

**From:** [Sunset Advisory Commission](#)  
**To:** [Cecelia Hartley](#)  
**Subject:** FW: HHSC written Testimony  
**Date:** Tuesday, November 18, 2014 5:22:15 PM  
**Attachments:** [Untitled attachment 26678.png](#)  
[adoption incentive history.pdf](#)

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**From:** Jim Black  
**Sent:** Tuesday, November 18, 2014 3:50 PM  
**To:** Sunset Advisory Commission; 'Brian Birdwell'; Charles Schwertner; Cindy Burkett; Donna Campbell; Harold V. Dutton; J.D. Sheffield; James Frank; 'Jane Nelson'; Juan Hinojosa; Four Price; 'Kyle Janek'  
**Cc:** John Whitmire; Senfronia Thompson  
**Subject:** HHSC written Testimony

Jim Black

Founder - Angel Eyes over Texas

Humble, Texas

My name is Jim Black and I am the founder of Angel Eyes over Texas. I am here today to discuss HHSC and the consolidation of the 5 agencies plus hope fully touch on issues about the OIG.

As many know my background is not in social services nor law. I am a retired manufacturing engineer that sees a broken system with quality control problems. So many of the concepts I present may seem a bit outside the box.

While most of Angel Eyes' research is geared toward DFPS; more specifically CPS, we have noticed a number services (or lack thereof) which actually belong outside the scope of that agency. For that reason I am in favor of consolidation provided that we don't see even more family preservation that were stripped away when HB2272 created the Department of Family and Protective Services (DFPS). But I am not in favor of dismantling the boards or councils related to managing them. While many services maybe shared across these agencies we still need these management entities to insure the available services make it too the target group. We need that targeted approach to service application.

1. Earlier this year, on July 22, 2014, the [Annie E. Casey Foundation](#) released its 2014 Kids Count data book, which showed that Texas dropped from 42 to 43 this year based on their 16 factors listed below.

Texas ranked	43 out of 50
Economic Well-Being	32
Education	34
Health	40
Family & Community	47

#### FINAL LIST OF INDICATORS SELECTED FOR THE NEW KIDS COUNT INDEX

#### Indicator

##### ECONOMIC WELL-BEING

Percent of children in poverty (income below \$22,113 for a family of two adults and two children in 2010)  
 Percent of children whose parents lack secure employment (no full-time, year-round work)  
 Percent of children in households with a high housing cost burden  
 Percent of teens not in school and not working (ages 16-19)

##### EDUCATION

Percent of children not in preschool (ages 3-4 )  
 Percent of 4th graders not proficient in reading  
 Percent of 8th graders not proficient in math  
 Percent of high school students not graduating on time

##### HEALTH

Percent low-birthweight babies  
 Percent of children without health insurance  
 Child and teen death rate (per 100,000 children ages 1-19)  
 Percent of teens who abuse alcohol or drugs (ages 12-17)

##### FAMILY AND COMMUNITY

Percent of children living in single-parent families  
 Percent of children living in families where the household head lacks a high school diploma  
 Percent of children living in high-poverty areas  
 Teen birth rate (per 1,000 teens ages 15-19)

2. In 1989 Dr. Hallam Hurt, then chair of neonatology at Albert Einstein Medical Center of Philadelphia began a study of 224 infants all from the same social economic background. At the time the study began 1 in 6 of these children were being born with cocaine in their system. Over the course of 25 years they were able to track 110 of these children. In 2013, the findings were revealed and surprisingly poverty had a far greater effect on these children than the drugs.

That brings us to why we are here today. No other part of the Sunset review has as great of an impact on the overall wellbeing and social-economic impact on our Texas children as this HHSC portion.

