

October 17, 2014

Sunset Advisory Commission  
P.O. Box 13066  
Austin, TX 78711

Re: Comments on Sunset Staff HHSC Report (October 2014)

Dear Sunset Advisory Commission:

I respectfully submit the following comments regarding the Sunset Staff Report about the Health and Human Services Commission (HHSC)(October 2014). I am concerned about the recommendations as they relate to child protection. I urge you to reject parts of Issue 1 and parts of Issue 2.

By way of [background](#), I have been deeply engaged in child protection for more than 25 years, first as a district judge hearing child abuse cases, then a child welfare policy wonk working on legislation, and now as Director of the Children's Rights Clinic at the UT Law School, where we represent children as attorneys and guardians ad litem in child protection cases.

Centralization has advantages and disadvantages, and decentralization has advantages and disadvantages. In organizing any undertaking, you have to find the right balance. In 2003, the Legislature moved from twelve health and human service agencies to five. The Sunset Staff asserts that the "state did not finish the job," apparently assuming that creating a mega-agency was the job. Instead, the job was finding the right balance between centralization and decentralization. Merging family and protective services into a mega-agency is a mistake.

At one time, family and protective services was merely a division in the much, much larger Department of Human Services. As a small part of a large bureaucracy, family and protective services did not get the attention it needed and could not move nimbly to provide critical services.

Recognizing this problem, in 1991, in House Bill 7 in the First Called Session of the 72<sup>nd</sup> Legislature, the Legislature separated family and protective services into its own department. Sunset Staff does not refer to this history and makes no case for consolidating family and protective services back into a mega-agency.

### Too Big

A bureaucracy can become too big, masking accountability and moving ponderously. Smaller departments with clear responsibility and the ability to move nimbly to address critical issues are preferable. One need only point to the federal Department of Homeland Security for proof that an agency can be too big.

### Discouraging Top Talent

Recruiting top talent such as Judge John Specia at the Department of Family and Protective Services is harder in a mega-agency. Top talent wants the capacity to make things happen that a mega-agency structure does not provide.

### Units Must Control Their Own Support Resources to be Effective

Just as a general needs to control the support resources for an army at war, the head of child protection needs to control the support resources for CPS such as the human resources unit that hires staff and the IT unit that provides technology. Like the general, the head of child protection must be able to muster and deploy resources as needed. Trying to save a few dollars by consolidating administrative functions ultimately costs far more in program effectiveness.

### Wasting Limited Resources and Creating New Silos

Moreover, the effort to consolidate everything under the sun squanders time and money better spent on delivering quality services. Ultimately, the effort leaves you with just a different set of silos.

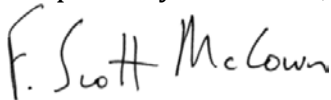
### Moving Child-Care Licensing

Sunset Staff proposes to separate child-care licensing (which regulates residential child care and day care) from child protection. Sunset Staff would transfer child-care licensing to a regulatory services division consisting of many, diverse licensing programs. The advantaged Sunset Staff posits is that child protection can then focus on child protection. A major component of child protection, however, is the quality of residential care—the treatment and services provided in foster care. In fact, the ongoing foster care redesign effort is an attempt to reimagine treatment for children and families. Jumbling child-care licensing with other regulation in a distant silo from child protection will undermine efforts to improve our system and lead to operational problems for CPS.

### Conclusion

While some consolidation and a different configuration of agencies may be desirable, I urge you to reject moving child protection into a mega-agency.

Respectfully submitted,



F. Scott McCown

Clinical Professor and Director of the Children's Rights Clinic  
The University of Texas School of Law

**From:** [Sunset Advisory Commission](#)  
**To:** [Cecelia Hartley](#)  
**Subject:** FW: Form submission from: Public Input Form for Agencies Under Review (Public/After Publication)  
**Date:** Friday, October 17, 2014 11:56:51 AM

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

From: sundrupal@capitol.local [<mailto:sundrupal@capitol.local>]  
Sent: Friday, October 17, 2014 11:33 AM  
To: Sunset Advisory Commission  
Subject: Form submission from: Public Input Form for Agencies Under Review (Public/After Publication)

Submitted on Friday, October 17, 2014 - 11:32

Agency: HEALTH AND HUMAN SERVICES COMMISSION HHSC

First Name: F. Scott

Last Name: McCown

Title: Clinical Professor and Director of the Children's Rights Clinic

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Email: smccown@law.utexas.edu

City: Austin

State: Texas

Your Comments About the Staff Report, Including Recommendations Supported or Opposed:

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F. Scott McCown

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Any Alternative or New Recommendations on This Agency: Do not merge the Department of Family and Protective Services into a mega-HHSC.

My Comment Will Be Made Public: I agree