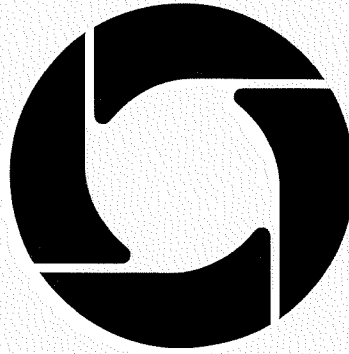


Office of the Ombudsman  
State of Hawaii  
Fiscal Year 2024-2025  
Report Number 56





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

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

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

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

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

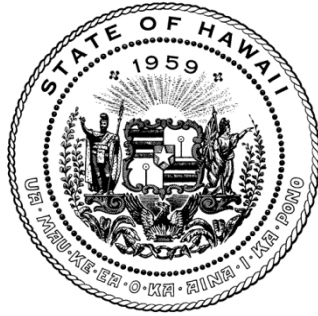
**Phone: 808-587-0770  
Fax: 808-587-0773  
TTY: 808-587-0774**

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

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

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

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



State of Hawaii

## Report of the Ombudsman

For the Period July 1, 2024 - June 30, 2025  
Report No. 56

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

December 2025



Mr. President, Madam Speaker, and Members of the  
Hawaii State Legislature of 2026:

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 2024-2025. This is the fifty-sixth annual report since the establishment of the office in 1969.

My team and I remain committed to ensuring the lawful, reasonable, and fair delivery of government services in Hawaii, and to our role as a link between the people and their government. With the greatly appreciated support of the State Legislature, we continue to impartially investigate the administrative acts of state executive branch and county government agencies of the State of Hawaii. Through our investigations, we have been able to improve the level of public administration in Hawaii. We hope our efforts have enhanced the public's trust and confidence in Hawaii government.

We would not have been able to resolve complaints or bring about administrative improvements without the cooperation of the Governor, the Mayors of the various counties, and the State and County department heads and employees. On behalf of the members of my office, I extend my sincere appreciation for their continuing cooperation and assistance.

Finally, I would like to acknowledge First Assistant Yvonne Jinbo and the other members of my team at the Office of the Ombudsman for their steadfast dedication and commitment to the mission and purpose of our office.

Respectfully submitted,

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

ROBIN K. MATSUNAGA  
Ombudsman

December 2025



## TABLE OF CONTENTS

	Page
LETTER OF TRANSMITTAL	
I. THE YEAR IN BRIEF .....	1
Total Inquiries Received .....	1
Two-Year Comparison .....	1
Staff Notes.....	2
Staff Activities .....	2
II. STATISTICAL TABLES .....	5
1. Numbers and Types of Inquiries .....	5
2. Means by Which Inquiries Are Received.....	7
3. Distribution of Population and Inquirers by Residence .....	9
4. Distribution of Types of Inquiries by Residence of Inquirers ....	11
5. Means of Receipt of Inquiries by Residence .....	13
6. Distribution and Disposition of Jurisdictional Complaints by Agency.....	15
7. Distribution and Disposition of Substantiated Jurisdictional Complaints by Agency .....	17
8. Distribution of Information Requests .....	19
9. Distribution of Non-Jurisdictional Complaints .....	21
10. Inquiries Carried Over to Fiscal Year 2024-2025 and Their Dispositions, and Inquiries Carried Over to Fiscal Year 2025-2026 .....	23
III. SELECTED CASE SUMMARIES .....	25





## Chapter I

### THE YEAR IN BRIEF

#### Total Inquiries Received

During fiscal year 2024-2025, the office received a total of 4,566 inquiries, a 4.0 percent increase from the prior fiscal year. Of the total inquiries, 3,500, or 76.7 percent, may be classified as complaints within the jurisdiction of the office. The remaining inquiries consisted of 505 requests for information and 561 non-jurisdictional complaints.

We received 32 more non-jurisdictional complaints during fiscal year 2024-2025, an increase of 6.0 percent over the prior fiscal year. We received 125 more jurisdictional complaints, an increase of 3.7 percent over the prior fiscal year. Complaints involving the State's adult corrections programs increased by 2.5 percent, while the number of other complaints increased by 5.5 percent.

A comparison of inquiries received in fiscal year 2023-2024 and fiscal year 2024-2025 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
2024-2025	4,566	505	561	3,500	2,061	1,439
2023-2024	4,390	486	529	3,375	2,011	1,364
Numerical Change	176	19	32	125	50	75
Percentage Change	4.0%	3.9%	6.0%	3.7%	2.5%	5.5%

## **Staff Notes**

In July 2024, our office welcomed Analyst Matthew Tinay. Prior to joining our team, Mr. Tinay was the Chief Investigator at the Office of the Public Defender, State Department of Budget and Finance.

In July 2024, Administrative Services Assistant Carly Shriver-Kealoha resigned from our office. We wish her well in her future endeavors.

In October 2024, our office welcomed Administrative Services Assistant Moina Lum. Prior to joining our team, Ms. Lum was employed at the State Department of Defense.

In December 2024, Analyst Matthew Tinay resigned from our office to accept a position with the Judiciary. We wish him all the best in his new endeavor.

