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November 26, 2008

*Via U.S. Mail and Electronically*

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

Re: Commentary on the Sunset Staff Report on the Texas Youth Commission, Texas Juvenile Probation Commission and Office of Independent Ombudsman

Dear Mr. Longley:

Thank you for this opportunity to provide comment on the Sunset Staff Report on the Texas Youth Commission, Texas Juvenile Probation Commission and Office of Independent Ombudsman ("Sunset Staff Report"). As you may know, Advocacy, Incorporated is a non-profit organization mandated by Congress to advocate and protect individuals with disabilities. It is in this regard that we now provide some preliminary comments regarding the Sunset Staff Report recommendations.

We commend the Sunset Staff for identifying and targeting many of the significant issues and problems that continue to plague the juvenile justice system and which we continue to see in our representation of youth committed to TYC and youth in the community. Clearly reforms are still needed in some very concrete areas and yes, some of those reforms involve a better collaboration and coordination between all components of the juvenile justice system, including the entities charged with providing those services, i.e., the counties, TYC, and TJPC.

However, it remains unclear how a merger of these two agencies will bring about the outcomes still needed to create a juvenile justice system in Texas that will deliver the appropriate services needed by youth in the facilities as well as the community; that will promote the leadership, accountability, and authority needed at all levels of this system, i.e., county, state agency and courts; and that will create a true model of rehabilitation and treatment. Many of the more important reforms described in the Sunset Staff Report should be mandated without the need and delay of a merger. These include, among others: funding the Special Needs Diversionary Program; establishing a community corrections pilot program; creating appropriate needs-and risk-assessment tools to better serve and treat youth; better coordination and collaboration among TYC, TJPC, and TCOOMMI and the CRCGs to ensure continuity of care for youth with mental illness needs; incentives to encourage if not mandate counties to create and utilize community based alternatives prior to resorting to TYC; the need to hold local entities accountable based on well-defined performance measures; enforcing and reinforcing the mandate that TYC provide youth with much needed specialized treatment programs and enforcing the SB 103 mandate that TYC create and implement appropriate re-entry and re-integration plans.

Many individuals, the legislature, advocacy organizations, governmental entities, the general public, have worked tirelessly within the last two years to implement and enforce the reforms that came from the last legislative session. I believe everyone will acknowledge that the implementation of many of these reforms has been a slow process; and many of us would have preferred that the changes come faster and results seen quicker. For whatever the reason, we are now just beginning to see some progress as a result of the 80th Legislative reforms, and additional changes remain forthcoming. But, after two years, we expect to see those changes and results unfolding quicker if not now. On the other hand, if this merger were to take place, the proposed timetable for a full implementation of this merger and five-year plan is 2015. The State cannot ask the public, parents and youth to wait 8 more years before change comes. Change is happening now, albeit slow. If anything, all efforts should focus on expediting the reforms underway now and pushing for new reforms still needed but whose implementation will not be delayed by a full-scale merger of the magnitude contemplated here. In these times when financial resources are scarce, a comparison of the costs and savings anticipated by this merger do not appear to justify such a project. The State could perhaps consider utilizing those limited resources to implement some of the more important reforms indicated above. Also amiss from this report is any detail or comment regarding how youth would be "transitioned" through this merger. Many of the current problems youth encountered or are encountering stemmed from the state's lack of appropriate planning and transitioning for youth who were impacted by the reforms of SB 103, i.e., youth who were 19 or misdemeanants and who were released without proper discharge planning.

Advocacy, Inc.'s interest in this plan is to ensure that whatever recommendations are being considered, that those recommendations above all promote the protection and well-being of youth with disabilities. Whether through one agency or two, what remains lacking from this review is a clear vision of what Texas is striving for in the way of an effective juvenile justice system. As indicated above, the report touches on critical issues and significant components of what would make for an effective and successful juvenile justice system but it does not explain why only a merger could bring all those elements together to indeed create such a system. These are Advocacy, Inc.'s preliminary thoughts and comments regarding this Sunset Staff Report. We hope to provide more detailed written commentary to the report prior to the December 15 and 16, 2008 public hearing.

