property owner was told by the Department of Permitting and Environmental Review (DPER) that instead of using the new well he needed to pay \$35,000 to the local water district for a water connection.</p>	<p>We talked with the property owner, DPER, and the water district about the fairness of the modified requirements. DPER resolved the issue by allowing the property owner to use the well for the purpose of this building permit.</p>
<p>Adult children were helping their aging parent respond to a County code violation for excessive accumulation of scrap and debris on property. The adult children requested landfill fee vouchers for the landfill from the Department of Natural Resources and Parks' Solid Waste Division for disposal of items.</p>	<p>We contacted Solid Waste's voucher program manager and code enforcement officer to request more fee vouchers. Though the program could only offer one additional voucher due to budget constraints, the provided vouchers allowed the family to clear the hoarded materials themselves, saving time and cost compared to a County-led cleanup. Engaging the family had additional long-term benefits for the person with hoarding behaviors and for the community.</p>

## Case Summaries (continued)

Business owner sought permission from the County to use a public trail for emergency access to a patio. The City of Duvall also wanted the trail extended for recreational purposes and economic development.

We worked with Department of Natural Resources officials, Duvall's Planning and Public Works Department, and the business owner. The City and DNRP established a Memorandum of Understanding (MOU) allowing the City to extend the maintained part of the trail. The City is pleased with this outcome.

Owners of a small craft brewery alleged that DPER forced them to cease operation and did not articulate a clear path to obtain permits to operate again.

The brewery owners relocated the sales portion of their retail business to an incorporated city, but they still needed an Already Built Construction (ABC) permit to produce beer in their garage. The Ombuds Office helped the owners through the ABC change-of-use process and listened to the owners' suggestions on how to improve the ABC process for small business owners. Most of the challenges involved coordination between DPER and Public Health and high costs (approximately \$30,000) for consultants and permit fees. The brewery owners have now submitted the ABC permit application, which allows them to continue to brew beer for about a year. The owners have not yet made physical improvements due to costs and fees.

Complainant raised a variety of issues regarding the management and operation of the Weyerhaeuser King County Aquatic Center, including unclear policy, inequity in scheduling and administration, and improper handling of sexual misconduct investigation findings.

We investigated and determined that the department had justification for its scheduling practice based on historical usage and industry standards, and that the investigation into a coach's alleged sexual misconduct had been handled appropriately. We recommended that the Division consider updating its written documents to clarify policies.

Complainant alleges County is improperly administering its Vets 4 HIRE program based on complainant's own experience of applying for three positions with King County and not receiving any callbacks.

We determined that under existing Human Resources policy, the County applies the preference for veterans as a tie-breaker when deciding between two equally qualified candidates. However, the policy is not as clear as it could be so Human Resources will supplement it with training for its staff.

## Case Summaries (continued)

Property owner alleged King County and the City of Seattle failed to provide timely notice of a sewage capacity charge for a new sewage connection. The property owner believed the delay in notification should exempt property owner from payment.

We investigated and determined the allegation was unsupported. The untimely reporting of the capacity charge connection was unfortunate; however, our review of past similar cases found no support for an untimely-notice exemption under King County or state law. We explained that our office has previously relayed these concerns to the Department of Natural Resources and Parks (DNRP), which has been proactive in engaging and educating local cities and water districts on the importance of timely notice to ratepayers.

Complainants alleged that the Finance and Business Operations Department's Treasury Operations Division failed to notify taxpayers of property tax overpayment and failed to refund overpayment of property taxes.

We found the allegation to be unfounded. Treasury Operations told the complainants they could obtain a refund if they completed and submitted an overpayment refund request letter. The complainants did not return a refund request letter but did send an email requesting a refund, and Treasury sent a refund check two days later.

Our office noted that the existing process could leave taxpayers confused about their eligibility for a refund of any interest accrued on property-tax overpayments. Treasury responded that the taxpayers were entitled to the interest accrued and agreed to send refund checks. Treasury also acknowledged that they need to create a process to address overpayment refunds.

Complainant alleged that the Department of Executive Services' Records and Licensing Services (RALS) Division improperly displayed husband's photograph and information.

