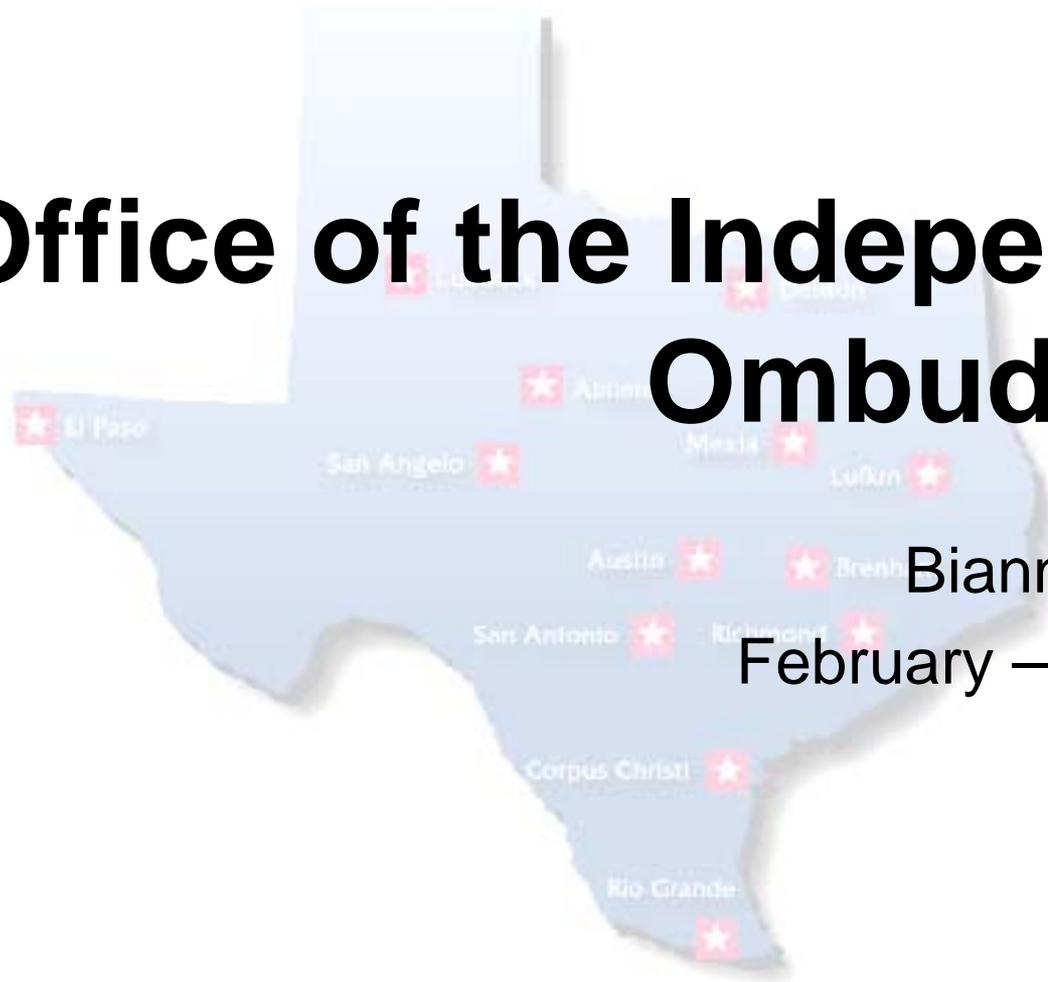


Office of the Independent Ombudsman



Biannual Report
February – June 2010



Background

The Office of the Independent Ombudsman was mandated by S.B. 643 (81st Legislature, Regular Session, 2009) in response to growing concerns about the quality of care at state supported living centers (SSLCs) and services for individuals with developmental or intellectual disabilities.

The Office of the Independent Ombudsman provides oversight and protection for residents and clients of state supported living centers by investigating, referring, evaluating and reporting the manner and processes used to resolve appeals and complaints. Further, the Office of the Independent Ombudsman is responsible for referring complaints of alleged abuse, neglect and exploitation of clients or employee misconduct to the appropriate entity.

This office has accomplished hiring 10 staff members, with an additional four positions in the selection process and a request for additional staff at the Rio Grande Center.