While for many HB-2292 appeared to be a positive action, but for those dealing with child protection saw it as a downgrade in services. Families saw a far better system before than after. During the last review of DPRS saw the addition of subtitle (c) to Human Resource Code [§40.061](#) which was intended to add more accountability for DFPS employees. Along with it saw the creation of §261.3015 which created the [Flexible Response System of Service Delivery](#) which included a requirement to upgrade the standard of proof for investigations from "some credible evidence" to "preponderance of the evidence" ([40 TAC §700.511](#), amended 1999) . A system that appears to have never been implemented. It appears that SB-423 (83R) was an expansion of this by adding the "Alternative Response" stage to meet the requirement by in Child Abuse Prevention and Treatment Act (CAPTA) in 2011 in developing a "differential response" system. The Sunset staff made brief referrals to this

new stage of service in the DFPS recommendations staff report, but there has not been any public testimony by DFPS on the subject. While SB-359 (75R) appeared to provide a number of family protections, the combination of HB-2292 and SB-6(79R) seemed to remove them.

One of the things that came to our attention was the pattern seen by looking at the “Adoption Incentive History”(see attachment) since 1998. Texas is the only that has not had a \$0 incentive year, but leads the 50 states at \$63,592,654 total. This is a full 32% above 2<sup>nd</sup> place Florida at \$43,192,496 and 142 times that of last place Massachusetts at \$447,126. Massachusetts also happens to be rated #1 by the Casey Foundation. That should tell us something. While I’ve commented on DFPS, here are my some concerns on the HHSC recommendations.

### **My Comments about the Staff Report, Including Recommendations Supported or Opposed**

AEovrT has mixed feelings toward Issue 1. We have long felt many of the services within DFPS did not belong. The silo effect causes DFPS employees to often be unaware of the services available; even those found under “concrete services” in the CPS handbook section [3434.3 Eligible Goods and Services to Purchase With Concrete Services](#). Sadly the agency seems to fail to follow the hand book for delivering family preservation (*FPR*) or family reunification (*FRE*) services. For those reasons we support moving all services into HHSC turning it into a top level “vender services” server. This would allow all child agencies/divisions to look upward to receive whatever services their client base requires. Using “functional objectives” as the first division of services, then distributing them via client requirements will better serve those in need while maintaining a higher quality of employee.

I propose elevating investigations and SWI also to Centralized Services, developing rules and procedures for delivering services to the client agencies/divisions. Investigative services should reflect deployment of law enforcement not that of social workers, having both Rapid Response and Post Assessment divisions to insure the safety of the most vulnerable clients.

AEovrT believes that the advisory councils are far too important to loose.

AEovrT opposes changing of the appointment of the OIG. The independence of this job is far too important. We do not want the “Fox watching the henhouse.” Also we feel that this position should meet the requirements of [Texas Criminal Procedure Art. §2.12](#). One area of concern when dealing with the OIG, OCA or ombudsman was raised when DFPS published the OCA handbook online October the 9th. Section [5200](#) revealed conditions under which reviews and investigations into agencies can be rejected. Texas Administrative Code [40 TAC §702.841\(b\)](#) in particular caught our attention.

(b) An Ombudsman Office Review is not available if PRS determines that a court of competent jurisdiction has issued an order that is legally consistent with the PRS finding on the allegation of abuse, neglect, or exploitation for which the Review was requested.

If our understanding of this rule is correct, basically a caseworker can fabricate evidence, commit perjury or whatever necessary to convince a judge that an allegation is true and

once ruled the review is halted. This is how the agencies have been bypassing **actually** investigating and holding workers accountable for criminal activities. This is the loophole that creates the situation that Rep. Dutton was questioning the Sunset staff on June 25th. So under whatever configuration is finalized for HHSC, accountability must be of the **utmost** importance.

### **Any Alternative or New Recommendations on This Agency**

If I may digress back to manufacturing to present an example. In the 80s software known as Material Requirement Planning (MRP) was developed to allow manufacturing companies to better track materials needed to manufacture a product. Later it evolved into Material Resource Planning (MRP-II) that incorporated tracking the outside vendors along with all internal processes. This in turn graduated into Enterprise Resource Planning (ERP) which added quality control, sales and other enterprise functions resulting in total management of all resources. With the development of these technologies came the concept that each child process was the customer of its parent. Interesting enough, on November 12th, Commissioner Janek touched on this concept when he was talking about Legal and Information Technology services.

