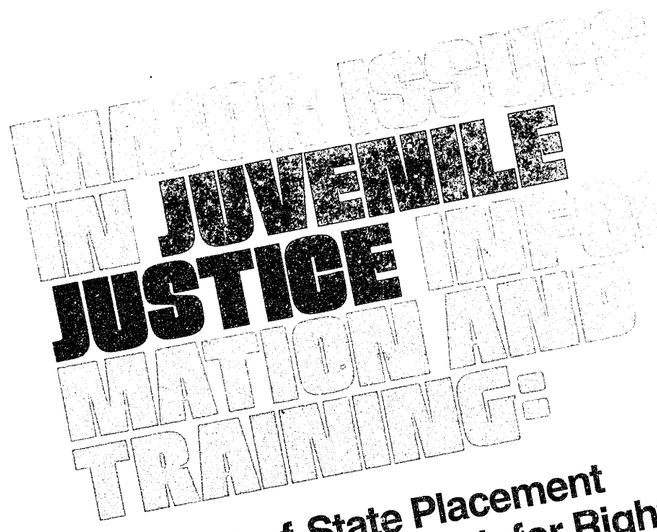
U.S. Department of Justice
Office of Juvenile Justice and Delinquency Prevention
National Institute for Juvenile Justice and Delinquency Prevention



The Out-of-State Placement of Children: A Search for Rights, Boundaries, Services

Volume 2: Appendixes

Major Issues in Juvenile Justice Information and Training Project

This volume is one of a series of books and monographs of Project MIJJIT, to be published by the Academy for Contemporary Problems in 1981 and 1982.

- The Out-of-State Placement of Children: A National Survey
  (State profiles appear in five supplemental volumes.)
- The Out-of-State Placement of Children: A Search for Rights, Boundaries, Services
  (Text in master volume; appendixes in Volume 2.)
- Youth in Adult Courts: Between Two Worlds
  (State profiles appear in five supplemental volumes.)
- Services to Children in Juvenile Courts: The Judicial-Executive Controversy
- Grants in Aid of Local Delinquency Prevention and Control Services
- Readings in Public Policy

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MAJOR ISSUES IN JUVENILE JUSTICE INFORMATION AND TRAINING

The Out-of-State Placement of Children: A Search for Rights, Boundaries, Services

Volume 2: Appendixes

AUTHORS

John C. Hall, Principal Investigator
Bruce S. Barker, Research Associate
Jack D. Foster, Senior Fellow
Judith L. Pilotta, Research Associate
Kurt Weiland, Research Associate
Joseph L. White, Project Director

Academy for Contemporary Problems
Columbus, Ohio
1982

U.S. Department of Justice
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Staff

Kathryn Baybutt
Lisa Beach
Karen Bell
Sandra Clapsaddle
Sherry Flannery
Sandra Gardner
Lori Gilbert
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Gina Hoy
Ralph J. Marcelli
Fred McKinney
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Molly A. Parkhill
Ramon R. Priestino, Ph.D.
Marian Radebaugh
Sylvia Robinson
Andrew Schneiderman
Peggy Siegel, Ph.D.
Joan Suttner
James N. Upton, Ph.D.
Susan Warner
David Wilder

Prepared under Grant Number 78-JN-AX-0038 from the National Institute for Juvenile Justice and Delinquency Prevention, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice.

Points of view or opinions in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice, the Academy for Contemporary Problems, its member organizations, or the Academy's Project MIJJIT Advisory Committee members.

Printed in the United States of America

Library of Congress Catalog Card Number: 81-67952

Graphic arts by Production Circuit, Inc.

Logo design by Sara Hall

NCJ-80822

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The following appendixes supplement the main text of this report, The Out-of-State Placement of Children: A Search for Rights, Boundaries, Services, *which was published as NCJ 80821.*

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INTERSTATE COMPACT ON JUVENILES

The contracting states solemnly agree:

ARTICLE I -- Findings and Purposes

That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to (1) cooperative supervision of delinquent juveniles on probation or parole; (2) the return, from one state to another, of delinquent juveniles who have escaped or absconded; (3) the return, from one state to another, of non-delinquent juveniles who have run away from home; and (4) additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively. In carrying out the provisions of this compact the party states shall be guided by the noncriminal, reformative and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

ARTICLE II -- Existing Rights and Remedies

That all remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.

ARTICLE III -- Definitions

That, for the purposes of this compact, "delinquent juvenile" means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; "probation or parole" means any kind of conditional release of juveniles authorized under the laws of the states party hereto; "court" means any court having jursidiction over delinquent, neglected or dependent children; "state" means any state, territory or possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and "residence" or any variant thereof means a place at which a home or regular place of abode is maintained.

ARTICLE IV -- Return of Runaways

(a) That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, either with or without a hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person ~~or~~ agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the

consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding 90 days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

(c) That "juvenile" as used in this Article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.

ARTICLE V -- Return of Escapees and Absconders

(a) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provision of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding 90 days, as will enable his detention under a detention order issued on a requisition pursuant to this Article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within

such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a delinquent juvenile is returned under this Article shall be responsible for the payment of the transportation costs of such return.

ARTICLE VI -- Voluntary Return Procedure

That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of Article IV(a) or of Article V(a), may consent to his immediate return to the state from which he absconded, escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

ARTICLE VII -- Cooperative Supervision of Probationers and Parolees

(a) That the duly constituted judicial and administrative authorities of a state party to this compact (herein called "sending state") may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact (herein called "receiving state") while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

(b) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

(c) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact, without interference.

(d) That the sending state shall be responsible under this Article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

ARTICLE VIII -- Responsibility for Costs

(a) That the provisions of Articles IV(b), V(b) and VII(d) of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(b) That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency, or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to Articles IV(b), V(b), or VII(d) of this compact.

ARTICLE IX -- Detention Practices

That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

ARTICLE X -- Supplementary Agreements

That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall (1) provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished; (2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody; (3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonable inspection of such institutions by the sending state; (6) provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another

state; and (7) make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

ARTICLE XI -- Acceptance of Federal and Other Aid

That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize, the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

ARTICLE XII -- Compact Administrators

That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE XIII -- Execution of Compact

That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form or execution to be in accordance with the laws of the executing state.

ARTICLE XIV -- Renunciation

That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending six months notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered

into under Article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six months' renunciation notice of the present Article.

ARTICLE XV -- Severability

That the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstances shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

ARTICLE XVI -- Additional Article (Optional)

That this article shall provide additional remedies, and shall be finding only as among and between those party states which specifically execute the same.

For the purposes of this article, "child," as used herein, means any minor within the jurisdictional age limits of any court in the home state.

When any child is brought before a court of a state of which such child is not a resident, and such state is willing to permit such child's return to the home state of such child, such home state, upon being so advised by the state in which such proceeding is pending, shall immediately institute proceedings to determine the residence and jurisdictional facts as to such child in such home state, and upon finding that such child is in fact a resident of said state and subject to the jurisdiction of the court thereof, shall within five days authorize the return of such child to the home state, and to the parent or custodial agency legally authorized to accept such custody in such home state, and at the expense of such home state, to be paid from such funds as such home state may procure, designate, or provide, prompt action being of the essence.

Amendment to the Interstate Compact on Juveniles Concerning Interstate Rendition of Juveniles Alleged to Be Delinquent

(a) This amendment shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute the same.

(b) All provisions and procedures of Articles V and VI of the Interstate Compact on Juveniles shall be construed to apply to any juvenile charged with being a delinquent by reason of a violation of any criminal law. Any juvenile, charged with being a delinquent by reason of violating any criminal law shall be returned to the requesting state upon a requisition to the state where the juvenile may be found. A petition in such case shall be filed in a court of competent jurisdiction in the requesting state where the violation of criminal law is alleged to have been committed. The petition may be filed regardless of whether the juvenile has left the state before or after the filing of the petition. The requisition described in Article V of the compact shall be forwarded by the judge of the court in which the petition has been filed.

Amendment to the Interstate Compact on Juveniles Concerning Out-of-State Confinement

(a) Whenever the duly constituted judicial or administrative authorities in a sending state shall determine that confinement of a probationer or reconfinement of a parolee is necessary or desirable, said officials may direct that the confinement or reconfinement be in an appropriate institution for delinquent juveniles within the territory of the receiving state, such receiving state to act in that regard solely as agent for the sending state.

(b) Escapees and absconders who would otherwise be returned pursuant to Article V of the compact may be confined or reconfined in the receiving state pursuant to this amendment. In any such case the information and allegations required to be made and furnished in a requisition pursuant to such Article shall be made and furnished, but in place of the demand pursuant to Article V, the sending state shall request confinement or reconfinement in the receiving state. Whenever applicable, detention orders as provided in Article V may be employed pursuant to this paragraph preliminary to disposition of the escapee or absconder

(c) The confinement or reconfinement or a parolee, probationer, escapee, or absconder pursuant to this amendment shall require the concurrence of the appropriate judicial or administrative authorities of the receiving state.

(d) As used in this amendment: (1) "sending state" means sending state as that term is used in Article VII of the compact or the state from which a delinquent juvenile has escaped or absconded within the meaning of Article V of the compact; (2) "receiving state" means any state, other than the sending state,

in which a parolee, probationer, escapee, or absconder may be found, provided that said state is a party to this amendment.

(e) Every state which adopts this amendment shall designate at least one of its institutions for delinquent juveniles as a "Compact Institution" and shall confine persons therein as provided in Paragraph (a) hereof unless the sending and receiving state in question shall make specific contractual arrangements to the contrary. All states party to this amendment shall have access to "Compact Institutions" at all reasonable hours for the purpose of inspecting the facilities thereof and for the purpose of visiting such of said state's delinquents as may be confined in the institution.

(f) Persons confined in "Compact Institutions" pursuant to the terms of this compact shall at all times be subject to the jursdiction of the sending state and may at any time be removed from said "Compact Institution" for transfer to an appropriate institution within the sending state, for return to probation or parole, for discharge, or for any purpose permitted by the laws of the sending state.

(g) All persons who may be confined in a "Compact Institution" pursuant to the provisions of this amendment shall be treated in a reasonable and humane manner. The fact of confinement or reconfinement in a receiving state shall not deprive any person so confined or reconfined of any rights which said person would have had if confined or reconfined in an appropriate institution of the sending state; nor shall any agreement to submit to confinement or reconfinement pursuant to the terms of this amendment be construed as a waiver of any rights which the delinquent would have had if he had been confined or reconfined in any appropriate institution of the sending state except that the hearing or hearings, if any, to which a parolee, probationer, escapee, or absconder may be entitled (prior to confinement or reconfinement) by the laws of the sending state may be had before the appropriate judicial or administrative officers of the receiving state. In this event, said judicial and administrative officers shall act as agents of the sending state after consultation with appropriate officers of the sending state.

(h) Any receiving state incurring costs or other expenses under this amendment shall be reimbursed in the amount of such costs or other expenses by the sending state unless the states concerned shall specifically otherwise agree. Any two or more states party to this amendment may enter into supplementary agreements determining a different allocation of costs as among themselves.

(i) This amendment shall take initial effect when entered into by any two or more states party to the compact and shall be effective as to those states which have specifically enacted this amendment. Rules and regulations necessary to effectuate the terms of this amendment may be promulgated by the appropriate officers of those states which have enacted this amendment.

APPENDIX B

INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN AND RELATED STATUTES

Ala. Code, Secs. 44-2-20 thru 44-2-26 (1980)
Alaska Stat., Secs. 47.70.010 thru 47.70.080 (1976)
Ariz. Rev. Stat. Ann., Secs. 8-548 thru 8-548.06 (1976)
Ark., Act 477 (1979)
Calif. Civ. Code, Secs. 264 thru 274 (1974)
Colo. Rev. Stat. Ann., Secs. 24-60-1801 thru 24-60-1803 (1975)
Conn. Gen. Stat. Ann., Secs. 17-81a thru 17-81i (1967)
Del. Code Ann., Title 31, Secs. 381 thru 389 (1969)
Fla. Stat. Ann., Secs. 409.401 thru 409.405 (1974)
Ga. Code Ann., Secs. 99-4701 thru 99-4709 (1977)
Idaho Code, Secs. 16-2101 thru 16-2107 (1976)
Ill. Rev. Stat., Ch. 23, Secs. 2601 thru 2609 (1974)
Ind. Code, 1978 Supp., Ch. 23, Secs. 12-3-23-1 thru 12-3-23-8 (1978)
Iowa Code Ann., Secs. 238.33 thru 238.45 (1967)
Kans. Stat. Ann., Secs. 38-1201 thru 38-1206 (1976)
Ky. Rev. Stat. Ann., Secs. 199.341 thru 199.347 (1966)
La. Rev. Stat. Ann., Secs. 47.1700 thru 46.1706 (1968)
Me. Rev. Stat. Ann., Title 22, Secs. 4191 thru 4200 (1961)
Md. Ann. Code, Art. 16, Secs. 208 thru 212F (1975)
Mass. Gen. Laws Ann., Ch. 119 (App.), Secs. 2-1 thru 2-8 (1963)
Minn. Stat. Ann., Secs. 257.40 thru 257.48 (1973)
Miss. Code Ann., Secs. 43-18-1 thru 43-18-17 (1976)
Mo. Rev. Stat., Secs. 210.620 thru 210.640 (1975)
Mont. Rev. Codes Ann., Secs. 10-1401 thru 10-1409 (1975)
Neb. Rev. Stat., Sec. 43-1101 (1974)
N.H. Rev. Stat. Ann., Secs. 170-A:1 thru 170-A:6 (1965)
N.M. S.B. 209 (1977)
N.Y. Soc. Serv. Law, Sec. 374a (1960)
N.C. Gen. Stat., Secs. 110-57.1 thru 110-57.7 (1971)
N.D. Cent. Code, Secs. 14-13-01 thru 14-13-08 (1963)
Ohio Rev. Code Ann., Secs. 5103.20 thru 5103.28 (1976)
Okla. Stat. Ann., Title 10, Secs. 571 thru 576 (1974)
Ore. Rev. Stat., Secs. 417.200 thru 417.260 (1975)
Pa. Stat. Ann., Title 62, Secs. 761 thru 765 (1973)
R.I. Gen. Laws Ann., Secs. 40-15-1 thru 40-15-10 (1967)
S.C., Art. 1, Act 469 (1980)
S.D. Compiled Laws Ann., Secs. 26-13-1 thru 26-13-9 (1974)
Tenn. Code Ann., Secs. 37-1401 thru 37-1409 (1974)
Tex. Rev. Civ. Stat. Ann., Art. 695a-2 (1975)
Utah Code Ann., Secs. 55-8b-1 thru 55-8b-8 (1975)
Vt. Stat. Ann., Title 33, Secs. 3151 thru 3160 (1972)
Va. Code Ann., Secs. 63.1-219.1 thru 63.1-219.6 (1975)
Wash. Rev. Code Ann., Secs. 26.34.010 thru 26.34.080 (1971)
W.Va. Code Ann., Secs. 49-2A-1 thru 49-2A-2 (1975)
Wis., Ch. 354, Laws of 1977
Wyo. Stat. Ann., Secs. 14-4-101 thru 14-4-109 (1963)

INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

ARTICLE I. Purpose and Policy

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

ARTICLE II. Definitions

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

(b) "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which the child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

ARTICLE III. Conditions for Placement

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

(1) The name, date and place of birth of the child.

(2) The identity and address or addresses of the parents or legal guardian.

(3) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child.

(4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

ARTICLE IV. Penalty for Illegal Placement

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

ARTICLE V. Retention of Jurisdiction

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agency for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof.

ARTICLE VI. Institutional Care of Delinquent Children

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

1. Equivalent facilities for the child are not available in the sending agency's jurisdiction, and
2. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

ARTICLE VII. Compact Administrator

The executive heard of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE VIII. Limitations

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by his parent, step-parent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or non-agency guardian in the receiving state.

(b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

ARTICLE IX. Enactment and Withdrawal

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province therof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

ARTICLE X. Construction and Severability

The provisions of this compact shall be liberally construed to effectuate the purposes therof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability therof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

APPENDIX C

INTERSTATE COMPACT ON MENTAL HEALTH

Ala. Code, Secs. 22-55-1 thru 22-5-4 (1975)
Alaska Stat., Sec. 47.30.180 (1959)
Ark. Stat. Ann., Secs. 59-401 thru 59-406 (1959)
Colo. Rev. Stat., Secs. 24-60-1001 thru 24-60-1006 (1965)
Conn. Gen. Stat., Secs. 17-258 thru 17-261 (1955)
Del. Code Ann., Ch. 61, Secs. 6101 thru 6105 (1962)
Fla. Stat. Ann., Secs. 394.479 thru 394.484 (1971)
Ga. Code Ann., Secs. 99-3801 thru 99-3817 (1973)
Hawaii Rev. Stat., Secs. 335-1 thru 335-5 (1967)
Idaho Code, Secs. 66-1201 thru 66-1205 (1961)
Ill. Ann. Stat., Ch. 91.5, Secs. 50-1 thru 50-5 (1965)
Ind. Code, Secs. 16-13-8-1 thru 16-13-8-5 (1959)
Iowa Code Ann., Secs. 218A.1 thru 218A.6 (1962)
Kans. Stat. Ann., Secs. 65-3101 thru 65-3106 (1967)
Ky. Rev. Stat., Secs. 210.520 thru 210.550 (1958)
La. Rev. Stat. Ann., Secs. 28:721 thru 28:726 (1958)
Me. Rev. Stat. Ann., Secs. 2561 thru 2574 (1957)
Md. Ann. Code, Art. 41, Secs. 319 thru 338 (1963)
Mass. Gen. Laws Ann., Ch. 123 (App.), Secs. 1-1 thru 1-4 (1956)
Mich. Stat. Ann., Secs. 14.800(920) thru 14.800(930) (1965)
Minn. Stat. Ann., Secs. 245.51 thru 245.53 (1957)
Mo. Stat. Ann., Secs. 202.880 thru 202.895 (1959)
Mont. Rev. Code, Sec. 80-2412 (1971)
Neb. Rev. Stat., Secs. 83-801 thru 83-806 (1969)
N.H. Rev. Stat. Ann., Secs. 135-A:1 thru 135-A:6 (1957)
N.J. Stat. Ann., Secs. 30:7B-1 thru 30:7B-18 (1956)
N.M. Stat. Ann., Secs. 34-5-1 thru 34-5-5 (1969)
N.Y. Mental Hygiene Law, Sec. 67.07 (1956)
N.C. Gen. Stat., Secs. 122-99 thru 122-104 (1959)
N.D. Cent. Code, Secs. 25-11-01 thru 25-11-06 (1963)
Ohio Rev. Code Ann., Secs. 5123.63 thru 5123.66 (1959)
Okla. Stat. Ann., Title 43A, Secs. 501 thru 506 (1959)
Ore. Rev. Stat., Secs. 428.310 thru 428.330 (1957)
Pa. Stat. Ann., Title 62, Secs. 1121 thru 1126 (1961)
R.I. Gen. Laws, Secs. 26-6-1 thru 26-6-3 (1957)
S.C. Code, Sec. 32.1051 (1959)
S.D. Codified Laws, Secs. 27A-6-1 thru 27A-6-5 (1959)
Tenn. Code Ann., Secs. 33.1501 thru 33.1506 (1971)
Tex. Ann. Civ. Stat., Art. 5561f (1969)
Vt. Stat. Ann., Title 18, Secs. 9001 thru 9052 (1959)
Wash. Rev. Code, Ch. 72.27 (1965)
W.Va. Code, Secs. 27-14-1 thru 27-14-5 (1957)
Wis. Stat. Ann., Secs. 51.75 thru 51.80 (1965)
Wyo. Stat., Secs. 25-4-101 thru 25-4-106 (1969)
D.C. Code, Secs. 6-1601 thru 6-1606 (1972)

INTERSTATE COMPACT ON MENTAL HEALTH

Section 1. The Interstate Compact on Mental Health is hereby enacted into law and entered into by this state with all other states legally joining therein in the form substantially as follows:

The contracting states solemnly agree that:

Article I

The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further, the party states find that the necessity of and desirability for furnishing such care and treatment bear no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

Article II

As used in this compact:

(a) "Sending state" shall mean a party state from which a patient is transported pursuant to the provisions of this compact or from which it is contemplated that a patient may be so sent.

(b) "Receiving state" shall mean a party state to which a patient is transported pursuant to the provisions of the compact or to which it is contemplated that a patient may be so sent.

(c) "Institution" shall mean any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental deficiency.

(d) "Patient" shall mean any person subject to or eligible as determined by the laws of the sending state, for institutionalization or other care, treatment, or supervision pursuant to the provisions of this compact.

(e) "After-care" shall mean care, treatment and services provided a patient, as defined herein, on convalescent status or conditional release.

(f) "Mental illness" shall mean mental disease to such extent that a person so afflicted requires care and treatment for his own welfare, or the welfare of others, or of the community.

(g) "Mental deficiency" shall mean mental deficiency as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing himself and his affairs, but shall not include mental illness as defined herein.

(h) "State" shall mean any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

Article III

(a) Whenever a person physically present in any party state shall be in need of institutionalization by reason of mental illness or mental deficiency, he shall be eligible for care and treatment in an institution in that state irrespective of his residence, settlement or citizenship qualifications.

(b) The provisions of paragraph (a) of this article to the contrary notwithstanding, any patient may be transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of said patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors referred to in this paragraph shall include the patient's full record with due regard for the location of the patient's family, character of the illness and probable duration thereof, and such other factors as shall be considered appropriate.

(c) No state shall be obliged to receive any patient pursuant to the provisions of paragraph (b) of this article unless the sending state has given advance notice of its intention to send the patient; furnished all available medical and other pertinent records concerning the patient; given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient if said authorities so wish; and unless the receiving state shall agree to accept the patient.

(d) In the event that the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.

(e) Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and such further transfer of the patient may be made as seems likely to be in the best interest of the patient.

Article IV

(a) Whenever, pursuant to the laws of the state in which a patient is physically present, it shall be determined that the patient should receive after-care or supervision, such care or supervision may be provided in a receiving state. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state shall have reason to believe that after-care in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of affording the patient such after-care in said receiving state, and such investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge it is proposed to place the patient, the complete medical history of the patient, and such other documents as may be pertinent.

(b) If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state and the appropriate authorities in the receiving state find that the best interest of the patient would be served thereby, and if the public safety would not be jeopardized thereby, the patient may receive after-care or supervision in the receiving state.

(c) In supervising, treating, or caring for a patient on after-care pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care, and treatment that it employs for similar local patients.

Article V

Whenever a dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escape in a manner reasonably calculated to facilitate

the speedy apprehension of the escapee. Immediately upon the apprehension and identification of any such dangerous or potentially dangerous patient, he shall be detained in the state where found pending disposition in accordance with law.

Article VI

The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact, without interference.

Article VII

(a) No person shall be deemed a patient of more than one institution at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state.

(b) The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any two or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs as among themselves.

(c) No provision of this compact shall be construed to alter or affect any internal relationships among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(d) Nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to any provision of this compact.

(e) Nothing in this compact shall be construed to invalidate any reciprocal agreement between a party state and a non-party state relating to institutionalization, care or treatment of the mentally ill or mentally deficient, or any statutory authority pursuant to which such agreements may be made.

Article VIII

(a) Nothing in this compact shall be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's guardian on his own behalf or in respect of any patient for whom he may serve, except that where the transfer of any patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts as such court may by law require, relieve the previous guardian of power and responsibility to whatever extent shall be appropriate in the circumstances; provided, however, that in the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state shall have the sole discretion to relieve a guardian appointed by it or continue his power and responsibility, whichever it shall deem advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

(b) The term "guardian" as used in paragraph (a) of this article shall include any guardian, trustee, legal committee, conservator, or other person or agency however denominated who is charged by law with power to act for or responsibility for the person or property of a patient.

Article IX

(a) No provision of this compact except Article V shall apply to any person institutionalized while under sentence in a penal or correctional institution or while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, said person would be subject to incarceration in a penal or correctional institution.

(b) To every extent possible, it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jail or lockup, but such patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.

ARTICLE X

(a) Each party state shall appoint a "compact administrator" who, on behalf of his state, shall act as general coordinator of activities under the compact in his state and who shall receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by his state either in the capacity of sending or receiving state. The compact administrator or his duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any patient processed thereunder.

(b) The compact administrators of the respective party states shall have power to promulgate reasonable rules and regulations to carry out more effectively the terms and provisions of this compact.

Article XI

The duly constituted administrative authorities of any two or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or cooperative basis whenever the states concerned shall find that such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental deficiency. No such supplementary agreements shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

APPENDIX D

LONG-ARM AND RELATED JURISDICTIONAL STATUTES AND RULES

Ala. Rev. Civ. Proc., Rule 4.2; Ala Code, Secs. 6-4-1 thru 6-4-22.
Alaska Stat., Sec. 09.05.015.
Ariz. Rev. Civ. Proc., Rule (4)(3)(2); Ariz. Rev. Stat. Ann., Sec. 14-5208.
Ark. Stat. Ann., Secs. 27-339 thru 27-340, 27-2501 thru 27-2507.
Calif. Civ. Proc. Code, Secs. 410.10 thru 410.50.
Colo. Rev. Stat., Secs. 13-1-124 thru 13-1-125.
Conn. Gen. Stat. Ann., Sec. 52-59b.
Del. Code Ann., Title 10, Secs. 3104, 3111.
Fla. Stat. Ann., Secs. 48.071, 48.161, 48.181, 48.193.
Ga. Code Ann., Secs. 24-113.1 thru 24-116.
Hawaii Rev. Stat., Sec. 634-35.
Idaho Code, Secs. 5-514 thru 5-517.
Ill. Rev. Stat., Ch. 110, Sec. 17.
Ind. Rules Civ. Proc., Rule 4.4; Ind. Code, Sec. 34-5-1-1.
Iowa Rules Civ. Proc., Rule 56.2.
Kans. Stat. Ann., Sec. 60-308.
Ky. Rev. Stat. Ann., Sec. 454.210.
La. Rev. Stat. Ann., Secs. 13:3204, 13:3206.
Me. Rev. Stat. Ann., Title 14, Sec. 704A.
Md. Cts. and Jud. Proc. Code Ann., Sec. 6-103.
Mass. Gen. Laws Ann., Ch. 223A, Sec. 1-3.
Mich. Stat. Ann., Sec. 27A.705.
Minn. Stat. Ann., Sec. 543.19.
Miss. Code Ann., Sec. 13-3-57.
Mo. Rev. Stat., Sec. 506.240.
Mont. Rules Civ. Proc., Rule 4B.
Neb. Rev. Stat., Secs. 25-535 thru 25-541, 30-2612.
Nev. Rev. Stat., Sec. 14.065.
N.H. Rev. Stat. Ann., Sec. 510.4.
N.J. Rev. Stat., Sec. 2A:15-26.
N.M. Stat. Ann., Sec. 21-3-16.
N.Y. Gen. Bus. Law, Sec. 389.
N.C. Rules Civ. Proc., Rule 4; N.C. Gen. Stat., Sec. 1A-1.
Ohio Rev. Code Ann., Sec. 2307.382.
Okla. Stat. Ann., Title 12, Sec. 187.
Ore. Rev. Stat., Sec. 14.035.
Pa. Stat. Ann., Title 42, Secs. 5301 thru 5323.
R.I. Gen. Laws Ann., Sec. 9-5-33.
S.C. Code Ann., Sec. 10-424.
S.D. Compiled Laws Ann., Secs. 15-7-1 thru 15-7-5.
Tenn. Code Ann., Sec. 20-235.
Tex. Rules Civ. Proc., Rule 108.
Utah Code Ann., Secs. 78-27-20 thru 78-27-26.

Vt. Rules Civ. Proc., Rule 4(e).
Va. Code Ann., Secs. 8.01-328, 8.01-328.1.
Wash. Rev. Code Ann., Sec. 4.12.025.
W.Va. Rules Civ. Proc., Rule 4.
Wis. Stat. Ann., Sec. 801.05.
Wyo. Rules Civ. Proc., Rule 5.
D.C. Code Ann., Secs. 13-421 thru 13-425.

APPENDIX E

CHILD IMPORT/EXPORT STATUTES

Ala. Code, Title 49, Sec. 84(15).
Ariz. Rev. Stat. Ann., Sec. 8-503.
Conn. Gen. Stat. Ann., Sec. 17-51.
Del. Code Ann., Title 31, Sec. 307.
Ga. Code, Sec. 99-215.
Ind. Code, Secs. 12-3-21-1 thru 12-3-21-4.
Kans. Stat. Ann., Sec. 38-315.
Ky. Rev. Stat. Ann., Sec. 199.400.
Mass. Gen. Laws. Ann., Ch. 119, Sec. 36.
Minn. Stat. Ann., Secs. 257.05 and 257.06.
Mo. Ann. Stat., Sec. 210.010.
Mont. Rev. Code Ann., Sec. 71-711.
Neb. Rev. Stat., Secs. 43-704 thru 43-709.
N.H. Rev. Stat. Ann., Sec. 170-B:24.
N.J. Rev. Stat., Secs. 9:7-1 thru 9:7-6.
N.Y. Soc. Serv. Law, Sec. 382.
N.C. Gen. Stat., Secs. 110-50 thru 110-55.
N.D. Cent. Code, Sec. 40-12-14.1
Ohio Rev. Code Ann., Sec. 2151.39.
Okla. Stat., Title 10, Sec. 33.
Ore. Rev. Stat., Sec. 412.090.
Pa. Stat. Ann., Title 62, Secs. 741 thru 745.
R.I. Gen. Laws Ann., Sec. 15-7-3.
S.C. Code Ann., Sec. 71-207.
S.D. Compiled Laws Ann., Sec. 26-6-10.
Tenn. Code Ann., Secs. 14-1505 thru 14-1509.
W.Va. Code Ann., Sec. 49-2-15.
Wis. Stat. Ann., Sec. 48.98.
Wyo. Stat. Ann., Sec. 14-52.8.

APPENDIX F

FACILITY LICENSING STATUTES

Ala. Code, Sec. 22-517 (mental health facilities); Sec. 26-10-8 (child-placing agencies); Secs. 38-7-3 thru 38-7-16 (child care facilities).

Alaska Stat., Secs. 18.20.020 thru 18.20.120 (hospitals); Sec. 47.35.040 (foster homes, boarding homes); Sec. 47.35.100 (child placement agencies).

Ariz. Rev. Stat. Ann., Secs. 8-505 thru 8-509 (foster homes, child welfare agencies); Secs. 8-552 thru 8-563 (camps for children); Secs. 36-132, 36-401 et seq. (mental health hospitals, maternity homes); Secs. 36-441 thru 36-445 (hospitals); Secs. 46-134, 36-889 thru 36-892 (child care agencies).

Ark. Stat. Ann., Sec. 59-1012 (private mental retardation facilities); Secs. 80-4301 thru 80-4311 (private schools); Secs. 82-346, 82-353 (hospitals); Secs. 83-903 thru 83-916 (child care facilities).

Calif. Welf. & Instns. Code, Secs. 16100 et seq. (child care institutions); Secs. 70001 et seq. (private mental institutions).

Colo. Rev. Stat. Ann., Secs. 25-3-101 thru 25-3-105 (hospitals); Sec. 25-3-205 (maternity hospitals); Secs. 26-6-101 thru 26-6-112 (child care centers).

Conn. Gen. Stat. Ann., Secs. 17-48 et seq. (child care facilities); Secs. 17-174, 19-4g (boarding homes for mentally ill); Sec. 17-227 (private mental hospitals); Secs. 19-31 thru 19-41 (hospitals, maternity homes).

Del. Code Ann., Title 16, Secs. 1003 thru 1017 (hospitals); Title 16, Secs. 1102 thru 1110 (nursing homes); Title 31, Sec. 343 (boarding homes for children).

D.C. Code Encycl. Ann., Secs. 32-782 thru 32-788 (child-placing agencies).

Fla. Stat. Ann., Sec. 63-202 (child welfare agencies); Sec. 205.55 (schools); Secs. 395.03 thru 395.07, 395.14 thru 395.16 (schools); Secs. 394.50, 394.62 (mental institutions, residential centers for children); Secs. 402.306 thru 402.316 (child care facilities); Sec. 409.05 (boarding homes for dependent children).

Ga. Code Ann., Sec. 88-2201 (hospitals); Secs. 99-214, 99-9902 (child welfare agencies).

Hawaii Rev. Stat., Sec. 333-51 (private mental retardation facilities); Sec. 334-21 (mental health facilities); Sec. 346-17 (child care and child-placing agencies).

Idaho Code, Secs. 39-1209 thru 39-1224 (child care facilities); Secs. 39-1301 thru 39-1317 (hospitals); Sec. 39-33 (shelter homes).

Ill. Rev. Stat., Ch. 23, Secs. 2214 thru 2219 (child care facilities); Ch. 34, Sec. 5362 (shelter care homes); Ch. 91-1/2, Sec. 100-15.1 (out-of-state mental health facilities); Ch. 111-1/2, Sec. 15.1 (mental health facilities); Ch. 111-1/2, Secs. 544,546 (youth camps); Ch. 111-1/2, Secs. 142 et seq. (hospitals).

Ind. Code, Secs. 12-3-2-1 et seq. (child care institutions); Secs. 16-10-1-1 et seq. (hospitals); Secs. 16-13-2-1 et seq. (private institutions for mentally deficient and mentally retarded); Secs. 20-1-19-16 thru 20-1-19-22 (private schools).

Iowa Code, Secs. 135B.1 et seq. (sanatoriums); Sec. 218.30 (private mental institutions); Secs. 235.5, 238.3 et seq. (child-placing agencies); Secs. 237.3 et seq. (boarding homes for children); Secs. 237A.2 thru 237A.20 (child care centers).

Kans. Stat. Ann., Secs. 65-428 thru 65-437 (hospitals); Secs. 65-501, 65-510 (homes for children); Sec. 65-5a08 (crippled children hospitals); Sec. 75-3307b (hospitals for the mentally ill).

Ky. Rev. Stat. Ann., Secs. 199.640 et seq. (child care facilities); Secs. 216.405 et seq. (health facility).

La. Rev. Stat. Ann., Sec. 15:1083 (child care agencies, maternity homes); Secs. 17:3141.1 et seq. (schools); Secs. 28:437 et seq. (mental health facilities); Secs. 28:562 et seq. (institutions caring for mentally retarded children); Secs. 46:52, 46:1403 (child care institutions, maternity homes, child welfare agencies).

Me. Rev. Stat. Ann., Title 12, Sec. 2255 (camps for children); Title 22, Sec. 5 (mental institutions); Title 22, Secs. 1811 et seq. (homes); Title 22, Secs. 2481 et seq. (camps); Title 22, Sec. 3797 (homes for children); Title 34, Sec. 2211 (private mental hospitals).

Md. Ann. Code, Art. 43, Secs. 557 thru 565 (hospitals); Art. 52A, Sec. 21 (foster homes); Art. 59, Secs. 5, 33 thru 36 (mental health facilities); Art 59A, Secs. 20 thru 22 (mental retardation facilities); Art. 59A, Secs. 20A thru 20C (mental retardation group homes); Art. 88A, Secs. 20A thru 32A (child care facilities).

Mass. Gen. Laws Ann., Ch. 19, Sec. 29 (residential services for mentally ill); Ch. 28A, Secs. 4, 10, 11 (children group care facilities); Ch. 111, Secs. 51 et seq. (hospitals); Ch. 111, Secs. 62A et seq. (health camps for children); Ch. 119, Secs. 5, 15, and Ch. 28A, Sec. 10 (foster homes); Ch. 140, Secs. 32A thru 32E (camps).

Mich. Stat. Ann., Sec. 14.850 (private hospitals for the mentally ill); Secs. 14.1171 thru 14.1176 (maternity homes); Sec. 15.3599(1) (boarding schools); Sec. 25.358(3) (foster homes, child welfare agencies); Sec. 25.399(11) (camps); Sec. 28.339 (boarding homes for children).

Minn. Stat. Ann., Secs. 144.12, 317.65 (homes for children); Secs. 144.49 thru 144.55, 257.081 thru 257.111 (maternity homes, hospitals for mentally ill, boarding homes, foster homes); Secs. 256.00, 257.091, 257.101 (child-placing and child care agencies).

Miss. Code Ann., Secs. 41-9-5 thru 41-9-35 (hospitals); Secs. 43-11-5 thru 43-11-13 (nursing homes); Sec. 43-15-5 (child-placing and child care institutions); Secs. 43-20-9 thru 43-20-13 (child care facilities); Secs. 75-60-9 et seq. (schools); Sec. 75-74-11 (youth camps).

Mo. Rev. Stat., Sec. 202.905 (mental institutions); Sec. 203.020 (maternity hospitals); Secs. 210.200 thru 210.245, 210.298 (child care homes, boarding homes, child-placing agencies.)

Mont. Rev. Codes Ann., Secs. 41-3-501 thru 41-3-504 (foster homes); Secs. 50-5-2 et seq. (hospitals); Sec. 53-20-3 (community homes for developmentally disabled).

Neb. Rev. Stat., Secs. 43-701, 43-709 (placement of children); Sec. 71-901 (orphanages); Secs. 71-1901 et seq., 68-1207 (child care facilities); Secs. 71-2018 et seq. (private hospitals for mentally retarded, maternity homes); Secs. 71-3102, 71-3104 (camps); Sec. 83-392 (nursing care facilities for mentally ill and deficient).

Nev. Rev. Stat., Secs. 127.230 thru 127.270 (child-placing agencies); Secs. 422.270, 424.030 (child care facilities); Secs. 435.060 et seq. (group care facilities for mentally retarded children); Sec. 439A.100 (maternity homes); Secs. 444.230 thru 444.290 (camps); Secs. 449.040, 449.160 (health care facilities).

N.H. Rev. Stat., Secs. 126-A:38 thru 126-A:40 (homes for mentally retarded); Secs. 151:3 thru 151:18 (hospitals); Sec. 161:2 (boarding homes); Sec. 167:50 (foster homes); Secs. 170-E:1 et seq. (child care and child-placing institutions); Sec. 171-A:14 (developmentally disabled).

N.J. Rev. Stat., Secs. 18A:70-1 thru 18A:70-8, (child care centers); Sec. 26:2H.12 (health care facilities); Secs. 30:11-1 thru 30:11-4 (private mental hospitals); Secs. 30:11A-2 thru 30:11A-12 (boarding homes).

N.M. Stat. Ann., Sec. 20-13-16 (private schools); Secs. 40-7-20 thru 40-7-24 (child placement agencies).

N.Y. Ment. Hyg. Law, Sec. 41.34 (residential facilities for the disabled); Sec. 424 (private mental health hospitals).

N.Y. Soc. Serv. Law, Secs. 375, 377 (boarding homes for children).

N.C. Gen. Stat., Sec. 108-76 (maternity homes); Secs. 108-78, 110-49 (child care institution); Sec. 116-15 (private schools); Secs. 122-72 thru 122-82 (private mental hospitals); Secs. 131-126.1 thru 131-126.16 (hospitals).

N.D. Cent. Code, Secs. 25-16-02 thru 25-16-12 (residential care for mentally retarded); Secs. 50-11-01 thru 50-11-02.1 (homes for children); Secs. 50-12-02 thru 50-12-13 (child-placing agencies); Secs. 50-19-02 thru 50-19-15 (maternity homes).

Okla. Stat. Ann., Title 10, Secs. 401 et seq. (child care facilities); Title 63, Secs. 1-702 et seq. (private mental hospitals); Title 70, Secs. 1444.1 et seq. (private schools).

Ore. Rev. Stat., Secs. 418.215 thru 418.990 (child care agencies); Secs. 431.5 et seq. (hospitals); Secs. 443.400 thru 443.475 (residential facilities for disabled and handicapped).

Pa. Stat. Ann., Title 24, Secs. 2732, 2734 thru 2742 (private schools); Title 35, Secs. 321 thru 323 (maternity homes); Title 50, Secs. 1111 thru 1114 (private mental institutions); Title 62, Secs. 1001 et seq. (boarding homes for children); Title 71, Secs. 598 and 1473, (asylums).

R.I. Gen. Laws. Ann., Sec. 15-7-1 (adoption agencies); Secs. 23-16-2 thru 23-16-17 (hospitals); Secs. 23-43.3-2 thru 23-43.3-14 (facilities for mentally retarded); Secs. 40-12-11 thru 40-12-13 (child placement agencies); Secs. 40-13-3 thru 40-13-11 (boarding homes for children, group homes).

S.C. Code Ann., Sec. 13-28-10.1 (group or private care); Secs. 13-48-7 thru 13-48-19 (private schools); Secs. 26-6-8, 26-6-9 (maternity homes, homes for children, child welfare agencies); Secs. 34-12-1 thru 34-12-22 (hospitals); Secs. 34-19-1 thru 34-19-3 (maternity homes).

Tenn. Code Ann., Secs. 14-1404 thru 14.1413, 14-1425 (child welfare agencies, maternity); Secs. 37-1501 thru 37-1510 (foster care); Secs. 51-1302 thru 53-1314 (hospitals).

Tex. Rev. Civ. Stat., Art. 695a-1 (child care administrators); Art. 695a-3 (child care facilities, child welfare agencies); Art. 3259, Sec. 1 (boarding homes for children); Art. 3871b, Sec. 17 (foster homes for mentally retarded); Art. 4437 f and 4437 h (hospitals); Art. 4442 c (foster care homes, maternity homes); Art. 4447 l (youth camps); Art. 5547-88 thru 5547-99 (private mental hospitals).

Utah Code Ann., Secs. 26-15-54 thru 26-15-62 (hospitals); Secs. 26-15-69 thru 26-15-71 (maternity homes); Secs. 55-8a-1 thru 55-8a-6 (adoption agencies).

Vt. Stat. Ann., Title 18, Secs. 2161 thru 2164 (boarding homes); Title 18, Secs. 2471 thru 2475 (private mental hospitals); Title 33, Sec. 2851 (child care facilities).

Va. Code Ann., Secs. 32-297 thru 32-310 (hospitals); Secs. 37.1-179 thru 37.1-189 (private institutions for mentally ill); Sec. 58-387 (boarding homes); Secs. 63.1-195 thru 63.1-219 (child welfare homes, agencies, and institutions).

Wash. Rev. Code Ann., Secs. 18.46.030 thru 18.46.110 (maternity homes); Secs. 26.36.010 thru 26.36.060 (child care associations); Secs. 70.41.010 thru 70.41.170 (hospitals); Secs. 71.12.460 thru 71.12.590 (private mental hospitals); Secs. 72.33.800 thru 72.33.820 (group training homes for the mentally and physically deficient); Secs. 74.14.020 thru 74.14.090 (child welfare agencies); Secs. 74.14.126 thru 74.14.130 (foster homes).

W.Va. Code Ann., Secs. 16-5B-1 thru 16-5B-12 (hospitals); Sec. 27-9-1 (private mental hospitals); Secs. 49-2-4 thru 49-2-8 (child welfare agencies); Secs. 49-2-9 thru 49-2-12 (foster homes).

Wis. Stat. Ann., Sec. 46.16 (child care facilities); Secs. 48.60 thru 48.61 (child welfare agencies); Secs. 48.62 thru 48.64 (group and foster homes); Secs. 50.01 thru 50.11 (community-based facilities).

Wyo. Stat. Ann., Secs. 14-4-101 thru 14-4-115 (child care facilities); Secs. 21-11-101 thru 21-11-107 (private schools); Secs. 35-2-101 thru 35-2-117 (boarding homes, hospitals).

APPENDIX G

EDUCATIONAL PLACEMENT AUTHORITY STATUTES

Ala. Code, Secs. 16-39-1 thru 16-39-12.
Alaska Stat., Secs. 14.30.180 thru 14.30.350.
Ariz. Rev. Stat. Ann., Secs. 15-1001 thru 15-1020.06.
Ark. Stat. Ann., Secs. 80-2101 thru 80-2143.
Calif. Educ. Code, Secs. 56000 thru 58685.
Colo. Rev. Stat. Ann., Secs. 22-20-103 thru 22-20-114.
Conn. Gen. Stat. Rev., Secs. 10-76a thru 10-76q.
Del. Code Ann., Title 14, Secs. 3101 thru 3126.
D.C. Code Encycl. Ann., Sec. 31-1118.
Fla. Stat. Ann., Secs. 228.041(19) and (20), 229.831 thru 229.840, 230.23(4)(n), 230.33(4)(k).
Ga. Code Ann., Sec. 32-605a.
Hawaii Rev. Stat., Secs. 301-21 thru 301-27.
Idaho Code, Secs. 33-2001 thru 33-2009.
Ill. Rev. Stat., Ch. 122, Secs. 14-1 thru 14-12.
Ind. Code, Secs. 20-1-6-1 thru 20-1-6-20.
Iowa Code Ann., Secs. 281.1 thru 281.11.
Kans. Stat. Ann., Secs. 72-933 thru 72-982.
Ky. Rev. Stat. Ann., Secs. 167.015 thru 167.990.
La. Rev. Stat. Ann., Secs. 17:1941 thru 17:1957.
Me. Rev. Stat. Ann., Title 20, Secs. 3121 thru 3132.
Md. Educ. Code, Secs. 8-401 thru 8-417.6.
Mass. Gen. Laws Ann., Ch. 71B, Secs. 1 thru 14.
Mich. Stat. Ann., Secs. 15.41701 thru 15.41766.
Minn. Stat. Ann., Secs. 120.170.
Miss. Code Ann., Secs. 37-23-1 thru 37-23-11.
Mo. Rev. Stat., Secs. 162-670 thru 162-995.
Mont. Rev. Codes Ann., Secs. 20-7-401 thru 20-7-443.
Neb. Rev. Stat., Secs. 43-601 thru 43-680.
Nev. Rev. Stat., Secs. 388.440 thru 388.520.
N.H. Rev. Stat. Ann., Secs. 186-A:1 thru 186-A:13.
N.J. Rev. Stat., Secs. 18A:46-1 thru 18A:46-46.
N.M. Stat. Ann., Secs. 22-13-5 thru 22-13-8.
N.Y. Educ. Law, Secs. 4401 thru 4409.
N.C. Gen. Stat., Secs. 115-363 thru 115-410.
N.D. Cent. Code, Secs. 15-59-01 thru 15-59-09, 15-59.1-01 thru 15-59.1-10.
Ohio Rev. Code Ann., Secs. 3323.01 thru 3323.16.
Okla. Stat. Ann., Title 70, Secs. 13-101 thru 13-113.
Ore. Rev. Stat., Secs. 343.035 thru 343.404.
Pa. Stat. Ann., Title 24, Secs. 13-1371 thru 13-1382.
R.I. Gen. Laws Ann., Secs. 16-24-1 thru 16-24-16, 16-25-1 thru 16-25-7.
S.C. Code Ann., Secs. 59-33-10 thru 59-33-80.
S.D. Compiled Laws Ann., Secs. 13-37-1 thru 13-37-23.
Tenn. Code Ann., Secs. 49-2901 thru 49-2959.

Tex. Educ. Code, Secs. 26.01 thru 26.72.
Utah Code Ann., Secs. 53-18-1 thru 53-18-10.
Vt. Stat. Ann., Title 16, Secs. 2941 thru 2954.
Va. Code Ann., Secs. 22-10.3 thru 22-10.13.
Wash. Rev. Code Ann., Secs. 28A.13.010 thru 28A.13.100, 28A.16.010 thru 28A.16.030.
W.Va. Code Ann., Secs. 18-20-1 thru 18-20-6.
Wis. Stat. Ann., Secs. 115.51 thru 115.58, 115.76 thru 115.85.
Wyo. Stat. Ann., Secs. 21-14-101 thru 21-14-103.

APPENDIX H

MENTAL HEALTH PLACEMENT AUTHORITY STATUTES

Ala. Code, Secs. 22-52-1 thru 22-52-72.
Alaska Stat., Secs. 47.30.010 thru 47.30.340.
Ariz. Rev. Stat. Ann., Secs. 36-518 thru 36-544.
Ark. Stat. Ann., Secs. 59-401 thru 59-431.
Calif. Welf. & Instns. Code, Secs. 6000 thru 6740.
Colo. Rev. Stat. Ann., Secs. 27-9-101 thru 27-10-124.
Conn. Gen. Stat. Ann., Secs. 17-172(d) thru 17-175(c) (mentally retarded); 17-176 thru 17-206(k) (mentally ill).
Del. Code Ann., Title 16, Secs. 5121 thru 5134.
D.C. Code Encycl. Ann., Secs. 21-511 thru 21-551.
Fla. Stat. Ann., Secs. 394.451 thru 394.477.
Ga. Code Ann., Secs. 88-501 thru 88-508 (mentally ill); Secs. 88-2504 thru 88-2509.8 (mentally retarded).
Hawaii Rev. Stat., Secs. 333-25 thru 333-37 (mentally retarded); Secs. 334-59 thru 334-86 (mentally ill).
Idaho Code, Secs. 66-317 thru 66-359.
Ill. Rev. Stat., Ch. 91-1/2, Secs. 5-1 thru 11-6.
Ind. Code, Secs. 16-14-9.1 thru 16-14-9.1-18.
Iowa Code Ann., Secs. 229.1 thru 229.44.
Kans. Stat. Ann., Secs. 59-2902 thru 59-2942.
Ky. Rev. Stat. Ann., Secs. 202.010 thru 202.380.
La. Rev. Stat. Ann., Secs. 28:50 thru 28:105.
Me. Rev. Stat. Ann., Title 34, Secs. 2290 thru 2422.
Md. Ann. Code, Art. 59, Secs. 11 thru 37 (mentally ill); Secs. 9 thru 23 (mentally retarded).
Mass. Gen. Laws Ann., Ch. 123, Secs. 5 thru 14, 24 and 34.
Mich. Stat. Ann., Secs. 14.800(4) thru 14.800(438) (mentally ill); Secs. 14.800(500) thru 14.800(541) (mentally retarded).
Minn. Stat. Ann., Secs. 253A.01 thru 253A.21.
Miss. Code, Secs. 41-21-61 thru 41-21-107.
Mo. Rev. Stat., Secs. 202.780 thru 202.875 (mentally ill); Secs. 202.590 thru 202.668 (mentally retarded).
Mont. Rev. Codes Ann., Secs. 53-21-101 thru 53-21-190 (mentally ill); Secs. 53-20-101 thru 53-20-165 (mentally retarded).
Neb. Rev. Stat., Secs. 83-1, 141, 83-1001 thru 83-1078.
Nev. Rev. Stat., Secs. 433A.120 thru 433A.570 (mentally ill); Secs. 435.010 thru 435.380 (mentally retarded).
N.H. Rev. Stat. Ann., Secs. 135-B:1 thru 135-B:49.
N.J. Rev. Stat., Secs. 30:4-23 thru 30:4-60.
N.M. Stat. Ann., Secs. 43-1-1 thru 43-1-23.
N.Y. Ment. Hyg. Code, Secs. 9.01 thru 9.49 (mentally ill); Secs. 15.01 thru 15.35 (mentally retarded).
N.C. Gen. Stat., Secs. 122-56.1 thru 122-58.21.

N.D. Cent. Code, Secs. 25-03.1-01 thru 25-03.1-46 (mentally ill); Secs. 25-04-01 thru 25-04-13.1 (mentally retarded).
Ohio Rev. Code Ann., Secs. 5122.01 thru 5122.42 (mentally ill); Secs. 5123.68 thru 5123.98 (mentally retarded).
Okla Stat. Ann., Title 43, Secs. 50 thru 82.
Ore. Rev. Stat., Secs. 426.070 thru 426.223 (mentally ill); Secs. 427.015 thru 427.260 (mentally retarded).
Pa. Stat. Ann., Title 50, Secs. 4401 thru 4426.
R.I. Gen. Laws Ann., Secs. 40.1-5-1 thru 40.1-5-43.
S.C. Code Ann., Secs. 44-17-310 thru 44-17-440, 44-17-510 thru 44-17-650 (mentally ill); Secs. 44-17-40 thru 44-21-120 (mentally retarded).
S.D. Compiled Laws Ann., Secs. 27A-8-1 thru 27A-8-14, 27A-9-1 thru 27A-9-36 (mentally ill); Secs. 27B-5-1 thru 27B-5-18, 27B-7-1 thru 27B-7-23 (mentally retarded).
Tenn. Code Ann., Secs. 33-601 thru 33-613, 33-501 thru 33-522.
Tex. Rev. Civ. Stat., Arts. 5547-201 thru 5547-300.
Utah Code Ann., Secs. 64-7-29 thru 64-7-56.
Vt. Stat. Ann., Title 18, Secs. 7501 thru 8906.
Va. Code Ann., Secs. 37.1-63 thru 37.1-119.
Wash. Rev. Code Ann., Secs. 72.23.010 thru 72.23.910.
W.Va. Code Ann., Secs. 27-1A-4 and 27-5-4.
Wis. Stat. Ann., Secs. 51.001 thru 51.95.
Wyo. Stat. Ann., Secs. 25-3-101 thru 25-3-141.

APPENDIX I

STATE INSTITUTIONS FOR HANDICAPPED CHILDREN AUTHORIZATION STATUTES

Ala. Code, Secs. 21-1-1 thru 21-1-23.
Ariz. Rev. Stat. Ann., Secs. 15-801 thru 15-851.
Ark. Stat. Ann., Secs. 80-2201 thru 80-2223, 80-2301 thru 80-2322.
Calif. Welf. & Instns. Code, Secs. 59000 thru 59045, 59100 thru 59144.
Colo. Rev. Stat. Ann., Secs. 27-35-101 thru 27-35-116.
Conn. Gen. Stat. Ann., Secs. 10-312 thru 10-316(a).
Fla. Stat. Ann., Secs. 242.331 thru 242.332.
Ga. Code Ann., Secs. 35-701 thru 35-709, 35-801 thru 35-810.
Idaho Code, Secs. 33-3401 thru 33-3408.
Ind. Code, Secs. 16-7-6.5-1 thru 16-7-6.5-12, 16-7-13-1 thru 16-7-13-10.
Iowa Code Ann., Secs. 269.1 thru 269.2, 270.1 thru 270.8.
Kans. Stat. Ann., Secs. 76-1001 thru 76-1006, 76-1101 thru 76-1102.
Ky. Rev. Stat. Ann., Secs. 167.015 thru 167.990.
Me. Rev. Stat. Ann., Title 20, Sec. 3122.
Md. Educ. Code, Secs. 8-301 thru 8-310.
Mich. Stat. Ann., Secs. 15.1401 thru 15.1420, 15.1461 thru 15.1472.
Minn. Stat. Ann., Secs. 128A.01 thru 128A.07.
Miss. Code Ann., Secs. 43-5-1 thru 43-5-21.
Mo. Rev. Stat. Secs. 162.670 thru 162.810.
Mont. Rev. Codes Ann., Secs. 20-8-101 thru 20-8-119.
Neb. Rev. Stat., Secs. 79-1409 thru 79-1414.
N.J. Rev. Stat., Secs. 18A:61-1 thru 18A:61-4.
N.M. Stat. Ann., Secs. 21-5-1 thru 21-5-23, 21-6-1 thru 21-6-3.
N.C. Gen. Stat., Secs. 115-321 thru 115-334, 115-336 thru 115-342.
N.D. Cent. Code, Secs. 25-06-01 thru 25-06-09, 25-07-01 thru 25-07-11.
Okla. Stat. Ann., Title 70, Secs. 1721 thru 1725, 1731 thru 1746.
Ore. Rev. Stat., Sec. 346.010.
Pa. Stat. Ann., Title 24, Secs. 2601 thru 2624.
R.I. Gen. Laws Ann., Secs. 16-26-1 thru 16-26-11.
S.C. Code Ann., Sec. 59-47-10 thru 59-47-110.
S.D. Compiled Laws Ann., Secs. 13-61-1 thru 13-61-9, 13-62-1 thru 13-62-14.
Tenn. Code Ann., Secs. 49-3001 thru 49-3009, 49-3101 thru 49-3112.
Tex. Educ. Code, Secs. 11.01 thru 11.16.
Utah Code Ann., Secs. 64-3-1 thru 64-3-18.9.
Va. Code Ann., Secs. 23-254 thru 23-260.
Wash. Rev. Code Ann., Secs. 72.40.010 thru 72.40.100.
W. Va. Code Ann., Secs. 18-17-1 thru 18-17-9.
Wis. Stat. Ann., Secs. 115.52 thru 115.53.
Wyo. Stat. Ann., Secs. 21-14-104 thru 21-14-106.

APPENDIX J

OTHER LAWS

State Constitutional Limitations on Transportation Out of State for Crimes

Alabama Constitution of 1901, Art. I, Sec. 30.
Arkansas Constitution of 1874, Art. II, Sec. 21.
Georgia Constitution of 1976, Sec. 2-118.
Illinois Constitution of 1970, Art. I, Sec. 11.
Maryland Constitution of 1867, Declaration of Rights, Art. 23.
Massachusetts Constitution of 1780, Part I, Art. 12.
Nebraska Constitution of 1875, Art. I, Sec. 15.
New Hampshire Constitution of 1783, Part I, Art. 15.
North Carolina Constitution of 1970, Art. I, Sec. 19.
Ohio Constitution of 1851, Art. I, Sec. 12.
Oklahoma Constitution of 1907, Art. II, Sec. 29.
Tennessee Constitution of 1870, Art. I, Sec. 8.
Texas Constitution of 1876, Art. I, Sec. 20.
Vermont Constitution of 1793, Ch. I, Art. 21.
West Virginia Constitution of 1872, Art. III, Sec. 5.

Uniform Juvenile Court Act

Ga. Code Ann., Title 24A, Chs. 1-40.
La. Rev. Stat. Ann., Secs. 13:1561.1 and ff.
N.D. Cent. Code, Secs. 27-20-01 thru 27-20-59.
Tenn. Code Ann., Secs. 37-201 thru 37-281.

APPENDIX K

CASE STUDY NOTES

INTRODUCTION

The full notes for each of the seven case studies undertaken by the Academy are contained in this appendix. These notes provide information on the out-of-state policies, practices, and procedures for the states in much greater detail than the summaries in Chapter 5. Contributors to each case study are acknowledged, and a brief profile is provided for each state.[1]

A general description of how the Academy approached these studies follows. This description provides some familiarity about how the case study information was collected and, accordingly, a frame of reference for what that information represents.

Respondents

Questions of public policy and practice with regard to the out-of-state placement of children were addressed by over 230 concerned and authoritative respondents in 33 towns and cities throughout the seven case study states. Participants in the development and implementation of public policy provided facts and informed opinions about the status, propriety, and need for change in placing children in other states. Contributors were people who institute public policy, who carry out policy prescriptions, and who are subject to policy effects. These participants represent the policy system which surrounds out-of-home care in general and out-of-state placement in particular. They represent a cross-section of the perspectives of child care decisionmakers, providers, and influencers.

The selection of persons to be interviewed in the case studies was based primarily upon the saliency of out-of-state placement issues and policy to their positions. In the public agencies, these were people responsible for out-of-state placement policy planning, formulation, and implementation. Accordingly, appropriate interstate compact and other regulatory officials were interviewed in each state. Child placement program administrators were also interviewed, and other officials were contacted, such as budgetary staff and legal counsel, if the issues in a state pointed to activities in those areas that were especially pertinent to the study. Finally, in the public agencies, individuals directly involved in child placement services and those associated with special or unusual projects serving children were interviewed.

In other areas, respondents to the study were frequently determined by the issues in a specific state. For example, persons involved in advocacy efforts which especially related to out-of-state placement were contacted in some

states. Similarly, legislators, their staff, and news reporters were interviewed if they were engaged in activities relevant to the study. Finally, individuals involved in the private child care network, attorneys general, and judges in general trial courts contributed to the study under special issue-centered circumstances.

Agencies

Except under unusual circumstances, issues were of interest to the study as they related to the public child care system of the state.

Central to the study of each state were the out-of-state placement policies and practices of public agencies providing services to youth in the areas of child welfare, education, probation, corrections and parole, mental health, and mental retardation. Interviews were conducted in each state agency administering or supervising youth services in these areas and in a number of other locales for corresponding services administered by local government.

Out-of-state placement policies, procedures, practices, and issues were identified in the state agencies. The interviews that were conducted locally were designed to assess the knowledge of state policy at service delivery points, and the effectiveness of policy implementation. In addition, policies particular to locally administered services were examined.

Generally, interviews were only undertaken outside of state government in agencies serving children where the services were locally administered. The term "local" in this sense indicates that services were under the purview of local government authority, usually county government, and not merely delivered through branch offices of state government.

Data Collection

Information was gathered by two major methods: face-to-face interviews and review of a variety of printed material. Semistructured interview schedules were administered to respondents by at least one, and frequently two or more, of the Academy's research staff. After obtaining statements about the nature and basis of existing policy, questioning turned to policy implementation and recommendations for improvement. While the same general interview schedule was used for all respondents, variations were made for persons involved in interstate compacts and for those not directly responsible to the public child care system.

Written material was gathered from many sources. Important among the documents collected for review were official policy and procedure manuals from public agencies, and corresponding statutory material such as juvenile codes. In addition, reports, research documents, master plans, interagency agreements

and correspondence, and existing program descriptions and budgets were gathered. In other areas, advocacy reports, draft legislation, oversight documents, and media reports were collected and reviewed.

Locations

States were selected according to several criteria. These included the organization and type of regulation by level of government, geographic locale, history of involvement in out-of-state placement, and especially the presence of noteworthy or unusual activities and initiatives by the three branches of government related to out-of-state placement. The states studied offered differences in tradition, political and social history, and out-of-state placement policy and practice. They include interstate compact members and nonmembers, consolidated and independent organizational structures for youth services, local services under the auspices of state or county government, and geographical diversity. In addition, some of these states experienced major litigation concerning the out-of-state placement of children, as well as media attention, executive intervention, and legislative involvement in relation to this issue.

The project's national advisory committee received a list of states nominated for study by the research staff, accompanied by reasons why those states would make a significant contribution to the overall effort. The committee, which was made up of nationally recognized figures in youth policy and service, then selected the states which would be included in the case study phase of the research.

Sites to be visited outside of the state capital were selected by the research staff according to some general decision rules. The most populous county of each state was visited, as was a small county meeting certain criteria. Small counties were selected if they were in the lower third of all counties ranked by population, and if they were within plus or minus 20 percent of the median age, income, and racial makeup of the state. Other large or medium-size metropolitan counties were also included. There was also some interest in selecting counties bordering other states that met these decision rules, and in visiting geographically different areas of the state.

A listing of the states, counties, and cities or towns visited during the case studies appears below. Cities or towns appear below the county containing them, except for Virginia, where independent cities are discrete local government entities.

SITES SELECTED FOR CASE STUDY INTERVIEWS

State	Capital	Counties			
		Largest	Medium	Small	Other
Alaska	Juneau	Anchorage (Anchorage)	Fairbanks (Fairbanks)	Sitka (Sitka)	
California	Sacramento	Los Angeles (Los Angeles)	Alameda (Oakland)	Lassen (Susanville)	San Diego (San Diego)
Louisiana	Baton Rouge	Orleans (New Orleans)	Caddo (Shreveport)	Jackson (Monroe)	St. James (Convent)
Michigan	Lansing	Wayne (Detroit)	Kent (Grand Rapids)	Grand Traverse (Traverse City)	
New Jersey	Trenton	Essex (Newark)	Camden (Camden)	Morris (Morristown)	Warren (Belvidere)
New York	Albany	New York City (New York)	Erie (Buffalo)	Warren (Glens Falls)	
Virginia	Richmond	Norfolk (City) Virginia Beach (City)	Henrico (Richmond)	Appomattox (Appomattox)	Arlington (Arlington)

State Review

Once work had been completed in a state and a draft of the research findings had been completed, selected officials who were respondents to the study received a copy of the draft report for review and comment. At least one official central to the study in each participating state agency received a copy for review. Often these drafts were circulated among agency staff for comment. In addition, copies were sent to other persons that were interviewed, such as legislative officials, and persons in at least one of each local agency type that was visited. The purpose of this review was to address issues of accuracy and completion. Comments received by reviewers were incorporated into the studies to ensure a fair and thorough portrayal of each agency that was studied.

FOOTNOTE

1. Descriptive information about the case study states was drawn from:

U. S. Department of Commerce, Bureau of the Census, Statistical Abstract of the United States 1979 (Washington, D. C.: 1979); U. S. Department of Commerce, Bureau of the Census, County and City Data Book 1978 (A Statistical Abstract Supplement) (Washington, D. C.: 1979); National Center for Educational Statistics, Digest of Educational Statistics 1977-1978 (Washington, D. C.: U. S. Government Printing Office, 1978).

ALASKA CASE STUDY

ACKNOWLEDGMENTS

The Academy staff gratefully acknowledges the assistance of the many Alaska state and local public officials who gave us their time and cooperation in obtaining information for this case study, particularly the following individuals who consented to personal interviews.

