



# Ombudsman Issue

# The Advocate

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A newsletter on children's issues

May 1998

## Ombudsman Program Helps Families

The foster care and juvenile justice systems in Tennessee can seem frightening, confusing, and even hostile to the families and children involved.

But, since 1996, these families and the state agencies and other community agencies that serve them have had someone to help them understand and navigate the process. Service providers also benefit from the program.

TCCY's Ombudsman for Children and Families program was created to serve the needs of children and families who are receiving state custodial services: children in foster care and children in state juvenile justice facilities.

The program is dedicated to resolving questions, concerns, or problems. Mediation, a non-adversarial method of dispute resolution, is the primary tool of the program. The TCCY Ombudsman is not concerned with finding fault or placing blame, rather, in helping a child's case move in the direction of his or her best interest.

The TCCY Ombudsman is the only government officer whose job is to advocate for the child, the family, or the system, when appropriate.

Ombudsmen successfully resolve citizen's concerns. The role, named for a Scandinavian word meaning an investigator of citizen complaints, first appeared in Sweden in 1809. Other European countries followed Sweden's lead, and in the mid-1960s, ombudsman offices sprang up in the United States. The

ombudsman offices in the governor's office and the Tennessee Commission on Aging began in the 1960s and continue to assist citizens today.

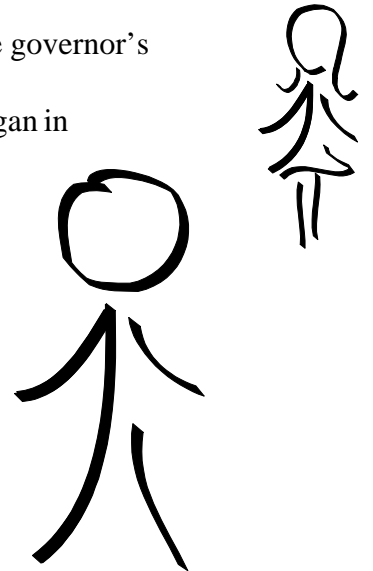
A fundamental rule of mediation is that the mediator represents the needs of parties not present at the negotiation table.

Because of their age, location, or circumstances, many children in custody are unable to speak for themselves. The TCCY Ombudsman's responsibility is to make sure their best interests are not overlooked.

One of the key reasons ombudsmen are successful in resolving citizen's problems is their neutrality. The ombudsman hears all sides to a story without anyone fearing reprisal. When all parties understand that the TCCY Ombudsman's function is to help them work together to solve a common problem, cooperation quickly follows.

The Ombudsman process does not replace agencies' complaint procedures. It supplements them, providing an avenue for questions or concerns that can't be solved within the agencies themselves.

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# Listening Helps Problem-Solving Process

Typically, the Ombudsman's work begins with a telephone call. Someone – a relative, a friend, DCS staff, a neighbor, community services agency staff, a state contracted-service provider, a foster parent, a juvenile court judge, a mental health or medical care provider, or regional representative of the Governors Office - who has knowledge of a child in state custody contacts TCCY with a question or concern.

Concerns can cover a wide range of topics: education, TennCare, treatment planning and goals, contract provider services, and communications difficulties.

First, the Ombudsman representative must explain the "cans" and "can'ts" of Ombudsman services.

The TCCY Ombudsman can:

- Act as a neutral party in recording referent's questions, complaints, and concerns;
- Request and review records on the history and treatment of children and families involved with state custody;
- Impartially explain the abilities and limitations of state custody services, including implications and expectations for the child and family;
- Answer questions about state and contractor-operated residential and community-based services and TennCare services; and
- Upon finding a problem in implementation of services according to policy, procedure, or law, neutrally mediate a solution that is consistent with the child's best interest.

The TCCY Ombudsman can't:

- Serve as an attorney or dispense legal advice;
- Become involved in cases that are imminently bound for court for child protection or parental rights issues;
- Indicate personal fault or liability in the problematic implementation of custody case services; and
- Initiate punitive actions of *any sort* in problematic cases.

## Case Process

The Ombudsman's work begins with the initial contact, continues through information gathering and mediation, toward resolution and implementation.

**Referral.** The initial referral contact may last from 15 minutes to two hours depending on the number and type of issues involved.

**Information Gathering.** Next, representatives of the Ombudsman program gather specific information from the referent. A computerized database has been developed to aid speed and efficiency.

