

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

---

**As Required by  
S.B. 830, 84<sup>th</sup> Legislature, Regular  
Session, 2015**

**Texas Health and Human Services  
December 2022**



**TEXAS**  
Health and Human  
Services

# Table of Contents

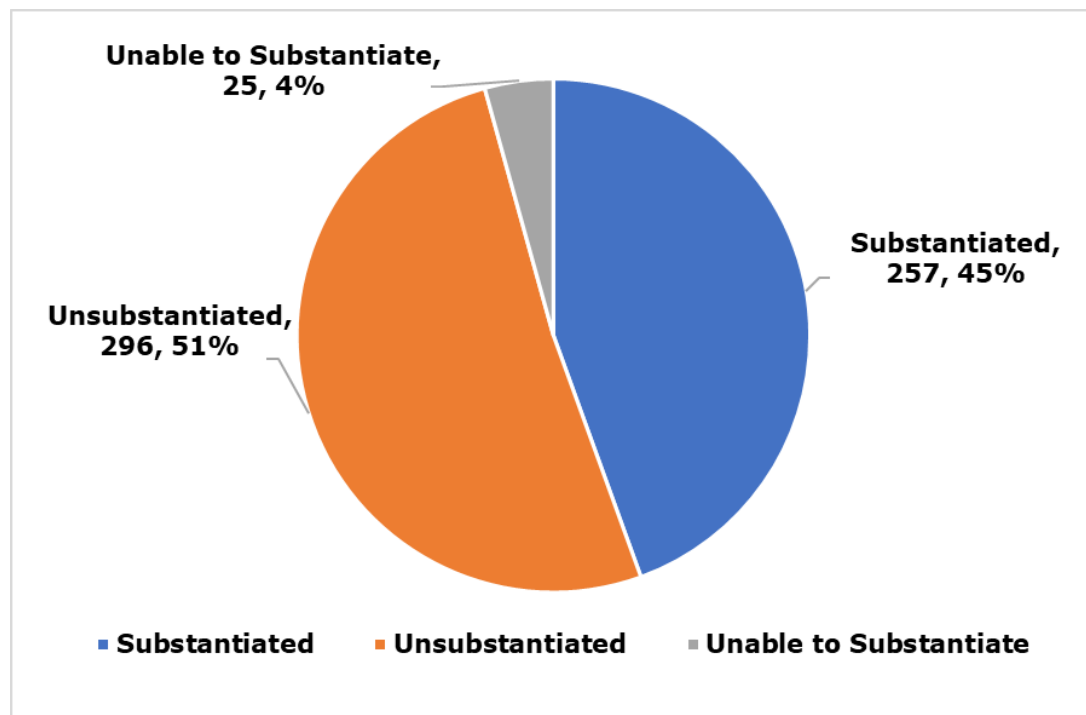
<b>Executive Summary .....</b>	<b>3</b>
<b>Introduction.....</b>	<b>5</b>
<b>Background.....</b>	<b>6</b>
<b>Foster Care Ombudsman Work.....</b>	<b>8</b>
<b>Complaint Trends and Recommendations .....</b>	<b>10</b>
Addressing Foster Youth Bill of Rights .....	15
CPS Contact Information.....	16
Primary Support Team Coordination .....	16
<b>Changes Resulting from Reported Substantiated Complaints.....</b>	<b>19</b>
<b>Foster Care Ombudsman Promotional Efforts .....</b>	<b>20</b>
Collaboration with FCO and DFPS .....	20
Collaboration with FCO and CBC Providers .....	20
FY23 Planned Activities.....	21
<b>Public Comments on the FY21 Annual Report .....</b>	<b>22</b>
<b>Conclusion .....</b>	<b>23</b>
<b>Appendix A. Agency and Business Functions.....</b>	<b>A-1</b>
<b>Appendix B: DFPS Response to 2021 Recommendations.....</b>	<b>B-1</b>
<b>Appendix C. Glossary .....</b>	<b>C-1</b>
<b>Appendix D. List of Acronyms .....</b>	<b>D-1</b>

# Executive Summary

In fiscal year 2022 (FY22), the HHS Foster Care Ombudsman (FCO) resolved 578 complaints from youth, an increase of nine from FY 2021 (FY21). Of these complaints, 257 were substantiated, 296 were unsubstantiated, and 25 were unable to substantiate (there was not enough evidence to make a finding).

Figure 1 below shows the disposition of complaints for FY22.

**Figure 1: Disposition of Complaints**



The five most common reasons for complaints were:

- Rights of Children and Youth in Foster Care (179);
- Case Recording (85);
- Other (63);
- Services to Children in Substitute Care (55); and
- The Placement Process (38).

The report details trends and recommendations for addressing issues identified by the FCO's investigation of complaints by youth and children in foster care. It also documents the results of FCO recommendations from the previous year, reports of

results of outreach efforts with foster youth, providers, and stakeholders, and outlines planned activities for FY23.

# Introduction

[Senate Bill 830, 84th Legislature, Regular Session, 2015](#) (S.B. 830), established FCO to serve as a neutral party in assisting children and youth in foster care with complaints regarding programs and services within the Department of Family Protective Services (DFPS) and Health and Human Services system (HHS).

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 HHSC 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.

The data contained in this report are exclusive to contacts received by the FCO team from children and youth in foster care. This report does not include contacts or complaints by foster youth received by other areas within HHS, contractors or DFPS.

Pursuant to legislative direction established in S.B. 830, if FCO staff discover a violation of DFPS policy or HHSC minimum standards not included in the youth's original complaint, they are required to open a new investigation for each violation.

# 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 can be viewed on the [Texas Secretary of State](#)'s website. Contact and general information about FCO can be accessed through the [HHS](#) website.

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](#), (H.B. 5) 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 HHSC Regulatory Services Division (RSD) houses Residential Child Care Regulation (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](#)).*

Impartiality is achieved through the strict process by which FCO reviews DFPS policy and HHS minimum standards and assesses how the policies are applied in each complaint brought by a youth.

