

**MEMORANDUM OF UNDERSTANDING
MOU 124**

This Memorandum of Understanding is entered into on September 1, 2013 by and between the **Texas Juvenile Justice Department** (hereinafter called "TJJD") and the **Office of Independent Ombudsman of the Texas Juvenile Justice Department** (hereinafter called "Ombudsman").

WHEREAS, the purpose of this Memorandum of Understanding is to establish the duties and responsibilities of each party working together to share information with one another and to govern overlapping monitoring duties and activities performed by TJJD and the Ombudsman, as required by Human Resources Code §261.104 and of the Human Resources Code;

WHEREAS, TJJD shall provide, and the Ombudsman shall receive, administrative assistance necessary to fulfill the Ombudsman's statutory duties under Texas Human Resources Code Chapter 261;

WHEREAS, both parties will benefit from the Ombudsman having access to prompt and efficient administrative services necessary to perform its statutory duties;

WHEREAS, the Ombudsman is independent of TJJD, pursuant to Human Resources Code §261.003;

WHEREAS, Human Resources Code §261.104 requires that this Memorandum of Understanding preserve the independence of the Ombudsman;

WHEREAS, TJJD is required to give the Ombudsman access to youth records under Human Resources Code §261.151 & 261.152;

WHEREAS, the youth committed to TJJD will benefit with improved and higher quality programming when TJJD and the Ombudsman develop more efficient methods of sharing information and establish clear guidelines on how to accomplish this sharing of information;

NOW, THEREFORE, in consideration of the mutual benefits, and in further consideration of the foregoing, the parties hereto agree as follows:

ARTICLE I - DUTIES

The Texas Juvenile Justice Department Duties:

- A.** TJJJ will provide administrative support as is necessary to ensure that the Ombudsman completes:
- (1) All written reports, including the legislative appropriations request, the strategic plan and the annual financial report; and
 - (2) All data entry into ABEST, USAS and other state systems as is required of the Ombudsman by statute or by oversight agency directives; and
 - (3) Other administrative tasks normally associated with the operation of a state agency. These tasks include, but are not limited to: processing vouchers and purchase orders, records retention and archiving, and the nondiscretionary duties associated with posting job vacancies.
- B.** TJJJ shall allow the Ombudsman "read only" access to the following databases:
- (1) Correctional Care System (CCS);
 - (2) CCS Archive;
 - (3) Statistical Analysis Software (SAS);
 - (4) Youth Records Archive (scanned into digital imaging system);
 - (5) Youth grievance system;
 - (6) Administrative Investigation Database (not the Office of Inspector General's criminal database); and
 - (7) Education records.
- TJJJ shall provide all administrative support necessary to ensure that the Ombudsman obtains and maintains access to the above databases.
- C.** TJJJ staff shall not monitor the activity of the Ombudsman staff on TJJJ electronic resources, except as necessary to maintain those electronic resources.
- D.** TJJJ shall use its best efforts to require that University of Texas Medical Branch provide the Ombudsman access to the Electronic Medical Records (EMR) database. TJJJ shall provide all administrative support necessary to ensure that the Ombudsman obtains and maintains access to the EMR database.

- E. TJJD shall assist the Ombudsman in meeting their statutory duties in accordance with the Texas Human Resources Code Chapter 261.
- F. In addition to access to the records listed above, TJJD shall grant the Ombudsman access:
 - (1) To any TJJD facility;
 - (2) To any part of a TJJD facility accessible by TJJD youth;
 - (3) To any TJJD youth in a TJJD facility; and
 - (4) To any youth record located in a TJJD facility.

The Ombudsman will not be required to provide advance notice prior to visiting a TJJD facility. The Ombudsman, in its sole discretion, may provide advance notice of its intent to visit a TJJD facility by contacting the TJJD facility administrator or its designee by telephone. The Ombudsman may enter a TJJD facility at any time outside regular business hours; however, whenever possible the Ombudsman will attempt to enter the facility between the hours of 8 am and 5 pm, Monday through Friday, excluding holidays.

