

**From:** [Sunset Advisory Commission](#)  
**To:** [Cecelia Hartley](#)  
**Subject:** FW: Form submission from: Public Input Form for Agencies Under Review (Public/After Publication)  
**Date:** Tuesday, October 14, 2014 4:55:02 PM

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-----Original Message-----

From: sundrupal@capitol.local [<mailto:sundrupal@capitol.local>]  
Sent: Tuesday, October 14, 2014 4:33 PM  
To: Sunset Advisory Commission  
Subject: Form submission from: Public Input Form for Agencies Under Review (Public/After Publication)

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Agency: HEALTH AND HUMAN SERVICES COMMISSION HHSC

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Your Comments About the Staff Report, Including Recommendations Supported or Opposed: One Voice Texas fully supports moving Residential Child Care Licensing from DFPS. There is an inherent conflict of interest with a regulatory body falling under the agency whose functions it is supposed to be monitoring. We also support the recommendation regarding strengthening the authority and function of the HHSC ombudsman's office; however, it is unclear in the report if each functional area would still have an independent ombudsman's office.

Any Alternative or New Recommendations on This Agency:

New Recommendation #1-3: #1) One functional area that is missing from the current HHSC Sunset Report is Prevention. Prevention involves keeping children and families out of crisis systems including foster care, juvenile detention, prison, inpatient psychiatric hospitals etc. It is a task common across the current state agencies; however, within these agencies prevention/family strengthening efforts are often weakened given the split focus between prevention and crisis intervention which leads to poor planning and jeopardized funding. A perfect example of this is PEI under DFPS. A prevention division would create efficiencies in other areas and would further reduce fragmentation across agencies; #2) One ombudsman's office should exist under HHSC. This office should consist of the staff from the current agency ombudsman's office so that expertise is not lost. This would centralize reporting regarding policy and practice of HHSC agencies, divisions etc. There are policy recommendations in recommendation 3 that would be very beneficial to this model; #3) If the Sunset Commission does not adopt this recommendation, then DFPS should have an independent ombudsman's office (currently called the Office of Consumer Affairs). There are several policy changes that need to either be included in the Sunset legislation or another bill along with rulemaking after session. The recommendations from One Voice Texas and Texas CASA are below:

AUTONOMY

- The Commissioner of the Department of Family and Protective Services shall have no authority to:
  - o create or change the policy and practice of the Office of Consumer Affairs
  - o determine the budget of the Office of Consumer Affairs or
  - o make decisions regarding personnel of the Office of Consumer Affairs
- Administrative attachment would move from DFPS to HHSC
- A budget line item for the Office of Consumer Affairs shall be established within the Health & Human Services Commission budget

#### CONFIDENTIALITY

Confidentiality for the reporter of and child who is the subject of the report of alleged or suspected abuse or neglect shall follow the guidelines defined in Title 5, Subtitle E, Chapter 261, Subchapter C Section 261.201 of the Family Code.

#### RETALIATION

OCA and Child Care Licensing must have a policy in place which outlines the consequences, based on the extent of the offense and severity of retaliation, for individuals and agencies found to have engaged in retaliation against a child or youth in foster care.

**SPECIFIC PROTOCOLS FOR HANDLING CALLS FROM CHILDREN/YOUTH IN FOSTER CARE** The Office of Consumer Affairs shall open a case for any child in foster care that calls the office with either a complaint.

The OCA shall develop a policy to ensure when a child calls with an inquiry, OCA staff determines if the inquiry is based on potential violations and should be treated as a complaint. (For example, if a child calls and says, “do I have a right to get my ID?” vs. “my foster parent won’t allow me to have my ID”. The first question may be treated as an inquiry and no case would be open even though the child may be deprived of acquiring an ID, which is a violation. A further line of questioning would be needed.)

If the child alleges abuse or neglect, the Office of Consumer Affairs shall assist the child in reporting the allegation to Statewide Intake and shall open a case that shall stay open for the duration of the investigation and resolution by Residential Child Care Licensing and Children’s Protective Services.

The Office of Consumer Affairs shall establish a secure form of communication with the child in order to ensure that he/she is made aware of the results of the investigation including the substantiation of any complaints that are brought to the attention of or determined by the Office of Consumer Affairs.