Dr. George Bithos was appointed as Independent Ombudsman by Governor Rick Perry on February 12, 2010.

Mission

- To serve as an independent, impartial and confidential resource; assisting our clients, their families, the staff of SSLCs and the public with services, complaints and issues related to the state supported living centers.



INITIATIVES DEFINED BY SB 643:

Sec. 555.051 Establishment; Purpose

- In process of hiring for two positions at Austin headquarters: Manager and Administrative Assistant. Postings closed on May 24, 2010 with interviews to follow.
- Hired Executive Assistant, Leah Casey. Start date June 1, 2010.
- Independent Ombudsman completed two training seminars entitled, “Conducting Serious Incited Investigations”, and “Weighing Evidence and Drawing Conclusions” on April 6-8, 2010. Earned a total of 1.8 CEUs, approved by the Texas State Board of Social Worker Examiners.
- Met with DADS staff to secure department access to computer server, electronic human resources management and budget planning.



INITIATIVES DEFINED BY SB 643:

Sec. 555.054 - Assistant Ombudsmen

- Workgroup formed to determine delineation of duties between DADS Consumer Rights Officers and Assistant Independent Ombudsman. Candace Jennings and Pam Turner represented Independent Ombudsman.
- Positions filled:
 - San Antonio SSLC – Candace Jennings
 - Richmond SSLC – Pam Turner
 - Mexia SSLC – Lynda Mitchell
 - Lufkin SSLC – Mary Stovall
 - Denton SSLC – Sezer Ruzek and Erin Knight
 - Austin SSLC – Jessica White
 - Brenham SSLC – Susan Aguilar
 - Lufkin SSLC – Mary Stovall
 - El Paso SSLC – Helen Alvarez
 - Lubbock – Ramona Rocha-Hughes, LBSW
 - Abilene – Jill Antilley
 - Corpus Christi – Interviews in process
- Interviews scheduled:
 - San Angelo SSLC – Position re-posted and closed on May 25, 2010. Interviews being scheduled.
 - Working with DADS Executive and Staff Operations to create new position for Assistant Independent Ombudsman at the Rio Grande Center. Independent Ombudsman made site visit and met with Superintendent and staff on May 20, 2010.



INITIATIVES DEFINED BY SB 643:

Sec. 555.056 Reports

- Working with staff from HHSC IT and Ombudsman's office and to establish HHS Enterprise Administrative Reporting and Tracking System (HEARTS)
- Monthly meetings with Thomas M. Suehs, Executive Commissioner, Health and Human Services Commission (HHSC) and Chris Traylor, Commissioner, Department of Aging and Disability Services (DADS)
- Monthly meetings with Katherine Yoder, Advisor to the Governor

Sec. 555.058 - Promotion of Awareness of the Office

- Independent Ombudsman attended and presented at the Ombudsman of Texas Conference on May 12, 2010 and at HHSC Center for Consumer and External Affairs meeting on May 27, 2010
- Finalizing design for poster, postcards and brochure to identify and promote the Department
- Finalizing webpage content and upcoming launch
- Confidential email box established and being monitored by department staff
- Met with Mexia SSLC Family Association
- Met with Brenham SSLC Family Association
- Met with Richmond SSLC Family Association
- San Antonio SSLC Family Association – June 13, 2010
- Met with various executive management and staff from HHSC, DADS and DFPS
- Attended DADS Council meeting and DADS All Staff meeting



INITIATIVES DEFINED BY SB 643:

Sec. 555.059 Duties and Powers – Independent Ombudsman

- Initiated discussions with DADS SSLC executive management and staff to define the term “Serious and Flagrant” found in SB643; Sec. 555.056 (4) (c).
- Finalized Memorandum of Understanding with representatives from HHSC, DFPS, DADS, DSHS, Office of Independent Ombudsman, Office of Inspector General. Currently in Legal review.
- Legislative visits:
 - Jamie Dudensing, Advisor to Lt. Governor Dewhurst
 - Katherine Yoder
 - Sen. Mike Jackson
 - Linda Kaufman, Sr. Advisor to Speaker Joe Straus
 - Mireya Zapata and Mike Rugjerri of Rep. Patrick Rose's office
 - Sen. Jane Nelson
 - Rep. Melinda Bolton's office
- Upcoming Legislative visits:
 - Sen. Kirk Watson
 - Members of Senate and House Health and Human Services Committees
 - Members representing districts with SSLCs
- Site visits completed during reporting period:
 - Austin SSLC
 - Denton SSLC
 - San Antonio SSLC
 - Richmond SSLC
 - Mexia SSLC
 - Brenham SSLC
 - San Angelo SSLC
 - Lufkin SSLC
 - El Paso SSLC
 - Lubbock SSLC
 - Abilene SSLC
 - Corpus Christi SSLC
 - Rio Grande Center



