



Report of the Ombudsman for Children and Youth in Foster Care

**As Required by
S.B. 830, 84th Legislature,
Regular Session, 2015**

Office of the Ombudsman

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TEXAS
Health and Human
Services

Table of Contents

| | |
|--|-----------|
| Executive Summary | 1 |
| 1. Introduction | 3 |
| 2. Background | 4 |
| 3. Foster Care Ombudsman Work | 6 |
| 4. Contacts and Complaints | 8 |
| Inquiry and Complaint Data | 8 |
| Complaint Reports to Statewide Intake (SWI) | 13 |
| 5. FCO Recommendations | 17 |
| FCO Recommendations to Address Most Frequent Complaints | 17 |
| FCO Additional Recommendations | 17 |
| 6. Changes Resulting from Substantiated Complaints | 19 |
| 7. Foster Care Ombudsman Promotional Efforts | 22 |
| Fiscal Year 2020 Planned Activities | 27 |
| 8. Public Comments Relating to the Previous Annual Report | 29 |
| 9. Conclusion | 31 |
| 10. Glossary | 32 |
| 11. List of Acronyms | 34 |

Executive Summary

Independence is a critical element of an effective ombudsman program. The Texas Legislature chose to house the Ombudsman for Children and Youth in Foster Care (FCO) within the Health and Human Services (HHS) Office of the Ombudsman (OO), rather than within the Department of Family Protective Services (DFPS) to ensure FCO is as independent as possible from the programs it reviews. This independence was enhanced in 2017 when the Legislature removed DFPS from the HHS system, making it a stand-alone agency, while retaining FCO within the HHS system. Independence is crucial when FCO findings result in recommendations for the program areas who deliver services to youth in foster care in Texas.

Impartiality is another important aspect of an ombudsman program that governs how FCO approaches its work. Impartiality, or neutrality, does not mean an ombudsman never makes judgments or findings. Rather, it means that as an ombudsman approaches a complaint, equal credence is given to both sides. The ombudsman does not automatically take the side of the youth or the agency, but rather is neutral in gathering facts, investigating actions taken, and assessing the merits of the case. Once that is done, the ombudsman makes recommendations which support the conclusions the investigation reveals. In the case of FCO, sometimes that means a conclusion that the complaint of the youth is unsubstantiated, because the agency and its staff correctly applied their policy. In other situations, the conclusion is that an agency should take action to address a substantiated complaint because staff did not apply policy correctly.

FCO resolved 607 complaints from youth in fiscal year (FY) 2019. Of these, 250 were substantiated, 344 were unsubstantiated, and 13 were unable to substantiate (there was not enough evidence to make a finding). The five most common reasons for complaints by youth were related to:

- Rights of Children and Youth in Foster Care
- Primary Caseworker Responsibilities
- Caseworker not Responding to Phone Calls
- Not All Facts Documented in IMPACT
- Biographical/Personal Documentation

The report highlights contacts to FCO from youth that contain allegations of abuse or neglect reported to DFPS Statewide Intake (SWI). Of the 64 reports to SWI, ten were allegations of abuse or neglect and the rest involved minimum standards violations. In FY 2018, FCO staff assisted youth make 26 reports to SWI to voice these concerns. The increase can be attributed to additional face-to-face visits with youth this year, specifically with youth in residential treatment centers (RTCs) which started this year as a result of additional staffing authorized by the legislature. Youth seemed comfortable making reports of problems in the facility in this face-to-face setting. As mandatory reporters, FCO staff made reports to SWI either with the youth on the phone or online.

FCO is required to ensure complaints are addressed completely, and one aspect of this is to follow and review the results of both DFPS Child Care Investigations (CCI) and HHS Residential Child Care Licensing (RCCL) investigations into complaints reported to SWI on behalf of youth. The report contains observations made in the review and follow up to these complaints.

There are several areas in this year's report where FCO makes recommendations for addressing issues that have been identified by investigating complaints:

- CPS management staff should continue their focused trainings for caseworkers on the CPS *Rights of Children and Youth in Foster Care*. A related recommendation was made in the FY 2018 report and topics covered in this document continue to be the most frequent contact reason.
- DFPS should continue its efforts to remind staff of the importance of ensuring youth have all personal documents by the age mandated by CPS policy.
- DFPS and RCCL staff should assist FCO ensure the FCO poster is displayed correctly in all facilities.
- The DFPS IMPACT system should be configured to provide a chronological documentation feature that displays date stamps all entries when they are entered and edited.

Also, FCO documents the results of FCO recommendations from the past year, reports on a new effort to outreach youth by visiting RTCs, and recaps planned activities for FY 2020 and public feedback from the FY 2018 report, including legislative action taken on issues highlighted.

1. Introduction

[Senate Bill 830](#), 84th Legislature, Regular Session, 2015, established FCO to serve as a neutral party in assisting children and youth in foster care with complaints regarding programs and services.

The bill requires FCO to publish an annual report of its activities each December. The law specifically requires the following elements be addressed in this report:

- A glossary of terms;
- A description of FCO's activities;
- A description of trends in complaints, recommendations to address them, and an evaluation of the feasibility of those recommendations;
- A list of DFPS and HHS agency changes made in response to substantiated complaints;
- A description of methods used to promote FCO awareness and a plan for the next year; and
- Any feedback from the public on the previous annual report.

2. Background

FCO operations began in 2016. HHS OO staff worked with DFPS and external stakeholders to outline FCO administrative rules and standard operating procedures. Formal administrative rules for FCO were finalized in 2017, updated on January 10, 2019, and can be viewed here, by looking for [Title 26, Part 1, Chapter 87, Subchapter C](#):

A website with contact and general information about [FCO](#) can be accessed here:

FCO strives to adhere as closely as possible to the professional standards for governmental ombudsmen set out by the United States Ombudsman Association (USOA). These standards are independence, impartiality, confidentiality, and credible review process. FCO's independence is assured by the enabling statute that created the office separate from the agency that has program responsibility for services. With the implementation of House Bill 5, 85th Legislative Session, 2017, a portion of DFPS's licensing and inspecting authority was moved to the HHS system, where FCO also resides. However, FCO is part of the HHS OO and is organizationally structured outside the chain of command of all program areas. The HHS Regulatory Division houses HHS RCCL and reports to the Executive Commissioner through a different chain of command.