In March 2025, Jerolene Sing joined our office as an Analyst. Prior to joining our team, Ms. Sing was the Associate Director of Academic and Facility Affairs at the Chaminade University of Honolulu, Hawaii. Ms. Sing also previously served as a Parole Officer at the Hawaii Paroling Authority, State Department of Corrections and Rehabilitations.

At the end of the fiscal year 2025, our office staff consisted of Ombudsman Robin Matsunaga; First Assistant Yvonne Jinbo; Analysts Simon Ellerbusch, Keola Fong, Megan Ito-Shigetomi, Shannon McMahon, Marcie McWayne, Jerolene Sing, Chad Wolke, and Ryan Yeh; Administrative Services Officer Cindy Yee; and Administrative Service Assistants Jessen Corpuz, Debbie Goya, and Moina Lum.

## **Staff Activities and Outreach**

From July through the beginning of November, Analyst Marcie McWayne served as an Official Observer for the 2024 Primary and General Elections. As part of her volunteer service, Ms. McWayne helped test the voting equipment and monitor the handling and security of ballots at the counting center. Her participation as an Official Observer helped ensure the integrity and efficiency that Hawaii's citizens expect from the officials who conduct the elections.

In November 2024, the 43rd annual conference of the United States Ombudsman Association (USOA) was held in Oceanside, California. In attendance were First Assistant Yvonne Jinbo, Analyst Megan Ito-Shigetomi, and Analyst Chad Wolke. Each year, the annual conference provides valuable training specific to the work of governmental ombudsman offices, as well as a venue to network and share information with other ombudsman professionals from across the United States.

In November 2024, Ombudsman Robin Matsunaga met with Judge Jeffrey Crabtree (Ret.), Director of the State Judiciary's Center for Alternative Dispute Resolution (CADR) office, to discuss the functions of each other's offices. Both agencies provide important, but distinct processes to help people resolve their disputes without having to go through litigation. In addition to mediating and facilitating disputes dealing with public policy, the CADR also promotes alternative dispute resolution through research, training, and educational programs.

In December 2024, Ombudsman Matsunaga was invited to attend the International Ombudsman Summit in Hong Kong and help commemorate the 35<sup>th</sup> anniversary of the establishment of the Ombudsman of Hong Kong. The International Ombudsman Summit served as a platform for Ombudsman institutions worldwide to exchange views and experiences and foster meaningful discussions and connections. At the Summit, Ombudsman Matsunaga entered into a memorandum of understanding (MOU) on bilateral cooperation between the Hawaii Ombudsman and the Ombudsman of Hong Kong. The purpose of the non-binding MOU is to foster communication and collaboration in addressing and preventing maladministration through the exchange of knowledge and information between the two offices.

In June 2025, Ombudsman Matsunaga met with Ken Skodacek, Deputy Ombudsman for the Center for Devices and Radiological Health, US Food and Drug Administration, and Elizabeth Hill, Associate Director for the University of Colorado Boulder Ombuds Office, via Zoom, to discuss the development of an online course focused on the ombudsman profession that is being created in partnership with the University of Colorado Boulder. Ombudsman Matsunaga was asked to assist because our office was the first classical ombudsman office in the United States and because of his experience as a classical ombudsman and trainer for USOA. This free, on-demand course aims to promote global awareness and deepen understanding of the diverse roles ombuds play.



## 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 2024-2025**

Month	Total Inquiries	Jurisdictional Complaints	Non-Jurisdictional Complaints	Information Requests
July	453	351	47	55
August	390	303	53	34
September	400	312	49	39
October	336	242	49	45
November	265	207	35	23
December	326	253	37	36
January	403	294	52	57
February	362	276	48	38
March	369	294	45	30
April	444	340	54	50
May	387	307	39	41
June	431	321	53	57
TOTAL	4,566	3,500	561	505
% of Total Inquiries	--	76.7%	12.3%	11.1%



**TABLE 2**  
**MEANS BY WHICH INQUIRIES ARE RECEIVED**  
**Fiscal Year 2024-2025**

Month	Telephone	Mail	Email	Fax	Visit	Own Motion
July	383	14	54	0	2	0
August	320	14	49	1	6	0
September	343	14	43	0	0	0
October	299	4	32	0	1	0
November	211	2	47	0	5	0
December	287	1	28	0	10	0
January	351	9	37	0	6	0
February	322	8	31	0	0	1
March	312	8	47	0	1	1
April	389	10	40	1	4	0
May	352	7	28	0	0	0
June	379	10	38	1	3	0
TOTAL	3,948	101	474	3	38	2
% of Total Inquiries (4,566)	86.5%	2.2%	10.4%	0.1%	0.8%	0.0%





**TABLE 3**  
**DISTRIBUTION OF POPULATION AND**  
**INQUIRERS BY RESIDENCE**  
**Fiscal Year 2024-2025**

Residence	Population*	Percent of Total Population	Total Inquiries	Percent of Total Inquiries
City & County of Honolulu	998,747	69.1%	3,396	74.4%
County of Hawaii	209,790	14.5%	500	11.0%
County of Maui	163,769	11.3%	350	7.7%
County of Kauai	73,840	5.1%	100	2.2%
Out-of-State	--	--	220	4.8%
TOTAL	1,446,146	--	4,566	--

\*Source: The State of Hawaii Data Book 2024, A Statistical Abstract. Hawaii State Department of Business, Economic Development, and Tourism, Table 1.06, "Resident Population, by County: 2010 to 2024."



