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TEXAS JUVENILE PROBATION COMMISSION

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EXECUTIVE DIRECTOR

Vicki Spriggs

November 25, 2008

Joey Longley, Director
Sunset Advisory Commission
Robert E. Johnson Building
1501 North Congress Avenue, 6th Floor
Austin, Texas 78701

Dear Mr. Longley:

Please find the attached document in response to the Sunset Advisory Commission Staff Report. It was a pleasure to work with your staff and I commend their efforts throughout this challenging task. While our agency is opposed to the consolidation of the Texas Youth Commission and Texas Juvenile Probation Commission, we are in agreement with most of the other staff recommendations and are looking forward to the continuing collaboration between our agency, your staff and the Texas Youth Commission the issues that remain. If you have any questions or need additional information prior to the scheduled public hearings, please contact me or my staff.

Sincerely,

A handwritten signature in cursive script that reads "Vicki Spriggs".

Vicki Spriggs
Executive Director

**TEXAS JUVENILE
PROBATION COMMISSION'S
AGENCY RESPONSE TO
SUNSET ADVISORY
COMMISSION STAFF REPORT**

November 2008



**Sunset Advisory Commission Staff Report
TJPC's Agency Response
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Issue 1: Texas' Juvenile Justice Agencies, Services, and Funding Need Major Restructuring to Ensure an Effective Continuum of Treatment and Sanctions for Youthful Offenders.

Recommendations for Statutory Changes

1.1 Abolish TYC and TJPC and transfer their functions to a newly created state agency, the Texas Juvenile Justice Department, with a Sunset date of 2015.

Agency Response to Recommendation 1.1: Disagree

The Texas Juvenile Probation Commission disagrees with the recommendation to abolish the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC) and create a new state agency, the Texas Juvenile Justice Department. TJPC and TYC should remain separate, independent agencies. TJPC does agree with many of the overall goals for the Texas juvenile justice system contained within the Sunset Commission Report. However, the agency believes that combining two separate agencies with very distinct mandates and responsibilities does not ensure creation of an effective juvenile justice system. Although TJPC and TYC are agencies that are committed to the service of the state's population of juvenile offenders, it is evident that the underlying philosophy and focus of the two agencies are quite different. The statutory clause that describes the overall purposes contained in the enabling legislation of TJPC and TYC highlights objectives at markedly different points in the continuum of the juvenile justice system. In particular, the emphasis of TJPC is to make probation services available throughout the state. Most importantly, the agency's primary focus at the front end of the system is to ensure core juvenile probation services and supervision as well as to provide alternatives to commitment. In contrast, the principal objective of TYC at the back end is to administer and address the needs of youth in the state's correctional facilities after commitment. These two purposes are clearly incongruent. Under a consolidated model, this would establish an inherent incompatibility as to philosophy, purpose and overall resource allocation when diversion programs and placements must compete against the requirements of maintaining the state's correctional institutions.

Consolidation is the most drastic of remedies to address the current situation at TYC and the need for greater collaboration between the two agencies. Less dramatic and more realistic options exist to achieve the appropriate goals cited in the Sunset Report and such options will ensure that TJPC continues to maintain its highly functional status while allowing TYC to benefit from continued implementation of the reforms of Senate Bill 103. These alternative options for greater system coordination have already been adopted by the leadership of the two agencies.

Senate Bill 103, passed during the 2007 legislative session, contained massive reforms for TYC. The reforms of SB 103 must be allowed to work and the effectiveness of the reforms must be fully analyzed to determine future TYC needs. To consolidate TJPC and TYC amidst the implementation of the SB 103 reforms is counterproductive and will jeopardize TYC's progress by injecting an entirely new set of issues and challenges that always exist when two agencies are consolidated. Creating a new state agency is a monumental undertaking under the best of circumstances and requires the complete focus of the combined entities to successfully blend roles, functions and staff. To divert TYC's attention from a complete focus on their current reform efforts and requiring leadership of the agency to implement a consolidation model is illogical at this point in time. TYC must achieve stability and true reforms before any consideration is given to consolidating the agency with another. Consolidating TYC and TJPC during these reforms will, at best, simply increase the challenges for both agencies and, at worst, cause the entire juvenile justice system to falter under the strain of a consolidated system.

