

**From:** [Jim](#)  
**To:** [Janet Wood](#)  
**Subject:** Fwd: Department of Family and Protective Services  
**Date:** Tuesday, July 01, 2014 3:03:02 PM

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Hello Janet, I realized after I sent this last night, I never gave permission for it to be public. Which I do. Also will there be a witness list posted for the hearings?  
Thank you,  
Jim

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

**Subject:** Department of Family and Protective Services

**Date:** Mon, 30 Jun 2014 22:09:13 -0500

**From:** Jim

**To:** [sunset@sunset.state.tx.us](mailto:sunset@sunset.state.tx.us), "Walter T. Price" <[four.price@house.state.tx.us](mailto:four.price@house.state.tx.us)>, Dan Patrick <[dan.patrick@senate.state.tx.us](mailto:dan.patrick@senate.state.tx.us)>, Brian Birdwell, Juan Hinojosa <[juan.hinojosa@senate.state.tx.us](mailto:juan.hinojosa@senate.state.tx.us)>, Jane Nelson <[jane.nelson@senate.tx.state.us](mailto:jane.nelson@senate.tx.state.us)>, Charles Schwertner <[Charles.Schwertner@senate.state.tx.us](mailto:Charles.Schwertner@senate.state.tx.us)>, "Harold Dutton Jr." <[harold.dutton@house.state.tx.us](mailto:harold.dutton@house.state.tx.us)>, Larry Gonzales <[larry.gonzales@house.state.tx.us](mailto:larry.gonzales@house.state.tx.us)>, Cindy Burkett <[cindy.burkett@house.state.tx.us](mailto:cindy.burkett@house.state.tx.us)>, Richard Pena Raymond <[richard.raymond@house.state.tx.us](mailto:richard.raymond@house.state.tx.us)>, Cindy Burkett <[cindy.burkett@house.state.tx.us](mailto:cindy.burkett@house.state.tx.us)>, "J.D. Sheffield" <[j.d.sheffield@house.state.tx.us](mailto:j.d.sheffield@house.state.tx.us)>, Tony Dale <[Tony.Dale@house.state.tx.us](mailto:Tony.Dale@house.state.tx.us)>, Jessica Farrar <[jessica.farrar@house.state.tx.us](mailto:jessica.farrar@house.state.tx.us)>, James Frank <[James.Frank@house.state.tx.us](mailto:James.Frank@house.state.tx.us)>, John Frullo <[john.frullo@house.state.tx.us](mailto:john.frullo@house.state.tx.us)>, Robert Guerra <[bobby.guerra@house.state.tx.us](mailto:bobby.guerra@house.state.tx.us)>, Toni Rose <[Toni.Rose@house.state.tx.us](mailto:Toni.Rose@house.state.tx.us)>, Dawnna Dukes <[dawnna.dukes@house.state.tx.us](mailto:dawnna.dukes@house.state.tx.us)>

Jim Black, founder

Angel Eyes over Texas

Humble, TX

June 29, 2014

Attention Sunset Commission Members:

First I would like to thank you for allowing us the opportunity testify on June 25<sup>th</sup>. I found the experience to be enlightening but a little bit disheartening.

In case you did not know it, this Sunset review of DFPS is being followed by Child Protection reform advocates nationwide. Texas has the opportunity to lead the nation in developing a workable cutting edge system that rebuilds families instead of tearing them apart.

To help you understand my testimony let me first tell you a little bit about myself and Angel Eyes over Texas. My background is not in Social Work or Law; but instead in manufacturing as a Manufacturing Engineer. My lack of a formal education (GED) resulted in my working specialty contracts for 52 companies in 32 years over a wide course of industries; often more in the capacity of Corporate Anthropology than engineering. When presented with the Discovery on the 2<sup>nd</sup> trial against my youngest daughter; the lack of integrity and obviously bad casework, it became painfully apparent DFPS is not being operated in the manner in which it was designed.

**Understanding DFPS Disposition.** - Before I get heavily involved with my observations, I first ask you to look (outside the box) at how DFPS handles dispositions. For the purpose of this text and in observation of all public testimony, I beseech the Commission Members to apply Texas Administrative Code 40 TAC §700.511 to the evidence presented before you. The first subsection of that Rule is listed below.

(a) Allegation dispositions. An allegation disposition is the finding made in the investigation about each individual allegation of abuse/neglect which was identified at intake or during the investigation.

(1) Reason-to-believe. Based on a preponderance of the evidence, staff conclude that abuse or neglect has occurred.