**TABLE 4**  
**DISTRIBUTION OF TYPES OF INQUIRIES**  
**BY RESIDENCE OF INQUIRERS**  
**Fiscal Year 2024-2025**

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	2,612	74.6%	379	67.6%	405	80.2%
County of Hawaii	386	11.0%	76	13.5%	38	7.5%
County of Maui	284	8.1%	39	7.0%	27	5.3%
County of Kauai	82	2.3%	11	2.0%	7	1.4%
Out-of-State	136	3.9%	56	10.0%	28	5.5%
TOTAL	3,500	--	561	--	505	--



**TABLE 5**  
**MEANS OF RECEIPT OF INQUIRIES**  
**BY RESIDENCE**  
**Fiscal Year 2024-2025**

Residence	Total Inquiries	Means of Receipt					
		Telephone	Mail	Email	Fax	Visit	Own Motion
C&C of Honolulu	3,396	3,020	38	300	1	35	2
% of C&C of Honolulu	--	88.9%	1.1%	8.8%	0.0%	1.0%	0.1%
County of Hawaii	500	416	5	74	2	3	0
% of County of Hawaii	--	83.2%	1.0%	14.8%	0.4%	0.6%	0.0%
County of Maui	350	311	7	32	0	0	0
% of County of Maui	--	88.9%	2.0%	9.1%	0.0%	0.0%	0.0%
County of Kauai	100	78	4	18	0	0	0
% of County of Kauai	--	78.0%	4.0%	18.0%	0.0%	0.0%	0.0%
Out-of- State	220	123	47	50	0	0	0
% of Out- of-State	--	55.9%	21.4%	22.7%	0.0%	0.0%	0.0%
TOTAL	4,566	3,948	101	474	3	38	2
% of Total	--	86.5%	2.2%	10.4%	0.1%	0.8%	0.0%



**TABLE 6**  
**DISTRIBUTION AND DISPOSITION OF**  
**JURISDICTIONAL COMPLAINTS BY AGENCY**  
**Fiscal Year 2024-2025**

Agency	Jurisdictional Complaints	Percent of Total	Completed Investigations		Discontinued	Declined	Assisted	Pending
			Substantiated	Not Substantiated				
<u>State Departments</u>								
Accounting & General Services	23	0.7%	0	2	2	13	1	5
Agriculture	3	0.1%	0	0	1	1	1	0
Attorney General	35	1.0%	1	0	7	21	3	3
Budget & Finance	60	1.7%	0	2	9	45	1	3
Business, Economic Devel. & Tourism	15	0.4%	1	1	0	12	0	1
Commerce & Consumer Affairs	49	1.4%	2	1	11	33	0	2
Corrections & Rehabilitation	2,073	59.2%	30	201	245	1,315	134	148
Defense	3	0.1%	0	0	0	3	0	0
Education	51	1.5%	0	2	10	36	1	2
Hawaiian Home Lands	14	0.4%	0	1	2	8	2	1
Health	160	4.6%	2	7	25	97	16	13
Human Resources Devel.	3	0.1%	0	0	0	2	0	1
Human Services	383	10.9%	1	11	49	195	108	19
Labor & Industrial Relations	87	2.5%	4	6	6	66	5	0
Land & Natural Resources	58	1.7%	3	4	7	30	0	14
Law Enforcement	22	0.6%	0	3	3	15	0	1
Office of Hawaiian Affairs	1	0.0%	0	0	1	0	0	0
Taxation	15	0.4%	0	0	0	9	6	0
Transportation	36	1.0%	3	3	8	17	1	4
University of Hawaii	4	0.1%	0	0	1	3	0	0
Other Exec Agencies	17	0.5%	0	0	12	5	0	0
<u>Counties</u>								
City & County of Honolulu	222	6.3%	2	16	36	147	11	10
County of Hawaii	94	2.7%	0	2	10	74	2	6
County of Maui	57	1.6%	0	0	8	43	1	5
County of Kauai	15	0.4%	0	0	1	13	0	1
TOTAL	3,500	--	49	262	454	2,203	293	239
% of Total Jurisdictional Complaints	--	--	1.4%	7.5%	13.0%	62.9%	8.4%	6.8%





**TABLE 7**  
**DISTRIBUTION AND DISPOSITION OF SUBSTANTIATED**  
**JURISDICTIONAL COMPLAINTS BY AGENCY**  
**Fiscal Year 2024-2025**

Agency	Substantiated Complaints	Complaints Rectified	Not Rectified/ No Action Necessary
<u>State Departments</u>			
Accounting & General Services	0	0	0
Agriculture	0	0	0
Attorney General	1	1	0
Budget & Finance	0	0	0
Business, Economic Devel. & Tourism	1	1	0
Commerce & Consumer Affairs	2	2	0
Corrections & Rehabilitation	30	27	3
Defense	0	0	0
Education	0	0	0
Hawaiian Home Lands	0	0	0
Health	2	2	0
Human Resources Development	0	0	0
Human Services	1	1	0
Labor & Industrial Relations	4	4	0
Land & Natural Resources	3	3	0
Law Enforcement	0	0	0
Office of Hawaiian Affairs	0	0	0
Taxation	0	0	0
Transportation	3	3	0
University of Hawaii	0	0	0
Other Executive Agencies	0	0	0
<u>Counties</u>			
City & County of Honolulu	2	1	1
County of Hawaii	0	0	0
County of Maui	0	0	0
County of Kauai	0	0	0
<b>TOTAL</b>	<b>49</b>	<b>45</b>	<b>4</b>
% of Total Substantiated Jurisdictional Complaints	--	91.8%	8.2%