FCO is required in its enabling statute to serve as a "neutral party" in assisting children and youth with complaints. This neutrality is best understood by the USOA's concept of impartiality:

The ombudsman is not predisposed as an advocate for the complainant nor an apologist for the government, however the ombudsman may, based on investigation, support the government's actions or advocate for the recommended changes. [USOA Governmental Ombudsman's Standards](#).

Impartiality is achieved by the strict process by which FCO reviews DFPS and HHS policy and assesses how it is applied in each complaint brought by a youth. FCO staff do not make subjective judgments on what they think should have happened, but rather carefully compare each complaint with the agencies' policies so that findings directly relate to whether those policies were followed. All complaints reviewed are documented as substantiated or unsubstantiated and reported back to the applicable agency. Recommendations are based on adherence to the applicable

agency's policy and are made with the goal of improving services for children and youth in foster care.

Confidentiality is required by the FCO statute, which makes it clear all communication with FCO is confidential. FCO must secure the consent of the youth before any information can be shared with any entity, including DFPS. The only exception to this is in cases where a youth has provided information that give FCO staff reason to suspect abuse and neglect. In these cases, FCO procedures require a report to DFPS SWI, however they also require the youth be given an explanation of FCO's responsibility to report so they are aware the report is being made.

Finally, credible review is achieved through the statutory language that gives FCO access to all agency records so that investigations are thorough and complete. FCO standards that ensure only people with DFPS experience are hired are also part of this concept, which is meant to assure program staff FCO has the knowledge and experience necessary to make findings and recommendations in response to complaints from foster youth. Related to this, training requirements ensure FCO staff stay up to date with their knowledge of DFPS and HHS policy and practices.

3. Foster Care Ombudsman Work

Youth may contact FCO by phone, fax, mail, or online submission. FCO staff follow up with youth within one business day of the date of contact, and then at least every five business days thereafter, until the case is closed. FCO staff maintain a record of all inquiries and complaints in a tracking system, the HHS Enterprise Administrative Report and Tracking System (HEART.)

Each case is reviewed to determine if DFPS and HHS policy was followed. FCO staff review all available information about a case through inquiry into DFPS and HHS case management systems, including Child Care Licensing Automated Support System (CLASS) and Information Management Protecting Adults and Children in Texas (IMPACT). Applicable policies include federal and state law, administrative rules (which include the HHS minimum standards), program handbooks, contracts, and internal program policies and procedures including HHS human resources policy.

During their research, if FCO staff discover a violation of DFPS or HHS policy that was not included in the youth's complaint, an additional complaint is entered in the existing HEART case. This additional action is required by the FCO statute.

After review of available systems to determine resolution of a complaint, FCO staff request a response from appropriate DFPS or HHS program staff, if the youth has authorized discussion of their case. In the case of youth served under the Community-Based Care model, this may include responses from the Single Source Continuum Contractor (SSCC). This response is included in the HEART case record for each complaint.

Upon completion of a case, a written response is provided to program staff outlining DFPS policies and/or HHS minimum standards reviewed, those found to have been violated, those found not to have been violated, and any recommended corrective actions. Program staff are requested to respond with a summary of actions taken in response to the FCO finding. Any response received by program staff is also included in the HEART case record for each complaint.

A written response is provided to the youth, if requested, including a description of the steps taken to investigate the complaint and a description of what FCO found as a result of their investigation. If a complaint is substantiated, the youth is also

given a description of the actions taken by DFPS or HHS in response to that finding. If a complaint is not substantiated, the youth is given a description of additional steps they can take to have someone review their concern (e.g., speak to their court-appointed advocate or to the judge assigned to their case).

4. Contacts and Complaints

Inquiry and Complaint Data

FCO received 929 contacts in FY 2019; however, only 297 were from children and youth in foster care. The remaining contacts were from others asking about a foster youth, such as family members. For example, this year FCO received a high number of calls from foster parents with concerns with how the youth's case was being handled. Those cases were referred to the DFPS Office of Consumer Relations for further assistance.

Many of the youth who called FCO had multiple complaints. The majority of the contacts were made by phone or via online submission; however, this year FCO began visiting youth in RTCs, which generated a number of face-to-face inquiries and complaints. These face-to-face visits resulted from the Legislature's authorization of three additional FCO positions. While FCO staff had previously met with youth at outreach events, youth seemed comfortable making complaint reports in the facility in this face-to-face setting.

This year FCO also spent a significant amount of time educating callers about the purpose of the FCO program and who we serve. In cases where another resource was more appropriate (e.g., the DFPS Office of Consumer Relations), FCO staff advised the caller of this resource. This was done in an effort to minimize the number of calls received from others so we could keep the toll-free line available for children and youth.

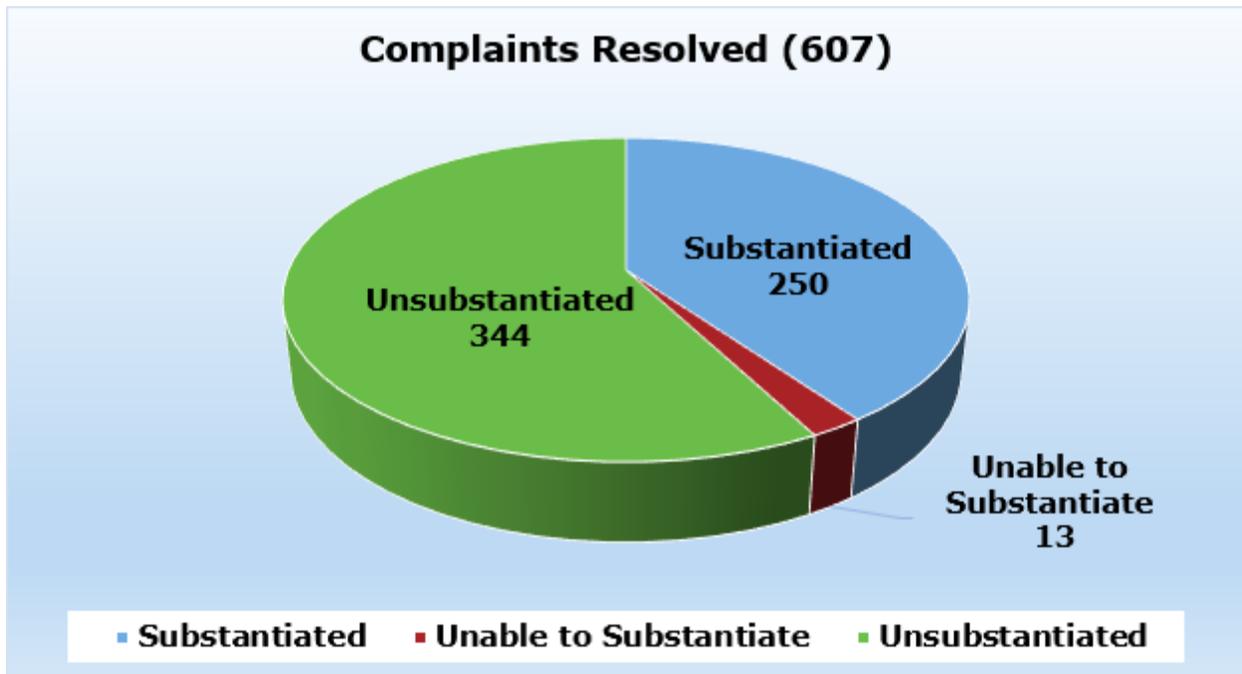
Topics covered in the *CPS Rights of Children and Youth in Foster Care* continues to be the top reason youth contact FCO. FCO acknowledges this is likely because of the sheer number of rights (45) included in this document, but notes this makes it critical to guaranteeing the safety and well-being of youth in care.