It needs to be listed in policy that no matter what the nature of the complaint, if it is from a child in foster care, then it needs to be separately investigated by OCA

#### OUTREACH PLAN

The Office of Consumer Affairs shall be responsible for developing and implementing an outreach plan to all parties who can potentially make inquiries or complaints. This outreach plan shall be updated annually and shall include, but not be limited to:

- Notification signs in residential facilities where DFPS clients reside. Signs must be placed in safe, private spaces, easily accessible to clients.
- Notification of the function of the Office of Consumer Affairs to: Guardian ad Litem, CASA and staff of CPS, RCCL and APS.

#### SUBSTANTIATION OF COMPLAINTS

- The Office of Consumer Affairs shall have the authority to substantiate on as many complaints deemed valid by their investigation.
- The Office of Consumer Affairs shall have the authority to substantiate on complaints/violations uncovered during the course of their investigation even if those complaints were not originally indicated by the reporter of the initial complaint. Newly identified complaints should trigger an additional line of investigation.

#### REPORTING

The Office of Consumer Affairs shall be required to regularly report performance data to the Health and Human Services Commission and the Commissioner of DFPS.

On a yearly basis, the Office of Consumer Affairs shall provide the following information to the Health and Human Services Commission, the Commissioner of DFPS and the legislature:

- Performance data including a breakdown of the nature of the inquiries and complaints tied to the source of the report as well as the way in which complaints were resolved
- What changes DFPS Regions and or state level DFPS made to resolve complaints
- A glossary of terms
- Trends of inquiries and complaints
- Underlying causes and systemic remedies
- Outreach activities and strategy for next year
- Public feedback on performance data and patterns of inquiries and complaints

DFPS shall post this report on their web page

My Comment Will Be Made Public: I agree



## **Response to Sunset Advisory Commission Staff Report on the Health and Human Services Commission and System Issues**

One Voice Texas extends its appreciation to the Sunset staff who were responsible for evaluating the Health and Human Services Commission (HHSC). We offer this response to further strengthen this opportunity for positive change.

### **Issue 1: The Vision for Achieving Better, More Efficiently Run Services through Consolidation of Health and Human Services Agencies Is Not Yet Complete**

Prevention services strengthen families, ensuring that parents and children stay together and out of costly systems such as children's protective services, juvenile detention and inpatient hospitals. Unfortunately, these services are fragmented across numerous state agencies decreasing their ability to efficiently and effectively keep children safe. A new model for prevention presents the opportunity to alleviate this problem.

Housing prevention under one roof aligns with long-standing desires to avoid duplication and increase efficiency. One state in particular that has found success with this model is Colorado. The Prevention Services Division in Denver is statutorily responsible for all prevention and early intervention services. The division contains a Prevention Leadership Council (PLC) that has a representative from each state agency including but not limited to: early childhood, behavioral health, homelessness and health. Prevention is seen as an issue of child and family well-being versus an effort that can be divided into categories of child abuse or delinquency prevention. Stakeholders in Colorado have reported that this has allowed for more efficient collaborative planning, data sharing, and standardized outcomes

Texas could pursue a similar structure by creating a prevention agency under the HHSC Enterprise. If the Sunset staff's recommendations for HHSC are adopted prevention would then be a functional unit. This structure would allow for strategic planning, sharing of outcomes and data and maximization of what are often scarce resources. This structure would also prioritize prevention in a way that has not been possible under individual agencies. For example, although Commissioner Specia has been more supportive of prevention than many of his predecessors, the fact remains that the cost and demands of the foster care system far outweigh efforts to strengthen prevention to what it is required to be in statute. The table that accompanies this brief contains a sample of state agency functions/programs that could be coordinated under an HHSC prevention agency.

