



## **CASE PRACTICES AND OPERATING PROCEDURES**

**Tracie Johnson, Youth Ombudsperson**

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## Preamble

This document outlines general policies and procedures to guide the operations of the Office of the Youth Ombudsperson (OYO). It is a working document subject to procedural changes and updates.

In writing its procedures, the OYO completed a thorough study of policies and procedures practiced by child protection ombudspersons worldwide. OYO procedures were designed to reflect best practice standards set by the International Ombudsman Association, the United States Ombudsman Association (USOA), and the American Bar Association (ABA).

These case practices and operating procedures have been developed to ensure that the Philadelphia Youth Ombudsperson is able to execute the functions and responsibilities of the OYO as mandated in Executive Order 5-22.<sup>1</sup>

## The Creation of the Office of the Youth Ombudsperson

The OYO was established pursuant to Executive Order 5-22, which was signed on November 30<sup>th</sup>, 2022, by then Mayor Jim Kenney. Under this executive order, the OYO was established to promote the safety and well-being of youth in congregate care settings. The OYO was embedded within the Philadelphia Office of the Inspector General (OIG) and the first Youth Ombudsperson, Tracie Johnson, was hired in April 2023.

## The Role of the Youth Ombudsperson

By design, the OYO serves as an independent and impartial office, tasked with providing oversight and monitoring of investigations into youth congregate care facilities. In this role, the Youth Ombudsperson has oversight of the various city agencies that investigate, evaluate, and address the quality of care provided to Philadelphia youth in residential placements, such as the Office of Children and Families (OCF), the Managing Director's Office (MDO), Health and Human Services (HHS), the Department of Human Services (DHS), the Department of Behavioral Health and Intellectual disAbilities Services (DBHIDS), and its contractor, Community Behavioral Health (CBH). This provides the OYO with independent access to child protection records that are not otherwise available to the public. This allows the OYO to objectively review investigations into congregate care facilities, deliver recommendations, and drive systemic reform through research and education. Through objective study, the OYO works to proactively improve the delivery of services to Philadelphia youth in congregate care.

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<sup>1</sup> Any descriptions of laws and regulations in this document are brief summaries/interpretations which do not encompass the entirety of the law or serve as legal code. This is not legal advice or guidance, and any legal questions/concerns should be directed to an attorney.

## Mission Statement

The OYO is committed to ensuring the safety and well-being of Philadelphia's youth in child welfare, juvenile justice, and behavioral health residential placement facilities. The OYO does this through impartial investigative oversight, effective evaluation of systems and protocols, authentic partnerships with youth with lived experience and expertise, and meaningful collaboration with city agencies, youth advocacy groups, and community leaders.

## Vision Statement

The OYO envisions a city where youth are free to live, learn, and grow; where youth have access to habitable housing, sustainable wages for their families, a free and appropriate education, and continued resources, stability, and social safety nets needed for them to thrive. The OYO envisions a transformative world in which the systemic social issues that often lead to child welfare, juvenile justice, and behavioral health involvement no longer exist.

## Race Equity Statement

The OYO envisions a city that meets the unique needs of youth and their families, reduces the use of youth residential placement facilities, and eradicates the underlying systemic reasons that Black and Latinx youth are disproportionately sent into placement. The OYO promotes the health, safety, and well-being of youth in placement, and addresses embedded and intersectional biases and stereotypes that put Black and Latinx youth at increased risk of abuse while in placement. Through strategic partnership with youth, advocates, and city leaders, the OYO will implement evidence-based solutions that allow youth to be both safe and successful in their communities. This collective action will ensure that the City of Philadelphia is a place where all youth, regardless of their backgrounds or life experiences, have access to the rights, opportunities, and advantages that every Philadelphian deserves.

## A Message from the Youth Ombudsperson

*April 27, 2023*

First and foremost, to the beautiful and deserving young people in Philadelphia's child welfare, juvenile justice, and behavioral health systems, I see you, I honor you, and it is my mission to make sure your voice, experience, and truth, rings through this wonderful city I love and call home. To the families working hard to provide love and support to their children despite life's challenges, you are not alone. It takes a village and I aim to prove that this office is a home in that village. To the City of Philadelphia, history will look back on how we nurtured and cared for

our most vulnerable young people, let us show everyone what it looks like to invest in our youth and create pathways for brighter more prosperous futures.

Due to large scale systemic issues that many of our city agencies are working very hard to fix, Philadelphia sends young people into congregate care at staggering rates with a disproportionate number of those youth being black and brown. Youth who are placed in residential treatment facilities have often experienced previous trauma such as physical, sexual, or emotional abuse, community violence, and loss. These are all of our children, and they deserve healthy, high-quality, effective healing. There is no room for abuse, maltreatment, or poor service delivery of any kind. It is the OYO's mission to provide independent, alternative, oversight to ensure our children receive healing without harm.

Lastly, thank you! Thank you to the youth and advocates for fighting for this office and role to exist. Every time you have lifted your voice a change has come. I will work to deliver the outcomes you hope and believed this role could bring.

Sincerely yours,

Tracie Johnson, Esq.  
Youth Ombudsperson

## 1.00 Definitions

The terms and phrases listed below will be used throughout this document to explain the case practices and operating procedures of the Office of the Youth Ombudsperson.

**3800 Regulations:** Refers to Chapter 3800 of the Human Services Title 55, which includes specifics on youth residential placement requirements such as licensure, capacity, staffing, physical site requirements, youth rights, restraints and restrictive procedures, incident reporting, medical care, and more.

**Act 96:** Pennsylvania law that allows for direct file juveniles to be held in juvenile facilities when ordered by a court.

**Behavioral Health:** The promotion of mental health, resilience, and well-being; the treatment of mental and substance use disorders; and the support of those who experience and/or are in recovery from these conditions, along with their families and communities, with a commitment to recovery and self-determination.

**Case:** Every question/complaint that is determined to be within the scope of the OYO is opened as a case and assigned to an OYO staff member.

**Case Disposition:** A classification, assigned to every OYO case upon closure, which denotes what assistance was provided to the complainant, the findings of the OYO's review, and any additional action taken by the agency.

**Case Management System (CMS):** The OYO maintains an internal case management system. This database includes all records related to the OYO's handling of cases.

**Child Abuse:** Any recent act or failure to act by a perpetrator which causes nonaccidental serious physical or mental injury to a child, sexual abuse or exploitation or creates an imminent risk of such injury, abuse, or exploitation as described in 23 Pa.C.S. § § 6301—6385.

**Child Protective Services Law (CPSL):** Law that stipulates the reporting, investigating, assessment, prosecution, and judicial handling of child abuse and neglect cases in Pennsylvania.

**Child Welfare System:** A group of organizations consisting of the City of Philadelphia Department of Human Services and their contracted providers that provide services to children and families at risk of abuse or neglect. The goal of the city's child welfare system is to keep children and families together and in their own communities.



**City Agency:** Refers to any Philadelphia departments, agencies, boards, commissions, and bureaus. Commonly used to refer to the Philadelphia Department of Human Services and the Department of Behavioral Health and Intellectual disAbility Services.

**Community Behavioral Health (CBH):** A not-for-profit 501c (3) corporation contracted by the City of Philadelphia to provide mental health and substance use services to Philadelphia Medicaid recipients. CBH acts as a division of the Department of Behavioral Health and Intellectual disAbility Services (see *DBHIDS*) to authorize behavioral health services payments, help ensure that providers are delivering effective and medically necessary services, and secure lower costs for healthcare. It is a HIPAA-compliant support agency for the DBHIDS.

**Complainant:** Any individual who engages the OYO with a question/complaint about the child protection system.

**Complaint/Question:** A concern or question that is submitted to the OYO for review.

**Congregate Care:** A residential care community for youth, including group homes, in-patient behavioral health/substance abuse settings, and juvenile justice detention centers/placements.

**Department of Behavioral Health and Intellectual disAbility Services (DBHIDS):** A department under the City of Philadelphia's Health and Human Services cabinet, which functions as a single-payer public health system using federal, state, and local funds to oversee services related to behavioral health care, intellectual disability services, and early intervention services.

**Department of Human Services (DHS):** Refers to the Philadelphia Department of Human Services, which is the county's child welfare and juvenile justice agency under the Office of Children and Families.