All juvenile justice professionals can agree that a consistent approach to the treatment and rehabilitation of delinquent youth is certainly a worthwhile goal as is reducing barriers to effective services and treatment. Consolidating TJPC and TYC will do little to achieve this goal as the problem of inconsistent treatment and services is more a function of limited resources than lack of collaboration between agencies that treat youth at different points in the juvenile justice system. TYC must be fully funded to treat all youth committed to its care and local community based probation programs need adequate funding to meet the specialized treatment needs of youth they serve in the counties. Creating a larger state agency bureaucracy will ultimately cost more in the long run despite cost savings predictions in the short run as any

consolidated system has historically shown. Additional funds need to be directed toward direct services to youth and not toward creating a larger state agency.

The other goals cited by the Sunset report include the sharing of data and data systems so that critical information regarding youth is available to practitioners. This goal is already occurring and consolidation of the two agencies will not affect this process. TJPC has participated for nearly two years in the development of the statewide Juvenile Case Management System (JCMS) and TYC is now actively analyzing the best way to utilize the JCMS system to meet their needs. The JCMS project will address the need to share juvenile justice data statewide between local and state entities, including youth assessment data. Use of this data from the JCMS system will contribute to more effective strategic planning between TJPC and TYC. Full implementation of JCMS is dependent, not upon consolidation of the two agencies, but upon funding for the project. TJPC requested funding for the JCMS Project in last session's Legislative Appropriations Request (LAR) and is again requesting the funding in the current LAR.

Joint strategic planning has always occurred between the two agencies; however, both agencies agree with the Sunset report that the effectiveness of the joint planning can and must be greatly improved. Since the new leadership at TYC, both agencies have actively been collaborating on a wide variety of issues and projects and this will continue. Clearly, the goals described in the Sunset report are worthwhile and necessary, but all can be accomplished without consolidation of TJPC and TYC and will be accomplished because both agencies have effective and strong leadership that will ensure the goals are met.

1.2 Establish an 11-member Board to govern the Texas Juvenile Justice Department.

Agency Response to Recommendation 1.2: Disagree

The Texas Juvenile Probation Commission disagrees with the recommendation to abolish the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC) and create a new state agency, the Texas Juvenile Justice Department. TJPC and TYC should remain separate, independent agencies. Thus, TJPC disagrees with this recommendation to create a new board for the new state agency. TJPC believes the current governing board structure for TJPC is effective and should remain as an independent board for TJPC.

1.3 Establish a community corrections pilot program that encourages counties to keep lower-risk offenders eligible for commitment to TYC in their home communities and out of state confinement.

Agency Response to Recommendation 1.3: Modify

The Texas Juvenile Probation Commission disagrees with the overall recommendation to abolish the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC) and create a new state agency, the Texas Juvenile Justice Department. TJPC and TYC should remain separate, independent agencies. TJPC agrees with Recommendation 1.3 regarding establishment of a pilot funding program and believes this should be a mandate for TJPC as an independent, stand-alone state agency. TJPC believes that the agency should determine and define the parameters and specifications of the pilot program, based on the Five Year Juvenile Justice Master Plan to be developed jointly between TJPC and TYC, to achieve the most effective results. Beginning with the expansion of local construction bond facilities across the state after the major reforms in 1995, TJPC has historically served as the agency responsible for implementing the statewide infrastructure for diversionary correctional placements for juvenile offenders at the local level, providing technical, programmatic and placement guidance, as well as developing standards and monitoring oversight. TJPC contends that the agency has a greater working knowledge of the county level juvenile justice infrastructure and is therefore best suited to determine and define the parameters and specifications of the pilot program to achieve the most effective results.

Recommendations for Changes in Appropriations

- 1.4 The Sunset Commission should recommend that the Legislature designate appropriate funding to establish the community corrections pilot program.**

Agency Response to Recommendation 1.4: Modify

The Texas Juvenile Probation Commission disagrees with the overall recommendation to abolish the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC) and create a new state agency, the Texas Juvenile Justice Department. TJPC and TYC should remain separate, independent agencies. TJPC agrees with Recommendation 1.4 regarding funding for the pilot program described in 1.3; however, it is important to note that the funding for this pilot must be new funding. Any reduction in current funding to facilitate this pilot may be counterproductive and have a negative impact on current probation services.