(2) Ruled-out. Staff determine, based on available information, that it is reasonable to conclude that the abuse or neglect has not occurred.

(3) Unable to complete. Staff could not draw a conclusion whether alleged abuse or neglect occurred, because the family:

(A) could not be located to begin the investigation or moved and could not be located to finish the investigation; or

(B) was unwilling to cooperate with the investigation.

(4) Unable-to-determine. Staff conclude that none of the dispositions specified in paragraphs (1) - (3) of this subsection is appropriate.

(5) Administrative closure. Information received after a case was assigned for investigation reveals that continued Child Protective Services intervention is unwarranted as outlined in §700.507 of this title (relating to Investigation Interviews).

Determining Overall Disposition for the Investigation

Criteria for an Allegation Disposition		Overall Disposition
If any allegation disposition is:	and no allegation disposition is:	then the overall disposition is:
<i>Reason to Believe (RTB)</i>	(not applicable)	<i>Reason to Believe</i>
<i>Unable to Determine (UTD)</i>	<i>Reason to Believe</i>	<i>Unable to Determine</i>
<i>Unable to Complete (UTC)</i>	<ul style="list-style-type: none"> <li>• <i>Reason to Believe, or</i></li> <li>• <i>Unable to Determine</i></li> </ul>	<i>Unable to Complete</i>
<i>Ruled Out (R/O)</i>	<ul style="list-style-type: none"> <li>• <i>Reason to Believe,</i></li> <li>• <i>Unable to Determine, or</i></li> <li>• <i>Unable to Complete</i></li> </ul>	<i>Ruled Out</i>
<i>Administrative Closure (ADM)</i>	<ul style="list-style-type: none"> <li>• <i>Reason to Believe,</i></li> <li>• <i>Unable to Determine,</i></li> <li>• <i>Unable to Complete, or</i></li> <li>• <i>Ruled Out</i></li> </ul>	<i>Administrative Closure</i>

Table 1: Appendix 2472.1-A: Determining Overall Disposition and Overall Role (CPS Handbook)

In an early observation please notice how this table from the CPS handbook does not match the Administrative Code Rule.

But for the purpose of this text I will be using *Reason to Believe (RTB)*, *Unable to Determine (UTD)* and *Ruled Out (R/O)* in presenting a number of my observations.

## Early Observations

When a person first looks at the child protection system in Texas they see what appears to be one of the best systems in the nation. But when that same person looks at the delivery side and it is observed that same system is being grossly misapplied.

Texas has most of its DFPS related handbooks online and they are updated monthly. This simple transparency makes Texas unique among the other states. The only handbook that appears to be missing is the Administrative Management Policies and Procedures handbook. Through the Texas Public Information Act, all government information that affects a Texas citizen is to be made available to them. I feel that it should be also made public so that Rule 201 of both the Texas and Federal Rules of Evidence can be applied allowing it to be used as a quality control element in the courts.

Quality control is a major problem with DFPS. The agency has operated with such of a high turnover rate and lack of tenure that it has lost its knowledge base. The lack of proper training has pushed the agency farther and farther away from its intended mission. Remember that anytime a DFPS employee fails to follow the guidelines, statutes and rules set forth by the state they are actually insubordinate to their employer, the people of Texas. When it comes to statutes in many cases that insubordination results in down right criminal behavior, which violates Article 1 Section 30 of the Texas Constitution. Criminal behavior by caseworkers needs to trigger compensation under the Crime Victim Compensation Act of 1979.

Wednesday morning Rep. Dutton commented, "This is government at its worse." A bit later in the morning his quizzing the Sunset staff revealed a major problem. While on the surface the question only appeared to address rather or not the complaint process was effective or not. There is far deeper rooted problem here. Is DFPS delivering what it is supposed to be? And isn't that the reason for Sunset?

On Tuesday we heard the staff report, Stephens and agency response. All of which focused on the operational side of the agency, but I heard very little about the effectiveness of outcomes and service delivery. Then on Wednesday we heard a great deal about service delivery, but very little (almost none) of it was positive.

We also heard a great deal about culture and a need for change. Tyrone Obaseki hit it pretty close when he said the key word is "paradigm". I agree it is going to take a paradigm shift, change in focus and totally different mind set to make the system successful.

