



*Office of the Independent Ombudsman
for the Texas Youth Commission*

Fourth Quarterly Report on the Activities of the Office of the Independent Ombudsman for the Texas Youth Commission July to September 2008

I. Introduction

This report is the Fourth Quarterly Report to be submitted by this office under statute and is intended for the Conservator of the Texas Youth Commission, the Governor, Lt. Governor, Speaker of the House, members of the Texas Legislature, and the Auditor for the State of Texas. This report will serve to provide a description of the activities of the office during the fourth quarter of FY 08, and will address the following areas as specified by Senate Bill 103 (SB103).

- the general scope of work of the Office of the Independent Ombudsman (OIO);
- trends observed as the result of reviews and investigations of facilities and contract care programs that have been undertaken by this office;
- recommendations to improve the efficiency of the operations of the Texas the OIO.

The OIO has submitted additional reports and testimony to the members of the Joint Committee on the Operation and Management of the Texas Youth Commission as well as several other Committees and Sub-Committees which have held numerous hearings since the conclusion of the 80th Regular Session. Additionally the Chief Ombudsman has met on several occasions with Sunset Commission staff.

*6400 East Highway 290, Suite 202 · Austin, Texas 78723
(512)533-2770 · (512)533-2702 fax*

II. Overview of the Work of the Office of the Independent Ombudsman

Accounting of Site Visits

Site Visits

(Note: Even if more than one OIO staff participated in a site visit, it is counted only once here)

<i>Date(s)</i>	<i>Facility</i>
June 3, 2008	Mart I and Mart II
June 3, 2008	Crockett State School
June 4, 2008	Ron Jackson I
June 11, 2008	Al Price Juvenile Correctional Facility
June 12, 2008	Turman House
June 16-17, 2008	Ron Jackson I
June 18, 2008	West Texas State School
June 23-26, 2008	Houston District Office
June 26-27, 2008	Al Price Juvenile Correctional Facility
June 30, 2008	Corsicana Residential Treatment Center
July 1, 2008	Giddings State School
July 2, 2008	WINGS Program
July 3, 2008	Ron Jackson State School
July 12, 2008	Giddings
July 16, 2008	Mart Orientation Assessment Unit, I and II
July 22, 2008	Mart II
July 28, 2008	Giddings State School
July 28, 2008	Gulf Coast Trades Center
July 30-31, 2008	West Texas State School
July 29-31, 2008	Ron Jackson State School
July 31, 2008	West Texas State School
August 8, 2008	McFadden Ranch
August 20, 2008	Gulf Coast Trades Center
August 20-22, 2008	Evins, Beto House, Tamayo House, York House
August 29, 2008	Ron Jackson State School
September 3-4, 2008	Corsicana Residential Treatment Center
September 9, 2008	Gainesville State School
September 10, 2008	Victory Field
September 11, 2008	Willoughby House
September 12, 2008	Cottrell House
September 20, 2008	Giddings State School
September 23, 2008	Tyler District Office

September 24-26 th , 2008	Dallas District Office
September 29, 2008	Ron Jackson State School
September 30, 2008	Dallas District Office
October 1-2, 2008	Fort Worth District Office

Individual Cases and Direct Contacts

This quarter, OIO staff handled 66 individual cases and had 389 direct contacts with youth. A direct contact with youth involves an interview related to a broad evaluation of services or programs. It may also involve providing information to a youth. An individual case is where OIO staff directly intervenes on an individual's behalf to address a specific, individualized problem. Individual cases often come directly from youth, but frequently come from parents, advocates, lawyers or concerned TYC staff.

Working Groups

OIO staff members participate in a number of working groups with TYC as identified in previous reports. Workgroup efforts on Use of Force and Isolation, Training, the Parents Bill of Rights, and PREA continued this quarter and a new group was formed recently to address systemic problems with the Alleged Mistreatment Incident system.

Public Education

SB 103 requires the OIO to educate the public about the rights of youth committed to the TYC. The Chief Ombudsman is regularly invited to make public presentations to advocacy groups, professional associations, and parents groups. He is also invited to speak in academic forums and within TYC. This quarter, the Chief Ombudsman presented during this quarter at the national, annual conference of the Association for Conflict Resolution. The conference was titled "Aspirations, Possibilities and Realities: Expanding Principles, Practice, and Research in a Changing World." His specific panel was called "Ombudsman Applications within Public Institutions - Alive and Well!" Harrell was also a keynote speaker at a conference of the National Association of Black Social Workers. He also spoke to classes at the University of Houston Law Center and the University of Texas LBJ School of Public Affairs.