**TABLE 8**  
**DISTRIBUTION OF INFORMATION REQUESTS**  
**Fiscal Year 2024-2025**

Agency	Information Requests	Percent of Total
<u>State Departments</u>		
Accounting & General Services	6	1.2%
Agriculture	5	1.0%
Attorney General	6	1.2%
Budget & Finance	9	1.8%
Business, Economic Devel. & Tourism	0	0.0%
Commerce & Consumer Affairs	16	3.2%
Corrections & Rehabilitation	43	8.5%
Defense	0	0.0%
Education	4	0.8%
Hawaiian Home Lands	2	0.4%
Health	16	3.2%
Human Resources Development	2	0.4%
Human Services	20	4.0%
Labor & Industrial Relations	7	1.4%
Land & Natural Resources	7	1.4%
Law Enforcement	0	0.0%
Office of Hawaiian Affairs	1	0.2%
Taxation	3	0.6%
Transportation	8	1.6%
University of Hawaii	1	0.2%
Other Executive Agencies	6	1.2%
<u>Counties</u>		
City & County of Honolulu	38	7.5%
County of Hawaii	9	1.8%
County of Maui	3	0.6%
County of Kauai	0	0.0%
Miscellaneous	293	58.0%
TOTAL	505	--



**TABLE 9**  
**DISTRIBUTION OF NON-JURISDICTIONAL COMPLAINTS**  
**Fiscal Year 2024-2025**

Jurisdictional Exclusions	Number of Complaints	Percent of Total
Collective Bargaining	17	3.0%
County Councils	1	0.2%
Federal Government	19	3.4%
Governor	4	0.7%
Judiciary	99	17.6%
Legislature	10	1.8%
Lieutenant Governor	0	0.0%
Mayors	1	0.2%
Multi-State Governmental Entity	6	1.1%
Private Transactions	401	71.5%
Miscellaneous	3	0.5%
TOTAL	561	--



**TABLE 10**  
**INQUIRIES CARRIED OVER TO FISCAL YEAR 2024-2025 AND**  
**THEIR DISPOSITIONS, AND INQUIRIES CARRIED OVER**  
**TO FISCAL YEAR 2025-2026**

Types of Inquiries	Inquiries Carried Over to FY 24-25	Inquiries Carried Over to FY 24-25 and Closed During FY 24-25	Balance of Inquiries Carried Over to FY 25-26	Inquiries Received in FY 24-25 and Pending	Total Inquiries Carried Over to FY 25-26
Non-Jurisdictional Complaints	3	3	0	0	0
Information Requests	1	1	0	3	3
Jurisdictional Complaints	151	144	7	239	246
		Disposition of <u>Closed Complaints:</u>  Substantiated      32 Not Substan.      63 Discontinued      49 <u>          </u> 144			
TOTAL	155	148	7	242	249





## **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 56, please visit our website at [ombudsman.hawaii.gov](http://ombudsman.hawaii.gov) and select the “Cumulative Index” link from the home page.

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



## LIST OF SUMMARIES

	Page
DEPARTMENT OF CORRECTIONS AND REHABILITATION	
Women's Community Correctional Center did not release all pre-trial and misdemeanor inmates in a timely manner .....	29
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS	
Wage Standards Division determined an individual allegedly hired as an intern was an employee entitled to unpaid wages.....	30
DEPARTMENT OF LAND AND NATURAL RESOURCES	
Division of Boating and Ocean Recreation did not state on its annual vessel registration renewal postcard that the quoted renewal fee included an optional \$75.00 launch ramp fee .....	36
DEPARTMENT OF TRANSPORTATION	
Department of Transportation does not have written parameters regarding its Connected Autonomous Vehicle Project.....	39
CITY AND COUNTY OF HONOLULU	
Emergency Services Department had not resolved a bill from July 2022 with complainants' insurance and erroneously sent the bill to collections without prior notification to complainants.....	40



## DEPARTMENT OF CORRECTIONS AND REHABILITATION

**(25-02985) Women's Community Correctional Center did not release pre-trial and misdemeanor inmates in a timely manner.** We received complaints from multiple pre-trial and misdemeanor inmates housed at the Women's Community Correctional Center (WCCC), Department of Corrections and Rehabilitation (DCR), that the facility had not released them in a timely manner. During our investigation of some of those complaints, WCCC staff informed us that the WCCC had recently been assigned to house pre-trial and misdemeanor inmates, who were previously housed at the Oahu Community Correctional Center (OCCC), and court paperwork and training issues were contributing to delays in the release of these inmates. We also received, during this time period, separate complaints from inmates that they were not being allowed to call our office in a timely manner. This raised our concern that there may be a significant number of pre-trial and misdemeanor inmates who also believed they were being held beyond their release date, but were unable to complain to our office. As a result, we initiated an investigation of the WCCC to ensure that all pre-trial and misdemeanor inmates were timely released.