To show just how dysfunctional the system has become let's look at the job Reunification Safety Services (RSS). Angel Cook mentioned it in her testimony. I in mine. This job function is described in section 3500 of the handbook and managed by rule under 40 TAC 700.703. It was mentioned as a FBSS function on pages 78-79 of the self evaluation, but **NOTHING** in the staff report. With a vague mention of it in the Stephens Group assessment as functions of CVS. The handbook shows it to be a standalone job function not to be tied into caseloads from CVS or FBSS.

We feel that the failure of this job function from appearing more than vague mention in the Stephens report is a clear indication that it is being by passed all together. No other DFPS job function has a more direct effect on Recidivism; which in turn effects caseloads. If you are looking for something that inflates caseloads, here is a place to look.

But it is not just RSS where this is a problem. Families report the lack of actually receiving a list of services from any stage of service. It appears the department would rather keep the child needlessly in the system while collecting Title IV funds than to actually follow the process and return the child when possible.

Very often it is very hard to determine who or what DFPS is protecting. In many ways it appears the agency is exploiting the very people it is to protect.

## **Recommendations**

It has long been my contention that DFPS had far too much power for the quality of service it delivers. For that reason my recommendation is to Sunset DFPS as we know it. In it's stead create two new Sunset agencies to be reviewed on \*6 year cycles with one in sync with operational related agencies such as the current with the next synchronized with Judicial related. (\* Should be considered for even if DFPS remains)

1. Department of Services Protecting Families. Answering directly to the Governor.
  - Face time is of utmost importance. Develop procedures allowing maximum interaction with those being served.
  - Make maximum use of technology to improve contact.
  - Develop case management around GPS technology.
  - Move as much management functions to hand eld devices.
  - Adopt rules based Enterprise Resource Management into case management.
  - Re-purpose law enforcement squad cars for caseworker use. Set up motor pools in each region with gas and maintenance contracts through out. Replace prisoner rear bench seats with ones containing 3 integrated child seats. All vehicles should be equipped with printers.

- Develop casework pools where work is shared.
  - Have law enforcement conduct the initial investigation. Current investigations convert to Safety Assessment workers keying in safety assessment real time into their hand devices. Printing various documentation before leaving.
  - Use parallel case management when ever possible.
2. Office of Independent Ombudsman for Department of Services Protecting Families. Answering directly to the Attorney General.
- Write legislation insuring that workers know the limits of their immunity.
  - Strengthen the immunity statute making it a violation to fail to collect information that would clear a family or points to criminal activity within the agency.
  - Make the illegal removal of a child an offense under Penal Code §39.03 with min jail time for second offense.
  - Amend the statute of limitations for a caseworker committing crimes against a child to “Age 18, plus 10 years.” along with a child aging out automatically gets a copy of their records.
  - Make records required for discovery self redacting. Allowing them to be made available before the 14 day Adversary Hearing.
  - Make discovery ongoing and presented at each PMC review hearing.

Numerous other things that need to be presented.

Understanding that a working family is a safe family. It is better to offer services that repair the broken families and reduce recidivism. The only way to do that is take a fresh approach. In the Sunset's staff missing the reunification I can't help but wonder how much more has been missed. In the past, reform and redesign efforts have been made with the Ombudsman's office and Office of Consumer Affairs internal and it has been ineffective at curbing improper and illegal behavior by employees. Currently the ACA refuses to collect information while a case is open. In the case of DFPS getting Permanent Managing Conservator-ship the case is never closed as long as the child is in the system.

As in our case. We know that the two initial investigations were falsified. Caseworker and supervisor were instructed to close the case 7 months before removal. The only exigent circumstance that existed the day of removal was the conditions they created would not exist later. After refusing the caseworker entry they sent an apartment maintenance worker through the window to open the door. It was never revealed what the danger they entered the home to stop was. Caseworker lied and put in her report claiming eldest son did not live there; instructing dad to not allow contact with mom there by placing child under Official Oppression by failing to hold a proper §262.106 hearing. From the time of removal on June 25, 2009 to children's return on March 14,

2014, caseworkers only made two visits: December 16, 2009 and January 28, 2014. Never any contact with a RSS caseworker. We believe the intent was to delay as long as possible to collect child support and Title IV funding. There are more details within my 4-15-14 testimony in attachments.

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Jim Black

**Angel Eyes over Texas**

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Hello, my name is Jim Black. I represent myself, Angel Eyes over Texas and recently was asked to be the Texas representative for the Grandparents' Rights Association of the United States of America. (grausa.org)

First Mr Chairman I would like to thank you for also serving on the Sunset Commission and your expressed concerns toward the CPS portion of this review cycle. While I may have many concerns that would be best presented at Sunset I will attempt to direct my attention toward the implementation of Foster Care Redesign. More importantly the anxiety I feel toward building a new system on a flawed foundation with questionable integrity.