**Home and Community Services Information System (HCSIS):** A web-based system where providers are required to report all concerns and incidents that occur at facilities. Examples of HCSIS-reported concern and incident areas include, but are not limited to, serious injury, serious disease, child fatality, ChildLine reports, suicidal acts, and fire and police involvement.

**Health and Human Services (HHS):** A city agency that provides leadership and develops strategies to ensure the health and well-being of all Philadelphians.

**Executive Order:** An executive order is a directive issued and signed into effect by the mayor. The Office of the Youth Ombudsperson was created through an executive order signed by

Mayor Kenney in November 2022. This executive order, Executive Order 5-22, mandates the creation of the office and establishes requirements for the office's role and responsibilities.

**Juvenile Matters:** Also known as the Juvenile Act, Juvenile Matters is the Pennsylvania statute which governs youth who are being processed through the juvenile justice system in the state.

**Juvenile Justice:** The area of criminal law applicable to youth offenders. The main purpose of the juvenile justice system is community protection, accountability, and competency development using restorative practices.

**Juvenile Justice and Delinquency Prevention Act (JJDP) of 1974:** A landmark federal legislation that granted youth several due process rights and banned the use of detention for youth charged with status offenses alone.

**Juvenile Justice Reform Act (JJRA) of 2018:** The JJRA of 2018 is the most recent reauthorization of the JJDP of 1974. This reauthorization expands juvenile justice system requirements for states which receive federal funding.

**Managing Director's Office (MDO):** The Managing Director's Office is a cabinet-level office which oversees the city's departments.

**Office of Children and Families (OCF):** OCF is a city office which administers the city's initiatives and programs related to children and youth, such as community schools, Pre-K programs, and work programs. It also oversees DHS, Parks and Recreation, and the Free Library.

**Office of Children, Youth, and Families (OCYF):** OCYF is a state office which is responsible for the monitoring and administration of children and youth services throughout the state, including child welfare and juvenile justice placements.

**Office of the Inspector General (OIG):** The OIG is a city office which investigates fraud, corruption, and misconduct in all government entities under the Mayor's jurisdiction, including city employees, contractors, and grant recipients.

**Office of the Youth Ombudsperson (OYO):** The Office of the Youth Ombudsperson will be referred to as the OYO. The OYO denotes the agency as a whole and does not refer to an individual staff member. This type of office is sometimes referred to as an "ombuds" office.

**Pennsylvania Department of Education (PDE):** The PDE is the executive department of the state charged with publicly funded preschool, K-12 and adult educational budgeting, management and guidelines.

**Pennsylvania Department of Human Services (PA-DHS):** PA-DHS is the state DHS, which oversees and administers various state offices related to human services including the Office of Children, Youth, and Families.

**Pennsylvania Legal Code:** Pennsylvania's collection of statutory laws and regulations passed by the state legislature.

**Philadelphia Juvenile Justice Services Center (PJJSC):** Philadelphia's only secure juvenile detention center.

**Provider:** A non-profit or for-profit entity that has a contract with the city of Philadelphia or Community Behavioral Health (CBH) to provide care, rehabilitation, or treatment to a youth from the City of Philadelphia. Any public agency/provider within the child protection system that has "city contracts" and is responsible for *"the provision of residential placement services to Philadelphia youth involved in the child welfare, juvenile justice or behavioral health system."* See Executive Order 5-22.

**Psychiatric Residential Treatment Facility (PRTF):** A placement that provides comprehensive, trauma-informed, and individualized mental health services for youth who, due to medical necessity, require treatment that can only be provided in a residential setting and for whom alternative, community-based forms of treatment have been unsuccessful or are not medically indicated.

**Recommendation:** A suggestion or proposal, *"to improve the safety of and promote better outcomes for children and families receiving child protection services in Pennsylvania."* See C.R.S. §193.3-103(2)(e).

**Residential Placement:** An out-of-home placement for youth in the child welfare, juvenile justice and/or behavioral health systems.

**Right to Know Law (RTKL):** A Pennsylvania law which expands and governs the information which must be made available to the general public by government agencies in the Commonwealth.

**School District of Philadelphia (SDP):** The SDP includes all school-districted operated public schools in Philadelphia. It also authorizes independently operated charter schools in Philadelphia.

**Secure Detention:** A type of secure care located in a temporary 24-hour living setting, in which one or more delinquent or alleged delinquent children are detained, generally in a pre-adjudication status.

**Sunshine Act:** A Pennsylvania statute which requires agencies to take official action on agency business in a meeting which must be open to the public and have prior notice.

**Youth Ombudsperson:** The head of the OYO who is responsible for the implementation and execution of these practices and procedures. The Youth Ombudsperson is an individual appointed to receive and follow up on complaints or concerns made about placements or services. This position is sometimes referred to as “ombudsman” or “ombudsperson.”

**Youth Residential Placement Task Force:** A task force authorized by Philadelphia City Council to make recommendations to safely reduce the number of Philadelphia youth in residential placements and improve the quality and safety of existing placements.

## 2.00 Introduction to the Office of the Youth Ombudsperson

### 2.10 Team Overview

The OYO is comprised of a Youth Ombudsperson, two Associate Youth Ombudspersons, and an Administrative Assistant.

Tracie Johnson (she/her) is the Youth Ombudsperson for the City of Philadelphia. Tracie has been the Youth Ombudsperson since 2023, previously serving as a Staff Attorney on the Youth Justice Project sponsored by the Hive at Community Legal Services. Tracie first worked with CLS as a certified legal intern on the Youth Justice Project and later as an Equal Justice Works Fellow, where she worked to create career pathways for women and girls of color who face barriers to employment and higher education because of their juvenile and adult criminal records. Prior to law school, Tracie worked as a Communications Associate at Philadelphia VIP through the Philly Fellows Program. She then volunteered in the legal intake department of the American Civil Liberties Union of Pennsylvania. She also worked as a Community Outreach Coordinator at a communications and design firm, Social Impact Studios. Tracie received the Philadelphia Bar Association Public Interest Section Law Student Award for her law school in 2017. Upon graduating, she received the Sarah J. Love Memorial Award, the Henry Kent Anderson Human Services Award, and the Integrated Trial Advocacy Program Award. Tracie earned her Juris Doctor (JD) from Temple James E. Beasley School of Law in 2018. She received her Bachelor of Arts (BA) from Ursinus College in 2013. Tracie is a member of the Pennsylvania Bar.

Ciara Sheerin (she/her) is an Associate Youth Ombudsperson at the OYO. Ciara has been in this role since 2023. Prior to joining the OYO, she was the Youth Justice Policy Analyst at the Philadelphia District Attorney's Office, where she worked collaboratively to develop reform-oriented policy initiatives and public reports. Prior to that position, Ciara worked as a mental health social worker at the Philadelphia Department of Prisons. While obtaining her Master of Social Work (MSW), she interned with the Goldring Reentry Initiative, where she worked with adults during their reentry transition from the Philadelphia jails back to their communities. Ciara received her Bachelor of Social Work (BSW) and Master of Arts (MA) in Criminal Justice from Temple University, and her MSW from the University of Pennsylvania. She is currently pursuing her PhD in Criminal Justice at Temple. She is a Licensed Social Worker in the Commonwealth of Pennsylvania.

Gabrielle Haeuber (she/her) is an Associate Youth Ombudsperson at the OYO. Gabi has been in this role since 2023. She graduated from the University of Pennsylvania's School of Social Policy and Practice with an MSW, specializing in social policy and child welfare. During her MSW program, Gabi interned at a Community Umbrella Agency, the Youth Justice Project at Community Legal Services, and with the Systems Change team at the Center for the Study of Social Policy. Gabi was also a fellow and Co-Development Director of the University of

Pennsylvania's Youth Advocacy Project, an interdisciplinary fellowship providing mitigation and reentry supports for young people prosecuted in the adult criminal justice system in Philadelphia. Prior to receiving her MSW, Gabi worked as a Legal Assistant at Covington & Burling, LLP. She received her BA from the University of Maryland, College Park in 2018.

The OYO support staff includes Izhanae Williams (she/her), the OYO Administrative Assistant.

## 2.20 Office Scope of Work

The OYO's scope of work includes complaints against congregate care facilities which house youth from Philadelphia, receive city funding, and involve a safety or well-being issue.