Charles Alkire, Coordinator for the Gifted and Talented
North Borough Schools

Alan Bailey, Program Coordinator
Interstate Compact on Juveniles
Division of Corrections
Department of Health and Social Services

Michelle Cutsforth, Director
Alaska Youth Advocates

Ella Craig, Supervisory Social Worker
Bureau of Indian Affairs
U.S. Department of the Interior

Cynthia Dickman, Social Worker
Division of Social Services
Department of Health and Social Services

James Fox, Regional Manager
Division of Social Services
Department of Health and Social Services

Robert Gregovich, Program Administrator
Developmentally Disabled
Division of Mental Health and Developmental Disabilities
Department of Health and Social Services

Tom Gunderson, Clinical Director
Alaska Children's Services

Faye Guthrie, Regional Manager
Division of Social Services
Department of Health and Social Services

Richard Illias, Regional Administrator
Diyision of Corrections
Department of Health and Social Services

Nancy Johnson, Child Care Specialist
Division of Social Services
Department of Health and Social Services

Nina Kinney, Children's Services Program Coordinator
Division of Social Services
Department of Health and Social Services

Barbara McPherson
Juvenile Justice Planner
Criminal Justice Planning Agency

Pat Monroe, Licensing Coordinator
Division of Social Services
Department of Health and Social Services

Mike Mosher, Program Manager
Office for Exceptional Children
Department of Education

Julie Neyhart, Social Worker
Division of Social Services
Department of Health and Social Services

Gerald Ousterhout, Supervisory
Social Worker
Bureau of Indian Affairs
U.S. Department of the Interior

James Price, Program Administrator
Community Mental Health Services
Division of Mental Health and
Developmental Disabilities
Department of Health and Social
Services

Lew Reese, Alternative Care Coordinator
Division of Corrections
Department of Health and Social
Services

Deeann Schofield, Interstate Placement
Compact Coordinator
Division of Social Services
Department of Health and Social
Services

James Scoles, Administrator
Interstate Compact on Mental Health
Division of Mental Health and
Developmental Disabilities
Department of Health and Social
Services

Kay Smith, Regional Manager
Division of Social Services
Department of Health and Social
Services

Keith Stell, Regional Administrator
Division of Corrections
Department of Health and Social
Services

Brianne Surrey, Social Worker
Division of Social Services
Department of Health and Social
Services

Harriett Thomas, Supervisor
Juvenile Probation Unit
Division of Corrections
Department of Health and Social
Services

Diane Webb, Supervisor of Probation
Division of Corrections
Department of Health and Social
Services

Jo Whitehurst, Administrative Assistant
to Special Education Director
Anchorage Borough Schools
Department of Health and Social
Services

Mark Wittow, Legislative Aide
Alaska Legislature

Linda Zauge, Probation Officer
Division of Corrections
Department of Health and Social
Services

INTRODUCTION AND METHODLOGY

Alaska was selected for case study by the Academy because of several unique out-of-state placement issues in the state. Any child placed out of Alaska must go to a setting which is a considerable distance from home. Unlike other states, Alaska children may not be placed just across the state border into a setting that is closer to their home than settings which may be in their own state. The distance traveled by children placed out of Alaska adversely affects personal contact with friends and relatives, transportation costs, and opportunities for on-site monitoring by placing agencies.

The high cost of living in Alaska also affects the cost of providing child care. The expense of providing in-state residential services to children has

caused some Alaska agencies to resort to out-of-state placements, which are actually less expensive than in Alaska.

The very sparse population of Alaska outside of the few urban areas posed interesting issues about the development of specialized services for children near their homes. The development of such services easily accessible to most residents was suspected to be less advanced because of the low demand in outlying areas, and there was interest in whether this affected out-of-state placements. The removal of children from these remote areas to other states, or even to urban areas in Alaska, also had implications for pronounced cultural adjustments.

Finally, the gradual withdrawal of the Bureau of Indian Affairs from providing social services to Native Alaskans posed interesting questions about the effectiveness with which these responsibilities would be assumed by Alaska agencies.

Nearly 30 personal interviews were conducted in the spring of 1980 with public officials and other concerned individuals. Of special importance were the interviews conducted with officials in three divisions of the Department of Health and Social Services (DHSS) involved in placing children out of Alaska. These state agencies were the DHSS' Divisions of Social Services (DSS), of Corrections (DOC), and of Mental Health and Developmental Disabilities (DMHDD). Similar interviews were conducted in the Department of Education which also arranges for children to be placed out of Alaska.

In addition to meeting with officials in four state agencies involved in out-of-state placement, interviews were conducted with persons in the Bureau of Indian Affairs of the U.S. Department of the Interior, Alaska Youth Advocates, which is a private nonprofit organization concerned with community education and social reform, and the Alaska Criminal Justice Planning Agency.

Interviews were conducted first in Juneau, which is the state capital. Work then proceeded to Alaska's largest city, which is Anchorage, to the small city of Sitka, and to the relatively urbanized area of Fairbanks. State policy and the problems and concerns of administrative officials in Juneau were first identified. Corresponding interviews were undertaken in the other areas to assess policy implementation and to identify important issues for out-of-state placement that occur in service delivery. The selection of sites that were visited made it possible to interview officials in jurisdictions containing 70 percent of the state's population.

DESCRIPTION OF THE STATE

Alaska spans four time zones and three great climatic belts, separated by barriers of massive mountain ranges. It is the largest state in the union, encompassing 586,412 square miles (2.2 times the land area of Texas). The state's diversity matches its size. It has great plains, Arctic deserts, swamps, intense forests, the highest mountains of North America, more square

miles of glaciers than the rest of the inhabited world, ice fields, broad valleys, fjords, 12 major river systems, active volcanos, 3 million lakes and countless islands, and 50 percent more seacoast than all the continental United States. It has no contiguous states. The rest of the country is usually referred to in Alaska as "the lower 48."

The state is sparsely populated, and in 1977 it had fewer people than Atlanta, Georgia, but it is growing rapidly. In 1977, there were approximately 416,000 Alaskans, which reflects an increase of over 33 percent since the 1970 census. The 1980 census is expected to show a continuation of at least that rate, in view of the North Slope oil discoveries and development. With less than one person per square mile, the state remains one of the least populated places in the world.

Juneau, the state capital, is located in the southeastern panhandle region of the state and had a 1977 population of 191,000. No American state capital is more removed from its geographic or population center than Juneau, which made its start as a gold camp in 1879 and became the territorial capital in 1900. The panhandle is effectively severed from the main body of Alaska by the St. Elias Mountain Range.

Another of the cities visited, Anchorage, is both the largest and youngest city in the state. It is also Alaska's center of financial, political, and governmental power. More than any other city, Anchorage has profited from the North Slope oil boom, both as a funnel for supplies and as Alaska headquarters of major oil companies.

Because of national defense importance, deriving from its proximity to the Soviet Union, Anchorage is in many respects a federal city. Agencies render services for national defense, communications, and aviation, and supply electronics for the Distant Early Warning (DEW) line. Despite the large presence of the oil industry, Anchorage's economy would deteriorate substantially if the federal government withdrew or significantly reduced its assistance.

Anchorage has the largest black community in Alaska. Overall, Alaska's black population is less than 10,000 and represents only about three percent of the state's population. Eskimos, Aleuts, and other Native Alaskans sometimes come to live in cities where they represent a larger group than the black population and face more severe problems of adjustment to the white urban culture. Estimates by some Alaska officials interviewed indicate that alcoholism among Native Alaska males probably exceeds 50 percent.

Fairbanks, Alaska's second largest city, has many remnants of a frontier town, sitting as it does on the edge of a great wilderness. The city contained 30,462 people in 1978. Only 400 miles from the Arctic Circle, Fairbanks experiences incredible diversity in weather. Temperatures range from -60 degrees in winter to +70 degrees in summer. In the winter, the city enjoys only a few hours of sunlight each day, and in the summer it has sunlight for more than 20 hours a day. Like Anchorage, it is dominated by big military bases built during World War II and in the postwar era. In both cities, however, the defense presence has declined slightly in the 1970s. Fairbanks also has profited substantially from the North Slope oil boom, since it has become a major center for oil construction activity.

Sitka, once the Russian capital of Alaska, is located in the southeast panhandle area of the state on Baranof Island. It has about 14 miles of paved roads and a population around 8,000.

Until the North Slope oil boom, Alaska had a weak, high-cost economy, subsidized in large part by the federal government. In 1975, for instance, almost a third of personal income realized in Alaska came directly from federal payrolls or welfare. Before the North Slope oil development, Alaska had imposed one of the highest tax burdens on its people in the country, but with only a modest revenue yield in view of the state's impoverished living standards. Its dependence on the federal government is illustrated by statistics which reveal that federal intergovernmental revenue exceeded the entire state tax yield in 1975. This trend was reversed dramatically in 1978, which was the first year that the Alaska Pipeline was operational. That trend has continued and is documented by data indicating that state tax revenue was over $500 million in 1979 compared to about $300 million in 1978.

The growth in state government programs in the 1970s has been equally dramatic. The level of state expenditures in 1978 is six times that of 1969, an overwhelming increase, even allowing for inflation. The largest increases have been in education and highways.

In 1980, as a direct result of over $4 billion in oil lease royalties to the state government, a plan was initiated which would eliminate the state income tax and rebate $50 per capita per year of residence since statehood. For example, individuals who have resided in Alaska since 1959, or 21 years, would receive an annual rebate from the state of $1,050 from the oil royalties. This plan has now been tested in court in Alaska and declared unconstitutional. Appeal is pending in the Alaska Supreme Court. It remains a very controversial issue in the state and could result in consideration by a special session of the state legislature if the unconstitutionality is upheld.

The dominance of the public sector as the major source of economic activity and employment continues in Alaska, although the state has replaced the federal government as the primary benefactor. Almost 75 percent of all workers in Alaska owe their livelihoods to federal, state, or municipal governments. Further, revenue from all sectors of government was $2,706 per capita as recently as 1976, a figure more than double than that of Hawaii, which is the next highest state.

State government in Alaska consists of a cabinet of 14 executive departments providing services and reporting to the governor. The organization of local governments is unique among the states and deserves some explanation.

Alaska's constitution recognizes but two units of local government, the city and the borough. The state may delegate taxing powers only to organized boroughs and cities. The borough is roughly comparable to units designated as counties in many of the lower 48 states. The name was chosen by Alaska's Statehood Convention as the best compromise for designating local government units that would not be confused with or limited by traditional terminology existing in the older states. These entities are legislatively established. Among the range of services provided by local units, some are mandated by the legislature and others may be added at local discretion. Broadly defined, home

rule provisions in Alaska statutes allow boroughs and certain cities to adopt charters to permit the local exercise of legislative powers not specifically prohibited by law or charter.

As of January 1979, there were eight organized boroughs, three united municipalities, and 139 cities. The unified municipalities compare with consolidated city-county governments in the lower 48 states. Under this form, an organized borough and all cities included within it may unite to form a single unit of home rule government. The remaining parts of the state, not part of any organized borough, are termed "unorganized boroughs."

Locally generated revenues are derived primarily from two taxes which municipalities may levy, real and personal property taxes, and sales and use taxes. As a general rule, municipal levies are limited to a maximum of 30 mills for property taxes (five mills in second-class cities) and three percent for sales and use taxes, although home rule municipalities may exceed these limitations.

DESCRIPTION OF ORGANIZATION AND SERVICES

The consolidated cabinet-level Department of Health and Social Services (DHSS) is responsible for most services to children and youth in Alaska. Through a number of divisions which are discussed below, the DHSS supervises and administers child welfare, corrections, parole, probation, mental health, and mental retardation services, as well as supervises local community mental health programs. The major exclusion is education, provided through the Department of Education.

Child Welfare

The DHSS' Division of Social Services (DSS) provides four types of services to Alaskans. Information and referral services include the provision of information and location of services to assist the acquisition of other appropriate services. Individual and family counseling services are provided to strengthen individuals and families in the areas of home management, infant and child care and development, and child rearing. Counseling is also provided for the elderly, for Alaskans relocating from rural to urban areas, and for unmarried parents. Child protection services aid children who are abused or neglected. The DSS arranges for foster care, adoption, in-home services, and crisis intervention. Services such as transportation, medical care, and psychiatric and other diagnostic examinations are purchased as needed from private service providers. Adult protection provides services to the elderly and handicapped, victims of family violence, and sexual assault victims. The DSS also acts upon a client's behalf when necessary to secure benefits, assets, and other entitlements.

These services are delivered through six regional offices located in Anchorage, Bethel, Fairbanks, Juneau, Ketchikan, and Nome. In addition, there are 20 field offices throughout the state staffed with one or more social workers, some of which serve large but sparsely populated areas.

The DSS makes two types of placements. One type involves emergency placements of children out of their homes to prevent harm, abuse, or neglect. This placement typically provides short-term shelter care while a long-term plan for child care can be developed. The other type consists of nonemergency placements which are used to implement treatment plans for children and their families. These include adoptive, foster care, group home, and institutional placements. The DSS administers the ICPC for processing children placed out of Alaska.

DSS does not operate residential facilities. Instead, the division enters into contractual arrangements with individuals and nonprofit agencies for the services needed. Child care institutions, residential treatment programs, and group care and foster homes are licensed by the DSS. As of January 1980, there were 86 licensed day care centers, 282 day care homes, 18 group homes, and 632 foster homes.

The largest private, nonprofit agency is Alaska Children's Services, headquartered in Anchorage. This agency provides residential services for about 85 youth through a campus-based residential program, group homes, and emergency shelter care.

An abbreviated table of organization for the DSS follows in Figure 1, indicating those parts of the agency relevant to out-of-state placements.

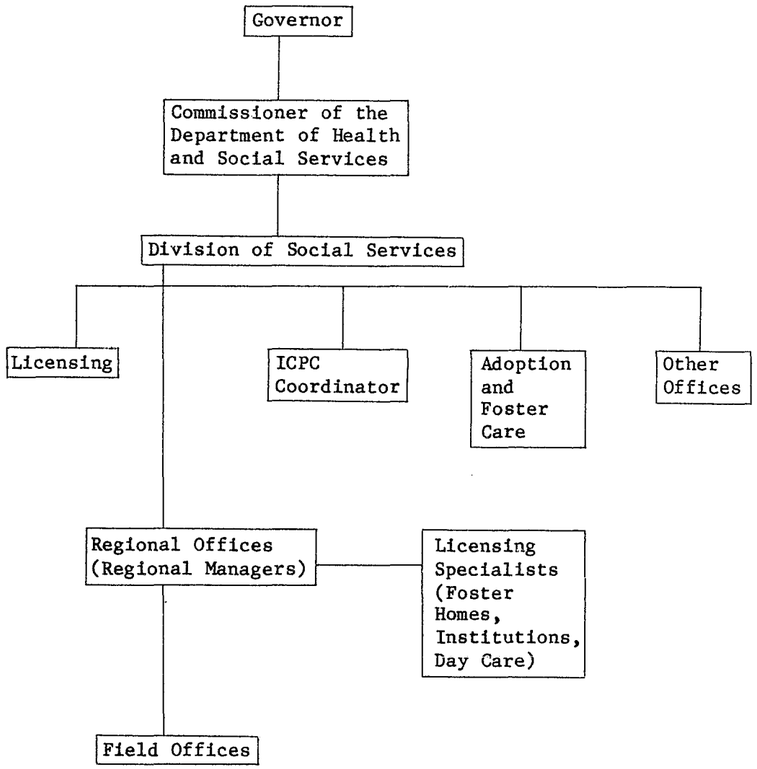
Education

The Commissioner of Education, appointed by the State Board of Education, directs the Department of Education (DOE). In-state and out-of-state transfers of exceptional children for special education needs are the responsibility of the Office for Exceptional Children and Special Education Programs. Each local education agency (LEA) superintendent in the semimetropolitan districts designates a special education director or coordinator for the district. In rural areas, the superintendent usually has direct responsibility for special education.

The number of school districts in the state has steadily grown since statehood. However, only ten of the current 52 LEAs are in semimetropolitan areas of the state. The remaining 42 are scattered across the state, usually covering vast areas of land which are sparsely populated with Native Alaskan groups. One school district even extends across three time zones.

Incorporated first-class cities in unorganized boroughs maintain school districts, while second-class cities do not operate schools. Instead, schools are operated by the Bureau of Indian Affairs or rural education associations.

FIGURE 1. THE ORGANIZATION OF SERVICES IN THE ALASKA DIVISION OF SOCIAL SERVICES RELEVANT TO OUT-OF-STATE PLACEMENTS



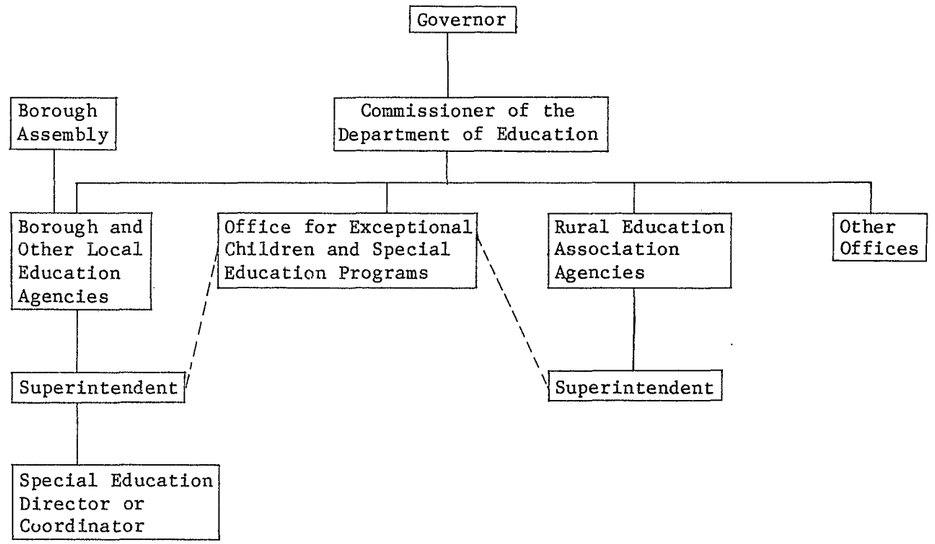
Additionally, first-class cities may adopt charters and thereby establish home rule governments, a privilege which is not afforded second-class cities.

School boards, elected at large, determine all matters of school policies and operations. The borough assembly provides the physical facilities and approves the budget for the operation of schools situated within its boundaries. In this sense, school districts in Alaska are quite different than those in other states, where they typically possess their own taxing authority and, as a result, some independence from local general purpose governments.

Sources of state financial assistance include the Public School Foundation Program funded by the DOE to meet not less than 95 percent of computed basic need for municipal school districts, and the State Aid to Local Government Program which partially supports education programs through services provided by local government.

An abbreviated table of organization for the DOE follows in Figure 2, indicating those parts of the agency which are relevant to out-of-state placements.

FIGURE 2. THE ORGANIZATION OF SERVICES IN THE ALASKA DEPARTMENT OF EDUCATION RELEVANT TO OUT-OF-STATE PLACEMENTS



Juvenile Justice

Alaska's state-administered court system ascribes primary juvenile jurisdiction to the superior courts. There are four judicial districts which cover the entire state and which do not use the borough structure as any sort of organizational basis. Each district has a superior court. District courts have juvenile jurisdiction for traffic, fish and game, and parks and recreation offenses. The state court system is administered by the office of the director located in Anchorage.

The courts have three major dispositional alternatives in relation to referral of delinquents to the DHSS' Division of Corrections.[1] They may refer adjudicated youth for supervision, which precludes out-of-home placement and involves regular supervision of youth by probation officers. Courts may also use what is called a treatment referral, which allows, but does not require, the out-of-home placement in supervised nonsecure settings such as foster family or group care. Finally, the courts may issue an institutional referral to the Division of Corrections, which allows the DOC to consider the full range of placement alternatives for youth from basic in-home supervision to secure treatment.

The Division of Corrections is responsible for the delivery of services to delinquent youth. The DOC provides probation services to delinquents in the custody of parents or guardians, as well as for those placed in group or foster homes. The division also operates three regional detention facilities in Fairbanks, Juneau, and Ketchikan. Delinquents under a court order for institutional placement may receive treatment in the DOC's McLaughlin Youth Center or in a contracting facility. Delinquents released from institutions also receive aftercare supervision which, in Alaska, is called probation. The DOC delivers services through three regional offices, with several field offices in smaller communities. The regional and field offices are staffed with one or more professional personnel called probation officers, and provide community-based supervision to youth placed under DOC supervision.

When a regional office has two or more professional staff and a local detention facility, a classification committee may be established by the regional administrator to process those juveniles placed in the custody of the DOC by a court. This committee is made up of DOC employees and, where appropriate, may include professionals from other child-serving agencies, like mental health centers. Classification committees are responsible for selecting appropriate placements for such juveniles, whether in or out of Alaska. Residential settings available for consideration of the committees in Alaska are those which are licensed by the DSS and approved by the DOC, and settings in other states which are approved by the DOC.

The DOC operates the McLaughlin Youth Center in Anchorage to house delinquent youth placed in DHSS' custody under an institutional order or for detention. The McLaughlin facility has about 90 beds for long-term programming, which are separated from an additional 30 spaces for short-term detention. It may handle up to 1,200 youth annually for these purposes. McLaughlin is coeducational, but only has about ten beds for girls. State officials indicated that

McLaughlin had 20 beds reserved for girls at one time, but that they were only 50 percent utilized so space allocated for girls was reduced. The use of out-of-state facilities for delinquent girls under an institutional placement order was reported to be infrequent. Excelsior Youth Center in Denver is the major institution utilized for those delinquent girls who are placed out of state.

In addition to using the McLaughlin Youth Center for residential services, the DOC purchases group home and foster care services from a number of in-state nonprofit service providers, like Turning Point Boys' Ranch and Hilltop Home. Two new facilities were under construction at the time of the study to alleviate overcrowded conditions at McLaughlin, a three- to five-bed detention facility in Juneau and a 20-bed facility in Fairbanks which has eight beds for detention and 12 for treatment. Because the new unit in Juneau was reported to be designed for detention only, it will not reduce any overcrowding that may occur in McLaughlin's long-term treatment program unit. The DOC administers the ICJ for the transfer of probation or parole supervision for youth placed in other states.

An abbreviated table of organization for the DOC follows in Figure 3, indicating those parts of the agency which are relevant to out-of-state placements.

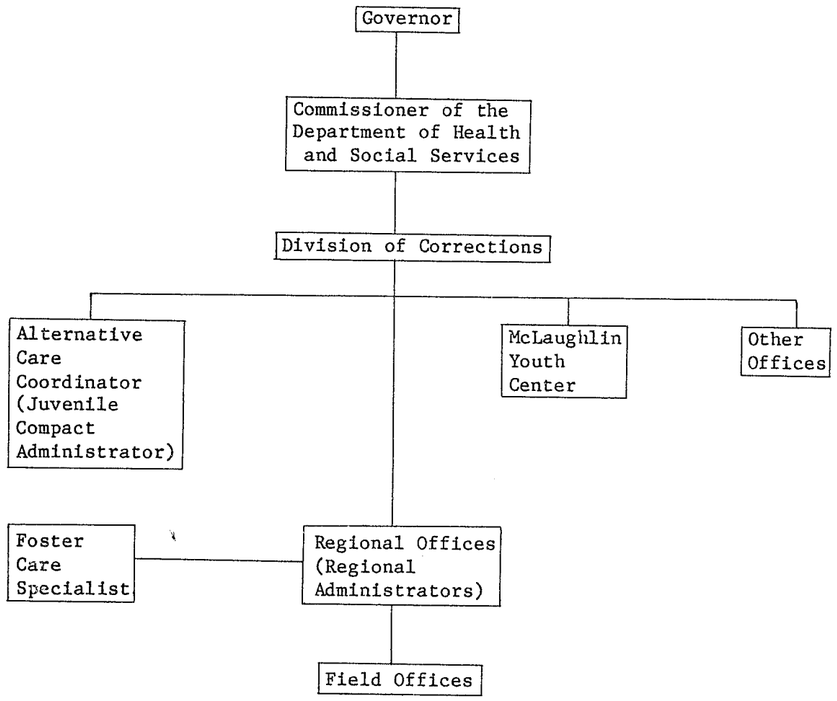
Mental Health and Mental Retardation

The DHSS' Division of Mental Health and Developmental Disabilities is responsible for the development, implementation, and administration of programs for the prevention and treatment of mental illness, mental retardation, and developmental disabilities. It maintains a state hospital, the Alaska Psychiatric Institute (API) in Anchorage, which has a capacity of 200 beds. API operates a unit for children and an adolescent unit, both with capacities of 18 beds, which provide evaluation and treatment for youth experiencing acute clinical disturbance. It generally does not accept youth who are both delinquent and in need of psychiatric treatment for more than short-term evaluations.

DMHDD also operates Harborview Developmental Center in Valdez, an intermediate care facility for the developmentally disabled. In addition, the DMHDD operates mental health clinics in Fairbanks and Juneau. Twenty-one local community mental health centers are under contractual agreement with the state. This number has increased from two federally funded and state-operated centers in 1975. The development of community mental health centers can be attributed to the enactment of the Community Mental Health Services Act of Alaska in 1975, which provides state funds for a system of community mental health centers. The DMHDD also funds local nonprofit organizations for the provision of community services to the developmentally disabled. The DMHDD also administers the ICMH for the transfer of youth and adults between public mental health or mental retardation institutions across state lines.

In addition to conventional federal, state, and local revenues, the division has an interesting additional source of funds. Included in the state funding is income from a one-million-acre mental health land grant. Income from this land,

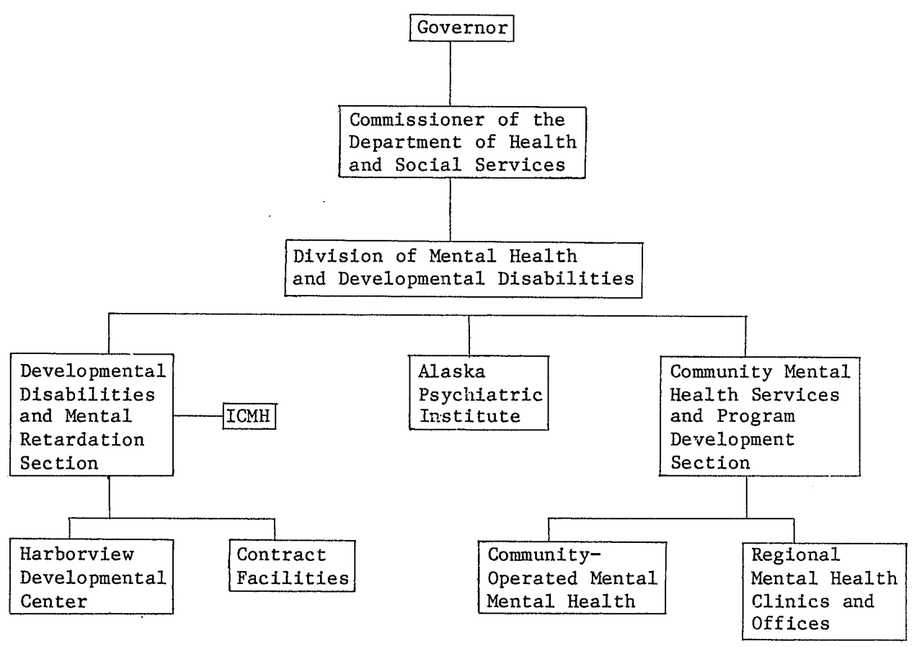
FIGURE 3. THE ORGANIZATION OF SERVICES IN THE ALASKA DIVISION OF CORRECTIONS RELEVANT TO OUT-OF-STATE PLACEMENTS



amounting to over $1.5 million in 1976, is placed in the state's general fund and used to support all state mental health programs. These lands, according to the division, include "portions of the Beluga Oil Fields, Iron Mountain near Haines, vast timber holdings, and a considerable amount of the land surrounding the communities of Southeastern Alaska." The lands are the responsibility of the Mental Health Lands Board, which is reportedly avoiding land sales in favor of the establishment of a permanent fund.

An abbreviated table of organization for the DMHDD follows in Figure 4, indicating those parts of the agency relevant to out-of-state placements.

FIGURE 4. THE ORGANIZATION OF SERVICES IN THE ALASKA DIVISION OF MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES RELEVANT TO OUT-OF-STATE PLACEMENTS



Bureau of Indian Affairs

Similar to the involvement of other agencies within the U.S. Department of the Interior, the Bureau of Indian Affairs (BIA) has been active in Alaska for many years, especially before statehood, concerning itself until recently with supplying direct social services to the Native population. The BIA has been making concerted efforts in recent years to extract itself from direct service. Since there is only one reservation in Alaska, located at Metlakatla, near Ketchikan in the southeast panhandle, most Native Alaskans live in the 210 villages spread out in unincorporated areas and second-class cities. BIA has taken the position that the needs of Alaskan Natives should be met by the state of Alaska rather than the federal government. The "nonreservation" condition in Alaska has resulted in different behavior by BIA than in other states where most Native Americans live on reservations. The only Alaska children currently in placement under BIA care and support are those who have been in alternative living arrangements for a number of years. The BIA has only placed one child outside of Alaska in over three or four years. Even then, the placement was an exception and was made by the BIA because the Alaska DHSS did not have the child.

Since the enactment of the Indian Child Welfare Act (P.L. 95-608, 1978), the BIA in Alaska has been actively contracting with 12 regional Native Alaska Corporations to transfer the responsibility for delivering social services. The BIA has altered its direct service style more toward advocacy, monitoring, and providing technical assistance. The result has been that the delivery of social services are being assumed by the state, Native Alaska Corporations, and tribes, rather than the BIA.

OUT-OF-STATE PLACEMENT POLICY, IMPLEMENTATION, AND PRACTICES

There are a few policies which relate specifically to the Department of Health and Social Services, and subsequently to its divisions, that deserve mention before taking a detailed look at the specific divisions' policies and procedures.

The department is the only state agency which receives official legal custody of children. It is responsible for the "full cost of care" required by wards which cannot be or is not borne by parents.[2] Custody is received for children, and payment for care and treatment is made only if the children have been determined to be delinquent or "in need of aid." Children in need of aid, or CINA, includes those who have been battered, abandoned, or neglected, as well as those who have committed status offenses.[3] These are also children who have committed delinquent acts under the pressure, guidance, or approval of parents or guardians. In committing children who are delinquent or in need of aid to the DHSS, a superior court is allowed to take into consideration the department's ability to take custody and care for the child in the child's best interests.[4]

The department can arrange for care and treatment of all children in its custody by placing them in a foster home or in an agency or institution providing care in or out of Alaska. However, it may not place children in the care of a foster home, agency, or institution if there exists a blood relative who wants custody. The only consideration which can prevent placement with a relative is the imminent danger of physical or emotional damage to the child. Poverty or inadequate or crowded housing, in themselves, do not bar placements since they are ruled out as indicating the likelihood of such damage.[5]

The court is required to hold an annual review hearing of the original disposition bringing a child into DHSS custody.[6] At that time, the child is to be returned home unless there is a preponderance of evidence that the basis for the original removal still exists. In addition, there is a two-year limit to the commitment to DHSS, both for delinquents and children in need of aid. A two-year extension is possible, not to go beyond the child's 19th birthday, if the DHSS can demonstrate de novo that continuing custody is in the best interests of the child.

Child Welfare

Social and residential services for dependent or neglected children and status offenders are the responsibility of the DSS, and these children may come to the division's attention through referral by courts, schools, parents, or other interested parties. Children adjudicated in need of aid and committed to the custody of the DHSS must receive services, and voluntary referrals may receive services at the discretion of parents or guardians if referred children qualify. Legal custody of children can be taken for up to 48 hours without court action, and voluntary custody may last for up to six months. Custody was described to be the key of service provision because, if parents are strongly against residential care for their child in a voluntary custody situation, the DSS is obliged to work with the parents or take the case to court. One worker speculated that whether the DSS was administering voluntary or involuntary custody of children for DHSS, if a parent went to court over a case involving residential care some distance from the home, the court would likely be favorable to the arguments of the parent.

As part of its general child care responsibilities, the division has prescribed the circumstances which must be present prior to placing a child in a residential setting out of state. Primary among these is that all possible least-restrictive-service alternatives must have been exhausted and the residential treatment needed by the child is not available in Alaska.

A history of failure in previous placements was cited by some workers as necessary for consideration for placement out of Alaska. Workers were also said to be required to document involvement of and activities with the families prior to out-of-state placement referral. Also, children placed in long-term foster family care are allowed to leave Alaska if the foster parents are moving out of state. This was described to occur very infrequently.

On-site visits occur prior to placement in a residential setting, and the receiving facility must be licensed by the state regulatory agency in its own state. Licensure is verified by receipt of the licensing investigation report from the appropriate state regulatory agency, and programmatic review of out-of-state facilities was said to be undertaken on a regular basis.

Subsequent to placement, quarterly written reports addressing progress toward treatment goals must be provided to the DSS by the receiving program. In 1978, only five such programs were used for out-of-state placement by DSS: Brown Schools, Texas; Deveraux Foundation, California; Excelsior Youth Center, Colorado; St. Mary's Home for Boys, Oregon; and Secret Harbor Farms, Washington.

The DSS program manual clearly identifies the priority of consideration which different placement settings are to receive.[7] The child's own home is to receive the highest priority in the development of a treatment plan "even when relationship(s) or living conditions are not ideal." After inhome services are ruled out, one worker noted that proximity to home is really not an issue because wherever the child can be placed, in or out of state, it is frequently a great distance from home.

A relative's home is to be considered after the child's own home is ruled out, and if that placement is supported by DSS-administered state foster care funds, then it is subject to licensure by the agency. Placements with relatives eligible for AFDC-Foster Care funding are not licensed. Emergency shelter care is the next setting of choice, and is only to be used when out-of-home care is expected to last two weeks or less, or while long-term placement plans are being made. Licensed foster home care follows shelter care in preference, and is suggested for the majority of normal children, through adolescence, who cannot be placed with relatives or participate in family living. These children must be able to attend community schools and live in the community without danger to themselves or others.

Children who cannot handle the pressures of a family but who can function in a small family-like setting are candidates for DSS-licensed group home care. Like emergency shelter care, DSS pays the costs of caring for children in these settings. Lowest in preference among in-state settings is the therapeutic residential institution. Licensed and financed by DSS, these programs are recommended for the child or adolescent needing close supervision and structure, and who cannot handle the independence offered by a group home. Children with emotional or behavioral problems requiring on-site counseling are candidates for these settings.

Two types of out-of-state placements are described in the manual, with placement for treatment in a contracting institution receiving first consideration. These facilities must be approved by DSS' central office and are only to receive children with severe emotional or behavioral disabilities for which programs are unavailable in Alaska. The second type of out-of-state placement, and least preferred of all alternatives, is foster family care in another state. This occurs for children in a foster home in Alaska as part of a permanent plan, and the foster family then moves out of state. Foster families are paid the average foster care rate in the area of the new residence, and no stipulation is made in the manual that the family, after moving, need be licensed by Alaska or the new state of residence.

Having determined that suitable placement resources do not exist in Alaska, through contact with relatives, and foster and group homes and institutions, workers refer cases to the ICPC for approval to begin to explore out-of-state resources. Whenever an out-of-state placement is being contemplated, workers must first provide the ICPC office with a placement history, plan, and goals for the child. Workers must also identify who will have care for the child upon return to Alaska and what support services are planned for that time. This written review prior to out-of-state placement was said to have been started fairly recently. Said one DSS official, "We ask a lot of questions," and require that very specific plans be made.

Once a placement has been located, home evaluation or institutional agreement has been secured, the DSS director has approved the placement, and the receiving state's ICPC office issues approval, arrangements proceed to actually move the child. The fact that the director of the agency personally approves all out-of-state placements was described to allow DSS staff to keep very close track of children who have been placed in institutional settings. Judges also have knowledge about children from their courts who are placed out of state, because workers report to them when such placements are approved and implemented.

Annual on-site visits are reportedly made to assess children's progress in placement and to inspect the facility. However, monitoring activities of this type were reportedly not undertaken as systematically and as often as desired.

When a child is to be sent to a state which is not a member of the ICPC, the DSS may request a home study by the receiving state. A letter is sent to the state child welfare agency in the receiving state indicating the extent of supervision that is requested. Social service workers are cautioned that they "should realize that a placement into a non-compact state may not afford the same level of protection to the child as would a placement made under the provisions of the compact."[8]

DSS workers have, on occasion, placed children out of Alaska without ICPC processing, but these placements were retroactively brought into compliance. Courts, at times, have also ordered DSS to place children out of state without a home investigation, and have terminated custody only days after placement had occurred rather than wait for an acceptable period to evaluate adjustment in placement. This has usually occurred in placing children with an absent parent or relative, and was described to be the result of poor planning. A child may be in custody for most of the allowed two years, and a placement setting suddenly is identified. This has caused some courts to move so fast in the placement process that required procedures are ignored. This type of situation was described to be relatively rare, with most judges cooperating with DSS in case management procedures.

Some DSS staff praised the ICPC office for the speed with which it reviews and processes those placements which are approved. Processing may sometimes take only one day, if accomplished over the phone with a regular and well-known provider. Usually, ICPC processing was said to take about three weeks. Judges were also described as pleased by the services provided by the compact because, as a group, judges are perceived to genuinely want to be informed about the adequacy of the proposed placement setting. One DSS respondent reported being

opposed to the passage of ICPC in 1975. In this person's view, the compact imposes additional constraints on already responsible workers, but does not have the ability to thoroughly detect and thwart placements by people who characteristically ignore or are not subject to state policy.

Private placing and receiving agencies are contacted by DSS to assure that they are aware of their responsibility to use the compact, but knowledge of ICPC was described to be lacking among some of them. As another check, DSS licensing staff check children's case records in private agencies to assure compact utilization as a part of their license renewal inspection. Compact staff expressed less concern about children placed in Alaska by out-of-state public agencies because compact compliance is quite good by them.

Compact officials reported taking a primarily educational and cooperative approach in getting agencies to comply with ICPC. As an example, printed materials and workshops were recently prepared for meetings to educate judges, attorneys, assistant attorneys general, guardians ad litem, and private providers about the compact.

Among persons interviewed in the DSS, there appeared a definite bias against placing children out of Alaska. It was generally thought of as an undesirable practice, and some respondents observed that there is a growing trend toward fewer out-of-state placements. The liabilities for Native Alaska children in being moved great distances were evident in concerns expressed by DSS staff, and they noted that most children placed out of state are seriously disturbed, assaultive, or suicidal.

Information on the number, type and destinations of children placed out of state in 1978 by the Division of Social Services, as well as the extent to which the ICPC was involved in those placements was not available to the Academy's national survey.

Education

The DOE has a number of explicit policies governing its involvement in out-of-district and out-of-state placements by school districts. Primarily, all placements must have the written consent of parents or guardians. School districts must further give preference to those special education placements in or near the child's school district. Where out-of-district placements are proposed, the local district must justify the request by clearly showing what is missing for specific children in the local education program. DOE consideration is to be based on children's educational needs, advisability of foster care, and other problems, such as home conditions. The department takes the general policy stance that it is "subservient to the educational goals of each student."[9]

The four types of placements subject to DOE policy are interdistrict, evaluative, wards-of-state, and out-of-state placements. All of these placements require the local district to contract with the receiving setting to guarantee

that a number of conditions are met. Important among these conditions are the receipt of written quarterly progress reports, assurances that contracted educational personnel and services meet all appropriate special education licensing and certification requirements, and that contracted services are provided in compliance with existing Alaska state school laws and DOE regulations.[10] It is important to note that contracting for services does not release the school districts from their responsibility for and control of the quality of the educational program that is provided.

All of these types of placements, except for wards-of-state in DHSS institutions, must also be approved by the commissioner of the DOE to receive state funding assistance. The DOE will not pay for placements out of the home district for a variety of reasons. These include placements ongoing at the time of application, those made by parents or another agency, placements to any unapproved setting, or special out-of-district programs for gifted or talented students. However, school districts may make and assume responsibility for unauthorized placements at their own expense.

There are two funding schemes specified by Alaska law which relate to out-of-district placements. The first applies to interdistrict and in-state evaluative placements, as well as for placements of those children whose problems are so severe that they are referred to DHSS for 24-hour institutional care. In these cases, the sending school district pays the receiving school district, or public or private in-state institution, an amount equal to its local cost-per-pupil rate. The DOE then pays the remainder of costs for placement.[11]

The second funding scheme applies to out-of-state placements, for which the DOE pays all educational expenses. These expenses are specified by law to include the actual cost of necessary care, transportation, and instruction, including room and board.[12] The DMHDD pays travel expenses associated with DOE-approved out-of-state placements by local school districts pursuant to an agreement between the two agencies.

Out-of-state placements are to be reserved for those extreme cases where the severity and type of exceptionality is such that no in-state placement can be determined to be appropriate for particular children by the commissioner of the DOE. Mild and moderate exceptionality are not to be considered for this type of placement. The commissioner of the DOE must approve all out-of-state placements before the department will assume funding responsibility.

Respondents in Alaska's educational system at the state and local levels were very clear about these procedures. Especially mentioned was the required involvement of parents in placements into other districts or states, and of the DOE for state reimbursement.

The involvement of parents is built into all aspects of educational planning and implementation. They are required to give written approval for an evaluation of the child by a study team, and of the Individualized Education Program (IEP) which emerges from the evaluation. In no case is a child to be transferred out of his or her home district without the written authorization of parents or guardians. The only exception to this latter rule is that a child who is a ward of the state can be placed by a state agency in an educational program outside the home district without parental consent. In this case, the

state or other judicially designated guardian provides the required written approval. These placements also do not require DOE approval. They may be made directly to a state institution or to another district; in the latter case they are regarded as interdistrict transfers and DOE is responsible for paying the local tuition rate to the receiving district. Parents also escort children placed out of state to their new school and residence, and stay there for up to a week with an LEA representative and the child. Annual travel to visit the child is also financed by the DOE for interested parents who qualify for this aid, based upon their income.

The LEAs also provide afterplacement counseling and education to parents or guardians toward the amelioration of conditions in the home which may have contributed to the child's problems. Extremely disruptive or assaultive children with psychological problems are most frequently placed out of state, and the home district continues to work with the parents so that problems in the family can be resolved in anticipation of the child's return.

Preference is generally given by the local education agencies to placements in or near children's resident school districts, maintaining the children as close to home as possible. Meeting pupils' needs by providing them with substantial support services within their own communities is encouraged. The DOE can aid school districts in keeping children close to home by providing specialized materials, consultive services to the regular classroom teacher, staff resource teachers or itinerant specialists, resource room placements, specialized self-contained classrooms, or home or hospital instruction.

When referral to DOE for out-of-district placement is initiated, the IEP developed by local child study teams and parents must reflect the need for such placement and the time frame for realizing stated goals.

Exceptionality is nearly always demonstrated according to multiple factors defined by the DOE, including medical, psychological, and educational considerations. A child is considered to be a candidate for out-of-state placement when appropriate services, pursuant to local child study team needs and goals documentation, cannot be provided in the home district, in another Alaska district, or in one of three special programs in the state. These include two private programs in Anchorage, and the DMHDD Harborview Developmental Center in Valdez.

Forty-six of the 52 school districts in Alaska did not place children out of state in 1978, most of which reported that sufficient services were available in state, parents disapproved of the placement, there was a lack of knowledge of out-of-state programs, or it was against district policy.

The six school districts involved in out-of-state placement in 1978 placed 11 children who were described as physically, emotionally, developmentally or multiply impaired. The placement of status offenders and delinquents was also mentioned.

Local school districts are responsible for monitoring children's progress in placement and for keeping parents informed about their findings. The LEA, in the DOE placement referral packet, must specify the method by which out-of-district and out-of-state placements will be monitored by both the local agency

and the parents prior to DOE placement approval. Quarterly reports are received by the local sending agencies. In addition, annual visits to the receiving setting are made, or provision is made in the service contract for the child to return home annually. This is necessary because of required annual review and revision of the IEP. The DOE has stipulated that special educators be charged with the responsibility for the annual review of out-of-state placements because of the very special needs associated with such placements.

If a private facility, in Alaska or out of state, does not comply with monitoring regulations and requests, funds can be withdrawn by the DOE until the agency comes into compliance. Although this was not reported to have happened, one education official said action was threatened against a well-known program serving special education children.

Compliance by LEAs with state education policy is monitored through audits of fiscal practices, as is compliance with state and federal special education laws. These were described as very effective techniques to keep local education agencies within policy guidelines, and the state has the authority to discontinue funding of local programs if they refuse to make recommended changes. However, as stated above, referring school districts can proceed with placements which the DOE determines to be unjustified, or which go to unapproved settings, if they are prepared to assume the full cost of such placements. The impact of this provision (to bring local compliance within DOE recommendations) seems to be minimal because even though DOE would not be paying for complete placement costs, it would be indirectly paying a substantial proportion of costs through its basic per-pupil payment procedure to the local school district. This formula, on the average, reportedly has the DOE paying over 98 percent of educational costs. LEAs, as a rule, were reported to abide by DOE recommendations, with only one or two ever placing children out of their districts to nonapproved settings. The DOE reported that there were four locally arranged and state-funded out-of-state placements in 1978, while a survey of all local school districts by the Academy yielded a total of 11 locally reported placements.

Both state and local education officials reported that physically, mentally, and emotionally impaired youth were placed out of state. However, the local agencies also reported placing adjudicated delinquents, unruly or disruptive youth, and multiply handicapped youth. These discrepancies between the two reports may well be explained by the ability of local school districts to place children, independent of the DOE, as long as local funds are available for the placement and written parental approval is obtained.

Juvenile Justice

The DOC classification committees were established by DHSS policy in 1978 and they figure prominently in the policies and procedures governing out-of-state placement of juvenile delinquents. The DOC policy and procedure manual describes their responsibilities and operation. The manual states that:

> Each classification committee shall be responsible for selecting institutional placements for all juveniles committed to institutional programs, for other juvenile in custody when out-of-state placement is recommended, or when the assigned officer feels a referral to the committee is necessary to assure the most appropriate placement for that juvenile. Only after all appropriate in-state placements have been explored or exhausted, will an out-of-state placement be considered. When such a placement is made, the committee chairperson will document efforts made by the committee to place the juvenile in an in-state placement.[13]

Accordingly, committees would appear to have jurisdiction over the placement of delinquents in institutional, group, foster, relative, and parental settings outside of the state.

Classification committees are primarily involved in court referral of delinquents under an institutional or treatment disposition. It was reported that treatment plans for youth referred under supervision disposition are routinely handled by probation staff. Committees can prescribe settings less restrictive than those stipulated in the court referral, and settings are classified as secure, nonsecure, and in-home. Youth referred under institutional dispositions may be placed in any of these types of settings. Youth referred under treatment dispositions may be placed in nonsecure out-of-home settings such as in foster care group homes, or with relatives, or on in-home supervision. Youth referred under supervision disposition may not be placed out of their own homes and are rarely sent to the committee for classification by probation workers. Similarly, youth referred to DOC for treatment may or may not be brought to the committee by probation staff, at their discretion, if in-home supervision is selected.

Upon referral of delinquents, classification committees assess treatment needs and determine the most appropriate setting for individual children. Factors taken into account in the review committee's determination are treatment objectives for children, protection of the public and the children, and the resources available to the DOC. If a child is to be placed out of Alaska, the committee must demonstrate the exhaustion and failure of in-state resources, in addition to the above considerations.

The committees are chaired by the DOC regional administrators and two additional members are drawn from other employees of DOC, wherever possible. In those districts where it is not possible to select all DOC employees, committee members may be drawn from other youth-serving agencies. Parents and legal guardians are encouraged to participate in committee proceedings. The hearing is not adversarial and consists of an oral summary of the case file by a probation officer, detailing diagnostic and staff evaluations, medical reports, court reports, and other pertinent information. Children are permitted to speak and present witnesses on their own behalf, and to be represented by counsel. Following the hearing, individual classification committee members deliberate in private and present written recommendations which become a part of the youth's permanent file. Contested cases for institutional in-state placements, all out-of-state placements, and those rejected by the McLaughlin Youth Center are submitted to the DOC assistant director of probation for resolution.

A discussion of additional policies and practices with regard to out-of-state institutional placements appears below, followed by a discussion of other types of out-of-state placements. Separation of the two has been made because of the different ways in which they are treated by the DOC.

Out-of-state placements to institutional settings require, in addition to the documentation of the exhaustion of in-state resources, approval of the regional administrator and of the DOC alternative care coordinator in Juneau. These placements must also be in facilities that have been approved by DOC. In order for out-of-state facilities to be approved to receive DOC placements, they must be licensed in their own state as verified by the DOC's receipt of the state's licensing report, and they must be professionally accredited if providing psychological or psychiatric services. All facilities are inspected by the DOC prior to receiving any children from the division, and a favorable review through informal reports, such as by compact officials, was said to be a strong determining factor for approval.

Probation officers are required to maintain monthly contact with the youth and institutions. Contacts take various forms, such as telephone calls, correspondence, and periodic reports from institutions. One probation officer said that this is not always possible, and that they try to make monthly contact, with mixed success. Probation officers take turns as escorts for new out-of-state placements to facilities in order to provide a means for them to become familiar with institutions where DOC has children placed at no additional cost to the state.

Persons involved with classification committees were very clear about the requirement that settings close to home, or in similar communities, receive first consideration in placement planning. The exhaustion of in-state resources was also uniformly acknowledged as a requirement for out-of-state institutional placement referral. One respondent noted that this policy had been in effect for some time, but had not been adhered to until about a year previous to the study when budgetary concerns caused tighter regulation of out-of-state placements.

There are several types of cases where more appropriate institutional placement is usually determined to exist out of state. The first type is for the emotionally disturbed or mentally retarded adjudicated delinquent. The most severe of these cases, especially those in need of psychiatric care, are likely to be placed in private institutions in other states because of the lack of appropriate specialized programs in Alaska. The Alaska Psychiatric Institute historically has provided evaluation and diagnosis services for emotionally disturbed or psychotic delinquents. However, the API has reportedly been reluctant to accept these youth into existing programs on an ongoing basis or to establish programs addressing their special needs.

The classification committees may also recommend out-of-state placement for lesser disturbed or impaired delinquents, if they perceive placement in the McLaughlin Youth Center to be counter to the child's best interests. If McLaughlin is not full at the time of referral, however, it was reported to be difficult to get approval to place the juvenile out of Alaska, even though the youth center may be considered by committee members to be inappropriate.

Therefore, mildly to moderately disturbed or retarded youth may be placed out of state if McLaughlin is full at the time of referral.

Another type of children for whom more appropriate services are determined to be offered out of state is delinquent girls. The youth center has ten beds reserved for girls, but many respondents felt that the program is inappropriate for some delinquent girls. Even when there were more beds for girls, the space was underutilized and girls were placed out of state.

Overcrowded conditions at the youth center have led to children being held in detention for long periods of time, frequently for two to three months, and at times up to four to five months or, alternatively, being placed in treatment facilities out of Alaska. This is the final situation leading to children being placed out of state. The DOC has an agreement with the Colorado Youth Authority to accept overflow cases when overcrowding in the division's treatment system becomes extreme. This once occurred with regularity, but DOC policy, motivated by fiscal considerations, reduced the use of the Colorado Youth Authority. Juveniles awaiting placement in the McLaughlin treatment program are now frequently held in available detention spaces in Alaska until a vacancy occurs. Because of the often lengthy wait in Alaska detention for an opening in McLaughlin's treatment unit, DOC officials have resorted to special procedures. Day release programs are utilized in regional detention facilities, where detained youth attend school under close supervision and may even visit their homes, prior to nightly returns to the detention facility. A pilot program has also been undertaken to test the viability of home detention. In this trial effort, youth are detained in their own homes, with close supervision and assistance by DOC probation workers. It was reported that sometimes up to hourly contact was made with parents and the detainee to monitor the situation and to aid parents with any problems that may be occurring at home.

Youth who are now placed with the Colorado Youth Authority were described as having a special array of characteristics. They were described primarily to have committed multiple crimes and to have been through Alaska's corrections programs at least once before. They also display considerable sophistication compared to most delinquents and need a secure setting with special resources for specific and exceptional treatment needs. First and lesser offenders are much more likely to wait in Alaska detention for placement to McLaughlin rather than go out of state. Alaska is one of the few states in the nation whose corrections agency sends children out of state to public treatment facilities because of overcrowding. Although classification committee policy stipulates that arrangements for children classified out of state must be coordinated with the deputy interstate compact administrator, it was reported on repeated occasions that neither the ICJ nor the ICPC are used for out-of-state private institutional placement of delinquents. Specifically, ICJ compact officials in Anchorage reported that such placements are processed through the DOC alternative care coordinator in Juneau. However, respondents in the DOC reported that children placed with the Colorado Youth Authority for treatment are processed through the ICJ in order to transfer authority for supervision to Colorado's public agency.

The ICJ is not used for out-of-state placements to private institutions for several reasons. The first reason cited by one DOC official was that "It's not required," and this respondent added that, "The private provider acts as our

agent." The fact that children in institutions are monitored by DOC workers on a monthly basis was further cited as reducing the need for compact utilization. The ICJ was used for private residential placements at one time. This practice was stopped because of conflicts which had occurred among the workers in the private programs, the local public supervising workers, and DOC staff. Such was the case when the local supervising worker wanted a child returned to Alaska after involvement in some incident. The facility worker and DOC workers disagreed and wanted to give the child another chance. When the local public worker then involved the state's ICJ administration, a tangle of legal and case management involvements ensued, which in the description of this respondent was better off avoided.

The reason given for not using the ICPC for the placement of juveniles into residential treatment settings, as provided for by Article IV of that compact, was because it is administered by DSS and regarded as applicable only to placements made by that division.

Noninstitutional out-of-state placements are subject to a different and somewhat less clearly defined set of rules. Recalling that classification committee policy covers all types of out-of-state placements, it is interesting to note that all references to the receiving setting in that policy refer to facilities and institutions. Although there is reason to believe from the policy that noninstitutional out-of-state placements are to go to these committees, respondents characteristically indicated that only youth referred under institutional dispositions were screened by the committees. It was reported that non-institutional placements are primarily the decision of supervising probation officers and that the committees, as a matter of policy, do not screen these youth with regard to the exhaustion of in-state resources or appropriateness of placement. Instead, committees were said to be available to assist probation officers with such placement decisions upon request. Placements with relatives, parents, and in foster care in other states were also said not to be subject to the approval of the DOC alternative care coordinator in Juneau, as are placements to facilities. Homes receiving foster care payments, which are paid according to average prevailing rates in the receiving locale, are required to be licensed by the receiving state and monitoring occurs less frequently than the monthly contacts required for institutional placement. These types of placements were reported to be particularly prevalent in the southeastern corner of the state, where the movement of children tends to be south to parents, relatives, and foster care settings in the lower 48 states.

Children placed with parents, relatives, or in foster care out of state are to be transferred out of state through the ICJ. DOC staff can then arrange for home evaluations and transfer responsibility for probation or parole supervision to authorities in the receiving state. This policy stance was somewhat qualified by a DOC official directly involved with the ICJ, who stated that there is a preference not to strictly follow the stipulations of the compact if it would not be in the best interests of a child. In this way, the compact processing was described as a frequently desirable option, but not a necessary procedure. Compliance with the ICJ provisions was described as generally quite good among DOC field workers. When occasional breeches of policy and procedure do occur, the individuals involved are directly contacted to take corrective measures. Overall, compact implementation is encouraged in a cooperative manner, and courts often stipulate ICJ processing in dispositional orders, if applicable.

However, only 10 of the 75 youth placed out of state by the DOC in 1978 were processed by the ICJ. Among persons interviewed in the DOC outside of the central office, compact utilization was reported to be mixed. One regional administrator and one probation officer said that the ICJ was used for non-institutional out-of-state placements in order to investigate the receiving setting and transfer supervision. Two persons occupying similar positions in other areas of the state, however, said that the ICJ took too much time and that it was not used except where required by specific receiving states, such as South Dakota. The 75 children placed out of state by the DOC in 1978 went to institutional care and other settings. These delinquent youth were described as physically, mentally, or emotionally impaired, or having a history of substance abuse. This practice reportedly contributed to the DOC applying for supplemental legislative appropriations every year since statehood up to fiscal 1979. The 1979 budget, however, was severely cut by the legislature for a couple of reasons.

Interestingly, a major problem that was cited by ICJ officials in administration of the compact involved juvenile justice agencies in other states attempting to place children in Alaska for courtesy supervision without the use of their own or Alaska's compact offices. It was reported that county rather than state agencies usually attempt such placements. Alaska DOC officials were said to refuse to accept supervision in such cases until the respective compact offices had been notified.

Over the years, the DOC has had a strong tendency to rely upon institutional care in other states to both treat children with special needs which could not be addressed in Alaska, and to handle overflow from the McLaughlin Youth Center. The number of youth placed in residential facilities out of state steadily rose from a low of 11 in August 1976, to 42 in November 1978. Total monthly out-of-state placement costs rose proportionally during this period from over $11,000 for August 1976, to about $56,000 for November 1978. This is a two-year increase of over 400 percent and the total amount spent on out-of-state placements by the DOC in 1978 was reported to have been $600,000 in the course of the Academy's national survey.

The incentive to place children in other states, brought about by a lack of residential resources, was reinforced by the fact that it is demonstrably less expensive to place children into facilities and institutions outside of Alaska than to treat them in the state.

The legislature reportedly grew impatient with the annual requests for supplemental funds, knowing that the need for additional appropriations was substantially linked to increasing reliance upon out-of-state care.

The development of wilderness experience programs in the state, which were particularly favored by some legislators, also contributed to the budget cut. A number of youth had been either diverted or deinstitutionalized from the McLaughlin Youth Center to participate in this favored and less expensive program. Apparently, with this trend in mind, the legislature felt that there were reduced fiscal needs on the part of the division, both to operate McLaughlin on the scale that had occurred in the past and to place children into programs in other states.

The DOC responded to the budget reduction in a variety of ways which, in their overall effect, significantly shifted the use of resources which had prevailed up to that point. This shift, in the description of one DOC official, was not linked to legislative action per se. Instead, it was described to be due more to a change in administration of the division, a change in treatment philosophy for youth, and the realization that unneeded services were being purchased for youth. It was thought that many youth could be appropriately served through more economical methods.

Pursuant to budget restrictions, the DOC was also required to return children to Alaska who had been placed out of state because they could no longer be supported in those settings. Some of these children were described as "overclassified," meaning that they had been placed in a level of care which overstated their treatment needs. The number of facilities in other states approved to receive DOC wards was also reduced to four, which further reduced the likelihood of out-of-state placement by narrowing the range of alternatives available. These programs are Brown Schools, Texas; Excelsior Youth Center, Denver; Sky Ranch, South Dakota; and the Colorado Youth Authority which handles the overflow of the McLaughlin Youth Center treatment unit. The DOC had a total of ten approved out-of-state facilities in June 1979.

The division took another measure to reduce institutional care costs; it discontinued the use of Alaska Children's Services programs. This agency was reported to have increased its costs to such an extent, up to $100 per day at the time of the study, that the division decided it was no longer cost effective to use it as a placement alternative. The DHSS is obliged by law to pay for "the full cost of care" of its wards, and it was the impression of some DOC officials that Alaska Children's Services had used this stipulation to push their rates beyond the point of reason.

The funds which were made available for reallocation as a consequence of all of these developments were applied to the maintenance and development of in-state resources. For instance, nearly $500,000 was reallocated to the McLaughlin Youth Center after its budget component had been cut by that amount by the legislature. These funds were viewed as essential for the survival of existing necessary programs at the youth center, and the budget cut was viewed by DOC officials as having been taken from the institution's "actual need."[14]

A program was initiated to develop foster home care as a replacement for institutional placement. Each region was assigned the task of developing new foster home settings so that the total number of available settings of this type in the state would at least double in the six-month period ending December 31, 1979. The minimal target figure set for this time was 64 available foster homes. Group home care is extremely scarce in Alaska, so it was not included in the plan.

As a final measure to reduce in-state and out-of-state private psychiatric treatment, efforts have been undertaken between the DOC and the DMHDD to increase the use of API for youth with very serious emotional disturbances. A more detailed discussion of this effort appears in the following section. Suffice it to say that the DHSS commissioner has directed the DMHDD to increase services to DOC-referred youth, and that the DOC regards API as an in-state resource and has directed field personnel to consider it as such.

At the outset of this shift of priorities and resources, there was reported to have been an across-the-board prohibition against out-of-state institutional placements. However, the extreme pressure that this created upon in-state resources, and upon probation officers vying for them, caused central office to back away from this position. The DOC presently allows out-of-state placement for very special cases and for overflow from McLaughlin. Noninstitutional out-of-state placements were, however, reported to have continued unabated by legislative or executive scrutiny, primarily because it does not require large allocations in the division's budget. One DOC official said that these types of out-of-state placements "don't cause any problems."

Mental Health and Mental Retardation

It is important to understand at the outset of this discussion of DMHDD policy and practices, that the Division neither has custody of youth nor administers funds for their placement out of Alaska. Custody of children committed to the department is administered by the DSS for children in need of aid, and by the DOC for adjudicated delinquents. These divisions are responsible for psychological and psychiatric services for children in their charge. The DMHDD, then, serves as a resource to its companion divisions within DHSS for services to mentally disturbed or developmentally disabled youth. If, in the course of locating public or private services, no appropriate placement settings can be located for DHSS wards, the DOC and the DSS then extend their search for services out of Alaska and may subsequently place children out of state.

The DMHDD does assist parents and guardians in the placement of children out of Alaska, but such placements are voluntarily arranged and do not involve the expenditure of public revenues. Mental health centers, if approached for such assistance, will attempt to locate out-of-state services for children and will help arrange for smooth transfer to the therapeutic program. If, for a variety of reasons, the mental health center does not provide such assistance, the parent or guardian is referred to the ICMH administrator in Juneau for information, referral, and assistance. The DMHDD reported being involved or having knowledge of no out-of-state placements in 1978 from its system or from local mental health centers.

The ICMH administrator also conducts home studies for the placement of emotionally impaired youth with relatives, upon request. Further, if a party in another state wants to send an individual to Alaska who will require admission to API, some assistance is given, notwithstanding the requirement that the person will have to meet standard admission criteria upon arrival. The ICMH is used for the transfer between public mental health and developmental disability institutions, as in other states, on the rare occasions that such transfers occur.

The relationship between DMHDD and the Divisions of Social Services and Corrections has, at times, been strained because of the reticence of the API to accept emotionally disturbed youth, especially delinquents, for long-term care and treatment. This situation has had some bearing on the number of children

placed out of Alaska by the two other divisions. Mental health residential services for emotionally disturbed youth are scarce in Alaska. API is available for seriously disturbed youth, including those under the responsibility of the DOC and the DSS, but usually for only short-term care during a crisis period. The institute prefers not to retain those youth who are not very seriously disturbed and do not require a secure psychiatric setting. The problem in resources occurs when the API is ready to discharge these youth to less intensive clinical settings and few, if any, appropriate programs can be located. The DSS and the DOC have, therefore, been moved to seek specialized psychiatric settings for these youth in other states.

Some relief from the pressure on API resources, and the distance that clients must travel to be admitted, is expected from a developing system involving "designated" hospitals. Under this plan, at least one general public hospital in each service region in the state will provide short-term admission for psychiatric care under contract with the division. The "designated" status allows these facilities to receive involuntary admissions. Although designated hospitals will relieve API of some short-term crisis care, they will not address the problem of scarce resources for longer-term treatment for emotionally disturbed youth.

It was reported that there is some sentiment in the division, and at API specifically, against opening a long-term treatment unit for emotionally disturbed youth. Concern was expressed about the possible effects that such a program in a psychiatric hospital would have when the youthful participants would not, in fact, be very seriously disturbed or psychotic. The establishment of such a unit at API has been discussed, and was proposed by some respondents.

The DMHDD has, however, begun to respond to this service gap by including $150,000 in the current API budget for residential and in-home services for emotionally disturbed youth. Children under the care and custody of the DHSS were reported to be eligible for the new program. A considerable portion of these funds has been designated for the support of a family training and residential care program to be operated under contract. This would involve children being placed in a specially designated family setting which would receive foster care payments, and the training of caretakers in the special needs of emotionally disturbed children. Additional payment will be made for foster home care once the skills needed for specialized care have been developed. In-home training will also be provided to the natural parents of children who can remain with their families. The development of this program, as reported by DMHDD officials, will not obviate the continuing need for group home and institutional settings for the acting-out emotionally disturbed adolescent who is neither appropriate for secure care in API, nor the more open specialized foster family setting.

The private sector was described by a DMHDD official as often unwilling to take acting-out emotionally disturbed youth. This official noted that such reticence is understandable, in a way, since children with these types of problems are prone to arson and suicide. These and other characteristics of emotional disturbance provide very special problems, which most typical child care institutions are not prepared to manage.

Accordingly, a class of children exists for whom residential care and treatment is very scarce. The DOC and the DSS quickly exhaust available alternatives for psychiatric treatment to disturbed youth. Since these DHSS divisions are responsible for the appropriate care and treatment of the department's wards, they are frequently moved to place children into approved programs in other states.

The professional services of regional mental health administrators were offered to DOC classification committees to help with child evaluation and placement, especially where mental health concerns were present. It was envisioned that this assistance would, in part, aid in the determination of children's needs and in the optimal use of available resources in Alaska. These services, however, have rarely, if ever, been utilized.

The DMHDD also extended the services of local mental health centers to youth in the custody of the other two DHSS divisions, provided that some agreement could be made to bill those divisions for services rendered by the local centers. Such a billing agreement has not yet been reached and, reportedly, the concept has languished for some time with little prospect of implementation.

