

A Review of

Rate Setting For Children's Residential Care



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Key Points Of Report

A Review of Rate Setting for for Children's Residential Care

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Key Findings

- Variations in rates paid by state and county placement agencies for children's residential care do not appear to impact the availability of services. Factors causing variations in rates range from the uniqueness of a child's needs to the nature and degree of charitable assistance received by service providers.
- Weaknesses noted in rate-setting processes and the levels of care system can impact placement decisions, result in payment of erroneous rates, and affect quality of care.
- Lack of an agency with statutory oversight responsibility results in ineffective coordination of information among placement agencies and ineffective system tools.
- In the 1993, state and local agencies spent approximately \$195 million on and served over 27,000 children in children's residential care.

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Issues and Recommendations

Section 1:

Variations In The Rates Paid By State And Local Agencies For Children's Residential Care Do Not Appear To Affect The Ability Of The Agencies To Provide Services To Their Clients

Although purchasers of residential services pay somewhat different rates for similar services, we found no evidence that the differences had an impact on the availability of services to their clients. Factors such as the uniqueness of services needed and provided, the individual needs of the child, the length of placement, and the preferences of the agency have a greater impact on the placement of clients than the rates do. In 1993, state and local agencies placed over 27,000 children in residential care at a cost of approximately \$195 million.

Section 1-A:

We Found No Evidence That Service Providers Are "Dumping" Children From One Agency To Make Room For Children From A Higher Rate Paying Agency

Before 1992, some county probation departments experienced problems placing children because the rates they were paying were not as high as those paid by state agencies. In 1992, the Juvenile Probation Commission increased its Community Correction Program funding to the county probation departments. Since then, county juvenile probation departments have been able to pay rates which are more competitive with other agencies.

There are several factors that impact the placement of children into residential services. These factors include: (1) the uniqueness of the child's service needs, (2) the placement agency's preference for using certain providers, (3) the duration of stay, (4) the specialty of the provider, and (5) the placement agency's regulations.

Section 1-B:

The Service Definition Within A Level Of Care Is So Broad That A Child Can Receive A Variety Of Services

Children's residential services are broadly defined by "Levels Of Care" which were established about ten years ago by the Health and Human Services Coordinating Council. The "Levels Of Care" are based on the types of services required by a child. Information on the six levels of care is provided in Appendix 3. A brief description of the six levels of care is shown in Figure 1 (on the following page).

Levels of care service definitions are broad, thus different rates within a level of care may be justified. For example, the detailed definition for level of care IV (Appendix 3) describes the child as having substantive problems, which includes physical, mental, and social needs, and the child's behaviors as that which could present a moderate risk of causing harm to his/herself or others.

Children in this level of care need a structural environment and therapeutic counseling from a professional staff. The amount of structure and counseling needed will vary within the level of care depending on the specific needs of the child.

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Figure 1
Levels of Care Descriptions

Levels Of Care	Child's Needs
1	The child requires placement in a normal family environment.
2	The child requires placement in a normal family environment. The child requires additional structure and guidance.
3	The child requires structured, supportive care. The child requires occasional therapeutic counseling.
4	The child requires a structured individual-treatment program. The child requires regular therapeutic counseling.
5	The child requires a highly structured treatment program. The child requires intensive therapeutic counseling. The child requires 24-hour supervision.
6	The child is severely impaired or medically fragile. The child requires constant supervision, treatment, and care.

Source: Department of Protective and Regulatory Services.

Section 1-C:
**The Range In Rates Within A Level
Of Care Is Caused By The Different
Service Needs Of A Child, The
Different Rates Placement
Agencies Use, And The Different
Rates Service Providers Will Accept**

The service needs of a child determine which level of care the child is placed into and the daily rate paid. Although the Health and Human Services Commission promulgates maximum rates as guidelines, state placement agencies develop their own rates which are approved by their boards. In fiscal year 1994, the Department of Protective and Regulatory Services used a statewide flat rate, while the Texas Youth Commission, and the five counties we visited, used a range of rates. A comparison of the rates used is shown in Figure 2 (on the following page).

The Texas Education Agency and county juvenile probation departments use the Health and Human Services Commission's ceiling rates as their primary rates. In an attempt to receive a reduced rate or a free placement, county departments negotiate with some service providers which have financial support from charitable organizations. This practice causes a wide range of rates within a given level of care. In some instances, the county may negotiate which level of care the child should be placed in. This will also affect the rate.

