



# Office of Children and Family Services

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## Informational Letter

<b>Transmittal:</b>	20-OCFS-INF-04
<b>To:</b>	Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies
<b>Issuing Division/Office:</b>	Child Welfare and Community Services Office of the Ombudsman
<b>Date:</b>	January 24, 2020
<b>Subject:</b>	<b>Office of the Ombudsman Engagement with Juvenile Delinquent-Adjudicated Youth in Voluntary Agencies</b>
<b>Suggested Distribution:</b>	Directors of Social Services Voluntary Agency Program Directors Child Welfare Supervisors
<b>Contact Person(s):</b>	See section IV.
<b>Attachments:</b>	Office of the Ombudsman: General poster ( <a href="#">PUB-4764</a> and <a href="#">PUB-4764-SP</a> ) Office of the Ombudsman: Police contact poster ( <a href="#">PUB-5162P</a> and <a href="#">PUB-5162-SP</a> )

### Filing References

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
			<ul style="list-style-type: none"> <li>Social Services Law § 460-c</li> <li>Executive Law § 500 (1).</li> </ul>		

### I. Purpose

The purpose of this Informational Letter (INF) is to notify local departments of social services (LDSSs) and voluntary authorized agencies (VAs) of the right of a youth placed in VAs as a juvenile delinquent (JD), regardless of whose custody the youth is in, to access the services of the New York State Office of Children and Family Services' (OCFS) Office of the Ombudsman (OOTO) and the protocols for such access. This INF does not change or otherwise modify OCFS' Child Welfare and Community Services' (CWCS) authority to oversee, monitor, inspect, and follow-up with VAs.

## II. Background

Social Services Law § 460-c directs OCFS to inspect and supervise VAs where youth reside.<sup>1</sup> It is OCFS's responsibility to promote the safety, permanency, and well-being of the youth that it serves, which includes confirming that the youth receive care and services appropriate to their individual needs. As such, OCFS' CWCS must be apprised of developing and/or systemic concerns at VAs, such that it can proactively and collaboratively work with VAs and LDSSs to problem-solve and implement solutions.

Youth adjudicated to be JDs can have unique needs, including, but not limited to: their involvement in the juvenile justice system, family engagement, services for youth and their family, and effective communication with service providers. OOTO is currently a resource for juvenile justice system-involved youth in facilities operated or overseen by OCFS, specifically youth in detention; youth adjudicated in Family Court as JDs and placed in OCFS custody, youth sentenced in the criminal courts and placed in OCFS custody; and JDs residing in facilities under the Close to Home program. As a resource, OOTO regularly visits programs to engage with youth and staff. It conveys issues to facility administration and other relevant OCFS program areas. Youth and facility staff also have access to OOTO on such visits, and via phone, email, or letter. This INF sets forth the protocols for access to OOTO by a JD-adjudicated youth placed in a congregate care setting that is operated by a VA or LDSS, and by a JD-adjudicated youth in the care and custody of an LDSS Commissioner.

## III. Program Implications

To best serve the needs of youth and VAs, as well as avoid duplication of efforts between OOTO and CWCS, this INF establishes a youth engagement protocol (YEP). The YEP will guide VAs as they facilitate youth access to OOTO services that aid in promoting safety, permanency, and well-being of youth in VA care. OOTO and CWCS will follow the intra-agency procedures outlined in the internal memorandum, *CWCS and OOTO Procedures Regarding OOTO Engagement with Juvenile Delinquent-Adjudicated Youth in Voluntary Agencies* dated January 24, 2020.

### A. Youth Access to OOTO

#### 1. *OOTO Posters*

All youth in the custody of OCFS and JDs in the custody of LDSSs have access to OOTO. VAs must display OOTO posters, in conspicuous locations, including the OOTO general contact poster (PUB-4764) and the police contact poster (PUB-5162P), both available in English and Spanish.

#### 2. *OOTO Contact*

Youth and/or VA staff can contact OOTO via the OOTO Youth Helpline as outlined III, A, 3 below. Youth can call the Youth Helpline themselves, where capable, and/or have a staff person facilitate a call. Youth may also contact OOTO by email at [MyAllies@ocfs.ny.gov](mailto:MyAllies@ocfs.ny.gov); letter at 52 Washington Street, Room 230N, Rensselaer, NY 12144; or online at [ocfs.ny.gov/ombudsman/](https://ocfs.ny.gov/ombudsman/).

