

NOV 25 2008



TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

INTERIM COMMISSIONER

Ben Delgado

November 21, 2008

Joey Longley
Director
Sunset Advisory Commission
P.O. Box 13066
Austin, Texas 78711-3066

Dear Mr. Longley:

I would like to thank you for the opportunity to provide comment on the Sunset Advisory Commission's Staff Report on the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC).

Your letter referenced two specific sections of the report as being of particular interest to the Department of Family and Protective Services (DFPS).

Recommendation 1.9 speaks to the need for an interagency memorandum of understanding (MOU) focused on the continuity of care for youth with mental impairments. DFPS supports this recommendation as there are opportunities to improve the coordination of care across different service delivery systems. The assumption would be that lessons learned from prior and current efforts at coordination would be incorporated into the new MOU.

Recommendation 3.1 seems to incorporate two components. Primarily, it suggests that, in order to close a regulatory gap, the new Texas Juvenile Justice Department (TJJD) regulate all nonsecure correctional facilities that *only* accept youth on probation. There also seems to be a secondary, though not explicit, recommendation that children in the juvenile justice system *only* be placed in facilities regulated by the TJJD: "This would close the current regulatory gap by consolidating the regulation of secure and nonsecure correctional facilities serving youth on probation under one state agency."

If the recommendation's intent is that youth in the juvenile justice system only be placed in facilities regulated by the TJJD, this has both potential benefits and risks. Beneficially, it would create much more defined regulatory lines between juvenile justice placements and residential child care placements, as well as make the juvenile justice system in Texas more cohesive. If TJJD was the licensing agency, these facilities and foster homes would continue to be title IV-E eligible if they conformed to federal regulations. The Health and Human Services Commission (HHSC) would need to continue to oversee the rate setting of their foster care payments.

Mr. Joey Longley
November 21, 2008
Page 2

However, children in the juvenile justice system and children in the foster care system often have the same needs, and often even overlap these two systems. The TJJD may benefit from the option to place children in residential child care settings regulated by DFPS when appropriate to meet the child's needs. While these facilities primarily serve children in the foster care system, many currently serve children from both the juvenile justice and the foster care systems. Residential child care placements provide a variety of milieus which may be more effective for children with certain emotional disorders or behavioral difficulties.

Conversely, if the TJJD did continue to place select children in residential child care settings, two different state agencies would regulate juvenile justice placements. DFPS and TJJD would need to work together closely to ensure that TJJD contract requirements and DFPS regulatory requirements were compatible.

In addition to these two recommendations, DFPS would like to provide comment on several other administrative and financial considerations related to the DFPS role as the designated single cognizant agency for title IV-E federal funds. In this role, DFPS serves as the pass through agency for this funding stream to both agencies.

- Based on the recommendations, it is assumed that both title IV-E units would be combined and DFPS Federal Funds and Child Protective Services would continue to work with the unit to facilitate IV-E foster care, training and administrative claiming. Only TJPC assists the juvenile probation county departments to claim IV-E administrative costs for foster care candidates, who are youth at imminent risk of removal and placement into foster care absent preventative services.
- A new cost allocation plan would be required before the new agency could claim IV-E administrative costs. Presently, both agencies are working to revise their agency cost allocation plans to conform to the recommendations made by ACF after the title IV-E administrative claims pilot. Only TYC has an indirect rate and further discussion would be required to determine if TJPC or the counties plan to submit an indirect cost rate.
- The recommendation to consolidate the two juvenile justice agencies will still require two separate time studies be completed to draw down title IV-E administrative claims unless the juvenile probation county departments are also consolidated. A one time study would focus on the staff that provide case management services (currently TYC) and one on the juvenile probation staff that do the same.
- Some restructuring of the IV-E eligibility functions and processes would need to occur within DFPS to facilitate the transition to a single juvenile state agency. DFPS currently has three eligibility positions, two TJPC positions and the one TYC

Mr. Joey Longley
November 21, 2008
Page 3

position. Each of the agencies provides the General Revenue match to allow DFPS to claim title IV-E funds. For planning and resource purposes, DFPS would need to know if these would continue to be funded.

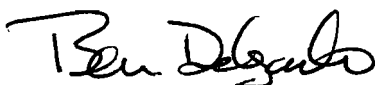
- The IMPACT system is the automated case management and reporting application through which most DFPS work is conducted. Currently, the juvenile justice cases which have been certified as IV-E eligible are identified in IMPACT with either a TYC or JPC designation, an indicator that has become increasingly important as DFPS has moved into the Star Health managed care environment for delivery of health care services to foster children. These data elements serve to appropriately exclude the juvenile justice population from the IMPACT files sent to HHSC for Star Health eligibility. Following creation of a new juvenile justice agency, DFPS would need to dedicate resources to complete the required IMPACT programming changes.

These are just some of the significant factors to address as the legislature moves forward to review the Sunset recommendations and we appreciate the opportunity to provide input into the process. DFPS remains committed to an effective working relationship with the state's juvenile justice system, the efficient and accountable use of public resources and to the safety of the youth being served.

Please feel free to contact Jennifer Sims at
concerns.

with additional questions or

Sincerely,



Ben Delgado
Interim Commissioner