The OIO has been examined as a model for independent oversight for correctional environments. The Chief Ombudsman has been interviewed at length on multiple occasions (including this quarter) by Texas groups, as well at the Vera Institute in New York and the National Prison Rape Elimination Act Commission in Washington DC.

There has been continued work with the Youth Ombudsman Program and the student councils at both Ron Jackson Unit I and Giddings State School. The program has been expanded to include youth in halfway houses and on parole.

The Office of the Independent Ombudsman has partnered with the Texas Advocacy Project, a nonprofit law firm providing life saving legal solutions to victims of abuse. This project will provide educational prevention services to TYC

youth on parole, and those living in halfway houses and institutions. *The Teen Justice Initiative* was created in 2005 in Austin, Texas, and provides free and confidential information, advice, referrals, and representation to victims of teen dating violence. The program provides presentations to youth and trainings to professionals regarding youths' legal rights, offers age appropriate advice on the areas of dating and sexual violence and abuse, and represents young people in need of protective orders.

On August 25, 2008, Ms. Bronwyn Blake, a representative for *The Teen Justice Initiative*, began her tour by presenting a two hour long presentation to the youth at Turman House and another at the TYC Austin District Office. Ms. Blake provided responses to youths' questions regarding domestic violence, sexual assault protective orders, age of consent, process of emancipation and other areas. Ms. Blake distributed teen dating violence prevention brochures and posters to youths and facilities. She also distributed an OIO generated pamphlet which informs youth of the different ways to report an incident of sexual abuse within TYC.

III. Events and Trends Observed as a Result of Site Visits Conducted by the Office of the Independent Ombudsman

Alleged Mistreatment Incident System

On August 17, 2008, the OIO sent a memorandum to members of the executive management team in the Texas Youth Commission reporting on the substantial problems with the Alleged Mistreatment System (AMI system). In that report, the OIO expressed concerns that several alleged mistreatment incidents had not been investigated by administrative investigators, the data entry into the database was substantially backlogged, and also that employees had not been disciplined in a timely manner (if at all) when found to have engaged in behaviors which exploited, neglected or abused a youth in the custody of the Texas Youth Commission. Executive management asked for a follow up to the report and the OIO identified 564 cases in which (according to information available to the OIO) investigations had not been completed or may not have been completed according to policy. The OIO turned those cases over to the Inspector General's Office. At this time the Office of the Inspector General is investigating those cases and will determine if investigations into administrative violations were completed as well as determine if all instances of criminal wrongdoing were reported to law enforcement as required. In addition, the AMI report stated that the Youth Rights Division was substantially understaffed.

As a result of the serious nature of the breakdown of the Alleged Mistreatment Incident Report, the OIO reported to the Governor, Lieutenant Governor, State Auditor, Speaker of the House, and other members of the legislature the concerns that the OIO has with the Alleged Mistreatment System. On October 1, 2008, the OIO testified before the Joint Committee on the Operation and Management of the Texas Youth Commission about the report.

Agency leadership convened a meeting on October 7th to collaboratively address the problems identified in the OIO memos and reform efforts will include new policies and procedures for AMI investigations and an enhanced database. Additionally, the Alleged Mistreatment Incident system has been moved under the Office of the Inspector General and will be staffed by trained investigators. The OIG has reported they are adopting a policy and procedure manual and the policies related to the reporting and investigating of alleged mistreatment are being revised at this time. There has been a workgroup which will continue to address the Alleged Mistreatment Incident system which the Ombudsman will be sitting on along with representatives from the other major divisions of the agency

Educational Services

On August 25, 2008, the OIO released a report on education services in the Texas Youth Commission. At this time the agency is developing a comprehensive corrective action plan and has already begun undertaking some reform efforts. Agency officials, expert consultant Dr. Michael Krezmien, and the Chief Ombudsman met with Senator Florence Shapiro, Chairwoman of the Senate Education Committee, to discuss legislative solutions to the problems with the education services at TYC that were identified in the report. More discussions are scheduled. The OIO began an assessment of the barriers youth on TYC parole face when trying to re-enter public schools and have discussed those concerns with the Texas Education Administration and Senator Shapiro's staff.

Medical Services

The OIO has begun conducting specialized site visits focused on health services, and has initiated a regular dialogue with TYC health services leadership. The site visits have illuminated some of the serious problems facing youth who rely medical services while in TYC. Some of these problems are the direct result of UTMB's current staffing policies. Problems identified range from staffing shortages to some troubling medical practices such as sudden discontinuation of psychiatric medications. Our regular meetings with Health Services leadership have indicated that TYC recognizes many of the problems in the healthcare delivery system and is trying to improve on past practices.

