

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

November 25, 2008

Via Facsimile (512)463-0705

Mr. Joey Longley
Director
Sunset Advisory Commission
1501 N. Congress
Austin, Texas 78701

Re: Texas Juvenile Probation Commission: Transfer of Hearings Function to
the State Office of Administrative Hearings (SOAH)

Dear Mr. Longley:

Thank you for your letter dated November 12, 2008, in which you invite SOAH to comment on the Sunset Staff Report on the Texas Youth Commission, Texas Juvenile Probation Commission (TJPC), and the Office of Independent Ombudsman.

As your letter points out, Recommendation 4.3 of the Report would transfer disciplinary hearings for certified officers from the TJPC to SOAH. SOAH has no objection or suggested revision to this recommendation.

One item that will need to be addressed regarding this transfer is the funding mechanism for the hearings. Absent inclusion of these hearings in SOAH's general revenue appropriation, we would enter into an interagency contract with TJPC and would bill TJPC at our authorized rate of \$100 per hour.

Based on review of the Staff Report and discussions with TJPC personnel, we understand that these hearings have historically been low in volume and have typically taken TJPC hearing examiners less than ten hours to deal with from start to finish (*i.e.*, from hearing through issuance of a proposal for decision).

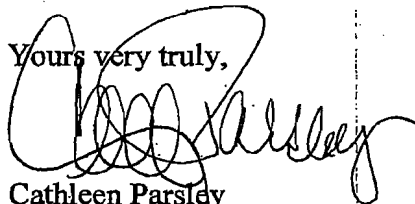
Post Office Box 13025 ♦ William P. Clements Building ♦ Austin Texas 78711-3025
(512) 475-4993 300 West 15th Street, Suite 502 ♦
Docket (512) 475-3445 Fax (512) 475-4994
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Mr. Joey Longley, Page 2
November 25, 2008

TJPC, however, anticipates some increase in the number of hearings in the future. It estimates that approximately 50 hearings per year will be held after the transfer of the hearing function to SOAH. If this estimate proves accurate, SOAH could absorb this work standing alone. We do note, however, that SOAH anticipates overall increased workload based on the projections made by other agencies for whom we hold hearings, and the Legislature may refer other work to SOAH during the 81st Regular Session. The cumulative effect of this increased workload will likely impact SOAH's resources and FTE needs. SOAH has addressed these matters in its Legislative Appropriations Request, in which we seek authorization for up to 13 additional FTEs.

Thank you again for this opportunity to comment on the Staff Report. Please let me know if you have any questions of us or need additional information.

Yours very truly,



Cathleen Parsley
Chief Administrative Law Judge

CP/plj

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

December 19, 2008

Facsimile 708-8427

The Honorable Carl Isett
Texas House of Representatives
Chair, Sunset Advisory Commission
P.O. Box 2910
Austin, Texas 78711-2910

Re: Staff Recommendation 4.3 of Sunset Report Regarding Juvenile Probation
Commission – Transfer of Hearings to the State Office of Administrative
Hearings

Dear Representative Isett:

As noted in our letter of November 25, 2008, to Mr. Joey Longley, the State Office of Administrative Hearings (SOAH) has no objection to Recommendation 4.3 of Sunset report on the Juvenile Probation Commission. Likewise, we understand that the decision whether to make the transfer belongs to the Sunset Advisory Commission and to the Legislature, and we will of course comply with whatever decision those bodies make. With this letter, we wish only to respectfully offer for your consideration some clarification about the SOAH process as it relates to two items mentioned at the hearing on December 15.

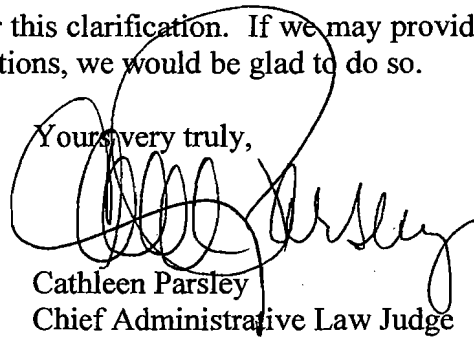
A concern was raised that probation officers would not be able to readily learn the status of their cases if the hearings were at SOAH. Although it is correct that parties in SOAH hearings may not communicate *ex parte* with the Administrative Law Judges, parties do receive copies of all orders in a case, including orders setting hearings and prehearing conferences or continuing them to a later date. In addition, parties can and regularly do call SOAH's docketing or administrative staff with procedural inquiries, including those asking about case status. These staff members are well trained in appropriately answering such inquiries.

The Honorable Carl Isett, Page 2
December 19, 2008

A second concern was that the Juvenile Probation Commission knows the standards for the probation officers and that SOAH will not. As with other cases concerning standards of conduct, behavior, or care that are referred to us from other agencies, we respectfully note that the applicable standards are (or should be) provided to the Administrative Law Judges by the agency's staff counsel or representative in the context of the evidentiary hearing. *See* TEX. GOV'T CODE § 2001.058(b). Thus, while we certainly acknowledge and appreciate the deep and longstanding expertise of the Juvenile Probation Commission, that expertise and the statutes, rules, and policies supporting it can and should be brought to bear in a hearing held at SOAH.

Thank you for allowing us to offer this clarification. If we may provide you with additional information or answer any questions, we would be glad to do so.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Cathleen Parsley', is written over the typed name and title. The signature is fluid and cursive, with a large loop at the beginning.

Cathleen Parsley
Chief Administrative Law Judge

c: Ms. Vicki Spriggs, Executive Director, Juvenile Probation Commission
Mr. Joey Longley, Director, Sunset Advisory Commission