- 1.5 Consolidate existing community corrections funding for probation departments through the State's appropriations process.**

Agency Response to Recommendation 1.5: Modify

The Texas Juvenile Probation Commission disagrees with the overall recommendation to abolish the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC) and create a new state agency, the Texas Juvenile Justice Department. TJPC and TYC should remain separate, independent agencies. TJPC agrees with Recommendation 1.5 and believes this should be a mandate for TJPC as an independent, stand-alone state agency. Recommendation 1.5 has previously been included in the current TJPC Legislative Appropriations Request (LAR).

Recommendations for Change in Statute

- 1.6 Require the Department to consider past performance in awarding future community corrections grants or pilot program grants.**

Agency Response to Recommendation 1.6: Modify

The Texas Juvenile Probation Commission disagrees with the overall recommendation to abolish the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC) and create a new state agency, the Texas Juvenile Justice Department. TJPC and TYC should remain separate, independent agencies. TJPC agrees with Recommendation 1.6 and believes this should be a mandate for TJPC as an independent, stand-alone state agency. Prior to Sunset review, TJPC had begun a research project to determine the acceptable and appropriate performance measures for each level of the Progressive Sanctions Guidelines in the Texas Family Code. A certain percentage of future grants will be allocated based upon performance.

- 1.7 Require the Department to establish basic probation and community corrections funding formulas in rule.**

Agency Response to Recommendation 1.7: Modify

The Texas Juvenile Probation Commission disagrees with the overall recommendation to abolish the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC) and create a new state agency, the Texas Juvenile Justice Department. TJPC and TYC should remain separate, independent agencies. TJPC disagrees with Recommendation 1.7. TJPC agrees in principal that placing the funding formulas in administrative rule is appropriate; however, to put the funding formulas in rule will prevent the agency from allocating the funds in a timely manner to counties at the beginning of the state fiscal year. The funding allocated to TJPC for the counties is determined at the

close of the Texas legislative session each odd-numbered year and the session closes at the end of May approximately. TJPC normally begins allocation of funding September 1 of each fiscal year. To determine the funding formula and promulgate administrative rules for the formula will take longer than three months because of all the procedural requirements of the Texas Administrative Procedure Act. All rules must go through at least one 30 day public comment period and it is normal for rules to require two 30-day public comment periods. Thus, TJPC could be forced to begin dissemination of funds well after September 1 and this could have a detrimental impact on county budgets as probation departments rely on grants being allocated promptly on September 1 of each year.

1.8 Require the Department to give juvenile courts access to information on youths' progress at TYC.

Agency Response to Recommendation 1.8: Modify

The Texas Juvenile Probation Commission disagrees with the overall recommendation to abolish the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC) and create a new state agency, the Texas Juvenile Justice Department. TJPC and TYC should remain separate, independent agencies. TJPC agrees with the TYC response to Recommendation 1.8 and TJPC will collaborate with and assist TYC to facilitate and implement this recommendation.

1.9 Require the Department to adopt a memorandum of understanding with TCOOMMI for continuity of care for juvenile offenders with mental impairments.

Agency Response to Recommendation 1.9: Modify

The Texas Juvenile Probation Commission disagrees with the overall recommendation to abolish the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC) and create a new state agency, the Texas Juvenile Justice Department. TJPC and TYC should remain separate, independent agencies. TJPC agrees with Recommendation 1.9 and believes this should be a mandate for TJPC as an independent, stand-alone state agency.

Currently TJPC, TYC and TCOOMMI have developed draft legislation for Chapter 614.018 Health and Safety Code (new section) to expand the current continuity of care statute to include juvenile agencies. If passed, this legislation will institute not only a legislative mandate for TJPC, TYC, TCOOMMI, local juvenile probation departments, and local community mental health centers to develop and implement memorandums of understanding for continuity of care for juvenile offenders with mental impairments but also insure HIPAA compliance with information exchange. In addition, TJPC, TYC and TCOOMMI, under the auspices of the Mental Health and Juvenile Justice Network grant, funded by the John T. and Catherine D. MacArthur foundation, have initiated a pilot continuity of care program in Travis County for juveniles with mental impairments who are returning from juvenile probation placements and returning to the community.

It should be noted that TJPC and TCOOMMI have collaborated with the Texas Department of State Health Services (DSHS), local juvenile probation departments, and local community mental health centers since September 2001 in development and implementation of the Special Needs Diversionary Program (SNDP). The SNDP partners a specialized juvenile probation officer (funded through TJPC) with a mental health professional (funded by TCOOMMI) to provide coordinated intensive in home services to juveniles with mental impairments at risk of removal from the home. The SNDP has been recognized by the National Center on Mental Health and Juvenile Justice as a model program for its collaboration.