Somewhat of a different pattern of services exists for developmentally disabled children, although the same rules of custody and placement authority apply as for emotionally disturbed youth. Families or legal guardians of developmentally disabled youth contact the DMHDD, which first attempts to aid the youth through day services. If this is not possible, the DMHDD will locate residential services as close to home as possible, depending upon client needs. Vacancies are sought in one of the 14 private developmental disability programs in the state. It was reported that there is usually a waiting list for these programs, and where severity of impairment precludes home placement while waiting for services, the Harborview Developmental Center will be used pending placement.

Again, courts are minimally involved in committing developmentally disabled youth, with parents or guardians most frequently signing the client into care. The same process also occurs in the search for appropriate care for developmentally disabled youth who have been adjudicated delinquent or in need of aid. However, these cases were reportedly rare and the DOC and the DSS seemed to find appropriate in-state service more frequently for developmentally disabled as opposed to emotionally disturbed wards.

Bureau of Indian Affairs

If it appears to a child's family or tribe, or BIA staff, that a need for placement exists, and the state cannot or will not place the child, BIA has acted. However, in recent years, DHSS has assumed responsibility for meeting the needs of Native Alaska children as a matter of policy and practice, obviating the need for extraordinary action by BIA. The Indian Child Welfare Act outlines types of placement preferences for Native children and these standards have become part of the policy and practice of BIA, as well as DHSS.

The Indian Child Welfare Act attempts "to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families."[15] To accomplish these objectives, the act grants jurisdiction over Indian child custody to tribal courts. If such jurisdiction is not possible, minimum federal standards for removal of Native children from their homes are outlined. All standards regarding placement preferences must consider the cultural and social standards of the Native community.

Under the act, any social service or court intervention into a Native child's life requires approval by the child's family and tribe. Either party may object and block placement of the child, especially into a non-Native environment.

Preference must be given to members of the child's extended family for placements which are ordered. If that is not possible, the foster home must be approved by the child's Native social service organization. Licensing and written agreements with the Division of Social Services are required, however. If a Native foster home is not specified by the tribe's social service organization, a Native foster home is to be selected by the placing agency. If institutional or group home care is indicated, settings selected or approved by the Native social service organization are to receive first consideration for placement. Only after all Native placement alternatives have been exhausted can placement be made into a non-Native foster family, institution, or group home.

In addition, legal requirements for placements in foster and adoptive care are established. These requirements include the right of notification of the parents of any court proceedings to remove a child from his home, court appointed counsel in the case of indigency, and the right to examine all documents filed with the court.[16] The party initiating the involuntary foster care placement or termination bears the burden of proof and must show that efforts have been made to enable the family to provide quality care. The likelihood of serious emotional or physical damage to the child must be proven and must include the testimony of "qualified expert witnesses." The tribe has the right to intervene at any point in the proceedings.

One result of this act in Alaska has been that the state has adopted new policies for foster, adoptive and institutional placements in and out of the state for Native children. For example, DSS policy and procedure requires the division to prove in court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Native family and that these efforts have proven unsuccessful.[17]

It has become increasingly more difficult to remove Native children from their homes without clear proof that severe and continuous abuse or neglect will result if they stay. The requirements outlined by the Division of Social Services have caused local social workers to seek out relatives, rather than white families, for foster placements.

Adoption has also been affected. A Native mother cannot sign a relinquishment of custody until ten days after birth, and it must be done before a superior court judge. This results in fewer formal adoptions of Native children, since mothers from remote areas find it difficult to appear before a superior court, which may meet many miles from their homes. While the effect on

out-of-state placements of adopted children is difficult to document, the reduction in the number of relinquishments of custody should arguably cause a similar reduction in placements.

The Indian Child Welfare Act has been described as one of the most significant pieces of federal legislation which affects placements of Native Alaska children ever enacted. It represents, according to some respondents, the return to a separationist policy for Native Indian affairs, encouraging more Indian self-control over the Native community. It is the latest federal legislation in a series of acts which moves official U.S. policy away from either 19th century paternalism or the assimilation of Natives into the mainstream, and encourages more Native autonomy. The act has not removed powers to control child welfare, but rather clarifies the manner in which tribal sovereignty prevails. It is somewhat ironic that, at a time when the Bureau of Indian Affairs has adopted a position that Alaska should assume all responsibility for Native child welfare, the Indian Child Welfare Act expressly places that responsibility in the hands of tribal government and Native associations. Frequently, DSS officials expressed frustration in the knowledge of continuing cases of purported neglect that are not subject to their intervention without extended negotiation and trial placements.

ISSUES

Alaska, like the other states visited by the Academy, is grappling with the difficult issues associated with the development of a comprehensive and effective youth service system. Yet, it is quite different from the other states in the sense that, in many cases, officials are addressing the adequacy of in-state services for the first time. Since moving from territorial status to statehood in 1959, child-serving programs have at times experienced enormous pressure to respond to the problems associated with rapid growth and development in the state's population. Prior to statehood, all services were provided by the federal government or private service providers who were usually sponsored by religious groups. There were very few state-operated services for youth, and out-of-state placements occurred more as a matter of course than as an exception in the course of providing child care and treatment. Although, in many ways, existing services are still in their infancy, state officials are beginning to take important steps in the regulation of child placement out of state.

It is interesting to note that, at least as far as the DOC is concerned, more restrictive policies with respect to out-of-state placement have been based on economics. Legislative concern has focused on out-of-state placement from a budgetary perspective, rather than specifically from a child protection and advocacy point of view as in some other states. Although out-of-state institutional care is clearly less expensive than comparable care in Alaska, DHSS and the legislature seem to reject this type of placement, based upon the outflow of Alaska dollars. Institutional care is seen as prohibitive in cost and unjustified in all but the most exceptional cases. In this way,

interest in the development of less restrictive alternatives has intensified, and foster family care is receiving more attention as the first line of alternatives to institutional settings in and out of Alaska.

The DOC has experienced the brunt of legislative intervention for more economical child care, and over the past two years has responded with a significant realignment of its placement priorities and use of resources. Rigorous implementation of the classification process, reduction of approved out-of-state facilities, discontinued use of Alaska Children's Services, and systematic development of foster care resources all speak to this division's affirmative efforts toward the provision of in-state, least-restrictive treatment.

These changes in DOC placement policies, however, have not been without associated problems. The large reduction in placements to facilities in other states has been primarily brought about through the classification and central approval process. Decision rules in these processes were said to be inconsistently applied, so that some probation officers perceive policy on placement selection to fluctuate without clear explanation. Some cases recommended for out-of-state placement would be approved while others of similar need were not. The availability of a bed at the McLaughlin Youth Center seems to be the determining factor in the placement decision. It was reported that, at times, there appeared to be no special needs that would warrant out-of-state placement if there was a vacancy at McLaughlin. This caused one respondent to question how facilities and children are matched after evaluation and referral for out-of-state placement.

Delays in central office processing and approval were also cited as problematic. Central office officials were described as not necessarily being unreasonable, but the approval process itself was perceived as too involved and time-consuming. Said one respondent, "We have to fight for what we believe is right for the child the way the procedures are set up." Paperwork for exceptional placements, including out-of-state placements, was cited as excessive, but this same official reflected that it is actually not any more involved than placing a child in the McLaughlin Youth Center. The main complaint about the protracted out-of-state placement approval process was that it was cause for prolonged waiting periods in detention or shelter care for placement candidates. On this topic, one respondent observed that, "A 90 to 120 day detention wait can be very hard for some (youth)."

The reduction in out-of-state placement approvals by central office officials clearly brought the lack of in-state placement resources to the foreground for many persons that were interviewed. The McLaughlin Youth Center can often be determined to be inappropriate by probation workers in their search for a placement setting in or out of Alaska. However, because of the emphasis on placement in Alaska and the lack of alternative settings, children are sometimes placed there despite contrary recommendations. Even when admission to the youth center would seem to be indicated, youth can be expected to wait several months in detention for a vacancy. The reticence of the state to build a large treatment institution to augment McLaughlin, the cancellation of Alaska Children's Services as an approved contracting agency, and the reduction of approved out-of-state programs force foster family care development to the extreme. As a fairly new strategy by the DOC for child care, this effort is not answering the division's emergent resource needs, causing frustration among many of the

persons that were interviewed. This frustration has, at times, been exacerbated by a reported lack of coordination between the DOC and the DSS, which resulted in scarce foster care settings for probationers in the midst of a surplus of foster care resources in the social services division.

Notably absent from this entire course of events is similar scrutiny toward out-of-state placements with parents, friends, relatives, and foster families. This, it would seem, highlights the reported economic basis of the current trend, because most of these types of placements are inexpensive or involve only travel costs. Although placements of these types are regularly processed by the ICJ, they are not necessarily subjected to classification procedures or central office approval. In comparison to out-of-state placements to some treatment setting, these types of placements were said to still occur, unfettered by tightened procedures, because "they don't cause any problems."

The DSS exercises similar scrutiny over out-of-state placement referrals as the DOC, and some respondents agreed with the increasing emphasis on placement in Alaska. However, it was acknowledged on several occasions that the DSS had not developed facilities in Alaska to cover the universe of treatment needs and, for that reason, out-of-state placements are likely to continue. The DSS, however, operates in a similar political environment as other DHSS divisions and, accordingly, there is strict adherence to the policy of exhausting in-state resources prior to approving placement out of Alaska.

The policies, problems, and resources of the DSS, in some ways, appear in strong contrast to those of the DOC. This division has not been subjected to the same type of budget constraints imposed by the legislature as the DOC, and placement resources both in Alaska and out of state, though not comprehensive, are more abundant.

In Alaska, DSS residential care resources are reportedly more developed than those of the DOC. This discrepancy was further broadened when the DOC stopped using the facilities of Alaska Children's Services because of what were viewed as excessive costs. At that time, the DSS increased the placement of children into those private programs, using the vacancies created by the withdrawal of DOC contracting for service. In response to queries about the implications this held for interdivision coordination of services, one DSS official indicated that the move was more cost effective because of the "full cost of care" requirement. Said this respondent, "The state is better off with full facilities than half-filled ones. Of course, the most cost effective (move) would have been to close some of the facilities down."

Another difference between the two divisions is the greater availability of out-of-state programs for children once such a placement has been approved. If out-of-state placement is deemed to be appropriate, one respondent indicated that "We do seek the best setting, whatever it might be." Another official observed that, "There are no real bureaucratic constraints upon the selection of a facility." Problems noted with reference to out-of-state placement were finding a vacancy in the selected program and waiting for the placement to actually take place, rather than getting approval to place a child in one of a few approved out-of-state facilities. In this way, there would seem to be generally more placement alternatives available to DSS as opposed to DOC staff, and somewhat more latitude afforded them by central office in case management decisions.

Although the DMHDD is not involved in placing children out of Alaska in the same way as the other two DHSS divisions, its activities figure prominently in the placement of children by the DOC and the DSS. It was repeatedly heard that children placed out of state are often emotionally disturbed, and that they are placed into other states because of a lack of resources in Alaska. This practice is expected to decrease with the further development of community mental health services, and with the initiation of the proposed specialized foster care program for children unsuitable for or discharged from API. The DMHDD might be more directly involved in placement decisions for children, especially those with emotional disturbances, had regional mental health administrators been involved in the DOC classification process.

Respondents contacted in the state education agency and among the local education agencies seemed quite satisfied with out-of-state placement practices and procedures. Although DOE respondents expressed a bias against approving such placements, there was considerable confidence expressed in the quality of services children receive and with the process that is used to determine what that program should entail. Resources were said not to be a problem because, in general, the DOE would spare no expense in securing an appropriate education for the child as stipulated by P.L. 94-142. Interestingly, one DOE respondent observed that the agency may, in fact, "go overboard" in providing the very best services to children and parents. Speculation was that possibly the LEAs are not as thorough in their exhaustion of in-state resources, suggesting that some out-of-state placements might be avoided if local programs and their implementation were more developed. The majority of children placed out of Alaska by education agencies were said to be emotionally disturbed.

Also at issue with some respondents was the practice of providing postplacement counseling services to parents. This was said to be very difficult to implement, especially for the families of educationally disabled youth who are usually 15 to 19 years old. Parents of these and other disturbed youth placed out of state frequently have problems which, in the opinion of some respondents, go beyond the responsibility and expertise of LEA staff. Some parents were also said to be resistant to receiving counseling. Although problems in the home were apparent to some respondents, they were frustrated in their inability to require families to get help.

CONCLUSIONS AND RECOMMENDATIONS

The very rapid growth of Alaska's population and economy over the past 20 years has challenged the resourcefulness of human service planners, practitioners, and administrators in ways unique among the 50 states. Officials have been called upon to bring a system essentially from a status similar to other states in the late 19th century through to current levels of sophistication in a much shorter time. Models of service provision relying upon out-of-state placement and the federal government have prevailed up to very recent times. The state is presently struggling with current child care issues without the benefit of years of experience and development afforded to other states, and the strain on the system is apparent.

Sentiment has developed throughout the agencies contacted against placing children into institutional settings or at great distance, in or out of Alaska. Although placements of this type are associated with culture shock, family disruption, and less rigorous monitoring than placements close to home, the strongest disincentive in the DHSS occurs in the great cost for this type of placement. This trend was crystallized by the legislature's impatience with increasing placement costs and consequent reduction in the DOC budget. The legislature's action was a significant benchmark in the development of Alaska's child care system, and it served as a clear message to other agencies under its purview that the development and utilization of in-state resources considerably less expensive than had been previously available would be a priority.

Existing policies regulating the movement of children to out-of-state care in the DHSS were tightened and more strictly enforced, and new policies were developed. Planners and administrators in the DHSS turned their attention to the development of services in Alaska with increased resolve. In the minds of some respondents, children were returned to or kept in Alaska even when more appropriate care might exist out of state. Officials in the child care system were, for the first time, facing issues and constraints as yet unaddressed by some older more-established states in the "lower 48." The legislature's action in regard to the DOC may have been overzealous, given the resources and sophistication of the existing system, but it served to mobilize a movement toward greater self-reliance, marking a new phase of youth services which, in spirit, brings Alaska abreast with current trends.

Increased regulatory activity is linked primarily to placements which involve an economic drain on the system. It does not explicitly address those characteristics which bind all types of out-of-state placements together, namely, removal from one's family, friends, and home environment at great distances to another political jurisdiction. It was repeatedly heard that existing out-of-state placement policies are based on economics, and their enforcement politically motivated.

Adequate in-state resources for some types of children remain a problem, despite the best efforts of officials in the DHSS divisions. Delinquent girls, some emotionally disturbed youth, and children unable to be served by McLaughlin Youth Center because of a lack of vacancies are still placed in other states as a matter of course. This seems likely to continue for some time, especially for the first two types of children. The feasibility of providing comprehensive services which are easily accessible to a relatively small and highly diffuse population may be remote, at best. In some specialized service areas, respondents felt that it is practical to consider placement into other states. This approach would probably be less expensive than developing a completely self-sufficient network of services in Alaska. To assure children receive the best treatment available, many respondents argued for retention of the out-of-state placement option. Some officials seemed to feel that children with severe or multiple handicaps, or unique combinations of problems, could often be best served by programs which Alaska has not established and which are unlikely to be developed until there is sufficient demand to operate the service.

The development of less expensive and restrictive services, as well as more specialized programs as yet unavailable, is under way in the DOC and DMHDD to answer some existing service problems. Foster family care is a growing resource

for the placement of juveniles, although not yet fully responding to the DOC's placement needs. This type of alternative to placement in the McLaughlin Youth Center or in other institutions in Alaska and other states holds promise for a system which has had few alternatives beyond secure institutional treatment. The DMHDD is also beginning to close the service gap for emotionally disturbed youth through the development of specialized foster family care. This move, for the first time, will provide appropriate treatment alternatives for disturbed children who are not suited for the confines of McLaughlin, API, or another institutions outside of Alaska. It is interesting to note that while there appears to be a flurry of activity in expanding foster family care in Alaska, relatively little discussion or attention has been directed toward the development of group treatment. There was a call among some respondents for more resources in this area, and it is anticipated that the DHSS will turn its attention to this area when the expanded foster care system is operational.

Lack of interdivision communication was repeatedly cited to be the cause of much frustration, resulting in poor coordination of departmental resources. Follow-up conversations with respondents indicated a growing move toward establishing a separate youth services unit within DHSS. This reorganization would combine the youth services in DOC with those of DSS and possibly DMHDD, and is the cause of great optimism that interdivisional feuding and turf problems will cease.

Specific recommendations by DOC officials varied in their approach to the evolving system. One respondent recommended that all placement opportunities in the United States be open to probation workers and that regional offices have more authority. Another suggested approval of only the very best programs out of Alaska, and reduce that number to two out-of-state options. Respondents recommended increasing the pace and scope of in-state resource development, especially for specialized foster and group home care, and several officials called for the establishment of a 15- to 20-bed treatment center for emotionally disturbed youth.

Finally, some measures were recommended to clarify DOC placement policy and its implementation. It was suggested that policy be more clearly defined, consistently applied, and conscientiously disseminated, and that basic procedural steps be defined for workers. Workers wanted more information of available programs, and suggested that the DOC develop and be accountable to a clear timetable for systematic policy implementation.

Specific recommendations in the DSS were more sparse than those found in the DOC. Most frequently, officials recommended the protection of the current flexibility they have in placement decisionmaking. The current system was described as protecting children's rights, requiring accountability, and providing needed services. Respondents recommended against the imposition of any additional constraints. One official also noted that Alaska badly needs a directory and clearinghouse of information on available in-state programs.

A very different picture presents itself when comparing educational services with those of the DHSS. The DOE seems untouched by the increasing fiscal and regulatory constraints described above. Respondents described the DOE as amply financed and willing to purchase appropriate care wherever it can be found. Although there seemed to be relatively few out-of-state placements by LEAs

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through the DOE, this sector seems considerably more equipped and less disinclined than DHSS agencies to place children out of state if it is felt to be necessary.

The placement and service programs in Alaska's education system are exceptional in their consideration of family issues. Financing of parents' travel and expenses for initial placement and adjustment and for subsequent visits were not found in any other state studied by the Academy. The practice of providing postplacement counseling to parents, and taking the initiative, with police assistance, in removing children from abusive or neglectful homes also shows unusual aggressiveness by education agencies. Becoming involved in child protection in this way was said to occur pursuant to the education system's mandate to provide services to children as provided for by state and federal law. Intervention was precipitated by the judgment that significant and lasting harm was imminent to the child. These practices were said to exist because of unresponsiveness by child welfare and mental health agencies, and there was a call for formal interagency agreements with DHSS to bring its local agencies more into the child and family treatment picture.

The only other recommendation by education officials was the call for more responsibility on the part of LEAs in exhausting local resources. These efforts were said to be inadequate, resulting in the possibility of children being inappropriately placed out of their home district. The process of ruling out local programs and screening placements at the state level does seem less intensive in the DOE than in DHSS.

Finally, the provisions of the Indian Child Welfare Act have forced child-serving agencies to reevaluate and restructure their placement practices for Native Alaska children. The assumption of jurisdiction over child custody matters by tribal government has caused state agencies to deal differently with Native children than with children from non-Native families. Tribal sovereignty in matters of child welfare, and especially child placement, could result in disagreement between Native organizations and state government agencies on what represents an appropriate placement. This has been the cause of some frustration among DSS workers involved with Native clients. At present, there seems to be only a tenuous reconciliation between cultural preservation and self-determination, and traditional approaches and values associated with child protection.

A study was undertaken by the DHSS for the 1979 corrections master plan, and a section of the report highlights prevailing sentiments in Alaska, and what the future is likely to hold. The report refers to juvenile offenders, but it can be thought to apply to all youth in the care or supervision of Alaska's state agencies.

> The Rules [of Procedure] further require that the medium used to achieve these objectives [child reform and social protection] be that of "providing care equivalent to that which should have been provided by the child's parents." However, at the moment, institutions are the major medium of service for children who are removed from their family's custody. Foster care is used sparingly, group foster care is not used at all, and basic care group home services are used

> infrequently. It is strongly recommended that Alaska discontinue the practice of housing youths in out-of-state facilities. Expansion of foster and group homes through contractual arrangements is proposed as a primary means of diverting youth from secure detention and as an alternative to be used for adjudicated delinquents as well.[18]

The spirit of these recommendations was found among all agencies contacted in the state, and officials appear to be dedicated to the increased capacity and responsiveness of a young and sometimes fragmented youth service system.

FOOTNOTES

1. Alaska Statute, Sec. 47.10.080(b)(1-3).
2. Alaska Statute, Sec. 47.40.
3. Alaska Statute, Sec. 47.10.010(a)(2).
4. Alaska Statute, Sec. 47.10.082.
5. Alaska Statute, Sec. 47.10.230(e).
6. Alaska Statute, Sec. 47.10.080(f).
7. Alaska Department of Health and Social Services, "Types of Placement/ Appropriateness (Listed in Order of Preference)," Division of Social Services Program Manual (Juneau, Alaska).
8. Ibid., "Placements Involving Non-Compact States--Procedures If Alaska Is the Sending State."
9. Alaska Department of Education, "Instructions and Time Lines for SEA/LEA Personnel in Filing DOE Form 05-252-24, Out-of-District Placements."
10. Alaska Department of Education, "Special Education Program Placement Alternatives," Regulations (Juneau, Alaska).
11. Alaska Statute, Secs. 14.30.285(b),(b)(1), and (b)(2).
12. Alaska Statute, Secs. 14.285(c).
13. Alaska Department of Health and Social Services, Division of Corrections Manual, Section 230.1 (Juneau, Alaska).
14. Correspondence from the Assistant Director to the Director of the Division of Corrections, Department of Health and Social Services, regarding the fiscal 1980 confinement expenditure plan, dated 5/22/79.
15. The Indian Child Welfare Act of 1976, P.L. 95-608.
16. Ibid., Section 102(c).
17. Alaska Department of Health and Social Services, Division of Social Services Program Manual, Section 4.1.C.
18. Alaska Department of Health and Social Services, Division of Corrections, Alaska Corrections Master Plan: Executive Summary, (Juneau, Alaska: 1979).

CALIFORNIA CASE STUDY

ACKNOWLEDGEMENTS

The Adademy staff gratefully acknowledges the assistance of the many California state and local public officials who gave us their time and cooperation in obtaining information for this case study, particularly the following individuals for their generous allocation of time, their perceptions on the interstate placement issue, and their candor in discussing those issues.

Ellery J. Adams, Administrative Assistant
Division of Support Services
Office of the Los Angeles County Superintendent of Schools

Bernice Aguilar, Patient Transfer Officer
Business Services Section
Department of Administration
Department of Mental Health

Perry B. Bach, M.D., Chief
Children's Adolescents Division
San Diego County Mental Health Services

Winnie Bachman, Field Consultant
Office of Special Education
Department of Education

Sigred Bathen, Staff Writer
The Sacramento Bee

Robert Bell, Jr., Coordinator
Special Education Programs
San Diego Public Schools

Elizabeth Berger, Director
California Children's Lobby

Betsey Burke, Director
Office of Children and Youth Services
Department of Mental Health

Carla Carroll, Assistant Director
Lassen County Welfare Department

Ann Cato, Director
Special Education
Oakland Public Schools

Clyde Chantry, Special Education Consultant
Office of Special Education
Department of Education

Frank L. Cheney, Compact Administrator
California Youth Authority

Fran Church, Program Specialist
Office of Children and Youth Services
Department of Mental Health

Mollie Cooper, Deputy Director
Los Angeles County Department of Adoptions

Newell Erwin, Deputy Regional Services Administrator
Los Angeles County Department of Public Social Services

Gwen Foster, Director
Child and Family Mental Health Center, North Region
Alameda County Health Services Agency

Alice Gamble, Chief
Adoptions Support Unit
Adult and Family Services Division
Department of Social Services

Robert Gartin, Director
Office of Special Education
Department of Education

Arlene Gilbert, Program Analyst
Child Welfare Program Development
Los Angeles County Department of Public Social Services

William Gillespie, Director
Special Education
Lassen County Public Schools

Linda Grether, Supervising Psychiatric Social Worker
Office of Mental Health and Social Services
Los Angeles Office,
Department of Mental Health

Arnold Griffith, Assistant Chief
Program Operations Section
Community Operations Branch
Department of Developmental Services

Dr. Keith Griffiths, Chief
Division of Research
California Youth Authority
Planning, Research, Evaluation and Development Branch

Mrs. Pat Herndon, Division Director
Children's Placement Services
Alameda County Bureau of Social Services

George Howard, Juvenile Justice Specialist
Office of Criminal Justice Planning

Donald Huggins, Director
Lassen County Mental Health Services

Rose D. Jenkins, M.D., Chief
Children and Youth Division
Los Angeles County Department of Mental Health

Charles Johanson, Consultant
Department of Education

Lorrain Kroetch, Assistant Director
Office of Children and Youth Services
Department of Mental Health

Robert Lippert, Executive Director
Boys and Girls Aid Society

Vicki Markey, Director
Juvenile Services
San Diego County Probation Department

John Matthews, Chief
Children's Services
San Diego County Welfare Department

David Otey, Acting Director
Alameda County Mental Health Services

Diane Piper, Assistant Branch Chief
Public Inquiry and Response
Planning and Review Division
Department of Social Services

Jack Ploscowe, Assistant Chief
North Region
Community Care Development Branch
Department of Developmental Services

Lemar Prince, Chief Probation Officer
Lassen County Courthouse

Howard Robinson, Director
Bureau of Social Services
Child Welfare Program Development
Los Angeles County Department of Public Social Services

Robert Shaner, Chief Probation Officer
Alameda County Probation Department

Darryl Shryock, Scoial Services Consultant
Adult and Family Services Division
Department of Social Services

Neal Simon, Director
South Region Children Services
Alameda County Health Services Agency

Esther Strathy, Central Placement Coordinator
Los Angeles County Probation Department

Pearl West, Director
California Youth Authority

INTRODUCTION AND METHODOLOGY

California was selected for case study for a number of reasons. Being the most populated state, with close to 22 million persons in 1978, it has four of the major metropolitan centers in the country, i.e., Los Angeles, Sacramento, San Diego, and San Francisco. On factors which directly relate to the case study, California also ranks among the largest. There are an estimated 27,000 children in out-of-home care in the state and the estimated 1978 population of persons eight to 17 years old was 3,596,506; about one in 133 children.

Another reason for selection was the fact that the state has a history of strong local control of human service programs and much of this control rests with the county supervisors. At times, this has tended to make statewide regulation and monitoring, and uniform development of programs very difficult and state agencies are wary of imposing too much control over local affairs.

With the passage of Proposition 13, sweeping fiscal reform changed the level of development and method of funding social programs in California and this was another reason that the state was chosen for study. The legislation was successful in cutting some of the highest property taxes in the country in half, causing reevaluation of service priorities, and changing the way that state government participates in the funding of local programs. Where state agencies previously required at least moderate fiscal participation in the provision of local services by local units of government, they now have assumed total or near total fiscal responsibility for many core programs. This increased participation has been sustained by surplus state revenues which are partially replenished by sales and income taxes. It was reported that this replenishment does not equal allocations from the surplus fund, indicating that only temporary relief has been gained by its use to supplement local governments' share in service provision.

Work was undertaken by a team of researchers in February 1980. Contacts in Sacramento were made among persons responsible for out-of-state placement in the state government offices of the Department of Education (DOE), the Department of Mental Health (DMH), the Department of Social Services, and the California Youth Authority (CYA). Issues regarding the out-of-state placement of children, regulation of placing agencies, and perceived areas of improvement were discussed. Documentation of agency activities, research, and legislative activity were also collected. Advocates for children, a newspaper reporter, and legislative staff were also interviewed on interstate placement issues.

Alameda, Lassen, Los Angeles, and San Diego were the four counties that were visited. County officials in the above four agency types were contacted and interviewed on the same issues that were addressed in Sacramento. Exceptions to the general practice of interviewing county officials occupying similar positions occurred in the selection of a regional DMH official in Los Angeles because most precare and aftercare placements for mental health in Los Angeles County are made under contract from the county program by a regional DMH office. A school district employee was interviewed in Alameda County to gain a local

perspective on special education issues, and a regional special education consultant in Los Angeles was contacted because of the availability of special information about the southern half of the state. A private service provider, described as extremely active in the private sector and knowledgable about placement resources and policies, was also interviewed in San Diego.

DESCRIPTION OF THE STATE

California is the third largest state in land area, with over 156,000 square miles and is insulated from Nevada and Arizona to the east by the Sierra Nevada mountains. This ridge of mountains, reaching elevations of over 14,000 feet, in combination with 840 miles of Pacific shore line to the west, create parallel natural boundaries to the east and west of the state. Shorter and more open borders exist to the north with Oregon and to the south with Mexico, with the northern border occurring in a rural forested area. A broad central valley runs from north to south between the Sierra Nevada mountains and the much lower coastal ranges, creating a warm and expansive lowland where much of the nation's produce is harvested. California was ranked first nationally in agricultural production in 1978 with primary products being cattle, dairy products, lettuce, and cotton. There is a corridor of small to moderate-size cities in this valley, which economically rely upon the highly developed agriculture industry surrounding them.

There are four major metropolitan areas in the state. Aside from the Sacramento area SMSAs in the north central part of the state, which has a population of about 880,000 in 1978, population centers have developed in the coastal basins. To the far south, the San Diego area SMSAs have a population of about 1.5 million, the center of which is only 30 minutes' drive from the Mexican border. Approximately 150 miles north is the Los Angeles basin, SMSAs with an area population of nearly 10.5 million . These two areas have become so populated over the past 20 years that there now exists nearly continuous urban development between the two, constituting one of the largest metropolitan areas in the world. The San Francisco Bay area is about 450 miles to the north of Los Angeles and it is the fourth major urban center in the state. This region is a crescent of development around San Francisco Bay including San Francisco, Oakland, Berkeley, and San Jose, whose SMSAs have an area population of over 4.5 million. The combined population of these four areas constituted over 80 percent of the state's 22.9 million people in 1978. During the same year, over 90 percent of all Californians lived in urban areas.

California has 58 counties, ranging in 1978 in population from 800 people in Alphine County to 7 million people in Los Angeles County. The state has the most Standard Metropolitan Statistical Areas (SMSAs) in the country, and their 17 census areas contain 25 counties. Two SMSAs are contiguous to Nevada and Arizona, and portions of these census areas that border the other states are very sparsely populated.

California's industries are varied, with major products ranked in the categories of transportation equipment, food, and electrical equipment. Central

valley areas have not experienced this intense influx of people to technical and industrial jobs, because of the reliance on agriculture as the primary industry and economic base. Similarly, the northern and eastern rural counties have experienced slow growth, because of a historical reliance upon logging and mining as primary industries. The development of recreational facilities and tourism has recently begun to cause an increase in population and economic activity in these rural areas. Some of the most remarkable growth has occurred in the "Silicone Valley", near Palo Alto and San Jose.

California leads the country in the level and rate of growth of personal income, which in combination with some of the highest property, sales, and state income taxes, has helped government services keep pace with rapidly increasing population. Average personal per capita income increased 376 percent between 1950 and 1977 yielding an income level of $8,850, which is nine percent higher than the national average. In 1975, 8.5 percent of California families were below the poverty level, compared to an 8.7 national average and the state was ranked fifth in personal per capita income in 1977.

The pattern of increasing population in and around urban centers has influenced life styles, economic activity, and employment patterns in the state. Service industries and the public sector have grown steadily since the 1950s to the point where they were responsible for about 40 percent of employment by 1974. Shopping, recreational, entertainment, and housing resources have adapted to growth patterns, with a much greater emphasis on their development in rapidly growing suburbs at the expense of their availability in older metropolitan centers.

Minority groups play a large role in the social and economic make up of the state. The largest of these groups includes persons of Spanish descent, constituting approximately 14 percent of the population in 1978. Hispanics, who are primarily Mexican Americans, primarily live in the major population areas and, to a lesser extent, in the central valley supporting the agriculture industry. Each metropolitan area, especially Los Angeles, has population clusters of Mexican-Americans in areas of economic depression and low-income housing. These areas, as well as those occupied by poorer black families, are subject to more intense social service and cash transfer programs than are generally found throughout the state.

Blacks, constituting about seven percent of California's population, often live along side of Hispanics in depressed conditions, and both groups are subject to the impact of recession, inflation, and unemployment longer and more severely than the general population. California had fewer blacks in 1976 than the 11 percent national average with this group consisting of 7.8 percent of its total population.

The Asian-American population, by contrast, is much more integrated into the middle and upper social strata, and could be described, as a group, to be more economically successful than the average white Californian. Persons of Chinese and Japanese descent predominate among the Asian-Americans in California, which constitute about two percent of the population.

In general, California may be thought to be a diversified and relatively progressive state which has effectively managed its problems of rapid growth

because of the strong economic development that accompanied the increase in population. As the state moves into a period of stabilization in terms of growth, employment, and government spending, resources to deal with social and economic problems will become more scarce. Those problems which have been managed by government spending and a vigorous economy, such as poverty and unemployment, might be expected to return to the fore, as they did when the older eastern industrialized states matured.

DESCRIPTION OF ORGANIZATION AND SERVICES

Human services in California state government are organized into a large Health and Welfare Agency which is administered by a cabinet-level secretary. The Health and Welfare Agency contains a number of departments, including the Departments of Social Services, Mental Health, and Developmental Services. At the time of the study, the agency also contained the California Youth Authority which has since been moved to the Youth and Adult Corrections Agency.

Child Welfare

Child welfare services in California state government are the responsibility of the Health and Welfare Agency's Department of Social Services (DSS). The DSS is organized into major divisions, each of which has branches which provide policy, operations, and support services. Foster and adoptive services are the responsibility of the DSS' Adult and Family Services Division. Within this division, the Family and Children Services Branch and the Adoptions Branch are charged with planning, standards-setting, monitoring of compliance with DSS regulations, and authorization of payment for out-of-home care. Local compliance with state regulations is also monitored by Integrated Review and Improvement Services (IRIS) teams though the Operation Assessment and Audits Bureau of the Planning and Review Division. In addition, these branches of the DSS Adult and Family Services Division play a role in the evaluation of annual social service plans required of each county for receipt of Title XX funds. The Interstate Compact on the Placement of Children is administered by the Adoptions Branch of the Adult and Family Services Division for interstate adoptions, and by the Public Inquiry and Response Branch of the Planning and Review Division for interstate foster care placement. Licensing of child care and child placing agencies is the responsibility of the DSS' Community Care Licensing Division.

While the DSS does not play a large role in the direct provision of child protective or placement services, it does administer state and federal funds subsidizing services which are locally administered by each county department of social services. The state agency establishes guidelines for county child welfare programs which are linked to the receipt of state and federal funds. In this way, there is a balance of authority for services to children between the

two levels of government, with the DSS exercising considerable supervisory influence over programs which are administered by county governments.

There are county welfare departments in each of California's 58 counties which administer the required and optional Title XX programs in their jurisdiction as well as cash transfer programs. The administration of out-of-home care services is generally divided into separate adoptions and foster care offices in the county agencies, as it is within the Adult and Family Services Division of DSS.

In addition, there are 28 local adoption agencies located in county DSS offices serving one or more counties, eight privately licensed adoption agencies, and three regional offices of the DSS' Adoptions Branch which are licensed by DSS to place children for adoption. Independent adoption services are provided through the three DSS regional offices.

There are a variety of circumstances which make children eligible for out-of-home care services from county welfare departments. These include those children who are either voluntarily or judicially released for adoption but for whom there is no immediate adoptive placement, and dependency cases who are removed from their homes by the juvenile court. Also eligible for out-of-home care are those children who are voluntarily placed into foster care by their parents because of unwillingness or inability to care for them.

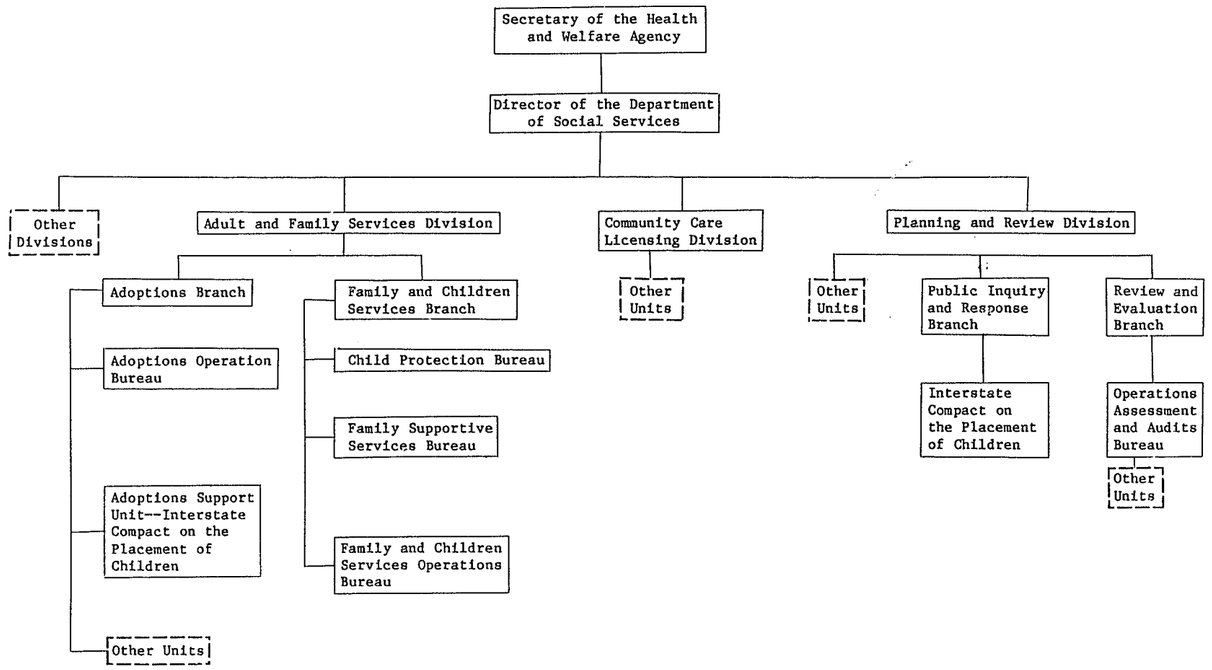
Few county programs operate their own out-of-home care facilities, except for 24-hour emergency shelter care. Instead, services are purchased from licensed homes, facilities, and institutions. In December, 1979, testimony for the Senate Select Committee on Children and Youth, Anne Bersinger, Deputy Director of Community Care Licensing Division of DSS, said there were 14,500 24-hour care facilities, 13,000 foster family homes, and 700 group homes or large family homes.[1]

Rates of reimbursement to private out-of-home child care facilities are established either by the county commissioners or their designees in individual counties, or by a regional coalition of counties working in cooperation toward equitable payment of services.

Most county programs also license foster families for the DSS under a contract agreement, while larger group homes and institutional settings are licensed by the state agency. Private facilities licensed by county or state social services are also used for the placment of status offenders and juvenile delinquents by county probation departments. Furthermore, in some counties, probation departments have responsibility for services to dependency cases, as well as to delinquents and status offenders. This is described below under juvenile justice.

An abbreviated table of organization for the DSS follows in Figure 1, indicating those parts of the agency which are relevant to out-of-state placements.

FIGURE 1. THE ORGANIZATION OF SERVICES IN THE CALIFORNIA DEPARTMENT OF SOCIAL SERVICES RELEVANT TO OUT-OF-STATE PLACEMENTS



Education

The California Department of Education (DOE) is administered by an elected superintendent and is responsible for supervising all public education programs in the state and for administering some special state-operated programs. There are 1,033 local school districts in the state.

The Office of Special Education within the DOE is responsible for formulating policy, subject to the approval of the State Board of Education, for the implementation of the federal Education for All Handicapped Children Act of 1975 (P.L. 94-142). The office also supervises local special education programs delivering services through the state's participation in this federal act. Local education agencies are reimbursed for special education services and are subject to detailed evaluations to assure compliance with P.L. 94-142 and the California Education Code. In addition to these responsibilities, the office maintains a special school for the blind, two special schools for the deaf, a southwest region deaf-blind center, and three special diagnostic schools for neurologically handicapped children. The certification of nonpublic special education programs is also an office function and its staff inquires into the safety and hygiene, staff ratio, and programmatic status of applicant nonpublic schools. At present, there are 90 certified nonpublic programs, 16 of which are out of state.

As a further avenue toward implementation of P.L. 94-142, the Office of Special Education has engaged other state agencies for assistance with the delivery of special education services to handicapped children. Existing agreements define service and fiscal responsibilities for the provision of an uninterrupted flow of special education instruction as eligible children come in contact with other state agencies. A further stated purpose of the interagency agreements is to ensure that all education programs are under the aegis of the Office of Special Education, and that the programs meet standards established by the office. Joint planning and interdepartmental communication are aimed at eliminating the duplication of educational services. Agreements effective as of this writing have been made with the Departments of Mental Health, Developmental Services, and Rehabilitation, as well as with the California Crippled Children's Services Program operated by the Department of Health.

County superintendents' offices act as intermediate offices between the Office of Special Education and the 1,033 local school districts. In addition to disbursing state reimbursements to local education agencies, the county offices provide technical support and special services to the local districts. These services vary, depending upon the population and resources of local school districts, and can range from solely technical support to very large school districts, to nearly complete assumption of instructional programs for eligible children in more rural areas. In cases where county offices provide the bulk of services to children, they are designated as the responsible local agency (RLA), indicating the organization ultimately accountable for local service delivery. School districts in highly urbanized areas, such as Los Angeles Public Schools, usually have a comprehensive array of services so that the school district itself is designated as an RLA. In a third method of local organization, a number of small local education agencies can combine their resources in a

consortium for the provision of special education services, and they then are designated as an RLA in the aggregate. In any one of these organizational schemes at the local level, arrangements can be made for special services to be provided by the county superintendent's office, and the local organization waives their average daily attendance reimbursement from the state to the county office for the children served.

An abbreviated Table of organization for the DOE follows in Figure 2, indicating those parts of the agency relevant to out-of-state placements.

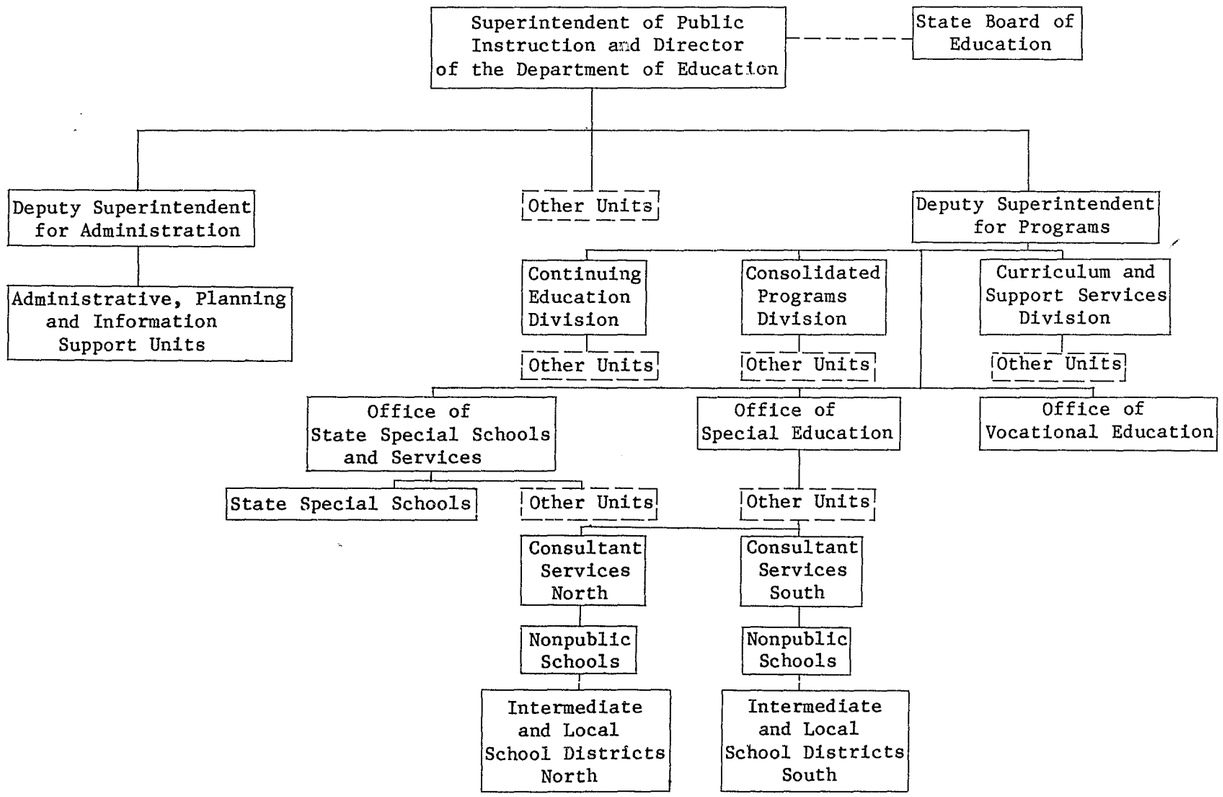
Juvenile Justice

The primary state agency in California's juvenile corrections system is the California Youth Authority (CYA). At the time of the study, the CYA was placed within the Health and Welfare Agency and has since been moved to the newly formed Youth and Adult Corrections Agency. The CYA is responsible for the care and treatment of delinquents committed to its custody by juvenile or adult sessions of superior court. Postadjudicative placements are made by the CYA to its ten treatment institutions, six forestry camps, or in one of the many private secure or semisecure facilities under contract for services. CYA officials estimate that the average dialy population of wards contained by these programs is about 5,200 youth. Aside from providing corrections facilities for adjudicated delinquents, the CYA Parole Services Branch is responsible for aftercare servies for an estimated daily average of 6,600 wards through 30 field offices serving the 58 counties. These services include the use of foster homes, group homes, and private contracting residential treatment programs. Residential services provided or contracted for by the CYA are exempt from the Department of Social Services licensing requirements.

The CYA administers a state subvention program to assist the counties in the development of a variety of rehabilitation programs meeting the treatment needs of juveniles at the local level. This subvention subsidy to participating counties was enacted by Assembly Bill 90 in 1978, and it funds a wide variety of local juvenile justice services. A.B. 90 funds support nonsecure shelter care facilities, crisis resolution, counseling, education, and home supervision programs. The funds are also used to establish and maintain locally administered juvenile homes, ranches, camps, forestry camps, day care centers, and group homes for wards of the juvenile court. The CYA has responsibility for fiscal and programmatic monitoring, auditing, and inspection of services provided by A.B. 90 funds in the counties. Only delinquents who are too sophisticated or dangerous for placement in local programs are accepted by the CYA. In this way, the CYA operates as a backup resource to the county administered probation departments and attempts to limit its wardship to more serious offenders, especially those committing crimes against persons or repeat offenders.

California's Interstate Compact on Juveniles (ICJ) is administered by the director of the CYA and operations are supervised by a deputy administrator and a small staff within the Parole Services Branch.[2] Agencies reported to be under

FIGURE 2. THE ORGANIZATION OF EDUCATIONAL SERVICES IN THE CALIFORNIA DEPARTMENT OF EDUCATION RELEVANT TO OUT-OF-STATE PLACEMENTS



the jurisdiction of the Compact include the CYA's institutions, the Parole Board and 30 parole offices, and the 58 county probation departments.

The 58 counties operate 45 county detention facilities, either individually or in combination with other counties in less populated areas. These facilities hold accused youth pending adjudication, adjudicated youth waiting for placement, and some adjudicated delinquents for whom CYA commitment and community placement are deemed inappropriate. The counties also operate a number of corrections camps, schools, and ranches under the Welfare and Institutions Code 887 and 891 subsidy from the state.

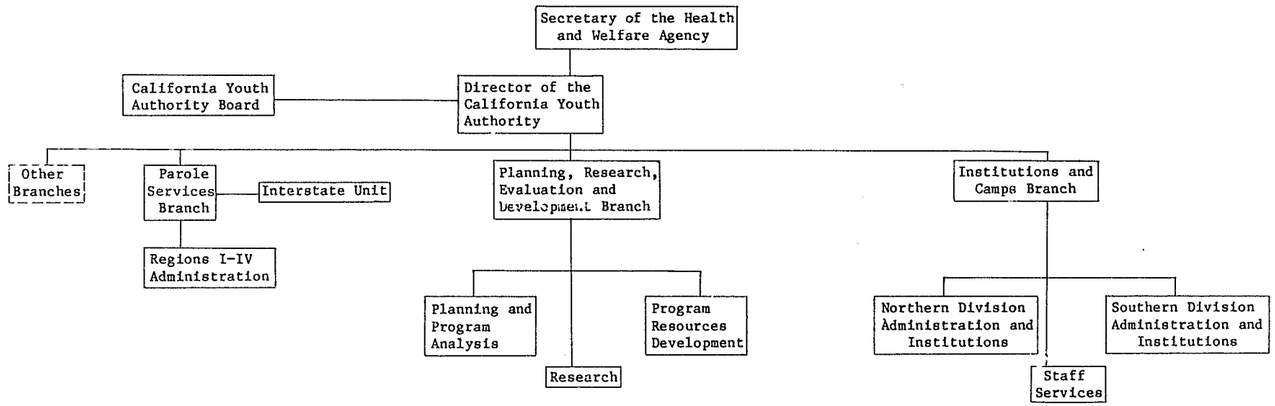
Pursuant to continued deinstitutionalization of delinquents and status offenders, local probation departments in California show high utilization of private residential care facilities for children who are wards of the court. A 1979 study detected 1,268 such facilities, half of which are family homes and the other half being distributed among small and medium group homes and large facilities.[3]

In some counties, the county supervisors have elected to locate jurisdiction over dependency cases within the probation department rather than with the county department of public social services (DPSS). Ten county probation departments have sole jurisdiction over dependency cases and nine counties have shared responsibility between the two agencies. In cases where the county supervisors have detailed dependency responsibility to the probation departments, dependency petition filing, placement, and monitoring are done by probation officers in the same way as by child welfare workers in other counties, the placement costs are paid for by the county DPSS.

Where dependency cases are wholly or in part under the jurisdiction of the county probation department, the county DPSS is to "provide for methods of assuring that dependent children placed under the supervision of the probation department but with the county welfare department funding cost of care, are receiving the services listed in (Chapter 3000, Service Programs administered by County Welfare Departments)."[4]

An abbreviated table of organization for the CYA follows in Figure 3, indicating those parts of the agency relevant to out-of-state placements.

FIGURE 3. THE ORGANIZATION OF SERVICES IN THE CALIFORNIA YOUTH AUTHORITY RELEVANT TO OUT-OF-STATE PLACEMENTS



Mental Health

The mental health system as it now exists was established by the Short-Doyle Act of 1968. The act explicitly has the objective "to organize and finance community mental health services for the mentally disordered in every county through locally administered and locally controlled community mental health programs."[5] The Department of Mental Health (DMH) supervises the county agencies in a number of ways. It adopts and enforces rules and standards for the approval of mental health services and formulates standards for professional staff employed by county agencies. The DMH also reviews, approves, and monitors each county's annual mental health service plan.

A group of 12 offices, including the Office of Children and Youth Services, support the DMH director in these duties by providing policy and program development support and consultation. Teams representing the offices also provide technical assistance and administrative support to county agencies in six regional service areas under the authority of a regional service area director.

Supervision of the local agencies occurs through the three major Divisions of Administration, Community Services, and Hospital Services. The Division of Hospital Services is responsible for clinical staff and programs in the six state hospitals, in addition to the overall administration of two of these hospitals. The administrative and support services in the remaining four state hospitals are the responsibility of the Department of Developmental Services.

Local mental health programs are administered by the commissioners of each of California's 58 counties, and planning and operations are the responsibility of a director appointed by the commissioners. The director of each county agency may directly or through contract provide reimbursable services in a number of areas, including inpatient and outpatient care, 24-hour emergency services, diagnostic and rehabilitative services, and training, research, and evaluation. Services to children provided in the counties are supervised by the children and adolescent services coordinator, whose responsibilities vary, depending on the community's needs and the county commissioners' allocation to services for children.

Upon contract approval by DMH, private service providers are brought into the county's mental health systems, depending upon the availability of such programs and the needs of the community. The distribution of residential services between the public and private sector varies among counties, also depending upon the philosophy of the county administration about where certain residential services should be located.

In some counties, inpatient services are contracted to private agencies, including short-term emergency services as well as more prolonged residential programs. Another arrangement involves the retention of direct service responsibilities in the area of short-term emergency services to the county agency with contracts let to private providers for more open residential treatment. A third organizational scheme involves contracting specific types of placement services to the regional DMH service area and retaining the remaining types of placements to local program responsibility. In this case, intensive inpatient

evaluation and treatment services are directly provided by the county in their own facilities and placement in long-term nonpublic care and aftercare becomes the responsibility of the regional service center. It was reported by several state and local officials that the latter form of local organization is being phased out as the DMH gradually continues to remove itself from direct service in the counties and from the maintenance of large state hospitals.

An abbreviated table of organization for the DMH follows in Figure 4, indicating those parts of the agency relevant to out-of-state placements.

Mental Retardation

The Department of Developmental Services (DDS) is the section of the Health and Welfare Agency which is responsible for services to developmentally disabled children and adults. In this role, the department provides administrative and support services for the operation of four of the six state hospitals, under contract with the Department of Mental Health. DDS also contracts with and supervises 21 private nonprofit regional centers, each having an independent board of directors. Contracts are negotiated annually with these centers, and they provide a variety of counseling, therapeutic, and residential placement services which are directly funded or purchsed with DDS contract revenues if alternative forms of funding are not available. These services include admission to and discharge from state hospitals.

Relations between the regional centers and the DDS are mediated through the department's Community Services Division. This division has three branches: the Community Operations, Community Monitoring, and Community Care and Development Branches. These branches are important in terms of out-of-state placement because of their responsibilities for contract and program monitoring, auditing, and rate setting for residential placements by the regional centers.

An abbreviated table of organization for the DDS follows in Figure 5, indicating those parts of the agency relevant to out-of-state placements.

FIGURE 4. THE ORGANIZATION OF SERVICES IN THE CALIFORNIA DEPARTMENT OF MENTAL HEALTH RELEVANT TO OUT-OF-STATE PLACEMENTS

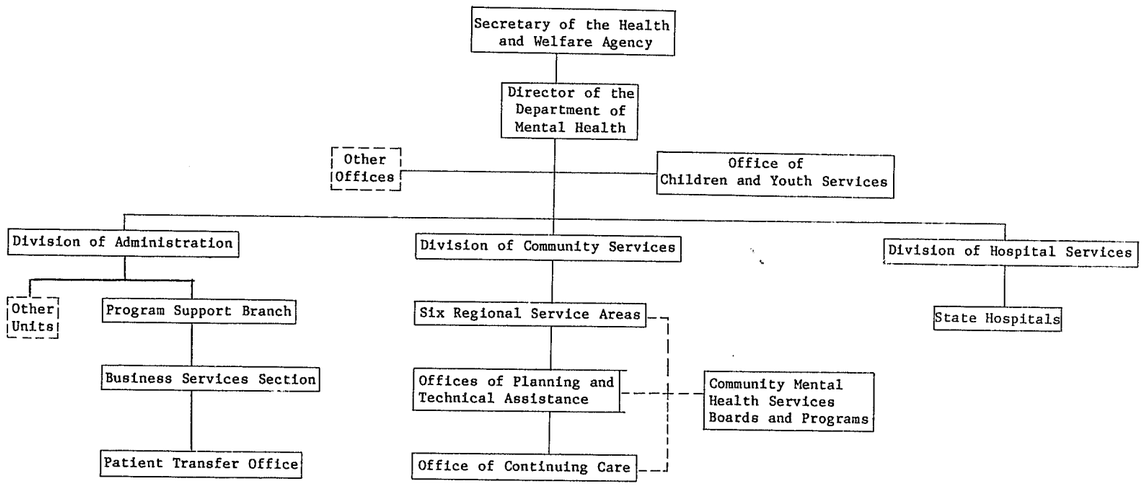
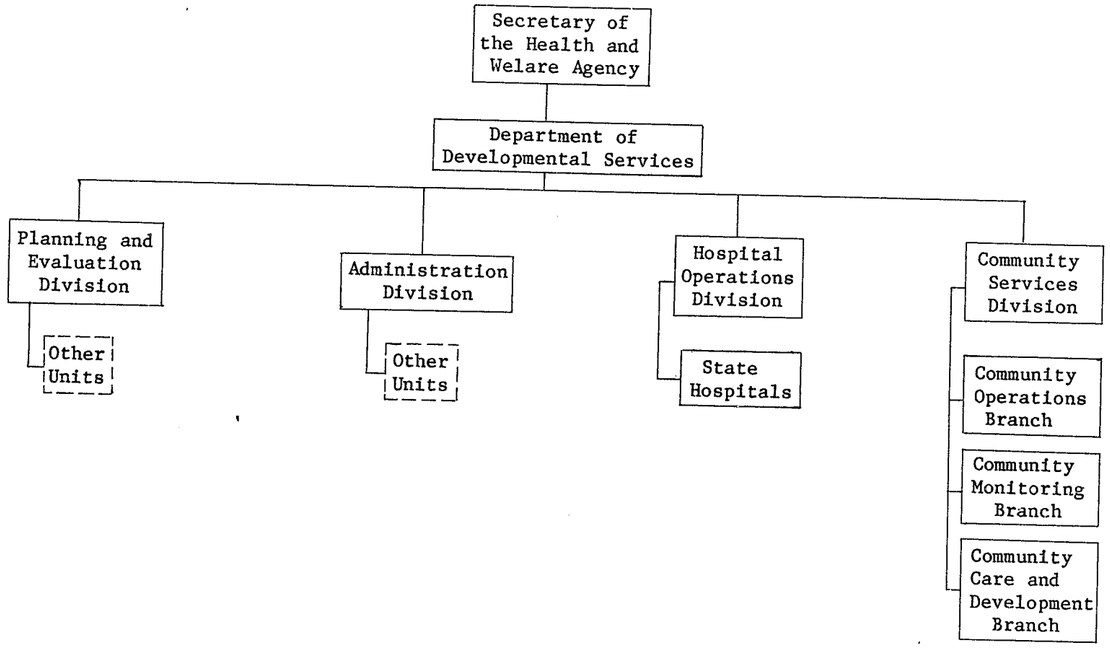


FIGURE 5. THE ORGANIZATION OF SERVICES IN THE CALIFORNIA DEPARTMENT OF DEVELOPMENTAL SERVICES RELEVANT TO OUT-OF-STATE PLACEMENTS



OUT-OF-STATE PLACEMENT POLICY, IMPLEMENTATION, AND PRACTICES

Child Welfare

Considerable activity has occurred in out-of-home care policymaking for DSS supervised foster care. Advocacy and legislative pressure is mounting to upgrade what is seen by some to be a deficient and unaccountable foster care system. A few examples follow of the kind of legislative activity that has occurred.

Senate Bill 30, passed in 1978, set up a state and county funded demonstration project in San Mateo and Shasta counties to prevent removal of children from their homes through intensive social services provided to the family. In addition, the project attempts to bring the earliest possible permanent placement of the child if the maintenance of the family is not possible. This program, called the Family Protection and Reunification Program, operates in the demonstration counties on a 24-hour-per-day basis.

Assembly Bill 444 was a legislative attempt to generally upgrade the out-of-home care system by providing for an increase in staff and foster parent training contingent upon the availability of Title XX dollars for this purpose. It is interesting to note that the bill further provided for the development of improved criteria for the issuance and renewal of licenses to child care providers, and more rapid and thorough checks of criminal background on license applicants. The Bill was not supported by the DSS because several of its provisions were reported to be already in the planning stage within the agency. DSS officials also felt the training provisions would drain an already underfunded program.

A fragmented rate-setting system exists for out-of-home care in California which essentially allows each county's supervisors to use an individually determined method of setting rates of reimbursement to private providers. Assembly Bill 8, passed in 1978, provided that DSS would, within two years of the effective date of the bill, formulate a statewide rate-setting procedure. The Bay Area, the Los Angeles basin, and the San Diego area have formed rate-setting coalitions among contiguous counties to try to bring some uniformity to rates, but this has not solved the overall problem of statewide variance in payment for similar services. Assembly Bill 8 also put a cap on the increases that the state would allow to be added to their portion of costs, such that their cost will not rise more than the cost of living for a given fiscal period. This had a significant impact on reimbursement for out-of-home care increases because the state reportedly pays 95 percent of any placement costs which are not covered by federal dollars since the advent of Proposition 13.

The state's primary out-of-state placement policy requires the use of the ICPC, which became effective in California in 1975. Compact administration is vested with the DSS' Adult and Family Services Division. Placement processing is divided between the Adoptions Branch of that division and the Public Inquiry and Response Branch of the Planning and Review Division which is responsible for foster care placement referrals. The Family and Children Services Branch

establishes and monitors ICPC foster care policies and regulations, and provides assistance to the Public Inquiry and Response Branch in program areas.

The 28 public and eight private licensed adoption agencies, all county welfare departments (CWD) in the state, and the juvenile courts are subject to the adoptions portion of the ICPC. Placing officials arrange for home evaluations directly with the compact or similar office in the receiving state. A copy of the evaluation request is also sent to the DSS, which it approves and forwards to the receiving state. Once the DSS receives notification that the preadoptive home has been inspected and approved, the local agencies undertake arrangements for placement with the sending agency notifying the DSS once it has been completed.

Preadoptive out-of-state placements occur for children who have been released for adoption by parents or for those minors whose parents have had their rights terminated by a court. When preadoptive homes are not available, children generally remain in foster family care, group homes, or institutional settings. Children still subject to parental rights are ineligible for adoption and either reunite with their families or, more frequently, are placed in long-term foster care.

Local welfare and probation departments, juvenile courts, private placing agencies and individuals, and Department of Developmental Services' regional centers are subject to the foster care portion of the ICPC. Probation departments are included among agencies subject to the ICPC because, in 19 counties, they have partial or total responsibility for placement of dependent wards. However, they are not interpreted to be subject to the compact for the placement of adjudicated delinquents to institutional settings, having assumed sole responsibility for these types of placements themselves.[6]

Local courts are authorized but not required to use the Interstate Compact on the Placement of Children for placement to institutional settings by state law, which states "Any court having jurisdiction to place delinquent children may place such a child in an institution in another state pursuant to Article 6 of the Interstate Compact on the Placement of Children, and shall retain jurisdiction as provided in Article 5 thereof."[7] The inclusion of the probation departments and courts under the compact for the placement of dependent wards has been supported by an attorney general's opinion but has not been tested in court.[8] Out-of-state placements to boarding or foster family homes, relatives' homes and, except for adjudicated delinquents, to child care institutions, are subject to this portion of ICPC. Such placements were, at the time of the study, to be initiated in the same way as preadoptive placements, with the local placing agency directly contacting the compact or similiar office in the receiving state, concurrently sending copies of documents to the DSS.[9] However, since the time of the study, the procedure for initiating out-of-state foster care of institutional placements has been changed. Local agencies are now required to initiate all such placements by first contacting the ICPC office in the Public Inquiry and Response Branch and proceeding with arrangements with local agencies in receiving states only after the DSS has received approval from the ICPC or similar office in the receiving state.[10]

Both ICPC offices occasionally learn of noncompliance through notification from receiving states after children have been placed. Enforcement of state

out-of-state placement policies contained in the ICPC occurs primarily through the issuance of regulations and administrative memoranda. Informal discussions with judges, probation departments, and local placing officials in welfare departments are also used as needed to improve compliance in troublesome areas.

In the case of the Adoptions Branch, there is a direct method of monitoring compact compliance through the receipt of forms from cooperative hospitals for infants released for adoption. It was noted that all hospitals do not cooperate in this effort and that it is not an effective monitoring strategy for infants adopted subsequent to release from the hospital. Personnel in the ICPC office of the Adoptions Branch noted that it is very difficult to bring independent placements by individuals and attorneys into compliance with the compact because there is no systematic way to discover the sending or receiving of children across state lines by these parties. It was suggested that involvement in placements of this type may have a questionable legal basis even if they could be detected.

The ICPC office in the Adoption Branch processed 91 out-of-state placements in 1978, 79 of which went through the ICPC. Generally, compliance by local placing agencies with state policy for adoptive placements was reported to be good.

The foster care portion of ICPC does not have the mechanisms for monitoring out-of-state placements that are utilized by its adoptions counterpart, and has a history of difficulties since its location in the Public Inquiry and Response Branch in 1978. At the time of the study, policy had it that placements for out-of-home care in another state should be initiated by local agencies directly with the compact or local office in the receiving state. Copies of requests for home evaluations in the other state were sent to the DSS as previously described for adoptive placements. However, local agencies frequently did not forward subsequent notification that placement had actually taken place, given a favorable evaluation of the receiving setting by the other state. This resulted in the office being unaware of how many children had been actually placed out of California by agencies under its jurisdiction. The total number of out-of-state placements arranged through the compact administered by this office in 1978 was suspected, but not known by officials, to be considerably higher than those reported by the ICPC office in the Adoptions Branch. In addition, there existed a three month backlog of cases, which was the cause of some irritation to courts and local agencies and which worked as a disincentive to compact utilization. If the office was notified of placement of children it was often some time after they had actually taken place.

Severely inadequate staffing left the office at a loss to know the extent to which the compact was being bypassed in out-of-state placements. In addition, corrective measures could only be undertaken on a case-by-case basis rather than as an across-the-board effort.