Again, thank you for your consideration and opportunity to comment.

Sincerely,



Rosa E. Torres  
Attorney at Law

RET/kp



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December 11, 2008

*Via Hand Delivery*

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

Re: Comments on the Sunset Staff Report on the Texas Youth Commission, Texas Juvenile Probation Commission and Office of Independent Ombudsman

Dear Mr. Longley:

Once again, Advocacy, Incorporated appreciates the opportunity to provide further comment and testimony on the Sunset Staff Report on the Texas Youth Commission, Texas Juvenile Probation Commission and Office of Independent Ombudsman (“Sunset Staff Report”). Advocacy, Inc. cannot disagree with this state’s hope and desire for a better vision and direction regarding its juvenile justice system. The Sunset Staff Report is accurate in identifying many of the weaknesses in the current system. It has proposed some very good recommendations on what needs to be done to move towards an effective juvenile justice system. Our concern lies with the Sunset Staff’s belief that the creation of a new agency will be or is the only catalyst that can create an effective juvenile justice system.

Issue #1

Texas’ Juvenile Justice Agencies, Services, and Funding Need Major Restructuring to Ensure an Effective Continuum of Treatment and Sanctions for Youthful

Advocacy, Inc. is in agreement that an effective continuum of treatment and rehabilitation is very much needed for youth offenders in Texas. Indeed, we believe the report describes accurately many of the more significant issues within the current juvenile justice system. Advocacy, Inc. also agrees with the key characteristics of an effective juvenile justice system identified by Sunset staff. The report also highlights some of the more recent problems we have seen and continue to see within TYC, and for the most part, we do not take issue with many of the findings made by the Sunset staff. Advocacy, Inc. does question whether the abolishment of TYC and TJPC and transfer of their functions to a newly created agency is the appropriate solution to address the concerns outlined in the report. In setting forth the duties and functions of this newly proposed agency, the report does not list any new or different functions that are not being pursued now. The report does not speak to any new or creative approaches or models regarding the delivery of services that could only be possible with the creation of a new agency. While the Sunset Staff sets forth recommendations regarding various components of an effective juvenile system, i.e., incentives to counties to keep lower risk offenders closer to home; additional funding for these programs; performance measures to award future community corrections grants; appropriate programming based on validated risk and needs assessments, etc., working rules for the Office of the Ombudsman (“OIO”); changing TJPC’s Officer Certification Program to fit Model Standards, etc., it still does not piece those components together to give us a clear picture of the whole of that system. Instead, it gives us recommendations that remain

fragments of yet a larger system and a new agency. Many of these recommendations could definitely improve the delivery of services. More importantly, these recommendations remain possible with the agencies in existence now and could be implemented within a shorter period of time than perhaps anticipated given the timelines involved in the restructuring of the magnitude proposed.

Reform as evidenced by the timelines proposed for this major restructuring takes time. No doubt, the reforms of S.B. 103 have been slow in coming. In any case, some change has occurred. The reforms of S.B. 103 remain in motion. We anticipate the leadership within TYC will stabilize to ensure a more rapid and positive implementation of these reforms. The public, TYC youth and their families, have waited almost 2 years to see these reforms unfold. Families anticipate that these reforms will bring about changes in the treatment and rehabilitation of their children. Nothing can really guarantee that these changes will occur, but neither can a new agency. The state needs to address how this restructuring may impact youth currently in the system and ensure that these youth, their families, and the public do not have to wait an additional 5 years or more to have their needs met.

Notwithstanding the concerns outlined above, Advocacy, Inc. agrees that additional funding should be made available to create programs and other incentives for counties to keep lower risk offenders closer to home and in programs providing specialized treatments. This funding may come from any savings that may result from the reforms of S.B. 103; however, the creation of these pilot programs should not be contingent on the abolishment of TYC and TJPC.