1.10 Require the new agency to develop a comprehensive five-year Juvenile Justice Improvement Plan, with annual implementation updates, to better integrate state and county juvenile justice functions and to address other critical state level reforms.

Agency Response to Recommendation 1.10: Modify

The Texas Juvenile Probation Commission disagrees with the overall recommendation to abolish the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC) and create a new state agency, the Texas Juvenile Justice Department. TJPC and TYC should remain separate, independent agencies. TJPC agrees with Recommendation 1.10 and believes that TJPC and TYC should jointly develop a Five Year Juvenile Justice Master Plan that has the following components:

- Comprehensive treatment plan and initiative for offenders with special needs
- Data sharing across the continuum of the juvenile justice system and partner agencies
- Systemic performance measures and desired outcomes
- Use of appropriate and validated risks and needs assessments across the juvenile justice system
- Leveraging of agency resources to meet areas identified as mutual concerns/needs
- Workforce and leadership development for succession planning at all levels of the system
- Incorporating national best practices into the Texas system

The following modified timeline is proposed for implementation of this recommendation and all recommendation in the report:

2009	2010	2011-2014	2015
<ul style="list-style-type: none"> • Data Sharing • Identification of trends in risk and needs 	<ul style="list-style-type: none"> • Identify best practices for Texas • Identify any changes in trends • Conduct first joint meeting of TJPC Board and TYC Advisory Board 	<p>2011: Finalize and implement collaborative plan</p> <p>2011-2014: Continue annual joint Board meetings</p> <p>2014: Sunset review of TYC and TJPC begins</p>	<p><i>January-May, 2015</i> 84th Legislature considers the TJPC and TYC Sunset legislation.</p> <p><i>May 1, 2015</i> Final implementation report on the five-year plan.</p> <p><i>September 1, 2015</i> TYC and TJPC Sunset date.</p>

Agency Comments:

Juvenile Justice Facilities. TJPC believes that the state should not attempt to develop a master plan for community based juvenile justice facilities as these are county owned and county operated facilities. Local governments and regional consortiums are in the best position to determine the needs of their locals. It may be appropriate for the state juvenile justice agencies to consult with local communities and offer advice or needed technical assistance, but decisions on construction of local post-adjudication facilities rests with local governmental entities unless the state will fund the construction of new level 5 facilities if and where needed.

Data Sharing Blueprint. The Juvenile Case Management System (JCMS) addresses the data sharing issues in the Texas Juvenile Justice system and should be the primary vehicle for addressing these issues.

Performance Measurement for Entire System. Prior to the Sunset report, TJPC had already begun a project to determine objective performance expectations at each level of the Progressive Sanctions Model.

Fiscal Implication. TJPC disagrees with the projected cost savings regarding the reduction of five duplicative director-level positions that is projected to be \$594,616. While some of these director positions (i.e., Director of Human Resources) possess a skill set and knowledge base that consistent across state agencies, this principle does not apply to the other director-level positions which are individuals with critical knowledge of the distinct complexities of these separate agencies. The Executive Director of TJPC and the Executive Commissioner of TYC possess two very different sets of skills and expertise which would both be essential to a consolidated new agency. This is true as well of the General Counsel positions in both agencies. The main commonality of these two positions is that both are attorneys; however, the duties and areas of expertise only overlap minimally in the area of juvenile law. The reality is that most of the higher level director positions in each agency have very unique, specific skills and knowledge that will be absolutely essential to a new consolidated agency and these individuals will have to be kept in some capacity which dramatically reduces any potential cost savings projected by the elimination of duplicate "titled" positions. Further, TJPC's current administrative budget is a low 3.22%. It would be difficult, if not impossible, for another agency to provide the same functions and services without an increase in administrative costs. All TJPC director and management staff are responsible for providing direct services to local juvenile probation departments in addition to any supervisory and/or management duties. Each manager and director level staff has extensive work experience in juvenile probation services and these positions are not duplicative with TYC staff.

The significant cost savings cited in the Sunset report are not dependent on consolidation of TJPC and TYC. TYC has already projected a cost savings of approximately \$1.4 million from a recent reduction in TYC staff. This cost savings is not dependent upon consolidation of the two agencies. The projected \$27.6 million cost savings from closure of facilities will occur whether the two agencies are consolidated or not; thus, the consolidation option is not essential to realize significant cost savings to the state.