Personnel stated that up to the time of the study, compact enforcement did not seem to have been pursued as a priority of the agency. This observation was corroborated by other officials in the DSS. It was reported that fairly intensive efforts to upgrade California's in-state out-of-home care program had taken precedence over devoting attention to the area of out-of-state placement. The

precedence of in-state concerns notwithstanding, out-of-state placement policy development and implementation was described to be very much a priority of the agency's administration.

It was reported that policy and program support of the ICPC in the Public Inquiry and Response Branch by the Family and Children Services Branch had been deficient because of intensive efforts to up-grade supervision of out-of-home care programs within the state. Compact officials said that the applicability of the compact to different types of out-of-home care was ambiguous in some cases, and in day-to-day operations, it was worked out on a case-by-case basis.

Compact officials in the foster care section of ICPC did report that local compliance with state policy was monitored by the DSS Integrated Review and Improvement teams, with compact utilization being among the many points of inquiry these teams addressed at the local level. However, administrative respondents in a county welfare department in a large metropolitan area reported being unfamiliar with IRIS teams and said that they were unaware of any state officials visiting their agency in over a year.

It was reported that since the time of the Academy's field work in California, the DSS has focused increased attention on the ICPC office in the Public Inquiry and Response Branch, and changes are under way in both the policy governing out-of-state placements through the office and its in internal operation.

A management study of the office was undertaken by the DSS Planning and Review Division to identify and address the problems which were reducing ICPC efficiency and effectiveness. The study found that although Public Inquiry and Response Branch is an appropriate location for ICPC foster care processing, the office was substantially understaffed, causing a number of problems. The prevailing backlog of cases was said to cause children to stay in inappropriate settings for unwarranted lengths of time, and to negatively affect the state agency's relationship with county welfare departments and juvenile judges. Lack of staff also caused an inability to implement a statewide training effort for local agencies and courts to improve awareness of the compact and its policies and procedures. Particularly troublesome was the inability to effect changes in the reportedly frequent judicial practice of prematurely terminating dependency jurisdiction over children in out-of-state placement. This practice was said to leave these children in an ambiguous legal situation without sufficient protection by California public agencies. The office was found to be unable to document the actual placement of children, making it unaware of the number of California children out of state, and unable to monitor children's statuses and intercede on their behalf.

Internal to the Public Inquiry and Response Branch, there was described to be an inability to identify problems in policy and procedure and refer them to the Family and Children Services Branch for action. In turn, the Family and Children Services Branch was found to be unresponsive to the problems experienced by the Public Inquiry and Response Branch. This finding may, in part, have resulted from inadequate recording and management information in the Compact unit, and a general inability of ICPC operations staff to take time to discuss and define problems in clear terms because of their very heavy case load. The Public Inquiry and Response was reportedly operating somewhat under crisis

conditions all of the time and was unable to give a desirable level of attention to children, county agencies, or its own problems. A sample of 100 closed cases drawn by the management study indicated that 25 percent of these cases needed to be reopened because further action was required on them by the office.

Many recommendations and corrective actions resulted from the study, the most influential of which may have been the 1980 request for additional staff for the Public Inquiry and Response Branch for the next fiscal year. In addition to a number of recommended changes in forms and filing procedures, the study called for the establishment of a manual information system recording the number of children sent and received, which would later be computerized. An inventory on the status of all closed cases was also recommended. In addition, the study indicated a need for more expeditious resolution of problems in the Public Inquiry and Response Branch by the Family and Children Services Branch, and that problems be referred in a consistent and clear fashion. There was also found to be a need for more assistance to the Public Inquiry and Response Branch by persons expert in compact procedures, and development of a statewide training program. About a third of the approximately 24 recommendations made by the study had been implemented by the spring of 1980. The request for additional staff for the ICPC in the Public Inquiry and Response Branch by the DSS acknowledges that backlogs will likely persist even if the request is granted.

Finally, policy was changed to stipulate that all out-of-state foster care placements be initiated through the Public Inquiry and Response Branch, rather than directly to the appropriate office in the receiving state. This procedure is, of course, different from the one that exists for adoptions, which allows direct contact with the receiving state. A Division Issue Memorandum attached to the management study offers some insight into the reasoning which led up to the policy position.[11] The issue revolved around having one or two procedures under the ICPC. The problem with having two procedures under the ICPC are that they may confuse local agencies placing children in adoptive and foster care settings, and the compact administrator would have more difficulty controlling placements than if they were unified. The advantage of having different procedures, the memorandum states, is that the Public Inquiry and Response Branch and the Adoptions Branch would have the procedures they prefer. In informing local agencies of the policies through correspondence to all county welfare department directors, the DSS cited another reason for the difference between them. The All County Letter states, "Adoption procedures place more autonomy with local agencies in recognition of the greater legal responsibility they bear for the adoptive child since the child is often relinquished into the custody of the local agency."

Some county welfare departments have adopted formal and informal policies with regard to interstate placement which serve to affirm the DSS requirement of compact utilization and to establish an intent that interstate placements be a last resort in meeting a child's needs. Los Angeles County, for example, clearly states in its social services handbook that out-of-state placements should be used only rarely and "only when it can be demonstrated that great emotional harm will come to children if they cannot live with the out-of-state relative or foster parent."[12] Institutional placements out of state are to occur only when a program under consideration is specifically designed to meet a child's needs, and when California cannot be found to provide a suitable program. This policy, though unusual in its specificity, is not unusual in its

intent among the counties which were visited. Characteristically, out-of-state placement was described as a last resort and of the lowest priority among alternative placement settings. The juvenile court in Alameda County was reported to be particularly opposed to out-of-state placements because of the general reduction of supervision and because of the death of an Alameda County foster child in Guyana at the hands of the People's Temple.

Local department of public social services (DPSS) officials consistently reported that out-of-state placements are considered the last alternative because of existing policies to exhaust county, regional, and in-state placement resources, in that order, prior to placement out of California. However, courts can order immediate placement into settings that may or may not be licensed or even within the state and, though rare, in these cases the exhaustion of local resources is obviated by the court order. When placements are made out of California without compact processing, complaints may be received from compact offices in the receiving states about the practice. Most out-of-state placements that do occur, either for foster care or adoption, were said to be to parents or relatives.

In the absence of reporting by some large metropolitan areas, and the unavailability of foster care placements in some areas, 30 of the 58 local child welfare agencies reported making a total of 175 out-of-state placements in 1978, at least 45 percent of which were processed by the ICPC. The children placed out of state by local child welfare agencies in 1978 went to at least 32 different states, most frequently to relatives' homes. They were primarily battered, abandoned, or neglected children, some of whom were going out of California for adoption, and were generally placed by urban counties.

Compact utilization was described to be a necessary condition for placement out of state by local DPSS officials, although arrangements for placement are typically worked out directly with the receiving agency in another state. It was reported that once a placement had been arranged, the compact office is notified to begin processing for placement. Compact notification and processing subsequent to placement was also reported to occur in many cases where immediate placement was an overwhelming concern.

Court approval for out-of-state placement was reported to be a requirement in all counties visited. Court review is required of all dependency placements every 11 months and some counties shorten this period to every six months. In addition, cases are typically reviewed semiannually by the supervisory staff of county DPSS or case review teams in the county DPSS offices. DPSS officials in San Diego said that quarterly visits are made to out-of-state facilities to monitor the progress of children they have placed. As far as ongoing supervision is concerned, it appears to happen with less scrutiny and regularity than is desired by local officials for children in out-of-home placements both in and out of California. There was reported to be some difficulty in many counties in complying with the DSS regulation that workers, "Develop cooperative arrangements with (out-of-home) facilities by contacting the child in the facility at least once each month unless an administratively approved case plan permits less frequent contact."[13]

Education

Out-of-state placements by school districts are governed by DOE regulatory policies as one type of nonpublic placement. There are no policy statements which especially recognize and address out-of-state placements. Therefore, nonpublic placement policy is the most explicit statement to be found which relates to the placing of children in other states for special educational services.

Nonpublic placement policy can be divided into two general areas: fiscal policies to cover placement costs, and certification of receiving facilities. Since the depletion of local tax revenues by Proposition 13, the DOE has assumed nearly total responsibility for funding regular public instruction services of local education agencies. In addition, when a child is in a public special education program, regardless of which community, the DOE provides full reimbursement to the local education agency for costs incurred in educating the child. However, when an eligible child is placed in a DOE-certified nonpublic special education program, the DOE reimburses the local placing education agency for 70 percent of the costs that the local agency has contracted to pay the private provider. Reimbursements will not be made by the state for children placed in noncertified programs until the program meets certification criteria, or for children in any type of facility who are determined to be ineligible for special education funding.

The certification procedure is the Office of Special Education's regulatory device to control the quality of service a child receives in nonpublic placement. Requirements for certification include the usual documentation of location and ownership of the program, staff characteristics, facility safety inspection approvals, and financial and insurance security. Verification of appropriate California licensure is to be provided for all personnel responsible for instruction-related and support services utilized where "an appropriate California state license [is] required to provide such service."[14] Although regulations make no specific exception to this standard, California licensure or equivalent documentation is not required of personnel in out-of-state facilities. Said one education official, "We can't superimpose California requirements in other states." The regulations do make specific exceptions for health, fire, and safety approval such that an out-of-state facility is approved to receive California children if it is licensed and approved according to existing standards in its own state.[15] Such approval is verified by furnishing copies of valid certificates. The optional on-site evaluation of nonpublic facilities for certification is rarely selected by certification staff because of a gubernatorial restriction on travel out of California for state employees. Restrictions on out-of-state travel by state employees involve a lengthy sign-off procedure through bureaucratic channels and culminates with individual approval by the governor. The fact that the on-site visits are optional in the certification process also makes them easily waived by staff.

The practice of relying heavily upon correspondence from the program, and the program's certification status in its own state has, at times, led to situations of serious concern to office personnel. A timely example of such a situation may be found in a recent class-action suit against a California certified program in another western state. The suit charged that the program was

abusive to children. The program, containing approximately 50 California children, had not been inspected by office personnel prior to certification. The suit provoked special application to the governor for out-of-state travel to inspect the facility. Upon receiving permission to travel, an inspection team visited the facility and unanimously approved it for continued certification.

There is an admitted gap in the state's ability to assure that children are being placed into certified institutions. Although rare, it was reported that children have been placed in noncertified programs and local education agencies had received reimbursements for these placements for up to one year. The most effective vehicle to detect this situation occurs at the local level when, in the course of annual audits, affidavits of certification are discovered to be absent from the files of children in nonpublic facilities. This procedure prevents the situation from going unnoticed for more than a year. It was reported that placements of children in noncertified facilities are relatively rare, and has been controlled by educating school districts about the certification requirement.

Policies which require that priority for special educational services be given in-state programs over out-of-state programs appear to exist only informally. On several occasions, officials at the state and local levels said that public resources within the state must be exhausted before a school district can arrange an out-of-state placement. Regulations exist to support the exhaustion or ruling out of public resources within the child's county of residence, but there was found no specification about the priority of consideration to be given to in-state or out-of-state programs. One respondent in the Office of Special Education stated that it is an informal policy that in-state resources be fully explored prior to nonpublic placement in another state.

There is also no requirement that documentation of resource exhaustion be provided by the local agency to the state office prior to nonpublic placement. The only requirement mentioned in regard to the nonpublic placement regulation is that the local education agency must receive and maintain an affidavit of DOE certification from the nonpublic facility receiving a child, and report all nonpublic placements to their respective county superintendent's office.

There seems to be general agreement with the principle giving California programs first consideration, but at both the state and local levels it was reported that this does not always occur. Occasionally, a local education agency has placed a child in another state having only determined that local public resources will not meet the prescriptions of the Individualized Education Program (IEP). There is no way to determine the frequency of this practice because the documentation of local and in-state resource exhaustion is not required.

The Office of Special Education monitors local compliance with state and federal laws by requiring and participating in an intensive program review of each local special education program at least every three years. The local programs are evaluated on 203 points of inquiry, many of which are referenced specifically to P.L. 94-142 prescriptions. Areas of noncompliance are noted and a member of the multidisciplinary evaluation team monitors corrective action and reports to the Office of Special Education on the state of compliance.

There are few local education agencies which have explicit regulations regarding out-of-state placement. By and large, policy-setting for nonpublic special education placements is a function of the Office of Special Education, and little policy formulation is found locally. However, one of the counties that was visited by the Academy was actively engaged in the augmentation of state policies to obtain higher control over nonpublic placements. In this county, there is a very active board of education which has received training on the provisions and administration of P.L. 94-142 and state regulations. Its board has a policy of individually approving all nonpublic placements and requiring school district officials to document the exhaustion of local resources as a part of the approval process. This board also reserves the right to approve all out-of-state travel for on-site visits to nonpublic facilities to monitor a child's progress. The board, though, reportedly does not have any specific policies pertaining to nonpublic placements in other states.

Inquiries were made about the effect of the state assuming total funding of educational programs at the local level, with the idea that this shift in fiscal responsibility may have reduced the authority of local agencies to make placement decisions. It was reported that there was little impact on local decision-making as a result of the state filling the revenue gap, and that local authorities administer funds and programs with the same authority as when a substantial proportion of revenues were generated locally.

Implementation of policies prescribing least restrictive, appropriate, and least cost alternatives seem well implemented but not without occasional struggles between school officials and parents. These policies sometimes put school officials in the role of an advocate for children and, simultaneously, as the protector of public funds, with their first obligation being the selection of local public programs which are fully reimbursable by the state for the implementation of the Individualized Education Program (IEP). When school officials and parents disagree on placement setting, with the latter arguing for a 70 percent reimbursable nonpublic program, the issue is settled by a "fair hearing." Within this context, state officials estimated that about 70 percent of all fair hearings have to do with parents wanting a nonpublic placement in another state and the IEP committee opposing such a placement.

Some state officials felt that current policies work in the best interests of children because of the fiscal disincentive to nonpublic placement, and because of the provision of a fair hearing in the event of dispute over placement setting. The incentive for public placement created by DOE through full reimbursement was attributed to be the cause of local service development, self-reliance, and an ever-increasing practice of keeping children in their homes. This incentive notwithstanding, 52 of the 1,033 school districts arranged out-of-state placements for an estimated 97 children in 1978, most of whom were emotionally disturbed. The large majority of youths for whom destinations were reported were placed into residential treatment and child care facilities in Utah, Arizona, and Texas. Of the 997 school districts not placing children out of state in 1978, 905 reported that sufficient services were available in California to meet children's needs.

Despite an overall pattern of compliance with policies governing nonpublic placements, a few gaps in compliance and control were identified. While 97 out-of-state placements were arranged by local school districts in 1978, the state

agency reported only 36 such placements were locally arranged and state funded for the same period. There is some indication that officials in the DOE may have only been reporting for the northern region of the state.

Juvenile Justice

Legislative activity concerning out-of-home care for probationers has been on the increase in the recent past, as it has been in other areas of residential treatment for children. Senate Bill 1012, which took effect in September 1979, was a response to the concern of public service providers and legislators about the distribution and availability of community-based residential treatment resources for probationers in the counties. A statewide study of community placement resources was commissioned by the bill. The resulting study notes that "because of mistakes like clustering, reintegration, especially for juvenile offenders, has led to two specific problems for lawmakers."[16] Clustering of residential treatment programs has caused youth to be placed outside of their home counties in increasing numbers, and the legislature is attempting to maximize placement of these youth in their county of residence. The study goes on to state that, "at the same time, lawmakers must guard against potential disruption, real or imagined, of community life as a result of placement of juvenile offenders in neighborhood community care facilities."[17] Accordingly, the intent of the Bill, which is supplemental to the basic thrust of the A.B. 90 subsidy, is to encourage the development of a variety of local residential resources, to remove blocks to that development which occur in local zoning restrictions, and to make placement within the county of residence a high priority. Because the extent to which zoning restrictions affect resource development and subsequent intercounty movement of probationers had not been clearly documented as a problem throughout the state, the bill was passed with a two-year life span.

The S.B. 1012 study revealed that 30 county probation departments had, at the time of the study, one-half or more of their court wards placed in other counties. The range in number of placements out of county for these probation departments varied from a single placement to 171 placements. Los Angeles County, with 32 percent of its wards placed out of the county, had a total of 387 children in other areas of the state. The Los Angeles County Probation Department reported that the majority of out-of-county placements go to four large and highly regulated programs.

The S.B. 1012 study noted that county programs, including probation departments, often have facilities located within their boundaries that they are unaware of or neglect to utilize, and advocated that first consideration be given to resident county placement and then to contiguous county placement if facilities are available to meet court wards' needs in those locations.

With regard to out-of-state placements, it was reported that all youth placed into other states by the CYA or the county probation departments are subject to processing by the Interstate Compact on Juveniles (ICJ), except for those placements for which officials choose to invoke Article II of the compact provisions. Article II, which is entitled Existing Rights and Remedies, states,

"that the contracting state solemnly agree: that all remedies and procedures provided by this Compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in denigration of parental rights and responsibilities."[18] Important here is the fact that the CYA interprets and applies the compact such that local juvenile justice officials may use it on a discretionary basis. Article II, then, is interpreted to have the objective of offering an elective alternative for processing placements, rather than to provide for additional requirements in preservation of those already in existence. In this way, noncompliance with the provisions of the compact by local probation departments and courts was not perceived as problematic within the CYA. The prevailing interpretation of Article II legitimately provides for out-of-state placements without ICJ involvement. The CYA cites Section 203 of the Juvenile Compact Procedure Manual in support of this position, which states, "The use of the Compact between states is optional since Article II preserves the right to use informal arrangement for return and supervision of juveniles. The Compact procedures are designed primarily for cases where formal legal machinery is desirable."[19]

By way of clarification, the CYA, in correspondence to the Academy, indicates that the "ICJ [in California] strongly encourages the use of the preferred formal procedures for the return of runaways, escapees, or absconders, and placement for supervision in another state instead of informal methods. The formal method has the advantage of permitting state officials to act under an express[ed] legal authorization, and the court or Parole Board normally follow ICJ recommendations; however, the final decision rests with the court or Board."[20]

The California Youth Authority's interpretation of Article II is in conflict with the formulators of the compact, the administration of the Juvenile Compact Administrators Association and, reportedly, with most juvenile compact administrators. These juvenile compact experts who were contacted in the course of this case study note that Section 203 of the administrator's manual is inconsistent with the objectives of the compact. Article II was reportedly included in the ICJ to indicate that the compact does not derogate or repeal existing laws or regulations but, instead, puts forth an additional requirement.

Informal procedures for the willing return of a runaway were said to probably be quite appropriate in terms of the ICJ; but in cases where lawful compulsion is used by public authorities to return a child, and especially in cases where supervision is required, the compact was reported to be the only legal vehicle. One authority on ICJ observed that there is nothing else that can be properly used to ensure supervision because the authorities of one state cannot restrain, punish, or rehabilitate on the basis of an adjudication in another state, unless acting as an agent of that state as established through the compact. In some states where Article II is interpreted as making ICJ an additional and not optional remedy, supervision will not be provided by local juvenile justice officials without compact involvement because of a believed lack of legal authority to provide that service.

Within the CYA, substantial compliance with ICJ for the movement of parolees out of California was said to be accomplished by routing all such placements through the Compact office via a computerized case management system for CYA wards. It was estimated that 75 percent of the 200 to 300 parolees sent out of California are with parents or relatives.

The CYA, as previously noted, is exempt from state licensing requirements, resulting in the Parole Services Branch placing parolees in licensed and unlicensed facilities, both in and out of California. Cases requiring special treatment or where the ward is under 16 years old are reported to receive special consideration for licensed placement. In addition, it was reported that foster homes and group homes used for the placement of parolees from other states are licensed by the DSS at the request of the sending state.

Implementation of the ICJ as a device for interstate placements by county probation offices is not pursued as a high priority by the California Youth Authority. There is no system of checks to monitor the sending and receiving of children between California and other states, and local compliance with the compact was reported only fair. However, at least 64 percent of the 230 locally arranged placements by probation departments were processed by a compact in 1978. Compliance was described to be most likely to be achieved through "voluntary cooperation and good will." In response to questions about this indirect style of compact implementation, one CYA official said, "What state administrator is going to take on a judge?" The CYA expands upon this statement by noting that under the current law in California, the compact administrator can impose no sanctions against the county probation department for noncompliance of the compact. CYA stated that the administrator must work with the court and probation administrators to convince them of the value and advantages to the client, the court, and community when the compact is properly used.

Some discussion has occurred about tying compact compliance to the availability of state administered probation subsidy revenues, but such an arrangement was opposed by some officials in the CYA and has never been established as a policy. Data on the number of state and local out-of-state placements under the supervision of the CYA were unavailable for 1978, as were the number of placements through the ICJ.

The ICJ office does not reimburse county probation departments for the return of runaways, escapees, or absconders to their states of residence when home states refuse to pay for the return of such children. The state of residence may not pay for the return of these youths for a variety of reasons, but the exhaustion of alternatives for treatment is reported as most common. In cases where a county probation department does not return children to their state of residence, it was reported that the minor enters the county's youth service system along with those who are legal residents of the county. The reverse of this situation was said to exist if a California probationer flees to another state and the probation department in the county of residence does not have sufficient transportation budget or inclination to return the child to California. In this case, California residents would either be returned by the states to which they fled, or they would remain in those states and become the responsibility of their public youth service systems.

Local probation departments generally utilize the Interstate Compact on Juveniles for placements out of California on a discretionary basis. Having been interpreted to apply only to placements with relatives, in some areas foster care placements are not subjected to processing by the compact office. In the counties that were visited, most home evaluations and placements were said to be accomplished by direct contact between sending and receiving agencies prior to compact notification and processing.

Thirty-nine of the 58 local probation departments were involved in out-of-state placements in 1978. Most of these agencies reported placing unruly or disruptive youths and adjudicated delinquents. Among agencies reporting types of receiving settings, youth were most frequently placed with relatives. Nine of the ten probation agencies placing more than four children out of state reported doing so as an alternative to in-state public institutionalization. In one major metropolitan area, the compact is used on a case-by-case basis if probation staff and the court expect problems with an out-of-state placement.

Similar to policies about compact utilization, additional policies for out-of-state placement are idiosyncratic to the court and probation department in each county. Some local placement officials reported that an out-of-state facility must be approved by the county probation department in addition to being licensed by the receiving state. Under these circumstances, no institutional placements may be made out of California to unapproved programs from that county. These policies were reported to not apply to placements with relatives.

This procedure is unusual though, with the most frequent determination about placements out of California being made by courts, which were reported to order youth to specific facilities that are not always licensed or approved by state regulatory agencies. It was common for respondents to say that they "generally" do not place children in unlicensed facilities. Licensure, then, is a consideration in selecting a residential setting, but not a requirement as far as some courts are concerned.

It is notable that the Los Angeles County Probation Department has explicitly prohibited out-of-state placements by probation officers for residential treatment by maintaining a list of facilities approved for payment which includes only programs in the state, most of which are in the county. Los Angeles County was the only one noted in the Senate Bill 1012 study which forbids placement into unlicensed facilities. In cases of court-ordered placements into such facilities, the program may be immediately licensed or, if found to be unacceptable according to licensing standards, the court is advised by probation staff that the placement be changed.

Mental Health

Out-of-state placement policy within DMH is confined to the establishment and operation of the Patient Transfer Office, which is required to detect and return to their state of residence persons in state hospitals who have been judicially committed because of penal code violations.[21] Nonresidents subjected to civil procedures and persons going to other states for nonhospital residential treatment are not subject to the authority of this office. The office reported that it also coordinates the receiving of California residents into the state hospitals once residency is verified. In this sense, the office only regulates the movement of persons to their state of residence, and in the case of sending, only those nonresidents who have, as a result of some criminal offense, been committed to a California institution.

California has never been a member of the Interstate Compact on Mental Health and no explicit policy for the interstate movement of children for residential care by the local mental health programs exists within the DMH. There was no information on locally arranged and state funded out-of-state placements for 1978 available in the national survey from the DMH.

Patient Transfer Office staff reported that they facilitate the sending and receiving of individuals across state lines on an informal basis outside of the narrow office authority provided for by the California Welfare and Institutions Code. Arrangements are occasionally made for the placement of children in public or private settings, when requested by mental health officials in California or other states, as a courtesy and in the interest of the individuals involved. However, these activities are not undertaken as an official function of the office. The Patient Transfer Office is the usual point of contact in California by persons involved in administering the Interstate Compact on Mental Health in states party to that agreement.

County mental health agencies that were visited, though involved in placing children into residential settings in a number of ways, did not report having any policies explicitly dealing with out-of-state placements. Most residential placements in community settings are made into contracting settings as a planned and state-approved function of the county mental health program. Because the local mental health agencies never have legal custody of their clients, these placements are either voluntary, made by parents, or made at the behest of a court, probation department, or local welfare department. For this reason, one county that was visited has a policy of referring all candidates for residential treatment to the local child welfare or probation agency for custody and placement services, and then work to place a child in consultation with these agencies. This practice was said to keep the lines of legal responsibility clearly defined and to confine the actual placement of children to the agencies legally empowered to engage in that activity. Other mental health agencies that were contacted involve the other local agencies in child placement in a less formal manner, but reported that this involvement always occurred in one way or another for the protection of the child. All six out-of-state placements involving local mental health agencies in 1978 were done in cooperation with other public agencies.

Allocations to local mental health agencies pursuant to the Short-Doyle Act were, on a number of occasions, reported to be restricted to expenditures within the county administering those funds. This was not corroborated by DMH officials and could not be determined to be supported by the provisions of the Short-Doyle Act. The California code stops short of explicit restriction, stipulating that all private provider contracts are subject to DMH approval for reimbursement.[22] The code further states that the local mental health director, in evaluating the applications for funding by contractors, should consider such issues as the local availability and accessibility of the proposed service. To the knowledge of persons interviewed in California's state and local mental health system, contracts with private providers outside of the state have not been approved by the DMH.

The adequacy of local mental health services for children was voiced as a concern by all mental health officials interviewed, as well as by the legislature on a number of occasions. At issue is the level of appropriation these

services receive from the county boards of supervisors, which administer the counties' Short-Doyle allocations. On two separate occasions, in 1970 and 1972, amendments were made to the mental health legislation specifically encouraging the expansion of existing programs for children, and the expansion of new programs.[23]

In 1979, legislation was introduced that attempted to guarantee that a minimum of 25 percent of a county's Short-Doyle allocation go to services for children.[24] At present, there is considerable variance among counties in the proportion of these funds designated for services for children by the boards of supervisors, and few counties meet the 25 percent minimum proposed by the bill. The legislation passed in amended form, allowing that 25 percent of newly allocated money go to services for children, essentially at the discretion of the boards of supervisors.

Residential programs operated by county mental health agencies are supplemented by the Bates Plan[25] and Mentally Ill in Private Institutions (MIPI) funding.[26] The Bates legislation, passed in the 1978 legislative session made specific statements of intent and appropriation for the development of residential services by county programs for children and adolescents. "Bates plans" are received by DMH from counties electing to participate in the program for the development of programs such as short-term residential crisis care or long-term residential care with full-day treatment services. The same DMH policies apply to Bates funded programs as those described for Short-Doyle programs because, after approval and funding, the Bates program becomes a part of the overall service plan that the county contracts with DMH to provide.

The MIPI program has the stated "purpose of placing mentally ill children and adolescents in licensed facilities to provide care for persons who no longer need state hospital care, yet who cannot return to their homes and for whom no other resources are available."[27] This program is designated to fund private institutional aftercare services when private funds, Medicaid, AFDC, and any other benefits have been shown to be inaccessible to the child. MIPI funds are also not available to juvenile court wards. MIPI funds are administered by the DMH and are allocated on a case-by-case basis.

Utilization of Bates or MIPI funds was found to be sparse among the counties because of the relatively small overall allocation given to these programs and, in the latter case, because the target population is narrow and regulations were reportedly inflexible. The funds provided by these programs could not be determined to be formally restricted to expenditure within a participant county or within the state, but it was reported as very unlikely that they would be supporting placements in other states.

When locally operated residential programs do not meet the needs of a child, a county mental health agency may initiate voluntary or involuntary hospitalization. Some controversy surrounds policies for hospitalization of minors by parents because both the U.S. Supreme Court, in Parham,[28] and the California Supreme Court, in In re Roger S.,[29] have handed down slightly different rulings on this matter. California's Roger S. decision requires an administrative hearing prior to parental commitment of 14 to 18 year olds to a state hospital. The state legislature has not moved to institutionalize the

precommitment hearings and has allowed the less formal review by community and hospital mental health professionals, as accepted by the Parham court, to satisfy due process requirements.

When a child is a court ward, the procedures for involuntary commitment to a state hospital prescribed by the Lanterman-Petris-Short Act apply.[30] Conditions which must be present, and which must be detected by a court-appointed evaluator or other private party, are that the child be a danger to self, or others, or gravely disabled. If gravely disabled, a conservator may be appointed and these proceedings occur in the mental health division, and not the juvenile session, of Superior Court.

Court wards and parental wards are referred to state hospitals by the county mental health agencies for acceptance into long-term, intensive, or special programs. Fourteen to 17 year old children are reportedly not admitted to these programs unless they are signed in by a conservator or waive their right to an administrative hearing.

Regardless of legal status, a disincentive exists against local mental health agencies placing children in state hospitals. The DMH will pay 80 percent of hospital placements as opposed to 100 percent of community residential placements. Prior to Proposition 13, the DMH required from county agencies a ten percent contribution toward local residential placement and state hospitalization costs. Upon depletion of local revenues with the passage of Proposition 13, the DMH defrayed all local placement costs. This initiative was supported by S.B. 154, the so-called "bail-out" legislation. The bill attempted to reduce the impact of Proposition 13 on previous locally supported programs by using the state's surplus fund to fill revenue gaps.

County mental health agencies are significantly involved in residential placement through evaluation and consultation services to other public agencies. In this interagency service role, evaluation, consultation, and treatment bring considerable influence upon the placement decisions of the juvenile court or parents. Commonly, mental health clinics are located in the county probation and social services departments. Mental health personnel are frequently assigned to county honor camps, detention facilities, the juvenile court, and receiving facilities for dependency cases to do evaluations and individual and group treatment. This interagency role is viewed as one of the most vital inroads to early intervention and prevention, which was reported to be lacking by DMH and local officials statewide. Interagency involvement with special education was found to be in the formative stages or lacking altogether at the local level.

Mental health respondents consistently stressed that least-restrictive-treatment alternatives would have to be exhausted or obviated by a child's condition prior to residential placement. These placements were described as rarely leaving the county of the child's residence and never being out of California. The rarity of out-of-state placement was corroborated by the study's national survey which detected only three mental health agencies formally involved in out-of-state placement in 1978.

Mental Retardation

The Community Services Division of DDS regulates residential child care provided by regional centers. The regional centers must get an approved reimbursement rate for all DDS-funded residential care and demonstrate that the receiving setting is licensed by the department. The Division effectively prohibits the regional centers from making DDS-funded out-of-state placements by refusing to set reimbursement rates for placements not in California and by enforcing the California licensure requirement. There are no facilities out of the state licensed to receive children from California.

The Community Services Division of DDS approves out-of-state placements to public facilities when there is a change in the residence status of the child, such as when parents or guardians move out of California. These placements are required to be processed by the Patient Transfer Office described in the previous discussion on mental health services and policy.

Because DDS is not necessarily apprised of regional center involvement in out-of-state placements which are funded by other sources, it does not know how many of these placements are processed through ICPC. California state hospitals and the DDS are not engaged in contracting for out-of-state private institutional care, as in other states, so the only point of departure from the system into residential care is through a regional center. One ICPC official did say, however, that the compact as adopted does apply to placements made by the regional centers.

Policies were said to be effectively implemented at the state level to assure that DDS is not funding any out-of-state placements made by the regional centers. Exceptions are few and an example of a refusal of an application for relaxation of this policy occurred recently when a licensed facility moved to another state with its clients and DDS denied temporary interim funding for support in that state.

DDS policy, however, does not prevent the out-of-state placements by regional centers when other revenues are used. It was reported that regional centers participate in placing children out of California which are paid for privately by parents or guardians or by Medicaid, SSI, or the county welfare department. These placements were reported to be very infrequent, with the majority of children served within their catchment area or within the state.

DDS-approved placements to public facilities in other states that occur as a result of a change in the residence status of the child are uniformly processed by the Patient Transfer Office in the DMH. Regional center respondents that were contacted, however, were unable to confirm whether those out-of-state placements which are funded by sources other than DDS are processed by ICPC and seemed unfamiliar with the compact's provisions and purview. The Patient Transfer Office in DMH was the only mechanism that was mentioned when respondents were asked about the presence of state-level oversight and processing of out-of-state placements. Further investigation revealed that the compact is not

used for placements by the regional centers to other states for reasons other than change of legal residence, which is covered by the Patient Transfer Office in the DMH.

ISSUES

True to the county-based nature of services delivery for children in California, there is considerable local influence on out-of-state placement policy implementation. As major vehicles for the management of placements out of California, the compacts fall short of gaining the full cooperation of local agencies. By their own admission, the Compact offices have not been able to effectively and consistently intervene in the out-of-state placement activities of probation departments, county welfare departments, courts, and other placing agencies in local government.

In the case of both compacts (ICPC and ICJ), local officials complained that the processing of placements has been a slow, unresponsive, cumbersome series of events that seems little more than paper pushing. Local agencies cite these complaints as justification for circumventing the compacts for home evaluation and the arrangement of placement. The purpose of the compacts has not been clear to local officials, and the split of the ICPC between adoptions and foster care (the Adoptions Branch and the Public Inquiry and Response Branch of DSS) has added to this misunderstanding. The purported lack of communication between the two compact offices in DSS may also help to continue this misunderstanding. The ICJ, on the other hand, probably cannot be expected to have consistent utilization when voluntary compliance is interpreted to be allowed by the text of the compact. The statement by a state official that compact "compliance has not been a priority" and that the compact seemed to have been regarded as a marginal function by management well describes the general approach that has been taken to date toward implementation of these legislated interstate agreements. This is certainly less so for the ICPC since the DSS has turned its attention to compact implementation from earlier efforts to improve the out-of-home care system in California.

Locating the ICPC for foster placements in the Public Inquiry and Response Branch was described to have occurred because that section was designed to handle large amounts of correspondence. Personnel admittedly had little or no knowledge about the intricacies of public child welfare systems and they themselves questioned the appropriateness of this location for the compact. Family and Children Services Branch officials pointed out that the Public Inquiry and Response Branch is primarily responsible for document processing. The Family and Children Services Branch is responsible for child welfare policy development, interpretation, and implementation, and is to be providing greater direction to the Public Inquiry and Response Branch in that role.

ICJ personnel noted the political liabilities of pushing the compliance issue with local officials and opted for the "cooperative" approach. In response to queries about what action is taken when cases of noncompliance with ICJ provisions are discovered, it was heard that, "There might be legal remedies

but what state administrator is going to take on a judge? There is no way to force compliance. (It) can only be achieved by voluntary cooperation and good will. We try to cooperate to get things done and it works pretty well most of the time." The CYA adds that, "There might be legal remedies but it has been pointed out by counsel that legal proceedings may not be practical. It is suggested that greater efforts should be made to inform courts about the spirit and intent of the Compact."

An ICJ respondent offered that there are two approaches to compact administration, depending upon the organization of juvenile justice services. When probation and parole services are both the responsibility of state government, compact administration can be strong and effective. But when parole is the responsibility of a state agency and probation is a county responsibility, as it is in California, state regulatory policy was said to be extremely difficult, if not impossible, to enforce.

The CYA and the Department of Social Services may have sent a mixed message to those who would use the compacts for out-of-state placements. On the one hand, the compacts are put forth as policy adopted by the legislature and the state agencies and, on the other hand, they have been implemented in such a way that they have been either untimely in their processing, or voluntary in their use, or both.

Particularly evident of the CYA's stance toward compact implementaton is the policy of not allocating a budget for the transportation of juveniles back to California or to other states if the state of residence refuses to pay the costs of returning youth to their state. Where local probation departments cannot or will not bear these costs, juveniles remain out of the supervision of their parents or the appropriate juvenile courts, often in ambiguous legal and caretaking situations. Nonpayment of transportation costs by a signatory state of residence for the return of a runaway, escapee, or absconder is in violation of an ICJ provision.[31] The CYA notes in support of this position that, "Experience shows that the California counties will use local funds to return youth to their state of residence if the state of residence refuses to pay. If not returned, the county must provide the youth care and guidance pursuant to the California Welfare and Institutions Code."

Recognition must be made in these observations that, since the time of the study, the DSS has made visible and concerted efforts to improve the implementation of the ICPC for foster and institutional care. Although problems are expected to prevail even after the addition of staff to this office, the agency is genuinely trying to improve policy implementation within existing mechanisms. The mixed policy for foster and adoptive placements and the as-yet-unaddressed issue of compact processing for adjudicated delinquents going to institutional care remain to be dealt with by the agency.

In another area of children services, the state Department of Mental Health and the county agencies have no policy or procedures to govern the involvement of mental health officials participating in the placement of children out of California for home or therapeutic care. On the surface this may appear to be practical, because mental health agencies have been shown not to be involved in out-of-state placement to any great extent. But concern about out-of-state placement is as relevant to mental health practices as for any other agency. Clearly,

it is, in part, the policies and procedures of mental health agencies which directly and indirectly contribute to the out-of-home placements, both in and out of California, by other agencies. The Alameda County Interagency Placement Committee noted, in a December 1979 report, that children and families who are known to mental health agencies frequently find their way into the juvenile justice system or into court-administered dependency proceedings.[32] In an additional and equally important way, mental health agencies are involved in out-of-home care decisions by evaluating children, recommending placements, and supporting the decisions of other agencies without being directly responsible for these decisions or accountable for their effects on children. Mental health agencies have direct contact with children who will eventually be placed out of state and indirect consultive contact with the difficult cases which are eventually absorbed and placed by probation departments. In this sense, interagency utilization of mental health agencies is excellent, both with the private sector through contract agreements and with the public sector in consultation and evaluation. However, the net effectiveness of this utilization may be contrary to the espoused objectives of community mental health treatment, pointed out to the reader in the consistent observation of state and local mental health respondents, that there is a serious lack of early intervention and prevention programs for children in their area of service.

Among the agencies contacted, the State Department of Education appears to have the closest working relationship with its local counterparts. Rigorous programmatic monitoring and evaluation of special education services contribute to this relationship, and these procedures work to maintain a close correspondence between DOE special education policies and their implementation in the local education agencies.

Specific out-of-state placement policies to govern the practices of school districts, however, are not developed at the state level. In not being required to document the exhaustion of local resources, the probability of unnecessary placements out of California by school districts is increased. This factor, in conjunction with the less rigorous certification process for out-of-state programs, places children with unusual needs at potentially higher risk of out-of-state placement into programs that have not had equal examination for approval as those programs in the state. In addition, the inability to cross-check reimbursement for nonpublic programs with the DOE's list of approved facilities leaves open the possibility of a child being placed in a noncertified program.

In organizing its policies for approval and reimbursement of special education services by public versus nonpublic, without regard to geographical location, the DOE has effectively precluded systematic consideration of the special problems that children placed into another state may have. Further, the DOE has foreclosed the ability to speak authoritatively to the number, location, and status of children who have been sent to schools in other states.

Local officials generally expressed the opinion that current policies work in the best interests of children, but took exception to some aspects of the certification and placement process. A special education director in a large metropolitan area felt that a major problem in the development of a nonpublic placement for a child occurs in differences of opinion about the suitability of

a program for a particular child. Conflicts of this type occur not only between school personnel and parents, but also among members of the committee responsible for IEP development and implementation.

Locally, DOE policies for public special education programs and procedures appear to be fairly stringently implemented. The program review system does an intensive job of detecting and correcting substantive and procedural exceptions to state policy in the delivery of special educational services by the local agencies.

School districts, in many ways, frequently augment or further develop existing DOE policies to address out-of-state placements. Characteristically, the local response is to invoke principles of least restrictiveness and best interests as they do for in-state residential placement. But in some areas, such as Los Angeles County, were resources are relatively well developed, specific and strongly enforced out-of-state placement policies have been implemented.

State officials observe, as have local officials, that state attempts to provide leadership, direction, and program consistency have met with resistance and opposition from the counties. Whatever the policy environment among state or local agencies, superior court judges appear to constitute an element discrete from executive regulation. As has been described, courts have been known to order specific agencies to place children in designated settings without regard for state or local licensing or certification, or out-of-state placement policies. These orders are sometimes made at the consternation of local child welfare and probation officials. The propriety of these placements is subject to question by those in service agencies who work to protect the welfare of their charges through consistent regulation.

Similarly, there is concern about the location of jurisdiction over dependency cases with probation departments, most notably among state DSS officials. County welfare department offices are required to assure quality of care as stipulated by state DSS regulations for services which are delivered to dependency cases by probation departments. The feasibility of making such assurances over superior court actions was described as questionable at best, by a local child welfare official. There is apparently no way for local child welfare officials to guarantee that dependency cases in probation departments receive services according to the standards required of the local welfare DPSS offices by the state. In deference to the DSS on this issue, recent activities have been undertaken to circumscribe court authority to terminate dependencies, and to attempt to clarify the influence of DSS regulation over court and probation department actions.

An issue of major concern within the state is the level of development of local resources for out-of-home care and their distribution within the state. Concern for the level of development of residential services to children was heard most frequently from mental health officials. A.B. 1339, introduced in 1978 to guarantee 25 percent allocation to services for children out of the county mental health appropriation, was an effort in this direction. It was however, diluted by linking the percentage to new monies and by making the allocation a discretionary decision on the part of the county supervisors. In the minds of mental health officials that were interviewed, these changes rendered

the bill ineffective in upgrading services and allowed the variance in allocations to services for children to prevail in the counties. Allocations to services for children varied in the counties visited from 15 to 26 percent. In one county, the private emergency services facility was unable to move cases to already-crowded local residential treatment, causing candidates for less intensive care to occupy beds that were needed for emergency cases. This county also reported increasing difficulty in getting children admitted to the state hospital, and as DMH moves toward reducing the capacity of state facilities treating children, the counties with local resource gaps at this stage will experience greater difficulty in providing services.

The two funding programs specifically for out-of-home mental health care were described as completely insufficient for county mental health needs. The Bates program (A.B. 52, 1978) was described as unresponsive because of its small allocation for the development of residential programs. In its first funding cycle beginning in fiscal 1979-80, $16 million in proposals for local program development were received for a $2.25 million appropriation. In addition, the MIPI program was found to be insufficient because it serves such a narrow target population. It was, however, thought by some mental health officials to have promise if expanded to apply to children who had ever been in the hospital and not just those who are being discharged at a particular time.

The distribution of facilities for dependency, status offender, and delinquency cases is seen as problematic, and due in a large way to zoning restrictions and rate-setting policies. The DSS was developing a uniform rate-setting policy but the issue of local zoning restrictions is fraught with political problems. Local pressure against the abolition of zoning restrictions was strong enough at the time of the passage of S.B. 1012 that prohibition of restrictions against group homes were only made for three of the 58 counties. There was a reported widespread belief among the bill's supporters that it would not pass if all 58 counties were included. It is the distribution of resources in California, and not their development, except as noted for mental health, which is at issue.

Finally, among state officials, most notably in education, the prohibition of travel out of California was felt to constitute a severe impediment to monitoring the progress and well-being of children in out-of-state placement. The contradictory executive policies of allowing out-of-state placement of children but severly restricting out-of-state travel by placing authorities does not guarantee children in other states the equal protection of quality control as compared to children placed in California. These policies leave room for the occurrence of the kinds of problems which have brought out-of-state placement to the foreground of public concern in the past. It would seem reasonable that children placed out of state at the behest of government agencies be afforded continued contact with officials responsible for their placement and quality of care.

The DDS and regional centers show a similar but less-pronounced absence of out-of-state placement policy in some areas at the state and local levels. Policy is well-developed and implemented at the state level as far as restricting the expenditure of DDS funds to in-state care. This restriction, however, does not impinge upon the involvement of regional center staff when other sources of funding are used for placement. Regional centers interact with

a variety of other public agencies in facilitating out-of-state placements, including county welfare departments, the juvenile courts, and sometimes local school districts. This reportedly informal role is similar to the way mental health agencies usually participate in out-of-state placements and may be thought to have all of the previously mentioned implications for accountability of the agencies once the child is placed.

CONCLUSIONS AND RECOMMENDATIONS

The most-frequently mentioned recommendations that were made by juvenile justice and child welfare respondents with regard to out-of-state placements had to do with the interstate compacts. Within the CYA and the DSS there were numerous suggestions which varied in their focus for improvement. The recommendations offered within the CYA were primarily interorganizational, calling for training of judges and court staff in the purposes and procedures of the ICJ toward full participation of the compact in all interstate placement of juveniles. Concurrently, there was suggested an increased allocation of administrative authority to bring full utilization by local probation departments and courts.

By contrast, the DSS compact personnel made many more intraorganizational suggestions. There was a call for the unification of ICPC within the Adult and Family Services Division, rather than having the adoption function located in an area of substantive expertise and the foster care ICPC processing located functionally in an area designed for a high volume of written correspondence. This unification was suggested to lend greater authority to ICPC and heightened awareness within the organization about the importance of the compact. Both the Foster Care and Adoptions Branches of ICPC also called for improved and regular legal support to aid interpretation of applicability and measures to improve compliance. A final recommendation by both ICPC branches was to undertake a legislative review of the compact to help resolve inconsistencies with other state policies, and with policies of other participating states.

The location of ICPC foster care document processing in the Public Inquiry and Response Branch has been reviewed and found to be justified by a DSS management study. The Public Inquiry and Response Branch will continue in this role, aided by improved Family and Children Services Branch policy and operations support.

The foster care ICPC office further suggested the establishment of a computerized case management system and coordination of Compact administration with the efforts of the DSS Planning and Review Division for overall departmental planning. This part of ICPC operations also endorsed county agencies independently initiating social evaluations and home studies with agencies in other states, but since the time of the study, policy has been changed to have all out-of-state placements to foster or institutional settings centrally initiated by the DSS.

Among officials in county welfare departments and probation departments who felt that there were changes needed in the area of out-of-state placement policies

and practice, recommendations were most often made to quicken compact operations which, as noted, are seen as very slow and unresponsive. Specific suggestions among local child welfare officials indicated a desire for decentralization of ICPC operations. Notable local recommendations were to exclude the return of children to parents from ICPC processing, to increase the extent to which placement arrangements are worked out directly between child care agencies, and to establish a southern California DSS office which would be generally more responsive than the Sacramento DSS was reported to be.

A second area of suggested improvement by county welfare department officials was the improved coordination with judges, which would prevent placements being ordered to specific settings, unlicensed homes or programs, or out of the state without exhaustion of resources or compact processing.

Interestingly, some local respondents did not offer policy changes, noting instead that the present environment allows the exercise of considerable autonomy in decisionmaking by the county welfare departments and the county supervisors. A secondary reason for the absence of recommendations may have been the reported infrequency of out-of-state placements.

Among local probation department officials, there were mixed recommendations with regard to ICJ and out-of-state placement. In two major metropolitan areas, it was heard that compact paperwork inhibited out-of-state placement, which officials said should be equally accessible to placing authorities as local resources. Other officials, acknowledging that the compact is cumbersome and not uniformly applied or followed, observed that it attempts to keep out-of-state placements to a minimum. This respondent said that out-of-state placement should be restricted to placements with family members or to highly specialized settings such as Menninger's Clinic. Characteristically, the ICJ was described to lack enforcement and to be subject to differing interpretations of applicability, but few recommendations were made at the local level for its improvement.

Clearly, the compacts have not been implemented as a consistent method of regulating local out-of-state placements in California. Indeed, although compact compliance is often a matter of law, compliance with the provisions of these policies is, actually, a voluntary matter with many county agencies, and there would appear to be as many approaches to compliance, both lax and rigorous, as there are county programs. The compacts, then, tend to serve the function of continually reminding county welfare and probation departments of state agencies' priorities, indicating that out-of-state placement is an issue of concern at the state level and that it should be so in the counties. Since the time of the study, the DSS has actively moved to close the gap between out-of-state placement policy and practice, and the agency is reportedly experiencing some success in these efforts. The implementation of the ICPC for delinquents going to institutional settings in other states, however, does not appear to have been addressed by current efforts to improve the compact's use.

Recommendations by state and local education officials dealt mainly with site inspections, the definition of special education and related services, and interagency implementaton of special education services for children. State officials in the Office of Special Education feel strongly that the governor's prohibition of out-of-state travel by state employees should not apply to the

certification or monitoring of facilities which contain California children. Similarly, local special education officials recommended that on-site visits be done prior to the placement of specific children to assure appropriateness of placement, and thereafter for monitoring of progress.

Interagency coordination of special education services was a major area of recommendation at both the state and local levels. State officials feel optimistic about the implementation of the interagency agreements that have been made. However, it was noted that the remaining major agreement that needs to be worked out is with the superior courts. Local special education officials in some counties corroborated this feeling, noting problems with probation officers coming back to special education officials for services for children who are already placed in noncertified facilities. Recommendations were made locally to undertake a training program for judges, court staff, social workers, mental health workers, and the general public to educate them about the purposes and procedures of California's special education program. In conjunction with the education effort, local officials called for more definite descriptions about what exactly constitutes special education and related services. This recommendation was offered with the objective of removing the ambiguity in definitions which is frequently the cause of conflicts with, and complaints by, parents and other agencies that the local education agency is not providing required services.

State Department of Mental Health respondents called for improvements, mainly in the thrust of programs for children and the point of intervention that the system typically adopts. Recommended was a much greater emphasis on prevention and early intervention to stop the progress of troubled children and families from dependency proceedings to status offenses to delinquency proceedings. In this vein, mental health services for children were described to be overly professionalized and removed from the community, often not involving children's entire support system in rehabilitation. This trend was said to be in opposition to principles of truly community-based mental health programming. To this end, liberalization of the use of mental health expenditures for innovative neighborhood support and self-help programs was advocated.

There was a call by county mental health officials and those in the DMH for the development of more appropriate residential care closer to a child's home through the expansion of MIPI eligibility, increased revenue support to the Bates service development program, and generally increased allocations to mental health services for children. However, at least one services director for children and adolescents opposed this philosophy of treatment. This official instead, advocated that more programs be developed which are closer to the level of hospital treatment, leaving early intervention and group home care to the county welfare and probation departments, which are already highly involved in this area. Mental health services for children should be dealing with the more disturbed end of the continuum, said this respondent, and consultation and education should be used to improve other agencies' abilities to prevent the evolution of serious problems. In another area, DMH officials called for the establishment and enforcement of minimum program standards for county agencies in order to decrease the movement of children across county lines for service.

The Patient Transfer Office of DMH proposed deletion of the clause specifying judicial commitment from their legislation, in order to broaden the office's authority over all types of cases moving across state

lines for mental health and mental retardation treatment purposes. This would allow the return of nonresidents, who are picked up by police or who come in contact with county programs because of severe emotional disturbance, to their states of residence for care and supervision. Respondents associated with the Patient Transfer Office also recommended the resolution of conflicting policies in different states to assure continuity of care and to facilitate the smooth transfer of individuals to their states of residence. There was no recommendation that California adopt the ICMH at the state or local levels.

Overall, it does not seem to be the development of resources for children which troubles California's service agencies, but their coordination, distribution, and control. Residential care resources generally seem to be well developed, but poorly or multiply regulated in an extremely complex system of public and private providers. Certainly this is due, in part, to the strong role that counties take in administering programs in their jurisdictions. This autonomy at the local level poses a considerable challenge to state-level regulation. Counties in California have consistently and sometimes staunchly resisted strong control of local programs by state government, and this may be expected to continue. Strong county control of policy implementation and programs, in the mind of one DSS official, strongly contributes to the fact that, "There has been little regulation, foresight, or leadership from the state level in childrens' services for the past eight years." Another official in the CYA described the situation more bluntly in observing that, "You might as well be dealing with 58 states (counties). They control everything." With Proposition 13, that remains to be seen.

FOOTNOTES

1. Senate Select Committee on Children and Youth, California Legislature, State Responsibility for the Quality of Care in Licensed Residential Facilities for Children. (Sacramento, Calif.: 1979).
2. California Welfare and Institutions Code, Sections 1300-1308.
3. California Youth Authority, Residential Care Facilities for Wards of the Juvenile Court: Senate Bill 1012 Study (Sacramento, Calif.: 1979).
4. California Department of Social Services Manual, Section 30-211-34. Social Services Letter, No. 78-28, effective March 31, 1978.
5. California Welfare and Institutions Code, Section 5600.
6. California Department of Social Services, Adult and Family Services Division, Internal Issue Memorandum Attachment III, in Department of Social Services Planning and Review Division report on a management study of the ICPC in the Department of Social Service Public Inquiry and Response Branch.
7. California Civil Code, Division 1, Part 3, Title 4, Section 272.
8. Office of the California Attorney General, Opinion 78/45.
9. California Department of Social Services Letter, No. 74-25 and California Department of Social Services Letter (Adoptions) No. 9-74, both effective April 13, 1978.
10. California Department of Social Services All County Letter (unnumbered) to all county welfare department directors, dated September 1979.
11. Division Issue Memoranda are internal agency documents used to stimulate discussions and decisions toward the resolution of policy problems. They identify issues, background, problems, and alternatives, and make recommendations for the resolution of problems under consideration.
12. Los Angeles Department of Public Social Services Handbook, Sections 5210.1 and 5210.23.
13. California Department of Social Services Manual, Section 30.211.226.
14. California Administrative Code, Chapter 2, Article 2, Sections 3203(e),(f); 3204(a),(b).
15. Ibid., Section 3202(c).
16. California Department of Youth Authority, Residential Care Facilities, (Senate Bill 1012 Study), p. 1.
17. Ibid.
18. The Interstate Compact on Juveniles, Article II, Welfare and Institutions Code, Sections 1300-1308.
19. The Council of State Governments, Juvenile Compact Procedure Manual (Lexington, Ky, 1976).
20. Correspondence from the Director of the California Department of the Youth Authority to the Academy for Contemporary Problems.
21. California Welfare and Institutions Code, Sections 4119, 4120, 4460, 4461.
22. California Administrative Code, Subchapter 3, Article 3, Section 523. California Welfare and Institutions Code, Division 5, Part 2, Chapter 3, Section 5717.
23. California Welfare and Institutions Code, Sections 5704.4, 5704.5.
24. Assembly Bill 1339 of 1978.
25. Assembly Bill 3052 of 1978.

FOOTNOTES (Continued)

26. Assembly Bill 1640 of 1978.
27. Department of Health Memorandum, Continuing Care Services Section, MIPI Guidelines, 11/75 (CCSSHQ-op-71, Supp. B, Dist. B).
28. Parham v. J.R., 442 U.S. 548, 61 L.Ed. 2d.101, 99 S. Ct. 2493 (1979).
29. In re Roger S., a minor, on Habeas Corpus. 141 Ca. 298 (1977).
30. California Welfare and Institutions Code, Division 1, Part 1.
31. The Interstate Compact on Juveniles, Articles III, IVb, Vb, and VIIb.
32. Summary of the Report of the Interagency Committee on Placement Practices to the Alameda County Board of Supervisors, August 1978. James Sorrells, Ph.d. M.P.H.; Mental Health Association of Alameda County (Oakland, Calif.: 1979).

ACKNOWLEDGMENTS

LOUISIANA CASE STUDY

The Academy staff gratefully acknowledges the assistance of the many state and local public officials who gave us their time and cooperation in obtaining information for this case study, particulary those individuals listed below. Their contributions made our job easier and more successful.

The Honorable Charles Becnel
23rd Judicial District Court
St. James Parish

Carmack Blackmon, Assistant Attorney General
Louisiana Office of the Attorney General

Donny Carter, Placement Director
Office of Human Development
Department of Health and Human Resources

David Curran, Director
Bludon Home

Gordon Y. Daniel, Community Services Administrator and ICJ Deputy Administrator
Division of Youth Services
Office of Human Development
Department of Health and Human Resources

Dr. Richard Day, Director
Office of Special Schools
Division of Special Education Services
Department of Education

Otto Estes, Assistant Secretary
Office of Mental Retardation
Department of Health and Human Resources

Joan Eymard, Director of Special Education
Orleans Parish School District

Dan Finkler, Coordinator of Social Work for Special Education
Orleans Parish School District

Martha Forbes, Administrator
Children's Services Division
Office of Mental Health and Substance Abuse
Department of Health and Human Resources

Jack Fountaine, Director
Youth Alternatives

Don Fuller, Director
Division of Evaluation and Services
Office of Human Development
Department of Health and Human Resources

Maxine Hanks, Bureau Administrator
Client Services and Placement
Division of Evaluation and Services
Office of Human Development
Department of Health and Human Resources.

Elwood Henry, Administrator
Jonesboro Mental Health Center

Robert Hooper, Special Education Director
Jackson Parish School District

Dr. Carolyn Kitchen, Assistant Secretary
Office of Mental Health and Substance Abuse
Department of Health and Human Resources

Les Klotz, Corrections Coordinator for Special School District
Office of Special Schools
Division of Special Education Services
Department of Education

Delores Kozlowski
Louisiana Council on Law Enforcement

Elouise LaBauve, Consultant
Special Education
Orleans Parish School District

John LaCour, DHHR Coordinator for Special School District
Office of Special Schools
Division of Special Education Services
Department of Education

Jack McDonald, Coordinator of Special School Approval
Division of Special Education Services
Department of Education

Al Mazur, Court Administrator and Chief Probation Officer
Caddo Parish Juvenile Court

Barbara Murphy, Children's Services Coordinator
New Orleans Mental Health Center

William Rittenberg, Attorney-at-Law
New Orleans

Anna Simons, ICPC Correspondent
Division of Evaluation and Services
Office of Human Development
Department of Health and Human Resources

Jeanie Vidrine, Director
Division of Youth Services
Office of Human Development
Department of Health and Human Resources

Barbara Watkins, Juvenile Probation and Parole Agent
Division of Youth Services
New Orleans Juvenile Court

Don Wydra, Assistant Secretary
Division of Juvenile Services
Department of Corrections

INTRODUCTION AND METHODOLOGY

Preliminary study showed the federal court case of Gary W. et al v. State of Louisiana to be of significant importance for the involvement of public agencies in child placement.[1] The state of Louisiana was primarily selected for further study beyond the basic data collection because of the significance of this federal litigation. This class action suit involved 683 Louisiana children placed by or funded through the state Department of Health and Human Resources (DHHR) into private Texas child care facilities.[2] Chapter 3 of this study reviews this court decision, pointing out the plaintiff's contention that the right to adequate treatment includes the right to association with family and friends. The court's decision in favor of the plaintiff included an order for DHHR to remove all the identified children from the Texas facilities unless such action was deemed inappropriate after reevaluation by a court-appointed master.

The subsequent efforts by DHHR to carry out the federal court order was another point of particular interest to this study, especially regarding the relationship of these efforts to new policy development, and regulation and monitoring practices. The impact of the plaintiffs' return on Louisiana facilities and public agencies was a potentially critical one.

A third factor contributing to the selection of Louisiana for this phase of study was the somewhat unique pattern of juvenile jurisdiction in the state's court system. District, parish, municipal, and special family courts all maintain authority over juvenile cases. The Revised Juvenile Code, however, delegates original jurisdiction to a specific court if more than one of these courts exist in a single location. Such an overlapping judicial system held interesting implications for the monitoring and regulating of placements by the state.

Finally, efforts were made to select at least one state from each geographical region of the United States. The factors listed above made the choice of Louisiana very convincing as a state which would add to the analysis of issues surrounding the practice of interstate placement of children.

Interviews began in Baton Rouge with officials in major service divisions of the Department of Health and Human Resources, in the Department of Education (DOE), and in the state attorney general's office. Field investigations then proceeded to the state's largest metropolitan area, Orleans Parish, and to Caddo Parish which is a medium-size urban area in the northwestern corner of the state bordering Arkansas and Texas. Interviews were also undertaken in the two small parishes of St. James and Jackson. Parishes in Louisiana correspond to counties in other states. The interviews outside of the state capital assessed out-of-state placement practices in local jurisdictions and the effectiveness with which state policy is implemented at points of service delivery. Persons involved in the private child care network were also contacted to obtain their perspectives on state out-of-state placement policies and the adequacy of in-state out-of-home care resources in the private sector. Finally, central figures in the Gary W. litigation were interviewed to gain a greater understanding of the issues in that case from their points of view, and to better assess the impact of the litigation on Louisiana out-of-state placement policies.

DESCRIPTION OF THE STATE

Water is an important natural feature of Louisiana. More than 7.4 percent of its 48,533 square miles is inland water, with a land area of 44,930 square miles. The Gulf coastline outlines 397 miles of Louisiana's southern border. The Mississippi and Pearl Rivers form most of the eastern boundary with the Mississippi, and the Sabine River and the Toledo Bend Reservoir mark two-thirds of its western border with Texas. Arkansas borders the state to the north. Over half a dozen other rivers, even more lakes, including large Lake Pontchartrain, and the man-made Intercoastal Waterway along the entire southern portion of the state add to the predominance of this physical feature.

Louisiana has both benefited and suffered from this natural endowment. The state's fishing yield is third largest in the country, after California and Alaska, with its 1977 catch being valued at $138 million. The Mississippi River has long been the waterway to the central United States. Along the river banks, industry and agriculture have thrived, each using the river for transportation and often as a water supply source. The rich delta soil has always offered lush crop yields.

In contrast, flooding has been a perennial problem for residents along every river bank, despite an extensive levee system. The marshlands and bayous of the rivers make large expanses of land barely habitable. Poor-quality roads and minor highways are a way of life in this state because construction is hampered by soft moist soil and high water tables. Even the lakes of the state cause geographical barriers for the flow of traffic and services.

In 1978, Louisiana ranked 20th in the country with an estimated population of 3,966,000. Its black population, like many southern states, is over twice the national percentage, with nearly 30 percent of Louisiana's residents being from this minority group. A small percent of the state's population is of Spanish origin. The southern part of the state is still the home of a French Catholic population, many of whom claim a heritage from the Acadia (Cajun) exiles of early U.S.-Canadian history. The northern population is made up of more Protestant Anglo-Saxon people.

Over three-fifths of Louisiana's population live in metropolitan areas. There are seven Standard Metropolitan Statistical Areas (SMSAs) within the state, the three most populous being in the southern portion of the state. The New Orleans area is dramatically more populated than any other sector of the state, with over 1,000 people per square mile in the SMSA. The state population average, by land area, is less than 100 persons per square mile, substantially lower than the New Orleans SMSA. Only six cities in Louisiana had populations over 50,000 in 1975, and 33 reported populations over 10,000. More than one-third of Louisiana's parishes have less than 30 people per square mile residing in them. The estimated 1978 population of persons eight to 17 years old was 750,747.

There is a wide discrepancy in some of Louisiana's economic statistics as well. Agriculture still holds a predominant place in the state's income, but it only ranks 30th in the country for the marketing of soybeans, cattle, rice, and cotton. Sugarcane is also grown and refined in the southern portion of the state. The industrialization of Louisiana is largely due to the growing petroleum needs of the country. Natural gas, petroleum, natural gas liquids, and sulfur are primary products. In 1977, the industry was producing 563 million barrels of crude oil a year, placing it second in the country after Texas. Refineries and petrochemical plants stretch along the banks of the Mississippi River, offering employment and economic security to a growing number of people.

Despite the increase of industrialization in Louisiana, many families, especially from minority groups, are living on extremely low incomes. At the time of the 1970 national census, Louisiana had 21.6 percent of its families subsisting on incomes below the poverty level, which was double the national average. Only two of the 64 parishes, St. Bernard and Jefferson, had less families below the poverty level than the national 10.1 percent average. Two

sparsely populated parishes, East Carroll and Tensas, had five times as many families in proverty than the nation. Also, an illiteracy rate twice that of the national average falls into this context.

Families that are better off economically tend to live in the seven SMSAs. The eight parishes which have a higher percentage of families earning $15,000 or more than the state's overall average of 12.7 percent are located in five of the SMSAs. These areas are Shreveport, Calcasieu, Lafayette, Baton Rouge, and New Orleans.

Federal military bases and state institutions located in Louisiana have affected income levels for area residents. Federal employees working at Fort Polk and Egland Air Force Base have boosted their parishes' economies, as have the existence of the installations and resident military personnel there. State-operated mental health and mental retardation institutions add to the southwestern parishes' income level.

This state is experiencing changes which contrast with its antebellum home and paddle boat image. Moss-laden oaks fall to make way for an increasing petroleum industry. The recent election of the first Republican governor since Reconstruction is one of many signs of a changing Louisiana, physically, economically, and politically.

DESCRIPTION OF ORGANIZATION AND SERVICES

Child Welfare, Juvenile Justice, Mental Health, and Mental Retardation

The Louisiana Department of Health and Human Resources (DHHR) is a large multiservice agency for children and adults, under the executive management of a cabinet-level secretary. Since 1978, the DHHR has been comprised of ten administrative and service offices, four of which are instrumental in the out-of-state placement of children and whose organizational relationships are illustrated in Figures 1 and 2. These are the offices of Human Development (OHD), Mental Health and Substance Abuse (OMHSA), Mental Retardation (OMR), and Licensing and Regulation (OLR). The DHHR operates community-based offices in almost every Louisiana parish through the Office of Human Development, and these branch offices are supervised by eight OHD regional offices.