- G. TJJD shall provide adequate office space for the Ombudsman at various locations throughout the state, to include but not be limited to the Austin, Dallas and Houston Metropolitan areas. TJJD Designated office space shall include land-line phone services.
- H. TJJD shall provide the Ombudsman access to a pool of vehicles in various locations throughout the state, to include but not be limited to, the Austin, Dallas and Houston Metropolitan areas.
- I. TJJD shall provide the Ombudsman with legal services as requested to assist the Ombudsman in fulfilling its duties. However, TJJD Office of General Counsel's (OGC) primary duty is to provide in-house legal services for TJJD. Therefore, any legal services to the Ombudsman shall not conflict with TJJD interest. If a conflict is identified by TJJD or the Ombudsman regarding legal services/support then the matter shall be referred to the Office of the Attorney General for further legal services and support.
- J. TJJD's Director of Internal Audit shall provide the Ombudsman a copy of all final audits at the time of issuance. TJJD's Director of Internal Audit and the Ombudsman have overlapping monitoring duties and activities; however, the independence of each office shall be maintained.
- K. TJJD shall invite the Ombudsman to participate in every policy group meeting and discussion to which the general public is invited.
- L. TJJD, with the Ombudsman, shall create opportunities for sharing information between TJJD and the Ombudsman for the purposes of assuring quality and improving programming within TJJD; and

- M. TJJD, with the Ombudsman, shall collaboratively establish a process to address communications between TJJD and the Ombudsman concerning individual situations involving children committed to the department and how those situations will be documented and handled.

The Texas Juvenile Justice Department Ombudsman Duties:

- A. The Ombudsman shall coordinate and share appropriate information, oversight and review of administrative efforts provided under this agreement.
- B. Ombudsman staff remains solely responsible for completing administrative tasks imposed by the Ombudsman.
- C. The Ombudsman may withhold information concerning matters under active investigation by the Ombudsman from the TJJD and TJJD staff and may report the information to the governor.
- D. The Ombudsman shall be responsible for maintenance and repair costs attributable to the Ombudsman's use of TJJD vehicles if reimbursement is requested by TJJD.
- E. The Ombudsman shall be responsible for filling out standard Texas State government documentation pertaining to state vehicle use for each vehicle trip, to be reviewed by TJJD. Ombudsman shall also be responsible for complying with all TJJD and state policies regarding the use of state vehicles.
- F. The Ombudsman shall comply with all reasonable requests for information as needed and requested by TJJD Administrative Services.
- G. The Ombudsman agrees that all its employees will comply with state and federal law and with TJJD policies regarding the confidentiality of student records and identifying information. To the extent a TJJD policy or this agreement conflicts with applicable law, the applicable law shall govern.
- H. The Ombudsman agrees that all information regarding TJJD or its youth that is gathered, produced, or otherwise derived from this agreement shall remain confidential, subject to release only by permission of TJJD or pursuant to the appropriate legislative authority.
- I. The Ombudsman agrees that all its employees who visit any TJJD facility shall be required to comply with that facility's security regulations.
- J. The Ombudsman will comply with Tex. Hum. Res. Code §261.056, relating to communication and confidentiality. After an investigation is complete, the Ombudsman shall not disclose to the public any personally identifiable information, including name and address of any children, parents, and employees, and such information shall be redacted from any report prior to release, consistent with Tex. Hum. Res. Code §261.056(c). Personally identifiable information contained in pictures, appearances, films, or other information of TJJD youth that are determined to not be confidential by law, shall not be released to the public without written consent of the youth and, if under the age of 18, of his parents, guardian, or managing conservator, unless the disclosure is required by law.