Issue 2: *The Office of Independent Ombudsman and the New Texas Juvenile Justice Department Need Clearer Guidelines to Ensure Effective Interaction*

Recommendations for Statutory Changes

- 2.1 Require the new Texas Juvenile Justice Department and Office of Independent Ombudsman to jointly develop and adopt rules outlining procedures for the Department to review and comment on OIO's draft reports and to formally respond to OIO's published reports.**

Agency Response to Recommendation 2.1: Modify

The Texas Juvenile Probation Commission disagrees with the overall recommendation to abolish the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC) and create a new state agency, the Texas Juvenile Justice Department. TJPC and TYC should remain separate, independent agencies. This recommendation is applicable to TYC.

- 2.2 Require the Department and OIO to adopt a memorandum of understanding outlining how the agencies should communicate in areas of overlapping responsibilities.**

Agency Response to Recommendation 2.2: Modify

The Texas Juvenile Probation Commission disagrees with the overall recommendation to abolish the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC) and create a new state agency, the Texas Juvenile Justice Department. TJPC and TYC should remain separate, independent agencies. This recommendation is applicable to TYC.

2.3 Require that OIO undergo Sunset review during the same time period as the Department.

Agency Response to Recommendation 2.3: Modify

The Texas Juvenile Probation Commission disagrees with the overall recommendation to abolish the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC) and create a new state agency, the Texas Juvenile Justice Department. TJPC and TYC should remain separate, independent agencies. This recommendation is applicable to TYC only.

Issue 3: A Small Number of Nonsecure Residential Facilities, Used Exclusively by Counties for Placing Youth on Probation, Are Not Licensed or Monitored by Any State Agency.

Recommendations for Statutory Changes

3.1 Require the new Texas Juvenile Justice Department to regulate all public and private nonsecure correctional facilities that accept only youth on probation.

Agency Response to Recommendation 3.1: Modify

The Texas Juvenile Probation Commission disagrees with the overall recommendation to abolish the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC) and create a new state agency, the Texas Juvenile Justice Department. TJPC agrees with Recommendation 3.1 and believes this should be a mandate for TJPC as an independent, stand-alone state agency.

3.2 Require the new Department to establish certification standards for employees who work in nonsecure correctional facilities that accept only youth on probation.

Agency Response to Recommendation 3.2: Modify

The Texas Juvenile Probation Commission disagrees with the overall recommendation to abolish the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC) and create a new state agency, the Texas Juvenile Justice Department. TJPC agrees with Recommendation 3.2 and believes this should be a mandate for TJPC as an independent, stand-alone state agency.

3.3 Require a local juvenile board to annually inspect any nonsecure correctional facility in its jurisdiction used only for youth on probation, and certify the facility's suitability with the Texas Juvenile Justice Department.

Agency Response to Recommendation 3.3: Modify

The Texas Juvenile Probation Commission disagrees with the overall recommendation to abolish the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC) and create a new state agency, the Texas Juvenile Justice Department. TJPC and TYC should remain separate, independent agencies. TJPC agrees with Recommendation 3.3 and believes this should be a mandate for TJPC as an independent, stand-alone state agency.

Issue 4: Elements of TJPC's Officer Certification Program Do Not Conform to Commonly Applied Licensing Practices.

Recommendation for Statutory Changes - Licensing

4.1 Authorize the new Texas Juvenile Justice Department to require certified officers to obtain continuing education as a condition for renewal.

Agency Response to Recommendation 4.1: Modify

The Texas Juvenile Probation Commission disagrees with the overall recommendation to abolish the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC) and create a new state agency, the Texas Juvenile Justice Department. TJPC and TYC should remain separate, independent agencies. TJPC agrees with Recommendation 4.1 and believes this should be a mandate for TJPC as an independent, stand-alone state agency.

Recommendations for Statutory Changes - Enforcement

4.2 Require the Department to report annually on the final resolution of abuse, neglect, and exploitation complaints.

Agency Response to Recommendation 4.2: Modify

The Texas Juvenile Probation Commission disagrees with the overall recommendation to abolish the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC) and create a new state agency, the Texas Juvenile Justice Department. TJPC and TYC should remain separate, independent agencies. TJPC agrees with Recommendation 4.2 and believes this should be a mandate for TJPC as an independent, stand-alone state agency. Information about disciplinary action taken by TJPC has been posted on the TJPC website for several years, so this recommendation is currently operational.