There was a significant increase in contacts and complaints from FY2018. Total contacts increased by 48% (627 to 929) and complaints by 152% (241 to 607). We believe this increase can be attributed to two related factors. As noted above, FCO was authorized to hire three additional ombudsmen during the year. This allowed FCO to begin on-site visits to RTCs to speak directly with youth in care. While some youth are willing to express their complaint via the toll-free line, FCO understands some youth may be more comfortable making their complaint in-person.

Table 1 Top 5 Contact Reasons: All Inquiries and Complaints

| Contact Reason | CPS Handbook Section | Count |
|---|--|-------|
| Rights of Children and Youth in Foster Care | Policy 6420 - CPS Rights of Children and Youth in Foster Care | 245 |
| Primary Caseworker Responsibilities | Policy 6314 - Primary Caseworker Responsibilities | 174 |
| Caseworker not responding to phone calls | Policy 6143.11 - Responding to a message from a Child or Youth | 42 |
| Not all facts documented in IMPACT | Policy 6133 - Case Recording | 41 |
| Bio/Personal Documentation | Policy 6452.1 Personal Documents provided at age 16 | 23 |

Figure 1 Complaints Resolved



Of the most frequent complaints listed in Table 2 below, two had relatively low rates of substantiation, while the other three had relatively high rates. Specifically, *Rights of Children and Youth in Foster Care* (40 substantiated of 245 total complaints on that topic or 16%) and *Caseworker Not Responding to Phone Calls* (12 of 42 substantiated or 29%) were the least frequently substantiated complaints. *Primary Caseworker Responsibilities* (106 substantiated of 174 total complaints on that topic or 61%), *Not All Facts Documented in IMPACT* (37 of 41 or 90%) and *Bio/Personal Documentation* (17 of 23 or 74%) were more frequently substantiated.

In comparing both contact and complaint data from year to year, four of the five top reasons for both remain the same. The exception is that the CPS policy on *Bio/Personal Documentation* did not make the Top 5 in FY 2018. FCO notices a trend in complaints where youth in care are not receiving their important documents like birth certificates and Social Security cards within the timelines required by CPS policy. Also of note is that the CPS policy on *Primary Caseworker Responsibilities* has risen from fourth place to second in frequency. Falling off the Top 5 list is *Placement Issues*, where CPS leadership reported they put policies in place to address the issue based on FCO's recommendations in the FY 2018 report.

Table 2 Most Frequent Complaints Reasons including Resolution

| Contact Reason | CPS Handbook Section | Substantiated | Unsubstantiated | Unable to Substantiate |
|---|--|---------------|-----------------|------------------------|
| Rights of Children and Youth in Foster Care | Policy 6420 - CPS Rights of Children and Youth in Foster Care | 40 | 199 | 6 |
| Primary Caseworker Responsibilities | Policy 6314 - Primary Caseworker Responsibilities | 106 | 67 | 1 |
| Caseworker not responding to phone calls | Policy 6143.11 - Responding to a message from a Child or Youth | 12 | 26 | 4 |
| Not all facts documented in IMPACT | Policy 6133 - Case Recording | 37 | 4 | 0 |
| Bio/Personal Documentation | Policy 6452.1 Personal Documents provided at age 16 | 17 | 6 | 0 |