INITIATIVES DEFINED BY SB 643:

Sec. 555.059 Duties and Powers – AIO

Note: Duties performed by the Assistant Independent Ombudsmen during this period may include transitional duties of Consumer Rights Officers. As the Rights Officer positions are filled, these duties will be discontinued.

Abilene SSLC

- Consulted with family members about obtaining guardianship
- Served on Human Rights Committee
- Trained QMRPs on Rights issues.
- Conducted Self Advocates meetings
- Revised the Plan of Improvement for the Department of Justice Report.
- Chaired committee to discuss financial assistance for family's unable to pay for guardianship
- Performed internal investigation concerning a rights issue of resident. Investigation revealed no rights issues were violated

Austin SSLC

- Completed trainings for CPR, PMAB, and client rights assessments.
- Attended incident management meetings, HRC committee meetings, and pre-placement team meetings.
- Consulted with facility management team to review process of investigating and referring incidents.
- Collaborated with Human Rights Officer to review facility policies and procedures
- Reviewed outcomes of DFPS, OIG and DADS Regulatory findings of complaints.
- Reviewed resident charts and visited with residents to promote awareness of Office of Independent Ombudsman

Recommendations:

- Increased oversight from the Ombudsman would be beneficial to ensure that all issues are resolved or followed-up.

Brenham SSLC

- Chaired Human Rights Committee.
- Provided training to new employees and QMRPs.
- Liaison to Advocacy, Inc. and provided monthly report of inquiries at Brenham SSLC.
- Served on Restraint Reduction Committee and Level of Supervision Oversight Committee
- Received request to review and investigate four cases. Investigation satisfied. All concerns resolved.

Recommendations:

- Development of assessment tools to be utilized when conducting annual audits of facility policies and when conducting on site audits to review ratios and training of staff
- Coordinate efforts with other staff at Brenham SSLC to increase individuals awareness of abuse, neglect and exploitation.
- Participate in facility workgroups/committees that address issues that could possibly contribute to ANE, such as staff shortages, staff being reassigned to other homes, lack of consistent supervisory oversight and inadequate training on how to address challenging behaviors.
- Allot more time for training on ANE in new employee orientation and ensure that the curriculum is updated to reflect current policy and procedures.
- Ensure that the facility has an adequate amount of investigators to handle unusual incidents and allegations of ANE.
- Enhance current training curriculum to teach staff coping skills to manage their stress level. Staff also need to be taught how to communicate with individuals who can't talk/have limited communication skills and to recognize that their tone of voice and/or body language can have a negative impact in regards to how individuals respond to staff.
- Supervisory presence/oversight should be maintained in all homes so that staff are provided with monitoring and direction so that less tenured/unqualified staff do not have to make decisions that a supervisor should be accountable for making, regarding the safety and wellbeing of individuals.



INITIATIVES DEFINED BY SB 643:

Sec. 555.059 Duties and Powers - AIO

Corpus Christi SSLC

- Provided administrative referrals and investigation of client rights to and from DFPS.
- Conducted weekly advocacy meetings and quarterly advocacy officer luncheons.
- Received request to investigate client complaint. Investigation satisfied and complaint resolved.

Recommendations:

- Increase on-site staffing at Corpus Christi SSLC to include support staff and assistants.
- Develop collaborative working relationship between the assistant independent ombudsman and human rights officers.
- Develop process for accountability and consistency.