An array of social services are provided by the OHD, and it functions as the core of DHHR service operations. It was established in 1978 as a part of DHHR reorganization which resulted from the Gary W. court decision and Legislative Act 786. The OHD contains four service divisions which are illustrated in Figure 1: Evaluation and Services, Youth Services, Blind Services, and Rehabilitative Services. The divisions of Evaluation and Services (DES) and of Youth Services (DYS) are involved in placing children out of Louisiana. All four of the divisions offer services through the OHD branch offices in the

parishes and, in the case of the Division of Blind Services, from special state facilities. The DES and DYS are discussed in detail below, before proceeding to other DHHR offices, because of the very important role they play in Louisiana's public services system for children, and in out-of-home care in the state.

The DES is a large OHD service unit which has responsibility for services to neglected, abused, and otherwise dependent children. Foster family, group, institutional, and adoptive services are arranged and supervised for these children through the division.

An additional and very important aspect of the DES is that it has sole responsibility and authority for the placement of all children served by DHHR offices and divisions and, as will be seen later, for some children referred by school districts. This responsibility is carried out by nine DES-administered regional review committees. There is one regional review committee for each DHHR administrative region, except in the New Orleans area which is served by two committees because of its large population.

These regional review committees were instituted in July 1979 as part of the DHHR reorganization that took place after the Gary W. decision and Legislative Act 786. The committees recommend out-of-home placements, including those outside of the state, based upon referrals from OHD staff in the parish branch offices. The OHD staff may receive these referrals from a variety of sources, including courts, other DHHR offices, and school districts. They prepare cases for committee review in cooperation with the referring agency.

The regional review committees are composed of professional-level staff from the DHHR's Offices of Mental Health and Substance Abuse, Mental Retardation, Health and Environmental Quality, Family Security, and from each division of OHD. Representatives from the Department of Education are also requested to participate in these committees' activities and a medical consultant is also contracted for service.

A DES subdivision, Client Services and Placement, provides out-of-home placement services for children. However, DES does contract for out-of-home substitute care when the need is perceived. Group homes are made available by DES for mild and moderate emotionally disturbed clients, court-committed youth and mentally retarded children.

The Interstate Compact on the Placement of Children (ICPC) and the Interstate Compact on Mental Health (ICMH) are administratively housed in the OHD's Division of Evaluation and Services. Louisiana has been a member of the ICPC since 1968 and of ICMH since 1958.

The OHD Division of Youth Services is responsible for all juvenile justice services in Louisiana, except for juvenile corrections and probation services in seven parishes. The DYS is divided into three program areas: Community Services, Field Services, and Institutional Services. Community Services operates conservation camp programs for youth and young adults, and provides intake services for all Louisiana courts upon request. In addition, it supports diversion and prevention efforts, including shelter and residential care and community youth bureaus. The DYS' Community Services also administers the ICJ for the return of

runaways, and transfer of juvenile probation and parole supervision. Field Services primarily provides probation and aftercare supervision to youth placed in their own home at the request of the court.

Institutional Services, until 1979, administered a purchase-of-service program for private placement and child care services to adjudicated delinquents and youth in need of supervision. This responsibility, as well as placement authority, was turned over to the DES and its regional review committees. Institutional Services now develops and assists in the development of licensed community-based residential child care facilities for adjudicated delinquents and status offenders. It also coordinates the placement of these youth in DES-sponsored residential care and provides supervision of youth in placement who have been committed to DYS by the court. Finally, Institutional Services monitors all delinquent youth while in placement.

The DHHR's Office of Mental Health and Substance Abuse (OMHSA), through its Division of Mental Health, operates four psychiatric hospitals and 36 mental health centers and clinics in Louisiana communities. Each community center operates a children's program with either a full or part-time staff director. The centers also aid in the assessment of service needs for children for the local school districts and community-based DHHR offices.

In fiscal 1978-79, the community mental health centers provided direct services to 16,034 children. At present, the four psychiatric hospitals are the only residential facilities operated by the Division of Mental Health. Plans have been made to provide community group home or cottage environments for adolescents in need of inpatient treatment, but funding is still being sought. Currently, the DHHR's Office of Human Development, in cooperation with OMHSA, provides some group home placements for emotionally disturbed youth.

The DHHR's Office of Mental Retardation operates eight residential facilities for all ages and for various functional levels of retardation. Four facilities focus on early return to the community while the others are considered long-term care units. The office also contracts with 56 private providers to deliver community-based day training services for adults. Six early intervention programs are in operation for young children up to three years old. An experimental parent training program is also currently in operation.

During the Gary W. court proceedings, which included mentally retarded plaintiffs, an institution expansion program was initiated in anticipation of the return of a large population in need of care. Purchase of services from group homes was also planned. However, the increased responsibilities of the DHHR's Office of Human Development included taking over contracting for such services. The Office of Mental Retardation has little direct service contact with mentally retarded children except in the operation of the state facilities.

The DHHR's Office of Licensing and Regulation is responsible for the licensure of Louisiana institutions for the mentally retarded and child care facilities, among other obligations. The Office's Division of Licensing and Certification establishes standards for licensing these facilities and carries out on-site visits to determine compliance.

Abbreviated tables of organization for the OHD, OMHSA, and OMR follow in Figures 1 and 2, indicating those parts of the agencies which are relevant to out-of-state placements.

Juvenile Justice

The Louisiana Department of Corrections (DOC) is responsible for secure public treatment of adjudicated delinquents. The DOC's Division of Juvenile Services (DJS) has as its sole responsibility the operation of four Louisiana training institutes in Rapides, Ouachita, and East Baton Rouge Parishes, and the greater New Orleans area. A juvenile reception and diagnostic center is also located on the East Baton Rouge training institute premises. The Division of Juvenile Services' staff at the reception and diagnostic center assigns delinquents to the training institute adjudged to be most appropriate for the "reformation" of the child. If the resources of the DOC are determined to be less than appropriate for particular children, court approval to transfer the youth to a DHHR-administered setting is sought. The DOC is not budgeted for the placement of youth outside of its own facilities.

A complex court system with juvenile jurisdiction operates in Louisiana. There are four juvenile or family courts, 38 judicial districts with 60 of the 65 locations hearing juvenile matters in the parishes, three parish courts and 46 city or municipal courts which can hear cases regarding dependency, neglect, and delinquency of youth. The Louisiana Juvenile Code of Procedure outlines a pyramid of jurisdiction, with the family or juvenile courts of Caddo, Jefferson, Orleans,and East Baton Rouge parishes having exclusive juvenile jurisdiction over district, parish or municipal courts. Similarly, district or parish courts are deemed to hold jurisdiction over a coexisting municipal court. Probation services are locally operated in seven parishes (Caddo, Calcasieu, East Baton Rouge, Jefferson, Lafayette, Monroe, and Rapides). Orleans parish had recently turned over this service responsibility to the OHD's Division of Youth Services. Like their DYS-operated counterparts in most other Louisiana parishes, these seven local probation agencies are neither budgeted nor authorized to arrange for out-of-home care for youth, relying instead upon the OHD's Division of Evaluation and Services and its regional review committees for this purpose.

An abbreviated table of organization for the DOC and Louisiana courts, follows in Figure 3, indicating those parts of the agencies which are relevant to out-of-state placements.

Education

The Louisiana Department of Education (DOE) is administered by a state superintendent and is responsible to the State Board of Elementary and Secondary Education as illustrated in Figure 4. The DOE supervises the entire Louisiana

FIGURE 1. THE ORGANIZATION OF SERVICES IN THE LOUISIANA OFFICE OF HUMAN DEVELOPMENT RELEVANT TO OUT-OF-STATE PLACEMENTS

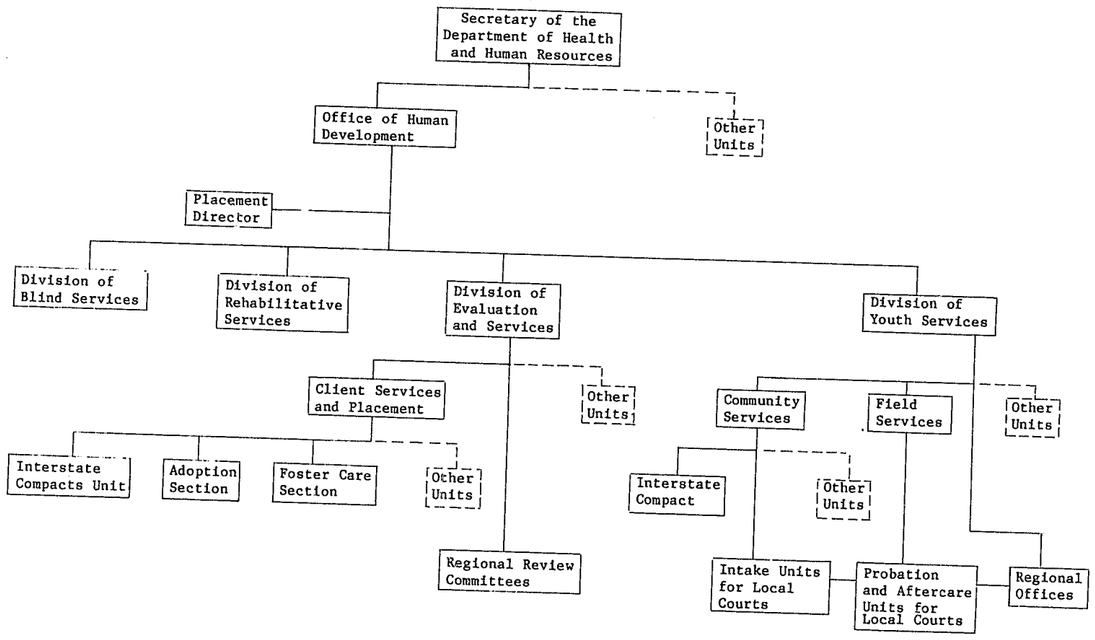


FIGURE 2. THE ORGANIZATION OF SERVICES IN THE LOUISIANA OFFICES OF MENTAL HEALTH AND SUBSTANCE ABUSE AND THE OFFICE OF MENTAL RETARDATION RELEVANT TO OUT-OF-STATE PLACEMENTS

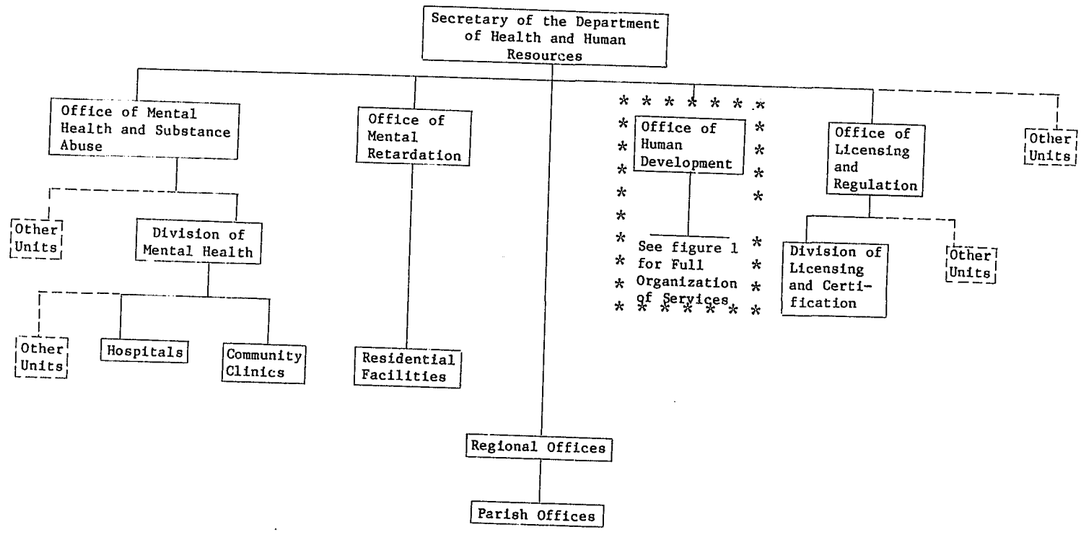


FIGURE 3. THE ORGANIZATION OF SERVICES IN THE LOUISIANA COURTS AND DEPARTMENT OF CORRECTIONS RELEVANT TO OUT-OF-STATE PLACEMENTS

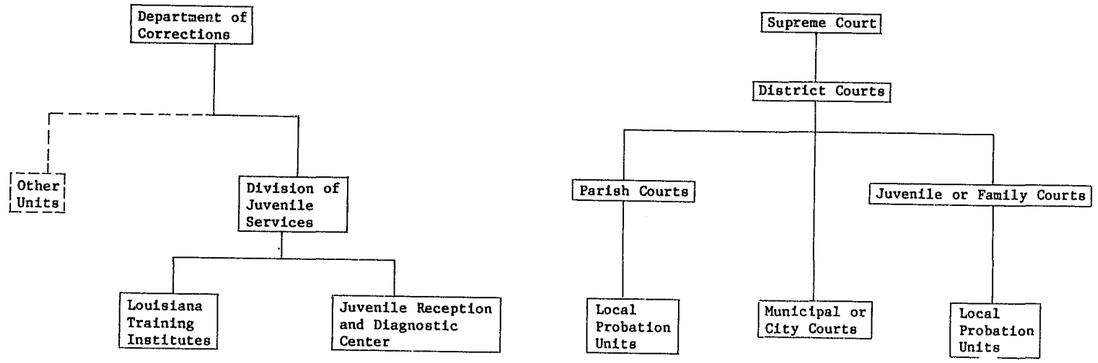
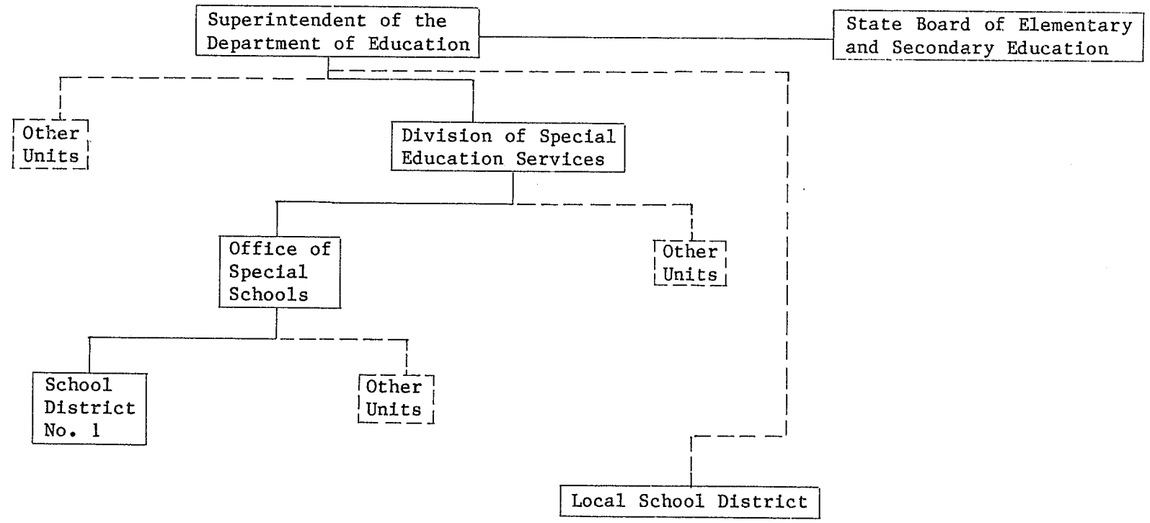


FIGURE 4. THE ORGANIZATION OF SERVICES IN THE LOUISIANA DEPARTMENT OF EDUCATION RELEVANT TO OUT-OF-STATE PLACEMENTS



public school system, supervising 66 locally operated parish or city school districts. The State Board of Education operates schools for the blind and the deaf. The department has also established a Special School District #1, whereby children in DHHR-operated institutions are provided with special education services. This Special School District #1, operated by the Office of Special Schools, has the same responsibilities and funding eligibilities as any of the local school districts in Louisiana. It does hold a number of administrative responsibilities, however, over the local parish and city districts.

The DOE's Division of Special Education Services (DSES) is authorized to implement state and federal laws pertaining to special education of the handicapped. Through Special School District #1, this division provides special education services to children in the Louisiana state institutions for the mentally retarded, emotionally disturbed, and physically handicapped. Local school districts are offered program development and technical assistance from the DSES in order to identify and meet the needs of their handicapped students.

Local school districts in Louisiana have strong regulatory ties to the DOE. It was reported that more than 80 percent of a local district's budget is funded with state revenues. The Minimum Foundation Program, controlled by the state legislature and the State Board of Elementary and Secondary Education, is a state fund, formula-based on a ratio of school personnel and students. The number of teachers allotted and employed by a school is determined by first reporting period enrollment, with handicapped pupils having a higher teacher-ratio allotment. A school district is then funded on a per-teacher basis.

Special education placements are initiated by the local district solely on a referral basis. It is the DSES or the Department of Health and Human Resources which makes the final placement decision and funds private facility placements either in or out of Louisiana. OHD officials noted that they do not handle purely educational placements, but only those having some rehabilitative or treatment component.

An abbreviated table of organization for the DOE follows, indicating those parts of the agency which are relevant to out-of-state placements.

OUT-OF-STATE PLACEMENT POLICY, IMPLEMENTATION, AND PRACTICES

A discussion of Louisiana's public policy on the placement of children in out-of-state facilities is incomplete without a review of the 1976 Gary W. et al. v. State of Louisiana court decision. In brief, the civil suit was filed in 1974 against the state of Louisiana and DHHR, by plaintiffs Gary W. et al. The 683 plaintiffs were "all mentally retarded, emotionally disturbed and other children from Louisiana who had been placed in Texas child care institutions either by direct action of DHHR personnel or with financial support from Louisiana."[3] The plaintiffs argued their case on constitutional grounds and, among other factors, contended that the "mere fact of their placement in out-of-state facilities was itself a denial of adequate treatment."[4]

The federal district court ruled in favor of the plaintiffs in 1976. The decision highlighted two primary principles, while not specifically ruling on the legality of out-of-state placements by a public agency. The first legal principle of "least restrictive alternative" refers to "the kind of treatment that is both nearest the child's own home and imposes the least of all possible restrictions on individual freedom."[5] The concept of quid pro quo was the second principle to emerge from the Gary W. decision. The court argued that an individual, confined by the government for noncriminal reasons, must be provided some benefit by the state in return for the deprivation of personal liberty. The children represented under Gary W. et al. were institutionalized for "illness" by the state and, therefore, had a right to care or treatment for those illnesses. A more thorough coverage of this case is contained in Chapter 3 of this report.

Child Welfare, Juvenile Justice, Mental Health, and Mental Retardation

Department of Health and Human Services' policies and practices with regard to out-of-home care for children in general, and specifically related to out-of-state placement, divide into major categories pertaining to placements with foster families or relatives, adoption placements, and those placements more restrictive than homelike settings. The latter category includes public or private group and institutional care. Policies and practices for the more restrictive category of placement are described below, followed by a discussion of placements with foster families or relatives, and adoption placements.

DHHR policy on the placement of children in settings more restrictive than foster care, particularly out-of-state placements, has been dramatically affected by the 1976 Gary W. court decision. As a delayed result of this court action, Legislative Act 786, passed in 1978, reorganized the DHHR to include the Office of Human Development and its special client placement unit, the Division of Evaluation and Services. The act specifies the responsibilities and authority of the DES in some detail. Important among these specifications are that the division will "place clients in the setting most appropriate to the clients' needs including any nonresidential, community-based residential, and institutional programs operated by the Department of Health and Human Resources, as well as programs operated by other public or private agencies which the Department of Health and Human Resources enters into contractual or purchase of service arrangements."[6] The act goes on to mandate that "the client placement unit (DES) shall perform these functions for all clients of the Department of Health and Human Resources" and that "the decisions of the client placement unit, with regard to the placement of a client in a program shall be binding upon all programs and units of the (DHHR)."[7] Provision is made for appeal of DES decisions to the secretary of the DHHR. These policies pertain equally to the DHHR Offices of Human Development, Mental Health and Substance Abuse, and Mental Retardation.

The OHD has operationalized the act by requiring all candidates for placement in settings more restrictive than foster families, relatives, or adoption be

referred, screened, approved, and monitored by the regional review committees. An exception to this preplacement screening is allowed for emergency placements. These placements must, however, be subject to committee scrutiny and confirmation within 60 days of placement.

Every public and private facility in Louisiana must be exhausted by the DES regional review committees before facilities in other states are selected to receive children. Out-of-state facilities must have the appropriate licensure, approval, and certification of their own state regulatory agencies to receive Louisiana children. Louisiana facilities must be licensed by the DHHR Office of Licensing and Regulation. Out-of-state placements must be individually approved by the OHD placement coordinator and they must be processed by the ICPC. At the time of the Academy's study of Louisiana, a new DHHR secretary had just been appointed. Prior to the change in leadership, individual approval by the secretary of placements to facilities outside of Louisiana was also required. It was reported that this policy would be continued by the new DHHR secretary.

The issue of restrictiveness of placement is very important in the policies and practices of DHHR placing officials. The OHD considers foster homes, if appropriate, the least restrictive form of out-of-home care for a client, and residential care in a group home is the next most restrictive alternative. Institutional placement is classified as the most restrictive alternative. All these choices are recommended to be as near to the parents' home as possible. Therefore, an out-of-state institutional placement is considered to be the most restrictive of all alternatives for out-of-home care.

The procedure for placing a youthful client in need of special services is the same for all offices and divisions of DHHR, both at the state and community levels. Young clients who are determined to be in need of special residential care are referred to a regional review committee (RRC) from a number of sources. Community-based mental health centers, DHHR social service branches, DYS court service units, parents, and even private referral agencies contact the parish-based DHHR's Office of Human Development about the client's needs. The referring agency provides an initial evaluation of the child and the appointed OHD case coordinator continues the assessment, with possible medical and psychological tests being conducted.

When the case coordinator completes the information-gathering process, the RRC is approached for a placement evaluation. The original referring agency or the OHD case coordinator may make a specific recommendation about which public or private facility, either in or out of Louisiana, appears to offer the most appropriate services for the child's needs. However, the final placement decision rests with the committee. It was reported by all respondents that the choice of an out-of-state facility would have to be strongly documented, reflecting a lack of appropriate services in Louisiana. If, in concluding its review, the RRC has decided to recommend placement to a Louisiana facility, it submits the placement plan to the OHD state placement director and assistant secretary for final approval. If the RRC decides to place a child in an out-of-state facility, it is submitted for approval by the same officials as well as the DHHR Secretary. Only five youth were approved through this process for out-of-state placement to facilities in 1978.

Upon approval of out-of-state placement, officials in the ICPC or ICJ office are notified, depending upon the legal status of the child, and compact procedures are initiated. States not party to the ICPC are asked to sign a statement preserving Louisiana legal jurisdiction and responsibility for the welfare of children and defining funding and monitoring procedures. This was reported to be particularly common for placements to the neighboring state of Alabama when it was not a member of the ICPC. Regardless of whether children are placed in public or private facilities in Louisiana or private facilities in other states, it is the responsibility of the DES to make arrangements for the transfer, reception, and funding of placements that are approved.

The DHHR encourages all referral agencies and the RRC to use Louisiana public facilities for the residential placement of children. The DHHR also purchases services from private providers within Louisiana in treatment centers and group homes for the emotionally disturbed or the mentally retarded. These two types of children make up the largest group of clients to be referred to residential care. It is of interest to note the similar composition of this group with the 683 plaintiffs of the Gary W. case. Similarly, the five youth placed in out-of-state facilities in 1978 were described by OHD to be physically, mentally, or emotionally impaired. It was reported by several persons that in-state services for these problems were in high demand and in great shortages, especially in noninstitutional settings. It was further reported that the per diem rate paid to these providers has multiplied by a factor of ten in the last decade, bringing the purchase-of-care rate closer to the national average and more equal to what was being paid to out-of-state facilities before the Gary W. decision.

Each RRC is responsible for reviewing the progress of children they place in residential settings. This process is to occur no later than one year after the previous review or placement decision. The local case coordinator, reminded through a mechanized information system, must initiate the annual review process. The placement director sets the review date at the time the placement is initially authorized. The movement of a young client from one residential placement to another requires the same RRC procedures described above. Youth in in-state residential placement are visited quarterly, while those in out-of-state placements are visited annually.

The RRC program had not been in effect for a full year at the time of this study and, therefore, had not yet reached the annual review date for its earliest placements. It was reported, however, that placements recommended for shorter periods had been reevaluated, and work was beginning on the review of placements which occurred prior to RRC inception. This monitoring entails quarterly on-site visits with each family, and a case record review.

A recent in-house program evaluation of the first six months of RRC operation reports an average time span for the stages leading to final placement. Initial OHD contact with children to the time the regional review committee considers the case takes just over seven weeks. The RRC placement decision occurs about three and a half weeks before children are actually placed into the approved facility. This delay is due to the need for final approval by the OHD placement director in Baton Rouge, and the general administration time needed for facility contact, client acceptance, and admission procedures. In total,

the child's evaluation and placement resolution is in process for over ten weeks, or more than two and a half months. This time frame was considered acceptable by the DHHR evaluation team.[8] Community-based agency respondents were not as satisfied with this span of time from official request to actual placement, and one respondent stated, "DHHR is very slow and produces overloading and unnecessary paperwork."

Up to this point, only placements that are subject to prior RRC review and approval have been discussed. However, it was reported that emergency placements were a regular course of action for court-ordered and DYS-initiated placements. As one respondent stated, "It is such a complex workup for placement and the Review Committee" that it was an easier alternative. These emergency situations eventually are channeled through the RRC, with a 60-day limit imposed on them by the Office of Human Development. A client is only supposed to be placed once on an emergency basis. The OHD funds these placements after the DYS regional administrator approves them. Most of these placements are reportedly continued after RRC evaluation and on no occasion were emergency placements reported to go out of Louisiana.

All Louisiana agency respondents, both at the state and community levels of service, reported a high level of compliance to the DHHR policy for the placement of children in facilities. The fact that Legislative Act 786 gave all funds for residential placement, except funds supporting OMH and OMR facilities, to the Office of Human Development is a strong incentive for observance of DHHR policy. Since the commencement of the regional review committees' work in July 1979, it was reported that the implementation of the centralized policy has been relatively smooth, with most problems being worked out as they arise.

One exception to OHD policy for placement to facilities exists, and this applies to the transfer of individuals between public mental health or mental retardation institutions in different states. These types of transfers frequently occur when the parents of an institutionalized youth move to another state. These transfers are processed through the ICMH in the DHHR Office of Mental Health and Substance Abuse and are not subject to DES regional review committee screening or central OHD or DHHR approval.

As stated at the outset of this discussion of DHHR policies and procedures, most regulations governing the placement of children in homelike settings, such as placements with foster families or relatives, or adoption placements are discrete from those applicable to placements in child care or treatment facilities. Restrictiveness of out-of-home care is a key factor in the applicability of DHHR policy and these types of placements are not considered to be sufficiently restrictive as to warrant the heightened levels of control. OHD officials explained that the DES policy for placements to facilities and the RRC process grew out of the Gary W. case and these measures are targeted toward regulating placement into the types of settings in which members of the Gary W. plaintiff class had been placed. There were no Gary W. plaintiffs in foster family care. One OHD respondent in Baton Rouge did, however, acknowledge placement in foster family care as "serious" and deserving a level of attention by the agency similar to that which is given to placements in facilities. However, this official said that OHD started improving the management of out-of-home care with the most restrictive cases, and the agency has not yet come to terms with foster family care.

Youth may be placed in homelike settings by DES workers in branch offices if they have been committed to DHHR by a court, or if they have been voluntarily referred to the agency by parents. Placement decisions are reached in the parish branch offices of the OHD, and youth must be placed in homes that have been inspected and approved by OHD workers. The DHHR Office of Licensing and Regulation does not license foster family homes in Louisiana. Removal of children from their homes must either occur by a court order or when OHD workers judge that such an action is necessary for the protection and preservation of the best interests of the child. Foster home care is reportedly reviewed and approved by the DES director prior to release of payments. Out-of-state placements with foster families or relatives, and adoption placements must be processed by the ICPC or ICJ, depending upon the legal status of the child and the need for continued probation or parole supervision. These types of placements may be initiated by either DYS or DES workers in branch offices. It was reported that youth involved with homelike placements are usually involved with regional review committees when this type of placement has not been successful and a more restrictive setting, such as a group home or an institution, is thought to be indicated.

There were 440 out-of-state placements with foster families or relatives and adoption placements by OHD in 1978. This group included youth who were battered, abandoned, neglected, or emotionally disturbed, and they most frequently went to the homes of relatives other than parents. All of these out-of-state placements were processed by the ICPC. Adjudicated delinquents were also placed out of state to homelike settings in 1978 and processed by the ICJ to transfer supervision, but their numbers were not available from the DYS.

The ICPC is regularly used for any out-of-state adoptions and the DHHR branches attempt to report the move of a foster family to the compact office when it becomes known to the staff. It was reported that an out-of-state placement to a new foster family is extremely unusual. The placement of a child with an out-of-state relative is the least-regulated type of placement situation that was observed in Louisiana. The ICPC office considers placement with a relative outside of Louisiana to be under its purview only when the child is in DHHR custody or when the court has assumed jurisdiction of the child.

Education

The Louisiana Department of Education has implemented Louisiana Legislative Act 754, Education of Exceptional Children, through regulations administered by the Division of Special Education Services. These regulations charge the staff of each parish school board and the school supervisors to provide a free and appropriate education to every "exceptional" child identified in the parish. Much of this responsibility is carried out by a multidisciplinary team, headed by an evaluation coordinator, that works within the schools to more readily identify children with special education needs. Technically, the school board staff and parish supervisor are responsible for developing an Individualized Education Program (IEP) for every child identified. The multidisciplinary team, the parents, and other school staff must work closely with them to construct the

IEP most compatible with the individual child's needs. The IEP must include the proposed educational placement or setting within which the child would be taught.

A range of settings are available to the staff for the alternative placement. The DSES encourages the use of "the least restrictive setting" appropriate for the child, with minimum restrictiveness being in the regular classroom and the maximum being an institution or facility offering special education and related treatment services. The parish staff must prove that education cannot be achieved in a satisfactory manner to fit the IEP in a less restrictive setting before it can propose a child's placement in a special classroom or in a residential program. Regardless of the setting eventually receiving children placed through Louisiana's special education programs, local school districts retain ultimate responsibility for the quality of educational services children receive.

There are two primary modes of providing services to children with special education needs. The first of these relates to children needing only special education services, at the exclusion of habilitative or treatment services. Most children identified and determined to need special education services by the multidisciplinary child study teams and the parish school board staff are able to receive those services in the school district itself. Sometimes these services are developed as a result of multischool or multidistrict cooperation and are offered on a daytime basis.

When a local or cooperative school district response to children with special education needs is ruled out, a variety of residential services are available to fulfill IEP prescriptions. All placements into residential schools, either public or private, must be approved in writing by the Director of the Office of Special Schools.

Local public residential services were reported to be particularly underdeveloped in many areas of Louisiana. In an effort to stimulate development of such services which will sustain children in programs close to home, the DSES requires local education staff to approach regional DHHR coordinators for assistance in the development of such services.

Youth who need a residential educational setting because of sensory impairments are referred to the state schools for the blind or the deaf operated by the State Board of Elementary and Secondary Education. However, a more complex educationally handicapping condition, such as aphasia, may be determined to require highly specialized services that are available only in the Special School District #1 programs in state institutions, or in nonpublic schools in or out of Louisiana.

The school board staff may propose, in the IEP, the placement of the exceptional child into the DOE Special School District #1, that is, into a state-run institution with educational services offered by the DOE. Such a proposal must be accompanied by a DHHR statement that local efforts to assemble a local constellation of educational, residential, and support services have been fruitless. While referral to a Special School District #1 program for a youth with solely educational needs appears at first impression to be somewhat of an overresponse by the local school board, it is understandable in the context of

Louisiana's special education system. Many of the most specialized public special education services offered by the DOE are centralized in state institutions, and children must be referred to those facilities to gain access to the special programs. In fact, the programs operated by Special School District #1 must be thoroughly considered before an approved nonpublic residential program in or out of Louisiana is proposed.

Once admittance to a state institution for Special School District #1 services has been ruled out as inappropriate for children with special education needs, the parish school board may propose contracting with a private school in or out of Louisiana. The parish school board is responsible for the funding of such a placement, using at least the minimum amount of state and local funds allocated in its budget for the education of the handicapped, and supplemented by federal funds under the Education for All Handicapped Children Act, P.L. 94-142.

The approval of a nonpublic school, whether in or out of Louisiana, is made according to the standards developed by the State Board of Elementary and Secondary Education, which include compliance to local health and fire code regulations, certification of teachers and principal, and balanced curriculum requirements as primary factors to be considered. Once a child is placed in a special residential program, an annual IEP review and modification must, by federal and state laws, be conducted by the parish school board staff and the multidisciplinary team. The parish district directly contracts with the private school, although state money is primarily used to pay for tuition and board.

Approval by the DSES director of placements in nonpublic schools is based on the appropriateness of the selection, proximity to parents, the proven lack of less restrictive settings, and the clear understanding that the placement is totally for educational purposes and not for habilitative purposes or treatment-oriented reasons.

The DOE indicated that it had knowledge of six out-of-state placements in 1978, while local school districts reported two such placements. The discrepancy between these two reports is accounted for by the direct involvement of the DOE in placing children out of state from Special School District #1 and interagency involvement with DHHR in placing children into other states. Both the DOE and local education agencies described these children as emotionally disturbed. The local agencies also indicated that at least one child was mentally retarded or developmentally disabled.

If it is not clearly established in the referral for approval of placement in a nonpublic school to the director of the Office of Special Schools that the proposed placement is solely for educational purposes, referral must be made to the appropriate DES regional review committee for placement. More frequently, however, children are referred by a parish school board directly to an RRC. This is the second major mode of placement services for children diagnosed by local education agencies to have special education needs.

Handicapped or "exceptional" children whose IEP proposes a residential placement often require more than special education services. That is, treatment of a habilitative nature is required. With this added treatment component, the determination is made by the school district, according to DOE

regulations, to refer the student to the RRC. This referral sets into motion the placement process discussed earlier, including the exhaustion of in-state placement resources, compact processing, and central approval of placement by officials in OHD and DHHR, depending upon the location of placement. It was reported by both local and state education respondents that a large number of children in residential placements, first identified by school personnel, are referred to regional review committees. Once an RRC takes over the child's case, the responsibility for funding of a private residential placement moves primarily to the DHHR.

If the private facility selected by an RRC is located in Louisiana, special education may be arranged with the school district in which it is located and, therefore, funded by that district. However, if the facility provides its own educational services, which must be certified by the DOE, the DHHR pays for all costs involved. Similarly, an out-of-state facility receives total payment from DHHR for the care of a child plus the costs of education when it is provided by the facility. At the time of the study, efforts were being made by the DHHR financial office to determine a means for billing the DOE for educational costs by 1981. Tuition charges were not a separate funding item, which caused some problems in the DOE efforts to certify out-of-state facilities with educational programs. These facilities have questioned the authority of the DOE to impose certain criteria for approval when the entire placement is paid and contracted for by another agency in Louisiana. Respondents in OHD reported that, subsequent to the Academy's field work in Louisiana, facilities providing only educational services had been identified and the DOE is financially responsible for any placements to them.

Local school district personnel reported the existence of long waiting lists of children in need of placement for whom the regional review committees and OHD were unable to find available settings. The primary type of facility in shortest supply was for the emotionally disturbed youth whose special education needs could not be met until better mental health was obtained. In the larger cities, emotionally disturbed handicapped students with a number of court interactions were the ones for whom it was most difficult to find suitable treatment.

Juvenile Justice

The DOC is minimally involved in the out-of-state placement of adjudicated delinquents. Out-of-state placements for special services not available in Louisiana are obtained by the DOC by changing the court commitment of youth from their department to DHHR. Youth are then processed out of state under OHD policy through regional review committees. All out-of-state aftercare placements are subject to DHHR policy as well, and those placements would be handled by the DYS and processed through the ICJ.

Child residential placement policy for courts with juvenile jurisdiction is established by the Louisiana Juvenile Code of Procedure. The code gives courts a number of dispositional alternatives for youth adjudicated delinquent, in need

of supervision, or in need of care that relate to out-of-home care. Children of all three statuses may be placed with "suitable" persons other than parents, with or without probation, in or outside of Louisiana. Children of all three statuses may also be committed to a public or private agency, or to a public or private institution, if found to be "mentally defective." Mentally defective in this context refers to emotionally disturbed or mentally retarded individuals. In addition, adjudicated delinquents may be committed to the Department of Corrections. Regardless of the out-of-home setting selected for adjudicated youth, dispositions imposed are to be least restrictive, given the circumstances of the case. Where they are available to the court, selected private agencies or institutions are to be licensed by the DHHR. If licensed facilities are not available, the court may place youth in unlicensed settings. There are no specifications in the Louisiana Juvenile Code of Procedure relating specifically to out-of-state placements.

While the variety of dispositions indicated in the code would suggest that the courts and local probation agencies have a number of out-of-home placement alternatives available, in reality these alternatives are fairly limited. Courts and local probation agencies, as a rule, are not budgeted to support out-of-home placements that involve some cost for care and treatment. Therefore, while youth may be committed to private agencies and institutions, the courts and local probation agencies do not have the resources to pay for care and must rely upon the state for placement revenues. Accordingly, youth placed in settings requiring some public funding must usually be committed to the DHHR through one of its OHD branch offices. These youth are then subject to the previously described DHHR policies and procedures for out-of-home care, including those for out-of-state placement.

This chain of events was reported to have caused some problems between the courts and the DHHR. The state agency will not pay for out-of-home placements unless children are committed to its care and custody. Once they are committed, however, these children are required to go through the regional review committees for evaluation and selection of an appropriate placement setting. These policies have effectively removed the court's authority for selecting the type of placement that youth receive. One OHD official noted that, "We are fighting battles of acceptance with the juvenile courts." With regard to the fact that youth must be committed to DHHR custody for the agency to pay for out-of-home placements, this official further observed that, "They (the courts) were balking at that aspect of the procedure, but they attacked the whole system." The juvenile court in Jefferson Parish has reportedly challenged, in the district court, DHHR responsibility for actually deciding the location and types of placement children referred to the state agency receive. This juvenile judge reportedly won the right to retain placement decision authority and, at the time of the study, DHHR was in the process of appealing this ruling in the Louisiana Fourth Circuit Court of Appeals. An OHD official said that, unfortunately, there had not been a systematic effort to educate judges about the revised placement system that resulted from the Legislative Act 786 resulting in DHHR reorganization.

In the local courts and probation agencies that were visited in Louisiana, frustration was voiced about the loss of placement decision authority that accompanied the implementation of regional review committees. These local officials, however, use the regional review committees for residential care of youth

that come through the courts, and have attempted to preserve some decisionmaking authority in the courts by using emergency placements. It was reported that not all youth placed as emergencies fit the criteria for such placements, but that they were described as emergencies to circumvent the RRC process. The courts' objective in this practice is to get youth into settings with which they are familiar, and which they favor. In these cases, the judge or local probation worker makes arrangements for placement and actually places the child in the proposed setting. The case is then taken to the RRC, which in one location was said to invariably confirm the placement and authorize continued DHHR payment for services. Several persons that were interviewed commented that the regional review committees were at times actually grateful to the courts for locating an available placement site because of the backlog of cases in the review process and the scarcity of residential settings in some areas. OHD officials in Baton Rouge confirmed that judges were concerned about the delays involved in the placement review process and noted that emergency placements are immediately available to the courts for the most needy cases.

It is interesting to note that in at least one location, officials in branch offices of DHHR worked privately with local courts to arrange emergency placements and out-of-state placements with relatives without the knowledge of regional review committees or the DES. The official who reported being involved in this practice was opposed to the centralization of placement decision authority in the DES that resulted from the agency's reorganization. This respondent reported working privately with sympathetic judges to maintain some local decision authority, and stated that such measures were more widespread than officials in OHD suspected. In no cases were emergency placements to facilities made by courts, or by courts in cooperation with DHHR branch office workers, described to go out of state. Courts do, however, arrange out-of-state placements to relatives without state agency involvement. It was reported in one location that a court may encourage an out-of-state relative to come to Louisiana to remove a child from the state for care in their home in another state. Seven of the 110 courts arranged 24 out-of-state placements in 1978, and these usually involved adjudicated delinquents. Some battered, abandoned, or neglected children were also placed out-of-state by the courts. While these placements are subject to compact processing, as in the case of transfer of supervision of probationers to public officials in the receiving state, none of these children were placed out of state through a compact.

ISSUES

There is no question that the Gary W. court decision has dramatically affected Louisiana public agencies' residential placement policies and practices. The strict regulation of placement decisions, especially with regard to out-of-state facility use, has altered placement patterns and made a strong impact on in-state resources. Heightened reliance upon Louisiana placement settings as opposed to out-of-state placement has caused public officials to confront the inadequacy of in-state resources.

A review of the legal principles which emerged from the federal court decision shows a conflict of intent and actuality. Respondents from the public service area within Louisiana have concerns about the lack of appropriate and least restrictive public or private residential facilities within Louisiana. The strong dependence of the regional review committees on state-operated facilities has created some problems for direct service staff in public agencies. Doubts were expressed by these respondents that the selection of a state institution was in the best interests of many children. These respondents noted that placements are made to public institutions because of the pressure to keep a child within Louisiana and because they are more economical than private in-state care. There was also concern that the need for state beds forced children to be discharged before total recovery or primary treatment goals were met. The regional review committees are not involved in the discharge stage of a client's treatment. Considering the quid pro quo principle which emerged from the Gary W. decision, the right to full treatment as well as appropriate care within the state, is still an issue in the minds of Louisiana agency personnel.

The "least restrictive environment" principle has certainly been a primary focus of the DHHR regional review committees. A referral agency's recommendation for residential placement is scrutinized and community-based day treatment must be proven inappropriate or unavailable. This second factor is one which has begun to gain official attention in Louisiana. Efforts to develop a stronger community day treatment sector, either private or public, have begun to emerge in the mental health area and even more rapidly in the local educational system. Public schools, responding to federal 94-142 funding requirements, have initiated independent or cooperative efforts to establish special education services for their handicapped or exceptional students. Resource availability appears to be equally, if not more, needed in the area of appropriate residential care for youth, especially for seriously emotionally disturbed children.

With the centralization of placement decisions, field workers no longer need to actively search for residential resources. This may be seen as a disincentive to direct service personnel to help develop such resources for their area. Private providers report a different reason for alternative care not being developed more rapidly in Louisiana. "Upfront" or "seed money" is not presently available to interested parties. In fact, a delayed payment procedure creates a lag between a provider opening a new facility or offering a new service component and being partially and indirectly reimbursed by the DHHR through per diem payments. The initial investment for this development of services may never be totally recouped through the current rate paid to providers, who argue for a state-administered incentive fund.

The policy change to centralized placement decisionmaking has prompted at least two responses from field workers who formerly held that responsibility. A sense of relief was expressed by a number of respondents, reflecting a need for more time for face-to-face client contact rather than searching for available beds. An equally prevalent view was reflected in expressions of distress over the loss of control of a client's treatment and progress. These community-based staff members find the RRC procedure remote and not responsive to the unique needs of a child personally known by the field worker.

Both groups of agency personnel generally found the time span in accomplishing client's placement through the RRC much too long. A smaller

number reported "overusing" the emergency placement option in order to circumvent this problem, and some found it a means to maintain control of a placement choice. Even state-level respondents in administrative positions expressed a hope for more rapid processing as the "bugs" in the new procedure are worked out.

A brief summary of an adolescent's case may help to highlight the primary issues prevalent in Louisiana's current child placement policy and practices. A dependent minor had been a resident of several state institutions and programs. A diagnosis of mild mental retardation, emotional disturbance, and an inclination toward violent outbreaks are in the case workup submitted to the RRC. All Louisiana facilities approached by the Office of Human Development, after RRC recommendation for residential placement, have rejected admission requests because of the "difficulty" of the case and the youth's placement history. At the time of this study, the teen-ager had been in a secure juvenile detention facility for four months awaiting acceptance into an OHD-arranged placement Louisiana.

CONCLUSIONS AND RECOMMENDATIONS

The problems encountered by state and local agency personnel evolving from the Louisiana Department of Health and Human Resources' placement policy have been mentioned earlier. Agency respondents recommended diverse solutions to these problems. A commonly heard criticism was about the undue length of time taken by the regional review committees to ultimately place a child in out-of-home residential care. Often this complaint was qualified with an acknowledgement of the relative newness of the review process, and with the expressed hope that more RRC experience would shorten the current time span.

A more dramatic change was recommended by some local direct service respondents, especially in the northern portion of the state. These persons felt that the regional review committees are an unnecessary bureaucratic encumbrance to the placement process. They felt staff directly involved with the child are the most competent to evaluate and determine the child's service needs. Considering the findings of the Gary W. court case, implementation of such a recommendation appears impossible unless local services personnel could guarantee less restrictive placements which would provide a higher quality of care than had led up to the Gary W. class action. The RRC procedure gives the state more assurance that the court mandate is being followed and lessens the likelihood of the DHHR repeating practices which led to the "least restrictive" and quid pro quo rulings by the Gary W. court. A few local education agency respondents indicated a personal lack of understanding of the appropriate RRC placement procedures, instead depending on regional OHD or other state education agency personnel to implement a placement request. This could potentially hinder full compliance to DHHR policy.

Another recommendation brought out in interviews was that the DHHR Office of Human Development take a more careful look at the appropriate-treatment issue resulting from the Gary W. case. A number of respondents questioned the quality

of treatment services being offered to children in Louisiana facilities. They felt state-operated facilities need funding for better service development and more residential placement openings. It was pointed out that public community mental health resources were lacking, first for diagnostic assessment prior to referral to regional review committees and, second, as a means for establishing alternative community programs which would eliminate the need for residential placement. Also, education, mental health, and court services personnel reported that children were being discharged too quickly from residential care in order to make room for clients waiting for admission. They felt that discharge from placement should be reviewed by the regional review committees as carefully as admissions.

Private providers within Louisiana, a second source for in-state placement resources, offered suggestions for change and were also the subject of public agency respondents' criticisms. According to both private providers and some agency staff members, if in-state services are to be a preferred alternative to out-of-state care, providers need state aid to expand differentiated and specialized service capabilities. One state respondent mentioned that foster care payments were too low to encourage private development. In contrast, a public education employee felt provider's rates are too high to be affordable for the local education agency. A third person called for the preservation of the nonprofit nature of child care. These somewhat conflicting viewpoints reflect the state of resource development within the various Louisiana service agencies.

A number of plans for placement resource development were mentioned by agency administrators, but most appeared to be in the "drawing board" stage, with little immediate possibility for funding. A long list of needed services was accumulated during the case study interviews. In order of frequency mentioned, they were placement openings for the emotionally disturbed, for the mentally retarded with emotional problems, for the emotionally disturbed delinquent, for the autistic, and for the nonretarded child with cerebral palsy.

It appears that DHHR needs to tabulate its in-state resources, evaluate their service capabilities, and possibly develop some services, coordinating them with the difficult-to-place cases of the regional review committees. An alternative to establishing a full range of special treatment facilities, of course, would be to acknowledge and allow specific types of treatment needs to be met in out-of-state purchased care. Some of the shortages mentioned may also be alleviated once older placement cases are reviewed by the Office of Human Development. These are children placed in residential care prior to the implementation of the RRC process which has stressed most-appropriate and least-restrictive care. It was reported as many as 2,000 children's service cases needed to be scrutinized, plus 5,000 children identified as mentally retarded, all of whom have resided in residential facilities within Louisiana since before the Gary W. decision and subsequent reorganization of DHHR.

The Department of Health and Human Resources has experienced a number of difficulties with centralized placement authority for which agency respondents offered solutions. Clearance through the ICPC unit has become a regular step for the out-of-state placements made by the DHHR. Despite the curtailment of such placements in recent years, this one-person office is taxed with the prolific paperwork required and is in need of more clerical help, professional staff and, possibly, a mechanized information system for updated recordkeeping.

An indirect repercussion of this centralized policy and funding is the DHHR coverage of any educational costs involved in out-of-state placements. The DHHR and DOE officials have worked out an interagency billing agreement, reducing confusion over funding and regulatory responsibility. The Department of Education has experienced its own problems with this same funding practice. Efforts to certify out-of-state facilities' educational programs have met with some opposition due to the DOE not being the contractor for or funder of services. Interagency billing has helped to alleviate this problem.

Louisiana is obviously still experiencing the direct repercussions of implementing a new placement policy. Field personnel are attempting to resolve personal and technical problems stemming from the change. The state service network is being tested for its ability to absorb the results of placement decisions and the policymakers themselves must evaluate success or failure on a number of variables. If the Gary W. court decision is the primary criterion for determining success, Louisiana's public agencies have more changes to institute and endure. The DHHR has yet to come to terms with the trade-off that was made between the use of out-of-state settings and those within Louisiana. The state's residential child care system was and remains unprepared for the added pressure brought about by restrictive out-of-state placement policies. Further, efforts to better regulate out-of-state placements have only addressed those issues regarding restrictive settings. Children continue to leave the state in substantial numbers to settings less restrictive than group care, and they are not yet subject to the intensive scrutiny that placements to facilities receive.

FOOTNOTES

1. Gary W. et al. v. State of Louisiana, 437 F. Supp. 1209 (E.D. La., 1976).
2. The total of 683 class members is taken from the roster in Department of Health and Human Resources, Progress Toward Implementation of the Order In Gary W., Et Al v. State of Louisiana, Et Al and Efforts to Place and Placements of "Texas Class Members" (June 30, 1979), Section I.
3. Office of Human Development Placement Manual, December 1979, p. 1 of 3-115.
4. Ibid., p. 1 of 3-115.
5. Ibid., pp. 1 & 2 of 3-115.
6. Act 786, Louisiana Legislature of 1978, Section 3(a) and (v).
7. Ibid., Section 3(b).
8. Office of Management and Finance, Department of Health and Human Resources, A Review of the Client Placement System in the Office of Human Development, (Baton Rouge, La.: 1979), p. 6.

MICHIGAN CASE STUDY

ACKNOWLEDGMENTS

The Academy staff gratefully acknowledges the assistance of the many Michigan state and local public officials who gave us their time and cooperation in obtaining information for this case study. In particular, we thank the following individuals who generously gave of their time to discuss the status and history of out-of-home child care and out-of-state placement policies and practices in Michigan.

George Adams, Regional Superintendent
Office of Citywide Schools and Programs
Detroit Public Schools

Robert Adams, Supervisor
Youth Services
Grand Traverse County Department of Social Services

Robert Alexander, Consultant
Senate Health and Human Services Committee

Wayne Anderson, Director
Child Care Resources Division
Office of Children and Youth Services
Department of Social Services

John Apol, Chief Juvenile Probation Officer
Kent County Probate Court

Richard Baker, Compact Administrator
Interstate Compact on Juveniles
Delinquency Services Division
Office of Children and Youth Services
Department of Social Services

Jan Baxter, Director
Analysis Planning & Technical Assistance Unit
Special Education Services Office
Department of Education

Pat Brett, Supervisor
Wayne County Department of Social Services Liaison Office
Wayne County Probate Court

John Broder, Staff News Writer
The Detroit News

Ben Censoni, Director
Services for the Developmentally Disabled
Department of Mental Health

Ernie Davis, Foster Care Supervisor
Foster Care Services
Kent County Department of Social Services

Otis Davis, Assistant Program Manager
Delinquency Services Division
Office of Children and Youth Services
Department of Social Services

Kay Duncan, Deputy Compact Administrator
Interstate Compact on Juveniles
Delinquency Services Division
Office of Children and Youth Services
Department of Social Services

Nancy Duncan, Assistant to the Director
Office of Children and Youth Services
Department of Social Services

coordination. Finally, a newspaper reporter who has covered a number of stories about the status of foster care in Michigan provided a historical viewpoint on the problems and progress in this area of residential care services.

DESCRIPTION OF THE STATE

Michigan is one of the larger north-central states with a land area of 56,817 square miles. Like its neighboring states of Ohio, Indiana, and Wisconsin, it is relatively flat with rolling hills, the highest of which is under 2,000 feet. Eighty percent of the state's borders are defined by Lake Superior to the north, Lake Michigan to the west, and Lakes Huron and Erie to the east. Only about 20 percent of Michigan borders other states.

Its second prominent geographical feature is the split territory of the state between what are called the Upper and Lower Peninsulas. The Lower Peninsula is much larger and more populated than the Upper Peninsula, where tourism and agriculture are the primary trades. It is common to hear people in the Upper Peninsula say that they feel closer and identify more with Wisconsin than with Mighican. This area is very remote from the rest of the state and, in many ways, operates independently from the rest of Michigan.

Urbanization occurs primarily in the Lower Peninsula, where there is a band of small, medium, and large cities across the lower third of the state including, from east to west, Detroit, Flint, Ann Arbor, Lansing, Battle Creek, Grand Rapids, and Kalamazoo. Although some of these cities are quite large, they are almost all separated by broad expanses of farmland. The largest metropolitan area is the Detroit-Ann Arbor region with over 4.5 million people. The second largest one is an SMSA in the southestern corner of the state which adjoins Toledo, Ohio. Michigan's 12 SMSAs contain 25 of the state's 83 counties, and bring nearly 74 percent of the state's 9.18 million people within urban areas in 1978. As might be expected, there is great variance in the size of Michigan's counties, which in 1978 ranged from just over 6,000 to 2.5 million people. In terms of urbanization, the southeastern corner of Michigan, including the Detroit region, contained approximately 51 percent of the state's population. The 1978 estimated population of persons eight to 17 years old was 1,717,156.

Michigan is ranked 19th in total farm marketings in 1978, principally from dairy products, cattle, corn, and soybeans. The state is probably better known for its highly developed heavy industries, especially in the areas of transportation equipment, heavy machinery, and metal fabrication. In this area, Michigan was ranked third nationally in 1976 in new industrial capital expenditures and fifth in value added by manufacture, making it a major industrial center in the country.

With less than one percent of its population being of Hispanic or Asian descent in 1976, Michigan's black population is its predominant minority group, constituting over 11 percent of the total population, which is very close to the national average. Most of the minority groups live in metropolitan areas,

Roger Dunigan, Director
Grand Traverse County Mental Health Services Board

David A. Edthridge, Ph.D., Director
Oakdale Regional Center for Developmental Disabilities

Norman Francis, Consultant
Analysis, Planning and Technical Assistance Unit
Special Education Services Office
Department of Education

David Gabriels, Child Welfare Section Supervisor
Children's Services
Kent County Department of Social Services

Greg Gessert, Budget Analyst
Budget Division
Office of Criminal Justice Programs
Department of Management and Budget

Paula Gordin, Coordinator
Children and Youth Services
Detroit-Wayne County Mental Health Services Board

Rubyjean Gould, Acting Assistant to the Deputy Director
Department of Mental Health

Mike Hall, Program Manager
Intercountry Adoptions
Neglect Services Division
Office of Children and Youth Services
Department of Social Services

Kanud Hanson, Consultant
Senate Health and Human Services Committee

James Hibbogson, Supervisor
Foster Care and Delinquency Services
Grand Traverse County Department of Social Services

Jerry Hicks, Director
Michigan Federation of Private Family and Children's Agencies

Al Katzman, Program Manager
Delinquency Services
Wayne County Department of Social Services

Joseph Lee, Delinquency Services Supervisor
Delinquency Services
Kent County Department of Social Services

Beverly McGurk, Supervisor
Adoption Services
Grand Traverse County Department of Social Services

Ann Mapes, Juvenile Probation Officer
Grand Traverse County Probate Court

Judy Martin, Aide to Assemblyman Ray Kehras

Larry Miesner, Program Manager
Child Care Resources Division
Office of Children and Youth Services
Department of Social Services

Ralph Monsma, Juvenile Justice Specialist
Planning Division
Office of Criminal Justice Programs
Department of Management and Budget

Ernestine Moore, Program Manager
Placement Services
Wayne County Department of Social Services

Cheryl Pinelan, Deputy Administrator
Interstate Compact Administrator
Department of Mental Health

Vergil M. Pinckney, Director
Institutional Services Division
Office of Children and Youth Services
Department of Social Services

Charlie Primas, Principal
Wayne County Youth Home School
Wayne County Probate Court

CONTINUED

2 OF 4

Charles Ramsey,
Childrens Services Specialist
Bureau of Operations
Department of Mental Health

Jackie Saltz
Program Analyst and Coordinator
for Children's Programs
Department of Mental Health

Maureen Slade, Supervisor
Secondary Special Education
Grand Rapids Public Schools

Candice Spaulding, Director
Children's Residential Care Project
Detroit United Community Services

Jackie Van Deventer, Staff
Coordinator
Mental Health Advisory Council
Department of Mental Health

William Wiggins, Director
Clinical and Court Services
Wayne County Probate Court

INTRODUCTION AND METHODOLOGY

One reason for selecting Michigan for case study was because it was the first state to institute policies for controlling the movement of children across state lines. In 1895, when these regulations were instituted, they were directed primarily toward children coming into the state because of the westward exodus of children from the Atlantic seaboard. Today there is substantial activity, in both the legislative and executive branches, to confront problems associated with out-of-home care for children.

One of these efforts, and a second reason for selecting Michigan, was the recent introduction of state legislation for adopting the Interstate Compact on the Placement of Children. Up to the time of the study, the state had not passed the bill.

Interviews began in Lansing in April 1980, with officials in the Departments of Social Services, Mental Health, and Education. The research team then proceeded to Wayne County (Detroit), Kent County (Grand Rapids), and Grand Traverse County (Traverse City) to collect correlative data at the local level. Because probate courts are active in services for children in each county, court services staff were interviewed. In addition, branch offices of the Michigan Department of Social Services (DSS) appear to exercise an interesting degree of latitude in both their implementation of policy and in their provision of services. For that reason, data was collected in these offices to detect the degree to which DSS policy is implemented by its own subdivisions. In the educational sector, interviews were undertaken within local school districts, which are subcounty administrative units. This approach was taken to get a close look at local educational issues and problems.

In addition to public officials, three officials in the private sector were interviewed to obtain other perspectives on residential care and interstate issues. The director of a private children and family service providers' organization was interviewed. In Wayne County, the director of a special placement and case management project, sponsored by United Community Services, provided information on the development of public and private interagency

especially in Detroit, where the black population is over 43 percent. Many blacks live in the type of depressed inner-city areas characteristic of northeastern and north central cities, and they experience disproportionate effects of the hardships caused by inflation, recession, and unemployment.

Michigan is currently experiencing the liabilities of unduly relying upon one major area of production for economic solvency and employment. Heavy industries, especially the auto industry, have been hard hit by energy problems and recession. Unemployment, as of April 1980, was 12.4 percent, and in industrial areas was said to be approximately 15 percent. Employment and economic problems may worsen before stabilizing at manageable levels, as automobile purchases remain below levels necessary to sustain the industry with its current workforce and rate of production.

Michigan, then, is in many ways a state of dichotomies: between the Upper and Lower Peninsulas, between heavy industry and agriculture, and between intense urbanization and rolling midwestern farmlands. As will be seen, government services experience some struggle in attempting to address the diverse needs and demands that arise out of such a mix of economic and social conditions within the state.

DESCRIPTION OF ORGANIZATION AND SERVICES

Child Welfare and Juvenile Justice

Adoption, dependency, and juvenile justice services are supervised and administered by the Michigan Department of Social Services (DSS) through branch offices in 83 counties. The DSS' Field Services Administration exercises line authority over these branch offices and reports directly to the director of the DSS. Each county DSS office has a director who is appointed by the county commissioners, subject to approval by the DSS director.

The main section of DSS which relates specifically to out-of-home care for children and the regulation of out-of-state placements of dependent or delinquent cases is the Office of Children and Youth Services (OCYS). The office was established by special legislation in 1978 and its four major subdivisions report to the office director through a chief deputy director.[1] The OCYS' Delinquency Services Division, maintains juvenile justice offices for delinquency, diversion, education, and employment services, and administers the Interstate Compact on Juveniles. For child welfare, the OCYS' Neglect Services Division is divided into adoptions, foster care, and protective services.

The OCYS' Child Care Resources Division reimburses county and state programs for residential care expenditures and certifies nonpublic programs for placement of state wards by DSS branch offices. This division also receives

annual state auditor reports from reviews of the county child care expenditures. Reimbursement adjustments are made pursuant to expenditure of state funds by the branch DSS offices for nonallowable costs.

The OCYS' Institutional Services Division is responsible for the administration of nine juvenile corrections residential care and rehabilitation centers as well as for a regional detention center which provides short-term care and diagnostic services. The corrections facilities provide care for adjudicated delinquents who have been placed into the custody of the state by the county probate courts. Upon discharge from an institutional services facility by the Youth Parole and Review Board, children receive counseling, employment, supervision, and sometimes residential care services under the supervision of delinquency services within a DSS branch office.

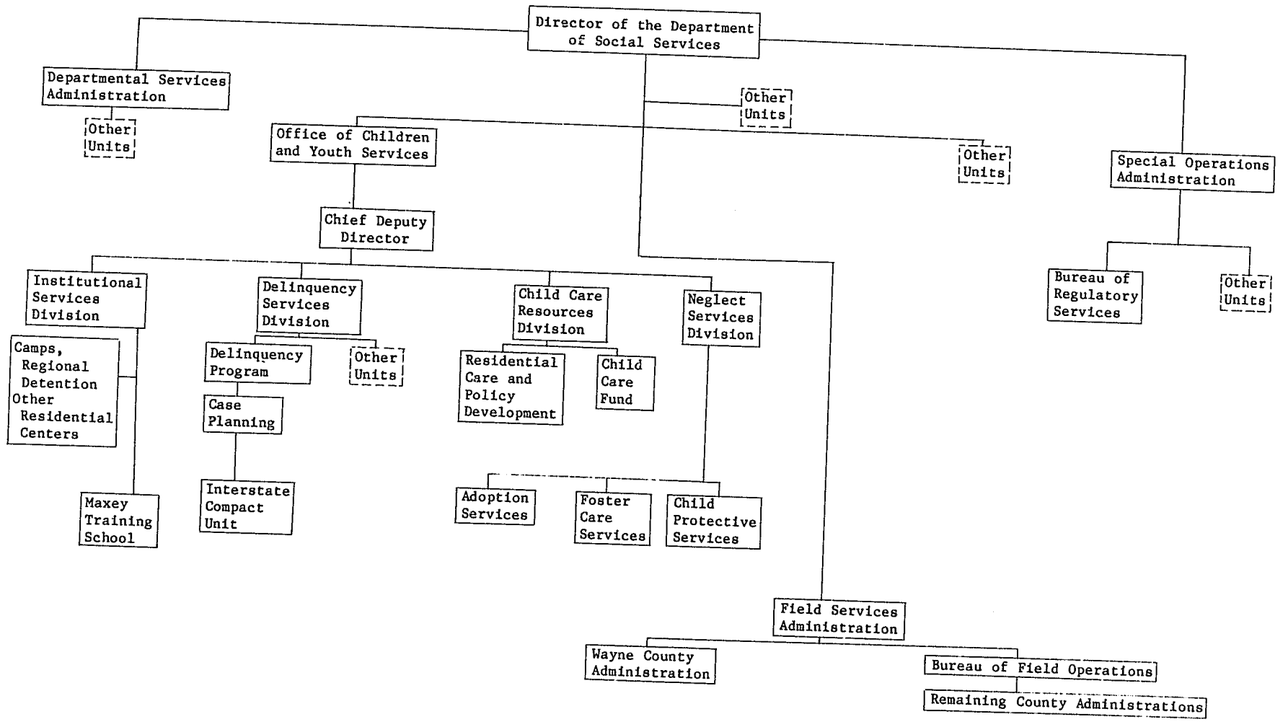
Branch DSS offices operate 12 residential care centers, 37 shelter homes, two shelter centers, and 35 subsidized group homes for state and court wards who are either inappropriate for or who are waiting for placement in state youth corrections facilities. The community-based facilities also receive aftercare placements from state residential treatment facilities for youth who need a structured setting or who have no home to which to return. These facilities are operated under policies developed by the Child Care Resources Division of OCYS. The DSS branch offices provide protective, foster care, adoptive, parole, and occasionally probation services under the supervision of regional offices of the Field Services Administration. Dependency cases may be referred by the courts to the DSS for supervision and residential care and are either retained in the temporary custody of the court or remanded to the custody of the state to receive the same services. The Child Care Resources Division maintains contracts with and certifies nonpublic residential programs which are licensed by the DSS Bureau of Regulatory Services, and paid for out of the county treasury.

Both probation and dependency services are provided by each of the 83 county-operated probate courts. Most courts maintain a services staff to supervise dependent and delinquent court wards. Child welfare services for dependent court wards include residential care, which is administered by the court staff or by contract. In counties where emergency shelter care is not county-administered or available through private contractors, facilities operated by other counties or by DSS are used for these types of residential care. Private foster homes, group homes, or institutions receiving placements from the court must be licensed by the DSS' Bureau of Regulatory Services to be eligible for payment by the Child Care Resources Division.

Secure and nonsecure residential care for delinquent court wards may also be administered by court staff or, like child welfare services, DSS-operated facilities or other counties' facilities may be utilized. The county youth homes are usually the only residential facilities operated directly by the courts and are used for both short-term preadjudicative detention or postadjudicative incarceration. Some county homes were also described to be set up to provide long-term care.

An abbreviated table of organization for the DSS follows in Figure 1, indicating those parts of the agency which are relevant to out-of-state placements.