Figure 2 Substantiated Complaints by Legal Region

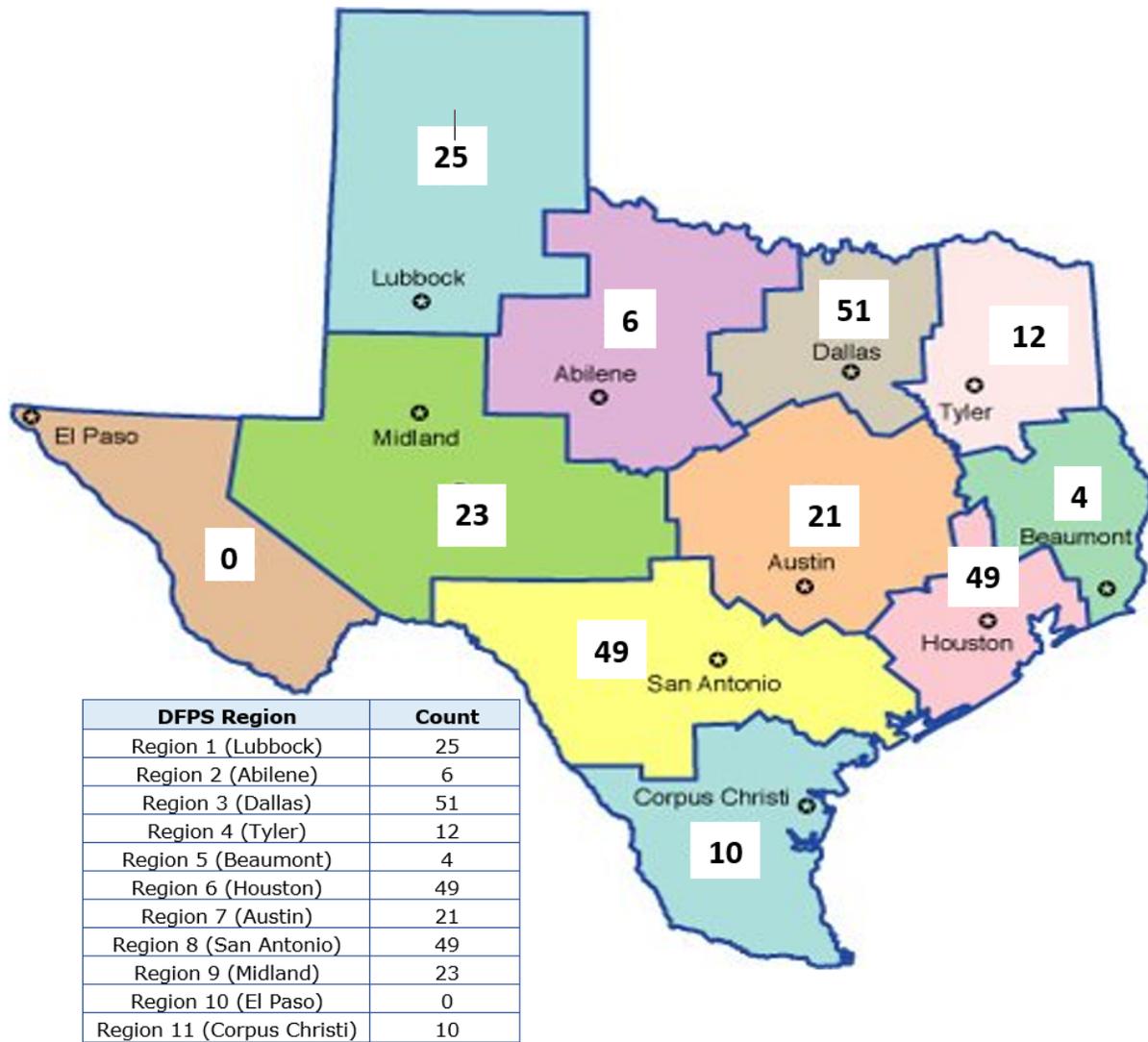


Figure 2 shows the distribution of substantiated complaints across DFPS regions, showing cases by the legal region where DFPS was granted conservatorship. While Regions 3, 6, and 8 show the highest number of substantiated complaints, that is in line with expectations given the large number of foster youth placed in those regions. FCO's highest volume of complaints and inquiries are received from these same three regions.

Complaint Reports to Statewide Intake (SWI)

In FY 2019, FCO made 64 reports to SWI related to a complaint made by a youth. The reports included allegations related to abuse or neglect, minimum standards violations, and/or child rights violations. This represents a significant increase in the number of reports FCO received from FY 2018 (26) to this year (64).

Reports to SWI were made by FCO, the youth, or by FCO helping the youth. Ten were allegations of abuse or neglect, including staff verbal and physical abuse, and the rest involved child rights / minimum standards violations. The child rights / minimum standards violations primarily involved basic care and needs not being met. All reports involving these types of allegations reported through FCO were investigated.

CCI investigates allegations of abuse and neglect to ensure children in CPS care are safe, and RCCL investigates minimum standards and child rights violations to ensure youths' needs are being met. FCO's statutory responsibility is to ensure all complaints from youth are fully addressed. FCO's role during these investigations is to review DFPS and HHS policies to ensure the investigation is conducted per the respective agency's policy requirements. FCO ensures information obtained during the investigation is sufficient to make a fair, accurate, and impartial decision.

FCO works with RCCL and CCI to understand cases where it appears to FCO that case findings are inadequate based on the respective agency's policy and information gathered during the investigations.

HHS Residential Child Care Licensing (RCCL)

In one case, FCO questioned the evidence standard used to make determinations on a question of minimum standards. FCO staff contacted the investigator of a case where five staff and five youth were interviewed regarding staff using profanity. At the conclusion of the investigation, three youth had indicated the staff person did curse at youth and two indicated they had not. Four of the five staff members interviewed also denied hearing the staff curse at youth, with one admitting the staff person does curse at times. The investigator documented that based on the *preponderance of the evidence* the allegation could not be confirmed. When FCO inquired about the findings in the case, the investigator indicated the preponderance was based on a 51% threshold. FCO questioned this standard's use for minimum standards cases, but RCCL confirmed its use. FCO is concerned that

when *preponderance of the evidence* is used in minimum standards cases it may minimize findings on less urgent but still important daily life issues for youth. FCO plans to seek additional information about the use of this standard in the coming year.

FCO found a number of cases that were well documented with appropriate investigation activities and case findings, per HHS RCCL policy. For example, a youth contacted FCO by phone and indicated she was given extra chores for choosing not to go on an outing. The youth said she did not want to go because she had participated in that particular outing several times. The youth felt the chores were not fair.

The case was assigned as a minimum standards case. During the investigation, documents were gathered, and interviews conducted. The investigator interviewed two youth (one being the alleged victim) and two staff (one of whom was involved in the incident). Both youth confirmed when a youth chooses not to participate in scheduled outings they are given extra chores or consequences. Interviews with the two staff members confirmed the same. Documents obtained from the operation showed the staff member in question had up-to-date training on discipline, working with teens, and group dynamics, etc. While interviewing the staff member, they stated youth are given work chores they don't normally do as a consequence if they do not go on the outings.

According to case notes, the investigator concluded:

Based on the information obtained during this investigation, there is sufficient evidence to support that [HHS minimum] standard 748.2301 (b)(5) is non-compliant. The standard states that discipline measures must be appropriate to the incident and severity of the behavior demonstrated. Interviews from staff and youth support that children were given extra chores when they did not want to participate in an outing. A child not wanting to go on an outing is not cause for giving them additional chores or consequences. For this reason, the standard will be cited as a means to address the concern.

748.2301(b)(5) Disciplinary Measures-Measures must be appropriate to the incident and severity of the behavior demonstrated was found to be deficient. Narrative states: By staff's own admission, a youth was given extra chores as a consequence for not participating in an outing.

Consequences need to correlate to the severity of the behavior and to the incident. Children in care have the right to be free from any harsh, unusual or unnecessary punishment. It is recommended that the operation re-train staff to ensure they are aware of the operation's discipline policies and of child's rights.