FCO staff carefully compare each complaint with the agencies' policies so that findings directly relate to whether those policies and minimum standards were followed.

All complaints are documented as substantiated, unable to substantiate or unsubstantiated and reported to the respective agency. Recommendations are based on adherence to policy and made with the goal of improving services for

children and youth in foster care. Recommendations are shared and agencies are given a chance to respond. Responses are included in this report.

The FCO statute requires that 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.

Statutory language authorizes FCO access to all agency records to ensure that investigations are thorough and complete. FCO staff must have prior DFPS work experience so that they are qualified to make informed findings and recommendations when responding to complaints from foster youth. FCO staff are required to take training to stay well-informed on DFPS policy and Health and Human Services Commission (HHSC) minimum standards and practices.

## 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).

Cases are reviewed to determine if DFPS policy and HHSC 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 DFPS and HHS Human Resources Policy Manual and Guidance Handbook.

After review of case information in the above case management systems, 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 (CBC) 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 and investigated, if the allegations were substantiated or not, 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 FCO's findings. If a complaint is substantiated, the youth is also given a description of the actions taken by DFPS or HHSC.

If a complaint is not substantiated or if FCO is unable to substantiate it, 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 Special Advocate (CASA) or to the judge assigned to their case).



During its review of complaints, FCO reviewed the following resources to determine if policy violations occurred:

- CPS Handbook;
- Texas Administrative Codes (TAC);
- DFPS Human Resources Manual (HR) Standard of Conduct/Work Rules; and
- Child Protective Investigations (CPI) and Community Based Care policy.

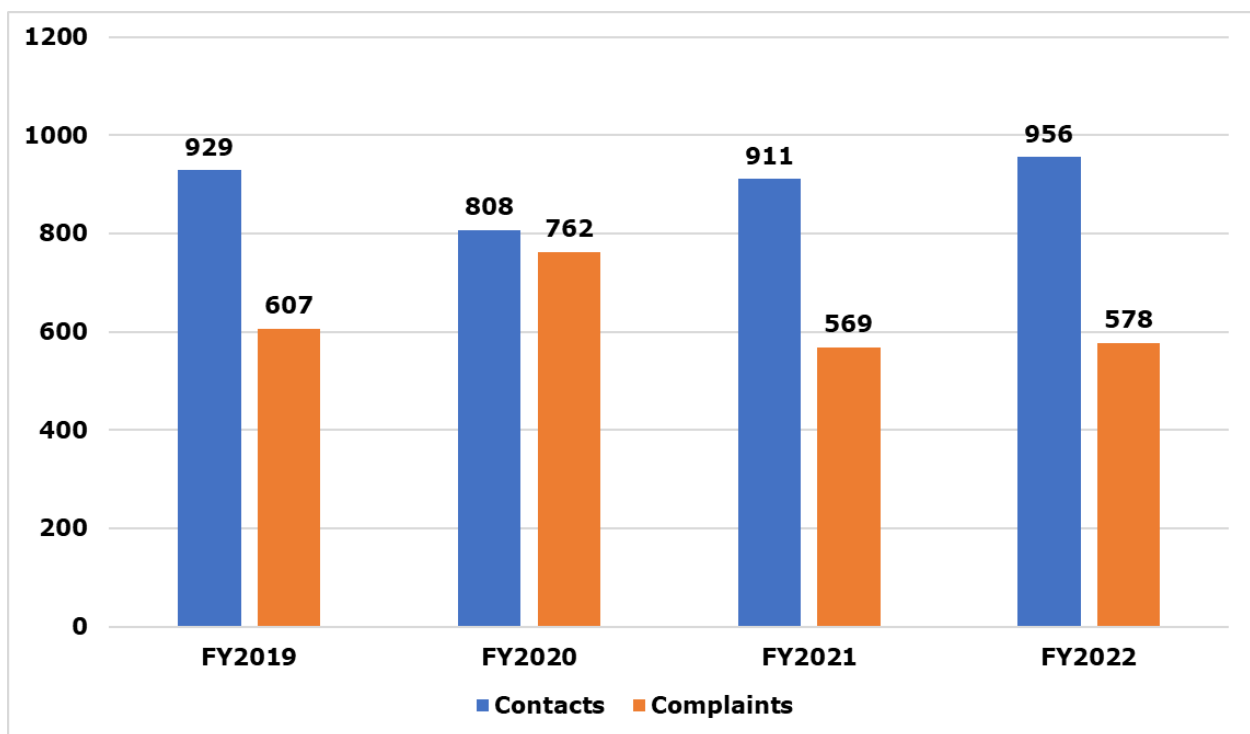
# Complaint Trends and Recommendations

There was an overall increase in contacts in fiscal year 2022. Total contacts increased by 5% (911 to 956) and complaints increased by 2% (569 to 578). Most contacts were made by phone or via online submission.

The FCO defines a complaint as an expression of dissatisfaction. FCO is required to open an investigation if an issue is discovered during an investigation of a complaint filed by youth in care (pursuant to S.B. 830). The numbers also reflect multiple complaints made by individual youth.

Figure 2 below compares the contacts received in the last four fiscal years.

**Figure 2: Historical View of Contacts and Complaints Comparison**



FCO resolved 578 complaints in FY22 which is an increase of 2% from 569 in FY21. The increase in complaint data may be attributed to resumed outreach efforts made by the FCO. Note: the total complaints include multiple complaints by individual youth and violations identified by FCO staff not included in the youth's original complaint (required by S.B. 830).

Of the 956 contacts, 209 were from children and youth in foster care. The remaining contacts were from others, such as family members, from whom FCO is not authorized to receive complaints.

Table 1 below presents the most frequent contact reasons received by FCO for FY22.