Contract negotiation is also used by the Texas Youth Commission, whose clients need correctional institutionalization. Such clients are required to be placed in adequately secured institutions or community-based facilities in order to protect the public from delinquent and criminal acts. Such special needs result in differences in residential rates paid from other placement agencies for clients with similar

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Figure 2
Level Of Care and Rates/Ranges of Daily Rates

Levels Of Care	1994 Health Human Services Comm's Ceiling Rates	1994 Agency Rates			
		Texas Education Agency	Department Of Proc./ Reg. Sys	Texas Youth Comm.	Counties +
1	\$19.83	\$19.83	\$15.85	\$18.00	\$15.85 - \$19.83
2	\$43.82	\$43.82	\$33.95	\$30.00 - \$42.00	\$33.95 - \$50.00 *
3	\$70.74	\$70.74	\$58.08	\$54.00 - \$61.00	\$16.60 - \$69.00
4	\$83.43	\$83.43	\$82.64	\$75.00 - \$87.13 *	\$16.12 - \$88.95 *
5	\$118.20	\$118.20	\$99.68	\$100.00- \$118.20	\$86.00 - \$112.00
6	\$123.46	\$123.46	\$187.83 *	\$187.00 *	\$112.48 - \$187.53 *

Sources: Obtained from the agencies:

Note: + Represents ranges of rates for the five county juvenile probation departments we visited.

* Represents situations when additional payments over maximum rates have been made in accordance with requirements.

problems. In addition to the daily rate, the Commission emphasizes quality of care through the use of program performance measures. Program performance evaluations are performed prior to contract renewal. The Commission uses the results of the evaluations to determine whether to recommend a rate increase and whether to continue or discontinue current placements.

Agencies that place children in residential care have the authority to pay higher than the ceiling rates if they can adequately document that the child has additional needs. Additional services, such as special education, medical, or transportation, which are not covered by the level of care definition can cause a different rate within the level of care.

The levels of care concept was originally geared towards behaviorally and medically disturbed children. The Texas Commission on Alcohol and Drug Abuse and the Texas Department of Mental Health and Mental Retardation do not use these levels of care

because their clients have different service needs.

The Commission on Alcohol and Drug Abuse develops and uses its children's residential service, called "Chemical Dependency Adolescent Residential Services." It performs its own rate-setting processes and pays a maximum rate of \$132 per day for this care.

The Department of Mental Health and Mental Retardation provides for out-of-home placement contracts through "the Alternative Family Living and Hospital Settings for Children and Adolescents." The rates for these services range from \$35 to \$187 per day and \$100 to \$300 per day, respectively. The 1994 rates were based on cost calculations done by the Department of Human Services. Starting September 1, 1994, the Department plans to do its own cost calculations.

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Section 2:

Weaknesses In The Rate Setting And Levels Of Care System Could Affect The Quality Of Children's Residential Care

There is a need for more oversight and coordination over the State's levels of care system for residential care. Our review noted problems with the processes used to set reimbursement rates for children's residential care and with the levels of care system.

Weaknesses in the rate-setting process could result in rates that do not accurately reflect costs of services provided. The levels of care system, which was developed to guide residential placement of children based on their needs, could also impact quality of care if it is outdated or if information is not shared.

Section 2-A:

Weaknesses In Rate Setting Processes Could Result In Erroneous Rates Being Paid For Children's Residential Services

Weaknesses in rate-setting processes can impact placements. Rates set too high can result in unnecessary costs to placement agencies, whereas rates set too low can affect the quality of care. The Department of Protective and Regulatory Services is the State's primary placement agency, serving over 16,000 children at a cost of \$139 million in fiscal year 1993. The Health and Human Services Commission's rate ceilings provide a rate cap, with exceptions for additional needed services, for all placement agencies. Both agencies' rates are based on calculations from the Department of Human Services. There were weaknesses noted in the rate-setting processes at the Department of Human

Services and also at the Texas Commission on Alcohol and Drug Abuse.

Department of Human Services:

The State Auditor's Office's management control audit of the Department of Protective and Regulatory Services included a review of the Department of Human Services' rate-setting process (SAO Report No. 95-003, September 1994). The following is a summary of the Report's findings, recommendations, and management's response.

The following weaknesses were identified in the methodology used to calculate the statewide rates:

- 1) The methodology was based on a number of assumptions that have never been empirically tested or validated.
- 2) Cost reports from service providers do not capture costs by level of care--only an estimate of costs attributable to the each level of care can be provided.
- 3) There is no assurance that cost data is accurate due to limited audit coverage of cost reports and lack of mandatory training for providers completing the reports.