**Case Review.** All the parties involved in the specific problem are interviewed, and information collected from these interviews is entered into the database.

The information is analyzed to assess the validity of the referral. If the concern does not involve an issue the Ombudsman can address or does not fall within the Ombudsman's area of responsibility, this is explained to the referent.

**Mediation.** When an inconsistency in the implementation of policy, procedure, or law is indicated, mediation to resolve the problem in the child's best interest begins.

The Ombudsman contacts all parties involved in the process. The Ombudsman assists in the exchange of information and serves as a go-between, helping each party contribute to a solution. Although the Ombudsman assists in the problem-solving process, the solution must be the work of the participants.

**Implementation.** Upon resolution of the problem, the Ombudsman program assists in the implementation of agreements by following up with each party, prepared to mediate around future obstacles. Referral solutions are recorded in the database.

The  
**Ombudsman**  
For Tennessee's Children and Families

# Solutions for Children and Families with Problems

Each case referred to the Ombudsman Program is unique. However, many share common issues: miscommunication and complications in service delivery. These cases exemplify the TCCY Ombudsman's role in custody cases.

## Service Delivery Problems Threaten Child's Future in School

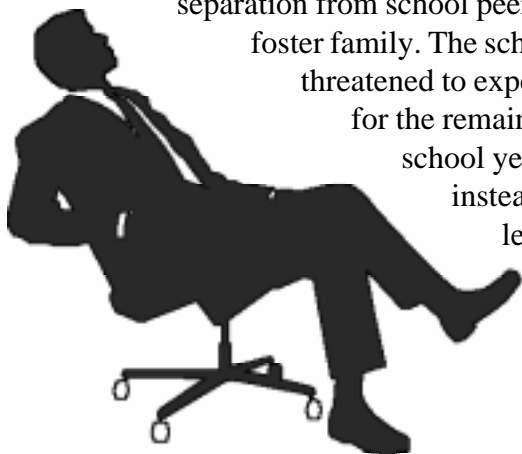
Referral Source: Department of Children's Services case manager.

**Problem:** A child in state custody was being prevented from attending school for the last few weeks of the school year. The child stood to lose the entire year's school work. The problem was creating a delay in the agreed outcome of the case – the child's return home. The worker had held a series of meetings with the school administration to no avail.

**Problem-Solving Process:** The child had been out of school for a couple of days before the referral. A series of interviews set up by the Ombudsman verified the facts of the story. The foster home was in one school district, and the parent's home in another.

In the opinion of the DCS worker, the problem began following a trial stay in the home of the parent to which the child was returning. The temporary move was set up to make sure the reunification was going to work.

The child was experiencing minor behavior problems in school related to the anticipated separation from school peers and the foster family. The school had threatened to expel the child for the remainder of the school year, but, instead, upon learning the child was spending the majority of the time with the



parent in another district, notified the DCS worker that the child was not to return.

The first step in the mediation was to empower all the parties to work together toward resolving their differences.

DCS wanted the child to be able to complete the school year, transfer to the parent's school district, and enter as a new student at the beginning of the year.

The school administration was concerned about minimizing problems and completing the school year with a severely overcrowded student body.

It became apparent that rising emotions among the parties had helped create the impasse. The Ombudsman, as an outsider, was able to discuss case issues, addressing and separating out the emotional aspects.

Next, the Ombudsman established that the child had not officially changed residence and was still technically living in the foster home. He also established that expulsion or transfer at this point in the school year would jeopardize a fragile reunification process.

The Ombudsman learned that the school administrator had as a child been moved to many new schools and frequently had to fight to defend himself as "the new boy."

With both sides appreciating the other's position, an agreement was reached. The child agreed to a strict behavioral contract and was allowed to complete the year.

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# Ombudsman Program

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Benefits to the consumer. Children in state custody and their families can rely on the TCCY Ombudsman to impartially assist them in understanding the service system. This understanding helps consumers “buy into” the system and increases their satisfaction with services.

Benefits to the service providers. Service providers have an unbiased person to whom they may refer consumers with concerns about the information or services they have been receiving. Simply by referring consumers to the Ombudsman, providers gain

consumers’ trust.

Additionally service providers often have concerns about obstacles within custody cases that prevent them from achieving what they believe is in the best interests of the child or family.

To the system. Overcoming obstacles in custody cases, where they involve communication or service coordination issues, eliminates delays in service delivery, speeds case outcomes, and saves valuable time and money.

