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CPS forks over millions to station off-duty cops at hotels, churches housing foster kids

The spending drew scrutiny from federal judge, child advocates who argue \$30M could help pay for therapeutic placements



Off-duty cops hired to provide security to foster children sleeping in hotels and other makeshift facilities have shocked with a stun gun, handcuffed and pepper-sprayed the youth in the state's

care within two months, new court documents show. Texas CPS has spent nearly \$30 million on the moonlighting police officers.

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AUSTIN – Off-duty cops hired to provide security to foster children sleeping in hotels and other makeshift facilities have shocked with a stun gun, handcuffed and pepper-sprayed the youth in the state’s care within two months, according to newly filed court documents.

Texas is paying two companies that provide moonlighting law enforcement officers nearly \$30 million over 18 months, according to contracts and other data obtained by [The Dallas Morning News](#). A recent state request for bids to continue the security work after Aug. 31 could wind up costing as much as \$17 million a year.

The agreements came under scrutiny this week by a federal judge overseeing a long-running class action lawsuit over the state’s treatment of foster youth.

U.S. District Judge Janis Graham Jack described the officers’ tactics as over the top and questioned why the money isn’t instead being used to find stable housing for the youth.

“These children come into care already damaged and to have this happen to them,” she said, shaking her head.

The revelations come after years of intense scrutiny of Texas’ child welfare system, which included reports by blue-ribbon panels, a state district judge in Travis County and a state comptroller citing weak protection of youngsters maltreated by birth families and then roughly handled by the state.

Texas’ system of long-term foster care has been condemned in the federal lawsuit for leaving kids in worse shape than when they first became wards of the state. In the suit, which has dragged on for 12 years, the state still is trying to show it has complied with Jack’s injunctions. Absent an unusual intervention by judges on the 5th U.S. Circuit Court of Appeals, Texas is likely to be mired in the case for years to come.

Last month, an average of 96 foster children per night slept in hotels, churches, rented duplexes and other unlicensed facilities because there were no available foster beds. Mostly older children who have been in the state’s care for years, the youth are the system’s most difficult to place — many of them frequently acting out after horrendous mistreatment.

Private foster care providers sometimes refuse to accept children with the most engrained behavioral and emotional problems. Child Protective Services has been forced to use its own caseworkers to serve as 24/7 babysitters on top of their regular jobs.

The predicament has led to dire outcomes. Staff have been assaulted. Children have run away, with some winding up sexually assaulted or dead.

The Department of Family and Protective Services, which inked the security contracts last year, defended using off-duty police officers at temporary housing sites for the foster children designated as “children without placement” or CWOPs.

“It is important to note that the security officers are there to help prevent incidents from occurring, and to protect the youth in care and our caseworkers,” spokesman Patrick Crimmins said in a written statement. “Caseworkers have been injured while working CWOP shifts.”

‘We are appalled’

Critics note that the tactics reportedly used by officers, including pepper spray and handcuffs, are prohibited in licensed foster care facilities.

The state should be finding licensed, appropriate placements for the children so they can get the specialized care they need, said Houston attorney Paul Yetter, lead plaintiffs’ attorney for the 9,000 youth in long-term foster care who have sued the state.

“The state is basically throwing up its hands and saying, ‘we can’t find those and so we’re going to warehouse these children in hotels and bad things are happening,’” he said. “Blaming the children by saying ‘you know people could get hurt so we’re going to get police officers’ is shameful.”

Marcia Robinson Lowry, a former ACLU lawyer in New York who decades ago came up with the idea of filing such class-action suits, lambasted the state’s use of money for off-duty police officers.

“We are appalled that the state is hiring more security guards for children instead of spending its money to develop programs that will actually focus on the children’s needs,” she said in a text message.

“It is a sad day when the state plans to increase the handcuffing, tasing and arresting young children by having more security guards instead of the trained child welfare professionals these children need,” said Lowry, founder of both Children’s Rights and A Better Childhood, two New York-based public interest groups that are involved in the case.

“Their only ‘crime’ is that they are unwanted.”

Existence of the contract came to light at a hearing this week in the suit, which was filed in 2011.

Texas, which fought the case harder than any of the 20 or so states and counties that Lowry’s groups have sued, ran out of appeals in July 2019. Since then, Jack and her monitors have been bird-dogging the state’s performance.

In four hearings this year, Jack has blasted the protective services department for conducting shoddy investigations of outcries by foster children that they’ve been mistreated. The Health and Human Services Commission also drew the judge’s fire for conducting what she deems overly lenient inspections of providers’ facilities – regular visits designed to verify compliance with minimum safety standards.

Last week, Yetter, Lowry and two other lawyers representing the children filed a motion asking Jack to hold the state in contempt of court because the burden of pulling overtime shifts overseeing kids in unlicensed facilities is demoralizing caseworkers. They also said the state has failed to rein in caregivers’ overuse of powerful psychotropic drugs with the kids, and youngsters don’t know how to report abuse.

