

# **Report of the Ombudsman for Children and Youth in Foster Care**

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

**Office of the Ombudsman**

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**TEXAS**  
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# Table of Contents

<b>Executive Summary .....</b>	<b>1</b>
<b>1. Introduction .....</b>	<b>2</b>
<b>2. Background .....</b>	<b>3</b>
<b>3. Foster Care Ombudsman Work .....</b>	<b>5</b>
<b>4. Contacts and Complaints .....</b>	<b>7</b>
<b>5. Complaint Trends and Recommendations to Address Them.....</b>	<b>14</b>
<b>6. Changes Resulting from Substantiated Complaints .....</b>	<b>20</b>
<b>7. Foster Care Ombudsman Promotional Efforts .....</b>	<b>23</b>
<b>8. Public Comments Relating to the Previous Annual Report .....</b>	<b>27</b>
<b>9. Conclusion .....</b>	<b>28</b>
<b>10. Glossary .....</b>	<b>29</b>
<b>11. List of Acronyms .....</b>	<b>31</b>

## Executive Summary

The HHS Foster Care Ombudsman (FCO) resolved 762 complaints from youth in fiscal year 2020, an increase of 26% from FY 2019. This increase resulted despite the overall reduction in total contacts by 13%, and despite challenges to the work process brought on by the COVID-19 pandemic. Of these complaints, 274 were substantiated, 477 were unsubstantiated, and 11 were unable to substantiate (there was not enough evidence to make a finding). The five most common reasons for complaints were:

- Rights of Children and Youth in Foster Care
- General Caseworker Duties
- Case Recording
- Additional Services
- Other

FCO makes recommendations for addressing issues that have been identified by investigating complaints, including:

- Issues FCO found with Child Specific Contracts (CSC) used to provide intense care to youth in high needs categories by contracting with psychiatric hospitals;
- Lapses in regulatory oversight of youth with CSC contracts in Home and Community Services (HCS) host homes;
- Utilization of the Joint Managing Conservatorship (JMC) process by thoroughly educating clients and staff;
- Documentation in IMPACT to facilitate youth confidential communication with FCO;
- Consistent provision of documents regarding FCO and other important contacts for youth according to CPS policy; and
- Updates to CPS Policy 6414.7 so caseworkers document the presence of FCO posters visible to children and youth during walk throughs.

Also, the report documents the results of FCO recommendations from the past year, reports on efforts to outreach youth during the COVID-19 pandemic, recaps planned activities for FY 2021, and public feedback from the 2020 report.

# 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 text of the bill can be found here:

<https://capitol.texas.gov/tlodocs/84R/billtext/pdf/SB00830F.pdf>

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 on May 2, 2016. HHS Office of the Ombudsman (OO) staff worked with DFPS and external stakeholders to outline FCO administrative rules and standard operating procedures. Formal administrative rules for FCO were finalized January 13, 2017, updated January 10, 2019 and can be viewed here, by looking for Title 26, Part 1, Chapter C, Subchapter C:

<https://www.sos.state.tx.us/tac/index.shtml>

A website with contact and general information about FCO can be accessed here:

<https://hhs.texas.gov/foster-care-help>

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 regulatory power 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 RCCR and reports to the Executive Commissioner through a different chain of command.

The 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, which can be accessed at: <http://www.usombudsman.org/site-usoa/wp-content/uploads/USOA-STANDARDS1.pdf>)*

Impartiality is achieved by the strict process by which FCO reviews DFPS policy and HHS minimum standards 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 and minimum

standards were followed. All complaints reviewed are documented as substantiated or unsubstantiated and reported back to the agency. Recommendations are based on adherence to 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.

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 that 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 policy and HHS minimum standards 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 policy and HHS minimum standards were 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, 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 policy or HHS minimum standards that was not included in the youth's complaint, FCO is required by statute to open a new investigation for each violation and this is entered in the existing HEART case as a new complaint.

After review of available systems to determine a 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 Contractors (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 policies and minimum standards reviewed, all policies or minimum standards investigated, and if the allegations were substantiated or not, along with 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

There were 808 contacts in fiscal year 2020; however, only 240 were from children and youth in foster care. The remaining contacts were from others, such as family members. Total contacts are recorded—however, all complaints came from youth, or were discovered during investigation of a youth’s complaint. The complaint numbers in this report include what the law describes as “Unreported Complaints” that FCO is required to open if discovered during an investigation of a complaint filed by youth in care. The numbers also include multiple complaints made by individual youth.