Recommendations:

The recommendations to the Department of Protective and Regulatory Services included: (1) the testing and validation of assumptions underlying the various categories of excluded costs, (2) continuing with the time study to allocate costs by level of care, and (3) renegotiating its contract to allow for increased audit coverage of cost reports and

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requiring mandatory training for service providers on cost reports.

Management's Response to Report 95-003:

The Department of Protective and Regulatory Services will be assembling a task force to develop a revised reimbursement methodology, which will include working with service providers and providing more emphasis on the need for accurate cost reports. The Department will also continue a time study to collect data to be used in allocating costs by level of care.

Texas Commission on Alcohol and Drug Abuse:

Weaknesses have also been identified with the rate-setting process used by the Texas Commission on Alcohol and Drug Abuse. In fiscal year 1994, the Commission had approximately \$61.2 million in fixed price contracts, which included \$8.7 million for children's residential care. Weaknesses found included a lack of evidence to indicate that the Commission reviewed or verified information in the cost reports submitted by service providers. Also, the Commission did not develop and maintain a documented rate-setting methodology that could be used in determining, evaluating, and revising rates paid to the service providers. These weaknesses could increase the risk of using erroneous cost information in determining residential rates and making procedural errors.

Recommendation:

The Texas Commission on Alcohol and Drug Abuse should establish procedures to ensure that information contained in cost reports is reasonable and accurate. The Commission should also develop a formal documented methodology for use in determining rates paid to service providers and implement procedures

to ascertain that funds expended for children's residential care are comparable to services received.

Management's Response:

Since the review, the Commission has taken steps to document and improve the review of cost reports. Contract Specialists perform desk reviews of cost reports annually as they are received with the applications for funding. Starting in fiscal year 1994, all contracts with service providers require verification of cost information for each service type to be performed by independent CPAs. The Commission has added a page to its documented history of rate setting which outlines the methodology that will be used for determining or revising services rates in the future to include individual as well as multiple rate review.

Section 2-B:

There Is a Need To Review The Levels Of Care System Tools And Improve Coordination And Information Sharing

There is a need to review the levels of care system tools to see if they need to be updated. These tools include the definitions for the six levels of care and the standard application form. The definitions have not been reviewed since they were originally approved by the Health and Human Services Coordinating Council in 1989. The Council's responsibility to maintain the levels of care was not specifically passed to another agency when it was dissolved.

Comments from user agencies indicated that the levels of care definitions do not address the needs and costs associated with certain children, such as the medically fragile or children with special security needs. Juvenile

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justice agencies believe the definitions are directed more toward foster children rather than children in the juvenile justice system.

In interviews, some agency personnel also expressed concern about the standard application form that is required by Article V, Section 74 of the General Appropriations Act. The form was designed as a common caseworker tool to assess and communicate a child's needs to multiple placement agencies and to ensure that service providers receive sufficient information for deciding if they could accept the child. It is used in obtaining detailed, personal information about the child and family. Some users felt that this requirement may not derive honest responses from family members who view this as an intrusion.

There is a need for better coordination and information sharing between state and local agencies who use the levels of care system. Our review found that one state agency and two of the five counties we visited were using the Health and Human Services Commission's ceilings as their primary rates. They were not aware that they could use lower rates such as the Department of Protective and Regulatory Services' rates although they were being used by two of the other counties visited.

Recommendation:

The Health and Human Services Commission has primary responsibility for coordinating the delivery of human services, which include children's residential care. Its enabling statute does not give it specific authority to maintain the levels of care system. We recommend that the Health and Human Services Commission seek clarification from the Legislature as to who should be responsible for maintaining the levels of care system.

Management Response:

If the Legislature specifically directs the Commission to maintain the levels-of-care (LOC) system, consideration should be given to the cost of the maintenance efforts and the need to include the Texas Education Agency and the Texas Youth Commission in the levels-of-care work since these two agencies are not part of HHSC's statutorily defined set of constituent agencies.

As you noted in the SAO report, existing statutes provide no clear guidance concerning the maintenance and monitoring of the levels-of-care system. HHSC is charged with coordinating service delivery for health and human services agencies. When resources are available, the agencies continue to work on issues around child placement, with HHSC's coordination. Any revision of the LOC system must ensure that the system maximizes federal funds. This was not a priority when the system was begun.

The levels-of-care system was developed with the participation of several agencies that were involved in purchasing residential care for children from the private sector (TEA, TYC, TJPC, and DHS-child protective service). Several of the problems that LOC was designed to address still exist, including: access to appropriate residential care, assessment of the child, and management of the service; and streamlining payments and accountability for services.

