

OCT 17 2014



## TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

COMMISSIONER  
John J. Specia, Jr.

October 17, 2014

Mr. Ken Levine  
Director  
Sunset Advisory Commission  
Post Office Box 13066  
Austin, TX 78711

Dear Mr. Levine:

We, the undersigned, are writing in response to your letter of October 8, 2014 requesting the Family and Protective Services Council's position on recommendations in the Sunset Commission's staff report regarding the Health and Human Services Commission (HHSC). Your letter indicated that the Council's position was needed by Friday, October 17. Accordingly, a quorum of the Council's members met in an emergency telephone meeting on October 14 that was posted and conducted in conformity with the Texas Open Meetings Act. At that meeting, the Council focused on two primary aspects of recommendation 1.1 of the report and formulated the positions outlined below:

**Sub-recommendation to Recommendation 1.1: Replace the five agency advisory councils with an executive council comprising the executive commissioner and division heads to obtain public input.**

The Council does not support replacing the five councils with the executive council as contemplated by the staff recommendation:

- **The DFPS Council adds value, first and foremost by offering the public avenue and an opportunity to provide input on DFPS business and second by establishing key ties in communities across the state.**
  1. A principal concern identified by Council members with the proposed Executive Council structure is that the Executive Council would not be subject to the Texas Open Meetings Act, and this feature begs a lack of transparency in government. While the requirements of the Open Meetings Act are not the only means by which to guarantee public input, as reflected in the staff recommendation, the Act does operate as an important protection for public input. Additionally, the proposed Executive Council would not be focused on a specific division of the agency, and all stakeholders who would otherwise have testified in an individual agency public meeting would be required to testify in an even more crowded forum. This configuration would deter the public from involvement in the decision making process, which is a core value of the DFPS Council as it currently exists. It is important to have a body dedicated to the mission of a single agency or division to

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guarantee the proper spotlight on issues of concern to the public in general and the agency's stakeholders in particular. Although the Sunset recommendations contemplate the creation of additional advisory councils, there is no assurance that appropriate attention would be paid to important issues such as child welfare.

2. Another core feature of importance to the public is that the DFPS Council members function as ambassadors in their communities, interfacing with nonprofits, advocacy groups, private businesses and even DFPS staff to educate, collaborate and create a necessary feedback loop between the stakeholders in the regions and DFPS executive staff.
- **The DFPS Council could be better utilized, and because of how the Council has been utilized (or not utilized) in the past, Sunset staff could have been given an incomplete picture.** Over the years, the DFPS Council has been utilized to varying degrees in agency decision making. The Council thinks that Commissioner Specia and current agency staff have done a good job in working with the Council, but all agree that the Council's role is in need of refinement. They are the primary conduit for public input, and are directed in statute to "assist the commissioner in developing rules and policies for the department" and to study and make recommendations to the commissioner in developing rules and policies for the department. Texas Human Resources Code § 40.021. Nonetheless, there has been historic confusion because the Council is an advisory, not policy making, body, and has not generally been utilized in policy making other than in the promulgation of agency rules. While rule changes made pursuant to Council feedback in their advisory capacity are relatively infrequent, the Council has made key recommendations that benefit vulnerable Texans. Moreover, because of the lack of clarity in the Council's role, and the many advisory committees under review by Sunset, including committees that were in statute but no longer functioning, there was some concern that the value added by the Council could have been obscured. The Council has numerous recommendations regarding how to clarify the Council's role to better benefit the public and agency staff—for example that there should be a representative of each of DFPS' administrative regions; and that there should be a committee and public forum focused on each agency (or division).
  - **Authority given to the Executive Commissioner to appoint Executive Council members necessary is not adequate assurance for public input.** The Council members did not pick the Council; members were identified for the Council by the Governor because they represent the geographic and professional diversity of the state. It is important that the Governor, rather than the executive head of the agency make the appointment, and that the Committee be required by law to receive public input. The requirements should be memorialized in statute.
  - **The loss of value contributed the Council outweighs any cost savings.** While the Sunset staff recommendations in this review were not focused on cost savings, Sunset staff are likely to look for efficiencies, including those involved in eliminating the five separate advisory councils. This recommendation overlooks the dollar value to the state of the extensive pro bono work performed by Council members. The members devote not only the time involved in preparing for, traveling to, and participating in Council meetings, they spend time learning DFPS programs; attending community events; forging relationships in their local communities; and working to the benefit of DFPS staff wherever and whenever possible.

**Recommendation 1.1 Consolidate the five HHS system agencies into one agency called the Health and Human Services Commission, with divisions established along functional lines and other features as described below.**

The members were given insufficient time to formulate an informed response on this recommendation, and the time frame allotted is at odds with the importance the input of the Council should have been afforded, as citizens who were asked by the Governor to serve the State of Texas to protect those citizens who cannot protect themselves. Nonetheless, based on the limited review they were able to undertake by the time of the meeting, the Council does not think that consolidation will bring about an improvement in services for DFPS clients. Consolidation represents a step backwards in terms of being able to improve the agency and continue the accomplishments of the prior twenty years. DFPS is unique in its relationship to vulnerable children and adults, and any overlap between DFPS functions and that of other agencies should be rectified without the proposed consolidation. Day care is closely related to foster care and given the cross-over in populations, Child Care Licensing as a whole should remain in the same agency. DFPS is already challenged to manage beyond the crisis of the day; making DFPS part of another large agency will make meeting client needs more difficult. While members understand no one is certain what the impact of consolidation will be to health and human services clients, it does not seem that moving away from agencies dedicated to their respective missions will improve services. The progress of the current structure over the past ten years clearly shows the importance of the division of agencies.

The undersigned members of the DFPS Council agree that this letter reflects their input.

Sincerely,

Patricia B. Cole

Jim Ann Santos

Ben Morris

Judith D. Timmerman, Ed. D.

Amogen S. Pappasopoulos, ID

The following members of the Texas Department of Family and Protective Services Council have consented to an electronic signature and wish to have their names added to the attached response.

Christina Martin  
Chair