**Table 1: Top Five Contact Reasons Received**

<b>Contact Reason</b>	<b>CPS Handbook Section</b>	<b>Count</b>
<b>Rights of Children and Youth in Foster Care</b>	6420	205
<b>Case Recording</b>	6133	85
<b>Other</b>		73
<b>Services to Children in Substitute Care</b>	6400	62
<b>Court</b>	5000	47

As shown in Table 1 above Rights of Children and Youth in Foster Care continues to be the top reason youth contact FCO. Note: the total complaints include multiple complaints by individual youth and violations identified by FCO staff not included in the youth’s original complaint (required by S.B. 830).

Table 2 below presents the most frequent complaints resolved by FCO for FY22.

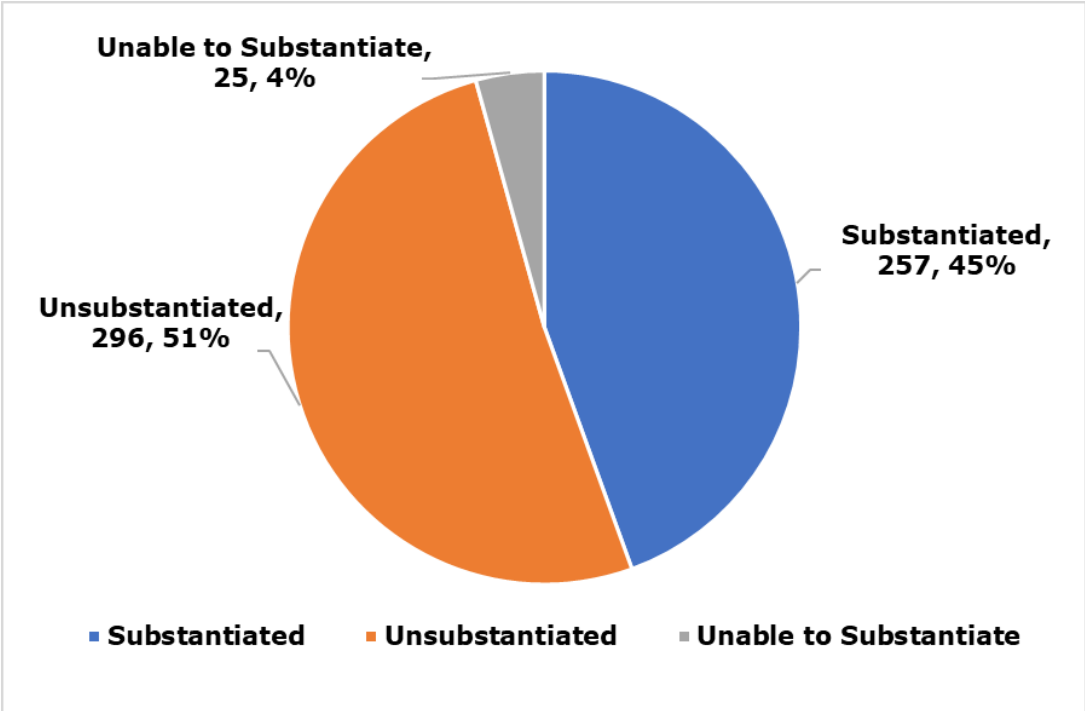
**Table 2: Most Frequent Reasons for Resolved Complaints**

<b>Contact Reason</b>	<b>CPS Handbook Section</b>	<b>Substantiated</b>	<b>Unsubstantiated</b>	<b>Unable to Substantiate</b>
<b>Rights of Children and Youth in Foster Care</b>	Rights of Children and Youth in Foster Care	24	135	20
<b>Case Recording</b>	Case Recording	77	7	1
<b>Other</b>	Other/NA	22	40	1

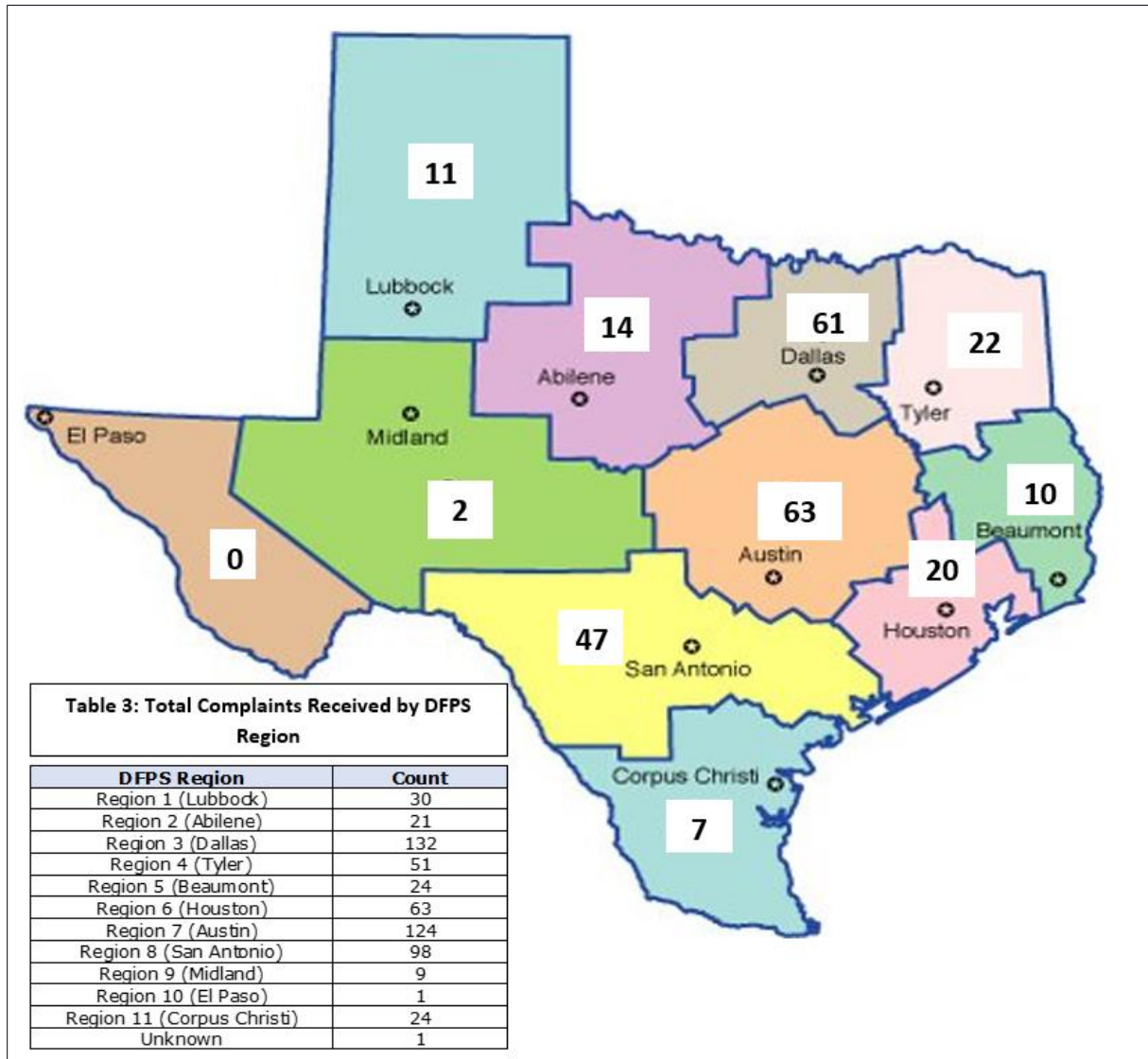
Contact Reason	CPS Handbook Section	Substantiated	Unsubstantiated	Unable to Substantiate
Services to Children in Substitute Care	Services to Children in Substitute Care	17	37	1
The Placement Process	Policy 4100	11	27	0