## Solutions

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### **Lack of Communication Stalls Return Home**

Referral Source: a Juvenile Court Judge

**Problem:** Conflicts between the child’s parent and the DCS worker and a service provider had erupted into an argument in the courtroom during a hearing to consider the child’s return home. The parent was in danger of making comments that would prevent the judge from hearing the case.

**Mediation:** The judge telephoned the Ombudsman and, after introducing the situation, brought the parent to the phone.

The work of days or weeks had to be done in one phone call. Trust in the TCCY Ombudsman’s neutrality had to be achieved immediately, with the help of the juvenile court judge.

The parent was hostile and antagonistic at first. The phone was transferred from the probation officer, to the parent, to the judge many times during an hour and a half. Each individual was interested in the same thing – sending the child home from the hearing. Each, however, had concerns about the ability of the parent to articulate what could be done to preserve the home placement.

During the final discussion with the parent, the Ombudsman explained that each party was willing to work toward the same goal and advised the parent on how to appropriately voice her concerns in court.

Only when he reported the specifics of the mediation agreement to the judge did the Ombudsman realize that the court had remained in session throughout the mediation.

The parent later reported back to the Ombudsman’s Office. The child had been allowed to return to the parent’s home for a trial stay with the understanding that it would become permanent if all went well. The parent apologized for her initial hostility, explaining that she was reacting to the court process.

The child’s parent summed up the Ombudsman’s efforts on her child’s behalf:

- “ fostering an understanding that everyone can work together for the same goal,
- “ allowing each to share his or her own opinions and suggestions freely, and
- “ encouraging a process that promoted trust and not apprehension.

For more information, call the TCCY Ombudsman Program at (615) 741-2633.

# Legislative Update

**Child Care.** SB2297/HB2202 earmarks license application and renewal fees collected by the Department of Human Services from child-care homes, group child-care homes, and child-care centers for training, educational programs, and services for child care providers. This bill passed in the House and the Senate, was signed by the governor, and has been enacted as Public Chapter 638, to become effective July 1, 1998.

TCCY supported this bill sponsored by Rep. Beth Halteman-Harwell (Nashville) and Sen. David Fowler (Chattanooga) because training is a critical need for improving the quality of child care in Tennessee. This bill will produce approximately \$55,000 annually for training and services for child-care providers.

**Zero Tolerance.** SB2324/HB2082 requires the State Board of Education to consult with the Tennessee School Board Association, the Office of Education Accountability, and the Department of Education and to develop a standard form for collecting statistical information about zero-tolerance violations in local school systems. This bill, sponsored by Sen. Roscoe Dixon (Memphis) and Rep. Mary Pruitt (Nashville), passed both houses and has been sent to the governor.

In 1997, the legislature directed the Comptroller of the Treasury's Office of Education Accountability to conduct a study on the implementation of zero-tolerance policy in all school districts throughout Tennessee. This report, "Getting Tough on Kids: A Look at Zero Tolerance," is now available through the Comptroller's Office by calling (615) 532-1111 or writing to Educational Accountability, Comptroller of the Treasury, 505 Deaderick St., Suite 505, Nashville, TN 37243-0268. It can also be downloaded from the agency's Web page ([www.comptroller.state.tn.us/orea/reports](http://www.comptroller.state.tn.us/orea/reports)).

**Emergency Medical Services for Children.** SB2413/HB2378 is sponsored by Sen. Douglas Henry (Nashville) and Rep. Mary Pruitt (Nashville). This bill directs the Board for Licensing Health Care Facilities, in collaboration with the Emergency Medical Services Board and the Committee on Pediatric Emergency Care, to publish regulations to ensure the adequacy of

emergency medical services for children. These standards would apply to facility equipment standards, qualifications of facility personnel, and continuing professional education of facility personnel. This bill passed both houses and has been sent to the governor.

According to the Tennessee Emergency Medical Services for Children Office, 30 percent of all emergency department visits are for children, and the child death rate in Tennessee is 26 percent above the national average (147.47 per 100,000 in Tennessee).

TCCY supported this bill because standards for emergency medical services to children could save lives and reduce costs by providing timely, appropriate emergency medical services to children in crisis.