Objectives, Scope, And Methodology

This review had four primary objectives. They were to:

- Determine the range of rates paid for children's residential care for health/human services and juvenile probation agencies.
- Determine the reasons for the range in rates.
- Determine the impact the different rates have on the availability of care.
- Determine if agencies' rate-setting processes have proper controls in place.

Included in our scope were the rates paid for children's residential care by health/human services and juvenile justice agencies. There are several state and local agencies that are involved with children's residential care rates and, thus, were part of our review. These agencies are the Department of Protective and Regulatory Services, Texas Youth Commission, county juvenile probation departments, Texas Commission on Alcohol and Drug Abuse, Texas Department of Mental Health and Mental Retardation, Texas Education Agency (working with local independent school districts), Governor's Office, Juvenile Probation Commission, Health and Human Services Commission, and the Department of Human Services.

To accomplish our objectives, the following procedures were performed:

- Interviewed state agencies' management and staff.
- Visited five county juvenile probation departments.
- Obtained information from other State Auditor's Office project teams who were doing audits in related areas.

- Contacted representatives from the Legislative Budget Office, legislative staff members, and a service provider association.

This review was conducted in accordance with generally accepted government auditing standards.

Issues For Further Study

1. A review of the effectiveness of the levels of care system should be considered to ensure that the needs of all users are being met. Representatives from juvenile justice agencies felt the current system for children's residential care is directed more toward the needs of foster children instead of juvenile probation children. The question is: *Should there be two systems with separate level of care definitions and service rates or should there be a revision of the current levels of care to include the needs of children served by the juvenile justice system?* This issue can be addressed once it is determined which agency is responsible for maintaining the levels of care system. Input from service providers should be included in addressing this issue.
2. Most state and local agencies tend to focus on the cost of children's residential care instead of the quality. There is a need to also emphasize the quality of services through the use of performance and outcome measures.

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Appendix 1:

History And Development Of The Levels Of Care System

The levels of care system was developed in the 1980s to improve children's residential care through the development of a "continuum of care." The system used several components to achieve this goal. The components are the six levels of care definitions, a common application form, service providers' cost reports and data base, and the ceiling rate for each level of care. The following is an explanation of the history and development of the levels of care system.

In October 1984, the Legislative Budget Board recommended that the Texas Health and Human Services Coordinating Council undertake a study of contracted residential care for children in Texas. The goals of the study were two-fold: 1) to encourage coordination among state agencies placing children and 2) to limit the variations among contract reimbursement rates through a standardized schedule of rates.

In 1985, the results of the study were published in a report called "A Spectrum of Services for Texas Children in Residential Contract Care." The study found that rate structures varied from agency to agency and caused competition for bed space. Disparity of rates and absence of intermediate levels of care contributed to children's needs not being met because appropriate services did not exist. The Department of Human Services, Texas Youth Commission, Texas Juvenile Probation Commission, School for the Blind, School for the Deaf, Texas Department of Mental Health and Mental Retardation, and the Texas Education Agency were identified as being involved in the purchase of residential care for children.

The report recommended the development of: 1) a simplified rate structure based on the needs of children rather than the type of facility license, 2) intermediate levels of care, 3) a "case mix methodology" to allow several levels of care to be provided at one facility, 4) a uniform placement application, 5) outcome measures to evaluate the effectiveness of each placement, and 6) cost reports to monitor the quality of care provided. It also recommended implementation of these changes through a resolution by the Legislature or rider in Article V of the General Appropriations Act to provide guidance for continuing commitment by child placing agencies to develop standardized rates based on children's needs and the recommended levels of care.

The General Appropriations Act in 1985 included a rider requiring state agencies to use a standard application form for residential placement established by the Texas Health and Human Services Coordinating Council and to limit payments for residential services for children to amounts set by the Council. A similar rider has been included in each subsequent General Appropriations Act.

The Council also recommended the formation of a Public/Private Policy Group to continue to study residential care issues and make recommendations for change. This group developed and implemented a levels of care system, including definitions of six levels of care, a cost reporting and analysis system, a standard application form for children who must be placed out of home, a methodology for determining the level of care for an individual child, and monitoring standards for the levels of care provided by a facility. The levels of care system was developed as a method of directly relating reimbursement to the child's needs.

In 1989, House Bill 2116, 71st Legislature, created the Commission on Children, Youth and Family Services, which replaced the

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Public/Private Policy Group, to continue work on the levels of care system. The work of the Public/Private Policy Group became a primary responsibility of the Commission's Treatment and Care Workgroup. This workgroup was responsible for analyzing policies and procedures relating to out-of-home placement and further developing evaluation of the residential contract care placement system. The Commission and its workgroups were "abolished" on August 31, 1991. Information on the state and local agencies involved in the levels of care system is presented in Appendix 2.