FIGURE 1. THE ORGANIZATION OF SERVICES IN THE MICHIGAN DEPARTMENT OF SOCIAL SERVICES RELEVANT TO OUT-OF-STATE PLACEMENTS



Education

The implementation of special education laws and regulations is the responsibility of the Special Education Services Office of the Bureau of Elementary and Secondary Education within the Michigan Department of Education (DOE). This office has been organized by the director into an administrative unit called the Special Education Services Area (SESA). The SESA is divided into three major operational units consisting of Analysis, Planning and Technical Assistance; Compliance and Approval; and Development and Training. These units implement SESA's administrative responsibility for providing leadership, technical assistance, and consultation to the state's 58 intermediate school districts for the detection, evaluation, and appropriate education of all handicapped children in Michigan.

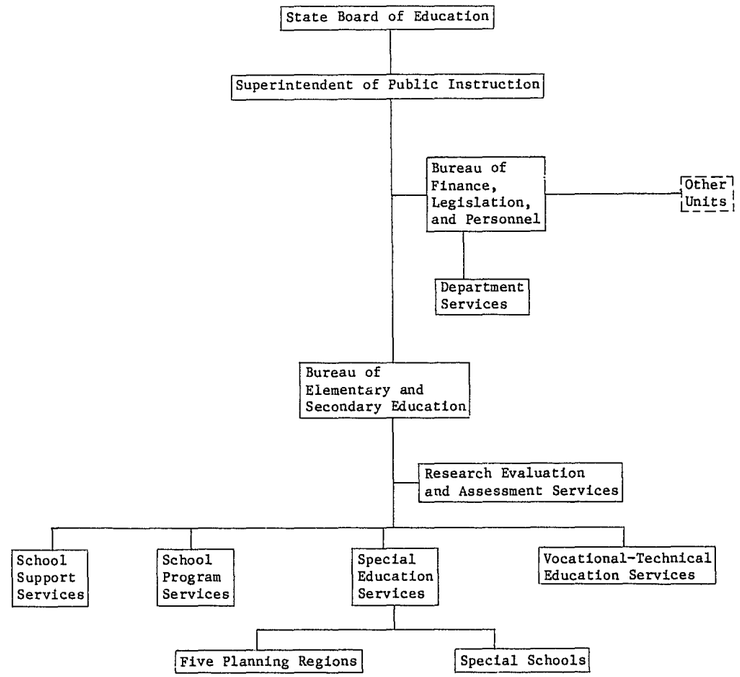
Intermediate school districts (ISD) is a term used in Michigan to describe bureaucratic service units composed of one or more school districts. These ISDs encompass all of the 576 school districts in Michigan's 83 counties. Intermediate school districts provide administrative and resource assistance in varying degrees, depending upon the size of the school districts within their jurisdictions. In rural areas, the ISDs provide services to groups of counties, while in moderately or highly populated areas a single county's school districts are served by one ISD. This explains why there are 58 intermediate school districts for 83 counties.

The ISDs also disburse all special education funds from the DOE to the 576 local districts and are required to submit annual plans for comprehensive special education programs and services in their jurisdictions. They are allowed to undertake joint planning with other ISDs within their planning areas. The annual service plans are approved by the State Board of Education, pursuant to the state special education plan and the provisions of Michigan and federal law.

The SESA administers two special state schools for deaf and blind children. It has also entered into interagency agreements for special education services to youth in the care or supervision of the Department of Mental Health and DSS.

An abbreviated table of organization for the DOE follows in Figure 2, indicating those parts of the agency which are relevant to out-of-state placements.

FIGURE 2. THE ORGANIZATION OF SERVICES IN THE MICHIGAN DEPARTMENT OF EDUCATION RELEVANT TO OUT-OF-STATE PLACEMENTS



Mental Health and Mental Retardation

Residential care for mentally disturbed patients in Michigan is provided by the Department of Mental Health (DMH) in state hospitals and, to a lesser extent, by local contracts for private services. In the latter case, the public contractors are local mental health boards. The DMH is responsible for the administration of state facilities for the mentally ill and developmentally disabled, and for statewide service planning, licensure, funding, and supervision of county mental health boards. There is no division or department within DMH set up specifically for mental health services for children. The DMH has divided the state into six regions, within which districts for mental health and developmental disabilities services have been defined.

The DMH has general residential placement policies which provide for the licensure of medically supervised psychiatric hospitals or units within Michigan. Mental health centers and mental retardation service facilities must also be certified by DMH in order to operate. In addition, mental retardation facilities or locally operated psychiatric facilities must be licensed by DSS.[2] There are 14 state regional psychiatric hospitals. Each hospital is administered through the regional office for the region in which it is located. The service districts for the hospitals do not necessarily have the same boundaries or limits as the regional boundaries. There are two special service facilities, one specializing in research and one providing forensic mental health services to patients without regard to regional service areas.[3]

There are 12 developmental disability service districts which, in some but not all areas of the state, share boundaries with the mental health districts. Each state center for developmental disabilities and its service district is administered through the appropriate regional office and the centers provide residential care in what are mostly modernized state facilities. The centers also arrange for community services and residential care through county mental health boards and private service providers, respectively.

In regard to the county-operated mental health boards, the DMH establishes standards for professional personnel and criteria for annual budget and service plan preparation. The DMH must approve a county board's annual plan, based upon consideration of the county's adequacy, effectiveness, and past fiscal integrity, prior to authorizing state financial support.

County mental health boards, under the auspices of the county commissioners, administer local mental health programs. Program operations are the responsibility of the county mental health director, and this person may or may not supervise direct service staff, depending on the extent to which the county uses contractual arrangements for services. Some counties provide direct services, often in the form of outpatient counseling and emergency inpatient care. Two of the larger metropolitan counties, Kent and Wayne, purchase all mental health services from the existing private agency network. In these instances, the staff invests most of its efforts toward policy implementation, resource development, monitoring, and coordination.

The DMH has established as a primary statewide goal the combination of all direct mental health services within one level of government. The Unification Plan, as it is called, would make all direct services, including the administration of what are now the state hospitals, the responsibility of county mental health services boards. The Michigan mental health code supports this endeavor by endorsing:

> the objective of the department to shift from the state to a county the primary responsibility for direct service delivery of public mental health services whenever such county shall have demonstrated a willingness and capacity to provide an adequate and appropriate system of mental health services for the citizens of such county.[4]

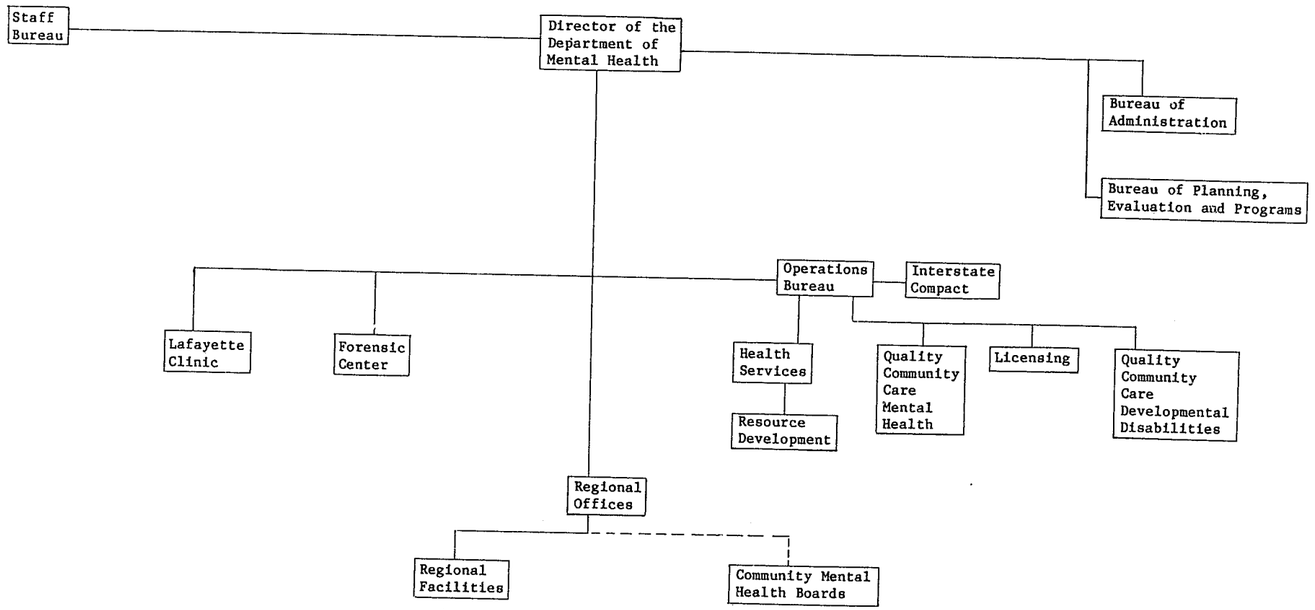
An additional interest has been expressed by the DMH administration that county boards undertake plans to build their own capacity to deliver services directly rather than to rely upon a private purchase-of-service network.[5]

Policies for the development of local mental health services for children, especially in Wayne County, have evolved at both the state and local levels. Noting the severe lack of services for the multiproblem child, Detroit-Wayne County Mental Health Services Board, in conjunction with DSS, DMH, and DOE, has developed what is thought to be an innovative interdisciplinary program for children who otherwise would not receive services. This model program, called Metro-Youth, is sanctioned by an interagency agreement by all three participating state agencies and by the county mental health board.

One effort by Detroit-Wayne County Mental Health Services Board to increase the treatment alternatives for severely troubled children occurs in the planned development of foster family and group home care. Gradations of structure needed in foster care have been identified, and a continuum of residential services has been proposed. The expectation for the program is that it will serve youth who need care but who are now inappropriately hospitalized, as well as children needing a therapeutic transition from state hospitals back into their own homes.

An abbreviated table of organization for the DMH follows in Figure 3, indicating those parts of the agency which are relevant to out-of-state placements.

FIGURE 3. THE ORGANIZATION OF SERVICES IN THE MICHIGAN DEPARTMENT OF MENTAL HEALTH RELEVANT TO OUT-OF-STATE PLACEMENTS



OUT-OF-STATE PLACEMENT POLICY, IMPLEMENTATION, AND PRACTICES

Child Welfare and Juvenile Justice

Existing out-of-state placement policies in Michigan for child welfare and juvenile justice resemble those of states which are members of both the Interstate Compact on the Placement of Children (ICPC) and the Interstate Compact on Juveniles (ICJ). However, Michigan has been a member of the ICJ since 1958 but has never adopted the Interstate Compact on the Placement of Children.[6] The ICPC legislation was introduced in the legislature in 1978, 1979, and in the 1980 legislative sessions. The Office of Children and Youth Services supports passage of the compact and reported, at the time of the study, that the measure is unopposed.

In other proposed legislation, a general tightening of regulating and monitoring of foster care is evident. A pilot program, to be administered by the Administrative Office of the Supreme Court, will review all foster care plans and subsequent progress in placement in three counties. Senate Bills 889, and 890 passed in 1980, empowers the review boards to receive and protect records pertaining to children in foster care, and to submit reports in dependency hearings. In addition to the above legislative activity, a number of special committees have been organized within the past year to examine the status of services for children and out-of-home care in Michigan.

Out-of-state placement practices and the applicability of regulatory devices vary in Michigan, depending on a number of factors, the most influential of which is the wardship of the child. When referring to wardship, the term applies to both dependent and delinquent children. Children in parental custody who are voluntarily referred by their parents for placement to the local DSS office are treated similarly to dependent wards.

Out-of-state placement policies in the placement services manual for child welfare placements resemble the provisions and procedures found in states which are members of the ICPC.[7] These provisions apply to dependent wards moving out of state with foster families or being placed with relatives in another state; and all children, regardless of legal status, who are placed into foster, adoptive, or institutional settings outside of Michigan.

The DSS placement services manual is more specific in its prescriptions for placement with relatives than its delinquency services counterpart. Monthly visits to natural parents are required of the worker, if family reunification is the postplacement plan. Regular contact by telephone and correspondence is also required to keep children placed out of Michigan apprised of treatment planning.

Placements into institutions in other states require specific treatment rationale and the demonstration of exhaustion of in-state resources. After OCYS authorizes contact with facilities outside of Michigan, the local DSS office can directly proceed to make arrangements for placements with the receiving facility. Primary among these arrangements is the negotiation of a purchase agreement, a copy of which is sent to OCYS. OCYS officials note that some states,

such as Texas, require that the purchase-of-services agreement be signed by a compact administrator, in addition to a local judge or welfare director. There is no ceiling on rates for these placements, but the placement manual states that "Information on current purchase of service and rate agreements may be obtained from the central office."[8] Quarterly reports are to be provided to the branch DSS offices, which also receive and check service billings before passing them on to OCYS for payment.

The Child Care Resources Division of OCYS must individually approve out-of-state institutional placement of state wards. If a facility receiving a state ward has not been inspected and approved, payment for placement costs is not to be released. The Child Care Resources Division is also responsible for enforcing a policy which prohibits the use of AFDC-Foster Care funds for out-of-state placements of state wards but has authority to grant exceptions to that policy. Because of placement funding policies, this prohibition necessitates the county of residence paying one half of all out-of-state placement costs for AFDC-FC eligible state wards whose placement costs would otherwise be paid for by state and federal funds if the child were placed in Michigan.

Regarding juvenile justice placements, the delinquency services manual provides for the arrangement of courtesy supervision for probationers and parolees when moving to another state with their family or when placed out of Michigan with a relative.[9] Probation officers or DSS community service workers in charge of adjudicated delinquents are responsible for deciding whether to allow wards to leave the state. This decision is to be made "with consideration to the distance factor, which may impede treatment and post-placement planning."[10] Juveniles adjudicated delinquent in Michigan may only be released to settings which are "approved" by receiving states. It is repeatedly stated in the manual that it is the responsibility of DSS central office to respond to all requests or inquiries for services for adjudicated delinquents leaving or entering the state.

There is no explicit statement in the manual describing the applicability of the Interstate Compact on Juveniles to the children who are wards of the probate court, but interstate unit personnel in the OCYS' Delinquency Services Division perceive the courts to be subject to compact procedures and attempt to apply them accordingly. The text of the manual does not differentiate among various types of wardship (court-held or state-held), using only the generic "ward" to describe children who are to be processed under its policies for out-of-state placement. In 1978, there were 414 out-of-state placements processed through the interstate unit, 400 of which were processed through the ICJ.

Out-of-state placements made directly by courts were either described by court services staff as a last resort, appropriate only in the most unusual cases, or forbidden altogether by the judge because of a loss of control over the child. Both state and local officials reported that such placements rarely go through the interstate unit in DSS' Delinquency Services Division. In fact, some high ranking court services personnel summarily described the Delinquency Services Division as well as the Neglect Services Division in OCYS as "so much excess baggage." It was reported that animosity exists between some courts and branch DSS offices and was partially attributed to the perceived unresponsiveness of the interstate unit in arranging out-of-state placements. The interstate unit acknowledges the long delays in processing that have occurred.

However, in response to more recent charges of unresponsiveness, staff note that if all required material is submitted in the referral packet, they can respond to a county in three to four working days.

Antagonism was also attributed to a perception of DSS encroachment into juvenile court functions in general. Judges were said to typically order probation staff to make placements to specific facilities, which may or may not be licensed, and which are funded equally by the court and DSS. No matter what setting is selected, it is the probation office's responsibility to monitor these placements and this was described to periodically occur by mail or telephone.

The practice of committing children to the wardship of the state varies by the court of jurisdiction and its resources. Sometimes children are only committed to the state because of its being a required step for referral to the Institutional Services Division. This is more prevalent in areas where court-DSS relations are strained. In other areas, especially in Wayne County, a majority of children are in DSS care and supervision or custody without institutionalization. The Wayne County Probate Court relies almost entirely upon DSS for placement and supervision services, at least in part because of the volume of children that are processed annually. Wayne County court staff estimated that the court itself places only about a dozen children out of the nearly 14,000 that come in contact with the court in a year. In more rural areas, the tendency is stronger for the courts to retain many dependent and delinquent cases within their custody.

Court wards who are referred to DSS for placement and supervision and who are subsequently placed out of Michigan were reported to be processed by the interstate unit more frequently than placements made directly by the court. Usually, in areas where working relationships between courts and DSS offices were less than optimal, referrals to DSS for placement and supervision of court wards was described to be very infrequent. Court-ward placements by DSS are reported to Field Services Administration offices and are required to be but are not uniformly made into DSS-approved facilities out of state or licensed facilities in the state. Fluctuation from policy appears to occur because the child remains a ward of the court. It was found that when DSS offices did make court-ward placements, they were required to obtain judicial approval.

The DSS offices visited in small and medium-size counties expressed a very strong bias against out-of-state placement because of the lack of proximity to family and because of the increasing development of local resources. Wayne County DSS, on the other hand, seemed less disinclined to place children out of Michigan, most notably because of the reported underdevelopment of local resources. With nearly 5,000 of its children in out-of-home care, the Wayne County DSS is forced to look farther for resources than smaller counties. Out-of-state placements were described to be used fairly regularly, especially for adoptions, placements with relatives, and for foster family care. Child care facilities tend to be used much less frequently because of the process of ruling out in-state resources, which sometimes takes up to three to six months. This process is required by DSS prior to out-of-state placements to an institution or facility. During this search period, children were described as occupying emergency shelter care beds, inappropriately residing in other facilities, or moving from

one temporary placement to another. By contrast, the placement process only takes one month to six weeks for placement with local foster homes or relatives.

Children who are remanded to state custody by the courts are subject to more rigorous out-of-state placement requirements but, as with the preceding situations, compliance with policy was reported to be not uniform. These children may be delinquent or, more frequently, dependent state wards placed directly by DSS upon receiving state-ward status from the court. They may also be parolees who have been placed under the supervision of a DSS community service worker after release from a state residential treatment facility by the Youth Parole and Review Board. Although these children are to be placed in facilities approved by the Child Care Resources Division and to be processed by the interstate unit, this is not always the case. Branch DSS offices were said to "all too frequently" place a child directly into an out-of-state setting, prior to notifying the interstate unit, and into facilities which are not approved by the Child Care Resources Division.

Although placements are characteristically made into foster family homes and facilities which are licensed in their own state, it appears that notification of placement, verification of licensure, and request for payment frequently occur after the child has left the state. The Upper Peninsula branches were found to engage in this practice most frequently. DSS offices in that area were reported only to be willing to notify the interstate unit of placements after they had been accomplished. While payments have not been disallowed to date for retroactive notification of placements into uncertified facilities, it is anticipated that this will occur if supported by the DSS administration. The Upper Peninsula was said to be the site of enduring compliance problems because of the lack of resources in the area and because of the remoteness of this area from DSS leadership.

Parental referrals to local DSS offices can also result in placement and supervision out of Michigan. Procedures for these cases were said to be similar to those used for court wards who are placed under DSS care and supervision.

Within the interstate unit, respondents said that there is little or no way to systematically detect movement of children across state lines by local DSS offices or probate courts. Placement of state wards are probably best monitored, but placement of court wards, especially to relatives, frequently go undetected. Out-of-state placements with relatives have been of particular concern recently because some courts have been terminating custody of these children, leaving them in ambiguous legal statuses. The jurisdictional position of DSS in relation to its responsibility for assuring the child's well-being is also clouded by this practice.

In 1978, 22 of the 83 local courts placed 90 children out of Michigan, at least 72 percent of whom were not processed through an interstate compact. These youth were most frequently adjudicated delinquents, but they also included dependent court wards, unruly or disruptive youth, and mentally ill or emotionally disturbed youth. Courts arranging more than four out-of-state placements most frequently sent these children to residential treatment and child-care facilities, foster homes, and boarding or military schools.

In another vein, the management information system within OCYS was described to be deficient. It has become the object of current efforts to improve its relevancy to agency decisions. At the time of the study, OCYS had no way of knowing how many out-of-state placements of court wards were being made by either courts or local DSS offices. These latter placements involve DSS paying 50 percent of placement costs. Similarly, OCYS could not detect whether court wards were placed in approved facilities by local courts or its own branch offices. This is largely due to the fact that OCYS only formulates a general contract with out-of-state facilities, making them "eligible" to receive Michigan children. The office has no role in the preparation and approval of contracts for services to individual children, except where required by the policies of specific receiving states. Some of these general contracts were described to be years old and of unknown status or quality, given present standards for child care institutions.

Because of confusion that occurs over a child's status, the difference in policies for different cases, and inconsistent reporting, coordination for regulation and monitoring of out-of-state placements are less than desired. For this reason, it was said that payment for out-of-state placements could be authorized by the Child Care Resources Division without processing by the interstate unit. Similarly, children could be placed out of state by local courts without anyone in state government being aware of it.

Because the interstate unit is administratively removed from the DSS branch offices, systematically gathered information regarding compliance with departmental policies must be received from Field Services Administration reports. Said one Delinquency Services Division official, "We're a long way away from detecting and correcting problems effectively." In acknowledging that some local courts and DSS agencies will never consistently comply with out-of-state placement policies, an interstate unit official commented, "It would be nice to have something as simple as the names of kids in out-of-state placement and the kids who are in supervision here." However, it is clear that even rudimentary information was not available through central sources in DSS.

Education

The Michigan Department of Education (DOE) is statutorily prohibited from directly or indirectly expending public education funds for private educational services.[11] This prohibition was reported to have been designed to prevent public support of parochial institutions. The restriction applies to special education funds and this was reported to have effectively prevented the placement of any children out of Michigan through the education system for extended periods of time.

Michigan established a legal basis for the mandatory education of the handicapped in 1971, prior to the passage of federal P.L. 94-142. The Michigan Mandatory Special Education Act established a service needs assessment procedure, whereby education planning and placement committees (EPPC) in the intermediate school districts evaluate special education needs among pupils and

prescribe individualized programs for service.[12] With the passage of P.L. 94-142, the existing EPPCs assumed responsibility for formulating the federally mandated Individualized Education Program (IEP) for each child found to be eligible for service. In essence, Michigan had many of the policies in place for participation in the federal program prior to its passage.

If a court or state ward is placed in a private child-care institution in Michigan by the probate court or the DSS, these agencies are responsible for all costs except those associated with educational services. This is provided in the local school district, when appropriate, or by the provision of ongrounds teachers by the local school district. Exceptions to this policy exist for selected institutions, where DSS has agreed to purchase privately provided educational services at its own expense.[13]

Conventional educational services, provided within state residential treatment facilities operated by the Institutional Services Division of OCYS, are paid out of that division's operating budget as appropriated by the legislature. However, special education services are paid by DOE (through DSS). This arrangement has been accomplished by making DSS an intermediate school district with all of the rights and responsibilities of other geographically defined intermediate school districts.

Educational services and programs for the developmentally disabled in DMH-operated facilities are operated through the intermediate school district in which the facility is located. Funding is from DOE to the school district, based upon pupils in residence. Special educational programs in the state hospitals are provided by DMH, and are funded by appropriation from the legislature and through state-aid payments from DOE. The direct appropriation is necessary because the DOE state-aid payments do not cover the full cost. DMH employs the education staff for the state hospital programs which operate as a school district.

The financial arrangements for providing educational services in DSS and DMH are supported by interagency agreements and are subject to periodic review. In addition, intermediate school districts and local school districts are reviewed annually and are evaluated every three years for compliance with state law and with P.L. 94-142.

From a special education administrator's point of view, the probate courts' placement practices contain a tangle of governmental involvements. Viable interagency agreements between school districts and detention homes attached to the probate court were said to be precluded by the absence of clear rules about what agency is to operate the school program. In some detention homes, schools are operated by the court, while in others by the intermediate school districts, by local school districts, or by some combination of local education funds, county funds, and DOE appropriations.

Inroads into the regulation of private schools were described to be difficult to develop for similar reasons of intergovernmental responsibility, particularly with regard to licensure and certification. DOE is responsible for assuring that boarding schools have licensed teachers and that they offer curricula comparable to those offered by the school districts in which the private institutions exist. The DSS and DMH license nonpublic child-care

agencies and psychiatric programs, respectively, which invariably contain some educational component that is not subject to DOE scrutiny.

In a similar vein, DSS purchases services from private institutions, which normally include an educational component. Because of the fact that it is unknown how many of the children in these institutions are functionally eligible for public special education services but legally ineligible because of the private placement setting, this expenditure of DSS money for private education is believed by some DOE officials to possibly be unconstitutional. This interpretation stems from the fact that, as previously mentioned, Article 8, Section 2, of the Michigan constitution prohibits the expenditure of public funds for private classroom services.

Payment for special education services varies, depending upon the legal and resident status of a child. Generally, the DOE reimburses local school districts for about 37 percent in excess of their basic share of funding. If a child is placed in another school district in their home county, the local agencies simply transfer the funds allotted for the education of that child. If a child must be placed in another county, due to special services prescribed by the IEP, or because of foster placement by a court or DSS, the receiving school district is responsible for educational services, and is paid in full out of the state's revenue fund to eliminate intercounty billing and transfer of funds.

Because of the statutory prohibition against public funds supporting private schools, the DOE does not engage in either out-of-state program certification or monitoring of such programs. The DOE staff does monitor the use of public funds by receiving annual fiscal reports required of each intermediate school district, to assure that funds are expended within the law. In addition, intermediate school districts must report the number of children in nonpublic schools and their attempts to monitor those schools within their jurisdictions. In this way, there is some general awareness within the department when students leave public schools to receive private classroom services.

Because private educational institutions are ineligible for public education funds, a complex series of events takes place in the intermediate and local school districts to meet some children's service needs. Locally, the needs of the learning disabled, retarded, and low-incidence sensory impaired were reported to be satisfactorily addressed by the public special education apparatus and through contract with mental health organizations. However, emotionally impaired children and adolescents cause significant service problems. Acting-out and aggressive behavior in school by emotionally disturbed youth was said to often result in expulsion. The juvenile courts are notified when this occurs and the courts will then frequently place these children in foster care, often in another school district. The child subsequently reenters the public school system in that district and the process of expulsion and court involvement may start again. The net result, it was reported, is a class of disturbed youth moving among school districts in a revolving door syndrome.

A process short of expulsion was also described by persons interviewed. This involves problem children, for whom there are no resources, being "counseled out" of school or being removed by their parents at the encouragement of school personnel. This latter tactic was said to constitute nonenforcement of attendance laws and was described to frequently occur.

Children who are emotionally impaired are also placed in juvenile detention homes because their disruptive or aggressive behavior in school has culminated in some violation of law. The State Special Education Code and two county plans that were examined verify that children may be automatically regarded as emotionally impaired and eligible for special education services because disruptive behavior has resulted in their being placed in detention facilities. The practice of placing emotionally impaired youth in detention was very disturbing to a principal of a school in a large detention home. At the time of the study, it was reported that approximately 37 percent of the children in this particular detention center had been identified as emotionally impaired. The principal noted that the court and DSS knew that many of these children were inappropriately placed in detention. Nonetheless, he said, the emotionally impaired are placed in detention because there are extremely limited educational and treatment resources to deal with difficult children in the area outside of the detention facility.

Intermediate school districts and local school districts are allowed to contract with private agencies for some noneducational services which are not provided by public schools. Agreements of this type would provide specialized or low-incidence services to eligible children, such as physical therapy or mobility training, and would be paid for by the contracting education agency with special education funds. Five such placements were made out of state in 1978 for special diagnostic services. Parents placing children in private schools must assume full financial responsibility. However, if parents have been offered what they believe to be an education inappropriate for their child, they may claim that they have been forced to seek private educational services. In such a case, due process procedures are available to the parent to assure that the public education system fulfills its legal responsibilities of providing an appropriate program.

Local special education programs may also indirectly contribute public funds to private education. In attempting to provide services to difficult children, contracts are made by school districts with local mental health agencies. Under these agreements, the local mental health agency is reimbursed for the educational portion of the cost of maintaining an emotionally disturbed child in a private institution. In this way, educational funds sometimes pass through the local mental health system to private agencies. Direct contracting also occurs with private agencies by school districts for such auxiliary services as vocational rehabilitation, but this was described as acceptable because the funds reportedly do not support private educational services.

Mental Health and Mental Retardation

As described earlier, the Department of Mental Health administers state facilities and supervises county mental health boards in Michigan. Temporary admission to state facilities for children may be obtained by parents, if such action is determined to be suitable by hospital staff. However, minors may not

be judicially committed to state facilities and, regardless of how children enter the hospitals, they can file formal objections with the probate courts for release, if they are over 13 years old and believe they are inappropriately held.

Interstate movement of children between public mental health institutions are supervised, processed, and monitored through the DMH's Interstate Compact for Mental Health (ICMH) administration. Both state facilities and local boards were said to be under the purview of ICMH. However, compact usage by local mental health boards was reported to be rare because the services they provide are often privately contracted or outpatient in nature. The DMH does not have policies for the movement of children either in or out of the state except for the interinstitutional transfers covered by ICMH. Similarly, counties that were visited in the course of the study did not have written policies for out-of-state placements, and reportedly handled placing children in other states on a case-by-case basis.

The DMH has adopted two fairly different strategies for delivering residential services to children. For the developmentally disabled, community-based resources in the form of group homes and specialized foster care have been developed to the extent that there is a very strong trend away from institutional care. The most severely impaired cases are still treated in institutions, and they do not constitute a target group for community-based services. Because of this system of community and institutional care, no out-of-state placements to contracting facilities for these types of children were said to have occurred over the past year. However, it was reported that developmental disability district centers do arrange for a small number of out-of-state placements for parents, without the knowledge of regional or central office officials. Youth, in effect, are discharged to an out-of-state setting after Medicaid and SSI eligibility has been established, and the center informally arranges for care in the receiving state. These youth generally move with parents who are leaving the state, or go to relatives at the location of the desired services. These transfers are not processed through the ICMH because they do not involve public institutions or public aftercare in receiving states.

Practices in relation to emotionally disturbed children are in stark contrast with those for the developmentally disabled. DMH facilities with inpatient units for mentally ill children frequently have long waiting lists because of the relative absence of community-based treatment alternatives. There was reported to be little foreseeable change in this condition. As a result, DMH facilities contract with private child care institutions and residential schools in other states, subsequent to contract approval by the regional DMH office. One of the state's DMH hospitals reported maintaining contracts with private institutions in four other states to purchase services for as many as 15 children. It was also reported that all state hospitals are eligible to undertake such activity. Data was not readily available on the utilization rate of these out-of-state facilities; it was reported by DMH that all such placements are not processed by ICMH. There is no systematic gathering of information about such placements at the state level. The regional offices appear to be the highest administrative level having the information necessary for planning, monitoring, or decisions about out-of-state placements. Information on the involvement of the state office in arranging, funding, or otherwise having knowledge of out-of-state placements in 1978 was not available.

A state DMH official portrayed the process of placement into out-of-state institutions as frequently being out of compliance with policies set up to protect children sent to them. It was heard that the required thorough evaluation of out-of-state institutions rarely includes an on-site visit. Rather, workers rely primarily upon brochures and written assurances provided by the receiving facilities. The same official stated that DMH facilities are often in violation of their own contracts with the out-of-state providers because they do not make monthly follow-up visits, as required by agreements approved by the regional office.

Because of the lack of community residential resources, it was reported that children who have episodes of emotional disturbance because of family stress, or children who are only mildly disturbed, are admitted to DMH facilities. These children were said to be subject to the stigma of having been in the hospital and become tracked into a system which was felt should be reserved for only the most disturbed cases. One state official expressed especially strong concern about children being inappropriately admitted to state facilities for transitory or marginal disorders and subsequently being subject to the possibility of out-of-state placement. This respondent also pointed out that the lack of local residential resources and waiting lists for DMH facilities also causes children to inappropriately end up in juvenile detention homes if their behavior brings them to the attention of the court.

Marginally disturbed children and those with minimal or "transitory coping" problems were said to frequently be placed in larger child-care institutions both in Michigan and in surrounding states. Said one state official, "I'm almost sure that because we lack alternatives, we place children into beds and not programs."

The local boards play a strong role in this placement process by providing the evaluative and referral functions that first route children into the state system. The boards do not have a history of aggressively providing a full range of mental health services to children. In general, the boards were described to be slow to respond to children's mental health needs because of DMH program policy guidelines. These have been interpreted to place a priority on services to adults. Typically, they rely upon the DMH to fulfill residential mental health service needs which arise. Kent and St. Clair Counties were described to be exceptions to this rule.

Although boards are not licensed child-placing agencies, they do arrange and fund residential placements and they are informally involved in placement decisions by other agencies. The boards are to be licensed by DSS if placing into private foster homes. Parents, the courts, or DSS would be the custodian of children placed by these mental health agencies. Compact personnel in DMH reported that if a county program placed children out of state, it would be the county board's responsibility to ensure that the child's safety and rights were protected. There were no formal policies in the counties that were visited to regulate the involvement of mental health personnel in out-of-state placements. Informal "close to home" and "least restrictive" policies were said to govern the selection of placements.

Five of the 55 local mental health agencies were involved in out-of-state placements in 1978, placing 16 children out of state. All ten placements for

which destinations were reported went to states contiguous to Michigan. One agency said that out-of-state placements were arranged because the receiving facility was closer to children's homes, despite being across state lines. Most of the reported out-of-state placements were arranged by mental health agencies in the Upper Peninsula in cooperation with other public agencies. During the case study, very close working arrangements were found to exist between some courts and mental health agencies and, as is characteristic for mental health agencies, recommendations as to specific placements are made after evaluation.

Wayne County is an exception to this arrangement, in that the probate court operates its own Child Study Clinic, with partial funding from the Detroit-Wayne County Mental Health Services Board. Aside from the very few community residential openings that may be available, children are characteristically placed in state psychiatric facilities when the need for residential care arises. Post-hospitalization care is provided by child care institutions or on an outpatient basis. The latter alternative is said to be the cause of unnecessary rehospitalization or referral to the probate court because of the insufficiency of this approach to the treatment and supervision needs of some children. The inability to involuntarily detain youth 13 years old or older for mental health treatment was also described to be the cause of frequent rehospitalization and juvenile court proceedings for a select group of children, especially older adolescents. These youth were said to elect premature discharge from a hospital, only to again come to the attention of mental health or law enforcement officials because of continuing emotional disturbances.

Mental health boards, especially in Wayne County, have been attempting to respond to the severe lack of local residential settings for disturbed children, but they have been inhibited by funding patterns which do not encourage the development of these services. For example, approval must be received from the county commissioners for allocation of the boards' ten percent share of program costs. It was said that although it would be a priority consideration, there is no guarantee that DMH could raise the 90 percent portion of program costs even if the county commissioners appropriated their share.

Among mental health officials, there is clear recognition of the lack of community-based residential alternatives at the state, regional, and county levels. Some plans have been put forth, most notably in Wayne County, to develop a continuum of specialized foster family care and group home care. The Detroit-Wayne County Mental Health Services Board has also contributed to the interagency Metro-Youth program for severely disturbed inner-city youth, but the residential component of the programs was not operative at the time of the study.

Some opinions expressed suggested that mental health service development was also slowed by Michigan's highly developed special education program. The special education code was described to be so inclusive and its implementation sufficiently rigorous that the educational sector has absorbed many of the traditional functions of mental health services. The liberal utilization of psychologists and social workers in special education programs was said to have taken the pressure off the boards to develop broad and intensive programs for children.

In general, then, local boards continue to rely upon very limited residential care settings, dealing mostly in outpatient services, while DMH relies upon

state or private institutional services. Out-of-state placement activity in the county agencies are informally regulated at the board level, without DMH oversight, and DMH placements were said to be inconsistently regulated at the regional level.

ISSUES

In terms of organizational issues, one of the most visible features of Michigan's system is the duality of delinquency and neglect services operating between the probate courts and DSS offices. The acting director of OCYS, in a report to the legislature, identified this dual system as an obstacle to effective service delivery to children.[14] The different classifications of children resulting from the system, including court-supervised court wards, DSS-supervised court wards, and DSS-supervised state wards, were said to have no practical meaning when one examines the type of youth served in each group and the nature of services provided. While this may be true for in-state services, this finding is not confirmed by the Academy's study of out-of-state placement services. Only state wards are subject to policies requiring individual approval for out-of-state placement to facilities that must have been inspected and approved by the OCYS' Child Care Resources Division.

In addition, fiscal incentives to bring children under state wardship from the courts, and subsequently under these out-of-state placement policies, are diminished by the DSS policy against using AFDC-FC funds for out-of-state placements. As stated earlier, county child care funds are relieved of placement costs for children who are referred to state wardship and who are eligible for AFDC-FC funding. However, there is no fiscal incentive for courts to refer AFDC-FC eligible youth to state wardship who are candidates for out-of-state placement because the federal AFDC-FC funds cannot be substituted for the county's share. Accordingly, the availability of certain types of funding for out-of-state placements may be a determining factor in the legal status of some children and the types of policies governing their placement out of Michigan. This phenomenon exists for in-state placements as well. The previously cited progress report from OCYS to the legislature notes that because of multiple funding systems for foster care, "Often a treatment decision about a child will be influenced by his/her eligibility for specific types of funding."[15]

An additional concern arises here about the susceptibility of courts to incentives established by DSS to gain more influence over case management decisions. At least one court that was visited may be expected to consistently defy any attempts by DSS to gain greater control over services decisions for children, despite the presence of incentives to bring DSS into the child care picture.

Within DSS it was discovered that branch offices exercise considerable autonomy in the implementation of policy. This sometimes loose relationship between the central DSS office and the branch offices was reported to exist by design, reflecting a politically based philosophy of qualified control over semiautonomous units. Indeed, the county offices can appear to the untrained eye to be

independent of the state department, owing primary allegiance to local government. Although this may be an effective strategy to increase the appropriateness of services to specific communities, it can also work to the detriment of effective implementation of equal standards and uniform services. This is seen in the case of DSS out-of-state placement policy implementation, where fluctuations in local staff compliance with policy cause children in exceptional placement situations to be subject to differing degrees of processing and oversight by the state agency.

Another organizational characteristic that affects out-of-state placement practices exists in the OCYS structure. Certain staff units are charged with policy and program implementation without line access to service operations in the counties. Over time, the Neglect Services Division and the Delinquency Services Division have lost the ability to effect direct change in their programs at the county level. Their influence has been cut back to the point where these divisions serve as policy and program support staff to the director, no longer having direct administrative leverage in the field. Specialist positions for services to children operating in DSS branch offices and which were responsible to OCYS were eliminated by the DSS in 1979. Although this certainly affects the degree to which the divisions can have direct impact on service quality, it is especially cogent to DSS out-of-state placement practices because the administrative apparatus for enforcement of these policies is located in the Delinquency Services Division. In deleting line authority from OCYS, the administration, maybe inadvertently, made a statement about the importance of enforcing out-of-state placement policies. This might also be expected to have some affect upon the way local agencies relate to the yet-unadopted ICPC, since it will likely be administered with existing interstate placement policy by the Delinquency Services Division.

With regard to this location, it is interesting to note that interstate consultation with regard to placement of dependency and adoption cases is now elicited from the Neglect Services Division which, beyond this involvement, appears to be entirely out of the business of out-of-state placement processing or oversight. The Neglect Services Division has also not been involved in the active legislative support of the ICPC and was not mentioned as a likely location for compact administration if the measure were to pass in the legislature. It should be noted that although the Neglect Services Division seems not to aspire to administer the ICPC, it does support its passage. At the time of the study, no decision had been made by DSS as to the eventual administrative location of the ICPC if passed by the legislature.

Another important organizational issue involves the split system of service delivery in the area of mental health. DMH takes primary responsibility for inpatient care while the semi-autonomous local boards provide primarily outpatient services in their catchment areas. This split in services has been the cause of considerable concern among DMH officials because it is thought that boards "drop the ball" on cases once they are placed in state hospitals, and turn their attention to other concerns. Unification policy grew out of this phenomenon and seeks to bring outpatient local services and inpatient hospital care under the purview of the mental health boards' administration. This is a voluntary program in which boards may participate, but it was reported to be

receiving less than enthusiastic response from the local administrations. Accordingly, in nearly all areas, the bifurcated system of state institutional care and local outpatient care remains.

Along with this split system exists fragmented out-of-state placement policies and practices both among state and local agencies. DMH's out-of-state placement policy is reportedly managed with varying degrees of effectiveness in the regions, but management information is not systematically provided to the administrator of the agency. Local out-of-state placement decisions, arrangements, and payment are determined in ways that are regulated by each board, or not at all.

Another issue in Michigan's child care system is the underdeveloped resources for the emotionally disturbed child. Residential care alternatives, either with relatives or in foster family or institutional settings, were reported to be lacking by all service areas that were contacted. Incarceration in detention facilities of youth who are known to be emotionally impaired is common in Michigan, and this practice was said to frequently occur because of the lack of alternative resources. The practice is sufficiently prevalent that the DOE has formally codified provisions making children incarcerated for behavior disturbances eligible for special education services under the criteria for emotional impairment.

There is an admitted lack of intermediate residential services for emotionally impaired children among state and local mental health officials. The lack of money for new programs and aggressive programming for these children by special education agencies was described as the major cause for this gap. Special education programs are not empowered to completely close this gap because they do not provide 24-hour care and cannot infuse money into the private sector for program innovation. As a result, continuity of services for emotionally disturbed children is seen as a significant problem, and this is suspected by DMH officials to operate as an incentive to out-of-state placement.

Among respondents in OCYS, DMH, and DOE, as well as in probate courts, the private sector was described to be very unresponsive to the lack of residential alternatives for difficult children. It was commonly heard that private agencies selectively accept those children who are easiest to care for, and tend to reject those children for whom more intensive residential alternatives are most lacking. The continued support of private sector agencies is expected to become increasingly contingent upon their willingness to accept those difficult cases. Discussion is under way within OCYS regarding a strategy for restricting the types of children that can enter child-care institutions. The objective is to route children appropriate for foster family care out of the institutional system and children needing intensive residential services into it.

It may be apparent by this point that there is an inconsistent environment for regulating out-of-state placements among Michigan agencies serving children. It has been said that the bureaucratic location of the DSS interstate unit does not highlight the importance of its policies or empower direct enforcement among local DSS offices or probate courts. Observations were also offered by local officials that the interstate unit was often quite slow and ineffective in carrying out its tasks. This failure was often cited as the cause for noncompliance with interstate placement policies. County DSS officials reported

that they were unwilling to allow a child to languish for weeks in inappropriate placements when positive and constructive placements could be directly made out of state. Similar concerns were expressed by court services officials. As a result, local autonomy and the performance of the interstate unit further diminishes its utilization.

Regulation of out-of-state placements by mental health agencies has also been described as fragmented and only partially effective, primarily at the regional DMH office level. The DMH reportedly does not, through its extremely detailed matching regulations, foster monitoring and reporting of board or contracting agency involvement in out-of-state placement decisions. DMH personnel in charge of administering the ICMH described frustration with this system. These officials reported that they could not become involved in most out-of-state placement activities by mental health agencies because of the inapplicability of ICMH for placements in private facilities. They also noted recalcitrance on the part of mental health agencies in other states to receive Michigan placements into public programs. Placement of children into facilities of this type in other states was said to often require some informal assurance that Michigan officials would reciprocate by facilitating placement of a child from the receiving state into a Michigan DMH facility.

Utilization of licensed residential settings in Michigan is similarly fragmented in some areas, with DSS using regulated adoptive, foster care, and child-care institutional settings, but being unable to assure that court placements consistently go to the regulated settings. The same situation exists because of DSS's inability to assure that out-of-state placements arranged by courts go to approved child-care institutions, or foster settings which are licensed in their own states, even though some OCYS officials feel that the juvenile code probably requires such approval.[16] In addition, the courts, DSS, and DMH make placements into residential settings in and out of the state having educational components which are minimally or not subject to DOE certification and licensure.

CONCLUSIONS AND RECOMMENDATIONS

Several major themes are present in the recommendations that were received by respondents throughout the Academy's research in Michigan. Those themes appear below, followed by a discussion of agency-specific recommendations and an overall assessment of the condition of residential services for children in the state.

The most frequent recommendation called for increased efficiency and effectiveness by the OCYS interstate unit in processing placements out of Michigan. Respondents who infrequently worked with the interstate unit in arranging out-of-state placements observed that they would probably use the compact more often if it did not involve so much paperwork and time delay. One branch DSS official was unsure that anyone in the central office understood the implications of the time delays caused by the unit for children waiting for out-of-state placements. In the process of demonstrating the exhaustion of

Michigan resources, this respondent reported being instructed to return to previously foreclosed placement alternatives for a second refusal. There was also reported to be utter confusion as to who is responsible for the identification of the placement setting. It was recommended that this responsibility be clarified and that local or branch agencies have direct contact with receiving agencies to facilitate the placement process.

Within OCYS and the interstate unit itself, the need for increased authority over and access to courts and branch DSS offices was observed as a means for improving enforcement. Generally there was a call throughout the state for reporting all out-of-state placements involving courts and DSS branch offices, especially in the Upper Peninsula, Wayne County, and some border counties which most often place children into other states without DSS policy compliance. The eventual installation of ICPC is hoped to be instrumental to these objectives, because of heightened visibility of the out-of-state placement issue and increased legal sanctions for existing policy.

DMH officials also noted poor management of out-of-state placements involving mental health board agencies and DMH facilities. They called for an expansion of the purview of the ICMH to cover placements to both public and private settings which are supported by DMH funds.

Three state officials in the DSS and DMH who are responsible for managing child placement policy called for a complete halt to out-of-state placements. This would be accomplished, if they prevail, through the development of local community-based prevention and placement services. By providing adequate services in Michigan, they argue, the search for resources outside of Michigan would be precluded.

A second major theme in the respondents' recommendations related to the availability of residential placement resources. Many respondents called for the realignment of private residential programs. The thrust of such a move would be to require private providers to accept those children who are now very difficult to place. The objective underpinning this strategy is to redistribute children among available settings so that hard-to-place children receive appropriate residential care, while those children with less-demanding service needs are handled in foster family care. Aggressive acting-out girls and older adolescents were noted as especially difficult cases to place appropriately. To gain service for these and other types of children, a strategy was recommended that would place as many children as possible with foster families, forcing private agencies to address a more needy population. A program of support to parents through parent aides, trained volunteers, and lay counselors was advocated to prevent out-of-home care. Furthermore, it was proposed that therapeutic and assistance services to foster families be "put on wheels" so that staff could visit the homes on a regular basis.

Another major area of concern involved the availability of resources, specifically the response of mental health agencies to the needs of emotionally disturbed youth. Respondents uniformly observed that increased resources for this group is greatly needed. As yet, there appears to be no formalized plan to respond to this need. The unification of DMH facilities and currently operating board programs is likely to decrease board reliance upon DMH for residential services, but may not fundamentally change the way that disturbed children are

receiving services. One DMH official recommended the development and implementation of a statewide program to provide care in community-based specialized foster families and group homes. Formulae for local matching funds, existing state policies, and the intense opposition to these policies, especially among state hospital administrators, were identified as major roadblocks to the implementation of such a plan.

Territorial disputes within divisions of DSS and between DSS and the courts were the topics of several suggestions. The administrative inaccessibility of branch office operations by OCYS program staff was noted as a significant problem for assuring DSS policy implementation. It was suggested that the field staff which used to represent OCYS in the counties be reinstalled. Other OCYS officials recommended that direct services workers be better trained in child welfare services and that direct contact between OCYS and county staff be increased and improved. An alternative strategy to improve influence over the DSS branch offices involves the development of some oversight mechanism, such as a program review committee that could make more authoritative and direct recommendations for change.

On another front, some court officials observed that the DSS administration has little leverage over its own branch offices. However, no recommendations were made to change this situation. This is not surprising, given the relationship between the executive agency and the courts in many areas. In response to this conflict regarding authority over child care services, local DSS officials called for at least a clarification of authority in this area. At the state level, DSS officials took this one step further by recommending the reduction of the independence of the judiciary with regard to the services that court wards receive. Court staff, however, saw no cause for the reduction of this independence and argued that better decisionmaking with regard to services for children occurs in the probate courts than has gone on within DSS.

In the mental health system, a recommendation was made to implement annual programmatic and fiscal reviews of local board performance by DMH regional offices. The transfer of responsibility for monitoring residential placements in Michigan to the DMH regional office closest to the area of placement was also recommended. This does not presently occur, with the office having jurisdiction in the child's area of family residence maintaining this responsibility. This practice was said to cause inconsistent tracking of a child's progress in placement. Only one mental health respondent advocated the unification of hospital and board services.

In the area of educational services, a DOE official felt strongly that a systematic effort should be made to reduce the incidence of "drop-outs" or "push-outs" from the public school system. It was argued that appropriate services could be provided for difficult cases, but only limited attempts to do so had occurred to date. The installation of a more effective certification program for private schools, with clearer expectations for services and accountability, was felt to be desirable. This effort, as well as the unification of school programs in detention facilities, would be designed to help attain the larger objective of assuring comparable educational services for all children, regardless of where they reside or their legal status.

Finally, because special education administrators suspect Michigan to be receiving large numbers of children from other states, the development of a compact-like midwest educational consortium was recommended. This recommendation comes in response to known cases of children entering private residential programs in the state with full funding, including the education component, from out-of-state agencies, only to be bused out to local school districts to be educated at DOE expense. Comparable consortia now exist in the New England and Rocky Mountain states in similar fields. It may be, however, that the passage and coordinated administration of ICPC could reduce this loophole.

The struggles with Michigan's residential child care system exemplify contemporary trends in delivery of services to children. For instance, there is a growing effort to transfer authority for neglect and delinquency services from the courts to executive branch agencies. In the mental health system, the interest in transition from traditional institutions to a stronger community orientation is evident. The special education system's prohibition against public expenditure for private educational services constitutes an issue in Michigan which is common to other states.

At the same time, there appear to be some very positive efforts for change. It should be pointed out that aggressive policy proposals seem to be emerging which are intended to spearhead the advancement of child residential practices in general. In the long run, these will clearly affect practices related to out-of-state placements. For example, the Temporary Foster Care Project, being conducted by the Neglect Services Division, is demonstrating that a substantial portion of children in foster care can be either returned to their parents or have the benefit of aggressive permanency planning within six months of removal from the home. This effort is augmented by the Child Care Resources Division's effort to develop uniform criteria for out-of-home care and for intensifying programmatic review of agencies receiving children. Further, the proposed juvenile code revision provides that all placements out of Michigan will be only to DSS-approved facilities. An OCYS official said that on-site inspections will be required for such approvals. Finally, the proposed foster care review system and the possible installation of ICPC add to a constellation of policies that can strongly encourage the reduction of out-of-home care and out-of-state placements as well. It would appear that some resolution of the conflict between DSS and the courts, and an expansion of the sparse residential resources, particularly for mentally disturbed children, is needed for the overall system to move forward toward appropriate, adequate, and comparable services to children placed in residential settings in and out of Michigan.

FOOTNOTES

1. Michigan Compiled Laws Anno., Section 400.55 et seq.
2. Michigan Compiled Laws Anno., Section 330.1134.
3. Ibid., Sections 330.1130 and 330.1132.
4. Ibid., Section 116(e)(ii).
5. Interagency statement on coordination of services for children returning to communities from state mental health facilities, Department of Social Services, Department of Education, and Department of Mental Health, September 25, 1978.
6. Michigan Compiled Laws Anno., Section 3.701.
7. Michigan Department of Social Services Manual Bulletin, No. 78-23, effective 10/1/78. Placement Services.
8. Ibid., Item B-435, p. 4.
9. Michigan Department of Social Services Manual Bulletin, No. 78-12, effective 6/1/78. Delinquency Services.
10. Ibid., Item B-385, p. 1.
11. Michigan Constitution, Article 8, Section 2.
12. Michigan Compiled Laws Anno., Section 340.298c.
13. As supported by interdepartmental correspondence between the Michigan Department of Social Services Office of Children and Youth Services and the Michigan Department of Education, March 29, 1979.
14. Michigan Department of Social Services, Office of Children and Youth Services, Progress Report to the Legislature (Lansing, Mich.: 1979).
15. Ibid., p. 12.
16. Michigan Compiled Laws Anno., Section 712A.16(2).

NEW JERSEY CASE STUDY

ACKNOWLEDGMENTS

The Academy staff gratefully acknowledges the assistance of the many New Jersey state and local public officials who gave us their time and cooperation in obtaining information for this case study. It is with much appreciation that we cite the following people for their help in our endeavor.

Dennis Beyer, Probation Officer
Essex County Probation Department

Richard Crane, Chief
Bureau of Licensing
Division of Youth and Family Services
Department of Human Services

Terry Edwards, Chief
Juvenile Justice Programs
New Jersey Law Enforcement Project

John J. Enright, Chief Probation Officer
Morris County Probation Department

Fred Fant, Assistant Director for Probation
Administrative Office of the Courts

Kathleen Fazzari, Research Assistant
Office of Legislative Services

Moira Fenton, Supervisor of Child Study
Office of Morris County Superintendent of Schools

Bob Fisler, Probation Officer
Camden County Juvenile Probation Department

Leonard Fitts, Director of Special Services
Camden City School District

Gene Goldmen, Supervisor of Child Study
Office of Warren County Superintendent of Schools

Deborah Hanson, Chief
Bureau of Interstate Services
Department of Corrections

Paul Hargrave, Principal Probation Officer I
Camden County Juvenile Probation Department

Herb Jaffe
The Star-Ledger

Lucy Keating, Bureau Chief
Bureau of Children's Services
Division of Mental Health and Hospitals
Department of Human Services

Maurice Kott, Director
Division of Mental Retardation
Department of Human Services

Thomas E. Lynch, Jr., Assistant Commissioner
Division of Community and Juvenile Services
Department of Corrections

Judith McCabe, Supervisor of Special Education
Newark Board of Education

Eugene McGrath, Principal
Probation Officer I
Camden County Juvenile Probation Department

Connie Mercer, Project Director
Interstate Consortium Project
Office of Children's Residential Services
Department of Human Services

Harold Moore, Director of Special Education
Newark Board of Education

Janet Moyer, CIP Coordinator
Camden County Juvenile Court

Robert Nicholas, Director
Office of Children's Residential Services
Department of Human Services

Jeff Osowski, Supervisor for Special Services
Child Study Team
Belvidere Public Schools

Harold Rosenthal, Deputy Director of Program Operations
Division of Youth and Family Services
Department of Human Services

Robert C. Rudewick, Chief Probation Officer
Warren County Probation Department

Virginia Schnorbus, Supervisor
Residential Field Operations
Division of Youth and Family Services
Department of Human Services

Eleanor H. Seel, Research Associate Aide
Senate Institutions, Health and Welfare Committee
Office of Legislative Services

Arthur Shapiro, Coordinator for Private Schools for the Handicapped
Division of School Programs
Department of Education

Rex F. Shaw, Director
Department of Child Guidance
Newark Board of Education

Eileen Ware, Consultant
Northeast Regional Resource Center

Bernard White, Deputy Director
Division of Mental Retardation
Department of Human Services

Jean Whitmire, Supervisor
External Inquiries Unit
Office of Program Operations
Division of Youth and Family Services
Department of Human Services

Richard H. Wilson, State Compact Coordinator
Office of Institutional Services
Division of Mental Health and Hospitals
Department of Human Services

Linda Wood, Executive Director
Association for Children of New Jersey

Marilyn Zwarych, School Social Worker
Belvidere Public Schools

INTRODUCTION AND METHODOLOGY

The significant involvement of the New Jersey executive branch in the development of public policy on the out-of-state placement issue greatly influenced its selection for case study. The issuance of a governor's mandate, restricting

some public agencies from placing New Jersey children more than 50 miles from the state borders, has distinct bureaucratic, administrative, and service implications.

New Jersey was also selected for case study in order to gain more information about issues surrounding the use of interstate compacts. The state is not a member of the Interstate Compact on the Placement of Children (ICPC). The administrative procedures used to safeguard any children sent out of state were, therefore, of particular interest.

Finally, New Jersey's location in the highly populated northeastern region of the country added to its appeal for study. Preliminary research on the use of private facilities for residential care of children in that area of the United States showed a strong interstate dependence. The close proximity of New York City (the country's largest metropolitan area) and Philadelphia added to the reasons for the selection, especially considering the possible interdependency among these areas in the provision of residential services for children.

Initial interviews were undertaken with officials in state government. These individuals were in positions involving policy formulation, administration, and planning for public services to youth. In addition, those persons knowledgeable about out-of-state placement policies and practices, such as news editors, child advocacy groups, and legislators, were interviewed. The list compiled represented the relevant service areas in state and local governments.

The specific sites in which the Academy staff would carry out case study interviews were selected through a set procedure. These sites were chosen in an attempt to obtain representative views of governmental involvement in out-of-state placements. Therefore, after conducting interviews in the state capital, Trenton, Academy staff members visited local agency personnel and other knowledgeable persons in the highly urbanized counties of Camden and Essex (Newark) and two less-populated counties, Warren and Morris. It should also be noted that Camden County is immediately adjacent to the greater Philadelphia area and Essex County is in close proximity to New York City. Supplementary material on the various agencies' involvement and policies about the placement of children was requested from the respondents, including budgets, reports, special studies, and legal citations.

DESCRIPTION OF THE STATE

New Jersey is one of the states which makes up the highly populated northeastern portion of the United States. With a 1975 total population of 7,331,100, it ranked ninth in the nation, although it is 46th in geographic size, encompassing only 7,521 square miles. This state and its surrounding neighbors are often characterized as an ever-growing megalopolis which may soon stretch from north of Boston to the southern Washington, D.C., suburbs in Virginia. Currently, New Jersey is the home of persons working in the metropolitan New York and Philadelphia areas, as well as in other New York,

Pennsylvania, Delaware, Maryland, and Connecticut communities. Four of the 12 Standard Metropolitan Statistical Areas (SMSA) of New Jersey include portions of contiguous states. Nearly 78 percent of the state's population lives in either the New York City or Philadelphia metropolitan areas.

This strong concentration of population is reflected in the sharp contrast of the 21 counties' industrial and urban development. Over one-half of New Jersey remains rural and wooded, primarily in the northwest sector of the state. The population among New Jersey's 21 counties ranges from a low of under 65,000 in Salem County to nearly 900,000 in Essex County. The large population concentration in Essex County includes the most populous city, Newark, with a total population exceeding 330,000. Trenton, the capital city, only ranks fifth in the state. Overall, a total of 205 cities and townships have populations over 10,000. The estimated 1978 population of persons eight to 17 years old was 1,289,466.

New Jersey is now one of the most heavily industrialized areas in the country. It manufactures a variety of commodities, including chemicals, textiles, machinery, transportation equipment, and fabricated metal products. The greatest industrial concentration includes New York City and extends in a southern direction from Paterson and Hackensack through Hoboken, Jersey City, Newark, Bayonne, and Elizabeth, to Perth Amboy and Plainfield. A second area has developed around the Philadelphia marketing center and includes the Trenton and Camden areas. The once-popular tourist area of Atlantic City has been recently revived with the legalization of gambling in that area and further urban development is anticipated.

The residents of New Jersey reflect a mixture of cultural and racial groups. Approximately 11 percent of the state's population is black and less than five percent is of Spanish origin. These minority groups more often reside in the urban areas of the state.

In general, New Jersey is an affluent state, ranking 17th in total state and local per capita expenditures. The median New Jersey family income in 1975 of $16,432 placed it fourth highest in the entire United States. It is estimated that 6.9 percent of the state's families were below the poverty level in 1975, which was 2.1 percent fewer families compared to the national average.

DESCRIPTION OF ORGANIZATION AND SERVICES

Child Welfare

The primary social service agency in New Jersey is the Department of Human Services (DHS). This department is responsible for a comprehensive array of services for both youth and adults. Services for children and their families within this umbrella agency are the responsibility of the DHS Division of Youth and Family Services (DYFS). Children who are dependent, abused or neglected,

emotionally disturbed, delinquent, or in need of supervision are the typical clients of DYFS. Among the services DYFS offers for children under its care and supervision are adoption, foster care, and residential treatment. DYFS delivers these as well as in-home services through 31 district offices located throughout New Jersey. It also supervises a network of private providers, contracting for the operation of community-based child care centers, residential treatment facilities, and a variety of specialized programs for children.

The division is divided into bureaus and offices for the administration of its responsibilities. The DYFS' Bureau of Licensing is the unit responsible for inspecting, evaluating, and licensing agencies and facilities serving children and families within New Jersey. This includes licensing child day care centers, private adoption agencies, and county-operated shelters for juveniles in need of supervision. In addition, the bureau inspects and certifies publicly and privately operated shelters caring for dependent, neglected, and abandoned children, as well as all residential facilities and group homes that are under contract with or operated by the division.

The DYFS' Office of Program Operations (OPO) is the unit responsible for developing and monitoring residential programs for children. Group homes and treatment centers for emotionally disturbed, court-referred delinquents and juveniles in need of supervision, and exceptional (handicapped) children are operated by this office throughout the state. Woodbridge Diagnostic Center is operated for the evaluation of youth in need, for 30 to 90 day observation periods. The center provides official child study and educational classification services. The Office of Program Operations also administers a network of group residences and foster treatment homes to serve multihandicapped, physically handicapped, emotionally disturbed, and neurologically impaired children. The Teaching Parent model is being used extensively in these facilities for the handicapped.

An important additional responsibility of the Office of Program Operations is the approval of regular or in-state placements made by DYFS district offices into the above residential facilities or into any other DYFS-approved facility or home. "Exceptional" or out-of-state placements were reported to be centrally approved by DYFS officials.

When a DYFS district office initiates an out-of-state placement for a child, one of three units within the OPO's Office of Program Support helps to coordinate and review the placement procedure, depending on the type of setting in which the child will be living. The External Inquiries Unit (EIU) handles placements with out-of-state relatives and children moving out of state with a foster family. The Adoptions Unit arranges out-of-state adoptions of New Jersey children, and Residential Field Operations (RFO) manages the placement of children into out-of-state facilities. RFO is also responsible for monitoring those facilities. In contrast, the DYFS district office staff are held responsible for maintaining progress reports on children placed in out-of-state private homes. The placements handled by these three units of the Office of Program Support are processed through an interstate compact-like procedure, although New Jersey is not a member of the Interstate Compact on the Placement of Children. This process includes notification by the appropriate DYFS unit of

the receiving state's compact office that a DYFS district office would like to arrange a placement in that state. Procedures required by the ICPC are followed by these units, despite the nonmembership status of New Jersey.

A special Office of Children's Residential Services was recently established directly under the DHR Commissioner as a means for planning and improving the out-of-home care delivery system for children served by DYFS and two other DHR divisions: Mental Health and Hospitals, and Mental Retardation.

An abbreviated table of organization for the DYFS follows in Figure 1, indicating those parts of the agency relevant to out-of-state placements.

Education

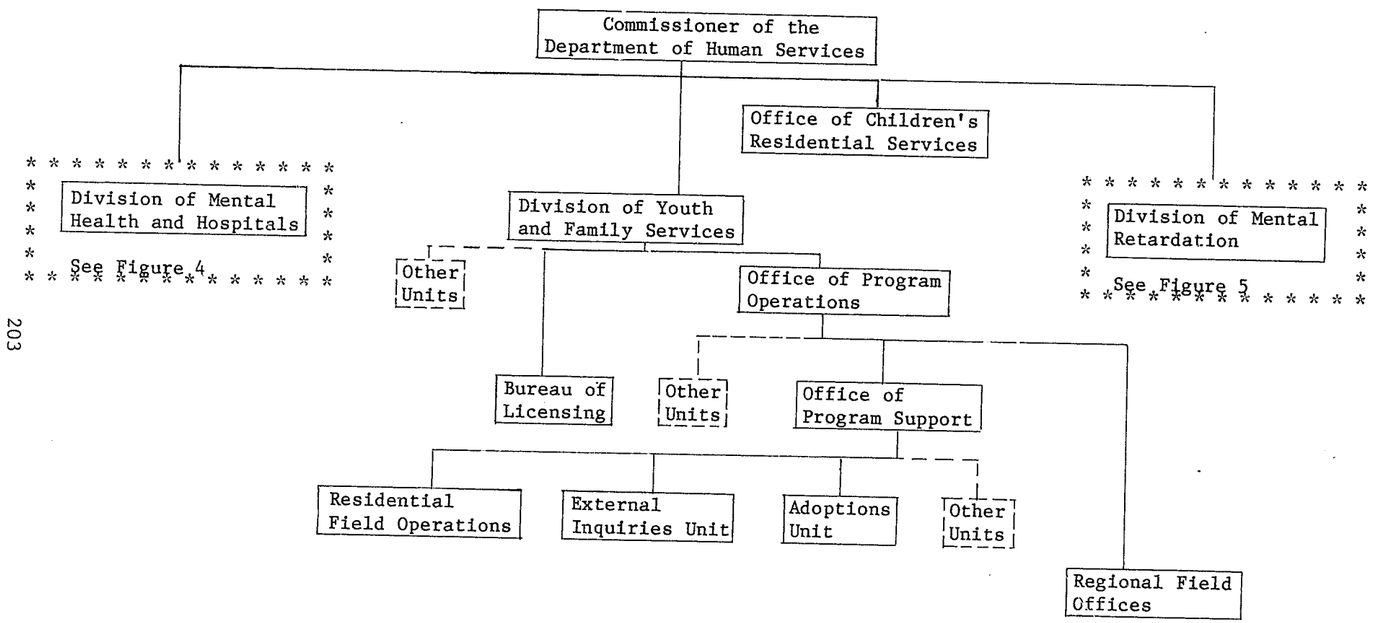
The New Jersey Department of Education (DOE) has the responsibility of assuring that public education is available for all children in the state. It supervises the 584 local school districts which directly provide educational services. However, the DOE operates the Garden State School District which provides educational services for those juveniles residing in state institutions.