As such, the OYO's scope of work does not include complaints regarding abuse and/or neglect outside of congregate care facilities (such as non-group home foster placements), or regarding youth not from Philadelphia (unless it is a systemic issue at a facility where Philadelphia youth are housed). Further, the OYO's scope of work does not include youth placements that are not funded by city departments (such as hospital stays covered by private insurance).

## 2.30 Duties of the Office

[Executive Order 5-22](#) lays out six duties of the OYO. The OYO must:

- 1) Establish an access point for youth and other members of the public to file complaints and make inquiries regarding the care provided to youth in residential placements, referring such complaints and inquiries to OCF, DHS, DBHIDS, CBH, Law Enforcement, the Pennsylvania Department of Human Services (PA-DHS), the Office of Children Youth and Families (OCYF), the School District of Philadelphia (SDP), the Pennsylvania Department of Education (PDE), or other agencies, as appropriate, for investigation and resolution.
- 2) Independently evaluate the quality of care, treatment, and education provided to youth in residential placements, as needed, including, but not limited to, visiting and/or inspecting any aspect of the residential facilities, formally or informally interviewing youth, facility staff, or city personnel, reviewing records and initiating service concerns.
- 3) Monitor and review investigations and evaluations performed by, and investigatory protocols, reporting systems, emergency response procedures, and other policies and procedures used by OCF, DHS, DBHIDS, CBH, and make recommendations to the mayor as appropriate.
- 4) Monitor complaint, incident, grievance, and other data collected by OCF, DHS, DBHIDS, and CBH for issues and trends regarding the quality of care provided to youth in residential placements, demographics, and demographic disparities, as necessary, conduct additional data gathering at residential placements, including surveys and other monitoring of youth and staff; and provide recommendations to relevant city agencies

regarding annual facility evaluations, provider contract negotiations, and related contract action.

- 5) Periodically liaise with youth advocates and professional organizations who have contact with youth in residential placements to inform the work of the office. Publish an annual public report and hold at least one public meeting with opportunity for public comment, about the activities of the OYO, including recommendations issued, the implementation status of those recommendations, de-identified resident survey results, and any issues or trends that have been identified.
- 6) Develop, publish, and deliver information, materials, and guidance to educate and engage youth, families, providers, courts and others about residential placement processes, available avenues for assistance, youth rights and protections, and other matters relevant to residential placements and the youth experience.

The OYO is a HIPAA-compliant unit (see [Policy 4.20 Health Information Portability and Accountability Act \(HIPAA\)](#)). In addition, all staff members are required to comply with federal/state background checks and complete relevant trainings, including HIPAA and mandated reporter trainings, among others.

#### 2.40 Contacting the Office

The business hours of the OYO are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding state and city holidays.

The OYO can be contacted in the following ways:

**Mail:** Office of the Youth Ombudsperson  
601 Walnut St., Suite 300 East  
Philadelphia, PA 19106

**Email:** [OYO@phila.gov](mailto:OYO@phila.gov)

**Phone:** (215) 686-1178

**Online Complaint Form:** <https://www.phila.gov/departments/office-of-the-youth-ombudsperson/report-a-complaint/>

**In-Person Appointments:** In-person appointments can be made by contacting the OYO office at [OYO@phila.gov](mailto:OYO@phila.gov). OYO staff will accept walk-ins and in-person appointments until 3:30pm. Any request to come in later than 3:30pm will need to be rescheduled for a different business day.

Upon receipt of an email, letter, or telephone message, OYO staff will respond within two to three business days.



## 3.00 United States Ombudsman Association Standards

The United States Ombudsman Association (USOA) lays out guidelines and best practices for all Ombuds offices. As an office, OYO staff strive to abide by the four guiding principles detailed below. These guidelines are outlined in the [USOA Governmental Ombudsman Standards](#).

### 3.10 Independence

The USOA states that Ombuds offices should be independent *“in structure, function, and appearance...to function as an impartial and critical entity that reports findings and makes recommendations based solely on a review of facts and law, in the light of reason and fairness.”*

According to the USOA Governmental Ombudsman Standards, the following are indicators of independence, the absence of any one of which may create functional problems:

1. The Ombudsman’s authority should be established by law.
2. The Ombudsman should be appointed by an entity not subject to the Ombudsman’s jurisdiction and which does not have operational or administrative authority over the program(s) or agency(ies) that are subject to the Ombudsman’s jurisdiction.
3. Prior to expiration of term, the Ombudsman may be removed from office for cause only.
4. The Ombudsman should be afforded sufficient compensation, status, budget, resources, and staff.
5. The Ombudsman should retain sole authority to select, direct, and discharge staff.
6. The Ombudsman should have discretion to accept or reject matters for investigation, subject only to the legally defined limits of jurisdiction.
7. The Ombudsman should have discretion to prescribe how complaints are to be made, received, and acted upon, including the scope and manner of investigations.
8. The Ombudsman should have discretion to determine which conclusions and recommendations are reached, and freedom to determine what to publish.
9. The Ombudsman should be immune from discovery and prosecution for claims arising out of the lawful performance of duty.
10. The findings and recommendations of the Ombudsman are not appealable to any other authority.

According to Executive Order 5-22, the OYO shall *“independently evaluate the quality of care, treatment and education provided to youth in residential placements.”* To ensure independence, the OYO is housed within the Philadelphia Office of the Inspector General, which is also an independent city agency. The OYO is not under the authority of any of the agencies it oversees.

### 3.20 Impartiality

The USOA states that Ombuds offices should review complaints in an *“objective and fair manner, free from bias, and treat all parties without favor or prejudice.”*

According to the USOA Governmental Ombudsman Standards, the following are indicators of impartiality, the absence of any one of which may create problems of credibility and effectiveness:

1. The Ombudsman refrains from partisan and political activities, and employment and business relationships and transactions that may create a conflict of interest, or the appearance of one.
2. The Ombudsman holds no other public office that has the potential of creating a conflict of interest or the appearance of one.
3. The Ombudsman absents himself or herself from involvement in complaints where a conflict of interest or the appearance of one may exist.
4. The Ombudsman does not allow personal views regarding the subject matter or the parties involved to affect decisions as to what complaints to accept or how they are investigated.
5. 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.

Section 3 of Executive Order 5-22 details the duties of the OYO. It requires that the OYO provide oversight of the city’s management of services received by Philadelphia youth while in residential placements. As such, the OYO does not represent complainants or the city. Rather, it is the office's duty to serve as an alternative *“access point for youth and other members of the public to file complaints and make inquiries regarding the care provided to youth in residential placements.”* In addition, the office provides oversight of the city’s investigation process to ensure that a proper and appropriate investigation is executed, and a fair outcome is reached.

### 3.30 Confidentiality

The USOA states that Ombuds offices have the *“privilege and discretion to keep confidential or release any information related to a complaint or investigation,”* balancing *“the need to protect sensitive information...with the need to disclosure information as part of an investigation or public report.”*

According to the USOA Governmental Ombudsman Standards, the following are indicators of the appropriate use of the Ombudsman’s discretion:

1. The Ombudsman should not reveal information when confidentiality has been promised.
2. The Ombudsman should not release information where confidentiality is required by law, or where unnecessary harm would result.

3. The Ombudsman should not be compelled to testify or to release records.

The OYO respects the privacy of all involved in each stage of the investigation process. It is essential that everyone feel safe to report their concerns to the OYO. OYO staff regularly receive trainings to ensure that they are in compliance with HIPAA guidelines and other applicable privacy laws. In addition, as outlined in Section 4 of Executive Order 5-22, city agencies are required to “*maintain all communications with the OYO in confidence.*” All protected health information must be de-identified before it can be shared in accordance with the specifications in 45 C.F.R. § 164.514(b).

### 3.40 Credible Review

The USOA states that Ombuds offices must function “*in a manner that engenders respect and confidence and be accessible to all potential complainants.*”

According to the USOA Governmental Ombudsman Standards, the following are powers and responsibilities inherent in a credible review process:

1. The Ombudsman should be qualified to analyze issues and matters of law, administration, and policy.
2. The Ombudsman should have the discretion to act informally to resolve a complaint.
3. The Ombudsman should have the authority to delegate power to a deputy or acting Ombudsman.
4. The Ombudsman provides for sufficient access for any person to make a complaint known to the Ombudsman directly without a fee.
5. The Ombudsman’s jurisdiction should be clearly defined and the Ombudsman should not act outside of that jurisdiction.
6. The grounds for Ombudsman review should be stated broadly.
7. The Ombudsman should have sufficient powers to conduct thorough investigations.
8. The Ombudsman should have the authority and responsibility to publish findings, recommendations, and reports.
9. The subjects of the Ombudsman’s reports should be consulted and afforded the opportunity to respond to the report prior to its being published.
10. The process for how complaints are to be made, received, and acted upon, including the scope and manner of investigations, should be defined and transparent.
11. The Ombudsman should state the reason a complaint is not accepted for investigation.
12. The Ombudsman should keep both complainants and subjects apprised of the status of the investigation.
13. The Ombudsman should complete investigations in a timely manner.
14. The Ombudsman should, at least annually, report generally on the activities of the office to the Ombudsman’s appointing authority, other policy makers, and the public.