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Appendix 2:

Entities And Their Roles In The Levels Of Care System

Placement Entities

In 1993, state and local placement agencies placed over 27,000 children in residential care at a cost of approximately \$195 million. The chart below presents, by agency, the levels of care used, the number of children placed, and the cost associated with the placement. Following the chart is a brief description of each agency's role.

Department Of Protective And Regulatory Services

The Department of Protective and Regulatory Services was established September 1, 1992, by House Bill 7, 72nd Legislature. The mission of the agency is to protect the

physical safety and emotional well-being of the most vulnerable citizens of Texas. The Department provides protective services to children, the aged, and persons with disabilities. It also regulates and licenses child care facilities to ensure the safety and protection of children who reside or are temporarily placed outside their homes.

The Department operates three major programs: Child Protective Services, Adult Protective Services, and Child Care Licensing. Child Protective Services provides services for abused and neglected children and their families. The program receives and investigates reports of abuse and neglect of children, provides foster care services for children temporarily unable to remain in their homes, as well as long-term substitute care for children who cannot be safely returned to their homes. The program also certifies foster homes.

Figure 3
1993 Residential Placement By Agency

Placement Agencies	Levels Of Care	Number Of Children	Cost In Millions
Protective and Regulatory Services	1-6	16,389*	\$139.0
County Juvenile Probation Departments	1-6	4,727 **	\$16.7 **
Texas Youth Commission	1-6	878	\$10.5
Texas Education Agency	5&6	107	\$9.9
Commission On Alcohol and Drug Abuse	Note 1	4,000***	\$12.6
Texas Department of Mental Health and Mental Retardation	Note 1	1,564	\$5.8
TOTAL		27,665	\$194.5

Sources: All agencies listed.

* Approximately 97 percent of these children were funded with state/federal funds while the rest were funded by other sources (counties, individuals, etc.) which are not included in the cost.

** Represents 1993 calendar year (not fiscal year) figures.

*** Estimate based on funding ratio of residential to outpatient adolescent.

Note 1: These agencies are exempted from using the State's LOC system.

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Child Protective Services expenditures for substitute care during fiscal year 1993 were approximately \$139 million for approximately 16,000 foster children in all levels of care. As of April 1994, the Department was serving 9,920 foster children in all levels of care. Funding for these services comes from general revenue, federal grants, and entitlement programs. Title IV-E of the Social Security Act provides funds for foster and adoptive care services.

County Juvenile Probation Departments

There are 162 county juvenile probation departments delivering services throughout the State. All 254 counties are represented,

Figure 4 below shows juvenile probation departments' residential placement funds for the 1992 and 1993 calendar years.

Juvenile boards govern county juvenile probation departments. Under state law, the boards determine the needs of the juvenile population and work with the county commissioners in obtaining funding. The boards consist primarily of judges who handle juvenile cases. The Juvenile Probation Commission contracts with the boards when providing their state funding.

For the 1993 calendar year, the county juvenile probation departments handled 118,068 referrals involving 77,619 juveniles. The services received by juveniles included informal adjustment, probation supervision, intensive supervision, foster care, contract

Figure 4

RESIDENTIAL PLACEMENT FUNDS		
FUNDING SOURCES	1992	1993
Juvenile Probation Commission	\$5,935,100	\$9,976,255
Counties	\$5,174,230	\$4,237,315
Governor's Office - Criminal Justice Division	\$1,648,964	\$1,556,349
Others	\$1,295,952	\$899,730
TOTAL FUNDS	\$14,054,246	\$16,669,649

Sources: Juvenile Probation Commission

with departments being single or multi-county. The departments are funded by local, state, and federal funds. For the 1993 and 1994 state fiscal years, the State provided about 29 percent of the funding. The counties provide the majority of the funding for juvenile services. For the 1993 and 1994 state fiscal years, the departments budgeted \$86 and \$90 million, respectively.

placement, detention centers, and supplement services. During this period, the counties placed 4,727 children in residential care programs.

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Texas Youth Commission

The Texas Youth Commission provides administrative oversight to juvenile institutional correction systems through a central administrative office in Austin. The Commission serves children between ages 10 and 17 who have committed delinquent acts and have been adjudicated delinquent and committed to the agency by a juvenile court. The Commission retains jurisdiction for most offenders until the age of 21.

Currently, the Commission operates a statewide reception center (which evaluates and determines placement for TYC youth) at Brownwood, five training schools, a residential treatment center, five regions containing multiple district offices, a regional juvenile center, and nine community-based facilities.