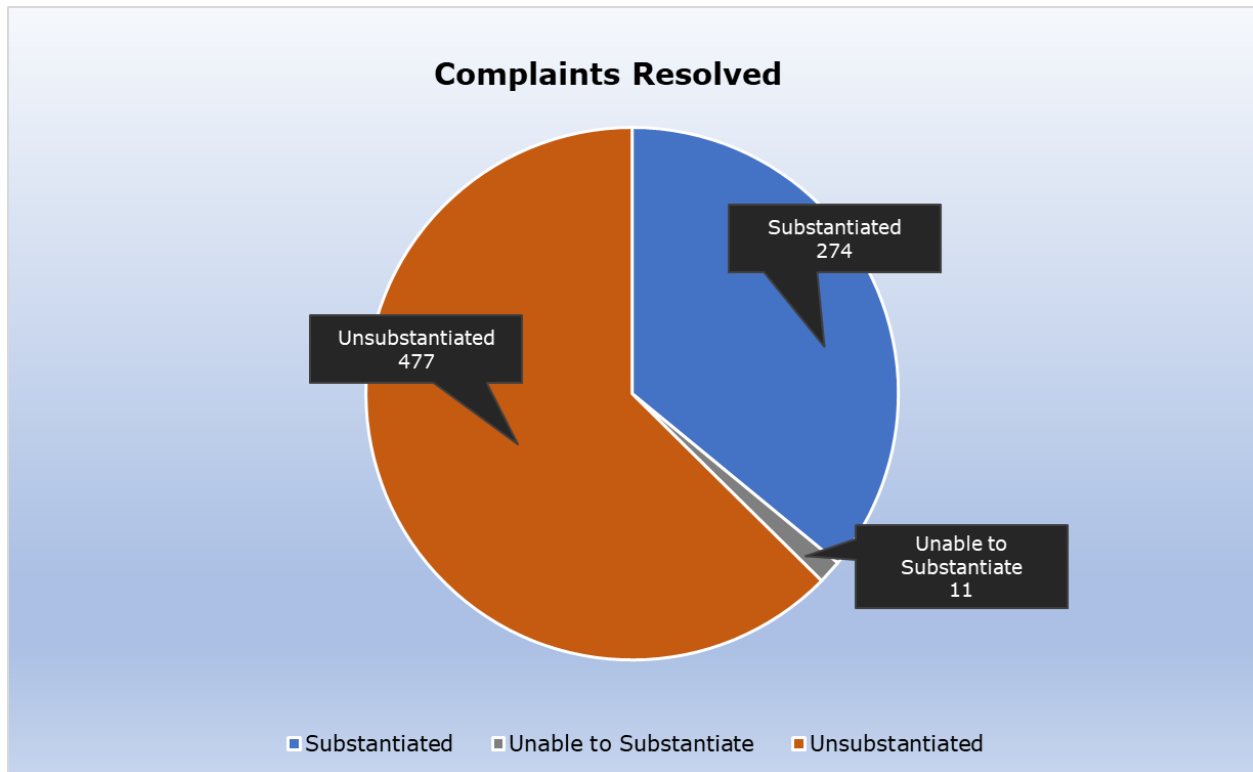
The majority of contacts were made by phone or via online submission. This year FCO continued efforts to educate callers about the purpose of the program and who we serve. This was continued from last year’s efforts to decrease the number of calls received from others so that the toll-free line remained available for children and youth to contact FCO. CPS Rights of Children and Youth in Foster Care continues to be the top reason youth contact FCO.

There was an overall decrease in contacts—however, complaints increased compared to fiscal year 2019. Total contacts decreased by 13% (929 to 808) and complaints increased by 26% (607 to 762).

**Table 1 Top Five Contact Reasons: All Inquiries and Complaints**

Contact Reason	CPS Handbook Section	Count
<b>Rights of Children and Youth in Foster Care</b>	Policy 6420 - CPS Rights of Children and Youth in Foster Care	372
<b>General Caseworker Duties</b>	Policy 6140 – General Caseworker Duties	128
<b>Case Recording</b>	Policy 6133 Case Recording	55
<b>Additional Services</b>	Policy 6450 Additional Services	41
<b>Other</b>	N/A	40

**Figure 1 Disposition of Resolved Complaints**



**Table 2 Most Frequent Reasons for Complaints**

Contact Reason	CPS Handbook Section	Substantiated	Unsubstantiated	Unable to Substantiate
<b>Rights of Children and Youth in Foster Care</b>	Policy 6420 - CPS Rights of Children and Youth in Foster Care	78	261	3
<b>General Caseworker Duties</b>	Policy 6140 General Caseworker Duties	74	52	2
<b>Case Recording</b>	Policy 6133 Case Recording	43	12	0

<b>Contact Reason</b>	<b>CPS Handbook Section</b>	<b>Substantiated</b>	<b>Unsubstantiated</b>	<b>Unable to Substantiate</b>
<b>Additional Services</b>	Policy 6450 Additional Services	24	17	0
<b>Other</b>	NA	6	20	3

274 substantiated complaints include what the law describes as “Unreported Complaints” that FCO is required to open if discovered during an investigation of a complaint filed by youth in care. That number also includes multiple complaints made by individual youth. So, although FCO heard from 240 youth this year, there were many more complaints investigated and either substantiated or unsubstantiated after investigation.

Of the most frequent complaints listed in Table 2, two had relatively low rates of substantiation, while the other three had moderate rates. Specifically, Rights of Children and Youth in Foster Care (78 substantiated of 342 total complaints on that topic or 23%) and Other (6 of 29 substantiated or 21%) were the least frequently substantiated complaints. General Caseworker Duties (74 substantiated of 128 total complaints on that topic or 58%), Case Recording (43 of 55 or 78%) and Additional Services (24 of 41 or 59%) were more frequently substantiated.