Angel Eyes over Texas was born when it was realized that the things we were experiencing while dealing with the agency was inconsistent with what was laid out in the handbook. Cps had split my daughter's cases into two separate courts which went to trial 10 months apart. The hard-copy discovery we received in 2010 raised questions but it was the search-able PDF we received in summer of 2011 that told the story. But it was the first two Permanency Planning Team meetings that got our attention.

We found out about our the first PPT when my daughter over heard the caseworker and caregiver talking about it at visitation the day before. About half way through the meeting I observed the PPT tech remove his wifi device from his computer but continued to type. At the end we were rushed out at the end with their claiming they had another PPT follow. Yet CASA remained. It would be several months before we come to know CASA volunteers only work one family at a time. That was when we realized the meeting had been staged. That PPT was on the younger two children in November 2009.

When we were invited to the PPT for the eldest child in February 2010 we were better prepared. The only people at this meeting with first hand knowledge of the case was myself, my daughter and her attorney. When the attorney started reading the list of participates we were told they were conducting a home study at the caregivers. The mediator phoned the caregiver but she was not at home. When she was reached via cell phone it was discovered that she was with the caseworker and CASA at another location. So once again we where at a staged PPT.

For the sake of time please allow me to hit the high points now followed by details. We have found several instances where investigators and caseworkers violated their immunity under Human Resource Code §40.061(c). Preponderance of Evidence shows that at least 3 felonies were committed with the possibility of between 6-8 along with numerous minor infractions.

In 2008, an investigator falsified two investigations which resulted in the family being placed Moderate -FBSS services. In November 2008, the program director instructed her to staff with legal or close the case. Legal said that it was possible to go for court ordered services, but instead the worker and her supervisor took another 7 months to create the conditions to remove the younger two children while the eldest was vacationing with his dad splitting them into two separate cases. We lost the younger two children to Permanent Managing Conservator with DFPS in 2010. Possession of the elder son was transferred to Dad in 2011. In December 2013, the judge in the younger children's case began questioning DFPS' activities and ordered a home-study. The children returned home 3/7/2014 after 1716 days in the system. Caseworkers had gone more than 49 months without visiting the home to see if conditions were safe. The children began transitioning home 3 weeks later. The elder child still remains with his alleged abuser.

I take this moment also to say we desperately needed HB-2218 which got hung up in this committee last session. In an ongoing situation dealing with PMC the Office of Consumer Affairs is useless

because they refuse to take a case as long as it is still open. When DFPS has PMC the case is never closed.

## Our CASE DETAILED

On the first Friday of May 2008 my grandson had a melt down at school over his father's inappropriate discipline practices in dealing with his son's reading problems. The following Monday (5/5/2008) the school filed a report with CPS. Statewide Intake contacted Humble PD but the proper jurisdiction for the school and home where the abuse took place was actually Harris County Sheriffs department. This contact would have been made to Humble PD child welfare officer, who had charged mom with sexual assault of a 16 year old minor in 2007. A charge that was dropped when the Grand Jury saw pictures of the victim showing his 6-8 tattoos made it impossible to tell the boy was underage. During the course of this dad asked out the child welfare officer forming some sort of relationship. *(Discovery revealed that a 2<sup>nd</sup> report was printed in mom's name. Both intakes show the exact same date and time stamp indicating records tampering. Records only show email communication with Humble PD nothing to the Sheriff.)*

Twenty-two days after the melt down, mom's boyfriend tripped over a cable cord who while falling collided with mom which resulted in a split eye needing stitches. While PD followed the ambulance out to the location the police report was not entered until 3 hours later. PD charged the boyfriend with family violence. When mom requested the charges be dropped they opened a 2<sup>nd</sup> CPS case on mom 3 days after school let out for summer vacation (6/6/2008). The report claimed that the perpetrator had access to the children but the truth is he remained incarcerated for 3 months.