Figure 3 below shows the disposition of complaints for FY22.

**Figure 3: Disposition of Complaints**



**Figure 4: Substantiated Complaints by DFPS Region**



**Table 3: Complaints Received by DFPS Region**

DFPS Region	Complaints Received	Percent Substantiated
Region 1 (Lubbock)	30	37%
Region 2 (Abilene)	21	67%
Region 3 (Dallas)	132	46%
Region 4 (Tyler)	51	43%

<b>DFPS Region</b>	<b>Complaints Received</b>	<b>Percent Substantiated</b>
Region 5 (Beaumont)	24	42%
Region 6 (Houston)	63	32%
Region 7 (Austin)	124	51%
Region 8 (San Antonio)	98	48%
Region 9 (Midland)	9	22%
Region 10 (El Paso)	1	-
Region 11 (Corpus Christi)	24	29%
Unknown	1	-

Figure 3 and Table 3 above show the total complaints received by each region. The data show that the regions with the highest percent of substantiated complaints were in Region 2 (Abilene), Region 7 (Austin) and Region 8 (San Antonio).

Table 4 below shows trends in substantiated complaints received across four fiscal years. The data suggest that the category "Policy 6420 Rights of Children and Youth in Foster Care" has generally decreased across the fiscal years. Additionally, the data suggest an upward trend across the category "Policy 6133 Case Recording."

**Table 4: Historical Trends in Substantiated Complaints**

Complaint Category	FY22 (257 Substantiated)	FY21 (273 Substantiated)	FY20 (274 Substantiated)	FY19 (250 Substantiated)
<b>Rights of Children and Youth in Foster Care</b>	24	33	78	40

Complaint Category	FY22 (257 Substantiated)	FY21 (273 Substantiated)	FY20 (274 Substantiated)	FY19 (250 Substantiated)
<b>Case Recording</b>	77	64	43	37

FCO examined trends in FY22 to better understand occurrences and develop implementable recommendations. Below are three observations that coincide with the trends in Table 4. In addition to providing a summary of the observations, FCO provides a recommendation and analysis of the feasibility of implementation for the recommendation for each observation as required by statute.

## Addressing Foster Youth Bill of Rights

“Rights of Children and Youth in Foster Care” in Table 4 above represents a broad category of complaints including, for example, issues where youth were not allowed to contact FCO or their caseworker, or complaints about food or discipline. In FY22, FCO received 24 total complaints from youth for this category, of which 21% consisted of CPS not investigating complaints of youths' bill of rights violations (TFC 263.008(g)) in an unlicensed placement. FCO also observed the outcome of an investigation upon its completion is not communicated to the youth.

In the FY21 FCO Annual report, FCO recommended CPS implement an internal investigation process where a CPI supervisor or program director from outside the complaint region is assigned to investigate the allegation. In their response, DFPS stated that their process is to assign the investigation to the CPI Special Investigation team.

FCO is currently working with CPS to update the Memorandum of Understanding (MOU) to add the procedure as a formal process, thereby ensuring complaints involving foster youths' rights are formally addressed, any issues uncovered are corrected by CPS, and the youth are informed of the outcome.

**FCO Recommendation #1:** FCO recommends CPS formally adopt the procedure for addressing complaints of violations of youth's bill of rights while in an unlicensed placement. Additionally, CPS should follow-up with the youth regarding the outcome of an investigation upon its completion.

**Feasibility of Recommendation:** Achievable. The procedure has already been established. However, the process should be formalized in the MOU and all staff from Statewide Intake (SWI), Office of Internal Affairs (OIA), and CPS will need to be trained in the procedure to ensure the consistency of the process.

## CPS Contact Information

“Case Recording” in Table 4 addresses the caseworker’s responsibility to document all contacts, actions, and key decisions that impact the child or the child’s family. In FY22, FCO cited eleven incidents involving violation of section 6143.1 and six instances of contacts from youth which referenced form 6590. In these incidents, FCO was informed by youth and providers they were unaware of the form. Not having essential contact information often led to youth’s confusion about who to contact and how, and the inability for providers to assist youth.