Special education programs for handicapped children are operated by both the DOE and local school districts. Cooperative agreements between DOE and other state agencies, such as the Division of Mental Retardation and DYFS in DHS, and the Department of Corrections, have facilitated publically operated special education programs. The state and local programs are monitored, evaluated, and approved by the department's Bureau of Special Education and Pupil Personnel Services.

The bureau also has representatives in New Jersey's 21 counties housed in the county superintendents' offices. These individuals supervise child study, monitor and provide technical assistance to local districts, approve local special education programs, review local special education procedures, and collect and audit financial reports of the local school districts' special education expenditures. They are also the state's representatives in approving their school districts' placements into residential special education programs.

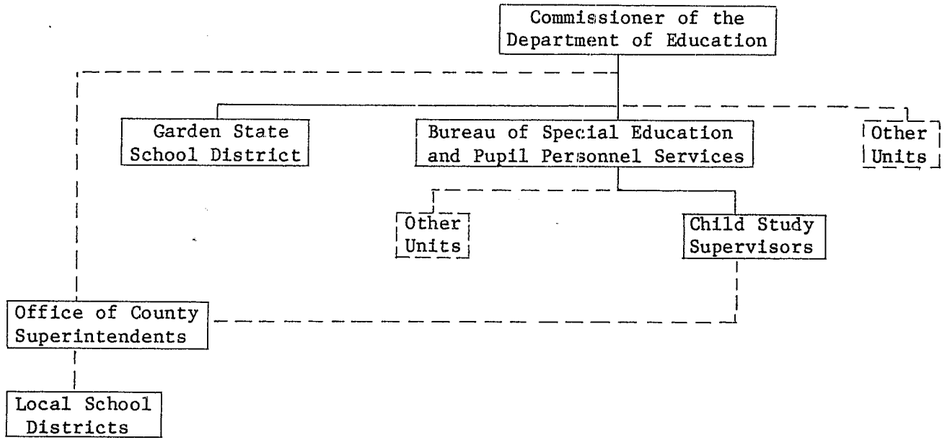
The 584 local school districts in New Jersey must follow both state and federal regulations and procedures. Special education programs are offered in these districts, with the average district employing one or two special education teachers. Each district also convenes a child study team which, as required by law, helps to identify and evaluate children with special educational needs and to select an appropriate program for each child. The team basically consists of a psychologist, social worker, learning consultant, and school physician. Additional persons are encouraged to participate, especially the child's parents, and court or DYFS personnel are often involved in appropriate cases.

FIGURE 1. THE ORGANIZATION OF SERVICES IN THE NEW JERSEY DIVISION OF YOUTH AND FAMILY SERVICES RELEVANT TO OUT-OF-STATE PLACEMENTS



An abbreviated table of organization for the DOE follows in Figure 2, indicating those parts of the agency relevant to out-of-state placements.

FIGURE 2. THE ORGANIZATION OF SERVICES IN THE NEW JERSEY DEPARTMENT OF EDUCATION RELEVANT TO OUT-OF-STATE PLACEMENTS



Juvenile Justice

The 21 juvenile and domestic relations courts in New Jersey have jurisdiction over dependent, neglected and delinquent children, and juveniles in need of supervision (JINS) in each respective county. The county governments provide financial support for the judicially controlled probation departments located in each county. The administration of each probation department is vested in a chief probation officer, who is responsible to and under the supervision of the judge. The chief probation officer's responsibilities include the administration of the probation department in accordance with applicable statutes, rules, and directives.

The state Administrative Office of the Courts, through its Probation Research and Development Section, offers assistance to the counties and centralizes information on probation personnel, case loads, and other data. This state office also administers the portion of the Interstate Compact on Juveniles (ICJ) for the out-of-state transfer of probation supervision.

Community treatment centers for juveniles are operated by three county governments as an alternative to commitment to the state Department of Corrections (DOC). The DOC operates all New Jersey corrections institutions and some community programs for adults and youth. The responsibility for the five juvenile institutions, four residential group centers, and juvenile community programs rests with the DOC's Division of Community and Juvenile Services. The division provides parole supervision for juveniles 14 years of age and older. Youth under 14 and on parole are supervised by DYFS. The DOC's Division of Policy and Planning administers any out-of-state transfers of parole supervision through the Interstate Compact on Juveniles, housed in its Bureau of Interstate Services.

An abbreviated table of organization for the DOC and the Administration Office of the courts follow in Figure 3, indicating those parts of the agencies relevant to out-of-state placements.

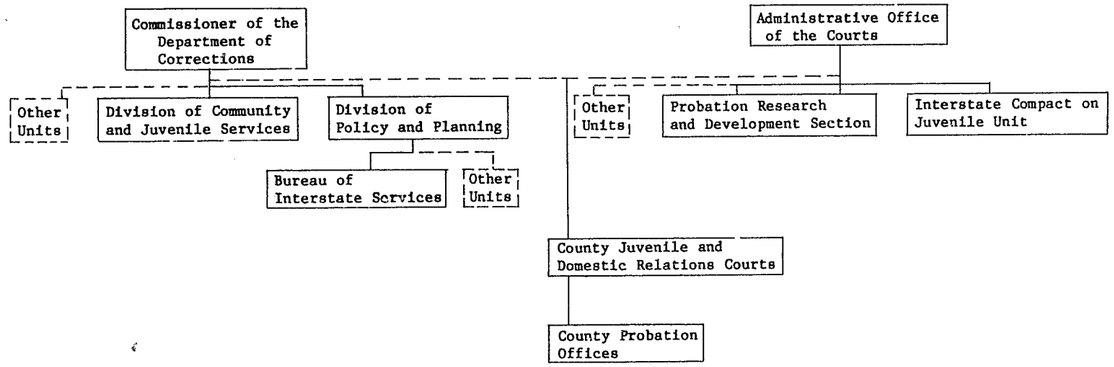
Mental Health

The Department of Human Services' Division of Mental Health and Hospitals (DMHH) is responsible for providing specialized services for New Jersey children identified as having specific mental disabilities and special needs, with the exception of mental retardation and those children with autism or substance abuse problems served by DYFS. In 1978, there were four regional hospitals and one statewide hospital offering programs for children. At the time of the Academy's case study of New Jersey, the closure of state hospitals had reduced the DMHH inpatient programs which serve children to two facilities serving specific age ranges. The Arthur Brisbane Hospital receives children under 12 years old, and the Trenton facility serves youth 12 to 18 years old. Both hospitals have statewide service areas. Programs in these hospitals are the responsibility of the DMHH's Bureau of Children's Services, while operations and support services are provided by the department's Office of Institutional Services. With the rapid phasing out of all but two of the state facilities, the bureau's responsibilities are focusing on the further development of extended community programs and developing new programs in the area of 24-hour supervised treatment homes for children in acute psychiatric crisis.

Through DMHH funding, community mental health programs are purchased from private providers upon advice from the local mental health boards. Presently, most community mental health programs provide screening, evaluation, crisis intervention, outpatient services, and partial hospitalization. DMHH officials noted that these local mental health services are better developed in urban areas. In addition to the above services, urban counties provide purchased community inpatient services. The inpatient services are provided on a regional basis, with each region covering four to five counties.

The local mental health boards, in the role of a planning committee, receive and review private agency service proposals. The DMHH has final approval over the installation of proposed services and, if approved, negotiates and contracts

FIGURE 3. THE ORGANIZATION OF SERVICES IN THE NEW JERSEY DEPARTMENT OF CORRECTIONS AND THE ADMINISTRATIVE OFFICE OF THE COURTS RELEVANT TO OUT-OF-STATE PLACEMENTS



directly with the private providers. Although no such contracts were reported to exist a year previous to the Academy's study, there were 14 service agreements operating when the Academy visited New Jersey.

Besides providing mental health services, the Division also administers the Interstate Compact on Mental Health through the division's Office of Institutional Services. The compact's use is for the transfer of psychiatric patients between one of New Jersey's public facilities and another state's public facility. The compact does not apply to any other type of patient placement.

An abbreviated table of organization for the DMHH follows in Figure 4, indicating those parts of the agency relevant to out-of-state placements.

Mental Retardation

The Department of Human Services' Division of Mental Retardation (DMR) is responsible for providing residential and day placement services for mentally retarded adults and children. This function is carried out through the division's four regional offices. There is no specialized office within DMR for services to children. DMR operates eight residential state facilities which include approximately 1,700 persons under 18 years old among their 7,000 residents. It was reported that the number of children in New Jersey's state institutions is dropping rapidly (about 200 per year) and was explained as being due to lower birth rates and a growing avoidance of public institutionalization. DMR purchases most of its noninstitutional services from private providers as an alternative to state institutions. These purchased services include vocational training, developmental programs, and day care in community settings. A Purchase-of-Care Program within DMR administers the placement of mentally retarded persons into private residential treatment facilities both in New Jersey and out of state. Over 50 such facilities were being utilized at the time of the Academy's site visit, the majority of which were located outside of New Jersey.

The DMR administers the transfer of mentally retarded individuals from New Jersey institutions to other states' public facilities through the Interstate Compact on Mental Health. The deputy compact administrator in the Division of Mental Health and Hospitals appoints a DMR compact coordinator to carry out the compact procedures for its service area.

An abbreviated table of organization for the DMR follows in Figure 5, indicating those parts of the agency relevant to out-of-state placements.

FIGURE 4. THE ORGANIZATION OF SERVICES IN THE NEW JERSEY DIVISION OF MENTAL HEALTH AND HOSPITALS RELEVANT TO OUT-OF-STATE PLACEMENTS

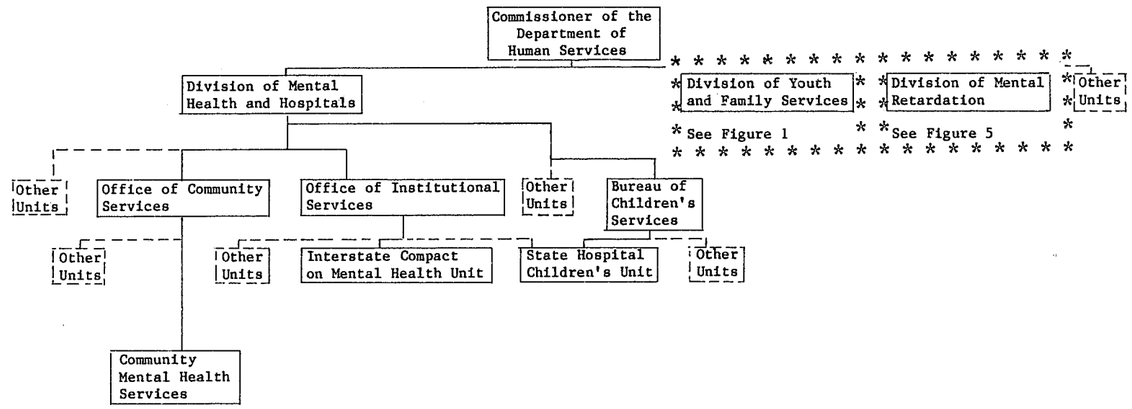
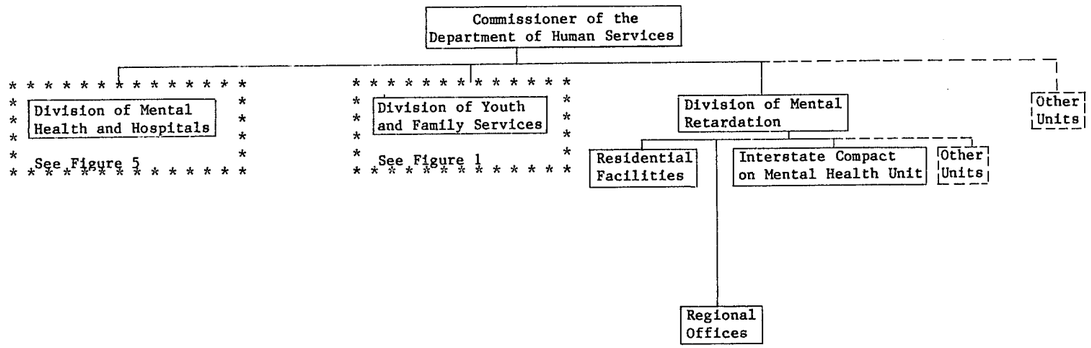


FIGURE 5. THE ORGANIZATION OF SERVICES IN THE NEW JERSEY DIVISION OF MENTAL RETARDATION RELEVANT TO OUT-OF-STATE PLACEMENTS



OUT-OF-STATE PLACEMENT POLICY, IMPLEMENTATION, AND PRACTICES

Child Welfare

The placement of children under the supervision of the Department of Human Services' Division of Youth and Family Services into settings outside of New Jersey is regulated by policies which focus on the type of placement setting to be used. Placement policy varies for children being sent to residential facilities, and those going to live in relative's homes, foster homes, or adoptive homes out of state.

If a child under DYFS supervision is determined to be in need of services which can only be provided in a residential setting outside the home, every reasonable effort must be made to use a public or private facility within New Jersey. This effort must be documented by a DYFS field social worker. If a New Jersey placement is not possible, a request for out-of-state or "exceptional" placement must receive prior authorization from the director of DYFS. If the approved facility is beyond 50 miles from New Jersey's borders, authorization must also be obtained from the deputy commissioner of the Department of Human Services. Strong emphasis is placed on keeping children within 50 miles of the state borders, an area called the "New Jersey Metropolitan Region." The approval process is initiated by the caseworker in a DYFS district office and is channeled directly to the Residential Field Operations (RFO) unit in Trenton.

The RFO has the additional responsibility of assuring the quality of any out-of-state facility's programs being contracted for by DYFS. This is accomplished through preplacement on-site visits and the assurance of the receiving state's approval or licensure of the facility. RFO personnel also determine the applicability of a facility's programs to the specific needs of a child referred for placement by a district office. Continuing on-site monitoring of an out-of-state facility is conducted by RFO staff at least once a year, and more frequently when a number of New Jersey children are in residence.

The phasing out of the use of a number of out-of-state facilities makes it difficult to give an exact number of approved facilities in other states. In January 1980, 26 facilities were contracted for services and listed in the "Residential Placement Guide," which is part of the Field Operations Manual available to DYFS personnel. Eight of these 26 were specifically earmarked for future deletion. Seven other out-of-state facilities were being used at that time for "highly unusual situations individually reviewed" and were not considered permanently available for DYFS placements because of their distance from the state.[1]

Children in need of residential services come to the attention of regional DYFS offices not only from their own case workers, but also as referrals from school districts, courts, probation offices, and community mental health agencies. All but the community mental health agencies have placement authority

but either limited or no funding to place children in private care. Once children are referred to DYFS for placement, the approval process prescribed by DYFS policy must be followed.

Besides the placement policy for children sent to residential facilities outside of New Jersey, DYFS has developed policies and procedures for the out-of-state movement of other children under its supervision. DYFS-supervised foster children may move out of New Jersey with their foster family, with regional office approval and processing by the External Inquiries Unit of the DYFS' Office of Program Support. This same procedure is required for dependent children being placed in out-of-state relatives' homes. Neither of these types of placement are restricted to the 50-mile New Jersey Metropolitan Region, and approval of the placement decision remains at the district office level. Despite New Jersey not being a member of the ICPC, the External Inquiries Unit acts as a liaison with the appropriate authorities in the receiving states, who are most often within this compact office. The EIU forwards the DYFS district office's home approval request to the receiving state's ICPC office (or other appropriate official, if it is not a compact member state). It then signs an interstate placement agreement of responsibility with that receiving state, after the home study is reviewed and on-site supervision by a receiving state public agency is agreed upon. Signed consent from the foster or dependent children's parents is also required, unless parental rights have been terminated. If the receiving state agency refuses to conduct on-site supervision of the placement, a regional DYFS administrator and EIU must approve the placement process. This problem occurs, according to an EIU respondent, when a compact state agency hesitates to work with New Jersey because of its noncompact status.

The EIU has also had difficulty in gaining full compliance with placement policy from district caseworkers. Often, receiving states have notified EIU personnel that a child had entered their states from New Jersey. EIU staff reported their most common negative sanction was a written memo to the placing caseworker and the DYFS district's director. It was also reported that the lack of a written manual of procedures for field workers, specifying the appropriate process of reporting to EIU, contributes to noncompliance. This void was filled in early 1980 with the issuance of such a manual.

The Adoptions Unit of the DYFS' Office of Program Support has had similar difficulty with public and private agencies arranging out-of-state adoptions without proper notification to this central state office. Again, despite New Jersey's nonmembership in ICPC, the Adoptions Unit operates under policies and procedures which parallel this compact's requirements. Notification of an out-of-state adoption must be made by DYFS regional offices and private agencies, in order to assure a prior home approval and out-of-state supervision with the help of the receiving state's ICPC office or other appropriate authority. However, it was reported that private adoptions made from the northern part of New Jersey, with families in bordering states, were often arranged without the knowledge of the Adoptions Unit. It has been officials in the receiving states who have notified the DYFS staff of these placements.

Often, children who are on probation or parole are under the supervision of DYFS, because of their status as dependent or foster children, because of court referral, or because of their age. Youth under 14 years of age, when placed on parole by the Department of Corrections, are automatically supervised by DYFS

personnel. Also, in some cases, 14 to 16 year olds on parole are supervised by DYFS because of their prior status as a foster or dependency case. Local probation office referrals to DYFS of adjudicated delinquents and JINS, for whom the juvenile justice agency could not offer appropriate services, include youth on probation. In all these cases, a DYFS placement made to an out-of-state setting is required to be made through the Interstate Compact on Juveniles if probation or parole supervision is to be transferred to a receiving state agency.

Although information about the number of out-of-state placements made by DYFS in 1978 was unavailable to the Academy's national survey, the agency did describe the children placed. They included foster and adoptive children; those who were physically, mentally, or emotionally handicapped; those who were developmentally disabled; and girls who were pregnant. No reference was made to the placement of adjudicated delinquents or JINS.

Another aspect of placement review in New Jersey for all out-of-home placements made by DYFS stems from the Child Placement Review Act, which became effective in October 1978. The act requires DYFS to notify the appropriate juvenile and domestic relations court within 72 hours after the removal of children from their homes. The court is then required to determine within 15 days whether the placement is in the child's best interest. If children are placed out of their homes for more than 15 days, a child placement review board, composed of five members appointed by the court, must review the status of children's placement within 45 days and annually thereafter. The boards must also review the cases of these children placed outside their home as a result of a court order.

In accordance with these policies, the appropriate court and child placement review board should be notified when out-of-state placements subject to review occur. The types of placements subject to review are initial voluntary boarding placements, court-ordered placements, changes in boarding placement, and movement of the boarding family with the child to another state. When out-of-state placements are arranged, the receiving state facilities are advised that information relative to the child's adjustment to the placement situation will be needed to comply with the regulations of the Child Placement Review Act. The DYFS' External Inquiries Unit obtains the information from the out-of-state facility, family, or compact office for the court and the child placement review board. If the placement is continued after this review, board reevaluation must take place every 12 months thereafter.

An independent study on the implementation of the Child Placement Review Act reported, in November 1979, that "the counties have done an effective job in establishing a sophisticated review mechanism despite numerous obstacles."[2] This effective performance was not as clearly discerned during this case study, especially in the less-populated counties. Budget and staffing problems were the chief impediments reported, the same obstacles referred to in the implementation study.

It may be helpful at this point to review the historical background of present DYFS placement policy. Current residential placement policies affecting children under the supervision of DYFS were developed after a governor's mandate was issued in August 1977. This executive policy statement was issued as a

press release and basically limited the out-of-state placement of New Jersey children to approved facilities within 50 miles of New Jersey' borders. A great deal of public interest over placement issues had been made known to the governor's office before this mandate was announced.

Child advocates, legislators, and citizens-at-large had been expressing concern about the choice of treatment for children made by New Jersey's social service and juvenile justice agencies. The Association for Children of New Jersey issued a report in 1975 concerning the availability and adequacy of services to children in long-term residential care in and out of New Jersey. Among the recommendations stemming from their study of in-state services was a need for overall planning and coordination of programs because there was a "dearth of programs or facilities in the state for certain categories of children, particularly those designated as having severe emotional and physical handicaps."[3] This service need was determined to exist because of a commonly held belief among DYFS workers that most out-of-state placements were for these types of children.

Investigative reporting by CBS-TV's "Sixty Minutes" program in October 1976 stimulated follow-up stories by several newspapers serving New Jersey residents.[4] Criticism focusing on DYFS's out-of-state placement practices and the lack of use of in-state residential care brought a number of issues to the public's attention in late 1976 and early 1977. For instance, questions arose about the use of public money to support services in other states, while studies of New Jersey's services were critical of the quality of available in-state care.

In July 1977, the New Jersey Office of Fiscal Affairs issued the results of a study requested by the Joint Legislative Subcommittee on Children's Residential Facilities on DYFS' out-of-state placement procedures. Strong criticism was again directed at the division, with DYFS field workers being shown to make referrals without following appropriate procedures, such as not first considering public facility care or even in-state private care before approaching an out-of-state facility for a child's admission. This report also challenged the commonly voiced claim by DYFS "that out-of-state placements are typically severely emotionally disturbed youth with aggressive behavioral traits," by studying case histories and revealing a predominance of milder or less severe diagnoses. This finding was determined through a case history review of out-of-state placements.

Within this atmosphere, the issuance of the governor's mandate in August 1977 is not surprising, although unique as direct executive intervention. In cooperation with DYFS officials, the governor issued a set of guidelines for DYFS caseworkers which were to be implemented into agency policy by the appropriate personnel. This announcement included the proposed effort to return to New Jersey, by January 1, 1978, as many as possible of the 600 children already out of state and in residential facilties. Placements into private homes, including relatives and foster families, were not included in this directive. Also, it should be noted that only DYFS-initiated placements were focused upon in the order.

DYFS responded to this mandate with a progressive two-fold plan of action. First, the agency has attempted to develop public and private resources within New Jersey in order to provide appropriate residential and community-based services for children already placed out of state. Children were slowly returned

to their homes or into these developed programs from out-of-state facilities, especially those beyond the 50-mile limit. The closing of several larger public institutions has helped to redirect funds for this purpose. The development of community-based services has also been aided by more aggressive state encouragement of private providers, as well as the return of children and their public support into New Jersey's borders.

The second course of action taken was the development of the previously described DYFS placement policy, which included the requirements generally outlined by the governor's mandate. An exemption was made, however, allowing DYFS referrals to continue to George Junior Republic in New York and Crotched Mountain Rehabilitation Center in New Hampshire, despite their distance from the state borders. This exemption was considered necessary because of the perceived difficulty in developing comparable services within New Jersey.

At the time of the Academy's study, focus had just begun to be given to the appropriateness of placing children out of state into relatives' homes or allowing their movement to other states with their foster families. Problems experienced by the External Inquiries Unit in gaining DYFS district worker's cooperation, so that such placements could be more consistently regulated, were not extensively known by other central office respondents.

Education

Special education for handicapped children in New Jersey is primarily regulated by state and federal law. New Jersey Statutes Annotated, Section 18A:6.1-1-45 parallels the federal Education for All Handicapped Children Act, P.L. 94-142. It directs the Department of Education to develop procedures for local school districts to identify and classify children with education handicaps, and to ascertain the appropriate program to meet their special needs. The commissioner of DOE has responsibility for promulgating the procedures for carrying out these policies.

Each local school district is required to establish a child study team specifically to evaluate a child's educational needs. These teams usually have as their members a core staff of school personnel, supplemented depending on the individual needs of a child. When a parent, teacher, or outside person, who is often a DYFS or court worker, brings a youth to the attention of a team, a full evaluation is initiated to determine if the child has physical, psychological, social, or learning problems. The entire team meets, with the invited parents and any other involved parties, for a "classification conference," in which a formal statement is made about the child's handicapping conditions and special education needs. An Individualized Education Program (IEP), which is required by law, is developed for each child based on these identified needs. An appropriate setting for implementing the IEP is required to be within the "least restrictive environment" possible.

If the local school cannot meet the needs of the child, an appropriate program is sought in surrounding districts or through a cooperative effort among

several neighboring districts. More severely retarded children may be referred to the DHS' Division of Mental Retardation's institutions or Purchase-of-Care Program. The DOE allows the use of private schools, but the amount of money allowed to be paid by a district for the contracting of these services is limited by law. Tuition rates are based on New Jersey's special education statute and is accomplished on a categorical basis; that is, maximum allowable rates are established annually for each type of handicap within the New Jersey's classification system. The rates are determined according to a formula by the DOE and are officially adopted each year by the State Board of Education.

Only the educational costs of a placement are meant to be covered by this rate and, therefore, limit the selection of programs available to a school district unless supplementary funding is available. It was reported by local education respondents that the relationship between classification and rate setting has caused some problems. A parent or local service agency may have referred the child to the team, anticipating or even recommending a special placement in either a private day or residential program. This interest in a particular program has, at times, led to pressure being placed on a child study team to classify a child in a category associated with higher rates of tuition reimbursement than is justified by the team's evaluation.

The requirement of placement approval by the local school board and the child study supervisor is helping to prevent such a problem. Out-of-state residential placements are restricted by law to a 400-mile limit from Trenton, with exceptions to this limit requiring the approval of the commissioner of DOE. Failure to gain appropriate approval in writing results in the nonreimbursement of tuition by the DOE.

All residential placements involving special education services and local school district funding must be made to facilities approved by the DOE. Out-of-state facilities are deemed approved if they are licensed, certified, or approved by their own state. If, however, a New Jersey school district wishes to use a facility that is not yet on the DOE-approved list, the district requests DOE approval of the placement and the state agency, in turn, determines its acceptability according to the above criteria. This facility is then added to the approved list. Because of this flexible process for compiling such a list, some local education respondents reported being unaware of its existence; that is, in arranging an out-of-state placement, they may seek out what are perceived to be appropriate placements for particular children without ever consulting the DOE list of approved facilities. The child study supervisors reported a careful review of local school district placement applications assured that New Jersey children were not being placed into unapproved facilities, even if it meant gaining approval after the facility selection.

The additional costs of a residential placement beyond the reimbursed tuition rate restricts many child study teams from independently initiating such a special education placement. Therefore, children are often referred to the DHS' Division of Youth and Family Services for placement. In these cases, education reimbursement rates are still determined by the child's classification. Tuition costs are borne by the referring school district, and are subject to state reimbursement only if DYFS selects a DOE approved facility. This referral also makes the DYFS placement choice subject to the

restrictions stemming from the governor's 1977 mandate, as discussed earlier. Therefore, the 50-mile placement limit would apply to these education-initiated, DYFS-referred placements, with the few exceptions and special approval processes being available to DYFS workers if a more distant facility is deemed necessary.

School district respondents and child care supervisors reported concern over some of the DYFS' facility selections for particular children. Apparently, when children are referred by child study teams to DYFS district offices for additional residential costs, the identified facility is not always accepted by DYFS, particularly due to the limits of its own residential placement policy. The DYFS list of approved out-of-state facilities is much smaller than that which is available to school districts and does not include many facilities beyond the 50-mile New Jersey Metropolitan Region. A child study team may feel its facility selections are more appropriate to children's needs than those DYFS can or is willing to utilize because of its own placement policy. However, because of school districts' dependency on DYFS for additional placement costs, they are forced to accept these decisions.

The Academy's national survey showed that in 1978, New Jersey school districts arranged out-of-state placements for 219 physically, mentally, emotionally, or multiply impaired children. These placements were arranged by about 18 percent of the 586 school districts, and about two-thirds of them involved some other public agency.

DOE regulations require that children's classifications, as determined by the child study team, be reevaluated at least every three years. Federal educational requirements include the annual development or update of an IEP, a responsibility delegated to the child study team in each New Jersey school district. Monitoring of placements is handled differently by each school district. Some child study teams will visit the facilities while others will use the telephone because of a lack of funds. All districts were reported to require progress reports on children placed into facilities. The Academy's survey of local school districts revealed that, of the seven agencies which placed more than four children out of New Jersey in 1978, four required quarterly progress reports, two required them annually, and one district reported receiving progress reports every six months from the facilities utilized. Only three of these school districts reported making on-site visits, either annually or semiannually, while one district mentioned making periodic telephone calls to the out-of-state facility. When a child study team refers a placement to DYFS, both the local and state agencies maintain their monitoring practices.

Finally, as of July 1980, New Jersey Act 86, Chapter 207, State Facilities Education Act of 1979, requires local education agencies to pay all educational costs of children enrolled in their district who are placed in private or public institutions by any public agency, subject to DOE reimbursement. This alters the previous requirement concerning DOE reimbursement which was linked to placement in a DOE-approved facility.

Juvenile Justice

The development of services and placement resources for New Jersey's juveniles in need of supervision and adjudicated delinquents is still a problem for courts and DYFS personnel. Since the passage of the revised juvenile code in 1973, requiring the separation of juveniles in need of supervision from delinquents, the dependence of the courts on DYFS placement capabilities has increased. Court service units are more frequently seeking residential and community treatment alternatives for nondelinquent youth. Often, however, the court service unit has great difficulty in finding an appropriate placement because they have no purchasing power and there are few publicly operated shelters. Instead, they refer juveniles to DYFS or seek private funds. At the same time, DYFS experiences problems with locating "appropriate" placements for these youth as well, primarily due to the lack of community-based alternatives for older "acting-out" children. This apparently has been a problem for some time in New Jersey, since it was reported that many of the children in out-of-state placements at the time of the governor's 1977 mandate had juvenile court records. In many cases, adjudicated delinquents are and have been referred to DYFS for specialized placement, rather than being committed to the Department of Corrections. It was also learned that if a child was an active DYFS case at the time of commitment to DOC, DYFS assumes responsibility for aftercare services and supervision upon release from the corrections facility. In the event that DYFS subsequently places the child into another state, the case returns to the attention of DOC for the arrangement of courtesy supervision through the Interstate Compact on Juveniles office.

A DYFS social worker is frequently located in the court as an interagency liaison and additional court services worker. However, in less-populated counties, a probation officer appointed by the judge takes on the liaison role. An intake worker, probation worker, or other court service worker may determine out-of-home placement to be appropriate for an individual at any one of several points in the court process. Similarly, the judge may deem such a placement to be appropriate. This determination is approved by the judge and a court order for placement is signed. An out-of-state placement with a relative or a family friend may be arranged by the court at no cost to the county budget. Therefore, although New Jersey is a member of the Interstate Compact on Juveniles, juveniles in need of supervision or adjudicated delinquents may be placed out of state without notification to the ICJ office in the state Administrative Office of the Courts. It was reported that often a court worker directly calls the receiving state's local probation agency for an investigation of the home rather than going through the compact. If the home environment is approved, the local probation office will arrange courtesy supervision for the juvenile during the stay in that state. Because of this direct one-to-one interaction between local probation officers, the ICJ is often not utilized. Without a temporary shelter available to them at the time of the placement decision, compact paperwork is perceived by court respondents as slowing down the placement process.

Thirteen of the 21 local juvenile justice agencies arranged 210 out-of-state placements in 1978 according to the Academy's survey, and 71 percent of these placements were arranged through an interstate compact. Those youth were

described as unruly or disruptive, adjudicated delinquents, or experiencing problems with substance abuse. Seven of the 11 probation offices which placed more than four children out of New Jersey reported to have most frequently sent these children to residential treatment or child-care facilities. The other four agencies which reported this information usually placed youth with out-of-state relatives.

The interaction between the juvenile and domestic relations courts, and their probation and court service units and DYFS was reported to be frequent but often strained. A major problem appears to be the inability of DYFS district offices to respond to all court-ordered placement requests. Several court personnel, including a DYFS liaison, reported frustration in sending "difficult-to-place" adjudicated juveniles, JINS, and runaways to DYFS and seeing them return to the court with a DYFS-filed "in-need-of-supervision" or delinquency complaint because inappropriate DYFS placements failed. The shortage of adequate placement options for these youth was reported by both court and DYFS respondents.

Efforts have recently been made to increase the availability of in-state resources for youth in contact with the courts. An amendment to the 1973 Youth Facility Incentive Aid Act (called the Youth Facility Aid Bill) was passed to clarify the ability of DYFS to provide capital grants to "provider agencies" attempting to set up community-based programs to serve juveniles. These community residential treatment programs are seen as alternatives to institutional placements.

The courts may also commit adjudicated delinquents over the age of 14 to the Department of Corrections. Aftercare or parole placements may be initiated by DOC, including the homes of out-of-state relatives. Such a transfer of parole supervision is reported to the Interstate Compact on Juveniles' office in the DOC's Division of Policy and Planning, Bureau of Interstate Services. The DOC does not have funding available to place committed youth in private facilities, either in or out of New Jersey. It was reported that DYFS would be approached for placement of an adjudicated delinquent who was in need of special residential treatment services not available in DOC institutions. As stated earlier, any DYFS-arranged out-of-state placement of a juvenile on parole and in its custody is also required to be arranged through the ICJ compact office of DOC.

Mental Health

Department of Human Services' administrative policy limits service delivery by the Division of Mental Health and Hospitals to the provision of temporary state hospital care, community-based nonresidential mental health care, and specialized inpatient service. If children are determined to be in need of community residential treatment, they are referred by DMHH personnel to the Division of Youth and Family Services for placement. Children's placements are then subject to the placement policies and regulations of DYFS, including the stipulations of the governor's mandate.

The sole exception to this procedure is the transfer of young mental health patients in a New Jersey public facility to another state's public facility through the use of the Interstate Compact on Mental Health. This transfer would normally stem from the out-of-state move of the patient's parents. Two such transfers were made through the ICMH in 1978 for emotionally disturbed children.

Because of the findings of several private and public studies on residential care for New Jersey children, which helped lead to the Governor's DYFS placement mandate, increasing attention has been paid to the development of mental health programs for children in New Jersey. Resource development has been undertaken by the Division of Mental Health and Hospitals with coordination and assistance from the DHS' Office of Children's Residential Services. The division's goal is "the development of a unified and comprehensive mental health services system" in order to have an "expanded, more flexible and responsive alternative" to the inpatient psychiatric care previously available to young New Jersey residents.[5] Increasing use of private providers will help to attain this goal. There were reported to be limited resources for program development in this area, so a high priority has been given to those counties which have historically had large numbers of youth hospitalized at the psychiatric hospital units for children. Those counties include Camden, Essex, Hudson, Mercer, Middlesex, Monmouth, Morris, Ocean, and Passaic.

Mental Retardation

The DHS' Division of Mental Retardation is responsible for placing into residential care mentally retarded children who are not served by the local school districts or DYFS. These are primarily severely retarded children for whom available special education programs are not considered appropriate by the child study teams. DMR has requested sole placement responsibility for these children, DYFS having attempted to serve some of these children in the recent past.

From the 1920s to 1962, DMR had primarily used its eight institutions and the American Institute of Mental Studies for the placement of these children, as well as the less severely retarded. However, by 1962, more services were needed in order to serve the growing list of clients waiting for residential placement. In 1964, the New Jersey legislature passed a bill authorizing the expanded use of private care. The licensure, regulation, and annual monitoring of private, residential services for developmentally disabled clients have been delegated to the DMR by the commissioner of DHS. Similarly, Intermediate Care Facility-Mental Retardation (ICF-MR) Program appropriations have been allocated to DMR for operating its own institutions as well as for purchasing residential services from the private sector.

Recent trends towards the deinstitutionalization of mentally retarded New Jersey citizens has increased the use of private providers' programs, including an array of day and residential services for both adults and children.

Increased use of the public education system for less severely retarded children has also altered the service population for which DMR operates or purchases services. It was reported that fewer children are being served by DMR than in the past because of the increased number of special education programs the New Jersey public education system supports.

Under current DMR policy, the placement process begins when a parent finds that a mentally retarded child's needs cannot be adequately met at home or in the public school system. The parent approaches a regional office of the DMR, often upon the advice of the child study team, for help in determining what day or residential program would best be suited for the needs of the child and family. If the child is determined to be in need of residential care, which may often be on a temporary basis for training, the DMR regional office requests approval from Trenton for these specific services. If the desired service is available in a New Jersey public institution, the child's parents are notified and are requested to visit and evaluate the facility. At times, a child may have to wait for a placement opening and is temporarily placed in a purchase-of-service facility. Parents or division personnel may determine a purchased service is more appropriate for the child's needs than a public facility. It was reported that parents' preferences are strongly considered and children would not be refused services because a public facility did not meet the parents' approval. Children are also referred to the DMR from other public agencies, such as DYFS regional offices, juvenile courts, and local school districts.

Over 85 percent of the residential programs contracted by DMR's Purchase-of-Care Program are outside of New Jersey. At the time of the Academy's study, residential services for 701 mentally retarded adults and children were purchased by DMR, 533 of these clients living in out-of-state programs. Several group homes in other states are totally occupied by New Jersey clients, according to DMR records. In 1978, DMR was involved in placing 29 retarded children out of state for residential programs.

In-state foster care is also arranged for even more individuals by DMR and the out-of-state movement of a foster family with a retarded client is allowed with DMR approval. The 1977 governor's mandate on the restriction of out-of-state placements does not include clients served by the Division of Mental Retardation. It was reported by DMR officials that a long history of parental satisfaction with the division's selection of programs for its young clients and the strong support voiced at legislative hearings by the Association for Retarded Citizens has helped to continue current DMR placement policies. It is of interest to note that the Association for Retarded Citizens is also one of the largest providers of in-state services for the mentally retarded in New Jersey.

Approximately $7 million of the $19 million appropriated to the DMR budget in 1980 was allocated for the purchase of residential care for both children and adults. This includes educational costs that may be charged by private providers. However, new education funding laws will eliminate that particular portion of the DMR's expenses.

The division requests parents to annually complete a brief questionnaire, sharing their perceptions of the quality of care their children are receiving in

either a public or private facility. This questionnaire is used as a form of placement monitoring. Besides the DHS administrative requirement for DMR to annually inspect private residential facilities that it licenses in the state or approves for use out of state, this parental monitoring form was the only other placement monitoring reported by the DMR.

ISSUES

The issues surrounding the placement of children by New Jersey public agencies are generally focused on the DHS' Division of Youth and Family Services, which was the state agency identified by most case study respondents as having the greatest involvement in placing children into out-of-home care. Some of these issues stem from the dependency of other New Jersey public agencies upon DYFS for residential placement funding, a dependency which seems to have developed over time. It appears to have occurred without a curtailment of these other agencies' placement authority, but rather because placement budgets, other than those of DYFS and the DHS' Division of Mental Retardation, did not develop simultaneously with the trend toward public deinstitutionalization of youth. Therefore, interagency involvement in children's placements among DYFS regional offices, Division of Mental Health and Hospitals' community centers, county juvenile courts, and local school districts is based on financial constraints, not necessarily regulatory policy. It was reported by both court personnel and local education officials that placement authority is still held by their agencies, but their funding expensive placements was not feasible within budget constraints. The residential-placement policy limits placed on DYFS by the governor's mandate regulate a large portion of the publically arranged residential placements because of this interagency dependency. Yet, it was not made clear during this study if the referral of children to DYFS by other agencies was considered to be so predictable that the executive order did not have to include other public agencies to ensure compliance. Certainly the fact that placement authority still exists for these other agencies would place this policy decision in question in regards to its regulatory effectiveness, if other placement funding could be found.

Respondents reported a number of problems with the dependence on DYFS for financial support of their referred placements. As stated earlier, the evaluation of a child by a school district's child study team may result in a handicap classification and IEP which could only be carried out in a residential setting beyond the school district's financial limits. A referral by the school district to DYFS may result in a placement which does not coincide, according to school officials, with the team's IEP for the child, but does meet DYFS' placement policy requirements. A similar type of problem was expressed by juvenile justice respondents about their referrals to DYFS. The failure of some out-of-home placements of JINS or adjudicated delinquents by DYFS was attributed by court personnel to inappropriate placement selection. DYFS officials, when presented with these perceptions, acknowledged that in-state resources needed further development in order to meet the service needs of these New Jersey children, but that DYFS workers attempt to select the most appropriate placement setting available within the current restrictions. It should also be noted that

some DYFS respondents felt certain youth were inappropriately referred to DYFS and that more restrictive settings, such as DOC facilities, should be utilized for delinquent and aggressive youth.

Although variations existed in the reports of court personnel regarding the relationship between the court and DYFS, a general frustration tended to be expressed about the amount of time it takes DYFS to make placements. It was reported that while awaiting placement, the child frequently stays in a juvenile shelter or detention facility which was designed for short-term care. Court personnel reported that these facilities are seriously overcrowded at times, and held DYFS responsible for this problem. Reasons for the delays were numerous. Obtaining school district evaluations and getting funds for educational costs takes time. Also, the time required for response from facilities, the need to apply to many facilities for children who are particularly difficult to place, mandatory DYFS paperwork, and the large case loads for DYFS workers delayed the placement process.

The time delays attributed to a child study team's evaluation process was one of two issues which were identified in New Jersey regarding the use of the school district teams by other public agencies. Respondents from courts and DYFS felt many teams took too long in making an evaluation. In turn, school district personnel reported an overwhelming increase in requests for child study team evaluations by outside agencies. These evaluations, according to education officials, are carried out with as much speed as possible, despite their number. It was pointed out that multiple testing, case reports, and discussions were considered necessary for a thorough evaluation, and these all took time. In addition, education respondents voiced their own concerns about evaluation requests for court and DYFS-supervised children. Some child study team personnel felt too many children were being evaluated as a means for these other public agencies to gain professional reports from a public (free) source, or in the hope that a handicap would be identified which would allow public education money to be used for placement expenses. Even if, according to school personnel, the use of education funds was not warranted for some DYFS initiated evaluations of DYFS children, disagreement has still occurred regarding which agency has responsibility for deciding whether and where a child should be placed. The team may have determined a child to have an educational handicap which could be handled in a public school setting. However, DYFS may nevertheless place the child in a residential facility, not using the team evaluation as part of its decision rationale. Such a placement may be considered to be based on family or social problems and not primarily for educational reasons.

These issues all involve the placement of children into residential facilities. The movement of children out of state with foster families or to relatives' homes has not been as carefully regulated in New Jersey. The External Inquiries Unit of DYFS has attempted to assure compliance by regional caseworkers with interstate placement procedures when foster children are allowed to move out of state. However, until the recent issuance of a procedures manual, many field workers were unfamiliar with agency regulations in this area. Even with caseworker adherence to EIU procedures, the movement of foster children or the placement with relatives out of New Jersey does not appear to fall under the same scrutiny for appropriateness or distance from natural family

as for children being placed in residential facilities. These two factors were primary in influencing the governor's mandate on residential placement decisions.

This same contrast in placement policy can be seen in the DHS Division of Mental Retardation. This division has remained unaffected by the 50-mile placement limit and maintains its own residential placement budget. Little concern was voiced by any New Jersey respondents about DMR financial expenditures, distance from home, or the difficulties of monitoring the out-of-state placement of mentally retarded children, despite the issues raised prior to the changes in DYFS placement policy. DMR officials reported that the strong support of clients' families and advocate groups has helped the DMR to continue in its current placement policy. One Department of Human Services respondent explained that the apparent discrepancy was the result of state officials recognizing the problems of developing in-state services for hard-to-place children and of confronting the displeasure of an organized parental constituency.

CONCLUSIONS AND RECOMMENDATIONS

The issuance of the New Jersey governor's mandate on DYFS' residential facility placement policy has not altered the functional relationships between DYFS and other public agencies, but has helped to regulate the number and distance of out-of-state placements DYFS has arranged for them. Prior to this executive order, which was initiated by legislative and advocacy activity, the national trend towards deinstitutionalization had already influenced New Jersey public agency personnel to seek other forms of care and treatment. An increased utilization of private out-of-state facilities resulted because in-state resources were not developed at the same rate as the deinstitutionalized service population. Similarly, placement budgets were not increased for many of the public agencies which were faced with this population in need. School districts, local juvenile justice agencies, and the DHS' Division of Mental Health and Hospitals became increasingly dependent on DYFS for financial support of residential placements. The referral system currently utilized in New Jersey is the result of this phenomenon and, therefore, the effect of the governor's mandate is felt across a broader range of the child population requiring services than would be otherwise expected.

The question still remains, however: would the current regulation of placement be as effective if these referring agencies were to obtain substantial increases in their placement budgets? The state agencies which supervise local service agencies apparently depend upon DYFS policy for the strong regulation of out-of-state placements. The Department of Education and the Administrative Office of the Courts have placed only limited restrictions on these local agencies, the former through a legislated placement budget and a long list of approved facilities, the latter through the requirement of appropriate compact utilization.

The change in residential facility placement policy for DYFS did more than regulate such placements. Limiting the majority of placements to a 50-mile

radius of New Jersey helped to highlight in-state service shortages which were being ignored because of out-of-state placements, particularly emotionally disturbed youth. The continued use of a number of facilities outside of New Jersey allows the state and private providers transitionary time to determine the greatest service needs and to develop them, while still purchasing services out of state. It should be noted that several areas of service were still underdeveloped at the time of this study. The New Jersey Metropolitan Region primarily includes facilities in the Philadelphia and New York City areas, areas closest to the population centers of New Jersey, making family visiting and agency monitoring more likely.

Some problems do exist for DYFS in its broad placement role. This state agency is serving, directly and by referral, a diverse group of children and was criticized by public and private respondents for "spreading itself too thin." The specialized services offered by other agencies may be duplicated by DYFS as it attempts to serve children referred from other agency types. Administrative coordination efforts between DYFS and the Division of Mental Health and Hospitals for service development has been one means of avoiding duplication. But interagency dependency has caused tensions in New Jersey, with authority issues causing obstacles to interagency cooperation. Juvenile justice respondents expressed a desire to maintain more control over youth they refer to DYFS in order to obtain financial support of a placement. Unclear placement-decision authority, or contested authority, has also been reflected in the problems experienced by agencies utilizing school districts' child study teams for children's evaluations. Disagreements about placement selection may continue, even with the July 1980 implementation of the new education funding statute requiring school districts to cover educational expenses incurred for all children in residential placement, as long as all involved agency personnel feel their placement evaluation is more appropriate for the children involved.

There are other problems experienced by referring agencies regarding the centralization of placement in DYFS. These agency respondents felt undue time was taken by DYFS when arranging placements for referred children. The increase of placement control resulting from this centralization was also obvious at the time of study, but expediency has suffered, in the view of many local agencies. A number of these problems experienced by New Jersey public agency personnel regarding the residential placement of children have been addressed in the DYFS plan of action, a 16-point goal statement written in July 1979.[6] Three major recommendations appear in this document which concur with this study's findings.

- More funding is needed for a range of in-state residential services.
- More work is needed in matching the service needs with available resources, or with the planning of future services.
- Staff training is needed in DYFS, courts, and school districts, with the help of specific manuals, so that staff can become more familar with placement procedures for the more rapid processing of children in transitional settings.

It would also help alleviate interagency tensions if all agencies involved had a clearer understanding of their role in the placement decision.

The placement of children by DYFS and the local juvenile justice agencies into foster or relatives' homes outside of New Jersey has not been as closely regulated by public officials as those to residential facilities. The large financial expenditures made out of state by New Jersey public agencies and the problems involved in assuring appropriate and monitored care for New Jersey children were cited as reasons for regulating facility placements, yet have not been mentioned in regard to the large number of private home placements. This same lack of consistency in public policy was identified in the Division of Mental Retardation's placement practices. The placement criteria, expenditures, and monitoring procedures of DMR are not reflective of the arguments given in the rationale for changes in DYFS placement policy.

Among the few recommendations made by study respondents was one focused on organizational, rather than regulatory, changes. State DOC officials recommended that juvenile probation and parole be centralized into one state office, in order to have better control over the placement process. Such a reorganization was opposed by the Administrative Office of the Courts and local probation officials. With the DOC proposed change, the Interstate Compact on Juveniles, rather than being divided between two agencies, would then be administered by the designated state agency. Some local court respondents wanted to expand this compact to include juveniles in need of supervision who are placed out of state.

A review of New Jersey's residential facility placement policy does show that Interstate Compact on the Placement of Children membership is not necessary in order to have effective placement procedures. However, the legal safeguards offered by compact membership for the children and states involved are not totally guaranteed in these current procedures. Personnel directly involved in the daily processing of out-of-state placements expressed a need for New Jersey to join the Interstate Compact on the Placement of Children. It was felt that this action would coordinate all placements being made by DYFS and other New Jersey public agencies out of state, including those made to relatives' homes, adoptive homes, and institutional or residential settings. Difficulty obtaining cooperation from other states which are already ICPC members in approving homes for placement and assuring supervision of the child's progress would then be alleviated, according to these respondents.

FOOTNOTES

1. New Jersey Department of Human Services, Division of Youth and Family Services, "Residential Census Report" (Trenton, N. J.: 1980).
2. Association for Children of New Jersey and State Public Affairs Committee of the Junior Leagues of New Jersey, Survey Report on Implementation of the Child Placement Review Act (Newark, N. J.: 1979).
3. Association for Children of New Jersey, Long-Term Residential Care of Children in New Jersey: A Report of The Residential Task Force (Newark, N.J.: 1975), pp. 40-41.
4. See the series of articles written by Herb Jaffe, The Star-Ledger (Newark), December 26-31, 1976; and by Al Neri, The Evening and Sunday Bulletin, (Philadelphia), February 6-9, 1977.
5. Department of Human Services, Unpublished program plan, "Plan for the Reorganization of Mental Health Programs for Children Within The New Jersey Department of Human Services, December 15, 1978" (Trenton, N. J.: 1978), p. 2.
6. Department of Human Services, Division of Youth and Family Services, "Plan of Action to Address the Needs of Children in Transitional Facilities and Those Requiring Placement in Residential Facilities" (Trenton, N. J.: 1979).

NEW YORK CASE STUDY

ACKNOWLEDGMENTS

The Academy staff gratefully acknowledges the assistance of the many New York State and local public officials who gave us their time and corporation in obtaining information for this case study. Special gratitude is owed to the following individuals, many of whom made an exceptional effort toward the successful implementation of the study.

Donna Bailey, Correspondent
Interstate Compact on Juveniles
Division for Youth
Executive Department

Janet Bajan, Associate for Public Policy
New York State Council of Voluntary Child Care Agencies

Bill Bradley, Deputy Director
Division for Youth
Executive Department

David Coron, Ph.D., Director
Bureau of Children's and Youth Services
Office of Mental Health

Guy D. Cosola, Assistant Commissioner
New York City Department of Probation

Michael Dontzin, Judge
New York County Supreme Court

Nate Fawcett, Principal Budget Examiner
Division of the Budget

Myron Gersinberg, Ph.D., Assistant Commissioner
Children and Adolescent Services
New York City Department of Mental Health, Mental Retardation and Alcoholism Services

Robert Guyett, Chairperson
Committee for the Handicapped
Glens Falls School District

Hal Harkess, Assistant to the Deputy Commissioner
Department of Social Services

Jules Kerness, Executive Director
New York State Temporary Commission on Child Welfare

Marcia Lowery, Director
Children's Rights Project
New York American Civil Liberties Union

Ilene Margolin, Executive Director
Council on Children and Families

David Merrit, Associate Counsel
New York State Temporary Commission on Child Welfare

Jenny Morgenthau, Director
Division of Planning
Special Services to Children
New York City Human Resources Administration

Robert G. Norris, Director
Division of Program Planning and Development
Office of Mental Retardation and Developmental Disabilities

Richard Reo, Correspondent
Interstate Compact on the Placement of Children
Department of Social Services

Steve Richmond, Principal Budget Examiner
Division of the Budget

Karen Schimke, Assistant Deputy Commissioner
Erie County Department of Social Services

Phyllis Silver, Director
Hard-to-Place Activities
Council on Children and Families

Russell Siraguse, Director
Services to Disabled Children
Office of Mental Retardation and Developmental Disabilities

Dr. Anthony Spellman, Director
Mental Retardation and Alcohol Services
Warren County Community Mental Health

Leroy Suggs, Administrator
Interstate Compact on the Placement of Children
Department of Social Services

Charles Testo, Probation Program Area Administrator and Acting Deputy Administrator
Interstate Compact on Juveniles
Division of Probation
Executive Department

Dr. James Warde, Commissioner
Erie County Department of Mental Health

Rosalie Weggle, Coordinator
Buffalo School District Committee on the Handicapped

Janelle Wilson, Director
Erie County Juvenile Detention

Laurel Winogar, Program Analyst
Committee on Child Care
New York House of Representatives

Larry Zawisza, Placement Specialist
Office of Education for Children with Handicapping Conditions
State Education Department

Alice Ziemke, Administrative Assistant
Interstate Compact on Mental Health
Office of Mental Health

INTRODUCTION AND METHODOLOGY

New York was selected as a case study for several important reasons. First, the state has an extensive history of child care policies and practices associated with the placement of children out of state. As discussed in Chapter 2, the first real documentation about interstate placement practices in this country can be traced to the year 1853 in New York City. Charles Loring Brace, the founder of the New York Children's Aid Society, conceived of an innovative and drastic remedy dealing with thousands of children living as vagrants in the slums of New York City. He named this remedy "placing out," and the practice resulted in the placement of 91,536 children in homes across the country between 1853 and 1893. Since that time, the state's history in the formulation of interstate placement policy is illustrative of shifts in child care philosophies, legislative and executive interests, and the impact of litigation.

Another reason which supported the selection of New York as a case study was its existing organization of services to children. The state offers a mixed pattern of state and county service delivery. As a result, the development and implementation of policy requires consideration of a number of issues, such as intergovernmental relations, local autonomy, methods to assure compliance with state standards and reporting requirements, and fiscal balance and accountability.

A third reason for selection was the significant level of media and advocacy group interest shown in the practice of placing children out of state. For example, special inquiries into out-of-state placement practices have been conducted by public and private child care interest groups. Media attention, particularly in recent years, to the issues associated with out-of-state placement of children has been pervasive. For instance, the New York Times published 14 articles directly related to the practice in 1978 and 1979.

Finally, the New York courts have heard cases which specifically address public policies and practices related to out-of-state placements. Litigation in New York has played an influential role in shaping the practices that exist in state and local public agencies today. One class action in particular, Sinhogar v. Parry, is widely recognized as a major litigative initiative related to the out-of-state placement of children.

A general description of the methodology employed in the case studies is given in the introduction to this Appendix. The guidelines and principles discussed in that introduction were followed in conducting the case study in New York. Interviews were conducted with key informants in state agencies as well as with legislative staff in the state capital (Albany). Local interviews were conducted in Erie and Warren Counties and in New York City, representing relevant service areas and interest groups.

DESCRIPTION OF THE STATE

New York's population ...ut 18 million people places it as the second largest state in population ... nation after California. About 10 million of these people reside in the Ne... York City metropolitan area, which is the largest urbanized area in the country. The state ranks 30th in land area, with 47,831 square miles, and it has 127 miles of Atlantic shoreline around New York City and along Long Island. There are also hundreds of miles of northern freshwater shoreline from Lake Erie, along Lake Ontario, and continuing down the St. Lawrence River to the Canadian border.

There are five cities with over 100,000 inhabitants and five other cities with populations between 50,000 and 100,000 people. The state is over 85 percent urbanized. New York ranks sixth nationally in population density and it is typical among other states in its standard of living, with the median family income being about $10,000 in 1978.

There are some characteristics that clearly set New York apart from other states and these are associated with its large population. Nationally, the state has the second highest number of participants in public assistance programs to families, and they receive the highest average payment per family in the country. New York also had the highest number of SSI recipients in 1977. The state ranked third in 1970, after Hawaii and the District of Columbia, as having the lowest percentage of owner-occupied housing in the country at about 47 percent. At the end of 1976, there were over 32,000 patients in state and county psychiatric hospitals. Pennsylvania, second in this category, had only about 13,500 inpatients.

New York also ranks fairly high in serious crimes, with about ten murders per 100,000 population in 1978, which was 14th in the nation. It was highest in robbery and ranked ninth in assault among the states. The state is second only after California in total serious crimes reported. These figures, however, are not representative for the whole state because of the profound effect that New York City has on information collected about it. New York City is the largest SMSA in the country, with the highest population density of about 7,000 persons per square mile. It is ranked 22nd among urban areas of the country in per capita income, compared with the statewide rank of 11th. Ten percent of the city's families are under the poverty level, and there are nearly 900,000 participants in public assistance programs to families.

The state, then, is highly varied in its demographic, economic, and cultural make-up. In contrast to the intense urbanization of New York City and surrounding areas, upstate New York is characterized by rural and even wilderness areas in some places. Heavy industries are established in major upstate cities, such as Rochester, Syracuse, and Buffalo, but outside of those areas in northern and western New York, light industry and agriculture prevail. New York abounds in recreational opportunities often little known to those familiar only with New York City. The recreation industry plays a large role in the economy of the central Finger Lakes region, the Catskill and Adirondack Mountains, and the St. Lawrence River-Thousand Islands Region.

Because of the variations just mentioned, it is difficult to generalize about the state, and the predominance of New York City in some fiscal and social areas sometimes overshadows the rest of the state to the unfamiliar reader. There is a great deal more to the state than that metropolitan area, which establishes it as one of the richest and most diverse states in the nation.

DESCRIPTION OF ORGANIZATION AND SERVICES

Council on Children and Families

The Council on Children and Families was established by the legislature in 1977 as a direct response to the problems New York public agencies were experiencing in the area of children and family social welfare services, especially where residential placement was concerned. The enabling legislation, Chapter 757, Laws of 1977, specifically states that the council is intended to bring about "more efficient organization and operation of the state-local, public-voluntary system of social, educational, mental health and other supportive and rehabilitative services to children and families."[1] The council has several responsibilities, all of which cut across agency and public-private sector lines. It is charged with identifying problems and deficiencies in service provision and making recommendations for the overall improvement in the coordination of program and fiscal resources for children and families. The council can also review and make recommendations for the resolution of differences concerning the rules and regulations of member agencies and also review their budgets to evaluate children services funding in the state. Furthermore, it may consult with federal and other concerned agencies, and intervene in certain cases on the behalf of a child for whom appropriate placement cannot be located.

In relation to the four agency types included for study in the case study, the council has as members the commissioners of the state Department of Social Services, Office of Mental Health, Office of Mental Retardation and Developmental Disabilities, and the State Education Department, as well as the director of the Division for Youth. The governor, or a designate from senior gubernatorial staff, chairs the council.

The professional staff are divided into the Bureaus of Research, Program Evaluation, and Policy Development. Projects and activities are administered by an executive director, and frequently involve the participation of agency staff designated for such duties by a council member. The council submits annual and project-related reports to the legislature and the governor.

Since its inception, the Council on Children and Families has taken on issues related to New York's child care resources and out-of-state placement. Its activities and impact in these areas are described in subsequent sections of this study.

Child Welfare

The state Department of Social Services (DSS), which is a cabinet-level agency, is responsible for the supervision of all locally administered financial, medical, and social assistance programs in New York. It has three major divisions, the Divisions of Income Maintenance, Medical Assistance, and Services. The Bureau of Children and Family Services within the Division of Services is responsible for the supervision of all child welfare service programs, including protective, preventive, foster, and adoption programs. The Office of State Operations within the Bureau of Children Services Operations contains the Interstate Compact Unit. This unit administers the Interstate Compact on the Placement of Children for those dependent youth who may be placed into other states for care and treatment. The DSS does not provide any direct services in New York. It does, however, provide management and planning assistance to direct service programs, audit services to maintain local program accountability, and reimbursement for residential care costs incurred by the placement of children into programs it has licensed for operation. Residential child care licensing is totally a state function in New York and performed, along with the previously mentioned activities, out of three regional offices located in New York City, Rochester, and Albany.

The DSS generally pays one-half the cost of care for children placed in residential settings, and the county DSS agencies pay the other half. Where a child is eligible for AFDC-Foster Care, federal funds defray 50 percent of placement costs and the DSS and county agency equally share the remaining 50 percent.

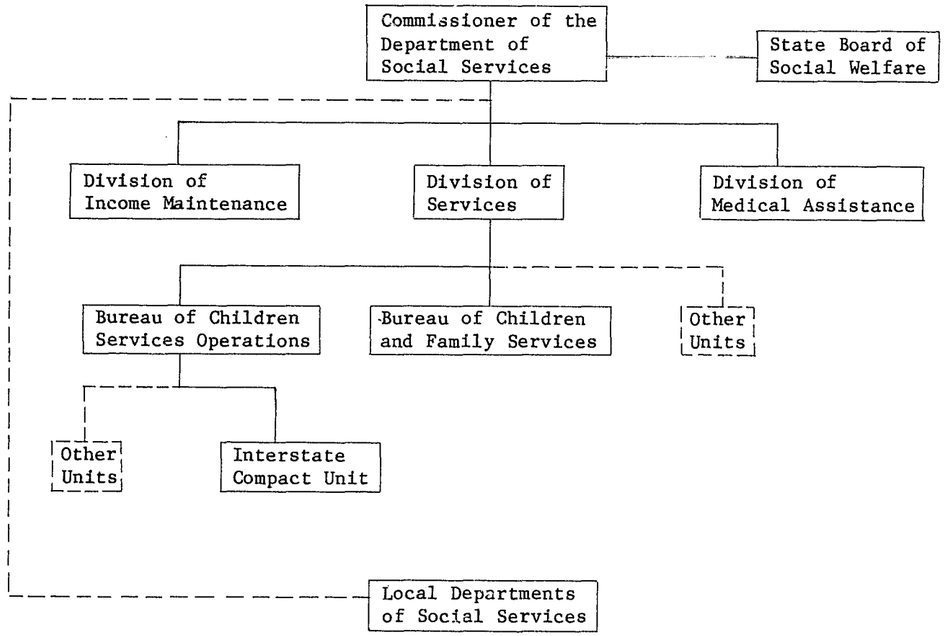
There are local DSS agencies in each of New York's counties, except for New York City, where a single agency is responsible for services to children in the five-county area. In New York City, this agency is the Human Resources Administration's Special Services to Children (SSC) and is directly accountable to the Board of Estimate, which functions as the city's board of directors or administrative agency. Other county agencies are directly accountable to their respective county boards of supervisors or county legislatures.

Local agencies may receive referrals of children from the family court who have been adjudicated battered, abandoned, or neglected; in need of supervision or protection; delinquent; or they may receive voluntary referrals from parents, relatives, or other sources. Children in need of residential care are frequently placed in one of the many voluntary agencies operating in the state. Public residential programs for children typically are restricted to emergency shelter care, as the state has historically relied upon the private sector for child care more than many less-established systems in other states. Locally operated residential care is most highly developed in New York City, where the SSC's Office of Direct Child Care Services operates a number of child protective and residential settings. The Division for Youth and the New York City Department of Juvenile Justice operate secure and nonsecure settings for youth referred by the courts. In addition, the SSC's Office of Accountability and Placement uses a variety of voluntary child placement settings. Local child welfare agencies are to place children only in DSS-licensed programs, and may place children out of New York. At the time of this study, local social services agencies could

negotiate rates of payment for voluntary child care by the private sector with individual providers within the allocations they receive from the county commissioners. Since that time, state-aid reimbursement for specific portions of this cost to local DSS agencies has been standardized by DSS for comparability of payment statewide.

An abbreviated table of organization for the DSS follows in Figure 1, indicating those parts of the agency relevant to out-of-state placements.

FIGURE 1. THE ORGANIZATION OF SERVICES IN THE NEW YORK DEPARTMENT OF SOCIAL SERVICES RELEVANT TO OUT-OF-STATE PLACEMENTS



Education

The commissioner of the New York State Education Department (SED) is accountable to the State Board of Regents, and the department receives its appropriations directly from the legislature. The SED supervises all public elementary, secondary, and special education programs in the state, which are locally administered by the 739 school districts and through boards of cooperative educational services (BOCES).

The Office of Education for Children with Handicapping Conditions (OECHC), which is within the SED's Office of Elementary, Secondary, and Continuing Education, supervises locally administered special education programs for handicapped children. In addition, the office administers state and federal funds which provide for the education of handicapped children in the care of state agencies. The OECHC has two major divisions. The Division of Supervision has six field offices which monitor programmatic practices in school districts and in individual public and private schools. These offices are staffed by regional associates, who serve as policy monitoring and enforcement officials, and information officers between the local education agencies and the OECHC. The Division of Development Support Services has a wide variety of central administrative duties, including placement and funding approval, nonpublic school approval, grant administration, training, and review of parents' appeals of local actions. Nonpublic school approval involves a variety of actors, including the head of the OECHC, regional associates, local fire and health officials, and OECHC audit staff.

Each New York school district has a committee on the handicapped (COH) which screens and makes placement decisions for all candidates for special education services referred by individual schools. The COH is comprised of a school psychologist, a special educator, and a school physician or parent of a handicapped child. There are approximately 50 BOCES in the state providing specialized services to children in aggregates of school districts. BOCES are locally administered with the participation of the school districts they serve, and they provide vocational, technical, special education, and a variety of other services to children in their service areas. Special education referrals are received from committees on the handicapped. Individual districts are unlikely to have the demand, resources, or expertise to justify the development of highly specialized services in each district, so BOCES assume this responsibility on a regional basis.

Other educational services are also provided to handicapped children through state-operated schools, state-supported schools, private schools specializing in special education, and various other types of private schools.