FCO notes this as a good example of an investigation that is thorough and impartial, with a fair finding based on the information gathered and the applicable HHS minimum standard.

DFPS Child Care Investigations (CCI)

CCI investigates abuse or neglect allegations made regarding children and youth in foster care. When a complaint is assigned to CCI their role during the investigation is to address the allegation fully by interviewing the victim, all collateral sources identified in the case, and any other persons who may have information about the allegation. Their role is to be neutral, gather sufficient information, and make an informed and fair finding in each case.

An investigation of a report alleging possible risk to children must be completed promptly and thoroughly by the investigator to ensure children who are or will be in care at the operation are protected.

CCI provides the following dispositions for Child Care Licensing cases:

- Reason to Believe (RTB) – A preponderance of evidence indicates that abuse, neglect, or exploitation occurred. If the disposition for any allegation is Reason to Believe, the overall case disposition is Reason to Believe.
- Ruled Out (R/O) – A preponderance of evidence indicates that abuse, neglect, or exploitation did not occur. If the dispositions for all allegations are Ruled Out, the overall case disposition is Ruled Out.
- Unable to Determine (UTD) – A determination could not be made because of an inability to gather enough facts. The investigator concludes that: there is not a preponderance of the evidence that abuse, or neglect occurred; but it is not reasonable to conclude that abuse or neglect did not occur.

FCO found several cases that appeared not to be in line with CCI investigation policies and procedures.

In one case FCO received a complaint in which the youth stated he had bruises, scars on his face, and a knot on the back of his head as a result of what he believed

to be an improper restraint. He stated he did not feel safe with the two staff members at his placement. During the investigation the youth presented with his arm in a sling. The youth reported to the investigator that his arm was hurt during a separate restraint. In an apparent violation of DFPS policy, this case was closed without questions to the youth about his statement that he was hurt during a restraint. The case was closed without any abuse or neglect findings or any citations. It was only after FCO inquired if there was concern that the youth's arm was in a sling, the youth was taken to the doctor and another case was opened to address this issue. CCI reviewed a draft of this report and maintains the disposition of the investigation was correct since the youth was unable to remain consistent in his statements to investigators.

In another case, a youth contacted FCO and indicated he was physically assaulted by a staff member at his placement. The youth stated it occurred two different times and he was punched in the forehead, ribs, and had elbow pain and scratches from falling after being pushed. Based on the information obtained during the investigation, CCI concluded the allegation of physical abuse was ruled out. The investigator recommended routine monitoring of the program, and there were no concerns that needed to be communicated to HHS.

After reviewing the investigation, FCO had concerns with the disposition as the youth sustained an injury that the youth informed both FCO and his caseworker was sustained when a staff member pushed him. While one staff member stated the youth "loved to bang his head on the wall in the seclusion room," there was no documentation of this incident. The investigator's documentation indicated she was not sure what happened. FCO also had concerns that the staff member involved was new to the placement as reported by every staff member interviewed and that he was the subject of three previous cases with similar allegations. CCI reviewed a draft of this report and maintains the disposition of the investigation was correct and that the youth's allegation was not consistent with the observed injury.

5. FCO Recommendations

FCO Recommendations to Address Most Frequent Complaints

For FY 2020 FCO is making the following recommendations:

- CPS staff should continue their focused training for caseworkers on the *Rights of Children and Youth in foster Care*, and the importance of addressing issues related to the rights of Children and Youth in foster care. As noted in FCO's own data, the percentage of cases related to these rights that are substantiated are not as high as other types of cases. FCO hopes continued focus on the rights by CPS caseworkers may also lead to a better understanding of the rights by youth in care.
- DFPS should continue its efforts to remind staff of the importance of ensuring youth have all personal documents by the age mandated by CPS policy. As noted previously in this report, this trend has made the list of most frequent complaints during FY 2019 and is among those that FCO frequently substantiates. FCO notes CPS shared related training for supervisors in June 2019 and appreciates their continued focus on this topic.

FCO Additional Recommendations

FCO Poster Requirements:

In accordance with Section 43.0041(h) of the Human Resources Code, DFPS has administrative rules in place (40 TAC 700.1701) that require residential child-care facilities who care for foster youth to prominently display the FCO poster, which contains FCO's contact information.

FCO recommends the FCO poster be reviewed with the youth when they are being placed, much like the child rights document is to be reviewed. FCO further recommends DFPS and RCCL collaborate with FCO by confirming the poster is being displayed in each facility they visit and notifying FCO of any placements failing to display. Finally, FCO recommends the posters being displayed are the original color posters and not copied black and white versions. The reasons for these

recommendations are detailed in the “FCO Outreach to Residential Treatment Centers” section of this report.

Feasibility of Recommendation: Would require agreement of DFPS and RCCL but no additional state funds assuming placements were required to print these letter-sized posters themselves, likely achievable within one year.

IMPACT Documentation Issues:

FCO recommends CPS update IMPACT so each narrative is date and time stamped with viewable documentation of the author of each contact. Once the narrative is saved, FCO believes allowing it to be edited without noting when and by whom results in less than transparent documentation. While FCO understands the need for CPS supervisors to make updates and corrections to the narrative, FCO recommends this be done by entering a new narrative with an explanation of why the original narrative was updated.

A related recommendation was made in the FY 2018 report, and DFPS expressed the difficulty and expense with doing so. DFPS noted their view that displaying multiple narratives regarding the same interaction could be confusing. In response to this year’s recommendation, DFPS has noted that as of May 2019 the IMPACT system has an audit trail feature that captures the employee ID number of staff that read, update, or delete narratives. FCO is interested in learning more about this new feature to understand if it could be used by FCO staff to mitigate the lack of transparency. For example, if the data could confirm who edited a narrative, when they edited, and exactly what they edited, this would allow FCO to complete their investigations when there appears to be a discrepancy in the record. Such a potential discrepancy could result from a narrative being edited during FCO’s complaint investigation.

Legislative interest in this topic is detailed in the “Public Comments to the Previous Annual Report” section of this report.

Feasibility of Recommendation: Unknown, considering potential cost/technical effort. Unlikely to be achievable within one year unless recommendation coincides with other planned updates to these systems.