During outreach efforts, FCO received many questions from providers who stated they were at a “standstill” with CPS agencies across the state. The most frequently cited issue involved the inability to get caseworkers to respond when the youth lacked necessary documentation for enrolling in school, getting a driver's license, or receiving a service youth need. In addition, providers expressed not knowing what to do to assist the child in obtaining their needed documentation.

Per DFPS CPS Handbook Section 6143.1 *Child or Youth Access to Caseworker and Unit Management*, a caseworker should provide the CPS Contact Information (form 6590) to youth placed in substitute care age ten and older at the youth's initial placement meeting. Form 6590 provides contact information including the office and cell phone numbers, and email and office address of the CPS caseworker, supervisor, and program director. Form 6590 should be checked monthly during visits with youth to ensure they still have the contact information available and can also be a useful tool for providers and caregivers.

**Recommendation #2:** FCO recommends CPS update policy 6143.1 Child or Youth Access to include caregivers and providers as those required to receive form 6590, including providing an updated copy monthly.

**Feasibility of Recommendation:** Achievable.

## Primary Support Team Coordination

“Case Recording” in Table 4 also addresses the requirement for caseworkers must document all contacts with any attorneys representing the parties.

DFPS’ CPS Handbook Sections 5241.4 and 5241.5 *Communicating With the Child’s Attorney Ad Litem and Guardian Ad Litem* establishes the basis for a communication plan (form 2071) to ensure they are informed of events in the child’s case and provide notice of significant events involving the child. Section 6151.3 *Notification Requirements and Schedule* outlines the frequency of how often the communication must occur.



The support system for the youth is imperative to the success of their experience while in foster care. The goal is for all youth in care to have access to community support and resources meant to assist them while navigating the foster care system. Children in care rely on the primary support team, comprised of the foster youth's CPS/CBC caseworker, Guardian Ad Litem, Attorney Ad Litem and CASA. As such, it is important for the support team to stay connected and involved in the foster youth's placement.

According to the policy, the support team must work together to complete form 2071 and document how the parties have agreed to communicate and how often. Form 2071 indicates the caseworker is responsible for managing the document by obtaining necessary information and signatures, providing copies to all parties involved, and placing a copy in the case file.

Section 5241.5 requires team members to meet regularly to ensure each member knows about issues and changes that may occur with the youth. Additionally, the caseworker must consult with the attorney before making any placement changes, except in an emergency.

FCO identified instances where both CPS and CBC catchment areas did not implement fully or follow Section 5241.5. FCO identified at least one CBC catchment area that has not completed or implemented communication plans. FCO observed that the CBC catchment's policy only requires caseworkers to document outcomes of the support team meeting. Additionally, FCO observed 39 instances during the reporting period where CPS regions also violated Section 5241.5 by not completing the communication plan.

Further review of these cases indicated that many of the contacts received were from youth who experienced behavioral health issues, substance use disorders, were in unlicensed placement or in a juvenile detention setting. In these instances, if CPS or the CBC had a communication plan in place, the youth would have had the underlying support structures to address their needs.

**FCO Recommendation #3:** FCO recommends that all CPS regions retrain all caseworkers to ensure knowledge of Section 5241.5, and the creation and implementation of a communication plan for routine meetings with the youths' attorneys to discuss significant events involving youth (e.g., running away, substance use disorder, behavioral issues). FCO also recommends that all CBC catchments review and adopt the CPS policies and processes to include policy 5241.5 and 6151.3 Notification Requirements and Schedule.

**Feasibility of Recommendation:** Achievable for CPS as the policies and forms already exist. The CBCs should also be achievable, but will require policy adoption,

training and implementation. CBCs will need to update the procedures in each catchment area.

## Changes Resulting from Reported Substantiated Complaints

S.B. 830 requires FCO's annual report contain changes made by DFPS or HHS in response to substantiated complaints, since FCO's annual recommendations are based on trends found in substantiated complaints.

FCO reviews data for potential trends and shares recommendations to address the trends regularly with DFPS and HHSC. Monthly, FCO staff share a tracking document that allows the respective agency to document updates and actions taken or not taken. This tracking process helps FCO understand the implementation or response rate of the agencies. It is also used as a facilitation tool to engage and collaborate with the respective areas.

During FY22:

- CPS responded to all 257 substantiated complaint recommendations (100% response rate). CPS acted on the 257 recommendations they responded to.
- CCI program responded to all 9 substantiated complaint recommendations (100% response rate). CCI acted on all the recommendations.
- RCCR responded to all 16 substantiated complaint recommendations (100% response rate). RCCR acted on all (16) of the recommendations and provided explanations of additional actions taken.

In FY21, FCO made seven recommendations based on substantiated complaints. DFPS provided a response to these recommendations at the time of publication. Beginning in FY22, FCO provides additional observations about the implementation of the prior year's recommendations in [Appendix B](#).

# Foster Care Ombudsman Promotional Efforts

FCO is developing an activity book for youth of all ages in foster care and aims to distribute it by Spring 2023. The activity book will be a relatable tool to educate youth about the Foster Care Ombudsman and their rights while in care. FCO hopes to be able to reach younger children through this medium.

FCO participated in 47 virtual and in-person outreach events, reaching 488 youth in foster care during presentations at the Statewide Youth Leadership Council, Prom Rack, Preparation for Adult Life (PAL) and Aging-Out events, RTC, unlicensed placements, and emergency shelters. Through these outreach efforts, FCO reached 760 foster parents and caregivers, CPS and CBC staff, Committee on Advancing Residential Practices (CARP), administrators, vendors, and school districts.

FCO created an FCO fact sheet to help answer commonly asked questions and customized presentations for events where youth were in attendance to assist with potential communication barriers.