15. The Ombudsman should, in practice and appearance, uphold the highest standards of public service.

Section 3 of Executive Order 5-22 requires that the OYO have a credible review process to independently evaluate the care of youth in residential placements. This process is detailed in the following sections of the OYO case practices and operating procedures.

## 4.00 Applicable Local, State, and Federal Laws and Statutes

This section details some, but not all, of the applicable local, state, and federal laws and statutes related to the OYO's work. To note, the OYO uses the language "youth" while many laws and statutes use the word "child." The OYO's work may include young people ages 18 to 21 who are in congregate care settings, and they are entitled to the same rights and protections as children in those facilities. However, they may not be covered under the same laws as minors.

### 4.10 Confidentiality

The OYO will act in accordance with all applicable confidentiality requirements and is subject to all local, state, and federal confidentiality laws. These laws include, but are not limited to, the Pennsylvania Children's Code (see [Policy 4.50 Pennsylvania Legal Code: Child Residential and Day Treatment Facilities \(55 Pa. Code. Ch. 3800\)](#)), [the Health Information Portability and Accountability Act](#) (see [Policy 4.20 Health Information Portability and Accountability Act \(HIPAA\)](#)), the [Family Educational Rights and Privacy Act \(FERPA\)](#), mandated reporting requirements (see [Policy 4.30 Mandated Reporting](#)), [the Pennsylvania Mental Health Procedures Act \(55 Pa. Code § 5100 et seq.\)](#), [Pennsylvania Confidentiality of HIV-Related Information Act \(35 P.S. § 7601 et seq.\)](#), federal substance abuse treatment confidentiality law and regulations codified as [42 U.S.C. § 290dd-2](#) and [42 CFR Part 2](#), [Pennsylvania Drug and Alcohol Abuse Control Act \(71 P.S. § 1690.101 et seq.\)](#), [Pennsylvania Breach of Personal Information Notification Act \(73 P.S. § 2301 et seq.\)](#), [Identity Theft Prevention Rules under 16 CFR § 681.1](#), and any other Pennsylvania and federal laws that protect the privacy, confidentiality, integrity, and security of individually identifiable health information.

Each city agency that the OYO reports complaints to (DHS, DBHIDS, CBH, MDO, etc.) must also maintain confidentiality. Additionally, DBHIDS and DHS are subject to mandates regarding health information protection, youth identifying information, and the other applicable laws and statutes listed above.

Under these regulations, laws, and requirements, everything disclosed to the OYO and its staff remains confidential within the OYO team and the city agency charged with investigating the complaint, apart from anything within the purview of mandatory reporting of child abuse/neglect and/or statements of credible harm to themselves or others. However, a complainant's and/or youth's name will not be explicitly included in an OYO inquiry, or any other documents submitted to the city agency, without consent from each named person. Any work product created by the OYO, or another city agency may be discoverable under a court subpoena for the purposes of litigation, but the courts are required to maintain the confidentiality of minors' information.

While the OYO cannot guarantee the actions of any individual staff member within each city agency, including the OYO, anyone in violation of confidentiality laws and ordinances would be held accountable under those laws.

When conducting a case inquiry, the OYO may ask a complainant to sign a release of information form to secure additional documents and information needed to review the case.

#### 4.20 Health Information Portability and Accountability Act (HIPAA)

[The Health Information Portability and Accountability Act \(HIPAA\)](#) is a federal law that requires the protection of confidential health information. The City of Philadelphia is a hybrid entity, meaning that some city units/departments are required to be HIPAA compliant, while others are not. The OYO is a HIPAA-covered unit, so it is required to comply with HIPAA. This means that any health information that the OYO is privy to is protected under HIPAA compliance laws. As such, the OYO cannot share private health information with any non-covered units or individuals.

#### 4.30 Mandated Reporting

All OYO staff are mandated reporters. This means that if a complainant alleges child abuse or neglect, OYO staff are required to report it to Pennsylvania's hotline, known as the ChildLine. Mandated reporting laws override HIPAA and confidentiality.

Under Pennsylvania mandated reporting laws, a mandated reporter must make a report if they have reasonable cause to suspect that a youth is being abused or neglected. This includes when a person makes a specific disclosure to a mandated reporter that an identifiable youth is a victim of child abuse/neglect; when a youth themselves makes a disclosure that they have experienced or are currently experiencing abuse/neglect; and when an individual age 14 or older discloses that they have committed child abuse/neglect.

The OYO is committed to being a supportive, antiracist organization, which may be antithetical to the legal requirements of mandated reporting. In their [Fiscal Year 2023 Quarterly Indicators Report](#), DHS noted that 7 in 10 children reported to the ChildLine were reported by a mandated source. Further analysis showed that Black children and families were over-represented in Hotline reports and subsequent system involvement, and majority Black neighborhoods were more affected by both social and structural risk factors and reports to the ChildLine. To mitigate these harms, if the OYO must make a report, staff will endeavor to disclose the report to the affected youth and/or family. Similarly, DHS has committed to an increased focus on training for mandated reporters to recognize and address implicit biases leading to the over-surveillance of Black children and respond to issues related to poverty and resource needs of families.

In recent years, the Child Protective Services Law (CPSL) and its implementing regulations have expanded the requirements for reporting, assessing, investigating, and handling child abuse and neglect cases. The OYO, DBHIDS, and DHS are all governed by and abide by the requirements of the CPSL.<sup>2</sup>

#### 4.40 Retaliation

Executive Order 5-22 requires that employees of city agencies and contracted providers must “refrain from retaliating against any person/employee for cooperating with activities of the OYO.” Additionally, the City of Philadelphia has anti-retaliation policies in place, including agency-specific policies for DHS and CBH and staff whistleblower protections established by executive order.

While the OYO cannot guarantee that anyone who meets with, opens a case with, or communicates with the OYO will not experience retaliation, should it occur, the OYO will pursue all remedies available under the law and city policies to address the retaliation.

#### 4.41 Agency-Specific Anti-Retaliation Policies

##### Department of Human Services

In December of 2020, DHS Commissioner Kimberly Ali sent [a policy memorandum](#) to DHS employees regarding congregate care facilities, which stated that beginning January 2021, all congregate care providers/staff must use the [Youth Rights Guide](#) and [Family Rights Guide](#) to inform youth and families of their rights while a child is in a congregate care setting. The memorandum also states, “youth and families must be allowed to advocate for themselves using these documents and may not be retaliated against for questions or exercising the rights within the guides.”<sup>3</sup>

##### Community Behavioral Health

According to the Psychiatric Residential Treatment Facility (PRTF) Clinical Performance Standards, CBH-contracted facilities are required to provide the [Youth and Family Rights Guides](#) to youth and families upon admission, and to engage youth in conversations about their rights

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<sup>2</sup> The CPSL governs the use of DHS Information, pursuant to, inter alia, the following provisions: 23 Pa. C.S. §6339-40, 23 Pa. C.S. § 6342, 23 Pa. C.S. § 6349, 55 Pa. Code § 3130.44, 55 Pa. Code § 3490.38, 55 Pa. Code § 3490.91, 55 Pa. Code § 3490.102 and 55 Pa. Code § 3800 et seq.

<sup>3</sup> Ali, K. (2020). *New Guides on Rights in Care and Grievance Procedures for Youth in Congregate Care Facilities and Their Families*. Philadelphia Department of Human Service. <https://www.phila.gov/media/20210211152804/New-Guides-on-Rights-in-Care-and-Grievance-Procedures-for-Youth-in-Congregate-Care-Facilities-and-Their-Families-12-11-20.pdf>

to ensure comprehension. These guides are meant to empower youth and families to know, understand, and articulate their rights and contacts while in a residential facility. The PRTF Clinical Performance Standards further note that staff are not allowed to retaliate against youth and families for asking questions or exercising their rights as outlined in these Family and Youth Rights guides.