**Figure 2 Substantiated Complaints by DFPS Region**

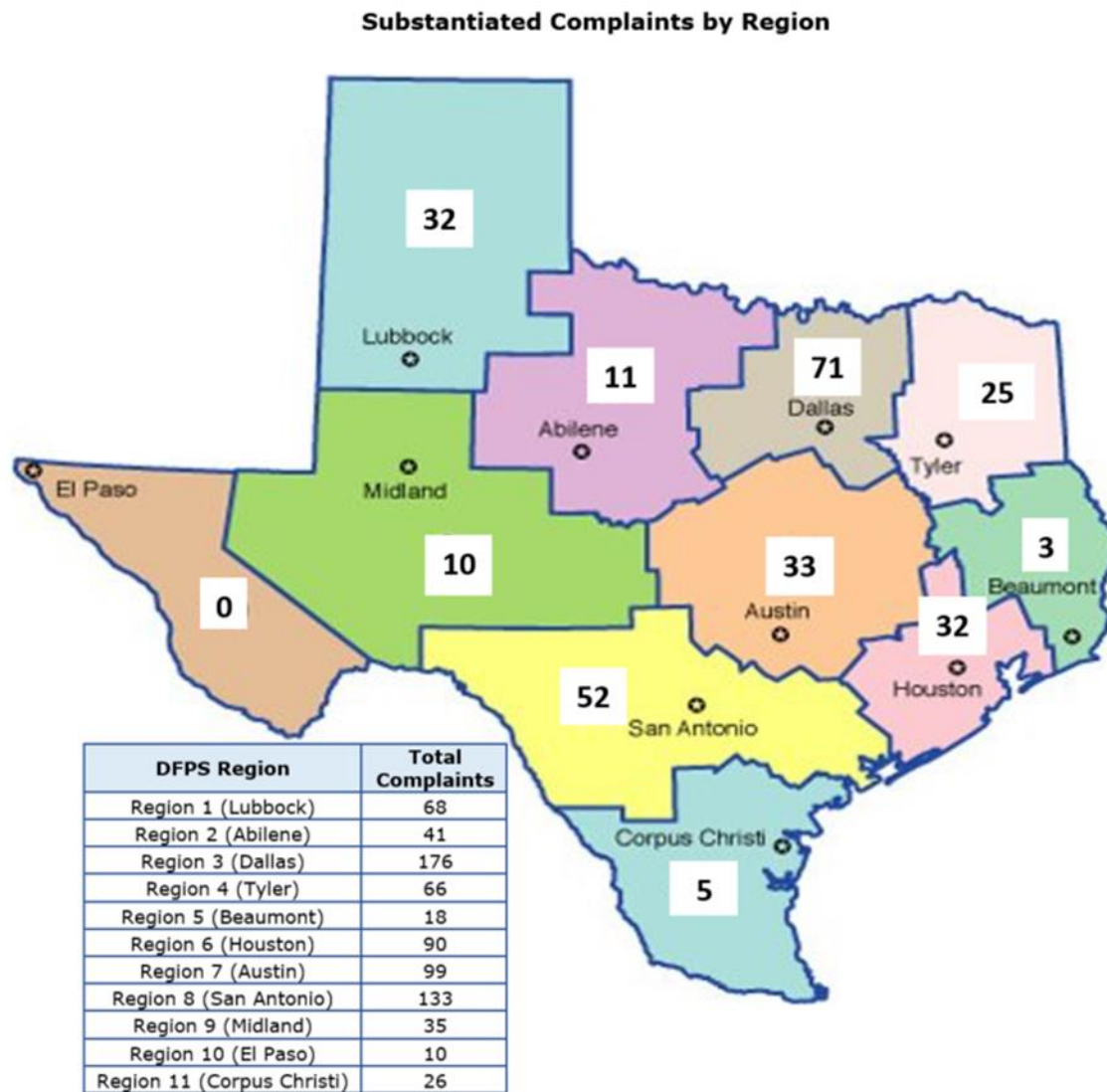


Figure 2 shows the distribution of substantiated complaints across DFPS regions, showing cases by the legal region where DFPS was granted conservatorship (while the data table shows total complaints by region.)

**Table 3 CPS Responses to FCO Recommendations on Substantiated Complaints**

<b>Month</b>	<b>Number of Substantiated Complaints</b>	<b>CPS Responses</b>
<b>September-19</b>	37	<ul style="list-style-type: none"><li>• 22 Complete responses with dates and action taken</li><li>• 13 Complete responses with general description of action taken</li><li>• 2 DFPS did not implement FCO recommendations</li></ul>
<b>October-19</b>	29	<ul style="list-style-type: none"><li>• 16 Complete responses with dates and action taken</li><li>• 9 Complete responses with general description of action taken</li><li>• 4 DFPS did not implement FCO recommendations</li></ul>
<b>November-19</b>	23	<ul style="list-style-type: none"><li>• 9 Complete responses with dates and action taken</li><li>• 8 Complete responses with general description of action taken</li><li>• 6 DFPS did not implement FCO recommendations</li></ul>
<b>December-19</b>	23	<ul style="list-style-type: none"><li>• 19 Complete responses with dates and action taken</li><li>• 4 Complete responses with general description of action taken</li></ul>
<b>January-20</b>	40	<ul style="list-style-type: none"><li>• 40 All complaints for January were responded to completely with detailed actions taken</li></ul>
<b>February-20</b>	12	<ul style="list-style-type: none"><li>• 9 Complete responses with dates and action taken</li><li>• 3 Complete responses with general description of action taken</li></ul>