## **Recommendations:**

- Establish a Prevention and Family Strengthening (PFS) unit under the Health and Human Services Commission.
- Merge three prevention programs (recommended for move under DFPS) and two other prevention programs into one program under PFS:
  - 1- Texas Home Visiting Program and Nurse-Family Partnership currently under HHSC;
  - 2- Prevention and Early Intervention Unit currently under DFPS;
  - 3- PPI and PADRE programs currently under DSHS;
  - 4- Family violence prevention programs (currently under HHSC & Attorney General); and
  - 5- Fetal alcohol prevention and injury prevention programs (currently under TOPDD)
- Designate the following PFS responsibilities:
  - Coordinating the development, funding and evaluation of this unit;
  - Merging IT systems to create seamless referral and communications for a coordinated service delivery system;
  - Developing a coordinated state strategic plan for efficient targeting, development, implementation and QA monitoring of the PFS unit;
  - Establishing coordinated intake, measurement, outcomes and data collection and analysis

### **Issue 12: HHSC's Uncoordinated Approach to Websites, Hotlines, and Complaints Reduces Effectiveness of the System's Interactions with the Public**

One recommendation in the report is to strengthen the authority and function of the HHSC ombudsman as it is the office to whom all other ombudsman offices report. Specifically, the HHSC ombudsman needs the authority to access agency databases and require agencies to report uniform and timely information. This is a sound recommendation, but does not carry the logic of this recommendation to its conclusion, which is that there should be one central ombudsman office for all the functions under HHSC.

## **Recommendations:**

- Consolidate all current ombudsman offices into one office under HHSC. Maintain areas of expertise by establishing divisions within the main office to reflect the focus area of each state agency.
- Consider establishing a board of consumers and professionals to which the ombudsman's office would report in order to ensure that the ombudsman's office is truly independent. Both the American Bar Association and the National Council on State Legislatures indicate that for an ombudsman office to be independent, the agency or agencies it oversees must not have control of its budget, personnel or policies.
- Strengthen the effectiveness of the HHSC Ombudsman's office by establishing the following policies in statute:
  - Confidentiality for the reporter and child who is the subject of the report of a complaint
  - Consequences, based on the extent of the offense and severity of retaliation, for agency staff found to have engaged in retaliation against a consumer, particularly a child or youth in state care.
  - An investigation should be opened for any call from a child or youth in state care to ensure proper handling of their concern/complaint
  - If a child or youth calls and alleges abuse or neglect, the ombudsman office shall assist the child in reporting the allegation to DFPS Statewide Intake or other appropriate body and shall open a case that stays open for the duration of the investigation until resolution so that it can be properly monitored.
- Establish a secure form of communication with children and youth in state care in order to ensure that they are made aware of the results of the investigation including the substantiation of any complaints that are brought to the attention of or determined by the ombudsman office.
- Develop and implement an outreach plan to all parties who can potentially make inquiries or complaints. This outreach plan should be updated annually.

- The ombudsman office shall have the authority to substantiate as many complaints deemed valid by their investigation.
- The ombudsman office shall have the authority to substantiate on complaints/violations uncovered during the course of their investigation even if those complaints were not originally indicated by the reporter of the initial complaint.
- The ombudsman office shall be required to regularly report performance data to the legislature and the governor's office. Additional reporting requirements should include but not be limited to:
  - A glossary of terms
  - Performance data including a breakdown of the nature of the inquiries and complaints tied to the source (type not individual) of the report as well as the way in which complaints were resolved
  - What changes an agency made to resolve complaints
  - Trends of inquiries and complaints
  - Suspected underlying causes and systemic remedies
  - Outreach activities and strategy for the next year
  - Public feedback on performance data and patterns of inquiries and complaints
  - HHSC should post this report on their web page

Thank you for the opportunity to provide input on important changes to the Health and Human Services Enterprise.

# Health & Human Services Commission

Office of  
Inspector  
General

Medical and  
Social Services

State  
Institutions  
and Facilities

Prevention &  
Family  
Strengthening

Family and  
Protective  
Services

Public Health  
Services

Regulatory

IT Sharing:  
ECI, Mental  
Health and  
Substance  
Abuse  
Prevention

## Prevention & Family Strengthening

Child Abuse &  
Neglect & JD  
Prevention  
(DFPS-PEI)

Texas Home  
Visiting  
Program and  
NFP  
(HHSC)

Pregnant Post-  
Partum  
Intervention  
(PPI)/Parenting  
Awareness &  
Drug Risk  
Education  
(PADRE)  
(DSHS)

Fetal Alcohol  
Syndrome  
Prevention and  
Child Safety  
Training  
(TOPDD)

Family Violence  
& Sexual  
Assault  
Prevention  
(AG's office,  
HHSC)