On Tuesday, Jack issued no new rulings. Plaintiffs’ lawyers have said they expect her to consider a contempt ruling against the state in coming months.

Two new [highly paid attorneys with the international law firm Gibson Dunn & Crutcher](#) appeared for the first time on behalf of the state. During the daylong hearing, however, Jack barely acknowledged Prerak Shah of Houston, a former chief of staff to U.S. Sen. Ted Cruz who is of counsel to the firm. After introducing herself, state defense “attorney-in-charge” Allyson N. Ho of Gibson Dunn’s Dallas office said virtually nothing.

Pepper spray, handcuffs

In early 2022, the protective services department signed contracts with [PPI Security](#) of Houston and [Silver Shield Security Inc.](#) of North Texas, according to copies of the contract [The News](#) obtained through the records request. PPI, headed by a former Texas Ranger chief, has the largest contract worth up to \$26.8 million, while Silver Shield can earn up to \$2.4 million under the deals that run through August.

The agreements call for licensed officers to help de-escalate conflicts among children and between children and CPS workers, and to “intervene when necessary to protect staff, other children and youth or themselves.” But the contracts spell out few guidelines about the kinds of tactics officers can use.

Court monitors appointed by Jack described in a prehearing report several confrontations between foster youth and the hired security officers that were documented between Dec. 1 and Jan. 31. They included when the officers used “methods that are otherwise strictly prohibited in the regulated child care environment.”

A security officer reportedly used pepper spray after being shoved over a chair and onto the ground at an unlicensed house by a 15-year-old who had been in an argument with a caseworker over a Nerf gun. Another handcuffed a 14-year-old girl who threatened to run away from the facility, then broke a glass and attempted to cut her wrist with one of the shards. She held onto the glass during the restraint, and cut herself while resisting the officer. A different 15-year-old was handcuffed at a hotel by security officers after reportedly threatening one officer with scissors. While waiting for local police outside, the teenager was able to walk across the street while still shackled. After the youth picked up a hammer and drill, local law enforcement squad cars arrived and officers drew their guns. Eventually, the 15-year-old surrendered and was arrested.

The monitors noted one child was shocked with a stun gun by a security officer, but provided no further details. The security officers and their employers are not identified in the report.

In licensed, professionally staffed settings, foster care providers are tightly regulated. They cannot use physical restraints on children who are acting out, except in rare circumstances and for less than a minute. They receive extensive training in techniques for less restrictive interventions.

“Therefore,” the monitors concluded, “children in crisis encounter a different response in unregulated, unlicensed settings than they would when challenges

arise in the presence of trained caregivers in environments designed to provide intensive therapeutic and support services.”

Crimmins noted the serious incidents highlighted by the court monitors are “extremely rare,” and in roughly 100 cases reviewed by the monitors, there was one use of pepper spray and one use of a Taser.

“On a case-by-case basis, any serious incidents involving the CWOP security officers are reviewed by top agency leadership. As necessary, appropriate action is taken,” Crimmins said. “The safety of the children and youth in care is always the top priority.”

Silver Shield Security did not respond to emailed questions. PPI president Tony Leal said the off-duty officers are trained in de-escalation and respond according to their training.

It doesn’t happen regularly, he said, but officers have been assaulted.

“I know that there’s DFPS people that have been assaulted. I know that there’s youth that have assaulted other youth. And in those instances, whoever the actor is has to be restrained,” Leal said.

“The rules are what you can do legally as a police officer,” he said. “The rules for a policeman, whether they’re in foster care or not, are the same. It’s enforcing state law.”

Over the 15 years the state has lacked sufficient placements for all foster children, GOP lawmakers have touted various solutions. One is expanded privatization of foster care, or “community based care.” It places super vendors in charge of a region, and they cannot reject any children.

However, even as more regions switch to the new procurement approach, the number of kids without placements hasn’t evaporated. Protective services officials are hopeful a recently funded plan to modernize providers’ reimbursement rates, with payments more tailored to the care a child needs, can help.

Meanwhile, officials of the Texas State Employees Union, an affiliate of the Communications Workers of America that represents many CPS employees, said demands created by the state’s shortage of foster beds overtax state workers.

Children have little stability when they're watched by a rotating cast of CPS workers. Staff are burnt out having to take on the shifts – four hours, in some regions – after working a full day. Some fear for their safety.

Myko Gedutis, the union's organizing coordinator, acknowledged a need for safety. "Putting untrained staff in a hotel room with kids that have a high level of needs is unsafe for everybody," he said.

But, he said, hiring cops is treating one symptom instead of finding a cure.

"Finding appropriate placements is what's needed," he said.

"After all these years, they're only addressing that one the need for safety, not for education, not for rehabilitation or therapy," he said. "Those needs continue to be unmet."