We informed the DCR of our investigation and requested a printout of all pre-trial and misdemeanor inmates housed at the WCCC, along with each inmate's custody status and criminal case information. DCR provided information for over 80 inmates.

We reviewed the information provided by the DCR, which included information the facility listed as the basis for the continued custody of each inmate. After reviewing this information, we compared it to the information on relevant cases for each inmate that was available on the Judiciary Electronic Filing and Service System (JEFS). We read the minutes entered in JEPS for the latest court proceedings, as well as any relevant uploaded and filed court orders, to determine the release status for each inmate in each of their cases. We then reviewed the updated custody status information on Vinelink.com for any inmates whose latest custody status in their respective cases did not justify further detention. After our review, we found multiple inmates whose detention status was questionable based on our review of the respective court orders.

We discussed our findings with WCCC staff, and they agreed to review the information we had discovered and to release any inmate who should not still be incarcerated. After their review, WCCC promptly released several inmates.

We then asked the WCCC staff why the inmates in question had not been released in a timely manner. WCCC staff informed us that there were

two primary reasons. One reason was that the WCCC had not received updated court paperwork for the inmates. WCCC staff stated that when they were initially assigned to house the pre-trial and misdemeanor inmates, the OCCC staff was still responsible for the transportation of these inmates to and from court, so the WCCC staff relied on obtaining the necessary court paperwork from OCCC staff, which did not happen in many cases. WCCC staff noted that they also had limited authorized access to JEFS at that time, which restricted their ability to access the missing court records online. WCCC staff told us that they had just recently been provided the means to transport their own inmates to and from court, as well as expanded access to JEFS, and believed the issue of not timely receiving court paperwork should be resolved.

WCCC staff informed us that the second reason for the delays was that they had not been fully trained on aspects of sentence calculations that differed from the sentence calculations of open terms of incarceration for felonies that the WCCC staff was familiar handling. They informed us that they were working with staff at other DCR facilities to obtain the relevant training.

Based on the reasons provided by the WCCC staff, we found that the untimely release of the inmates we referred for further review was illegal and unreasonable. We informed the WCCC staff of our finding and that, based on their explanations of corrective action already taken or in progress, we had no further recommendations to make. WCCC staff agreed with our position and thanked us for our intervention.

## **DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

**(24-04196) Wage Standards Division determined an individual allegedly hired as an intern was an employee entitled to unpaid wages.** A business owner complained that the Wage Standards Division (WSD), Department of Labor and Industrial Relations (DLIR), ordered the payment of back wages to a claimant whom the business owner said was hired as an intern, not an employee. The business owner informed us that she had an “informal” arrangement to allow a client’s daughter to “shadow” the business owner’s employees to gain experience. However, an incident occurred that caused the business owner to terminate the arrangement, after which the client’s daughter filed a complaint with the WSD.

The business owner said that she had recently received a decision from her contested case hearing with the WSD, which found in favor of the client’s daughter and assessed the business owner over \$2,200 in unpaid wages, fines and interest. The business owner also complained that the penalties assessed for the non-payment of wages were improper.

During our investigation, we spoke with WSD staff regarding the complaint. WSD staff informed us that the evidence presented during the contested case hearing was insufficient to show that the client's daughter was working as an intern, and the business owner had been in violation of Chapter 388, Hawaii Revised Statutes (HRS). We reviewed the applicable statutes and case law regarding compensation and payment of wages.

The Fair Labor Standards Act (FLSA) set basic minimum wage and overtime pay standards, established recordkeeping requirements, and regulated child labor. It required "for-profit" employers to pay employees for their work and did not require compensation for interns and students, who are not considered employees.

In determining whether vocational students and interns should be considered employees entitled to compensation under the FLSA, the Ninth Circuit adopted the "primary beneficiary test." Benjamin v. B & H Education, Inc., 877 F.3d 1139 (9th Cir. 2017). The Ninth Circuit weighed seven non-exhaustive factors, set forth by the Second Circuit, to assess the primary beneficiary of the relationship. This test allows courts to examine the "economic reality" of the intern-employer relationship to determine which party is the primary beneficiary of the relationship. The seven non-exhaustive factors included the following:

1.     Expectation of Compensation. The extent to which the intern and the employer clearly understand that there is no expectation of compensation. Any promise of compensation, express or implied, suggests that the intern is an employee - and vice versa.
2.     Training Similar to Educational Environment. The extent to which the internship provides training that would be similar to that which would be given in an educational environment, including the clinical and other hands-on training provided by educational institutions.
3.     Academic Credit or Coursework. The extent to which the internship is tied to the intern's formal education program by integrated coursework or the receipt of academic credit.
4.     Correspondence with Academic Calendar. The extent to which the internship accommodates the intern's academic commitments by corresponding to the academic calendar.

5. Limited Duration for Beneficial Learning. The extent to which the internship's duration is limited to the period in which the internship provides the intern with beneficial learning.
6. Complementary Work, Not Displacement. The extent to which the intern's work complements, rather than displaces, the work of paid employees while providing significant educational benefits to the intern.
7. No Entitlement to Paid Job. The extent to which the intern and the employer understand that the internship is conducted without entitlement to a paid job at the conclusion of the internship.