6. Changes Resulting from Substantiated Complaints

In FY 2018, FCO came across a number of cases where documentation was limited. It was difficult to understand what was happening with the youth and their care because the documentation was so minimal. This year, FCO has seen a marked improvement in the quality of documentation in a number of cases. Some cases were documented so well FCO staff did not have to ask many questions to make a finding in a case.

FCO noted positive changes in the following areas related to substantiated complaints and recommendations noted in previous reports:

- DFPS and HHS RCCL staff initiated follow up investigations after FCO intervention in specific cases. These follow up investigations have resulted in citations that were not issued in the original investigation.
- CPS began reporting back to FCO in cases when corrective actions were taken as a result of an FCO finding and recommendation.

FCO collaborated with CPS management to implement a process to ensure CPS provided a written response to FCO's recommendation in a timely manner. FCO sends a monthly spreadsheet to CPS with findings in cases from the previous month, allowing CPS to enter responses within 30 days. This process worked well and allowed FCO insight into how CPS responded to recommendations. This year FCO had 250 substantiated complaints related to CPS policy. As Table 3 details, CPS responded to all 250 substantiated complaints for FY2019. Many of the responses included very detailed and helpful information about the dates of conferences and training with staff, memos sent to groups of staff addressing issues raised, and other meaningful actions taken in response to FCO's recommendations. Other responses were less detailed, describing actions that were taken or would be taken. In a handful of recommendations, CPS managers disagreed with the recommendation and did not take any action to address.

Table 3 CPS Responses to FCO Findings

| Month | Number of CPS Responses | Comments |
|----------------|-------------------------|--|
| September 2018 | 24 | <ul style="list-style-type: none"> ● 14 Complete responses with dates and action taken ● 5 complete responses with general description of action taken ● 5 reviewed and retraining or conferences planned but not completed |
| October 2018 | 35 | <ul style="list-style-type: none"> ● 27 Complete responses ● 3 PD will conference but no update on action completed ● 2 staff no longer with agency ● 3 PD no longer with agency |
| November 2018 | 16 | <ul style="list-style-type: none"> ● 13 Complete responses ● 3 staff not aware of recommendations and has left the agency |
| December 2018 | 15 | <ul style="list-style-type: none"> ● 11 Complete responses ● 1 caseworker not conferenced due to FMLA ● 3 DFPS supervisor disagrees with recommendations |
| January 2019 | 9 | <ul style="list-style-type: none"> ● 9 Complete responses, but no dates entered for the conferencing or training sessions |
| February 2019 | 19 | <ul style="list-style-type: none"> ● 10 Complete responses with dates of action taken ● 9 General responses with action to be taken or no date of action taken |

| Month | Number of CPS Responses | Comments |
|-------------|-------------------------|---|
| March 2019 | 13 | <ul style="list-style-type: none"> ● 11 Complete responses, not all dates of action taken was entered ● 2 DFPS supervisor disagrees with recommendation |
| April 2019 | 13 | <ul style="list-style-type: none"> ● 13 Complete responses, not all dates of action taken were entered |
| May 2019 | 22 | <ul style="list-style-type: none"> ● 14 Complete responses ● 8 indicated PD will meet with supervisor, but no update of completion entered |
| June 2019 | 27 | <ul style="list-style-type: none"> ● 19 Complete responses with dates and details of action taken ● 3 indicated PD will meet with supervisor, but no update of completion entered ● 5 DFPS supervisor disagrees with recommendations |
| July 2019 | 16 | <ul style="list-style-type: none"> ● 14 Complete responses with dates of action taken ● 2 no action can be taken as youth did not consent to disclose identity |
| August 2019 | 41 | <ul style="list-style-type: none"> ● 32 Complete with dates of action taken ● 7 General responses with action to be taken or no date of action taken ● 2 RCCL related, not CPS policy cited |

7. Foster Care Ombudsman Promotional Efforts

Preparation for Adult Living (PAL)

In FY 2018 FCO attended 17 PAL conferences and seminars across the state and spoke with 715 youth. In FY 2019 FCO participated in 15 PAL conferences and seminars across the state--including PAL classes offered by providers--and spoke with over 500 youth. There were five meetings FCO was not able to attend. FCO sent brochures and promotional items with FCO contact information and requested PAL staff distribute the materials to the youth. An additional 145 youth received contact information through that method. To make up for fewer PAL meetings, FCO also participated in youth conferences and stakeholder meetings and shared FCO information. FCO will continue to seek out opportunities to present FCO information and continue efforts to make sure every child and youth in care is aware of the FCO program and services.

Table 4 PAL Conferences and Seminars Attended FY 2019

| Date | Event | Location | Number of Youth |
|-------------------|------------------------|----------|-----------------|
| November 12, 2018 | PAL Conference | Commerce | 58 youth |
| January 26, 2019 | PAL AOS Seminar | Abilene | 15 youth |
| February 2, 2019 | PAL Conference | Austin | 45 youth |
| February 2, 2019 | PAL Extravaganza | Dallas | 8 youth |
| March 11, 2019 | TNOYS/PEAKS Camp | Wimberly | 50 youth |
| April 13, 2019 | PAL Provided materials | Lubbock | 10 youth |
| April 26, 2019 | PAL AOS Seminar | Tyler | 13 youth |

| Date | Event | Location | Number of Youth |
|------------------------|--|-----------------|------------------------|
| April 27, 2019 | PAL AOS Seminar | San Antonio | 13 youth |
| May 23, 2019 | PAL Provided materials | Waxahachie | 30 youth |
| June 13, 2019 | PAL Teen Conference | Amarillo | 47 youth |
| June 14, 2019 | PAL Meeting | Corpus Christi | 12 youth |
| June 20, 2019 | PAL Conference | Austin | 74 youth |
| July 8, 2019 | PAL Teen Conference | Denton | 85 youth |
| July 24, 2019 | PAL Provided materials | El Paso | 40 youth |
| July 30, 2019 | PAL AOS Seminar | Beaumont | 30 youth |
| August 3, 2019 | PAL AOS Youth Take Flight Provided materials | Waco | 40 youth |
| August 17, 2019 | PAL Provided materials | San Angelo | 25 youth |

FCO Outreach to Residential Treatment Centers (RTCs)

During FY 2019, FCO staff began traveling to RTCs around the state to speak with staff and youth about the FCO program, to help standardize the expectations and knowledge of both youth and staff about access to FCO, what the FCO does, and to give youth and staff the ability to ask questions and provide feedback. Table 5 documents the visits and numbers of staff and youth who attended.