<b>Month</b>	<b>Number of Substantiated Complaints</b>	<b>CPS Responses</b>
<b>March-20</b>	17	<ul style="list-style-type: none"> <li>• 14 Complete responses with dates and action taken</li> <li>• 3 Complete responses with general description of action taken</li> </ul>
<b>April-20</b>	32	<ul style="list-style-type: none"> <li>• 25 Complete responses with dates and action taken</li> <li>• 4 Complete responses with general description of action taken</li> <li>• 3 DFPS did not implement FCO recommendations</li> </ul>
<b>May-20</b>	27	<ul style="list-style-type: none"> <li>• 21 Complete responses with dates and action taken</li> <li>• 5 Complete responses with general description of action taken</li> <li>• 1 DFPS did not implement FCO recommendations</li> </ul>
<b>June-20</b>	5	<ul style="list-style-type: none"> <li>• 4 Complete responses with dates and action taken</li> <li>• 1 Complete response with general description of action taken</li> </ul>
<b>July-20</b>	11	<ul style="list-style-type: none"> <li>• 9 Complete responses with dates and action taken</li> <li>• 2 Complete responses with general description of action taken</li> </ul>
<b>August-20</b>	18	<ul style="list-style-type: none"> <li>• 14 Complete responses with dates and action taken</li> <li>• 1 Complete Responses with general description of action taken</li> <li>• 3 DFPS did not implement FCO recommendations</li> </ul>

For Table 3, some examples of the three different response types include:

Complete response: "Program Director addressed substantiation with supervisor and worker 12/23/2019 and 01/14/2020. Program Director has ensured all supervisors and unit caseworkers are aware of this policy on 12/23/2019 and 01/14/2020. They are aware of CPS Rights of Children and Youth in Foster Care Form 2530, but this was again reviewed, and a copy given. We spoke about what is need when a [local permanency specialist] LPS worker is assigned to a case as well as documenting monthly contacts and visits. The time frames for documentation of visits, responding to the youth and providing necessary documentation as well."

General description response: "Supervisor completed a formal conference with the case worker to address the policy violations."

DFPS did not implement FCO recommendation: "Caseworker has yet to sign the memo and supervisor <name redacted> has refused to sign the memo."

## **5. Complaint Trends and Recommendations to Address Them**

### **Placement of Youth with High Needs Through CSCs**

FCO received a number of complex case complaints involving youths placed in psychiatric hospital settings and Home and Community-based Services (HCS) host homes. CPS classifies children as “Children with High Acuity Needs”<sup>1</sup> when they are found to have emotional disturbances, extensive medical needs, intellectual or developmental disabilities or special needs such as autism, bipolar disorder, diabetes, or serious behavioral issues. Youth so classified need a higher level of services, according to CPS. When the youth is cleared for discharge from a psychiatric hospital and CPS has not found appropriate placement for the youth, CPS may request a Child Specific Contract (CSC) to cover the youth’s continued hospitalization or transition to a HCS group home. A CSC is an individualized contract specific to youth needs established between DFPS and a placement provider for a variety of reasons.

### **Psychiatric Hospital Placements**

In FCO’s review of psychiatric hospital placements due to complaints about length of stays, FCO was informed that CPS has no specific policies or procedures that determine the amount of time a youth can remain in a psychiatric setting under a CSC, although FCO was provided a five page “protocol” document outlining guidelines for caseworkers when children are placed in psychiatric hospitals. There is also no evaluation of potential consequences of the youth being held in this type of placement past their original discharge time.

In one case, a twelve-year-old youth contacted FCO to report that since being returned to foster care in 2019, the youth received treatment in several hospitals. The youth expressed that they<sup>2</sup> were tired of being in the hospital and of not being given updates regarding the status of being moved out of the hospital by the caseworker.

FCO’s review of the case found the youth was admitted to the psychiatric hospital on July 31, 2020, formally discharged but held pending placement on a CSC on August 24<sup>th</sup>, and remained in the psychiatric hospital as of November 1, 2020.

<sup>1</sup> Senate Committee on Health and Human Services: High Acuity Children in Foster Care, April 20, 2016

<sup>2</sup> See Glossary “They, them, their” for explanation of plural pronouns used throughout this report



***FCO Recommendation #1:** FCO recommends CPS develop policies and procedures to establish a limited timeframe a youth can be held in a psychiatric hospital setting under a CSC, and to include a multidisciplinary team assessment of youth during their placement in the hospital setting to monitor progress and actively seek alternate placement at the earliest appropriate time.*

***Feasibility of Recommendation:** Potentially difficult, considering the complexity of securing alternate placements. However, FCO believes this issue bears continued serious concerted efforts to remedy and urges immediate policy review.*

## **HCS Placement**

CPS places qualified youth on the HCS waiver services interest list when a child is taken into foster care. CPS has an allotment of HCS placements available to them for qualifying foster youth. Youth who qualify for HCS services but are on the interest list can be placed in HCS homes under a CSC when other placement options are not available. There are, as of September 2020, 99 foster youths in HCS placements with child specific contracts.