FCO engaged with youth at several events, helping to build trust and create an avenue for the youth to receive assistance. Communicating with Child Placing Agencies helped build rapport, open lines of communication and help them understand and support the FCO role.

## Collaboration with FCO and DFPS

In August 2022, DFPS requested FCO assistance with a review of draft policy prior to the implementation of a foster care initiative.

DFPS was changing the cell phone policy for foster youth in unlicensed placements. Through this change, foster youth would be provided with pre-paid and programmed cellphones that contained contact information for authorized contacts.

FCO was asked to review the policy to ensure that youth rights were protected before DFPS implemented the significant change.

## Collaboration with FCO and CBC Providers

FCO increased outreach efforts to engage with foster youth and stakeholders to share information and awareness about the FCO program and services. Because of the shift in the regions from legacy foster care to the CBC model, FCO outreach efforts are critical to engage CBC vendors and educate them about FCO program and services.

Prior to the CBC rollout, CPS would facilitate provider meetings as part of a greater collaborative effort to educate providers about FCO's role. After the rollout, FCO 20

attempted to engage with CPS, the Office of Community-Based Care Transition (OBCT) and the Single Source Continuum Contractor (SSCC) administrators (who are responsible for providing the care through the CBC model).

FCO experienced two issues with timely responses from two CBC providers in one catchment area. Despite repeated attempts by FCO to engage with the CBC providers, requests to schedule outreach efforts to visit with foster youth in the care of CBC providers were ignored.

FCO met with OBCT and SSCC leadership to request assistance across all catchment areas, and requested they familiarize providers in their areas about our role and services. FCO also provided them with a visitation calendar and completed a FAQ pamphlet to share with providers in their areas.

## **FY23 Planned Activities**

For FY23, FCO will:

- Continue to strengthen outreach efforts across Texas;
- Continue in person outreach to meet with youth in RTCs and speak with RTC staff to educate them regarding the FCO program and services;
- Continue collaborating with SSCC to coordinate regional tours; and
- Finalize and distribute resource material for youth of all ages in foster care.

## **Public Comments on the FY21 Annual Report**

FCO received no public comments relating to the 2021 Annual Report.

## Conclusion

In FY22, FCO contacts increased by 5% (from 911 in FY21 to 956). The total number of resolved complaints increased by 2% (from 569 in FY21 to 578), 45% of those complaints were substantiated.

While contact data helps FCO better understand trends in complaints, FCO reviews individual complaints and case narratives to further contextualize trends and identify potential systemic impacts and provide feasible recommendations to DFPS and HHSC.

Understanding firsthand issues from foster youth in our care system not only provides invaluable insight into favorable or unfavorable actions but allows FCO to develop recommendations grounded with the sole intent of remediating systemic breakdowns to ensure the safety, health and wellbeing of foster youth and children.

Delving into case narratives one complaint at a time helps to address the immediate needs of the youth at that time. However, there's an equally important need to tackle systemic issues that profoundly affect the welfare of children.

The findings in this report provide insight into opportunities to strengthen policies and procedures governing the care, visitation, and treatment practices of facilities for foster youth in child welfare agencies to ensure their health and safety. A common factor is how established laws and policies are interpreted and implemented by the agency responsible.

FCO also witnessed a stronger push by DFPS to include FCO in the policy development process prior to the implementation of a foster care initiative. FCO was asked to review the policy to ensure that youth rights were protected before DFPS implemented a significant change.

FCO welcomes the opportunity to continue collaborating with DFPS and HHSC in the implementation of these recommendations.

# Appendix A: Agency and Business Functions

**Table 5: Agencies and Business Functions**

Agency	Division	Unit	Role
DFPS	Statewide Intake (SWI)	-	<p>Receives, assesses, and routes reports of:</p> <ul style="list-style-type: none"> <li>• Child abuse and neglect;</li> <li>• Abuse, neglect, self-neglect, and exploitation of the elderly or adults with disabilities living at home;</li> <li>• Abuse of children in child-care facilities or treatment centers; and</li> <li>• Abuse of adults and children who live in state facilities or are being helped by programs for people with mental illness or intellectual disabilities.</li> </ul>
	Child Protective Investigation (CPI)	-	<p>Examines reports of child abuse or neglect to determine if any child in the family has been abused or neglected. Additional responsibilities include:</p> <ul style="list-style-type: none"> <li>• Working with law enforcement on joint investigations;</li> <li>• Taking custody of children who are unsafe;</li> <li>• Referring children to community resources that promote their safety and well-being; and</li> <li>• Assisting in the fight against human trafficking.</li> </ul>
	Child Protective Investigation (CPI)	Child Care Investigation (CCI)	<p>Investigates allegations of child abuse, neglect, and exploitation allegations in licensed and regulated childcare operations in the state, including both daycare and 24-hour residential care settings, including foster care. Additional responsibilities include:</p> <ul style="list-style-type: none"> <li>• Working with law enforcement on joint investigations; and</li> <li>• Coordinating with childcare regulators to assure the safety, health, and well-being of children in out-of-home care.</li> </ul>
	Child Protective Service (CPS)	-	<p>Provides a variety of services to strengthen families so children can stay safe at home with their parents. Additional responsibilities include:</p> <ul style="list-style-type: none"> <li>• Providing services to children and families in their own homes;</li> <li>• Placing children in foster care;</li> <li>• Providing services to help youth in foster care successfully transition to adulthood; and</li> <li>• Helping children get adopted.</li> </ul>



Agency	Division	Unit	Role
HHSC	Regulatory Services Division (RSD)	Residential Child Care Regulation (RCCR)	Regulates all residential childcare operations and child-placing agencies to protect the health, safety, and well-being of children in care. Additional responsibilities include: <ul style="list-style-type: none"> <li>• Licensing and permitting operations subject to regulation under Chapter 42 of the Texas Human Resources Code;</li> <li>• Monitoring regulated operations for compliance with minimum standards; and</li> <li>• Investigating allegations of non-compliance of minimum standards.</li> </ul>
	HHS Office of the Ombudsman (OO)	Foster Care Ombudsman (FCO)	Serves as a neutral party in assisting children and youth in foster care. Additional responsibilities include: <ul style="list-style-type: none"> <li>• Serving as a resource and advocate for children and youth in foster care; and</li> <li>• Investigating children and youth’s complaints to determine whether policies and procedures are followed.</li> </ul>