#### 4.42 Staff Whistleblower Protection

The City of Philadelphia's [Executive Order 9-17 Whistleblower Protections](#) was signed by Mayor Jim Kenney in September of 2017 to formally protect employees who report wrongdoing. The executive order is designed to encourage good faith reports of wrongdoing as well as protect employees and city contractors from retaliatory actions.



#### 4.50 Pennsylvania Legal Code: Child Residential and Day Treatment Facilities

The Pennsylvania Legal Code (55 Pa. Code. Ch. 3800) lays out the requirements for youth residential placement facilities in [Chapter 3800 of the Human Services Title 55](#). These regulations are often referred to as the “3800 regulations.” The code includes specifics on licensure, capacity, staffing, physical site requirements, youth rights, restraints and restrictive procedures, incident reporting, medical care, and more. Some of these youth rights are described below.

##### 4.51 Physical Site and Staffing

The residential placement facility should be licensed or approved to provide youth residential care. The maximum capacity is based on bedroom and bathroom space available and is not to be exceeded. These spaces, such as bedrooms, bathrooms, and common spaces, should be clean, well ventilated, lighted, maintained at a comfortable temperature, equipped with the required furniture, and staffed at the proper youth to staff ratio. The facility should be in compliance with all fire, health, and safety regulations required by other applicable Pennsylvania laws. Staff should have the appropriate background checks and training.

##### 4.52 Child Treatment and Safety Rights

A youth has the right to not be discriminated against for their race, color, national origin, religion, ability, sexual orientation, age, or sex. They have the right to not be abused, threatened, or harassed. They have the right to not be punished in a way that causes physical, emotional, or mental harm.

A youth has the right to be safe in crisis, meaning that staff will use restraint and/or restrictive procedures only as a last resort to protect a youth from harming themselves or others.

A youth has the right to items, time, and space that meet their health, safety, and personal care needs. This includes clean clothing and bedding, personal care and hygiene items that meet their needs, clothing that fits, and meals that meet their dietary and religious needs.

##### 4.53 Child Planning and Service Involvement Rights

A youth has the right to be informed of the facility rules. The youth and parent/guardian have the right to be involved in developing their service plan, which should include services that align with the youth’s goals, safety needs, and skill levels, as well as an estimated duration of stay.

##### 4.54 Child Privacy, Personal Funds, and Communication Rights

A youth has the right to visit with family at least once every two weeks, unless restricted by court order. They have the right to communicate by telephone in a frequency established by reasonable facility policy. They have the right to send and receive mail, which cannot be opened by staff. Staff may require a youth to open mail in front of the staff if they have reasonable suspicion that there is contraband or something that will jeopardize the youth's health or safety enclosed. Staff may never open or read a youth's mail from government officials or their attorney.

A youth has the right to private communication and visits with their attorney or clergy. A youth has the right to have their medical and personal information kept private within their care team and help in a secure location.

A youth has the right to have their funds properly stored, tracked, and returned upon discharge from the facility.

#### 4.55 Child Health Rights

Within 24 hours of entry to a residential treatment facility, a youth shall have a written health and safety assessment documenting any allergies, medical information, known or suspected self-harm or suicidal ideation, substance use, sexual health history, and behavioral health history. A full health examination shall be conducted within 15 days of entry to the facility, followed by annual or more frequent examinations as recommended for their age by the American Academy of Pediatrics (AAP).

A youth has a right to all medically necessary physical and behavioral health services, diagnostic services, and follow-ups.

A youth shall have a vision exam within 30 days of entry unless one has been documented within a time period in accordance with recommendations by the AAP. A youth has the right to vision screening, diagnostics, and required treatments, such as eyeglasses.

A youth shall have a dental examination and cleaning within 30 days of entry to the facility unless one has been documented within the past six months. A youth has the right to any required follow-up work recommended by the licensed dentist.

A youth shall have a hearing exam within 30 days of entry unless one has been documented within a time period in accordance with recommendations by the AAP. The youth has the right to hearing screening, diagnostics, and treatments, such as hearing aids.

#### 4.56 Child Education Rights

A youth has the right to a Department of Education-approved school program. The youth's service plan must address how the youth's specific educational needs will be met in accordance with state and federal law.

#### 4.60 The Pennsylvania Juvenile Act

*Juvenile Matters*, 42 Pa. C.S. § 6301 et seq., better known as the [Juvenile Act](#), is the Pennsylvania statute which governs youth who are being processed through the juvenile justice system in the state. It details youth rights related to records, parental participation, due process rights, court jurisdiction and proceedings, adjudication and dependency, and more.

Regarding the OYO's scope of work, the *Juvenile Act* includes mandates on when delinquent and/or dependent youth can be removed from the home through protective custody, detained, and committed to delinquent and/or other congregate care facilities. It also details conditions of confinement. The terms that are applicable to the OYO's scope of work include §6327, which states that a delinquent youth may only be held in facilities and homes that are licensed, approved by the Department of Public Welfare, or approved by the court. Further, §6327 does not allow any youth to be held with adults or in a setting where they may be abused by other children.

Regarding dependent youth, §6327 includes that they may not be held in any jail or facility with adults charged with crimes, but they may be held in a location where alleged or adjudicated delinquent youth are held. However, under §6351, dependent youth may not be confined or committed to a facility designed to be for the benefit of delinquent youth, unless the youth is also found to be delinquent.

#### 4.70 Juvenile Justice Reform Act (JJRA)

The Juvenile Justice Reform Act (JJRA) of 2018 is the most recent iteration of the Juvenile Justice and Delinquency Prevention Act (JJDPA) of 1974. The original 1974 JJDPA was a piece of major legislative reform for youth rights in the criminal legal system and granted youth several due process rights previously only afforded to adults.

The JJDPA and the JJRA both include the "sight and sound" provision, which allows for youth and adults to be held in the same facility, so long as they are separated by "sight and sound." This means that youth who are being tried as adults can be held in adult jails and prisons prior to or after sentencing, so long as they are held in their own unit where the adult and youth population cannot hear or see the other. However, the JJRA has updated this provision and now requires that juveniles being tried as adults can only be held in adult jails if it is "in the interest of justice." As such, a Pennsylvania law known as Act 96 allows for direct file juveniles to be held in juvenile facilities when ordered by a court.

Other updates to the 2018 JJRA include: requiring states to implement plans to improve behavior management and eliminate dangerous practices such as unreasonable restraints and isolation in juvenile facilities; identifying and reducing racial and ethnic disparities; expanding substance use and mental health treatment; ensuring that all youth leaving juvenile facilities have written case plans for reentry; and ensuring that youth in juvenile facilities have their educational credits transferred in a timely manner and continue to receive educational credits while in placement.<sup>4</sup>

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<sup>4</sup> H.R.6964 - Juvenile Justice Reform Act of 2018

## 5.00 Steps of an Investigation

### 5.10 Case Review and Intake

Pursuant to Executive Order 5-22, the OYO must serve as an access point for youth and other members of the public to file complaints and make inquiries regarding the care provided to youth in residential placements. Upon receiving a complaint, the OYO goes through the processes described below.

### 5.11 Initial Case Review and Scope Determination

When a complaint is submitted (see [Policy 2.40 Contacting the Office](#)), the OYO will review the complaint to determine if it is within the OYO's scope. To be within the OYO's scope, the complaint must meet all of the following criteria:

- The complaint must concern a youth safety or well-being issue;
- The complaint must be against a congregate care facility which serves Philadelphia youth;
- The congregate care facility must receive funding from the City of Philadelphia; and
- The complaint must involve Philadelphia youth, meaning it is either (1) a systemic issue which affects all youth in the facility, including those from Philadelphia, or; (2) the issue directly affects a Philadelphia youth.

Concerns related to child welfare, juvenile justice, and behavioral health residential placements are of the utmost importance. The OYO addresses these concerns through both formal and informal mechanisms, including data analysis and research, records review, and engagement in direct conversations with the relevant agencies/providers.

The OYO works to provide complainants with quality information in a timely manner that resolves their case. As such, the OYO aims to reach out to all complainants within 72 hours of receiving the complaint. During this initial contact with a complainant, the OYO will clarify if the case is within the scope of the office's duties. If it is, the OYO will open a case and begin the intake process (see [Policy 5.10 Case Review and Intake](#)).