Advocacy, Inc. agrees with the recommendation regarding the development of a comprehensive performance measurement system for the entire juvenile justice system including consideration of past performance in awarding all community corrections or pilot program grants.

Advocacy, Inc. believes that the state could do a better job to ensure access to information that could facilitate the re-entry and re-integration of youth exiting TYC; however, AI would caution that measures be taken to ensure that this information will not be used to ostracize or continue to hold a youth accountable for past actions.

The recommendation that state agencies develop a memorandum of understanding focused on continuity of care for youth with mental impairments in the juvenile justice system is a sound one. Interagency rules and procedures to coordinate care and exchange information on youth among the participating agencies must provide for more than just a referral system. These rules and procedures must include affirmative steps that these agencies need to take to ensure that these youth receive the community supports and services they need and do so on a timely basis. In addition, the state and these agencies need to explore and pursue additional funding to fill possible gaps in services.

Advocacy, Inc. believes that an improvement plan addressing the four areas outlined in the Sunset Staff Report should not be contingent on the abolishment of TYC and TJPC and the creation of a new agency. Such a plan may be pursued now, and the state should ensure that TYC and TJPC engage in this type of collaborative effort.

## Issue #2

Office of Independent Ombudsman and the New Texas Juvenile Justice Department Need Clearer Guidelines to Ensure Effective Interaction.

One of the more significant measures of S.B. 103 to TYC youth with disabilities and their families was/is the creation of the Office of the Ombudsman ("OIO"). The leadership and staff of the OIO have worked tirelessly to address many of the abuse, mistreatment, and neglect issues impacting TYC youth. The OIO has been at the forefront of many needed and often controversial discussions

regarding the lack of appropriate educational services at TYC; the poor handling of abuse and mistreatment complaints; and the lack of appropriate care and treatment of individuals needing specialized services.

On behalf of youth with disabilities, Advocacy, Inc. continues to support the creation and work of the OIO, its staff and its leadership. We support any effort that will provide the OIO with the additional resources it may need to better serve TYC youth. As this reform movement continues, we trust that any new policies and practices that may be undertaken will be to strengthen the mission, objectivity, and the work that the OIO staff and leadership have up to now pursued.

#### 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.

Under S.B. 103, TJPC was mandated to investigate and monitor all secure correctional facilities, pre-adjudication and post-adjudication facilities, at least annually; The Sunset staff acknowledges that TJPC has generally been effective in carrying out its regulatory duties regarding juvenile probation programs, facilities, and staff. With so many problems within the current juvenile justice system, it makes little sense to fix what is not broken. Advocacy, Inc. believes that TJPC needs to continue to pursue its mandate and do so on a timely basis to ensure that these county correctional facilities are indeed in compliance with all juvenile justice requirements. We have reason to believe that some are not. Advocacy, Inc. is certainly not opposed to a recommendation that TJPC's regulatory authority extend to any public or private nonsecure correctional facilities only housing youth on probation, including establishing certification standards for employees who work in these facilities. Again, this type of reform does not have to be delayed and/or be contingent on the abolishment of TYC and TJPC and the creation of a new agency.

#### Issue #4

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

The state bears the responsibility of protecting youth on probation now; therefore it should not have to wait on the creation of a new agency to improve TJPC's officer certification program and change its licensing practices to match model standards identified by Sunset Staff. Most professions today have continuing education requirements as a condition for renewal of licenses or certification. Advocacy, Inc. is not opposed to the idea that Juvenile probation and detention officers should be required to do the same. In addition, AI agrees that annual reporting on the final resolution of abuse, neglect, and exploitation complaints is important as well as any recommendations that promote or ensure the safety and protection of youth offenders. In any case, Advocacy, Inc. does not agree that such change necessitates the creation of a new agency and abolishment of TYC and TJPC.

Again, thank you for your consideration and opportunity to comment.

Sincerely,

Rosa E. Torres  
Attorney at Law

RET/kp