Denton SSLC

- Investigated problem concerning the administration of the center program or operation, reviewing all abuse/neglect/exploitation cases, unusual incidents and allegations.
- Continued following up DFPS conclusions, investigation results and outcomes
- Reviewed consumer records and visited apartments in the center to monitor
- Conducted interviews and observations making sure all rights restrictions are presented and approved
- Chaired Human Rights Committee
- Coordinated facility self advocacy program to teach clients their rights and how to advocate for themselves
- Trained new employees and QMRPs

Denton SSLC

- Reviewed and tracked trend analysis related to imposed restrictions of individuals rights
- Tracked and analyzed restrictive practices trends
- Served on Ethics Committee, Facility Administrative Review Committee, Incident Management Team, Critical Incident Team, DNR Determination Team, Hospice Care Decision Team, Restraint and Injury Review Team
- Conducted on site audits to ensure facility ratio and procedures are appropriate for the clients.
- Reviewed unusual incident log, client injury log, serious injuries, investigation log of the facility on a daily basis to ensure the rights of clients are protected.
- Received request to investigate three cases. Two cases involved referral to or from DFPS. All cases investigated and issues resolved.

Recommendations:

- Enhanced coordination between AIO and facility departments
- Systematic standardization to facilitate consistency across all centers.
- A communication system between other assistant ombudsman as needed
- Action plan to introduce this position officially to facility staff and management and develop working relationship.
- Inclusion of AIO in facility communication chain for reports of unusual or serious incidents and ANE



Sec. 555.059 Duties and Powers - AIO

El Paso SSLC

- Investigations regarding possible Rights violations
- Chaired the Human Rights Committee
- Served on Incident Management team, Restraint Reduction Committee and Performance Improvement Committee
- Monitored for Privacy and Rights throughout the facility
- Trained QMRPs and new employees on Rights and Values during orientation
- Investigations typically result in recommendation of additional training regarding Rights, Values, Dignity and Respect or refresher in PMAB training.

Recommendations:

- Orientation for all new Independent Assistant Ombudsman
- Training on how to enhance our skills in order to improve our work
- Centers to adopt strict “no tolerance for ANE” policy
- Not to employ convicted felons (setting ourselves up for scrutiny, failures, and distractions)
- Pursue criminal prosecution for those who have been found guilty of ANE

Lubbock SSLC

- Compliance reviewed Annual Rights Assessments
- Conducted investigations not related to ANE
- Chaired Human Rights Committee
- Conducted training with QMRPs and new employees
- Attend Incident Management Meeting
- Provided guidance/answers to rights questions
- Conducted investigation on behalf an individual which lead to staff being moved to a different area.

INITIATIVES DEFINED BY SB 643:

Recommendations:

- Remain on or be added to facility distribution lists.
- Be housed in an area where individuals, family members and staff can feel comfortable to report any allegation/complaint they may have, without fear of retaliation. Easy access to policies and procedures.
- Professional staff should be more visible in the facility
- Make unscheduled visits to ensure adherence to policy
- Follow policies and procedures, and ensure incidents are reported to DADS Regulatory

Lufkin SSLC

- Reviewed 37 DFPS cases of A/N/E to analyze their methodology of processing, resulting in one formal request of case review to the Assistant Commissioner of Adult Protective Services, as I disputed both the methodology and case finding.
- Met on 3/19/10 with executives of Lufkin State Supported Living Center, OIG, DFPS, and DADS Regulatory to discuss each other's role in meeting the components to SB 643.
- Met on 4/30/10 with supervisory staff of DFPS, Program Administrator for Region 5 and local APS supervisor, to discuss concerns of a newly hired APS Facility Investigator's lack of ability to perform thorough case reviews.
- Conducted seven investigations as a result of family complaints in the areas of medical, dental, active treatment, suspected abuse, and potential rights violations, resolving all but one to the satisfaction of the respective families. The investigation where the family continued to be dissatisfied, I referred them to DFPS' appeal process for the case involving their daughter.



INITIATIVES DEFINED BY SB 643:

Sec. 555.059 Duties and Powers – AIO

Lufkin SSLC

- Developed a medical desensitization program for presentation to the Director of Nursing.
- Met with ICF-MR surveyors in April during the annual review of the center to discuss consent issues, providing specific case information for those in their sample.
- Performed a review of rights with 7 individuals, discussing at length their questions and concerns, giving them suggestions as to how they could advocate for their wants and needs with team members.
- Coordinated the Self-Advocacy Program meetings, receiving and reviewing minutes taken from each meeting.
- Registered 5 individuals to vote at the request of the individual and team members
- Participated in two Administrative Death Reviews to review the case information and recommendations provided by the clinical death review committee and the internal investigation to ensure operational procedures and continuity of care issues were properly addressed.