FCO found in several cases where there was confusion regarding the responsibility for investigating complaints of abuse or neglect when a youth is placed in an HCS host home while on the interest list to be approved for waiver services. HHS and DFPS have had ongoing discussions about who appropriately investigates allegations of abuse and neglect under these specific circumstances, and, according to CPS, DFPS Child Protective Investigations (CPI) agreed to investigate concerns of abuse or neglect in these specific circumstances. However, FCO review revealed a lack of understanding within CPI regarding their designation to investigate, and a clear lack of agency protocol for addressing these special cases.

For example, a youth called FCO stating they had been mistreated at and then expelled from the HCS host home they had been placed in by the home's administrator, who then reported the youth as a runaway to the police. FCO reported the youth's concerns to Statewide Intake (SWI) as required by law. Subsequent review of the investigation revealed it had been closed by three different programs and not investigated until FCO intervened. The complaint had bounced among HHS Provider Investigations (PI), Residential Child Care Regulation (RCCR), and CPI, and was closed without an investigation, citing lack of jurisdiction each time.

Since the youth was in the HCS host home under a CSC and still on an interest list awaiting waiver services, DFPS CPI currently investigates allegations of abuse and neglect. When FCO spoke with CPI regarding the cases being closed without anyone

investigating the allegations, they reported that they did not think it was within their jurisdiction to investigate those types of placements. DFPS reports there are no policies, procedures or guidelines regarding these specific types of investigations. DFPS informs FCO that there is no clear statutory authority establishing jurisdiction to investigate abuse and neglect in these specific cases, and CPI agreed to do the investigations until DFPS and HHS can resolve the issue.

*FCO Recommendation #2: FCO recommends that DFPS establish policy and provide clear expectations and thorough training to its CPI regions regarding investigations of HCS placements they have agreed to investigate. This would address the immediate concerns about a lack of understanding about the role discovered in FCO's investigations. Further, FCO recommends DFPS and HHS work to consolidate responsibility for investigation of all HCS placements regardless of status of waiver inclusion or source of funding. This would simplify and clarify responsibility for this important task.*

*Feasibility of Recommendation: This would initially require policy formulation/implementation and training. However, FCO notes DFPS and HHS have had ongoing discussions regarding this issue and there could be cost and complex logistical considerations, including potential changes to statute.*

## **JMC**

Considering the number of youth going into placements presenting with high emotional and behavioral needs ("Children with High Acuity Needs"), FCO also had the opportunity through complaints by youth to review joint managing conservatorship (JMC) and how this tool is currently utilized. The JMC pathway requires parents attempting to obtain help for their children's emotional and mental health to share custody of their children with CPS to obtain the medical treatment they need and that parents are often unable to afford.

CPS has training for caseworkers regarding JMC placement, but it is not clear that the information is used consistently by caseworkers who are interacting with families. FCO questions if the process is clear enough that those who are in field positions with CPS can follow it to yield beneficial outcomes for the youth and their families. FCO is working to understand if:

- complete and correct information regarding JMC is disseminated to caseworkers and the public in the attempt to prevent the family's desire to relinquish custody in the investigation stages and,

- once the youth has come into care through JMC, if CPS is ensuring family engagement and follow up on the service planning items and recommendations in the treatment program.

Ideally, having a caseworker in conjunction with the other service providers would provide the safety net to ensure oversight of efficient and effective services to those youth who come into care under JMC. However, FCO reviewed the model for routing youth into the correct program under JMC (the RTC Relinquishment Avoidance Project between CPS and HHS), and the layout of the process seems confusing. Moreover, based on conversations FCO has engaged in over this past year with adults, youth, and child service professionals, the delivery of services to the youth and the parent once JMC has been obtained seems to lack follow through and consistency.

*FCO Recommendation #3: CPS/CPI have mental health specialists who assist CPS field staff by providing them education and training on mental health related issues, taking part in multifaceted case staffing, conducting case reviews and assisting in case planning, providing referrals to YES Waiver and Local Mental Health Authority (LMHA) resources and conducting Mental Health First Aid trainings. FCO recommends CPS:*

- *simplify guidelines regarding services provided to families who engage with CPS/CPI staff regarding high needs children;*
- *enhance and prioritize comprehensive mental health training by the Mental Health division regarding the process of getting youth and their family united with appropriate services for emotional and behavioral needs; and*
- *reinforce the importance of following up and ensuring services are being delivered by the provider efficiently and, if not, develop a plan of action to correct the lapse in services.*

*Feasibility of Recommendation: Achievable as it would only require policy formulation/implementation and training.*

## **Confidential Access to FCO**

To ensure the confidentiality of all complaints and to respect the wishes of youth, FCO does not contact CPS or placement staff without the youth's permission. However, if the youth leaves FCO a voicemail to contact them and they reside at a placement that requires a code to speak to the youth, FCO does not have the code and can't contact the youth without violating confidentiality with the placement.