Table 5 FCO Visits to RTCs

| Date | Site | Location | Number of youth | Number of staff |
|--------------------------|-----------------------------|-----------------|------------------------|------------------------|
| February 12, 2019 | Settlement RTC | Austin | 15 youth | 11 staff |
| February 19, 2019 | Gulf Coast Winds RTC | Bay City | 9 youth | 10 staff |
| February 25, 2019 | Sky High Ranch RTC | Midland | 15 youth | 20 staff |
| March 5, 2019 | Hector Garza RTC | San Antonio | 80 youth | 15 staff |
| March 8, 2019 | Athletes for Change RTC | Glen Heights | 10 youth | 5 staff |
| March 13, 2019 | Sunny Glenn Children's Home | San Benito | 19 youth | 7 staff |
| March 22, 2019 | New Life RTC | Canyon Lake | 37 youth | 8 staff |
| May 21, 2019 | Gulf Coast Trades RTC | Wimberly | 28 youth | 6 staff |
| June 28, 2019 | Unity Children's Home RTC | Spring | 24 youth | |
| July 24, 2019 | Krause RTC | Katy | 30 youth | 15 staff |
| July 29, 2019 | Boys Haven RTC | Beaumont | 19 youth | |
| July 30, 2019 | Girls Haven RTC | Beaumont | 11 youth | 6 staff |
| August 8, 2019 | Williams House ES | Lometa | 15 youth | 8 staff |

| Date | Site | Location | Number of youth | Number of staff |
|------------------------|----------------------------|-----------------|------------------------|------------------------|
| August 13, 2019 | Everyday life RTC | Bryan | 20 youth | 10 staff |
| August 13, 2019 | Houston Serenity Place RTC | Houston | 29 youth | 3 staff |
| Total | 15 sites | 15 cities | 361 youth | 124 staff |

During the site visits, most of the operations staff indicated they knew youth could contact FCO but only if they needed help. Some were interested in knowing more about the FCO program and how we could collaborate to ensure children and youth's needs are being met. FCO tried to assure program staff complaint investigations are not punitive, and we hope to work together to resolve issues. The operations we visited primarily service youth whose level of care ranged from specialized to intense plus.

These visits helped FCO staff better understand the environments in which youth live. RTC placements are designed to care for children and youth with higher needs and higher levels of care. Children and youth who need specialized or plus level services can present with an array of behaviors, including: frequent or unpredictable physical aggression to extreme aggression that causes harm, self-injurious acts, including suicide attempts, and chronic runaway behaviors. These children and youth may need heightened supervision for their own safety and the safety of others.

FCO observed some RTC settings were more restrictive than others. For example, FCO observed doors locked during transition from one area to another, and in some facilities staff were posted in hallways, at door entrances and elevators. Common also in these facilities were restrictions on youth attending public school, seeking jobs, and congregating in common areas.

In one case, FCO staff visited a program where youth reported staff put chains on the doors to keep them from leaving the facility or from gaining access to another part of the facility. This allegation had been reported and RCCL investigated a month prior to FCO visit. The investigator was informed by all the youth interviewed that staff were putting chains on the doors frequently. The investigator was also

informed by the program management staff that they directed staff to put chains on the doors after an incident involving several youth trying to get into another dorm.

FCO also had the opportunity to visit other RTC settings that service the same level of care but were less restrictive in their practice and interactions with the youth. FCO observed the interactions between the youth and staff that were positive and provided room for socializations and connections. Youth could attend school off campus, participate in extracurricular and social activities, and get part time jobs.

Youth at the more restrictive placements express concerns ranging from their treatment (i.e. restraints, verbal abuse,) to lack of food, not being able to work, or not having their personal documents. Of the 361 youth visited in the RTC setting, only 20% were between the ages of 8-14 years old. Most of the concerns were from youth who were 16 and 17 years old, a critical time to learn and practice the independent living skills they will need when aging out of care.

In the next year, FCO intends to focus on how these practices impact youths' stabilization, development of life skills, and normal interactions with peers and staff.

As we visited and polled youth to see how many were aware of the FCO program and services, we found many youths did not know about the program, even though an FCO poster was hanging in plain sight. When FCO asked the youth what the poster meant to them, many said they did not know. FCO also saw that in some placements the poster was displayed in Spanish only, and in some placements the poster was a copy displayed in black and white that was hard to distinguish from other postings. FCO discussed the poster with the youth and clarified that there were two numbers listed on the poster (FCO and SWI) and distinguished the difference between the programs and what number to call for FCO help. FCO will continue educating the youth about FCO program and services and the poster as we continue doing outreach and site visits.

FCO Outreach to Stakeholders and Partners

This year FCO had new opportunities to collaborate with stakeholders and participate in youth conferences.

Table 6 Additional FCO Outreach Events

| Date | Event |
|----------------|---|
| February 2019 | Texas Alliance for Children and Family Services (TACFS) |
| March 19, 2019 | DFPS quarterly meeting |
| May 30, 2019 | DFPS and FCO Management Team Meeting |
| June 28, 2019 | Texas Network of Youth Services (TNOYS) Conference |

At the TACFS conference, the audience was made up of foster youth, CPS contractors and providers, and foster parents. We had an opportunity to speak at one of their provider meetings and shared information about FCO program and services with the hope to be able to collaborate across all programs that serve child and youth in care.

FCO spoke at the TNOYS conference and had the opportunity to share a session with a youth panel made up of current and former foster youth. The youth shared their stories and helped the audience understand from their perspective, including the good and bad experiences and what they went through while in foster care. They offered recommendations on how to better serve youth in foster care including flexibility, supportiveness and focusing on guidance rather than punishment.

FCO is also committed to continuing quarterly meetings with DFPS and RCCL to have open discussions about trends and patterns we find as we work cases, and how we can resolve issues brought to us by youth in care.

Fiscal Year 2020 Planned Activities

This year FCO efforts were focused on continuing to visit with youth who participate in the PAL meetings across the state, and initiating visits with youth who are placed in RTCs. It was hoped these in-person visits would allow FCO to interact with younger youth, and perhaps receive complaints from youth who had not previously contacted the FCO toll-free line. The efforts were successful, with 361 youth being seen face to face and 124 staff informed directly about FCO.