Recommendations

- Training is needed for this new position to establish procedures/protocol for capturing all requested information outlined in SB 643. Reporting procedures need to be formalized, as well. Additionally, there needs to be a clear delineation of roles between the Facility Ombudsman vs. Human Rights Officer positions.

Mexia SSLC

- Provided oversight of incident reports, preliminary and final ANE investigations
- Provided follow-up on DFPS rights referrals and facility rights referrals
- Conducted investigation of alleged rights violations as a recommendation in ANE investigations
- Chaired the weekly Human Rights Committee, Increased Level of Supervision Oversight Committee and Special Interdisciplinary Team

- Served on the Administrative Death Review Committee and Self Advocate Group
- Provide training to QMRPs and new Human Rights Committee members
- Attended Family Association Meetings

Recommendations:

- Provide follow-up to ensure that investigation recommendations are followed.
- AIO should be a member of the Human Rights Committee
- Send letter to families explaining our role.
- Meet with facility direct care staff to let them know we are an independent resource they can talk to without fear of retaliation, and their concerns will be investigated.
- To Improve Systems, make the provision of specialized forensic training a high priority, with emphasis on the setting of boundaries. This type of training may prevent the number of false allegations made against employees, and enable them to meet the needs of the individuals served instead of being on non-client contact during the course of investigations.
- Forensic training could also serve to reduce the number of allegations/investigations with this special population, if staff have a better understanding of how to work with them.

Richmond SSLC

- Referred allegations of abuse to DFPS; 2 pending; 1 unconfirmed
- Investigated complaints from consumers, staff, volunteers and family members
- Served as advisor for Self-Advocate meetings
- Served as Chairman for Human Rights Committee
- Provided training classes to new employees, QMRPs, Self-Advocates and Social Workers on rights monitoring
- Met with the DFPS, OIG and their investigators and peace officers to discuss plans and strategies.
- Attended Richmond SSLC Parents Meeting



INITIATIVES DEFINED BY SB 643:

Sec. 555.059 Duties and Powers – AIO

San Angelo SSLC

- Received two client requests for review of appeals. Appeals reviewed by Independent Ombudsman and ruling made.
- Served on Admission/Transfer Committee, Behavior Support Committee and Employee Reentry Team.
- Chaired Human Rights Committee and Referral Review Committee.
- Provided copy of the Your Rights in a State Supported Living Center to each new admission and discussed their rights to due process.
- Member of the Health Status Team, Restraint Reduction Team, Personal Support Team, Plan of Improvement Committee and participated in Unusual Incident Reviews.
- Remained in close contact with residents, seeing up 60% of all residents daily.
- Acted as contact for DFPS referrals related to Rights issues
- Between November 2009 and April 2010, a total of 388 allegations were reported to DFPS. Interim AIO Involvement included making contact with individuals to ensure their well being and addressing referrals made by DFPS in relation to rights issues.
- Received request to investigate six client complaints. Investigation satisfied and complaints resolved.

San Antonio SSLC

- Chaired Human Rights Committee
- Attended Health Status Meetings, Community Living Options Information Process teleconferences, Weight Committee meetings, Admission Reviews and Administrative Death Review
- Trained QMRPs and conducted Abuse and Neglect Refresher training
- Performed activities related to the DOJ Settlement Agreement, including meeting with Family Associations and participating in Plan of Improvement Council
- Attended a fundraiser event for Volunteer Services Council to network with family members and board members
- Met with SSLC administration, OIG, and DFPS to discuss the OIG process in relation to DFPS investigations
- Received referral from DFPS for investigation. Allegation – Unconfirmed
- Received request to investigate four client complaints. Investigation resulted in resolution of complaints in three cases. One case requires follow up.
- Received request to investigate alleged violation of client rights. Investigation in progress.

San Antonio SSLC

Recommendations:

- Establish communication system between AIO and Incident Management staff regarding abuse and neglect and unusual incidents. Current system does not include this position, except at the meeting when brief information is provided.
- Maintain recent increase in direct care staffing

Sec. 555.061 Toll-Free Numbers

- Toll free telephone service, equipment and script being launched tentatively late June 2010

Organizational Structure