We found the allegation to be supported. Complainant's husband had visited RALS to obtain a Transportation Network Company (TNC) for-hire vehicle endorsement. RALS instructed the husband to verify information and return to RALS. We found that RALS posted the husband's information to an upright conduit so that the next customer service representative would be able to assist the husband quickly and efficiently. When the husband did not return, staff shredded the form.

We recommended that RALS evaluate what information it posts in public view and ensure RALS manages customers' sensitive and confidential information to minimize improper public disclosure. RALS agreed to accept all recommendations.

Case Summaries (continued)

Corrections officers alleged that the Department of Adult and Juvenile Detention (DAJD) had unreasonably delayed approving non-standard service vests that corrections officers had requested as medical or disability workplace accommodations.

Resolved following preliminary inquiry. Soon after we conducted initial research and inquired with management, the officers received vouchers to order the special vests. Management explained that the previous department director had been trying to find vests that met both the department's operational needs and those of the officers. The officers were satisfied with the progress and result.

Complainant alleged that a sexual assault occurred during the booking process at the King County Correctional Facility.

We identified an incident that occurred in booking involving the reporting inmate and raised concerns about DAJD's Internal Investigations Unit (IIU) review of the matter. During our review of IIU's investigation, we found that department witnesses stated they had either heard or saw a corrections officer use a head-slap while attempting to restrain the individual. Video camera footage existed, but the quality and frame rate were so poor that we could not determine whether the incident occurred as the complainant alleged.

We noted with concern that the supervisor overseeing the investigation cited the inmate's history with the Seattle Mental Health Court as a justification for the use of force. We questioned why the report mentioned the inmate's mental health history at all and why participation in mental health court could justify the use of force. DAJD concurred that the reference to the inmate's mental health history was inappropriate and would be addressed by the director.

Complainant alleged that corrections officers used excessive force and broke two of the complainant's fingers.

We were unable to determine whether officers used excessive force because no video recordings of the incident or injury existed, and the written officer incident reports were inadequately detailed.

We identified deficiencies with the internal investigation including a failure to identify the inmate's injury as a serious injury, thus failing to trigger a required Use of Force Review. DAJD agreed with our recommendation to review and provide training on the Use of Force policy.

Case Summaries (continued)

Complainant alleged that a strip search constituted prohibited sexual assault.

We concluded that the allegation was unfounded. Our investigation included a review of case facts, DAJD’s General Policy Manual, and the Grew Injunction (a 1983 permanent federal injunction prohibiting the County from performing strip searches without reasonable suspicion or probable cause). Because the complainant had post-conviction status, the Grew Injunction did not apply. Nonetheless, the DAJD Director agreed to remind staff of the department’s strip search policy and the Grew Injunction.

Inmate was moved to psychiatric housing by DAJD corrections staff rather than a healthcare provider in violation of department policy.

We found that the allegation was supported. A sergeant moved the inmate for behavioral reasons, which was outside the sergeant’s authority and constituted a violation of Jail Health Services (JHS) protocol. Only a JHS provider may move an inmate to psychiatric housing. Jail classifications staff acknowledged that the move was unauthorized and in error. DAJD moved the inmate back to general population.

Case Summaries (continued)

Complainant alleged that paint used at DAJD's King County Correctional Facility contains lead.

We found the allegation to be unsupported. In response to our complaint, the Department of Human Resources' Safety and Claims Management Division performed a lead exposure assessment at the KCCF. The report reviewed applicable state and federal regulations on lead exposure (many of which focus on children and on occupations where lead exposure is an identified safety concern) and the Material Safety Data Sheets for paints currently in use at KCCF. Safety and Claims also visited the facility to perform a walk-around visual inspection and take samples from areas where the complainant was housed and where lead concentrations would likely be greatest. The report took "bulk samples" of applied paint and "dust wipe samples" of ambient dust and residue.

All four bulk paint samples indicated "non-detectable" lead levels. One sample taken from a platform bed showed a 0.016% lead content, which exceeds the U.S. Consumer Product Safety Commission's 0.009% limit for new paint and children's toys, but Safety and Claims stated that the amount was negligible and posed no hazard to inmates or employees. Wipe samples taken from one floor at KCCF were non-detectable, but samples from another floor had detectable lead levels. Safety and Claims stated that the lead dust content was negligible, posed no hazard to building occupants, and could easily be cleaned up. The report concluded that "based on the trace (very low) levels of lead detected and the absence of a mechanism for the material to be rendered airborne in such a way that may be inhaled in any appreciable amount, there is no risk of lead exposure to inmates or King County employees."