## Appendix B: DFPS Response to 2021 Recommendations

*Note: All information provided in the DFPS Response sections was presented without editing or comment by FCO in the 2021 Annual Report. The FCO FY2022 Update sections contain FCO's observed assessment of the effectiveness of the actions proposed in the responses during the period since the publication of the 2021 report.*

**FCO Recommendation #1:** FCO recommends RCCR address all potential policy violations provided by CCI in the complete investigation report to determine if additional minimum standard violations were identified and should be cited.

**Feasibility of Recommendation:** Potentially difficult. While RCCR's policy requires RCCR investigators to review and cite deficiencies found in the CCI investigations referred to RCCR, RCCR leadership informs FCO that implementation "will take significantly more time" and "will impact the caseload guidelines we have to meet per the FCL agreement."

**RCCR Response:** RCCR agrees with the recommendation and is working on implementation.

**FCO FY22 Update on RCCR Response:** RCCR has instructed staff to review the entire RCCI investigation report and provided staff with IMPACT training, as all contacts are no longer in CLASS. **FCO has reported no further deficiencies of this standard during the current period, and considers the issue resolved.**

**FCO Recommendation #2:** FCO recommends CPS leadership develop a mentorship program consisting of experienced caseworkers that can serve as leads to support and retrain caseworkers on core policies (including Policy 6160) and governing standards (including the Texas Mandatory Reporting Law). CPS leadership should take other actions when appropriate.

**Feasibility of Recommendation:** Achievable. Retraining on Policy 6160 should emphasize the caseworker's responsibility of reporting any allegation of abuse and neglect or violations of the youth's rights to SWI.

**DFPS Response:** DFPS has had a mentorship program that has been in existence for years and is overseen by the DFPS training program. The DFPS Internal Audit

program conducted an audit of the program, and the DFPS training program has made enhancements to the Mentor program by including DFPS program protégés in the Mentorship evaluation process. Additionally, CPS will collaborate with CLOE to ensure this policy is trained during new caseworker training. Additionally, CPS will explore ways to provide refresher training for tenured staff, which may include training by mentors and/or web/computer-based training.

***FCO FY22 Update on DFPS Response:*** DFPS reports a mentorship program has existed for CPS caseworkers for years. However, FCO continues to document incidents where caseworkers, supervisors, and program directors fail to report issues which are considered incidents mandated for professionals to report to the Texas Abuse and Neglect Hotline. **FCO continues to recommend DFPS emphasize this aspect of employee responsibility in formal training and mentoring opportunities to eliminate the repetition of this serious deficiency.**

***FCO Recommendation #3:*** FCO recommends CPS create an internal investigation process like the process followed when a CPS employee is involved in a CPS investigation. To enhance the element of objectivity in the investigation, a CPI supervisor or program director from outside the complaint region should be assigned to investigate the allegation.

***Feasibility of Recommendation:*** Achievable. CPS would need to request CPI investigate the complaints of the youth in unlicensed placements in the same way CPI conducts internal investigations.

***DFPS Response:*** Child Protective Investigations across Texas focus their resources on addressing alleged abuse and neglect of children by their parents or caregivers, and work towards the health and safety of those children. DFPS' current practice is that any CPS employee investigation related to complaints from youth in unlicensed placements are conducted by members of the CPI Special Investigation team. This achieves the objectivity sought by the recommendation.

***FCO FY22 Update on DFPS Response:*** The process for complaints involving the foster youths' bill of rights violation would benefit from DFPS formalizing a procedure informally put in place by SWI and OIA to ensure foster youths' rights violation allegations are thoroughly addressed. Although DFPS agreed to put this into practice, FCO has observed several incidents where the agreed-on process was not completed. **FCO has a further recommendation in this report (Recommendation #1).**

**FCO Recommendation #4:** FCO recommends the CPS Rights of Children and Youth in Foster Care document be revised to include the phrase “at any time” Further, contracts for placement of children and youth should reflect the “at any time” language, making it enforceable by RCCR.

**Feasibility of Recommendation:** Potentially difficult. This recommendation may be achieved in two phases: the first would require the CPS form to be updated and disseminated. The second phase would require contract revisions to be done to reflect the updated language.

**DFPS Response:** CPS Rights of Children and Youth in Foster Care document was recently revised to exclude the phrase “at any time” to more closely-align with 19 Contracts, Minimum Standards and Texas Family Code 263.008, none of which reflect the “at any time” language. Legal approved the revision to exclude this language as this prevents youth from having the “right” to circumvent discipline issues or to contact their caseworkers as the result of problematic issues (e.g., during CWOP shifts, not in agreement with directives, etc.). Children and youth in foster care still have the right to contact their caseworker, attorney, ad litem, probation officer, court appointed special advocate (CASA), and Disability Rights of Texas. As our move to align the Bill of Rights language closer to that of Contracts, Minimum Standards, and the Texas Family Code, we do not agree with the contracts-aspect of this recommendation. This change would then dis-align the three languages and would allow Contracts language to be contradictory to the others. Children and youth in foster care can continue to contact the aforementioned parties; however, they should not have the documented “right” to do so “at any time” as this is outside of what is declared a “right” for them.

**FCO FY22 Update on DFPS Response:** FCO is concerned that there is no uniform standard for allowing children and youth to call these essential advocates, leaving it to the discretion of staff. As stated in the 2021 report, “Youth and children in foster care should be allowed the opportunity to call their advocate just as a child would contact their parent when they are in need.” **FCO will continue to monitor any issues associated with this policy decision.**

**FCO Recommendation #5:** CCI leadership should implement a plan to conduct investigations within the required timeframes to ensure the safety of children and youth in placements.