The OYO may make a determination that a case does not fall within the office's scope. In such cases, the OYO will send out a letter and/or email that informs the claimant of its decision and provides referral information when appropriate. The OYO will then close out the complaint (see [Policy 5.40 Case Dispositions](#)).

The OYO will contact relevant agencies/providers to help gain clarity regarding their decisions and determinations (see [Policy 5.20 Notification to Agency](#)). The OYO will obtain the

complainant's permission to share their name and identifying information with any relevant agency/provider prior to doing so. The complainant maintains the ability to remain anonymous and may revoke this permission at any time prior to the OYO contacting the agency/provider. However, if a complainant does not permit the OYO to make such contact, the OYO and the investigating agency may be limited in their ability to resolve the case.

The OYO will work to provide clarity regarding the processes, expectations, and determinations in a specific case. OYO staff members will use information gained from records, documents, and/or discussions with agencies/providers to help provide complainants with answers and explanations in their case. The OYO may also use information gathered during the review of a case to inform the complainant and/or agency/provider of the need for additional communication.

### 5.12 Intake Process

To maintain impartiality, the OYO will independently collect and review any relevant information, records, documents, rules, and/or laws necessary for initiating a case.

Each case will be subject to an intake process and assigned to an OYO staff member. During the intake process, the OYO will do the following:

- Gather information from the complainant to determine appropriate next steps in the case;
- Advise complainants of the OYO's confidentiality, mandatory reporting, and HIPAA requirements, and obtain consent from the complainant to contact relevant agencies and providers as appropriate (see [Policy 4.00 Applicable Local, State, and Federal Laws and Statutes](#));
- Advise complainants that the OYO does not have the authority to intervene in any legal proceedings or independently investigate cases; and
- Advise complainants that the OYO will notify the proper authorities for anyone that makes statements of credible harm to themselves or to someone else.

All information gathered during the intake process will be entered into the OYO Case Management System (CMS).

Per the discretion of the Youth Ombudsperson, cases may be prioritized based on the circumstances involved in the case.

All documents that are reviewed by the OYO will be scanned and electronically stored within the CMS. The OYO will document what information, resources, or education was provided to the complainant at the resolution of the case.

## 5.20 Notification to Agency

Once the OYO determines that a case falls within the office's scope and completes the intake process, OYO staff will follow the OYO's case oversight protocol.

First, OYO staff will write and send an initial inquiry to the agency that oversees the facility in question. This letter outlines the evidence and facts of the case as presented to the OYO, provides OYO's analysis of the case and any identified violations, requests the initiation of an investigation into the allegations, and suggests next steps. The city agency should confirm receipt of the initial inquiry and initiate an investigation into the matter, ensuring that the OYO is aware of and provided with the opportunity to participate in all aspects of the investigation.

Once the OYO contacts an agency/provider, the OYO will maintain the following standards:

- Initial communication with an agency/provider will be done in writing via email and will include a summary of the case;
- All additional communication between the OYO and the agency/provider will be done in a manner deemed appropriate by both parties, including phone, email, video conference, and in-person exchanges; and
- The OYO will ensure that all efforts to resolve the case are done in a collaborative manner with the agency/provider so that both entities are best able to serve the complainant.

## 5.30 Oversight of Investigatory Steps and Processes

Pursuant to Executive Order 5-22, the OYO will *“independently evaluate the quality of care, treatment, and education provided to youth in residential placements, as needed, including, but not limited to, visiting and/or inspecting any aspect of the residential facilities, formally or informally interviewing youth, facility staff or city personnel, reviewing records and initiating services concerns.”*

The OYO oversees and monitors the city agency's investigative steps once an investigation is initiated. OYO staff will review the city agency's investigatory protocols and emergency responses, observe meetings, visit facilities, interview staff and youth in facilities, review personnel records and facility data, and review city policies, procedures, practices, and performance tools.

OYO staff will schedule follow-up meetings with the complainant as required, as well as with any other witnesses who have additional information to provide about the complaint or related concerns about the facility in question.

OYO staff will also follow up with the city agency conducting the investigation to access information about both the facility as well as the city agency's investigative and evaluative process. The OYO will review relevant internal facility policies, the facility's contract, and the full corrective action history of the facility.

OYO staff will visit the facility at least once during their investigation. If the facility has an open corrective action plan, OYO staff will attend the next on-site review of the corrective action plan and any unannounced visits conducted by the city agency, when possible. If the facility does not have an active corrective action plan, OYO staff will conduct at least one site visit to the facility, which will include a tour of the facility and a meeting with facility leadership regarding conditions.

Once the city agency informs the OYO that their investigation is complete (and OYO determines that there are no further steps to take on their part), the OYO will write a final evaluation report that compiles final investigatory assessments, evaluates the city agency's investigation, and provides recommendations (see [Policy 5.50 Final Report and Recommendations](#)). The OYO will then close the case on their end (see [Policy 5.40 Case Dispositions](#)) and engage in ongoing monitoring of the facility as necessary.

#### 5.40 Case Dispositions

After work on a case has concluded, the case will be reviewed by the Youth Ombudsperson. A case may only be closed in the CMS upon approval of the Youth Ombudsperson or their designee.

All documents that are reviewed by the OYO, including records accessed independently, obtained from third parties, provided by agencies/providers, or provided by a complainant will be stored in the CMS. The Youth Ombudsperson will approve the closure disposition in each case. The assigned case closure disposition will be dependent upon the unique circumstances of the case and the OYO's completed review.

Each case will be assigned one of seven case closure dispositions:

- 1) **Closed Per Lack of Information** – the OYO will assign this disposition to a case when a complainant did not complete the case intake and/or did not provide the OYO with sufficient information to proceed with a review of their case.
- 2) **Closed Per Complainant** – the OYO will assign this disposition to a case when a complainant requests that the OYO close the case and take no further action to review their question/complaint.
- 3) **Closed Per Youth Ombudsperson Discretion** – the Youth Ombudsperson, or their designee, has the authority to decline to review a question/complaint or close a case.



The reasons for such decisions shall be documented in the CMS, pursuant to Executive Order 5-22.

- 4) **Closed with an Information and/or Resource Referral** – the OYO will assign this disposition to a case when it provides a complainant with any information or resources to entities that may aid the complainant in addressing their concerns or questions.
- 5) **Closed with Support** – the OYO will assign this disposition to a case when the OYO was able to provide assistance to the complainant or is able to resolve a complainant’s concern in collaboration with the relevant agency/provider. Often this will involve the OYO making suggestions or recommendations to an agency/provider to help facilitate a resolution.
- 6) **Closed with Concern** – the OYO will assign this disposition to a case when, through its review of a case, the OYO identifies one or more of the following circumstances:
  - a) There is a possible breach of criminal or civil statute;
  - b) There is a violation of legal rights;
  - c) Injury has resulted to an individual;
  - d) Instances of agency misconduct are identified;
  - e) Systemic concerns are identified;
  - f) A pattern of concerning practices or possible regulatory violations is identified; or
  - g) When an action was not in the best interest of a youth.This list is not exhaustive. The Youth Ombudsperson maintains the discretion to assign this disposition to other circumstances identified during the course of a case.
- 7) **Closed as Duplicate** – the OYO will assign this disposition to a case when a case involves concerns and questions previously addressed by the OYO.

## 5.50 Final Report and Recommendations

### 5.51 Recommendations

The OYO will issue recommendations pursuant to Executive Order 5-22, which mandates the OYO to provide recommendations to the mayor, as appropriate, about the investigations, evaluations, reporting systems, emergency response procedures, and other policies and procedures used by OCF, DHS, DBHIDS, and CBH.

Additionally, Executive Order 5-22 mandates the OYO to “*provide recommendations to relevant city agencies regarding annual facility evaluations, provider contract negotiations, and related contract action.*” The OYO will provide these recommendations through the publication of an annual report as well as through final evaluation reports provided to the city agency upon the close of a case.

### 5.52 Final Evaluation Report

Upon the closure of a case, the OYO will write a final evaluation report that compiles final investigatory assessments, evaluates the city agency's investigation, and provides recommendations for the city agency and the facility in question. This report will be shared with the mayor and the commissioner of the city agency.