Separately, there is a requirement that youth cannot speak to anyone who is not on the youth's approved contact list. This makes it very difficult for FCO to investigate complaints from youth who reach out but must leave a message.

*FCO Recommendation #4: FCO recommends a youth's placement identification, access or authorization code be made available in the Placement Information tab under the address/phone detail section in IMPACT. FCO also recommends that when youth are placed in facilities that require approved contacts, it is standard practice for FCO to be added to the general approved contacts list.*

*Feasibility of Recommendation: Achievable. CPS already has policy which addresses youth information being entered as soon as possible, but no later than seven days. It would not be difficult to provide training regarding the specific location to place information within IMPACT. The requirement to add FCO to the approved contact list for all youth in restricted placements would need to be disseminated and added to caseworker training.*

## **Immediate Receipt of Documents**

CPS policy states CPS staff must provide the following documents to children and youth in foster care: Rights of Children and Youth in Foster Care, Texas Foster Care Handbook, and DFPS Form 6590. Many of the complaints FCO investigates have some deficiency in this area, indicating the policy is either not well known or simply not followed.

*FCO Recommendation #5: FCO recommends a more concentrated effort by CPS to ensure these documents are part of the placement packet and are provided to the youth once they are placed, and that caseworkers check to make sure the youth has the documents at any subsequent placement change as required by CPS policy.*

*Feasibility of Recommendation: Achievable as it would only require policy emphasis and training.*

## **FCO poster verification**

S.B. 830, 84<sup>th</sup> Legislature, Regular Session, 2015, requires a poster be placed in all child placing facilities with FCO's contact information. FCO does not have an efficient way of verifying that placements are complying with this section of the law, and therefore is not confident all youth have an opportunity to access FCO services.

CPS Policy 6414.7 (Conducting the Monthly Visit) states, "...During the monthly visit at the child's residence, the caseworker must also do a physical walk-through of the child's residence to observe the environment in which the child is living. The walk-

through must include backyards or outdoor areas of treatment centers and foster or kinship homes. The caseworker must document the walk-through.” This presents an ideal opportunity for CPS to verify that this statutory requirement is being met.

*FCO Recommendation #6: FCO recommends CPS update CPS Policy 6414.7 to include that caseworkers document if the placement had FCO posters visible to the children and youth.*

*Feasibility of Recommendation: Achievable as it would only require policy changes and training.*

## **6. Changes Resulting from Reported Substantiated Complaints**

In last year's report, FCO made four general recommendations to address issues raised through substantiated complaints.

Recommendation 1: DFPS should continue efforts to focus on the top reason for complaints, the Rights of Children and Youth in Foster Care.

Status of Recommendation 1: In FY 2019 there were 40 substantiated complaints in this category and 199 unsubstantiated. This year there are 78 substantiated complaints and 264 unsubstantiated. This continues to be the highest category of complaints and supports continued concentrated efforts to improve.

Recommendation 2: DFPS should make sure youth going into care have all required documents.

Status of Recommendation 2: In FY 2019 there were 17 substantiated complaints in this category and 6 unsubstantiated. This year, some complaint tracking codes were changed, and this issue now falls under the "Additional Services" category. FCO makes an additional recommendation this year concerning this issue.

Recommendation 3: DFPS should ensure FCO posters are visible in placements, reviewed with the youth when being placed, and that DFPS and RCCR collaborate with FCO by checking placements for the poster when they are on site.

Status of Recommendation 3: RCCR was receptive to the recommendation and FCO has been made aware of their intervention with placements not displaying the poster correctly. FCO makes an additional recommendation this year to extend this verification of the display of the poster to CPS caseworker on site visits.

Recommendation 4: DFPS should implement improvements to IMPACT that would increase transparency and accountability.

Status of Recommendation 4: Some changes were made and are continuing to be made, but the specific recommendation made by FCO in the 2019 annual report to require all changes to documentation be tracked by date, staff name and what was altered has not been fully addressed.

## **Improvements based on issues documented in the 2019 Annual Report**

### **Collaboration**

This year FCO had opportunities to collaborate with two programs to address youth concerns: DFPS Child Care Investigations (CCI) and HHS Residential Child Care Regulation (RCCR). This year FCO reached out to these programs through standing meetings, individual case review and discussions of specific issues that arose during investigations.

Over the last year FCO has increased its efforts to address issues discovered in minimum standards and Abuse & Neglect concerns. FCO has reached out to the appropriate agency regarding investigation findings when FCO has a different perspective, sometimes recommending cases be reopened or reviewed by supervisors. FCO made specific efforts to reach out to DFPS and HHS leadership to discuss this emphasis on case review.

For example, a group of youths called the FCO hotline anonymously because they feared being identified to the facility staff by our office, SWI or RCCR. They alleged the direct care staff were being openly demeaning towards them regarding their weight and physical appearance.

The subsequent RCCR investigation revealed that several direct care staff and youth were interviewed admitting to witnessing the abusive treatment. The staff who saw it admitted there was retaliation towards them by the facility by having their hours cut in the past for speaking out about the behavior.