**TennCare Eligibility for Children.** SB2414/HB3132 would have increased the eligibility for new enrollments for children in TennCare. This bill would have raised the age requirement for new enrollees from under 18 to under 19 years of age. As amended, it would have applied to children whose family income was less than 200 percent of the federal poverty level schedule in effect for calculating TennCare premiums.

Sponsored by Sen. Douglas Henry (Nashville) and Rep. Shelby Rhinehart (Spencer), this bill passed in the House but was re-referred to the Calendar Committee from the Senate floor on April 23 after Sen. Henry received a letter from the commissioner of the Department of Health, Nancy Menke. The commissioner affirmed that the department would continue providing enrollment opportunities for children under age 19 who are in families with incomes below 200 percent of poverty and who have access to health insurance but cannot afford it.

She said, "It is our intention, assuming we are able to obtain HCFA approval, to continue this enrollment opportunity until Dec. 31, 1998."

The department will monitor the impact of this continued enrollment to make sure it does not lead to reductions in family coverage offered by employers or to the "dumping" of high-risk children into the TennCare program.

# Kids Count National Data Book

Tennessee ranks 45th in the national *1998 KIDS COUNT Data Book*. The state-by-state study, which reports on conditions facing America's children, was released on May 5.

TCCY is the Tennessee partner of the KIDS COUNT program, which is funded by the Annie E. Casey Foundation.

**Child Care.** The *1998 Kids Count Data Book* focuses on the child-care needs of working parents, especially low-income parents.

In 1995, 65 percent of families with children under age six were likely to need child care because of working parents. More than a fourth of all children under age 13 lived in low-income families with working parents.

The book lists the problems low-income families face: the lack of consistent care; low quality of some care; and lack of care on weekends and nights when many low-income mothers work.

The report attributes one issue related to quality, the high turnover rates among child-care workers, to their low salaries. The average wages of child care workers in Tennessee are almost half those of all Tennessee workers. The average child care worker makes \$5.43 hourly; the average worker, \$9.23.

The study evaluates the state of the nation's children on 10 indicators of well-being, comparing 1995 figures to those of 1985. The indicators are:

- .. percent of low birth-weight babies;
- .. infant mortality rate;
- .. child death rate;
- .. rate of teen deaths by accident, homicide, and suicide;
- .. teen birth rate;
- .. juvenile violent crime arrest rate;
- .. percent of teens who are high school dropouts;
- .. percent of teens not attending school and not working;
- .. percent of children in poverty; and
- .. percent of families with children headed by a single parent.

According to the latest report, Tennessee improved in five areas – infant mortality, child death, school dropout, teens not in school or working, and child poverty – during the decade from 1985 to 1995.

The state fell in five categories – low weight births, teen deaths, teen births, violent crime arrests, and single parent families.

Despite the fact that the juvenile arrest rate went up 63 percent over the decade, the national rate also increased. Thus, Tennessee received its highest ranking, 25th in the nation, on this indicator.

The rate of teen deaths by accident, homicide, and suicide increased by 34 percent in the decade from 1985-1995. In 1995, there were 90 deaths per 100,000 Tennessee teens ages 15 to 19 by accident, homicide and suicide.

The high school dropout rate improved, falling to 11 percent in 1995 from 15 percent in 1985. Tennessee was ranked 35th on this measure. The national average is 10 percent. In 1995, 28 percent of Tennessee families with children were headed by a single parent. Tennessee ranks 40th among the 50 states and Washington, D.C., on this measure.

For more information, contact Denise Dunbar, TCCY, (615) 532-1571 or a regional coordinator from the list on page 7.

*The Advocate* is published by the Tennessee Commission on Children and Youth as an information forum on children's issues. The Tennessee Commission on Children and Youth, an independent state agency, serves as an advocacy agency and information resource for planning and coordination of policies, programs, and services on behalf of the state's children and youth. The 21-member Commission, appointed by the governor, works with other agencies and with regional councils on children and youth in each development district to collect information and solve problems in children's services. To receive *The Advocate*, contact the Commission at Andrew Johnson Tower, Ninth Floor, 710 James Robertson Parkway, Nashville, TN 37243-0800. Phone: (615) 741-2633. Fax # (615) 741-5956.

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# Regional News

## Child Watch Activities

Community leaders in Knoxville saw premature infants struggle for life. In Chattanooga, others traced the footsteps of teen parents, as regional councils held their Child Watch activities.