## 6.00 Data Collection

The OYO collects data on everything reported to the OYO, including incidents reported directly to the office for oversight, incidents reported to other city agencies and forwarded to the OYO for monitoring, and information collected in youth surveys (see [Policy 8.12 Youth Rights Survey](#)). This comprehensive data tracking keeps track of all cases that are within the OYO scope and lead to a case, as well as cases that are screened out and referred elsewhere (see [Policy 5.10 Case Review and Intake](#)).

The collected data is used for multiple purposes. Most importantly, case tracking is essential for the OYO to ensure that each report is thoroughly reviewed and processed correctly (see [Policy 5.10 Case Review and Intake](#)). Additionally, data tracking helps the OYO recognize and act on identified trends, such as monitoring facilities which have many reports or recognizing if certain youth identities are overrepresented in rights violation cases (such as, on the basis of race, ethnicity, gender identity, sexuality, ability, in addition to others, and/or the intersection of multiple identities). Lastly, collecting this data allows the OYO to be transparent to the public about the office's work and any identified problems/trends (see [Policy 7.00 Public Transparency](#)).

### 6.10 Types of Incident Report Tracking

The OYO tracks multiple incident types, described below.

#### 6.11 Screened Out Reports

Incidents and complaints that are submitted to the OYO that are deemed to be outside of the scope of the OYO's work are tracked to ensure that the OYO did its due diligence on each complaint. The OYO keeps a record of the details of each complaint, contact and/or attempted contact with the complainant, and any referrals made.

#### 6.12 Reports by City Agencies for OYO Monitoring

Any incident reports that city agencies report to the OYO are tracked by the OYO for monitoring purposes. The OYO provides close oversight of investigations that originate from OYO-direct complaints. Complaints that are reported to the OYO through a city agency may be subject to high level oversight or monitoring depending on the circumstances of the complaint. Regardless, if a city agency reports an incident to the OYO, it will be recorded and tracked for outcomes at the close of the city agency's investigation.

In addition to reporting any complaints that the city agencies receive directly, the OYO is also provided with weekly Home and Community Services Information System (HCSIS) reports. HCSIS

is a web-based system where providers are required to report all concerns and incidents that occur at facilities. Examples of concern and incident areas in the HCSIS reports include, but are not limited to, serious injury, serious disease, child fatality, ChildLine reports, suicidal acts, and fire and police involvement.

#### 6.13 Direct Reports to the OYO

Complaints that lead to an OYO inquiry include two forms of data tracking. The first tracks the investigatory details of the complaint/case. This includes details of the complaint (facility, youth involved, allegation type, et cetera), the length of investigatory steps/processes, steps taken, and outcomes. The second type of data tracking is demographic information, which allows the OYO to identify any trends such as racial and ethnic disparities and rights violations against certain groups/identities.

#### 6.20 Philadelphia Juvenile Justice Services Center (PJJSC) Population Tracking

The OYO receives daily population reports from the PJJSC. These numbers are tracked to monitor for overcrowding concerns and efforts to keep the population at or below capacity.

#### 6.30 Survey Response Tracking

As discussed in [Policy 8.12 Youth Rights Survey](#), the OYO will administer name-optional surveys in youth residential placements to collect information on service complaints, youth rights and potential violations, disparity trends, and other youth experiences. All information collected from the surveys will be tracked.

## 7.00 Public Transparency

Pursuant to Executive Order 5-22, the OYO has a duty to “*publish an annual public report and hold at least one public meeting with opportunity for public comment, about the activities of the OYO, including recommendations issues, the implementation status of those recommendations, de-identified resident survey results, and any issues or trends that have been identified.*”

### 7.10 Publication of Reports

The Youth Ombudsperson maintains the discretion to determine the type, amount, and frequency of information released by the OYO that is necessary to satisfy its public transparency responsibilities. In fulfilling this charge, the OYO may release a letter, brief, report, and/or other products to highlight pertinent findings in any case or issues impacting the child welfare, juvenile justice, or behavioral health systems broadly.

All such publications are considered public information and may be made available – if not proactively published on the OYO’s website – through a request under the Pennsylvania Right to Know Law (See [Policy 7.30 Pennsylvania Right to Know Law](#)). All publications will be redacted to protect confidential information, in compliance with state and federal law, as well as the OYO confidentiality policy (See [Policy 4.00 Applicable Local, State, and Federal Laws and Statutes](#)).

The OYO will fulfill its report and publication requirements through the scheduled release of the following informational publications:

1. **Annual Report:** the OYO’s annual report will be released in late summer or early fall following the close of each fiscal year (July 1<sup>st</sup> – June 30<sup>th</sup>).
2. **Year in Review Report:** the OYO’s annual Year in Review report will be released in the winter or early spring following the close of each calendar year (January 1<sup>st</sup> – December 31<sup>st</sup>).
3. **Issue Brief:** the OYO will release issue briefs occasionally throughout the year.
4. **Blog Post:** the OYO will release blog posts on a regular basis.

### 7.20 Annual Public Meeting

The OYO is charged with holding at least one meeting with opportunity for comment per year. The OYO aims to make this meeting as accessible and transparent as possible. Prior to all public meetings, the OYO will release a formal event announcement on the office’s website and social media, as well as extend invitations to stakeholders and community groups to disseminate the information. Event time and location information will be publicly available at least 4 weeks prior to the meeting.

The OYO maintains the discretion to determine the best location and meeting platform (in-person, virtual, or hybrid) to disseminate information regarding the office's work. Information shared at the meeting will be subject to all legal mandates (See [Policy 4.00 Applicable Local, State, and Federal Laws and Statutes](#)) and will not include any information that is not covered by a data sharing agreement, cannot be effectively deidentified, or is related to an open or ongoing investigation.

Under the Pennsylvania Sunshine Act, the public has the right to comment, but the OYO maintains the discretion to oversee public comment, such as imposing a time limit per comment. Additionally, the Act requires that government agencies post the agenda for all public meetings at least 24 hours in advance. This agenda will be posted on the OYO's website and the event page. The Pennsylvania Sunshine Act also allows for any public meetings to be recorded without prior announcement; however, the OYO will make all efforts to ensure that the public is aware of any recordings that may occur and/or be publicized.

### 7.30 Pennsylvania Right to Know Law

Under Pennsylvania's Right to Know Law (RTKL), records in the custody and/or control of a government agency are presumed to be public and must be provided upon request unless the disclosure of the record is not permitted under state or federal law, a judicial order, professional privilege (attorney-client, doctor-patient, et cetera), or any listed exception under section 708 of the law (ex. public security, personal financial information, victim information).

Many, if not most, OYO records are not considered public under the RTKL because they contain information that cannot be shared under state and federal law, such as HIPAA, FERPA, and juvenile records. Additionally, section 708 of the RTKL includes 30 exemptions to the law, including the following which are applicable to the OYO's work:

- 708(b)(5) – Medical History
- 708(b)(16) – Criminal Investigative Records
- 708(b)(17) – Noncriminal Investigative Records
- 708(b)(28) – Social Services Information
- 708(b)(30) – Information About Minor Children

### 7.31 Procedures for Handling Record Requests

If you are a complainant or affected young person who has a case open with the OYO, you can reach out to the staff member managing your case to request any records. If you do not have an open case, please contact our office (see [Policy 2.40 Contacting the Office](#)). All requests will be reviewed based on the applicable laws (See [Policy 4.00 Applicable Local, State, and Federal Laws and Statutes](#)), any court orders in place related to the case or the individual requesting the

record, and the RTKL. Other applicable laws, regulations, and statutes will be considered that have not been discussed in the office procedures outlined below.

Should an OYO staff member deny your records request, they will explain why the request cannot be completed. If you believe this decision was erroneous, you may reach out to their supervisor or the Youth Ombudsperson for review of their decision. If it is denied, you may file an official Right to Know request following the steps described by the city's [Open Records Policy](#) and by [Pennsylvania's Office of Open Records](#).

### 7.32 Fees

The City of Philadelphia will charge fees consistent with the State Office of Open Records. The State does not charge a filing fee; however, they do provide a [fee structure](#) for duplicates and other record types/delivery methods.

The city maintains the right to impose additional fees associated with complying with an RTKL request.

### 7.33 Production of Documents

Any records produced by the OYO will be provided in electronic format unless requested. The OYO reserves the right to impose reasonable fees to produce documents, including, but not limited to, \$0.25 per page for all requests exceeding 25 pages, or any fees associated with enhanced electronic access or technology (ex. flash drives, CD/DVD, photographs, postage).