See id. at 1146.

According to the WSD's Decision, the employer was found to be the primary beneficiary of the relationship for several reasons.

1. Expectation of Compensation. WSD noted the claimant testified that she expected to be paid within a specific range and kept a timesheet that was shared with the employer. During the hearing, text messages were also shared, in which the employer reminded the claimant about the claimant's eight-hour schedule.
2. Training Similar to Educational Environment. WSD found that the claimant was prohibited from practicing or observing the services provided by the employer to its customers. The employer also admitted it did not have an internship arrangement with the claimant's college and was not even aware of the claimant's field of study. WSD also found that the claimant completed several personal tasks for the employer that were unrelated to the business itself. In its finding, the WSD also noted that the business was aware of the requirements involved in an internship, as it had previously mentored an unpaid intern.
3. Academic Credit or Coursework. WSD noted that no academic credit could have possibly been earned because there was no relationship between the employer and the claimant's school.



4. Correspondence with Academic Calendar. WSD noted the period the claimant worked for the employer did not correspond to the claimant's academic calendar.
5. Limited Duration for Beneficial Learning. WSD found that the claimant worked for the employer for three weeks before resigning. It noted that there was no indication that the claimant's employment would have terminated had the claimant not resigned.
6. Complementary Work, Not Displacement. Through documentary and testimonial evidence, WSD found that the claimant's tasks were administrative and clerical in nature. WSD also found that none of these tasks were related to the claimant's college curriculum.
7. No Entitlement to Paid Job. WSD noted that the claimant believed it was a paid position, and it appeared the employer also believed the claimant was an employee, based on warnings to the claimant not to work longer than eight hours per day.

Section 388-2(b), HRS, stated that "[t]he earned wages of all employees shall be due and payable within seven days after the end of each pay period." Section 388-1, HRS, defined an "Employee" as "any person suffered or permitted to work" and "Wages" to include "compensation for labor or services rendered by an employee, whether the amount is determined on a time, task, piece, commission, or other basis of calculation[.]" amongst other reasonable costs.

Section 388-7, HRS, stated that every employer shall:

- (1) Notify each employee in writing, at the time of hiring of the rate of pay, and of the day, hour, and place of payment;
- (2) Notify each employee in writing or through a posted notice maintained in a place accessible to employees of any changes in the arrangements specified above prior to the time of the change;
- (3) Provide to each employee in writing or through a posted notice maintained in a place accessible to employees, policies with regard to vacation and sick leave;

- (4) Furnish each employee at every payday a legible printed, typewritten, or handwritten record showing the employee's total gross compensation, the amount and purpose of each deduction, total net compensation, date of payment, and pay period covered; and maintain and preserve a copy of the record or its equivalent for a period of at least six years; provided that in lieu of the printed, typewritten, or handwritten record required by this paragraph and upon receipt of written authorization from the employee, the employer may provide an electronic record that may be electronically accessed by the employee that shall be retained by the employer for a period of at least six years;
- (5) Keep posted in a place accessible to employees the notices pertaining to the application of this chapter as shall be prescribed by the director of labor and industrial relations; and
- (6) Make and keep records of all employees which shall include basic employment and earnings records and preserve the records for a period of time and in a manner as the director shall prescribe by rule.

Section 388-8, HRS, explicitly stated that none of the provisions of Chapter 388 may be waived or contravened by private agreement, except as provided in Section 388-11, HRS.

Section 388-9, HRS, titled "Enforcement" provided, in relevant part:

- (a) The director of labor and industrial relations shall enforce and administer this chapter and the director or the director's authorized representatives may hold hearings and otherwise investigate charges of violations of this chapter and institute actions for penalties hereunder.
- (b) The director or the director's authorized representatives may enter and inspect such places, question such employees, and investigate such facts, conditions, or matters as they may deem appropriate to determine whether any person has violated this chapter or any rule or regulation issued hereunder or which may aid in the enforcement of this chapter.

Pursuant to Section 388-10, HRS, any employer who fails to pay wages in accordance with Chapter 388, HRS, without equitable justification or violates Chapter 388 or the administrative rules adopted under Chapter 388 shall be liable:

- (1) To the employee, in addition to the wages legally proven to be due, for a sum equal to the amount of unpaid wages and interest at a rate of six per cent per year from the date that the wages were due; and
- (2) For a penalty of not less than \$500 or \$100 for each violation, whichever is greater. The penalty shall be deposited into the labor law enforcement special fund.

Section 388-13, HRS, titled "Rules and regulations" stated that the DLIR Director was "authorized to issue such rules and regulations as the [D]irector determines necessary for the purpose of carrying out this chapter."

Thus, the DLIR promulgated Title 12, Chapter 21, Hawaii Administrative Rules (HAR), titled "The Administration and Enforcement of the Payment of Wages and Other Compensation Law," to regulate the payment of wages. According to Section 21-21-1, HAR, the definition for "Employee" and "Wages" mirrored those set forth in Section 388-1, HRS.