*Upon reviewing the discovery it is noticed that both investigations show CPS history was not pulled until 6/13/2008 on both investigations. Indicating a high probability that the first investigation was held waiting for the second. Since the second investigation did not start until after summer vacation started it would have been impossible for the caseworker to know that the children attended separate schools all of the 2007-08 school year. Yet both investigations contain the following false statement.*

*[child's name] is a 6-year-old white and African-American female that attends Park Lake Elementary and is in the first grade. I spoke with [child's name] at Lakeland Elementary and she stated that she does know the difference between the truth and a lie and stated that she would tell the truth. She stated that she has never spoke with anyone from CPS before.*

*In addition the investigator claims they interviewed my granddaughter the day before the meltdown; 4 days before CPS got the case. Also both interviews show the wrong last name for my granddaughter. Had they gone to the school as the records claim 2 investigations a month apart would not have yielded the same wrong answers. Thus indicating both investigations were falsified. Another questionable item is the opening statement on the second investigation.*

*On 6/06/08, a referral was received alleging Physical Abuse and Neglectful Supervision of 8 year old [child's name] by his father. The priority of the case was determined to be a (2). Initial contact was made on 5/8/08.*

*Notice that it opens with the allegation from the first case and not the family violence claim from the second intake. It also shows initial contact is the same as the first, 17 days before the incident that created the case.*

One of the things that was found out in the 2010 discovery was the cover up of the Grand Jury findings in 2007. There was a second allegation of Negligent Supervision that was merged with the molestation case where my daughter's

uncle molested her in 1997. It appears that by doing so it makes it possible to use Texas Administrative Code 40 TAC §700.511(b) to claim "Reason to Believe" for the overall deposition of the case. By merging this with an old case creates history without documentation. Thus creating a poisonous tree that forever claims my daughter molested that boy despite the Grand Jury finding that it was impossible to tell his age. This presents a false picture to each and every caseworker, CASA, Ad Litem, County Attorney and Judge that sees it. I believe that this gets quite often when the agency does not have true evidence in a case.

When the FBSS portion of the 2008 case started they kept trying to push for placing the children into Parental Child Safety Placement because they did not have anything indicating that the children were in any danger. The caseworker approached the case very aggressively. So much so, our attorney had to threaten a protection order because she was endangering my daughter's pregnancy. Soon after my grandson was born the program director instructed her to close the case or staff with legal. Records indicate that she did meet with Legal. Yet she neither closed the case nor sought court ordered services. Two months later, staffing reports show where the worker and supervisor decided to offer to pay a utility bill. About a month later the boyfriend moved back to Oklahoma so that the agency would leave the family alone. A few days later the worker took the electric bill but never paid it causing a disconnection. On the day it was scheduled to be reconnected, mom and two younger children stopped by the apartment to pick up some clothes and stuff while in route to my house. While mom was gathering stuff the children fell asleep so mom took a nap. They were woken by the caseworker at the door. Daughter was due at work in a little over an hour so mom told her she did not have time to deal with her. The baby had a dirty diaper so mom took him in to bath right quick. Next thing she knew there was banging on the door by the police which with the power off sent her into a panic attack. About an hour later the power came on about the same time as the officer that had charged her with the sexual assault arrived. She proceeded to raise a window and allow an apartment maintenance man crawl through the window to unlock the door despite their not having a court order nor was it ever revealed what the immediate danger was to allow access to the children. The officer testified that the DA had told her that there was no way she could enter the apartment, but the judge allowed this 4<sup>th</sup> amendment violation.

Both the officer and the caseworker admitted to witnessing mom taking the last pill of her medication. Both indicated that after a long discussion claiming that she should not be out of her medication. Yet simple math showed that 120 pills taken every 4 to 6 hours has a range of 20 to 30 days. The children were removed at 22 days. That documentation was evidence of coercion.

Despite her contact logs showing that my eldest grandson lived in the house the caseworker claimed his address was at his father's. The workers affidavit shows where she said she instructed dad not to allow the child to return home. Thus documenting her committing official oppression against this child by not doing a removal hearing and opening services on him. Six months later the judge said that the elder son was not part of the case. That was when they opened an additional case on him in another court. When it came time for that case to go to trial, CPS withdrew their interest in getting PMC or TPR yet the county attorney presented the case bringing in several expert witnesses for the state while Daddy sat there without an attorney and won the case on the states dime.

The first case was well into appeal when we discovered the questionable activities. For some reason our attorney has been unwilling to reveal these findings showing how the case was mishandled. The only reason the children are home now is because at the last two permanency review hearings neither the caseworker with first hand knowledge of the case nor the foster agency monitoring the case showed for the hearing. It had been the judge that decided to go with PMC instead of TPR to begin with. So he ordered a new home-study. The last time a caseworker had been to the home had been December 16, 2009 and the new study was conducted January 28, 2014. We expect to get final judgment on the return of these children on June 12<sup>th</sup>.

Thank you