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<sup>1</sup> Executive Law § 500 (1).

A youth cannot be denied reasonable contact with OOTO, nor should OOTO contact be considered a privilege or be limited in any way. A youth who has contact with OOTO should not be subject to any negative consequences for doing so, such as discipline, scapegoating, ridicule, or retaliation.

### *3. The OOTO Youth Helpline*

The OOTO Youth Helpline is open during office hours. An attorney-ombudsperson monitors the Helpline throughout the evenings and weekends.

- The OOTO's office hours are from 9 a.m. to 5 p.m., Monday through Friday.
- After 5 p.m., and on weekends, a caller will have two options:
  - To leave a message for the on-call ombudsperson, if the matter **is not** time-sensitive or law enforcement contact, the caller must **press 1**. The on-call ombudsperson will routinely check the Helpline messages throughout the evening and weekend.
  - If the matter **is** time-sensitive<sup>2</sup> or law enforcement contact, the caller must **press 2** to immediately reach the on-call ombudsperson. (See III, A, 4 below.)

### *4. Youth and Law Enforcement Contact*

A youth may have contact with law enforcement as an alleged perpetrator, witness, or victim. A VA should make reasonable efforts under the circumstances to ensure that the youth has contact with OOTO before the youth has contact with law enforcement and with their Family Court attorney before and/or soon after law enforcement contact. In such circumstances, the VA should contact or facilitate contact with OOTO via the Youth Helpline and place the youth on the phone. An ombudsperson will advise the youth of their rights when speaking to law enforcement, direct the youth to speak with their/an attorney, and answer questions the youth may have. Although not a substitute for calling OOTO upon law enforcement contact, youth and staff can consult the OOTO police contact poster (PUB-5162P) or the inside of the OOTO palm card that ombudspersons provide to youth.

## B. OOTO Visits to VAs

### *1. Initial Visit*

During an initial visit, a VA will familiarize its assigned ombudsperson with the JDs in LDSS custody, the VA's model of care, the physical plant, site administration and staff, and any attendant concerns. This visit may or may not coincide with an ombudsperson's usual visit to the VA to meet with a youth or youths in OCFS custody. During the visit, the VA should identify an individual and another designee who will be the OOTO contact(s) during visits. If the ombudsperson is already familiar with the VA, the initial visit need not be as exhaustive or may not be necessary.

### *2. During a Visit*

On a visit, OOTO will strive to minimize disruption to youth schedules and programming while working to support youth safety, permanency, and well-being. Ombudspersons will meet with JDs in OCFS custody and/or JDs in LDSS custody. Visits to VAs may be

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<sup>2</sup> A call that regards a time-sensitive emergency **and** involves a threat of danger, injury, or death should first be directed to 911, law enforcement, and/or the appropriate VA administrator, not OOTO.

announced or unannounced and need not coincide with CWCS staff visits. During OOTO visits, unless there are immediate safety concerns that require a staff person to be near a youth, a VA should accommodate any request that the ombudsperson and the youth meet in a private space where the conversation can be confidential. OOTO will have access to all residential and recreational areas of the site, as well as areas that relate to any issue raised by a youth.

The length of the ombudsperson's visit and the time spent interviewing youth will be appropriate to the matters presented and the number of youth to be seen. During each visit, ombudspersons will conduct youth interviews, inquiring on matters such as medical, clinical, and educational care, recreation, access to an attorney, positive aspects of time in care, and access to programs and services appropriate to the youth—including their involvement in permanency planning and family engagement. Other points of conversation may include:

- a. The youth's relationship(s) with peers and staff;
- b. Whether the youth feels comfortable discussing concerns with staff; and
- c. The youth's understanding of their rights and responsibilities within the program.

### *3. Youth Contact Outside of an OOTO Visit*

When OOTO receives a communication from a youth outside of a visit, depending on the nature of the communication, OOTO will communicate with the VA's OOTO contact to address the issue.

## **IV. Contact**

For more information about this INF, please contact OOTO at: [MyAllies@ocfs.ny.gov](mailto:MyAllies@ocfs.ny.gov) or 518.486.7082.

***/s/ Lisa Gharthey Ogundimu, Esq.***

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**Issued by:**

Name: Lisa Gharthey Ogundimu, Esq.

Title: Deputy Commissioner

Division/Office: Child Welfare and Community Services

***/s/ Felicia A. B. Reid, Esq.***

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**Issued by:**

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