In fiscal year 1994, the Commission had approximately 90 residential contract care programs and spent \$15.3 million. Of this amount, \$14.2 million (93 percent) was state funds and \$1.1 million (7 percent) was federal funds (Title IV-E program).

The Commission develops and uses program performance measures for evaluating all residential contract programs. These measures are the basis for establishing contract program effectiveness and recommendations for contract renewal and rate increases. The Commission usually limits rate increases only to those programs with above average performance on 75 percent of the measures while meeting all other contract criteria.

The Commission's rejection frequency table shows a range of reasons for which a child was rejected by a facility(ies) or program(s). These reasons range from "Assaultive Behavior" to "Gang Involvement." The primary reasons for rejections were: (a) the programs felt they do not offer necessary

services, (b) assaultive behavior, (c) the child does not fit with the current population in the program, (d) delinquent history, and (e) capacity.

In fiscal years 1992, 1993, and 1994, the Commission maintained an average daily population of 380, 371, and 475, respectively. These represent the yearly average number of children placed in private residential facilities. The Commission spent approximately \$11.2 million, \$10.5 million, and \$14.2 million, respectively, in state funds for contract care programs.

Texas Education Agency

The Texas Education Agency exercises general control of the public education system at the state level and provides leadership, regulation, and services designed to maintain and improve public education.

The agency provides funding to local school districts to contract for residential care for children who may be mentally retarded, emotionally disturbed, or autistic. The decision for placement and special education needs is made at the local level by an Admission, Review, and Dismissal (ARD) committee made up of parents, teachers, and administrative personnel. Costs for these children include residential placement, related services (behavior therapy, speech therapy, counseling), and educational costs. Federal funds from the Individuals with Disabilities Education Act (IDEA-B) program along with state and local funds pay for residential placement and related services costs. State funds pay for educational costs.

During fiscal year 1994, the agency provided funding for residential care for 114 children in levels of care 3 through 6, with approximately 90 percent of these children in level 6. Total costs for residential services were

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approximately \$8.8 million. The agency incorporates the ceilings approved by the Health and Human Services Commission into their contracts with school districts.

Texas Commission On Alcohol And Drug Abuse

The Texas Commission on Alcohol and Drug Abuse is mandated to regulate, plan, develop, coordinate, evaluate, and implement programs for the prevention, intervention, treatment, and rehabilitation of chemical dependency and problem and compulsive gambling. The Commission provides services through grants and contracts with private, nonprofit, and for profit facilities; community mental health and mental retardation centers; schools; local government; and law enforcement agencies. The Commission also implements and maintains a regulatory system, including licensing chemical dependency facilities and counselors.

The Commission is not required to follow the levels of care system and the ceiling rates in providing adolescent residential substance abuse services. The Commission uses a fixed price contract with a maximum rate of \$132 per day for adolescent residential services.

In fiscal years 1993 and 1994, the Commission spent a total of \$14.5 and \$9.9 million, respectively, on adolescent residential and outpatient care. Of these amounts, the Commission spent \$12.6 and \$8.7 million in fiscal years 1993 and 1994, respectively, on adolescent residential care only. The Commission also served 4,532 and 3,590 clients in fiscal years 1993 and 1994, respectively. These clients represent both residential and outpatient adolescents.

Texas Department Of Mental Health And Mental Retardation

The Texas Department of Mental Health and Mental Retardation is charged with the responsibility to oversee the care and provide services directly to and through contracts to mentally ill and mentally retarded citizens of Texas.

The Department does not use the levels of care system because of the uniqueness of its clients. The Department's funding is directed towards its priority populations. One of these priority populations is the children under the age of 18 with diagnosis of mental illness. For the mental health children, the Department enters into contracts to provide services in "Alternative Family Living and Hospital Settings" in non-state operated facilities.

In fiscal year 1994, the Department spent approximately \$2.6 million statewide for 21,345 bed days for Alternative Family Living. Of this amount, the Department spent \$968,163 in Harris County for residential treatment and foster care, \$282,000 in Dallas County for foster care, and about \$1.4 million in other areas of the State. The rate for these services ranges from \$35 per day to \$187 per day.

Also in fiscal year 1994, the Department spent approximately \$6.0 million for hospital services in psychiatric hospitalization for 38,737 beds. Of this amount, the Dallas County MHMR spent \$1.6 million, the Life Resources Center MHMR in Beaumont spent about \$1.4 million, and the Southwest Neuropsychiatric Hospital spent \$1.0 million. The remaining \$2.0 million was spent in other areas of the State for contracted services at private psychiatric hospitals. The rate for these services ranges from \$100 per day to \$300 per day.