**Feasibility of Recommendation:** Achievable. There is existing policy to complete investigations within the required timeframe.

**DFPS Response:** Currently, CCI is completing 80 percent of investigations within program time frames, and state and regional program leadership are making concerted efforts towards addressing issues towards achieving a higher number of completed investigations within their 30 calendar-day time frame.

**FCO FY22 Update on DFPS Response:** According to DFPS, although efforts have been made to come into compliance with mandated timeframes, the overall response rate is unchanged one year later. **FCO continues to recommend CCI leadership implement a plan to conduct investigations within the required timeframes to ensure the safety of children and youth in placements.**

**FCO Recommendation #6:** CCI leadership should ensure all intake allegations are addressed thoroughly per CCI policy.

**Feasibility of Recommendation:** Achievable. There is existing CCI policy to ensure all intake allegations are addressed.

**DFPS Response:** The CCI Division has implemented an additional case staffing to occur on the 20th day of the investigation between the supervisor and investigator to ensure all allegations are addressed before case closure. Currently, all investigations that receive a Reason to Believe disposition must have secondary approval by the Complex Investigation Analyst within the CID Division. The CCI Division is planning for further secondary review for cases with the assigned Reason to Believe disposition, before closure, with our newly implemented Manager IV positions. This will allow for increased oversight and ensure all intake allegations are thoroughly addressed per CCI policy.

**FCO FY22 Update on DFPS Response:** According to DFPS, CCI has continued to follow staffing implementation since 2021 and implemented the following case staffing requirements:

- Intake
  - ▶ Initiation
  - ▶ 10-day/Interim
  - ▶ 20-day/Interim/dispositional/extension
  - ▶ 25-day/Dispositional
- Internal discussion to make changes to the staffing requirements above to coincide with FCL data team to ensure measures are met;
- Secondary Approval (by two filled Manager IV position) is required for any RTB disposition; and,

- A Case Closure form is completed and uploaded to IMPACT on all ANE investigations (must be signed by Supervisor and CID \*if CID involved)

**FCO Update on DFPS Response: FCO notes no recurring incidents such as described in the 2021 report in FY2022.**

**FCO Recommendation #7:** In addition to the MOU, CPS should establish a procedure to ensure SSCC materials (including operational handbooks and materials intended for foster youth) do not use the term “ombudsman” when referring to internal complaint resolution departments and specifically include contact information for FCO. This procedure should include a review of the materials as SSCCs begin operation and periodically thereafter.

**Feasibility of Recommendation:** Achievable. The MOU establishes the requirements for the procedures.

**DFPS Response:** The Office of Community Based Care will review all existing SSCC documents and materials and make edits (delete all reference to “ombudsman”) by the end of January 2022. Thereafter, the OCBC will ensure accuracy of newly developed materials as new SSCCs come online.

**FCO FY22 Update on DFPS Response:** The operational manuals of the SSCC catchment areas have been reviewed by FCO which found all are updated to consistently show a reference to the Foster Care Ombudsman. **FCO considers this issue resolved.**

## Appendix C: Glossary

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

**Child Care Investigations (CCI)** – A division of Child Protective Investigations responsible for all childcare facility investigations in the state which include both day care (DCI) and 24-hour residential settings (RCCI).

**Child Protective Investigations (CPI)** – Division of DFPS that investigates reports of abuse and neglect of children not placed in residential settings.

**Community Based Care (CBC)** – Community-Based programs that contract with DFPS-CPS to provide foster care and case management services.

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

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

**Court Appointed Special Advocate (CASA)** – Volunteers appointed by courts as independent advocates for children in DFPS conservatorship cases.

**Fiscal Year 2022** – The 12-month period from September 1, 2021, through August 31, 2022, covered by this report.

**Foster Care Ombudsman (FCO)** – The neutral statutorily mandated entity that reviews questions and complaints from children and youth in foster care regarding case-specific activities of DFPS and HHS programs areas and determines whether policies and procedures are followed.

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

**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.

**Preparation for Adult Living (PAL)** – Implemented in 1986 to ensure that older youth in substitute care are prepared for their inevitable departure from the Texas Department of Family Protective Services’ care and support.

**Residential Child Care Regulations (RCCR)** – Regulates all child-care operations and child-placing agencies to protect the health, safety, and well-being of children in care, largely by reducing the risk of injury, abuse, and communicable disease.

**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.

**Single Source Continuum Contractors (SSCC)** – Child welfare service provider contracted with DFPS responsible for managing catchment areas under the community-based foster care system to provide a full continuum of services.

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

**Substance Use Disorder Compliance Unit (SUDCU)** – Provides compliance over Chemical Dependency Treatment facilities or (CDTFs), including residential and outpatient, Narcotic Treatment Programs or (NTPs), and Licensed Chemical Dependency Counselors or (LCDCs), Counselor Interns or (CIs), and Licensed Sex Offender Treatment Providers of (LSOTPs).

**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.



## **Appendix D: List of Acronyms**

CASA – Court-appointed Special Advocate

CBC – Community Based Care

CCI – Child Care Investigation

CLASS – Child Care Licensing Automated Support System

CPI – Child Protective Investigations

CPS – DFPS Child Protective Services

DFPS – Department of Family Protective Services

FCL – Foster Care Litigation

FCO – Ombudsman for Children and Youth in Foster Care

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

OIA – DFPS Office of Internal Affairs

OO – HHS Office of the Ombudsman

PAL – Preparation for Adult Living

RCCR – HHS Residential Child Care Regulation

RTC – Residential Treatment Center

SSCC – Single Source Continuum Contractors

SWI – DFPS Statewide Intake

TAC – Texas Administrative Code

USOA – United States Ombudsman Association