FCO completed an investigation review which revealed the investigator had copied and pasted documentation of interviews in the investigation. When FCO reached out with questions regarding the duplicated information, a review was completed by the RCCR Supervisor. The case information was corrected to reflect accurate reporting of the separate interview content.

Since the investigator had cited the facility for violations of regulatory rules, the facility asked that the citations be reviewed and overturned through an Administrative Review of the RCCR investigation. FCO's review of the findings in the investigation found vital information that could have caused the citations to be overturned. If undetected, the practice of copying and pasting interview documentation could have surfaced in the Administrative Review, potentially discrediting the efforts of the youth and staff who were courageous enough to

report what was happening in the facility. FCO always hopes to be a collaborative resource in this way.

### **Timely Responses**

FCO has seen increases in responses from CPS regions regarding youth complaints being answered in a timely fashion. There was a 100% response rate to FCO recommendations to CPS. FCO also received timely responses from HHS Regulatory staff in the case reviews described above.



## 7. Foster Care Ombudsman Promotional Efforts

This year's FCO outreach looked significantly different from previous years because of the COVID-19 pandemic. While much of FCO's approach before the pandemic was physical outreach to the youth and facility staff at their locations, the ability to visit on site was compromised by COVID-19. FCO had begun the year with a plan to begin facilities visits, trainings and presentations. We were able to visit one operation, complete one service provider meeting and give a presentation to a CPS program area training before the pandemic made physical outreach unadvisable.

In a collaborative effort among stakeholders, DFPS, and FCO we were able to notify youth and providers across the state of Texas of the temporary change in ways to contact FCO. Even with this collaborative effort, we noticed a decrease in complaints received from youth.

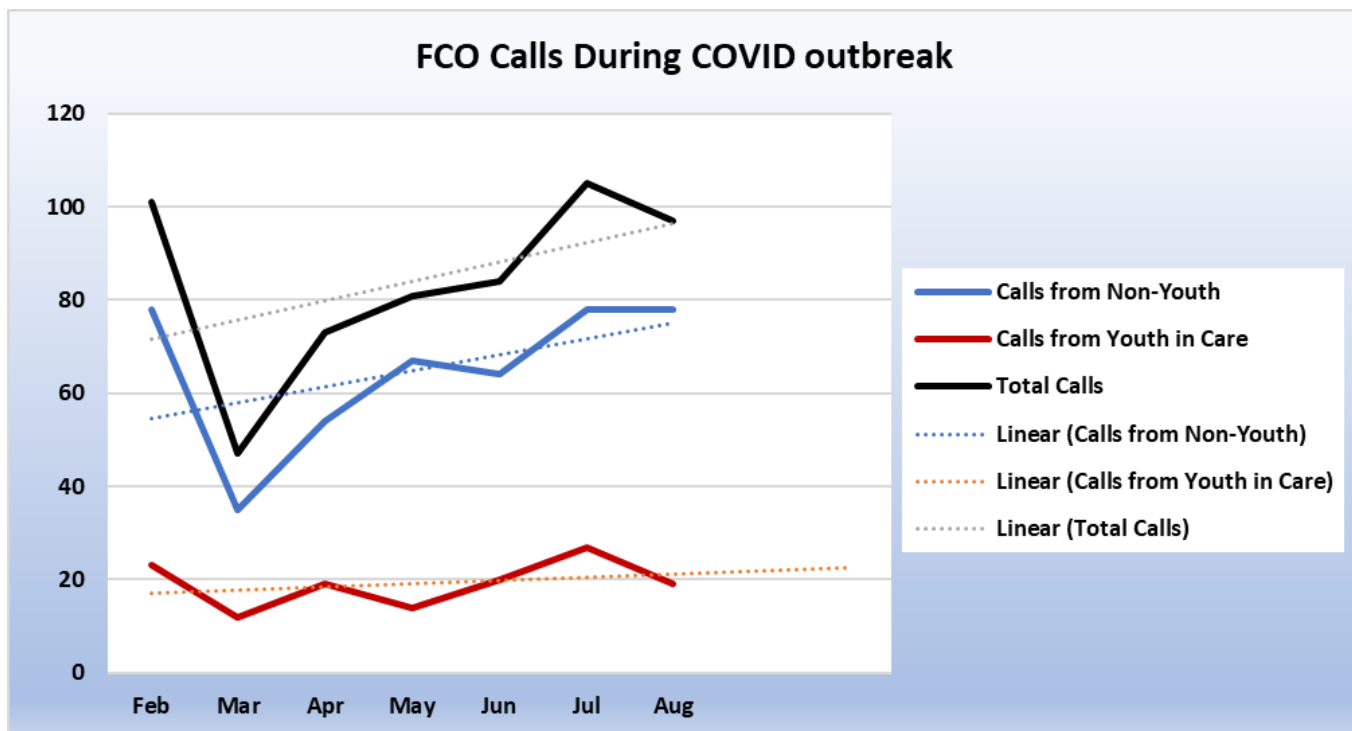
The pandemic tested our capabilities to receive secure calls from youth in care while maintaining sheltering in place orders. All complaints and inquiries were required to be made through online submission for three weeks while we acquired equipment that would allow us to take secured calls.