Section 12-21-5(a), HAR, stated that every employer shall, at the time of each payment of wages, furnish to each employee an itemized written statement showing:

- (1) The name of the employer;
- (2) The name of the employee;
- (3) The inclusive dates of the period for which the employee is paid;
- (4) Total gross compensation;
- (5) The amount and purpose of each deduction, except that all deductions made on written orders of the employee may be aggregated and shown as one item;
- (6) Total net pay; and
- (7) Date of payment.

Based on the totality of circumstances, the WSD determined the primary beneficiary of the relationship was the employer, not the claimant. We found that WSD's evaluative process was conducted in accordance with the law and that its resulting determination was lawful and reasonable. We also found it was appropriate for WSD to assess penalties due to the non-payment of wages.

The employer also argued that the claimant signed an internship agreement, which the claimant disputed. The WSD found several issues with this argument and the alleged internship agreement presented by the employer. Ultimately, the WSD noted that a private agreement cannot supersede the law as stated in Section 388-8, HRS, and found that an alleged internship agreement could not set aside the claimant's right to wages if she were considered an employee by law, which she was. We determined the WSD's analysis was legally founded.

We notified the complainant and the agency that we found the WSD's Decision to be lawful and reasonable and did not substantiate this complaint.

## **DEPARTMENT OF LAND AND NATURAL RESOURCES**

**(25-01610) Division of Boating and Ocean Recreation did not state on its annual vessel registration renewal postcard that the quoted renewal fee included an optional \$75.00 launch ramp fee.** A sailboat owner complained that the Division of Boating and Ocean Recreation (DOBOR), Department of Land and Natural Resources (DLNR), mailed a misleading postcard to remind boat owners that they needed to pay an annual vessel registration renewal fee that included an undisclosed optional launch ramp fee of \$75.00. The complainant stated that the annual vessel registration renewal fee for his sailboat was \$35.00, and that the sailboat was too large to use the launch ramp, so he should not have to pay the added launch ramp fee. He complained that the postcard should have included a notice stating that the quoted renewal fee included the optional launch ramp fee.

The complainant raised his concern with the Vessel Registration and Titling Office (VRTO), DOBOR. The complainant stated that the VRTO responded and confirmed that the additional \$75.00 fee was for the use of state launch ramps. The VRTO directed the complainant to submit payment for the renewal fee only and to include a note stating that the complainant would not use the launch ramps.

The complainant believed the DOBOR should change the renewal postcards to remove the misleading fee and followed up with the DOBOR about making the necessary changes. In response, the DOBOR simply

indicated the complainant's concern had been forwarded to the program supervisor.

Before contacting our office, the complainant complained to the Office of Consumer Protection (OCP) within the Department of Commerce and Consumer Affairs. The complainant informed us that the OCP indicated the Consumer Resource Center had reviewed the complaint, would add it to the OCP's database, and closed the case without additional investigation by the OCP. The OCP noted to the complainant that the information provided may be helpful in future investigations if similar complaints were received.

During our investigation, we discussed this complaint with the DOBOR Administrator, who explained that the DOBOR had changed its system a few months prior and was unable to change the quoted renewal fee on the postcard. The DOBOR Administrator acknowledged that the quoted amount included the optional launch ramp fee, but stated that the DOBOR would reimburse any overage paid by boat owners.

We reviewed Chapter 200 of the Hawaii Revised Statutes (HRS), titled "Ocean Recreation and Coastal Area Programs," which set forth the annual certificate renewal fee and specified that any fee increases or decreases shall be established by rules adopted by the DLNR, pursuant to Chapter 91. We also reviewed Title 13, Chapter 234, Hawaii Administrative Rules (HAR), titled "Fees and Charges." Section 13-234-1, HAR, provided in relevant part:

(a) The fees and charges relative to the use of state property and facilities at a small boat harbor are:

- (1) Calculated to produce an amount sufficient to pay the expenses of operating, maintaining, and managing the facilities and services and the cost including interest, of amortizing capital improvements for boating facilities including, but not limited to, berths, slips, launch ramps, related accommodations, general navigation channels, breakwaters, aids to navigation, and other harbor structures; and

....

Section 13-234-34, HAR, provided in relevant part:

- (a) An annual boat ramp decal user fee of seventy-five dollars shall be paid by owners of trailered vessels using facilities under the jurisdiction of the division of boating and ocean recreation for recreational and fishing

purposes to gain access to the waters of the State. This fee is charged for the purpose of defraying costs of maintenance of state boating facilities.

Our review of the VRTO's website indicated the complainant's registration renewal fee, which was for a vessel 20 feet and longer, should have totaled \$35.00. The complainant, whose boat was too big to use the launch ramp, should not have been required to pay \$110.00 in registration fees. We found it unreasonable that the DOBOR did not at least notify boat owners that the quoted renewal fee included the optional fee to use the launch ramps.



We discussed our finding with the DOBOR Administrator, who agreed with our position and stated the VRTO was in the process of including a notice on future renewal postcards regarding the optional fee being included in the annual renewal fee. We continued to follow up with the DOBOR until we received confirmation that the notice was included on the renewal postcards. The DOBOR provided a sample renewal postcard, pictured below, sent to a different boat owner, which included the appropriate notice.