# Whistleblower Program

King County encourages employees to report significant wrongdoing, called “improper governmental action,” so that problems can be identified and corrected. King County’s Whistleblower Protection Code creates a reporting process for employees and protects employees from retaliation for reporting improper governmental action or cooperating in investigations of it.

## Whistleblower Cases by Department

The table below lists all whistleblower and whistleblower retaliation cases processed by the Ombuds Office during the reporting period. Cases include investigations, assistance, and information inquiries. Departments not listed did not have any whistleblower cases during this reporting period.

Department	Open Cases Carried Forward	New Cases Opened	Cases Closed	Carried Forward into Next Reporting Period
Adult and Juvenile Detention	0	1	1	0
Community and Human Services	0	2	2	0
Executive Services	1	2	1	2
Natural Resources & Parks	1	4	2	3
Public Defense	1	0	1	0
Public Health	2	5	2	5
Sheriff’s Office	0	1	1	0
Transportation	1	4	3	2
<b>Total</b>	<b>6</b>	<b>19</b>	<b>13</b>	<b>12</b>

## Whistleblower Case Summaries

The nature and circumstances of whistleblower complaints vary widely. These selected case summaries offer a sample of the range of allegations and resolutions.

- An anonymous complainant alleged that the King County Sheriff's Office Captain's union received an unlawful gift of public funds by using county meetings spaces free of charge when the spaces were unavailable to others. We investigated and determined that all unions have access to county meeting facilities, and that the officers have a negotiated provision in their collective bargaining agreements that allows them to meet for union business during work hours. This permission is also supported by officers' exempt status and management's recognition that they have the right to manage their time at work, subject to their supervisors' approval. We did not find factual support for a violation of the county ethics code.
- An anonymous complainant alleged that an employee of the county's surplus facility had stolen items from surplus and sold them on a local online auction site. Complainant also alleged a discriminatory bias in workplace investigations and believed that previous complaints about employee theft from the surplus facility had not been investigated. Ombuds Office transmitted allegations to department director and reviewed investigative findings. We determined that the employee had in fact been disciplined for stealing.
- An employee complained that an email solicitation sent to County employees on behalf of another employee's relative may have violated the ethics code. We investigated the facts, reviewed code, and consulted with the ethics administrator. We determined that violations of ethics and other policy may have occurred, but the Director had not intended for email to be sent before review. The Director took numerous steps to educate staff on ethics issues to prevent a repeat of this issue.

# Tax Advisor Statistics

The Tax Advisor Office, a section of the Ombuds Office, provides property owners with information and resources regarding all aspects of the property tax assessment process and offers specific guidance for those who are considering an appeal of their assessment.

The assistance we provide helps support fair and equitable taxation, especially in cases where the King County Assessor may not have known or considered significant new property information during the valuation process. To facilitate this process, we provide comparable sales searches and information on property tax exemption programs.

## Tax Advisor Contacts

Month	Information	Research	Total
March	379	85	<b>464</b>
April	371	62	<b>433</b>
May	194	33	<b>227</b>
June	168	63	<b>231</b>
July	194	99	<b>293</b>
August	225	115	<b>340</b>
September	306	195	<b>501</b>
October	431	126	<b>557</b>
November	218	84	<b>302</b>
December	98	5	<b>8</b>
<b>Total</b>	<b>2,584</b>	<b>867</b>	<b>3,451</b>

As the chart below indicates, the county residents who contact our office for assistance represent a variety of income levels and we strive to provide them all with accurate information that will assist them in making decisions about potential value appeals.

Assessed Property Value	Sales Surveys
\$0-200k	22
\$201-300k	22
\$301-400k	24
\$401-500k	35
\$501-700k	73
4701-1M	100
Over \$1M	146
<b>Total</b>	<b>422</b>



## Contact the King County Ombuds Office:

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