For FY 2020 FCO will:

- Continue to outreach to youth in RTC's and speak with RTC staff and educate them about FCO program and services.
- Make sure youth and staff know the youth can make a private call to FCO when they ask to do so.
- Increase contact with younger children and youth in RTC's by 20%.
- Track how many calls FCO receives as a result of conducting site visits at RTCs.
- Track how many youths between the ages of 8-14 years old call from RTCs and ensure younger youth know about FCO program and services.
- Develop a video about the FCO program and services that can be shared with younger youth by foster parents, caseworkers, and FCO staff.
- Initiate collaborations with Child Placing Agencies to implement regional tours so we may speak with youth in foster homes as well.

8. Public Comments Relating to the Previous Annual Report

FCO received no public comments regarding the FY 2018 Report of the Ombudsman for Children and Youth in Foster Care, which can be accessed on the [FCO website](#). However, stakeholder organizations with interest in foster care announced it through press releases and social media posts. Additionally, several bills were filed during the 86th Legislature's Regular Session that would have implemented recommendations from the FY 2018 FCO report, as noted below.

FY 2018 Recommendation: FCO recommends DFPS add to the CPS Rights of Children and Youth in Foster Care the right to be notified of the outcome of any investigation in which they are involved.

[Senate Bill 1101](#) (Kolkhorst)

[Senate Bill 1347](#) (Watson)

[Senate Bill 1535](#) (Menendez)

[House Bill 3370](#) (Deshotel)

SB 1101 and SB 1535 both passed the Senate. Text implementing the FCO recommendation on a youth's right to be notified of investigations was added to the House committee substitute version of SB 1101. DFPS and HHS RCCL investigate complaints filed by the youth but are not always told the outcome of the case. When they are not, the youth is left with questions and may assume nothing was done in response to their concern. When FCO makes a report to SWI with or on behalf of the youth, FCO tracks the case to ensure the youth's issues were fully addressed. When that case is complete FCO reports the outcome to the youth no matter what the outcome. However, this only helps the small number of youth who call FCO. It does not address the larger population of youth that report their concerns directly to SWI.

Although the legislation did not pass, CPS management has prioritized updates to IMPACT that would implement FCO's recommendation to add to the Bill of Rights for Children and Youth in Foster Care the right to be informed about investigations.

FY 2018 Recommendation: For accountability and transparency, FCO recommends IMPACT and CLASS be configured to provide a chronological documentation feature that date stamps all entries when they are entered, and that access to change or delete documentation be strictly limited.

[Senate Bill 1346](#) (Watson)

[House Bill 2490](#) (Wu):

HB 2490 passed the House. According to the bill analysis of the House committee substitute, “[c]oncerns have been raised regarding the practice whereby child protective services case files are changed in the Department of Family and Protective Services’ case tracking and information management system by caseworkers, investigators, and supervisors without ensuring that a record of the original information is maintained. C.S.H.B. 2490 seeks to address these concerns, increase transparency, and ensure adequate recordkeeping by setting out additional requirements for the system.”

9. Conclusion

As was stated in the FY 2018 report, there is need for a strong partnership among DFPS staff who place youth in foster care, DFPS staff who investigate abuse and neglect, HHS staff who regulate programs to protect youth in placement, and FCO staff. We believe positive advances have been made in our partnership with both DFPS and HHS program staff.

The observations FCO made this year, specifically as we were able to visit RTCs where so many youths are placed, heightens FCO's belief that it is imperative we continue to work closely together to ensure youth are safe and their needs are being met in their placement.

The recommendations in this report are made with the hope that working together we can continue to improve the lives of children and youth in foster care.

10. Glossary

Child Care Licensing Automated Support System (CLASS) – The HHS information system used by Child Care Licensing staff for record management.

Contact – An attempt by a youth to inquire or complain about HHS or DFPS programs or services.

Complaint – A contact regarding any expression of dissatisfaction by a youth.

Fiscal Year 2019 - The 12-month period from September 1, 2018 through August 31, 2019, covered by this report.

Foster Care Ombudsman (FCO) – A neutral party that reviews questions and complaints from children and youth in foster care regarding case specific activities of DFPS and HHS programs areas to determine if policies and procedures were followed.

HHS Enterprise Administrative Report and Tracking System (HEART) – A web-based system that tracks all inquiries and complaints FCO receives.

Information Management Protecting Adults and Children in Texas (IMPACT) – The DFPS system used by Child Protective Services staff for case management, including documentation of abuse and neglect investigations.

Inquiry – A contact regarding a request by a youth for information about HHS or DFPS programs or services.

Placement Hold – A decision not to allow placements into a licensed residential child care program for a prescribed period of time.

Residential Treatment Center (RTC) – A general residential operation for 13 or more children or young adults that exclusively provides treatment services for children with emotional disorders.

Resolution – The point at which an FCO determination can be made as to whether a complaint is substantiated, and further action is unnecessary by FCO.

Rule out – The determination by DFPS staff of an allegation of abuse or neglect which were unfounded.

Substantiated – A complaint determination where research clearly indicates agency policy was violated or agency expectations were not met.

Unable to Substantiate – A complaint determination where research does not clearly indicate if agency policy was violated or agency expectations were met.

Unsubstantiated – A complaint determination where research clearly indicates agency policy was not violated or agency expectations were met.

Youth – Children and youth under the age of 18 in the conservatorship of DFPS.

11. List of Acronyms

| Acronym | Full Name |
|----------------|--|
| CCI | DFPS Child Care Investigations |
| CLASS | Child Care Licensing Automated Support System |
| CPS | DFPS Child Protective Services |
| DFPS | Department of Family Protective Services |
| FCO | Ombudsman for Children and Youth in Foster Care |
| FY | Fiscal Year |
| HEART | HHS Enterprise Administrative Report and Tracking System |
| HHS | Texas Health and Human Services |
| IMPACT | Information Management Protecting Adults and Children in Texas |
| MOU | Memorandum of Understanding |
| OO | HHS Office of the Ombudsman |
| PAL | Preparation for Adult Living |
| RCCL | HHS Residential Child Care Licensing |
| RTC | Residential Treatment Center |
| SSCC | Single Source Continuum Contractors |
| SWI | DFPS Statewide Intake |
| USOA | United States Ombudsman Association |