Information Technology has progressed to tremendously since that software and these concepts were introduced. Most tablets, smartphones and smart-cameras now contain GPS allowing them to know where they are when accessed making address entry a thing of the past. These devices can open case files by simply “checking in” upon arrival at a location. They can serve as a mobile time clock and location verification device improving the integrity of casework. They can activate a panic clock that must be cleared to protect the worker. Photos, voice recordings and videos can automatically be linked to the case file simply by logging the meta-data. Concepts on how modern technology can improve asset and resource tracking while improving integrity and accountability appear to be endless.

Filling out a risk or needs assessment is very much like making a custom manufactured product. The requirements list generated by an assessment is equivalent to a Bill of Materials which is used to build a Work Order of required services. Work orders direct the Routing of a job through the factory and to outside vendors. The coming together of all in plant processes and services along with those of outside vendors is collected in what is known as a “Super-Bill of Materials”. All these concepts have been around long enough that a quality IT team could adapt them to social work. Even the common day to day, face to face visits can be managed by a system similar to work orders. By adopting a system such as this time frame constraints can be monitored and tracked. By tracking all aspects of this a true picture of what is needed to complete all necessary tasks is generated. How better can one justify caseloads.

In discussing integrity and quality control, I’ve never seen a successful company that allowed operations to manage quality control. They always make it a function of engineering so that quality is maintained without production/operations taking short-cut. Thus the reason OIG

and ombudsman functions need to be independent of the client agencies/divisions they monitor. Any system developed needs to incorporate "Continuous Quality Improvement" measures.

**My Comment Will Be Made Public** *I agree to my statements being made public.*

Please note that your response to a Sunset staff report is public information and subject to disclosure under Chapter 552 of the Texas Government Code, commonly known as the Public Information Act. In addition, Sunset will post your response on the website.

**AEovrT history:**

Angel Eyes over Texas (AEovrT) was created in 2010 as the a result of observing a number questionable activities by DFPS staff late in 2009 ultimately this resulting in the removal of two of my grand-children on June 25<sup>th</sup>, 2009 while their elder brother was denied services and Officially Oppressed ([§39.03](#)) along with his rights to due process denied under the 14<sup>th</sup> Amendment and was not placed into the system until January 29<sup>th</sup>, 2010. This resulted in the family fighting CPS in the 246<sup>th</sup> and 309<sup>th</sup> district courts at the same time. The younger pair were placed in Permanent Managing Conservatorship (PMC) of DFPS in September 2010 when CPS could not produce enough evidence to Terminate Parental Rights (TPR). In 2011, about a year into the appeal, discovery in regards to Harris County 2005-33604 revealed at least 3 violations of Texas Penal Code [§37.10](#) a direct violation of Human Resource Code [§40.061](#). Summer of the same year saw CPS withdraw their interest in the elder child, yet state attorneys presented the case sending the eldest child into PMC with his father whom represented himself pro se. during the course of PMC on the younger children, CPS employees failed to visit the mother's home from December 16<sup>th</sup>, 2009 until January 28<sup>th</sup>, 2014 resulting in mom being hit with assigned child support and the state and caregivers fraudulently collecting Title IV funding. The younger pair were returned home on March 14<sup>th</sup>, 2014. They were assigned a "green" CVS caseworker that graduated basic skills on March 5<sup>th</sup>. The only FRE services provided the family was a set of bunk-beds. Case was closed in the 246<sup>th</sup> on October 14<sup>th</sup>; one month past the statutory 180 days for a monitored return. The younger grandson on this case was 9 months old when removed. He came home with a bed wetting problem. Upon asking the pediatrician for a referral on getting the child the psychological help the state failed to provide. He in turn opened a fresh case against move over the states short comings. So you can tell why I would have a concerned with how the state fails to provide the same services provided before HB-2292.

While my background is not in legal nor social work, but instead Manufacturing Engineering; meeting the demands of engineering specs and codes are very similar. As a Mfg. Engineer, solving broken systems takes precedence in finding the numerous instances where DFPS employees are insubordinate to their jobs as defined in the DFPS handbook, Human Resource Code chapter 40 along with often failing to follow the rules defined by Texas Administrative Code. Our mission statement is "Watching (CPS) while others can't."

Thank you for your attention,

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**Jim Black**