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The Department also uses the Intermediate Care Facilities (ICF) program for its mental retardation (MR) children. The ICF/MR program develops and uses a different care structure. A review of the ICF/MR care structure was not included in the scope of this audit.

Funding Entities:

Juvenile Probation Commission

The Juvenile Probation Commission's mandate is to improve and extend juvenile probation services and early intervention programs throughout the State. Ninety-five percent of the Commission's funds are budgeted for programs to fund county probation services. The Commission does not directly administer juvenile probation programs or provide supervision to juveniles.

There is no rate setting function at the Commission. It does include in its contracts with the county probation departments the levels of care ceiling rates as distributed by the Health and Human Services Commission.

For each of the 1994 and 1995 state fiscal years, the Commission was appropriated \$41.6 million; of that amount, \$39 million, or 94 percent, is General Revenue funds. Each year, \$20.3 million is budgeted for community corrections which includes residential and non-residential care. The funds are allocated to the counties using formulas based on population.

All of the State's 254 counties receive funding from the Commission through contracts with the county juvenile boards, which can be single or multi-county. The funding is used by the county juvenile probation department for placement into residential care and other programs. In all, there are 198 juvenile boards. The boards were created by state

statute and are the authorities for all juvenile issues. They consist primarily of judges who handle juvenile cases.

The majority of the funding for juvenile probation services come from counties. For the 1993 and 1994 fiscal years, counties provided about 71 percent and the State 29 percent of the funding. In prior years, the counties provided a higher portion, about 80 percent to the State's 20 percent.

Governor's Office

The Governor's Office, through the Criminal Justice Division, provides funds under the Juvenile Justice and Delinquency Prevention Act. These funds, which are 100 percent federal, are allocated to regional Councils of Governments, who then allocate the funds to the county juvenile probation departments in their region. The allocation is based on the number of juveniles in each county. The 1994 and 1995 state fiscal year allocations are \$2.4 and \$2.3 million, respectively.

The objective of this program is to provide funding to juvenile courts and probation departments so alternatives to commitment to the juvenile justice service can be used. Funds are primarily intended for contracts with private agencies or individuals for emergency shelters, foster family homes, crisis counseling and supervision, and other services needed to divert juveniles from further court action. Purchased services include psychiatry, psychological evaluations and counseling services, certain medical and dental expenses, clothing, transportation, detention, vocational and educational training, day treatment, and residential services. The funds may be used to purchase services at a rate set by the Criminal Justice Division.

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Contracts for residential services use the six levels of care and have maximum rates that are set by the Division. The maximum rates generally follow the Health and Human Services Commission's ceilings. The contract also requires the use of the common application for all placements for services.

The funds are used by county juvenile probation departments for the services noted.

Commission to oversee and provide guidance within health and human services, coordinate programs, and improve service delivery.

The Commission's predecessor was the Health and Human Services Coordinating Council. The Council existed from September 1983 through August 1991. The Council was responsible for maintaining the levels of care system and setting the ceiling rate for each level of care. In 1991, the Council was abolished, and its responsibilities were

Figure 5

TYPES OF SERVICES PROVIDED	# OF SERVICES PROVIDED
NON-RESIDENTIAL SERVICES	3,903
SECURE DETENTIONS	1,360
RESIDENTIAL PLACEMENTS	776
OTHER SERVICES	305
TOTAL SERVICES	6,344*

Sources: Governor's Office Criminal Justice Division

* A Child could receive more than one type of service during a year

Presented in Figure 5 are the number of services provided for the 1992 state fiscal year.

Administrative Entities:

Health And Human Services Commission

The Health and Human Services Commission was created in 1991 by House Bill 7, 72nd Legislature, following an assessment of state government which identified problems with duplication and inefficiency caused by the lack of coordination among health and human services agencies. House Bill 7 directs the

transferred to the Governor's Council on Health and Human Services. However, before this entity came into being, House Bill 7 was passed and transferred some of the Council's functions to the Health and Human Services Commission. The Commission's enabling statute does not specifically direct it to maintain the levels of care system. An Article V rider to the General Appropriations Act gives the Commission responsibility to set maximum rates for the purchase of residential services for children.

Department Of Human Services

The Texas Department of Human Services provides services such as income assistance,

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health care services, services for families and children, and services for aged and disabled persons. The Department operates under the authority of Title 2 of the Texas Human Resources Code, the Texas Family Code, and various federal laws and regulations.