The Child Watch Visitation Program, designed by the Children's Defense Fund, allows leaders to see for themselves what is happening to children. It humanizes statistics and reports with faces and real stories. Child Watch programs include on-site visits to programs serving children and families, briefings by public policy experts and others, written background materials, and firsthand experiences.

TCCY's regional councils have selected Child Watch as a statewide project. Local advocates select the focus for each council's event based on the region's special needs and problems.

The Southeast Council on Children and Youth held an event focused on child care on April 24.

An earlier Southeast regional event focused on teen pregnancy. Twenty-five business, religious and civic leaders toured the T.C. Thompson Children's Hospital and heard from a doctor, a nurse and a social worker. They also visited agencies that serve teen parents.

Participants were given a backpack, diaper bag, and other items that burden teen parents at school.

The East Tennessee Child Watch Coalition selected Access to Prenatal Care and its impact on children's health as the focus for the first Child Watch event.

On Dec. 12, 1997, the East Tennessee coalition hosted its first event. Fifty people, including State Rep. Bill Dunn, several Knoxville City Council members and Knox county commissioners, and other community leaders, toured the University of Tennessee Medical Center's Perinatal Intensive Care Unit and the Florence Crittenton Agency.

The newly formed Child Watch Action Committee began addressing needs and barriers identified and highlighted by the Child Watch event.

Another East Tennessee Child Watch event is planned for fall 1998. Child care, the Children's Defense Fund's year-long focus, was selected as its topic.

The Northeast and Mid-Cumberland councils are planning similar events. Other councils are adapting the program to meet the needs and resources of their regions.

## Tennessee Commission on Children and Youth Regional Coordinators

### Northeast Tennessee Council

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### East Tennessee Council

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### Memphis/Shelby County Council

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Memphis, TN 38103  
(901) 543-7657

# Meetings and Events

## Council Activities

### Northeast Tennessee Regional Council

May 27, *An Overview of the Legislation of the 100<sup>th</sup> General Assembly*, quarterly council meeting, Johnson City Library, local legislators invited

### Southeast Tennessee Regional Council

May 27, 8:30 a.m. - 12 p.m., Council Meeting, Alternative Education Forum, UTC

### Mid-Cumberland Regional Council

May 28, Council Meeting, *Effects of Psychotropic Medications on Children*, Nashville

### Northwest Tennessee Regional Council

May 29, *Annual Spring Conference*

### South Central Regional Council

June 19, 9 a.m., Council Meeting, Maury Regional Hospital, Columbia

### Southwest Tennessee Regional Council

May 14, 9 a.m.-3 p.m., *Joint Conference*

with West Grand Division of Juvenile Court Services Association, Ned McWherter Center, Jackson

### Memphis-Shelby Regional Council

May 27, Council Meeting, William Haynes, DOH, on TennKids

## C-PORT Review Schedule

May 11-15, Southwest, exit conference - May 22  
 June 15-19, Northwest, exit conference - June 29  
 July 13-17, Mid-Cumberland, exit conference - July 24  
 August 3-7, East Tennessee, exit conference - August 14  
 August 31-Sept. 4, Shelby County, exit conference - Sept. 17  
 Call TCCY at (615) 741-2633 for more information.

## Special Events

June 5-6, *STEP Center 1998 Annual Conference: Making a Difference with*

*the New IDEA*, Nashville

June 9-10, *Families First Best Practices Conference*, Gatlinburg, SWORPS. Contact 319 Henson Hall, 1618

Cumberland Ave., Knoxville or ddaniels@utk.edu

June 8-12, *East Tennessee Teen Institute*, Governor's Prevention Initiative, Lee U., Cleveland, (423) 634-6026

June 8-12, *West Tennessee Teen Institute*, Governor's Prevention Initiative, Bethel College, McKenzie (901) 421-5025

June 22-23, *Family Re-Union 7*, Vanderbilt University, VIPPS program (615) 343-9865

June 22-25, *Middle Tennessee Teen Institute*, Governor's Prevention Initiative, Clarksville, (615) 340-2147

July 6-8, Florence Crittenton-Child Welfare League of America *Teen Pregnancy Prevention Roundtable: Navigating the Currents of Change*, Charleston, S.C.

Aug. 9-11, *Tennessee Council of Juvenile and Family Court Judges and the Tennessee Juvenile Court Services Association Joint Conference on Juvenile Justice*, Loews Vanderbilt Plaza, Nashville



## The Tennessee Commission on Children and Youth

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