## 8.00 Community Engagement and Education

According to Executive Order 5-22, the OYO is mandated to “*periodically liaise with youth advocates and professional organizations who have contact with youth in residential placements to inform the work of the office.*” In addition, the OYO has a duty to “*develop, publish and deliver information, materials and guidance to educate and engage youth families, providers, courts and others about residential placement processes, available avenues for assistance, youth rights and protections, and other matters relevant to residential placements and the youth experience.*”

In order to fulfill these duties, the OYO will regularly engage with youth in residential placements through programming that includes a Know Your Rights training and a Youth Rights Survey. The OYO will also periodically liaise with the community through the delivery of stakeholder and community trainings, participation at community tabling events, and consistent use of the OYO social media accounts.

### 8.10 Engaging with Youth in Residential Placements

#### 8.11 Know Your Rights Trainings

The OYO was established to act as a resource for youth and families navigating the child welfare, juvenile justice, and behavioral health systems. Part of this work includes ensuring that youth and families are aware of their rights inside residential placements so that they are empowered to advocate for themselves and identify allies to whom they can report rights violations. Youth have the greatest insight into what is happening inside congregate care facilities each day, so ensuring that they know their rights and can recognize when their rights are being violated is essential to the OYO’s work.

The OYO will provide Know Your Rights trainings to youth in facilities in order to empower them to take ownership over their care and treatment, as well as educate them on where to turn for help when their rights are being violated. These Know Your Rights trainings are designed to be presented to youth in these facilities to provide them with information about what their rights are, who the OYO is and how it can help, and what the OYO’s investigatory processes look like. In order to be fully transparent to the community, these trainings are publicly available on the documents page of the [OYO’s website](#).

#### 8.12 Youth Rights Survey

The OYO will administer an optional Youth Rights Survey to youth in residential placements alongside the Know Your Rights trainings. The purpose of this survey is to:



- Collect information about service complaints in residential placements;
- Hear directly from youth in residential placements about their experiences;
- Ensure that youth rights are being maintained in residential placements; and
- Track patterns and trends and examine disparities as they relate to youth identity.

The survey is name optional, so youth can choose whether to identify their name when they submit it. However, the OYO will be able to resolve complaints more efficiently and effectively when provided with all of the information in a case. If any rights violations are reported to the OYO, OYO staff must inform the city agency in charge of the placement. Further, if any allegations of abuse or neglect are made, the OYO must make a ChildLine report (See [Policy 4.30 Mandated Reporting](#)).

All information collected in the survey will be confidentially stored and maintained to protect sensitive and private information and safeguard against retaliation. Residential placement staff are not allowed to retaliate against people who file a complaint or grievance (see [Policy 4.40 Retaliation](#)). If any staff were to retaliate, an investigation would be immediately opened into the facility. Additionally, de-identified results of the survey may be shared in reports to shed light on overarching service concerns and disparities (see [Policy 7.10 Publication of Reports](#)).

## 8.20 Liaising with the Community

In addition to providing facility programming for youth, the OYO will liaise with the community through the delivery of community stakeholder trainings, frequent participation at community tabling events, and consistent use of the OYO social media accounts.

The OYO will facilitate trainings to educate community stakeholders on: (1) the role, mission, vision, and investigatory processes of the OYO; (2) the rights of young people in residential placements; and (3) the duties of providers and city agencies pursuant to Executive Order 5-22. In addition, these trainings will guide and improve stakeholder engagement with the OYO, establish connections with youth and families in the community, and allow for the exchange and development of resources. The OYO will advertise these trainings on social media and directly to its community partners, who will fill out a form to indicate interest.

The OYO will explore partnership opportunities with community stakeholders, one of which is its participation in community tabling events. Tabling is a way to engage members of the public, partner with community organizations, and provide important information about the OYO and youth rights in residential placements. The OYO will distribute a variety of resources at these events, such as a flyer that details how to contact the OYO with a complaint, a QR code that links to the OYO online complaint form, and several youth and family rights guides.

The OYO has several active social media accounts, including an Instagram account (@phlyouthombuds) and a Twitter profile (@PHLYouthOmbuds). The goals of these social media accounts are to: (1) educate and engage the community about youth rights and protections in residential placements; (2) create an online access point for youth, their families, and concerned community members to get in touch with the office, report concerns, and file complaints; (3) share updates and results in order to build trust and transparency around OYO's work; and (4) gain insight from youth and advocates on best practices and specific issue priorities.

## 9.00 Conflict of Interest

All OYO staff must abide by the city's [Board of Ethics' Laws and Regulations](#), which includes disclosing any conflicts of interest, such as financial interests or personal relationships, which may be benefitted through their employment.

Internally, all OYO staff must disclose any conflicts of interest which may impede their ability to act independently and impartially. Examples of such conflicts of interest include, but are not limited to, personal or immediate familial financial interest in a case outcome, pre-existing relationship with a complainant or subject of a case, and recent employment (within the past two years) at a facility which is the subject of a case. Any staff member who identifies a conflict of interest on any given case must identify the conflict of interest to their supervisor in writing and may not work on that case.

## 10.00 Filing Grievances Against OYO Staff or Youth Ombudsperson

### 10.10 Complaints Regarding Performance of OYO Staff

Should a complainant be dissatisfied with the performance of an OYO staff member during the course of their involvement with the OYO, the complainant may file a grievance with the Youth Ombudsperson. In order to do so, the complainant may submit their detailed concerns in writing to the Youth Ombudsperson.

Grievances should be addressed to the Youth Ombudsperson and can be mailed to:

Office of the Youth Ombudsperson  
Attn: Tracie Johnson, Youth Ombudsperson  
610 Walnut St., Suite 300 East  
Philadelphia, PA 19106

Once received, the Youth Ombudsperson will thoroughly review the grievance and take the following steps to ensure resolution:

1. Review the written grievance and speak with the complainant should more information be necessary.
2. Meet with OYO staff associated with the grievance.
3. Review the work completed by the OYO staff.
4. Provide verbal or written feedback to the complainant regarding the findings of the grievance review and any plan necessary to resolve the complainant's concerns.

### 10.20 Filing Grievances Against the Youth Ombudsperson

Should a complainant be dissatisfied with the performance of the Youth Ombudsperson, the complainant may file a grievance with the Philadelphia Office of the Inspector General. In order to do so, the complainant may submit their written complaint to the Philadelphia Inspector General.

Grievances should be addressed to the Inspector General and can be mailed to:

Office of the Inspector General  
Attn: Alexander DeSantis, Inspector General  
610 Walnut St., Suite 300 East  
Philadelphia, PA 19106

Once received, the Inspector General will thoroughly review the grievance and take the following steps to ensure resolution:

5. Review the written grievance and speak with the complainant should more information be necessary.
6. Meet with the Youth Ombudsperson.
7. Review the work completed by the Youth Ombudsperson.
8. Provide verbal or written feedback to the complainant regarding the findings of the grievance review and any plan necessary to resolve the complainant's concerns.

## Appendix A – Glossary of Acronyms

**3800 Regulations:** Chapter 3800 of the Human Services Title 55

**AAP:** American Academy of Pediatrics

**ABA:** American Bar Association

**CBH:** Community Behavioral Health

**CMS:** Case Management System

**CPSL:** Child Protective Services Law

**DBHIDS:** Department of Behavioral Health and Intellectual disAbility Services

**DHS:** Philadelphia Department of Human Services

**FERPA:** Family Educational Rights and Privacy Act

**HCSIS:** Home and Community Services Information System

**HHS:** Health and Human Services

**HIPAA:** Health Insurance Portability and Accountability Act

**JJPA:** Juvenile Justice and Delinquency Prevention Act

**JJRA:** Juvenile Justice Reform Act

**MDO:** Managing Director’s Office

**OCF:** Office of Children and Families

**OCYF:** Office of Children, Youth, and Families

**OIG:** Office of the Inspector General

**OYO:** Office of the Youth Ombudsperson

**PA-DHS:** Pennsylvania Department of Human Services

**PDE:** Pennsylvania Department of Education

**PJJSC:** Philadelphia Juvenile Justice Services Center

**PRTF:** Psychiatric Residential Treatment Facility

**RTKL:** Right to Know Law

**SDP:** School District of Philadelphia

**USOA:** United States Ombudsman Association