**STATE OF HAWAII**  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF BOATING AND OCEAN RECREATION  
4 SAND ISLAND ACCESS ROAD  
HONOLULU, HAWAII 96819  
PHONE: (808) 587-1970

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**RENEWAL NOTICE FOR VESSEL NO.** [REDACTED] **EXP.** [REDACTED]

**TO AVOID DELAY, PLEASE REMIT PAYMENT AT LEAST TWO WEEKS BEFORE EXPIRATION**  
RENEWAL WILL BE DENIED IF THERE ARE UNPAID FEES OWED TO DOBOR



TWO TIMES THE  
REGISTRATION  
FEE WILL BE  
DUE WHEN  
RENEWAL IS  
SUBMITTED  
PAST THE  
EXPIRATION  
DATE

**PAY THIS AMOUNT**  
\$ 95.00

MAKE ALL CHECKS  
OR MONEY ORDERS  
PAYABLE TO:  
**DLNR Boating**  
Fee includes optional  
\$75 ramp charge. Subtract  
\$75 from payment if ramp  
access not needed.

**FOR MAIL-IN RENEWAL, PLEASE RETURN THIS CARD WITH YOUR PAYMENT**  
**YOU MAY ALSO VISIT VESSEL.EHAWAII.GOV TO RENEW ONLINE**  
**OWNERSHIP CAN ONLY BE TRANSFERRED VIA TITLE**

We subsequently notified the complainant of the outcome of our investigation and he expressed his appreciation for the action taken by the DOBOR.

## DEPARTMENT OF TRANSPORTATION

**(24-03589) Department of Transportation does not have written parameters regarding its Connected Autonomous Vehicle Project.**

While investigating a complaint that an employee of the Department of Transportation (DOT) parked a State vehicle on a residential street for over one month, we learned that the employee had been driving the State vehicle as part of the DOT's Connected Autonomous Vehicle (CAV) program. Upon learning that the DOT did not have any written parameters for its testing of CAVs, we decided to initiate an investigation to review the DOT's CAV self-testing activities. Our investigation focused on whether the DOT established written procedures or other controls governing its use of a Tesla vehicle in on-road testing and how the DOT oversaw those activities.

During our investigation, DOT staff informed us that the project began as an internal, volunteer effort to assess roadway readiness for autonomous features, spurred by legislation from the 2020 Legislative Session and that the DOT received a vehicle for the project in 2022. The project engineer reported that drivers were given general instructions on areas to drive (within state and county rights-of-way, including interstate and state highways and adjacent county roads), but he confirmed there were no written parameters for where, when, or how testing would occur. We were informed that drivers selected routes and times (including after hours and weekends) at their discretion and were expected to submit spreadsheets after test runs, noting mileage, locations, and observations. We were also informed that there were no written instructions distinguishing appropriate state use from personal use for trips occurring outside regular hours. As a result of our inquiries, the project was placed on hold by the DOT.

Over the following months, we sought clarification from the DOT regarding the program's status and controls. The DOT confirmed that its effort to test the Tesla's self-driving features had been terminated in 2023, that no written parameters were ever adopted for that self-testing program, and that there were no plans to resume such testing. The DOT also stated that after the program was terminated, users were informed not to activate self-driving features until proper procedures could be implemented, but no such procedures were developed.

Based on the information obtained, we found that the DOT acted unreasonably by conducting on-road self-testing without written parameters or documented oversight mechanisms. We therefore substantiated the complaint. As the DOT terminated the program in 2023 and reported no plans to resume it, we made no further recommendations.

## CITY AND COUNTY OF HONOLULU

**(24-04381 & 24-04382) Emergency Services Department had not resolved a bill from July 2022 with complainants' insurance and erroneously sent the bill to collections without prior notification to complainants.** A married couple contacted our office and complained that the Emergency Services Department (ESD), City and County of Honolulu, had not resolved an ambulance bill from July 2022 with their insurance provider, and that in December 2023, they received a notice that the ESD had sent the bill to collections. They told us they had not received a bill prior to this and believed the ambulance service was covered by insurance. The complainants said they had attempted to address the matter with the ESD on multiple occasions between December 2023 and June 2024, but ESD had not explained what happened or provided the status of their bill. We agreed to investigate their complaints.

We spoke to the ESD about the complaints and learned that issues arose when the ESD took over billing obligations for ambulance services from the Emergency Medical Services System, State Department of Health, on July 1, 2022. We were told that the ESD had not been recognized by Medicare as a provider, which caused complications when the ESD submitted bills to Medicare for payment. The ESD informed us that all bills submitted between July 1, 2022, and January 13, 2023, were not covered by Medicare. While the ESD confirmed that the complainants and others whose bills were impacted by this issue would not be liable for their bills, the ESD admitted that some of these bills, including the complainants', were erroneously sent to collections. The ESD noted that the bills were subsequently withdrawn from collections, but confirmed that it had not provided written notice to the affected customers about this action or of the absence of liability on the customers for payment of the bills, and had only informed customers orally when they inquired about their bills with the ESD.

We determined that the ESD's lack of written notice on this matter was unreasonable and recommended that the ESD notify the complainants in writing that they would not be financially liable for their bill and to confirm that their bill had been withdrawn from collections. The ESD accepted our recommendation and provided our office with a copy of the letter they sent to the complainants.

We notified the complainants of our findings and the corrective action taken. They thanked us and said they were relieved that this matter was resolved.