Once we resumed taking calls and the calls did not return to normal volume we became concerned. We knew the children were no longer physically attending school, and that raised another concern regarding youth being able to access FCO. We believe limited access to computers and internet in placements contributed to the decrease in youth complaints.

These concerns lead us to develop a plan to reach out to youth and facilities. Our goal was to ensure youth and facilities were aware of our presence even during the pandemic.

FCO deployed a project in May 2020 to reintroduce the FCO program to Child Placement Agencies, Residential Treatment Centers and Residential Placements through sending emails to placement administrators. We provided a letter where we reintroduced FCO, reminded them of our role and offered our willingness to give virtual presentations for both youth and staff.

**Figure 3 FCO Calls During COVID Outbreak**



Calls started to increase once we began this effort to reengage both facilities and youth. FCO received 78 calls in February, the last month before the pandemic; 23 of those calls were from youth. In March, when the effects of the pandemic ramped up, we received 35 calls; 12 calls from youth. In April, our office received 54 total calls; 19 calls from youth. In May, when we implemented our outreach efforts, FCO received 67 total calls; 14 from youth. In June, FCO received 64 calls; 20 from youth. In July, FCO received 78 calls; 27 from youth, and in August FCO received 78 calls; 19 from youth.

**Table 4 FCO Calls During COVID Outbreak**

	Calls from Non-Youth	Calls from Youth in Care	Total Calls
<b>February</b>	78	23	101
<b>March</b>	35	12	47
<b>April</b>	54	19	73
<b>May</b>	67	14	81

	<b>Calls from Non-Youth</b>	<b>Calls from Youth in Care</b>	<b>Total Calls</b>
<b>June</b>	64	20	84
<b>July</b>	78	27	105
<b>August</b>	78	19	97

FCO conducted presentations for both the Preparation for Adult Living and Texas Network of Youth Services annual virtual conferences. We were able to present to 102 youth and 47 adults this year with the virtual platforms in place. FCO conducted training with Region 7 and Region 3 CPS supervisors, case workers and foster care service providers. We were able to speak with 115 CPS staff and foster care service providers.

## **Fiscal Year 2021 Planned Activities**

For FY 2021, FCO is finalizing a video which will greatly enhance our efforts to provide educational opportunities in remote settings as well as being a useful tool to share with younger youth by foster parents, caseworkers, and FCO staff as we obtain more opportunities to meet face to face with youth in care. For FY 2021 FCO will:

- Resume in person outreach to meet with youth in RTC's and speak with RTC staff and educate them regarding FCO program and services as safety measures allow;
- Continue to promote FCO efforts to provide more outreach, thorough educational opportunities and engagement of foster care youth and service providers across the state;
- Continue to build rapport and collaborative efforts with Child Placing Agencies to coordinate regional tours as safety measures allow so that youth in foster homes can speak with us as well;
- Finalize the educational video regarding FCO services and make it available for wide use;
- Explore the feasibility of analyzing case data to ensure all ages of youth are aware of FCO services;
- Explore the feasibility of analyzing geographic data to target regions of low complaint rates to ensure youth are aware of FCO services; and

- Explore the feasibility of utilizing agency social media resources for outreach to youth in care.

## **8. Public Comments Relating to the Previous Annual Report**

FCO received two public comments related to last year's report. An Austin TV news station ran a report highlighting the increase in the number of complaints from the previous year. A Texas-based child advocacy organization noted the report through a series of social media postings. The social media postings highlighted a case study from the report, noted legislative action that increased the number of FCO staff from one to four, and encouraged efforts in future legislative sessions to strengthen the FCO program.

## 9. Conclusion

FCO is one of several entities that has responsibilities to ensure youth and children in foster care are safe, treated well, and that the objectives surrounding their placement and progress are met. FCO is unique, however, in that its sole mission is to accept complaints directly from the children and youth in care. This gives a unique insight into what is going well and what needs improvement. In offering this annual report, FCO hopes this insight from the perspective of the children and youth in care is valued and studied for that reason—it comes from the experience of the children and youth themselves.

## 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 2020** – The 12-month period from September 1, 2019, through August 31, 2020, 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.

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

**They, them, their** – Plural pronouns are used instead of gendered singular within the report to protect the confidentiality of any child or youth.

**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.



## **List of Acronyms**

### **ACRONYM-FULL NAME**

CLASS - Child Care Licensing Automated Support System

CCI - DFPS Child Care Investigations

CPI - DFPS Child Protective Investigations

CPS - DFPS Child Protective Services -

CSC - Child-Specific Contract

DFPS - Department of Family Protective Services

FCO - Ombudsman for Children and Youth in Foster Care

HCS - Home and Community-based Services

HEART - HHS Enterprise Administrative Report and Tracking System

HHS - Texas Health and Human Services

IMPACT - Information Management Protecting Adults and Children in Texas

JMC - Joint Managing Conservatorship

OO - HHS Office of the Ombudsman

PI - HHS Provider Investigations

RCCR - HHS Residential Child Care Regulation

RTC - Residential Treatment Center

SSCC - Single Source Continuum Contractors

SWI - DFPS Statewide Intake

USOA - United States Ombudsman Association