4.3 Transfer disciplinary hearings for certified officers to the State Office of Administrative Hearings.

Agency Response to Recommendation 4.3: Modify

The Texas Juvenile Probation Commission disagrees with the overall recommendation to abolish the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC) and create a new state agency, the Texas Juvenile Justice Department. TJPC and TYC should remain separate, independent agencies. TJPC disagrees with Recommendation 4.3 because the agency believes the fiscal implications of this recommendation would be prohibitive. The Sunset report estimates the fiscal impact of this recommendation to be \$5,200 per year to conduct approximately 13 hearings and proposes that TJPC absorb this cost. TJPC believes the true fiscal impact to the agency is significantly higher than this very conservative estimate.

After discussion with administrative law judges at the State Office of Administrative Hearings (SOAH), TJPC believes the fiscal impact to the agency would be over \$40,000 annually. A very conservative estimate of the number of hours involved for certification contested cases conducted at SOAH is ten hours. SOAH bills the agencies approximately \$115 per hour. TJPC estimates that in the next several years the number of hearings realistically will increase to approximately 50 per year. Assuming that half of these 50 cases were contested and the remaining half were default cases that required four hours of SOAH time, TJPC would be responsible for \$40,250 for the costs of conducting the hearings at SOAH. Even if all of the cases were defaults, the cost to TJPC would still be \$23,000. The amount of time spent by SOAH judges on a case includes the actual hearing time as well as the time required to review the evidence and draft a thorough Proposal for Decision. Additionally, if replies and exceptions are filed, the SOAH judge would have

to review those and rule on them as well as potentially revising the Proposal for Decision. For these reasons, \$5,200 is an unrealistically low estimate of the costs to TJPC of transferring hearings to SOAH.

TJPC believes that any positive implications of this recommendation may be outweighed by the negative impact on local counties and their staff. Transfer of cases to SOAH places additional bureaucratic procedures on the counties that currently do not exist. TJPC believes the agency can maintain sufficient independence of its hearings examiners and the current internal process for these hearings is appropriate and should be maintained.

4.4 Authorize the Department to place certified officers on probation.

Agency Response to Recommendation 4.4: Modify

The Texas Juvenile Probation Commission disagrees with the overall recommendation to abolish the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC) and create a new state agency, the Texas Juvenile Justice Department. TJPC and TYC should remain separate, independent agencies. TJPC agrees with Recommendation 4.4 and believes this should be a mandate for TJPC as an independent, stand-alone state agency. TJPC currently utilizes the probationary status option as a component of disciplinary procedures via internal procedure but agrees with the recommendation to put this authority in statute.

4.5 Authorize the Department to temporarily suspend an officer's certification under certain circumstances.

Agency Response to Recommendation 4.5: Modify

The Texas Juvenile Probation Commission disagrees with the overall recommendation to abolish the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC) and create a new state agency, the Texas Juvenile Justice Department. TJPC and TYC should remain separate, independent agencies. TJPC also disagrees with Recommendation 4.5 because this procedure may violate due process. A certification is indeed a license (APA §2001.003(2)) and TJPC is a licensing agency (APA §2001.003(3)). APA §2001.054 requires that notice and opportunity for a hearing be given in contested cases that apply to the grant, denial or renewal of a license. If there is a valid legal distinction between a "temporary suspension" of a certification, this procedure may be appropriate. However, until a thorough analysis of the potential due process implications can be conducted, TJPC cannot support this recommendation. Further, suspension of an officer's certification does not necessarily ensure the officer is removed from contact with the youth. Certified officers are not state employees but are county employees and the local juvenile probation department is responsible for all employment actions related to said employees. TJPC believes that additional protections via administrative rule and contractual agreements currently exist and are in place to address situations where a certified officer is a threat to youth.

4.6 Clarify certified officers' right to appeal Department actions to district court under the substantial evidence standard.

Agency Response to Recommendation 4.6: Modify

The Texas Juvenile Probation Commission disagrees with the overall recommendation to abolish the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC) and create a new state agency, the Texas Juvenile Justice Department. TJPC and TYC should remain separate, independent agencies. TJPC agrees with Recommendation 4.6 and believes this should be a mandate for TJPC as an independent, stand-alone state agency.