- K. The Ombudsman shall notify TJJD of any changes in circumstances, to include a change of address.
- L. The Ombudsman, with TJJD, shall create opportunities for sharing information between TJJD and the Ombudsman for the purposes of assuring quality and improving programming within TJJD; and
- M. The Ombudsman, with TJJD, shall collaboratively establish a process to address communications between TJJD and the Ombudsman concerning individual situations involving children committed to the commission and how those situations will be documented and handled.

ARTICLE II - TERMS

- A. TJJD 's obligations under this Memorandum of Understanding are limited by funds made available to TJJD to provide the above mentioned administrative support to the Ombudsman. TJJD shall not be obligated to over-expend TJJD designated funds in an effort to provide administrative support to the Ombudsman that would result in unsound fiscal activities on behalf of TJJD. The parties shall work together to maximize limited resources and provide the appropriate level of services as fiscally sound under this Memorandum of Understanding.
- B. If the Ombudsman has any concerns regarding the Ombudsman's access to TJJD youth information, such concerns shall be addressed by the TJJD Executive Director or his/her designee.
- C. TJJD and the Ombudsman shall jointly adopt rules necessary to implement Human Resources Code §261.060, including rules that establish procedures for TJJD to review and comment on reports of the Ombudsman, and other rules required by Human Resources Code §261.058. TJJD and the Ombudsman shall cooperate in the drafting of such rules.

ARTICLE III - GENERAL PROVISIONS

- A. Any and all modifications of this Memorandum of Understanding shall be in writing hereon or attached hereto and signed or initialed by all parties. No other agreements, oral or written, shall constitute a part of this agreement unless such is made in writing, executed by the parties hereto or their successors, and expressly made a part thereof.
- B. The undersigned signatories certify by their signatures that they have the authority to bind the party they each represent to the agreement provisions stated herein.
- C. Unless otherwise noted, all notices required or permitted to be delivered under this contract shall be deemed delivered when deposited in the United States mail, postage prepaid, certified mail, return receipt requested and addressed as identified below:

Texas Juvenile Justice Department

11209 Metric Boulevard
P.O. Box 12757
Austin, TX 78758
(512) 490-7130

Office of the Independent Ombudsman for the Texas Juvenile Justice Department

11209 Metric Boulevard
Austin, TX 78758
(512) 490-7993

Notice given in any other manner shall be deemed effective only if and when the notice is received by the party to be notified. Either party may change its address for notice by written notice to the other party as herein provided.

- D. This agreement shall become effective upon execution by both parties and shall continue in full force until August 31, 2015, unless thirty (30) calendar days written notice of termination is given by either party at any time during the agreement. The term of the agreement cannot transcend the 2014-15 biennium.
- E. The parties shall meet no later than August 1, 2013 to negotiate a Memorandum of Understanding for the next biennium beginning on September 1, 2015 and ending on August 31, 2017.
- F. Either party may terminate this agreement for convenience, in whole or in part, at any time by providing thirty (30) calendar days written notice to the other party in advance of termination. On the termination date, TJJD will immediately discontinue all administrative services provided to the Ombudsman (unless the parties agree otherwise). Any outstanding accounting issues between the parties shall be resolved within thirty (30) calendar days after the date of termination.
- G. If the thirty (30) calendar day termination provision is invoked, the parties shall ensure that a new Memorandum of Understanding is in effect before the thirty (30) calendar day period ends.
- H. This Agreement constitutes the entire agreement of the parties. No other agreement, statement, or promise that is not contained in this Agreement shall be binding except by subsequent written amendment to this Agreement signed by both parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their undersigned, duly authorized representatives to be effective as of the date of the last party to sign.

Texas Juvenile Justice Department:

Office of the Independent Ombudsman
for the Texas Juvenile Justice
Department:

By: 
Mike Griffiths
Executive Director

By: 
Deborah K. Unruh
Independent Ombudsman

Date: 8-13-13

Date: 8-12-13

Approved as to Form:

By: 
Chelsea Buchholtz
TJJD Attorney

Date: 8-6-13