We will be providing the agency with a series of special reports on medical services. The first one was submitted in September and it discusses two health services policies where TYC has solicited and incorporated OIO comments. TYC took the initiative to improve its policy regarding informing parents and legal guardians of their children's medical needs. In addition, it has modified its policies regarding appropriate responses to youth who do not comply with psychiatric medication regimens. The OIO is particularly concerned about taking these youth off medications suddenly as doing so can exacerbate their illness, which often causes them to act out with the result being they are sometimes punished further for what is ultimately their untreated mental health disorder(s).

The first site visit focusing on medical services was to the WINGS contract care program in Marion, Texas. We identified some concerning practices that

TYC health services staff responded to promptly upon receiving the OIO's report. The second visit was to the McLennan County State Juvenile Correctional Facility (Mart I) and the findings were more troubling. Those issues were outlined in the first special report on medical services. Some concerns (such as the length of time a youth may spend in intake before being seen by health care staff) are more readily addressed than others, and TYC has indicated it will look more closely at this situation. Other problems may be less easily resolved. For example, the OIO found certain health care professionals, including psychiatrists, who appear to consistently reject certain psychiatric diagnoses and instead consistently diagnose conduct disorders. As detailed in the first special report, this practice is suspect, given the prevalence of mental disorders in this population. By diagnosing a problem as a defect in character, rather than a medical disorder, TYC youth may not receive adequate medical care and are put at risk.

Mental Health Assessments

After a visit to the Mart Orientation and Assessment Unit on July 16, 2008, the OIO sent memorandum to the Treatment and Case Management Department to address concerns with the delays in getting psychological assessments completed for youth newly committed to the TYC. This delay in psychological assessments has caused delays in getting youth placed into appropriate facilities for treatment and in some instances has caused youth with severe mental health impairments to have delays in stabilization with medication regimens. In addition to the initial assessments being late at the Mart O&A Unit, several forensic psychological assessments at the Giddings facility were determined to be delayed due to staffing shortages. This has a very serious impact as these forensic psychological assessments are required for youth going back to court for possible transfer to the Texas Department of Criminal Justice (TDCJ), or onto parole with the TDCJ parole division. The Treatment and Case Management Division was responsive and made the decision to seek contract services to address the need for the completion of the assessments at both facilities. In late August and early September, another review of the Mart O&A facility was done and it was determined that the assessments continued to be behind due to the shortage of permanent staff. At this time, the OIO is monitoring the situation and attempting to assist the Mart O&A with coming up with solutions that will assist with getting the facility back to within its budgeted population. The Giddings facility's needs have to be addressed in a more permanent manner also, because the forensic psychological examinations require additional expertise in order to be considered valid.

Parole Services

The Office of Independent Ombudsman and the Texas Youth Commission's Family Liaisons held their first collaborative project called "Family Palooza". The OIO/TYC Community Family Focus Forum project was designed to place an emphasis and focus on parents and surrogate parents with children

released into the community under the parole supervision of the Texas Youth Commission.

The OIO/TYC objective for this project was to establish a partnership with parents to assist them with accessing community resources in order to improve services for their children. The Family Palooza event allowed for an ongoing exchange of information about the expectations of parole and the barriers youth face when released to the community. TYC and OIO staff provided individualized recommendations and introduced families to TYC and Ombudsman staff, employees with community organizations and provided information about accessible prevention programs.

The first event was held on August 9, 2008, in Dallas County. Sixty families attended. There were also several community organizations represented. Families were provided with TYC/OIO literature in order to provide assistance with locating community resources for the youth as well as to provide phone numbers for various TYC offices and the OIO. Similar forums are currently being planned in San Antonio and Houston.

IV. Recommendations to Improve the Effectiveness of TYC and the OIO

Recently TYC and UTMB granted the OIO access to the Electronic Medical Records system. This will allow us to independently and effectively monitor medical services. We have also been granted access to the Digital Sentry System which allows us to monitor the TYC camera surveillance system at any time.

OIO understaffing continues to be a significant problem and that will become a more serious problem when the current TYC regionalization plan is implemented; however we are requesting additional staff through the Legislative Appropriations Request process and feel confident the problem will be remedied.

There is no statutory obligation for the TYC to respond to OIO reports, but new agency leadership has been very supportive of this office and has directed TYC staff to be open to our investigations and to provide thorough, timely and truthful in responses to our reports. We are currently collaborating with TYC to develop a policy to formalize reporting procedures.

IV. Conclusion

This report reflects our work and observations over the fourth quarter. The next quarter will be the first opportunity to work with incoming TYC Executive Director Cherie Townsend. By all accounts, she is an excellent choice for TYC particularly at this juncture. We continue to admire greatly the vision and efforts of Richard Nedelkoff and have appreciated his open and honest collaboration with this office.