The Department was significantly affected by House Bill 7, which also created the Texas Department of Protective and Regulatory Services. The new agency took over the Department of Human Service's Child Protective Services, Adult Protective Services, and Adoption and Foster Care activities in September 1992.

The Department of Human Services provides support services to the Department of Protective and Regulatory Services and the Health and Human Services Commission. The Department of Human Services performs the calculations for both the Department of Protective and Regulatory Services statewide foster care reimbursement rates and the Health and Human Services Commission's maximum rates, or ceilings.

An interagency agreement with the Department of Protective and Regulatory Services provides for the Department of Human Services: (1) to conduct cost report training for service providers completing cost reports, (2) to field audit/desk review the cost reports submitted by service providers, (3) to perform the analysis of the cost report data according to the published reimbursements methodology used by management of the Department of Protective and Regulatory Services to determine the reimbursement amount for each level of care, and (4) to maintain a data base of cost report information obtained from service providers.

For the Health and Human Services Commission, the Department of Human Services uses the same cost reports submitted by service providers for the Department of

Protective and Regulatory Services and performs separate analyses according to the Commission's unpublished guidelines for the Commission's use in determining its reimbursement ceilings.

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Appendix 3:

Children's Residential Services Levels Of Care Definitions

While it existed, the Health and Human Services Coordinating Council maintained the levels of care definitions for children's residential services. The definitions include, for each level of care, a description of the child's problems; the child's service needs; the medical, recreational, educational, and therapeutic needs; and the staff-to-child ratio. Also provided are examples of service provider facilities that could best serve the child's needs. Following are the basic problem descriptions for the six levels of care.

Level I

Adequate functioning in all developmental and/or environmental areas. There may be transient difficulties, "every-day" worries, and occasional misbehavior, but would be regarded as a "normal" child; responds to "normal" discipline. The caregiver provides routine home environment with guidance and supervision to meet the needs of the child.

Level II

No more than occasional problems in functioning in any area, some acting-out behavior in response to life stresses, but these are brief and transient, minimally disturbing to others, and not considered deviant by those who know them. The caregiver provides routine home environment with supplemental guidance and discipline to meet the needs of the child.

Level III

Frequent or repetitive minor problems in one or more areas; may engage in non-violent anti-social acts, but is capable of meaningful

interpersonal relationships. Requires supervision in structured supportive setting with counseling available from professional or paraprofessional staff.

Level IV

Substantive problems; have physical, mental, or social needs and behaviors that may present a moderate risk of causing harm to themselves or others, poor or inappropriate social skills, frequent episodes of aggressive or other antisocial behavior with some preservation of meaningful social relationships. Require treatment program in a structured supportive setting with therapeutic counseling available by professional staff.

Level V

Severe problems, unable to function in multiple areas. Sometimes willing to cooperate when prompted or instructed, but may lack motivation or ability to participate in personal care or social activities or is severely impaired in reality testing or in communications. May exhibit persistent or unpredictable aggression, be markedly withdrawn and isolated due to either mood or thought disturbance, or make suicidal attempts. Presents a moderate to severe risk of causing harm to self or others. Requires 24-hour supervision by multiple staff in limited access setting.

Level VI

Very severe impairment(s), disability(s), or need(s), consistently unable or unwilling to cooperate in own care. May be severely aggressive or exhibit self-destructive behavior or grossly impaired in reality testing, communications, cognition, affect, or personal hygiene. May present severe to critical risk of causing serious harm to self or others. Needs constant supervision (24-hour care) with

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maximum staffing, in a highly structured setting.

Copies of this report have been distributed to the following:

Legislative Audit Committee

Honorable James E. "Pete" Laney, Speaker of the House, Chair
Honorable Bob Bullock, Lieutenant Governor, Vice Chair
Senator John Montford, Chair, Senate Finance Committee
Senator Kenneth Armbrister, Chair, Senate State Affairs Committee
Representative Robert Junell, Chair, House Appropriations Committee
Representative Tom Craddick, Chair, House Ways and Means Committee

Governor of Texas

Honorable Ann W. Richards

Legislative Budget Board

Sunset Advisory Commission

Chief Executive Officers and Board Members/Commissioners of the following entities:

Texas Commission on Alcohol and Drug Abuse

Department of Protective and Regulatory Services

Health and Human Services Commission

Chief Executive Officers and Pertinent Agency Personnel of the following entities:

Texas Department of Mental Health and Mental Retardation

Juvenile Probation Commission

Texas Department of Human Services

Texas Youth Commission

Texas Education Agency

Governor's Office