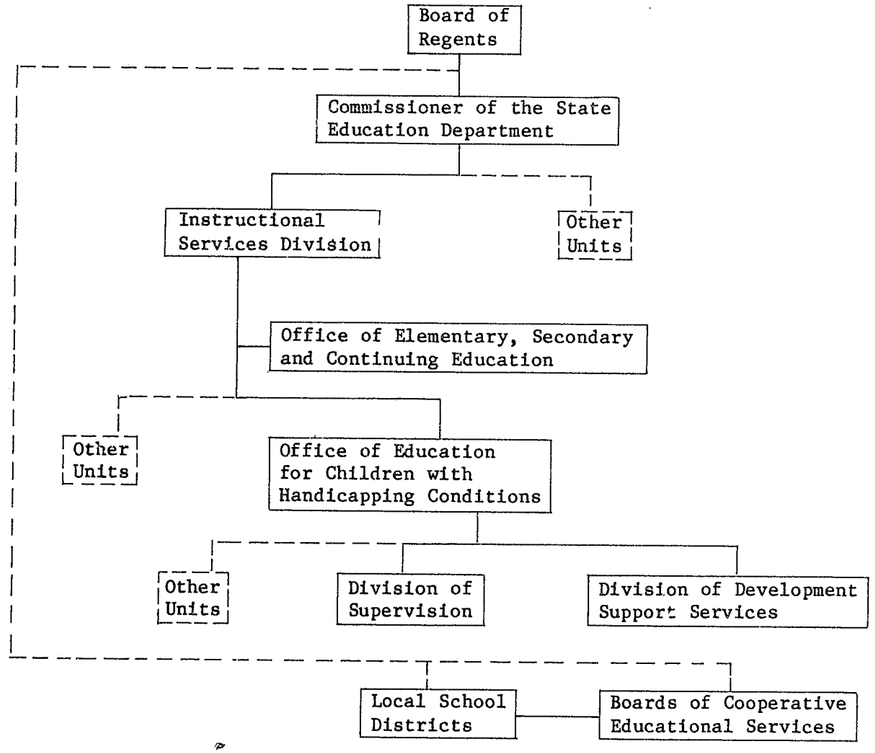
State-operated educational programs include a school for the deaf and a school for the blind, as well as those educational programs operated by the Office of Mental Health, Office of Mental Retardation and Developmental Disabilities, and the Division for Youth. The state also supports a number of privately operated programs for deaf and blind children.

Private schools sometimes have their own programs for the handicapped, or they may send their students to public schools or BOCES for these services.

Parents may send their children to private schools specifically addressing the needs of the handicapped child if no appropriate program is available in the local district, if the school has been approved by the OECHC, and if there is a compelling educational reason for placement. Some of these approved private schools are in other states, and New York handicapped children are placed in these programs.

An abbreviated table of organization for the SED follows in Figure 2, indicating those parts of the agency which are relevant to out-of-state placements.

FIGURE 2. THE ORGANIZATION OF SERVICES IN THE NEW YORK STATE EDUCATION DEPARTMENT RELEVANT TO OUT-OF-STATE PLACEMENTS



Juvenile Justice

Family courts in New York are established in each county and in New York City to hear matters involving children and families. Principal among cases heard by family courts are those related to juvenile delinquency, child protection, and persons in need of supervision. The maximum age of juvenile jurisdiction for family courts is 16 years of age. However, the cases of some 13 , 14 , and 15 year olds will be initially heard in county or supreme courts if they are accused of one of a number of serious offenses. If it is determined by the county or supreme courts that these youth's cases would be better handled in family court, they may be referred to the appropriate family court and then become subject to the findings and dispositions available to judges at that judicial level. Family courts may arrange for out-of-state placements with parents, relatives, or selected other individuals, as well as order placement of youth to specific out-of-state settings for care and treatment, at the shared expense of state and local social services departments.

At the state level, juvenile corrections and aftercare services are the responsibility of the Division for Youth (DFY) which, because of a statutory limit on the number of state departments, resides within the Executive Department. Like the Division of the State Police and the Division of Probation, which are also within the Executive Department, the DFY operates much like a department reporting directly to the Office of the Governor.

The DFY is organized into three primary units, addressing rehabilitation, youth development and delinquency prevention, and administration. The Rehabilitation Services Division has responsibility for all DYF direct services to both delinquents and status offenders, and provides these services through five regions. Direct services are provided by the DFY through a continuum of services based on community access and level of security, including group homes, youth development centers, short-term adolescent residential treatment centers, special residential centers, and camps. More restrictive settings are found in training schools, secure centers, and a special program for disturbed or aggressive delinquents.

Youth may receive services from these publicly operated programs or from privately operated contracting facilities through a number of circumstances. The family courts can issue an order of placement into a DFY-operated or contracting program for adjudicated delinquents or status offenders. The courts may also retain jurisdiction over youth, but require participation in a DFY-operated or contracted program as a condition of probation. In this case, failure to participate in the program results in DFY notifying the court of violation of the terms of probation. The adult court may also commit 16 to 18 year olds to DFY as a condition of probation after adjudication for criminal offenses. Finally, DFY, like many child welfare agencies, accepts youth who are voluntarily signed into a program by the children's parents. These youth are the only ones who participate in the division's programs without any kind of adjudication.

Upon receiving a referral from one of these sources, a youth services team is assigned to a child. This team is composed of institutional as well as

aftercare workers. The youth services team remains assigned to youth as long as they are participating in DFY programs. Residential placement for aftercare may be arranged by the aftercare workers themselves, or by support services staff in the DFY regional offices, if the workers have some difficulty in locating appropriate settings.

In the course of locating an appropriate aftercare setting, the DFY may place children into other states to live with parents or relatives. Aftercare supervision is transferred to the receiving locale, and the Interstate Compact on Juveniles is partially administered by the DFY Rehabilitation Services Division for this purpose. "Parole" services in New York only applies to adults or youth who are adults in the eyes of the law. The latter group includes 13 to 15 year olds convicted in adult court of specific serious offenses, and 16 and 17 year olds who are routinely treated as adults in New York.

The state Division of Probation (DOP), also in the Executive Department, is largely a regulatory, standard-setting, and funding agency. The DOP provided direct services to youth until December 1980, in only three local government areas: Fulton, Montgomery, and Warren Counties. These services have since been assumed by counties; however, in mid-1981, Montgomery County again came under DOP for direct probation service, at the request of the county. The division's four regional offices monitor and assist local probation departments, whose staff are county employees, toward upgrading services in relation to standards set at the state level. Technical and management information assistance is provided to local probation agencies by the division, which also monitors violation procedures and provides regional training and centralized instruction through its training academy. The DOP routinely provides operational guidance to the local agencies. The DOP also reviews comprehensive plans and administers a state subsidy which may provide up to 50 percent of local probation operational costs, although the subsidy does not pay for residential care in the community. The Division of Probation administers the Interstate Compact on Juveniles (ICJ) and the adult Probation and Parole Compact (PPC) for all probationers who are placed into other states, with accompanying transfer of supervision. The latter compact is also used to transfer youth who are recognized as adults in New York to states where, because of their age, are under the jurisdiction of the juvenile courts.

Local probation services are provided under the auspices of local government to family courts in all but one of New York's counties, including screening, intake, and supervision services. At the point of disposition, judges may place children on probation and, thereafter, they remain under the jurisdiction of the probation departments. Local probation workers, with the support of investigative work, may subsequently make recommendations to the court for placements in other states.

For the most part, youth with problems sufficiently serious to warrant residential placement leave the purview of the local probation departments, which do not have funds to purchase services, or to provide much beyond supervision and perhaps referral services to other community agencies.

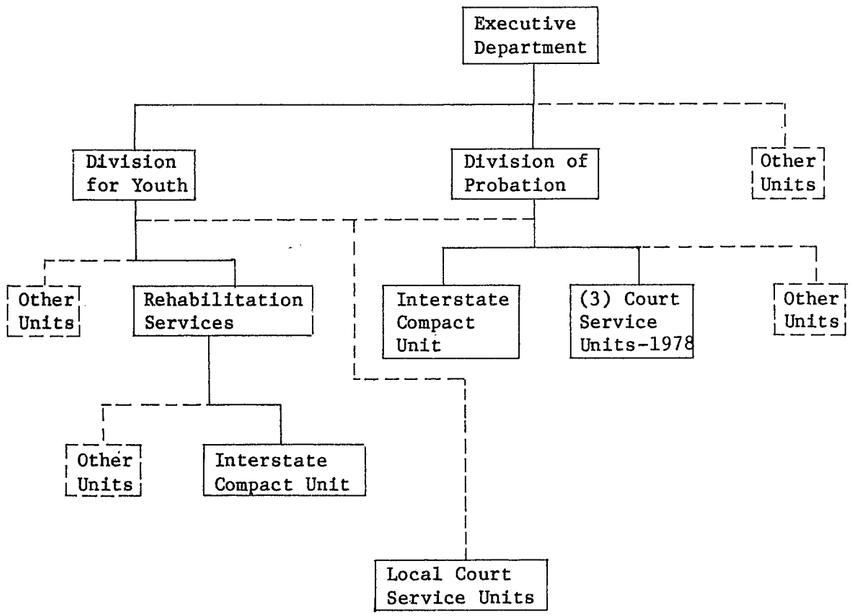
If family courts find that placement into residential settings other than those operated by the DFY is warranted, children are placed in the custody of the county commissioner of social services for placement. The local social service system is obliged to pay for these placement costs. These funds are

usually administered through the county departments of social services which share those costs equally with the state DSS. In cases where the youth is AFDC-Foster Care eligible, federal funds are used for one-half of incurred costs, and the county and the state DSS share the remaining half of costs equally. The DFY charges the county governments 50 percent of placement costs incurred by youth participating in DFY-operated programs.

Finally, the DFY inspects and certifies detention facilities operated by the counties and reimburses local government for one-half of the cost of providing detention care. New York City recently established a separate juvenile justice agency for the entire five-county metropolitan area which directly provides and purchases detention services for youth.

An abbreviated table of organization for the DFY and the DOP follows in Figure 3, indicating those parts of the agencies relevant to out-of-state placements.

FIGURE 3. THE ORGANIZATION OF SERVICES IN THE NEW YORK DIVISION FOR YOUTH AND DIVISION OF PROBATION RELEVANT TO OUT-OF-STATE PLACEMENTS



Mental Health and Mental Retardation

The Office of Mental Health (OMH) is the primary state agency responsible for mental health services in New York. The office was a functional division of the Department of Mental Hygiene at the time of the study, but since that time the parent department has been dissolved and the support services it provided have been picked up by the Interoffice Coordinating Council (IOCC). This reorganization rendered the Office of Mental Health, as well as the Office of Mental Retardation and Developmental Disabilities, and the Office of Alcoholism and Substance Abuse as autonomous entities that function somewhat like departments. The IOCC provides a variety of support services to the three Offices, including maintenance of central case files, issuance of statistical reports, nutritional planning for state-operated facilities, counsel on legal matters, and administration of the Interstate Compact on Mental Health. The commissioners of the three offices rotate as chairpersons of the IOCC on an annual basis.

The Office of Mental Health is organized into five major divisions. These divisions have responsibilities in the areas of operations, fiscal services, research, quality assurance, and program planning. The Bureau of Children's and Youth Services within the Operations Division is charged with the development, monitoring, and support of programs for children in state-operated facilities, and with the supervision of programs for children under the auspices of county-operated mental health programs.

The OMH has five regional administrative offices and operates programs for children in six facilities designated solely for youth 17 years old and younger, and through similar units in nine psychiatric centers which also serve adults. The 15 state facilities with mental health programs for children provide services on a regional basis in 15 catchment areas that cover the state. Reportedly limited alternatives to hospitalization are provided by the state through purchase-of-service and subsidization for the utilization of voluntary programs. The OMH contracts directly with private providers to purchase 24-hour residential services for approximately 285 youth. In addition, lump-sum appropriations, which were also described to be quite small, are made to county-operated programs to subsidize the purchase of residential services for disturbed youth at the local level.

There are locally administered mental health agencies in each of New York's counties except in New York City, where a single Department of Mental Health, Mental Retardation, and Alcoholism Services has responsibility for the five-county metropolitan area. The local agencies operate under the auspices of county government and are supported by federal, state, and local funds. They provide a range of mental health services, which is likely to be more comprehensive in urban areas, but they do not operate their own inpatient care for children, relying totally on private agencies for such services. Local mental health agencies are not required to have a children's services component and many have not designated staff, programs, or revenues explicitly for this purpose. Group homes and child treatment institutions caring for mentally disturbed youth are licensed by the DSS. Specialized foster family care is certified by the OMH.

The Office of Mental Retardation and Developmental Disabilities (OMRDD) is responsible for the provision of residential and day services to persons with developmental impairments. Like the OMH, the OMRDD has divisions addressing the areas of budget and finance, program operations, quality assurance, and manpower management. There is no unit in OMRDD specifically addressing services for children, as the office's programs do not draw strong age distinctions and because it provides services primarily to adults. Programs for children in the area of developmental services were said to be provided largely by the education system.

The OMRDD has five regional offices called county service groups, and these regional offices supervise the variety of programs that the office provides or contracts for locally. There are no OMRDD programs that are truly local in the sense of being administered by county or municipal governments. The only exception to this organizational scheme is the service delivery pattern in New York City's Department of Mental Health, Mental Retardation, and Alcoholism Services.

The OMRDD provides residential services in three basic categories of care: family care, community residential programs, and intermediate care facilities for the developmentally disabled (ICF-DD). These settings are all licensed by the office, approved only for the placement of eligible developmentally disabled children, and financed with federal SSI funds through the DSS. Licensure by OMRDD authorizes these programs to receive the DSS-administered funding. The OMRDD also provides some state matching funds under certain circumstances.

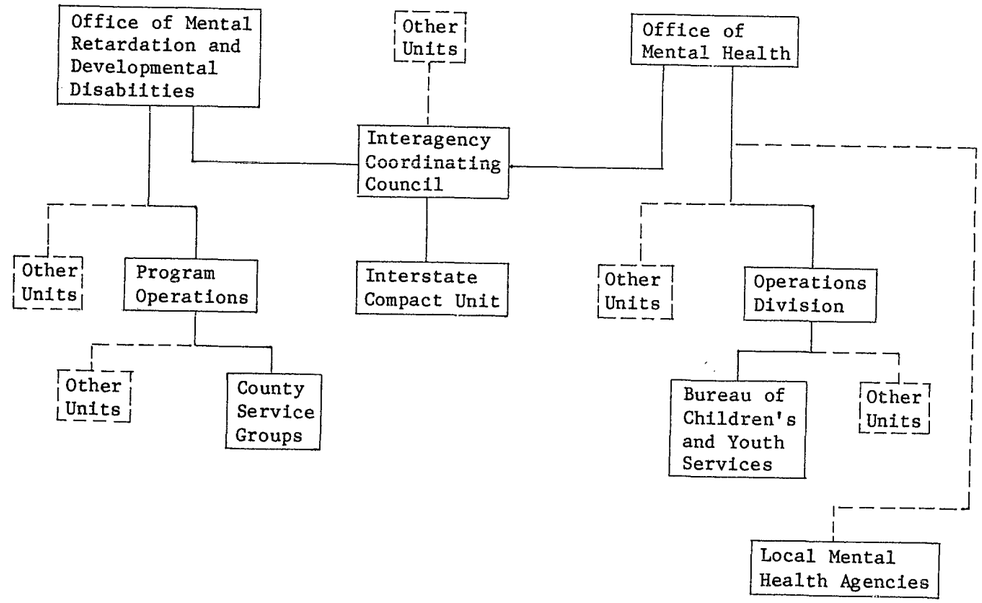
Family care settings are foster care settings with parents who have been specially trained in the needs of developmentally disabled individuals. Persons placed in these settings receive services through day developmental programs in the community. Community residential programs, or group homes, are also fairly open settings in the community which have day programs available to residents.

ICF-DD programs (called ICF-MR in other states) are the most intensive in the care that is provided, and they range widely in size. While the two types of settings previously discussed are funded through SSI funds, these programs receive primarily Medicaid funds. There are two nonpublic models of care consisting of more or less than ten beds. There are also two large public ICF-DD facilities having 500 and 160 beds, respectively.

The Services to Disabled Children Program within the OMRDD acts as an official advocate for impaired youth and works toward the development of in-state resources and interagency service coordination. However, it does not have any program or enforcement responsibilities.

An abbreviated table of organization for the OMH and the OMRDD, follows in Figure 4, indicating those parts of the agencies relevant to out-of-state placements.

FIGURE 4. THE ORGANIZATION OF SERVICES IN THE NEW YORK OFFICE OF MENTAL HEALTH AND THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES RELEVANT TO OUT-OF-STATE PLACEMENTS



OUT-OF-STATE PLACEMENT POLICY, IMPLEMENTATION, AND PRACTICES

The out-of-state placement of children has received a great deal of attention in New York over the past several years. Events have occurred in a fairly complex scenario which has involved advocacy groups, the courts, and the executive branch and its agencies. Those events, as well as current policies and practices of public agencies are described in the following subsections related to each major service area. Because the circumstances that led up to and surrounded out-of-state placement reform in New York involved several service areas, a synopsis of what happened in the state is first presented in the following subsection on the Council on Children and Families. A detailed description of events for each agency type that was involved in this period of change appears in subsequent subsections.

Council on Children and Families

Out-of-state placement has received a great deal of attention in New York over the past several years and the Council on Children and Families (CCF), acting in the fashion of a human services cabinet, has been the site of some of the most intensive and influential activities with regard to the issue in the state. A 1978 report to the governor outlined the problem confronting New York agencies, proposed a plan for further specifying the children and agencies involved in out-of-state placement, and made a number of recommendations for change.[2] It is important to bear in mind that CCF activities and proposals occur in concert with member agencies, which constitute the full spectrum of public human services in the state. It was the position of the council, consisting of these agencies, that the state provide quality services within the state to all disabled citizens.

Problems associated with out-of-state placement, according to the CCF report, had their beginnings in the placement of handicapped children by the SED and the DSS into out-of-state institutions, starting in 1957 and 1972, respectively. In lieu of developing alternatives to highly structured institutional environments, these agencies relied heavily on the private resources of other states. This practice was increased as a result of deinstitutionalization and least restrictive environment policies, which cause more children to enter the existing child care system.

Deinstitutionalization and out-of-state placement policies and practices contributed to a number of New York court actions. These cases, Eileen H. v. Beine[3], Inmates of Boys Training School v. Affeck[4], and Sinhogar v. Parry[5] are discussed in the following subsection.

Many children among the 786 reported in the CCF report to be in out-of-state institutions as a result of DSS and SED program actions, were multihandicapped and the extent of their disability indicated considerable impairment. Seventy-five to 80 percent of the children placed by child welfare agencies had some degree of retardation and over one-half had been diagnosed as severely emotionally disturbed. Approximately 35 percent of the children placed out of state by the education system had primary diagnoses of emotional disturbance, with the remaining being developmentally disabled with attendant physical handicaps.

In advocating the return of the children to New York programs, the council said that priority should be given to children in substandard facilities, who had been inappropriately placed, or who were reaching adulthood and needed the different services this passage would require. To accomplish these objectives and to prevent continued out-of-state placement, the council proposed a variety of actions in their report, most of which have been implemented.

Every program containing New York children outside of the state was visited and surveyed by an interagency team. Program and residential needs were recorded for each child and estimates of the appropriateness of placements were made. Similar surveys were made for children on the Special Services to Children waiting list in the New York City Human Resources Administration for placement in out-of-state programs.

An aggressive effort was undertaken to develop the specialized services in New York that children in and awaiting placement require. Over 120 intermediate care facility beds were authorized for mentally retarded children (ICF-DD) and 200 critical foster care placement beds were provided. Related to the expansion of ICF-DD resources was an increased authorized reimbursement for these facilities, as well as group homes caring for retarded children. This reimbursement was targeted for the higher staff-to-child ratios required to adequately care for the very difficult children being returned from other states.

Recommended but as yet unachieved were increased local mental health services to older adolescents and the establishment of local interagency placement committees on a statewide basis. Local mental health agencies were reported to neither have the experience nor the resources to deal with these youth, having traditionally relied upon the state mental health programs or other state agencies to address this group. An interagency placement committee has been established for handicapped children in New York City, but not in other areas of the state. It was reported that the regional differences in prevailing service development in the state have inhibited policymaking on who should be involved in such committees. Committee members in some areas, such as in southern New York, should be knowledgeable with and connected to the system serving handicapped children, while in western New York, service problems are more frequently related to such family court matters as delinquency or status offenses. The difference in the service regions of state agencies was also cited as problematic, with few of these being coterminous across agency types, with each agency having administrative offices in different locations. This is not the case in New York City, which is reportedly why a committee has been successfully formed there.

There is the feeling in the CCF that if a child is progressing well in an out-of-state placement, that child should not be a priority for return to New York. There is also a kind of realism which brings acceptance to the notion that some out-of-state placements may be unavoidable, even though the prevailing objective is that they should be stopped completely.

Problems remain, from the council staff point of view, in fragmentation of the placement process, unclear lines of state agency jurisdiction, and inability to monitor the activities of local agencies, especially the local DSS programs, by their state-level counterparts. The placement practices of the family courts, although more and more reflecting the agenda of the council's agencies, are still isolated from direct impact by the council. Children placed under an order of a family court are the most difficult to return to New York. They remain, as a group, somewhat outside of focused efforts by council agencies to return all children to New York.

The council is also involved in a variety of other activities for children and families. It supports the enactment of tax credits and other fiscal incentives to strengthen families and promotes more advocacy activities within the public human services system. The council is also conducting an analysis of the utilization of all public appropriations and expenditures for services to children in New York, to improve the efficiency and coordination of the 18-agency child-serving network.

Child Welfare

Policy in the DSS pertaining to the placement of children outside New York by local agencies exists primarily in a requirement that the ICPC be utilized, and that state reimbursements for out-of-state placements will not exceed that which is made for placements in New York. An administrative directive to local commissioners of social services states with regard to the ICPC that, "All child caring and child placing agencies must be aware of the Interstate Compact and take the prescribed steps to assure compliance with the law whenever the transfer of a child to or from another state is contemplated."[6] Conditions requiring compact utilization include preadoptive, foster family, institutional, and familial placements in other states, as well as when a foster or preadoptive family moves to another state.

A DSS policy and procedure manual on state aid standards for foster care of children contains a specific reference to state reimbursement for out-of-state placements. This policy states that, "State reimbursement for the cost of foster care for any child provided in an institution, group residence, group home program, agency boarding home program, foster family boarding home program outside of New York shall not exceed the maximum reimbursement level established for the same type of foster care purchased within New York State."[7]

The compact office tries to coordinate with all local child care or placing agencies licensed by the DSS in the public and private sectors. ICPC staff were said to have no capability to monitor out-of-state placements by agencies under ICPC purview or to detect those agencies which avoided the compact before placements were actually made. At the time of the study, formal written communication with local DSS programs about compact policies, procedures, and problems was said to occur infrequently except on a case-by-case basis, rather than in the form of an ongoing training initiative. There were no policies stipulating procedures for placement to states which are not members of ICPC, and the monitoring of placements into New York was said to be done by local agencies, if at all. Receiving agencies are currently being encouraged to assure that children from other states come through the ICPC to their program.

Compact officials speculated that agencies in violation of the compact could have their DSS child care license revoked, or that the DSS could refuse to release state reimbursements for placement, but that this has not been done. Characteristically, verbal attempts are used to bring agencies into compact compliance and to educate them about the ICPC. At the time of the study, most compact-related problems were said to occur in areas of high placement volume, such as Erie County (Buffalo) and New York City. Since that time, out-of-state placements have all but completely abated in these areas.

Compact utilization was not determined in the survey of local agencies for 16 percent of the 153 out-of-state placements made in 1978. A minimum of 59 percent of all local child welfare placements involved a compact.

Compact officials identified several reasons for local avoidance of compact procedures. This could occur because of ignorance of the compact, which is compounded in areas with high staff turnover, and because of the desire to avoid

possible delays. Also contributing to compact avoidance was the reported lack of local placement resources and poor case planning. This occurs when a setting is identified in another state for a child very much in need of care. Rather rapid placement of the child ensues in this situation, which bypasses ICPC notification or involvement because local officials sometimes believe that compact utilization will substantially slow the placement process. Compact procedures are frequently implemented after placements have occurred to ensure the protection of children and to maintain interagency relations.

Problems with noncompliance by local DSS agencies were said to prevail because of sparse resources available to ICPC administration. Compact officials were said to lack adequate staff or finances to fully implement the provisions of the ICPC legislation through training, education, and policy development. Also noted as lacking were mechanisms to find out about agencies deliberately avoiding the compact.

The long-developing system to standardize reimbursements by the DSS to county social services agencies for foster care has been brought to near complete implementation. This standards-of-care system embodies the DSS policy of not reimbursing the local agencies for out-of-state foster care at sums exceeding comparable in-state care. The standards-of-care system departs from having a uniform per diem reimbursement for all types of care by stratifying settings and their reimbursements according to levels of care provided. Very detailed fiscal and programmatic information on proposed providers must be submitted to the DSS by local programs before state reimbursement will be released for payment. This, in effect, operates as a check on the amount of resources available by the level of care provided.

A classification system also exists to operationally define the problems and care needed by each child placed in out-of-home settings. This procedure attempts to appropriately match children with programs. Although on-site program reviews have occurred since 1977 as a part of the standards-of-care system, in April 1981, the DSS began on-site visits to facilities to check the correspondence between children's problem classification and the level of care for which the agency is classified and reimbursed to provide. Penalties will reportedly be levied against agencies with over 20 percent of their children inappropriately placed. These reviews will also address the adequacy of agency functioning according to standards established by the state.

Despite DSS efforts to standardize reimbursements to county agencies for their child care expenditures by level of care that is purchased, county agencies may still negotiate rates of payment with providers regardless of state reimbursement schedules. It was reported, however, that counties usually negotiate rates with private child care providers in close relation to reimbursement levels allowed by the state.

The highest level of care in the standards-of-care system is critical care. Approval procedures are most strict for reimbursement for this level of care and contracts are developed for individual beds rather than on an annual basis with agencies. In addition, preplacement DSS program review and approval are required for critical care, whereas they are not for the less intensive categories of normal, special, and exceptional care. The strongest control factor in the placement of these children by local agencies, however, is that the DSS

individually reviews and approves proposed critical care contracts before children may be placed in such settings with DSS reimbursement. However, in the case with placements to less intensive levels of care, the correspondence relating to classification of children's problems and facility classification will be checked after placement has actually been made. It was reported that little relationship is believed to exist between children's disability and level of payment.

An additional requirement relating to DSS approval of critical care reimbursement is that the local DSS commissioner must certify that an aggressive attempt has been made to find foster care in all voluntary agencies, the DFY, the OMH or OMRDD, and the SED. Justification of why this "extraordinary" care placement level cannot be made must be documented, accompanied by three written rejections providing this type of care. Similar justification must be made of why other New York state agencies did not accept the child.

In addition to the previously described compact and standards-of-care policies, there are a number of review policies in place that apply equally to in-state and out-of-state placements. Judicial review of all foster care placements is required within 18 months after an out-of-home placement has been initiated and semiannually thereafter. Also required is an administrative review of all children in placements which are expected to last more than 30 days, and a semiannual review of a sample of local case records. Failure to review placements was reported to put DSS placement funding in jeopardy. These review procedures apply to placements with relatives, but this was described to be only a technical requirement. It was reported to be unlikely that these review requirements would be enforced in the absence of state funding.

Associated with placement review are monitoring of placements by local placing agencies. The Academy's survey of all local child welfare agencies indicates that among agencies questioned about out-of-state placement monitoring practices, reliance upon the receipt of written quarterly progress reports was the method of choice.

It may be seen from the foregoing discussion of ICPC, standards-of-care, and out-of-home placement review policies that, in some ways, specific out-of-state placement policy in DSS is not as developed as may be found in some other states; neither is it in a state of dramatic change. However, it is interesting to note that given this out-of-state placement policy situation in the DSS, the out-of-state placement practices of local agencies have been subject to marked changes in recent times.

Although there are no explicit prohibitions against placing children out of New York, there is widespread awareness that the practice is frowned upon in all quarters. For that reason, few, if any, children are leaving New York City anymore for care in other states, and those out-of-state placements from upstate local departments of social services which do occur are very rare. A DSS official reported that there were only two children placed out of state in 1979 for some type of foster care. In contrast, a special study conducted by the New York City Human Resources Administration's Special Services to Children in 1978 indicated that there were 296 children in out-of-state facilities from New York City alone.[8] The Academy's survey of all county departments of social services for this period indicates that a total of 153 children were initially placed out

of state, 16 of which were placed out of New York City. Problems have historically surfaced in New York City where, in 1978, 60 percent of the 43,751 children in foster care statewide had their legal residence.[9] The 153 children were placed out of state by 37 of the 58 local child welfare agencies throughout the state.

It is impossible to fully appreciate how dramatic changes have occurred in New York without examining some historical policies which affected the DSS and county departments of social services, and the outcomes of some of those policies.

In 1971, a law suit was filed in New York City, Eileen H. v. Beine, attesting that children were remaining in state psychiatric hospitals for extended periods after they were ready for discharge because the public placement system was unresponsive.[10] These time periods also coincided with the additional pressure from the then-Department of Mental Hygiene's deinstitutionalization plan, which prescribed shorter admission periods for new cases and discharge of all additional children who could be found suitable for community care. Furthermore, the DMH Willowbrook facility had been completely closed and a number of children were not added to the list of cases needing placement.[11]

These actions had serious implications for the SSC and DSS because the state DSS was, at the time of the study, responsible for sharing with county social service agencies the cost of all foster care provided in the state. In addition, state and local social service agencies pay educational costs for placements initiated by other public agencies when educational services are not provided by the public education system. They also cover board and care expenses for placements made by local school districts during the school year, and all additional costs for the care of children who do not return home for at least two months per year from their special education setting. It was reported that tuition costs of children placed in private foster care settings by agencies other than school districts will be education's responsibility as of 1972. Medicaid and SSI funds are also brought to bear on eligible placement costs, which reduces the proportion of payment shared by the state and local departments of social services.

Special Services for Children settled the Eileen H. v. Beine case out of court in 1972 by agreeing to place all New York City children ready to leave DMH facilities within a specified timetable. Although the private sector provides most care to children in New York City, voluntary agencies did not absorb the great number of hard-to-place children leaving state facilities. Special Services for Children, obliged to find settings for these children, turned to out-of-state resources, and many of these children subsequently left the state.

New York City officials described this as an expedient stopgap measure to buy time for the development of in-state resources, but, in July 1977, another suit was brought to the Supreme Court of New York County, Sinhogar v. Parry.[12] This suit challenged the authority of New York officials to place youth in out-of-state facilities. The challenges were based upon four alleged constitutional defects in New York out-of-state placement practices. A 1978 study done by the Council of State Governments and the Academy for Contemporary Problems described these alleged constitutional defects as follows:

> First, the particular placements involved denials of plaintiffs' right to treatment guaranteed by the Fourteenth Amendment. Second, by sending plaintiffs to out-of-state facilities, "thus separating them from their family and community," without a hearing to determine the appropriateness of the placements, the Fourteenth Amendment is allegedly violated. The third and fourth constitutional defects alleged by the plaintiffs are that the New York practice of placing some children within New York state and others outside the state, and the granting of out-of-state placement hearings to delinquent youth but not to dependent children constitutes a denial of equal protection of the law.
>
> In addition to due process and equal protection claims, the plaintiff's complaint challenges out-of-state placements because the institutions involved "are not authorized agencies as defined in Social Services Law 371(10) and which are not visited, inspected or supervised by the New York State Board of Social Welfare." Other defects of the placements cited in the complaint include noncompliance of the out-of-state facilities with New York standards for child-care institutions, failure to assure that the programs are appropriate for each child's needs and, by implication, the discouragement of the development of appropriate facilities within New York. If ultimately decided on the basis of the New York statute, Sinhogar will be a precedent-setting authority and will provide direction for understanding statutes in other states which authorize official placements.[13]

The trial court granted due process protection to the plaintiffs because the geographical aspects of the out-of-state placements jeopardized New York parental rights and responsibilities in relation to the children. This ruling was subsequently reversed by the appellate division, which did not address the constitutional claims from the geographic aspects of out-of-state placement per se. Instead, the appellate division ruled that the state had adequately protected children's and parents' interests in terms of due process, and that there was a rational basis for the statutory distinction between the delinquent's or status offender's right to rehabilitative treatment and the foster child's right to

basic care. Accordingly, the court further held that plaintiffs' rights to treatment are limited to the programs the legislature has made available and the existence of a bona fide treatment program at the foster-care facility. With regard to the geographic issue, the court noted that there are many factors affecting parental visitation and that the crossing of a state border is not, by definition, a determining factor in that visitation. The case, on appeal to the Court of Appeals (the highest court in New York) was dismissed.[14]

Considerable concern was aroused among policymakers and others in New York City as a result of this litigation. The Board of Estimate, which takes a fairly strong role in the guidance of public city agencies, including the Human Resources Administration, took up active investigation of the out-of-state placement issue.

Pursuant to a Board of Estimate resolution, New York City's Special Services for Children undertook an extensive study of individual agencies and New York children in other states.[15] The 28 agencies serving New York City youth in other states were described by the city's child welfare agency as having care of a very special group of children. The SSC studied the 296 children already in out-of-state placements from the city and described them as moderately, severely, or profoundly retarded, having serious emotional disturbances, and physically or multiply handicapped. The SSC also reported that there were 304 children of similar description waiting for placement in the settings already serving children out of state.

Observing that the per diem cost of serving these children in New York would likely double over present out-of-state costs, the SSC recommended leaving all children benefiting from their placement where they were. The agency further documented the fiscal and programmatic requirements to return 300 children and to place the 300 children on waiting lists in New York programs. However, the recommendation was not followed.

In May 1979, the Board of Estimate passed a resolution which mandated the return of children placed out of state. In an effort to begin to return children to New York who were appropriate for such action, and to minimize further out-of-state placements, the SSC solicited 100 new "critical care" beds from private providers which would qualify for the maximum DSS reimbursement. The DSS and the Division of the Budget took exception, maintaining that funds were only available for 100 new beds in this category of care statewide, with 65 allocated for the city. After some discussion, the SSC took an urgent request to the governor, who in turn intervened by committing 100 additional critical care spaces on a statewide basis.

Since that time, 200 new critical care beds and over 120 ICF-DD beds have been made available in the state to absorb those children on placement waiting lists and to receive those children being returned from out-of-state placement. There remained about 250 New York City children out of state at the beginning of 1980.

At the time of the study, many of the children placed out of state prior to the previously described litigation, and study and plan for return by the SSC, remained where they were. Because of the great expense of developing needed critical care beds, and because many of these children were adapted to

and profiting from their placements, their return to New York is slower than what had been expected. However, most children have been returned from the most replaceable programs, and others are reportedly being returned at the rate of about two children per month.

The Board of Estimate, also in May 1979, revoked any automatic extensions of foster care payments past the end of the fiscal year, and reserved for itself the responsibility of reviewing all foster care contracts. The board also mandated that children be placed in the borough or vicinity in which their natural parents or legal caretakers reside, and that consideration be given in placement decisions about children's neighborhood, church, school, and relatives. Exception was granted to this policy in the presence of unique or exceptional need, or by consent of parents or legal guardians. This mandate was reported to have been later reduced to a policy position because it was outside of the board's authority, under state law, to control placements to that extent.

The events that took place in New York City, and which involved the DSS, strongly contributed to bringing the status of New York's foster care system to the foreground of public concern. A temporary Commission on Child Welfare, established by Chapter 1064 of the Laws of 1974, undertook an intensive study of New York's state and local foster care system and published its findings in one of a number of reports on the status of programs for children in the state.[16] The commission noted that the DSS undertakes only limited audits of foster care and that the disarray of local records make this task more difficult than it should be. The commission advocated that the DSS take a stronger role in monitoring placements and holding local agencies accountable for the provision of services. Further, it was reported that New York City public agencies placing children into foster care frequently have little involvement with those children once placed. Case loads of 250 children, as were found in New York City, were said to regularly preclude the workers from reading status reports, pursuing complaints about quality of care, or visiting children in placement and their parents.

Commenting on the state DSS-administered foster care reimbursement system, the commission observed that the state aid system is not geared toward standards of performance. The standards-of-payment system and the development of model budgets move the system in this direction, but intergovernmental monitoring appears underdeveloped. Local DSS agencies were said to be uniformly reimbursed for child-care days no matter how long a child may stay in care and whether or not a plan for appropriate care may exist and be executed. The state DSS is not privy to the case management decisions of local agencies, causing it to support placements with which it may vehemently disagree.

Reportedly, underdeveloped case planning results in a lack of clear direction for children in terms of future permanency goals. Locally, it was heard that the new emphasis on more rigorous planning for placements has not completely taken hold because of the inertia of previous procedures. There is to some degree a reported tendency to act from one situation to another in a disjointed fashion, and this process was characterized, by one interviewee, as involving "desperation planning." One agency was observed by a respondent to operate on so-called "practice policy" which is governed by the rule, "We've always done it this way." Although this is not representative of the whole state, it does exemplify problems that exist among some of the local agencies. This problem is

not new to the DSS, which notes in a standards-of-payment policy and procedure bulletin that, "For some time now, the Department has recognized the problem of children who become lost in a kind of limbo in foster care without adequate plans being made for an appropriate home for them throughout their childhood."[17] The DSS also states later in the same document that, "The key obstacle to achieving the goal of permanence for each child is that appropriate planning is not taking place in many cases."[18] Even in light of these observations at the state and local levels, some local child welfare respondents indicated that planning was occurring among some local agencies to develop more and better-utilized foster care and supportive services. There was speculation that, as a result, out-of-state placements would eventually cease altogether and that permanence for children would be better realized in shorter periods of time.

Compliance with current DSS guidelines for placement was said to be aided by increasingly explicit policies and practices. State DSS personnel involvement with the Council on Children and Families, and monitoring and intervention by the DSS statewide placement reporting system, known as the Child Care Review Services (CCRS), was also said to aid policy implementation. In particular, the out-of-state placements were said to be consistently reported to the ICPC and the CCRS. Stage one of CCRS development was undertaken by the DSS for children in that system. Stage two of the CCRS is being developed through the Council on Children and Families to track children placed in out-of-home care by all New York public agencies.

Although all of these factors contribute to local DSS policy compliance for placements both in and out of New York, there was noted to be room for increased effectiveness. A local respondent expressed the desire for children to be placed near home even more than they are now, and said that improved communications between local DSS agencies and voluntary service providers is helping in this area. This respondent indicated that local private providers will have to begin taking difficult children referred for placement or they will not have sufficient clientele to remain in operation. This observation is linked to mounting efforts to keep all but the most problematic cases at home and out of the foster care system, and reserve foster care placement for the most troubled children. Foster care prevention is taking on increasing importance in the state as are local DSS efforts to improve appropriateness of placements while decreasing system costs.

The situation in New York, then, is unusual in out-of-state placement policy and practice as compared to the other states that the Academy visited. The DSS has made and continues to make progress in guiding the locally administered foster care system toward providing more appropriate care and greater permanence for children. However, because out-of-home placement authority is vested with the counties, they are still the location of decisionmaking as to in-state or out-of-state placement. Local practices with regard to out-of-state placements have substantially changed nonetheless, at least in part because of the way in which such placements are viewed by authorities in state government. Local respondents noted in this regard that, "The political climate is negative to out-of-state placements," and that, "The state has an unwritten policy to get out-of-state children back to New York and develop a [treatment] plan." In addition to the way that the previously described litigation may have influenced

out-of-state placement practices, respondents also pointed out that the governor and media exposure have had considerable bearing on out-of-state placement policy.

Education

Local education agencies and the SED constitute one of the areas of greatest activity in out-of-state placement in New York. At the time of the previously described Annual Report by the CCF in 1978, there were indicated to be nearly a total of 500 children in facilities out of New York who had been placed by education agencies, only about one-fourth of whom were from New York City. The Academy's research indicates that in the 1978-79 school year alone, 126 children were initially placed out of state by 72 of the 738 school districts, and recent reports from the CCF indicate that there were 55 initial placements during the 1979-80 period. In all reporting periods, most of these placements originate in the southeast region of the state, excluding New York City. Nassau, Suffolk, and Westchester Counties were especially active in this regard.

Placement of handicapped children into programs with special education as the primary objective originate with and are the responsibility of district committees on the handicapped (COH). These committees operate as standing Individualized Education Program (IEP) committees that are found in most states, which evaluate children, develop education plans, and make placement decisions. The responsibility of COHs applies to all special education students who are residents of their districts, whether children are placed in public or private programs in or out of New York.

COHs receive referrals of children for whom child study teams in each school are unable to provide appropriate programs. If found to be eligible for participation in the special education program, IEPs are developed by COHs, in cooperation with parents where this involvement can be elicited. If evaluation and program planning indicate that the immediate public system cannot address children's needs, COHs refer children to their respective Bureau of Consolidated Educational Services (BOCES). The bureaus undertake a similar search for appropriate public programming within their regions for appropriate resources. If these searches are not successful, cases are referred back to COH for further consideration and referral to the SED through its regional associates. BOCES do not have to sign off on these referrals, but the SED must be assured that these regional resource centers do not in fact have appropriate resources for children referred from the local level. The COHs initiated out-of-state placements in 1978 for children who were physically, emotionally, or developmentally impaired, or who had some combination of these impairments.

The commissioner of the SED must personally approve any placement in one of the 200 in-state approved private programs or to one of the 35 approved programs outside of New York. The SED maintains a list of private facilities approved for use by local education agencies. Children, if leaving the public system, must go to one of these approved programs if public education funds are to be used. Out-of-state services are financed directly by the SED. In-state

services involve a transfer of funds between the resident school district and the school district where the nonpublic program is located.

At the time of the study, the SED relied upon the reports of other state education agencies and the facilities themselves for approval of out-of-state institutions. All programs have, however, been visited and reevaluated since that time, in cooperation with the Council on Children and Families. Private facilities are to be inspected by SED personnel prior to placement, and must be reevaluated every three years. Since the recent inspection effort, many schools have been removed from the approved list because of program insufficiency, the absence of any children from New York, or an inability to agree on fees.

Over one-half of the 46 children placed in 1978 by school districts (providing destination information) went to facilities in neighboring states. Connecticut and New Jersey, each received five placements, and 24 went to Pennsylvania from New York school districts during this period.

An additional requirement stipulated by the commissioner of the SED must also be met before a COH can place a child with an out-of-state provider. Five written refusals of placement must be submitted to the SED from in-state private programs before out-of-state placement may be made. Failure to observe this rule precludes SED from contracting for payment to the provider. The SED pays all educational costs incurred by private placement, and issues a chargeback to the local education agency in the amount that it would have paid for the provision of local services from tax levy revenues. State and local DSS agencies are responsible for equally sharing the cost of care that exceed education costs.

State and local DSS agencies are also responsible for the full program and transportation costs for children under five years old, or who remain in their education placements during the months of July and August. In addition, the public welfare system pays full costs of care, including educational expenses, for children in residential settings as a result of court order or local DSS agency action. At this time, state and local DSS agencies cannot charge the SED for educational services rendered to children placed by the public welfare system. Services of this type financed by the state and local DSS agencies are only available pursuant to court orders or favorable findings by family courts at the initiation of parents.

School districts providing information on the type of setting most frequently used for out-of-state placements cited the residential treatment and child care facility as the setting of choice. All three of these local education agencies said that out-of-state placements were made in 1978 because of a lack of comparable services in New York and because of previous success with receiving facilities.

Local education respondents seemed well-informed about placement regulations. When asked about placement policies, local officials consistently cited the need for special services unavailable through the public system as determined by the COH; the need for written rejections for out-of-state placements; and the need for the commissioner's approval of all nonpublic placements. Some local officials also noted the required role of family courts, as previously described, and the intermediate role of the regional associates in the referral to SED.

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State education officials observed great improvement over the system which existed two years prior to the Academy's study. The 60 schools in and out of New York which were removed from the approved list left a total of 35 out-of-state programs which are now said to be rigorously monitored. Gone from the list of approved programs are overly restrictive schools and those which were described as "prep schools for rich kids." Apparently, skillful and articulate parents had been able in the past to manipulate the system to gain especially advantageous placements for their children, often at unjustified expense. Placement practices have reportedly had considerable oversight and tightening under the present SED administration.

The few school districts placing more than four children out of state reported in the Academy's survey that they require written semi-annual progress reports. In addition, they make annual visits and two reported making quarterly telephone calls to assess children's progress in placement.

The problems related to enforcing regulatory policy were primarily intraorganizational. The field staff of the SED was reported to be severely understaffed, with about one-half of the personnel required to carry out the stepped-up regulatory program. Officials said that this caused inadequate review of placement referrals, but there is presently at least enough staff to do a perfunctory review. In the past, placements in and out of New York were reportedly approved with little or no review.

Time delays due to excessive paperwork were also described as problematic. This sometimes caused placements to be made prior to the case being actually reviewed by SED, causing considerable problems if the setting turned out to be unsatisfactory.

One official noted that the SED reputation for lack of timeliness in child placement processing was deserved. After considerable improvement, however, the agency was said to still lack complete efficiency. There were reported to be some organizational trade-offs to be made in the need for improved control competing with the need for timeliness. It still takes two to six months to completely process a placement, which is too long in the minds of SED officials that were interviewed.

Locally, similar concerns were voiced about timeliness and these were linked to obtaining written rejections from programs in New York prior to placing into another state. One official added that this procedure is also not at all clear to some local program officials. One source in the SED reportedly told this respondent that five refusals were necessary, while another said 15 rejections would be required before out-of-state placement approval. This official reportedly once obtained 14 refusals and contacted the SED for placement approval. SED officials apparently disagreed with the case going out of New York, and provided a list of 20 programs for further exploration, 14 of which had already provided refusals. This left the respondent with the impression that the SED approves out-of-state placements only with the greatest reluctance. Requests for assistance from regional associates were said to be sometimes answered by willingness to review the local agency's decision once it is referred up through channels, rather than help the agency discover resources and match children to them.

Another local official felt that on-site visits were difficult to accomplish since all four COH members were supposed to visit placements at the same time, causing coordination problems. The burden of travel expenses for children to and from placement at the beginning and the end of the school year was also described to be an unjustified drain on local education revenues.

Generally, all respondents felt that current SED policy is in the best interests of children. At the state level, it was reported that the SED is aggressively trying to implement "nebulous concepts" which are sometimes difficult to operationalize, such as "least restrictive" and "severe handicap." New York's monitoring system was cited as one of the most active and comprehensive in the country, and the list of approved schools has been pared down to quality institutions. Local respondents agreed with this position, citing the quality of New York's programs and the need for the child, family, and school to be close to one another for quality services. Proximity to family and friends was observed to be very important. Only under exceptional cases, where a child's needs exceed the state's resources, was out-of-state placement advocated. In this case, one local education official noted that, "There are some out-of-state placements which are better than in-state placements. I'm sure of that." The SED, as common practice, continues to work with the CCF toward returning those children inappropriately placed out of state and toward the diminution of such placements.

Juvenile Justice

The Division for Youth is not a key actor in the out-of-state placement activities in New York. Youth referred to the division by a family court or by parents receive care and treatment in a continuum of DFY-operated facilities, ranging from group homes and foster family care, to secure facilities. Children are placed out of state only with parents and relatives, and in other nonsecure homelike settings for aftercare supervision. The agency only reported a total of 36 youth whose aftercare supervision was transferred to another state in 1978.

The Interstate Compact for Juveniles is administered by DFY for these purposes, and all DFY agencies were reported to be subject to the purview of the ICJ office. Out-of-state placements of youth for aftercare are made at the initiation of the assigned aftercare worker and were reported to be subject to approval by the youth's youth service team, the worker's supervisor, the regional coordinator, and the deputy commissioner of the division. Although youth placed out of state are supposed to be processed through the ICJ, this is reportedly not always the case. The ICJ office is not always notified of placements into other states for aftercare supervision. It has no systematic method for monitoring this type of activity at the field office level. Only in cases where youth come to the attention of the ICJ administration in other states is the DFY compact office systematically notified of out-of-state placements.

In cases where the ICJ is not utilized by DFY workers, memoranda have been sent to the offices of the youth services teams informing them of out-of-state

placement policy and procedure. ICJ officials said that they attempt to maintain close contact with the youth services teams to prevent noncompact placements. Reportedly, many youth are placed just across state lines for the continuance of parole supervision. The DFY compact office will notify the bordering state that youth have been transferred into their state and ask permission for the DFY to continue monitoring and supervising these children.

There were a variety of problems identified with the thorough implementation of the ICJ. These were primarily associated with the applicability of the compact, given the significant policy changes that have occurred at the federal and state levels since it was written. Problems were noted both with parolees and with the return of runaways.

The differences in interpretation of the ICJ among states, variance in supplemental legislation, and differences in age of jurisdiction were cited as evolving problems with the ICJ, as they become layered upon the compact as it was originally developed and enacted. It was reported that some states do not interpret the compact to apply to the transfer of status offenders, for example, and that the compact does not clearly indicate its applicability in these cases. In another area, youthful offenders are not subject to ICJ purview in New York because they have adult classification under New York law. The applicability of the ICJ to juvenile offenders convicted of felonies in adult court is still being defined. The problem of varying adult and juvenile age limits is apparently the source of some debate among states with differing age jurisdictions. A reported decline in cooperative spirit among states was also said to be threatening the survival of the ICJ. States, one official said, no longer do "favors" for one another. The rapidly changing legal scene for juveniles and increasing emphasis on adherence to state regulations have reportedly been a serious detriment to flexible compact implementation.

Implementation of the compact, in operational terms, was described to be too slow, and involving excess red tape. This serves as a disincentive to compliance, which is reportedly lowest in rural areas. Multiple actors in the transfer of status offenders to other states is also problematic from respondents' point of view. They may be placed with DFY for 18 months and subsequently be placed out of New York, or they may be placed out of New York by a local DSS agency under court order or by parents. Apparently, the diversity of sources of placement of these youth diminishes compact implementation as far as status offenders, as a group, are concerned.

The Division of Probation also administers ICJ services, for the placement of youth from the New York local probation agencies to public agencies in other states. The adult Probation and Parole Compact (PPC) is also administered by the DOP, and it is utilized for the transfer of probation supervision of 13 to 18 year old youthful offenders who have been adjudicated in adult court. These youth are transferred out of state through this compact because they are "adults" in New York. However, because youthful offenders are not convicted, per se, of criminal acts, but are subject to adult court judicial findings, they are identified as special offenders under the terms of the PPC. As such, they are often transferred into the juvenile jurisdiction of the receiving state for supervision. Transfer as special offenders through this compact makes them subject

to the jurisdiction of out-of-state juvenile courts while, in their own state they are subject to the adult courts, which retain continuing jurisdiction after out-of-state placement occurs.

The DOP reported that it is minimally involved in transferring probation supervision out of state for what it called "children." Estimated was the transfer of "about four to five children per week." However, officials reported that the division does transfer a "large number of youthful offenders" through the PPC as special offenders. It was reported that in no case would the DOP clear or authorize the transfer of children or youthful offenders under the terms of either interstate compact unless they are officially placed or sentenced to probation by a court with appropriate jurisdiction.

The DOP has developed a compact manual for use by the persons designated to handle out-of-state placements in local agencies. Arrangements for care and supervision are made at the county level, with the DOP compact office acting as a clearinghouse for paperwork related to incoming or outgoing youth. Out-of-state placement procedures are included in the state probation academy's curriculum, and regional meetings and training sessions are held to reinforce and update workers' knowledge of compact requirements and procedures. Supporting what was described to be a strong emphasis on training are surveys among local probation agencies to determine compliance with DOP policy. It was also reported that consultants to the DOP periodically undertake case record reviews to check for compact utilization in out-of-state placements. Noncompliance with the compacts by local probation workers was said to result in verbal reprimand.

Respondents in the DOP reported that the primary problem with compact implementation has to do with a lack of knowledge on the part of local workers, and the feeling among some judges that they can circumvent the compacts in ordering placements out of New York. Poor communication with probation workers in other states was also said to be troublesome, resulting in different levels of treatment and supervision for youth from New York compared to resident youth. There was also described some reticence on the part of out-of-state officials to take youth from New York.

Despite prevailing sentiment against out-of-state placement, a local probation official reported that his particular county is still confronted with about 20 hard-to-place children per year for whom in-state services are inappropriate. This official was equivocal on whether current out-of-state placement policy served the best interests of children. The respondent said that the local systems lack knowledge about out-of-state resources, as well as the time to explore, locate, and investigate programs on their own. However, if more information was available, as well as the ability to monitor placements effectively, this respondent indicated little objection to making more out-of-state placements than are presently occurring. Local probation officials noted that New York became involved placing children out of state because certain resources were inadequate, and they remain inadequate in the face of the trend away from this placement practice.

In 1978, 37 of the 55 local probation agencies arranged 153 out-of-state placements. Placements with relatives and other family-type settings are still arranged by local probation departments and are sometimes arranged without the ICJ.

Also, in these cases it was reported that probation for children is sometimes terminated by the family court prior to placement which, in all cases, must be made pursuant to court order.

Mental Health and Mental Retardation

The Office of Mental Health and the Office of Mental Retardation and Developmental Disabilities have only limited involvement in placing children out of state. The Interstate Compact on Mental Health is administered through the Interoffice Coordinating Council for transfers of both mentally retarded or mentally ill individuals from state-operated institutions in New York to those in other states. State facilities neither place children out of New York nor maintain any contracts with private psychiatric institutions. Institutions subject to the purview of the compact would include those operated by the Offices of Mental Health, Mental Retardation and Developmental Disabilities, and Alcoholism and Substance Abuse. In addition, in New York the compact is interpreted to apply, on a voluntary basis, to all public mental health facilities under the auspices of county and city governments. The IOCC reported ten out-of-state transfers in 1978, all of which went through the mental health compact. Four of the 58 local mental health agencies reported a total of five out-of-state placements in 1978, none of which involved interstate compacts. Children leaving New York were identified as emotionally and developmentally impaired.

To assure compliance with the ICMH, memoranda are circulated to public institutions describing the services provided by the compact. Occasional training sessions are held for the social work staff of state facilities. Problems related to transfer without compact utilization were described to occur primarily when an outpatient of a state facility moves with his or her parents. The compact office is notified after the move takes place and has to quickly contact the receiving state to continue supervision, if the person's condition warrants professional monitoring. Also problematic are emergency admissions to state hospitals outside of New York when a child has been placed out of state without the use of any compact. The example given described a New York City public agency placing a child in a large private child care institution in Pennsylvania without any compact involvement by ICMH, ICJ, or ICPC. Children in this situation may require sudden hospitalization, and the New York ICMH office has no legal authority to intervene. The agency which originally placed the child has to be tracked down and notified for return, which is sometimes a lengthy process.

Other identified problems concerned the lengthy process of using the ICMH in the manner prescribed. This was viewed as a disincentive to its use by transferring agencies. Finding placement in New York City is also a difficulty because of the extreme demand for services in publicly operated programs in that area.

Youth may be admitted to OMH-operated programs under a number of procedures which may be classified under the categories of voluntary and involuntary admission. The state is consistent with the U.S. Supreme Court findings in Parham[19] for voluntary admission, in the sense that parents may sign a child into a hospital program without a due process hearing. These youth, however, may be released from the hospital if a legal advocate or other concerned party can demonstrate that the child is not suitable for restrictive care. In the area of involuntary admissions, family courts have several options. Mentally ill adjudicated delinquents may be committed to OMH facilities for up to one year, with the provision of a hearing to extend the placement if necessary. These youth are placed with the DFY and transferred to the OMH. There are several other short-term commitment procedures for court evaluations and commitment because of incapacity.

The OMH equally shares the cost of hospitalization with the federal government. Local mental health programs, family courts, and DSS agencies are not included in this formula. However, one-half of the cost of community residential care in foster homes, group homes, or private psychiatric institutions is borne equally by the state and local social service agencies; the remaining half is paid by the federal government. This, in the opinion of one OMH official, was said to constitute an incentive to hospitalization because local governments are relieved of all costs of care if such a placement is arranged. Some state officials suggested passing 25 percent of hospitalization costs back to county government, as in the case of community placement, but the political climate was said to be unreceptive to such a move. Such a move would reportedly increase the level of OMH fiscal support to less-restrictive, community-based residential programs, but would also increase local costs at these levels of care.

There was said to be substantial reliance upon the voluntary sector for residential care, with 40 percent of the children (placed out of their homes for psychiatric treatment) being in such programs. The OMH provides the other 60 percent of residential care, as well as 75 percent of the state's inpatient hospital service. Private programs were described to be highly concentrated in urban areas, especially New York City. Special foster family care settings are certified by OMH to receive and care for disturbed children, and the office is also moving into licensing group homes which provide specialized services.

Local mental health agencies, except for isolated areas of service development, do not yet provide comprehensive services to families and children. These programs were described to have been slow to respond to the mental health service needs of children, especially older adolescents, and they rely primarily upon OMH programs for such services. Local mental health agencies do not place children out of New York, but they were said to be substantially involved in the placement decisions of other agencies, such as family courts and local probation and child welfare agencies. This involvement usually takes the form of providing services such as evaluation, diagnosis, referral, and recommendations in connection with the larger child-placing system in each county.

Problems identified by OMH respondents included a lack of placement resources and poor interagency coordination of care. The litigation that took place in New York, and the subsequent concern over in-state placement resources have

left the mental health system less affected than other human service systems, such as the child welfare and education agencies. There was reported to be no great increase in placement resources to speak of, for disturbed children in the mental health system, as a result of recent reform activities. The OMH system and its local counterparts are receiving children returning to New York as a result of present policies, but these children were said to be returning slowly. Interestingly, it was observed at the state level that the placement reform movement did not really require any policy changes within OMH because the agency did not place children out of state in the first place. They were, as previously described, placed by local DSS agencies subsequent to discharge from OMH facilities. The real problem for the OMH stems from the fact that the litigation and reform addressed program and not fiscal issues, which were of greatest concern to some state mental health officials. There is little fiscal incentive for local DSS and education agencies to assume service responsibility for children leaving OMH facilities. These children were described to represent added costs for the local child welfare system, which is not responsible for inpatient costs in OMH state-operated programs. Similarly, the education system does not fund educational services in state hospitals, but becomes responsible for these costs when children return to the community from OMH facilities.

Locally, there were expressed similar frustrations with placement resources and service coordination. In one area, a mental health director cited a complete void of policies and procedures related to interagency relationships and residential care for disturbed youth as evidence of deficient comprehensive service planning. Costs were the focus of discussion in another area, where it was noted that family court does not consider the cost to the public when prescribing treatment. Strong sentiments were expressed that costs could be best handled if youth were placed in their home county or at least in New York. The problem noted in this context was that there was a strong need to develop appropriate in-state resources for disturbed children which, at this stage, are severely lacking. Said one respondent, "I don't believe we can successfully treat children outside of their social network. Proximity to home is very important and placement should not be outside of the normal flow of activity."

There were similar feelings expressed against out-of-state placement in the OMRDD, where the office, county service groups, and the residential programs are not authorized to place youth out of New York. Release of funds for care for the developmentally disabled is restricted only to those programs which are licensed by the office, and there are no such programs outside of the state.

The OMRDD figured prominently in the plan to develop resources for the return of children to New York under the initiative of the Council on Children and Families, and the Board of Estimate and the SSC in New York City. At the time of the decision to return children from out-of-state institutions, the office promised the development of over 120 new ICF-DD beds to receive these children. The OMRDD response in developing these resources was less timely than the DSS in developing critical care foster beds, and the office received a certain amount of criticism on this issue.

However, because of the long waiting lists of children in New York for vacancies, it was reported to be difficult to get returning children into the stream of available spaces. Frequently when a space opened up, it was immediately filled by a child in New York already awaiting placement. Most of the promised beds have been developed, but not as a block of newly available placement resources. The new spaces were scattered around the state and New York City. Because of the complexity of returning children from other states, involving other agencies, the courts, and parents, children in New York tended to move into new vacancies. It was reported that the return of children to New York was further complicated by the truly interagency character of the process. Extremely idiosyncratic funding schemes, policies, and interests of participating systems were said to have become entangled, resulting in a process that moves very slowly.

Criticism was also said to be justified in light of the fact that the OMRDD places approximately 1,000 children per year into the community from institutions and an additional 500 to 1,000 children per year from home or other settings into community residential programs to avoid institutionalization. Children placed by OMRDD can be expected to stay in their particular setting for long periods of time. This was reported to obviate the juggling of placements as is frequently the case in the DSS and OMH systems which have more turnover. Furthermore, by going to a community-based system, a trade-off was said to be made whereby it was no longer possible to "squeeze in one more kid" as is the case with systems relying upon larger institutions.

In sum, there was expressed the opinion in the OMRDD that the system had responded and remains responsive to both the needs of new clients and those returning from other states. This was said to be especially true in the face of the special constraints posed by the type of youth served and the community-based placement system, although the system is not without its problems.

The Services to Disabled Children Program within OMRDD has been especially active in assuring appropriate care for developmentally disabled children. In cooperation with the Council on Children and Families, this unit's staff has been actively involved in visiting disabled children placed out of New York to assess the appropriateness of care they are receiving.

ISSUES

The issues that have come to the surface in New York's child care system over the last four years epitomize events which are taking place nationwide. What makes New York different from many states, however, is the intensity with which these issues take shape and the unprecedented number of children they involve. In one of the typical scenarios discovered in both the Academy's national survey and case studies, a large number of children were placed out of state because a deinstitutionalization policy had forced the public and private

child-care system beyond its resources. Whereas in other states this phenomenon has frequently been addressed through legislative or executive policymaking, the impetus for change in New York came from aggressive litigation. This litigation subsequently contributed to waves of executive and legislative intervention to turn the system around.

At issue was, and is today, the lack of appropriate residential care for so-called hard-to-place children. These are the children most frequently placed out of state by many public agencies across the country and they include the physically, emotionally, and developmentally handicapped. The state had been forced to turn away from the resources which had been developed over the last century for these children, which were large institutions, in deference to what have been characterized as more humane settings.

The issues which brought this situation about are, in some ways, still very much with New York's child-care system, and many of them emerge along interagency and intergovernmental lines. Responsibilities for monitoring children's progress in placement was frequently described, in both interviews and documents, to be mixed among public child care agencies, or at times altogether ambiguous. This has led to concern among public officials about the quality of knowledge available about the well-being of children placed by New York agencies outside the state's borders. The adequacy of placement monitoring was consistently stressed as a major concern among respondents: their awareness that children placed out of New York may not be receiving the same quality of care as those who remain in the state. Noted in this area was the fact that some out-of-state institutions housing New York children did not meet the state's standards for care. Also mentioned in regard to noninstitutional care for adjudicated youth was that New York youth, placed into other states with relatives for courtesy supervision, sometimes do not receive the same level of supervision as resident children receive from staff in the receiving state.

Compacts have not been at the center of out-of-state placement reform as they have been in other states, and both placing agencies and compact officials themselves noted the lack of timeliness in prescribed procedures. As a result, compacts have, at times, been deliberately avoided, reportedly in the best interests of children. At the time of the study, the prevailing attitude among some placing agencies was summed up by one local official who said, "If you're going to do it by the law (compact), you're not going to do it." This was reported to be less of a problem in recent times. ICPC officials particularly reported that relations have been greatly improved between the DSS and its local counterparts.

Licensure and approval criteria for out-of-state programs and those in New York differ across agencies. These criteria have sometimes come to impact on the same out-of-state facility. This reportedly occurred when different New York agencies placed children in the same program with limited knowledge of each other's activities. This also suggests that, because of the highly complex system that has evolved over the years to care for troubled, disadvantaged, or handicapped children, youth with very similar problems often enter the overall system at different points. These children, according to CCF officials, frequently differ more in ethnicity than in the nature of their service needs, and are subject to different programs, procedures, and funding schemes. Finally,

with regard to interagency relationships, the foregoing issues suggest that there is substantial room for improvement both in case planning and overall service planning across agencies. This was one of the most frequently mentioned problems by respondents, and has been openly acknowledged by New York officials. The variance in service resources in different areas of the state was said to complicate comprehensive interagency planning and the process of developing this capacity has been substantially slower than what was hoped would occur.

In the area of mental health, there have been repeated calls for increased services to older adolescents from local programs. This is advocated by many officials both in and out of the state and local mental health system. However, there were expressions of frustrations by local mental health officials that there are not sufficient revenues in the local system to promote comprehensive services to children. At the state level, officials agreed with this point, but went on to note the lack of experience with these types of programs among the reportedly fledgling local agencies. As a result, there continues an undesired dependence upon the OMH for the more specialized services not forthcoming at the local level.

Officials in education similarly observed the need for increased expertise in placement matters among local COH participants. Some local committee members were described to be in great need of additional training about the types of resources available for handicapped children, and the matching of children to appropriate programs. Reticence to refer youth to COH bodies was said to have developed in some areas, especially New York City, because they were reported to have created an untoward drain on special education revenues and because of reportedly long waiting lists in many areas. COH members normally tend to respond to this opinion by asserting their desire and responsibility to provide the best possible service to children in their charge.

The family court, as an agent of local government, has drawn fire from its local counterparts and from state agencies as well. Exercising its authority as the protector of children, the court was on occasion described to order placement to specific settings apparently without cognizance of the costs these placements represented for the public child-care system. Avoidance of interstate compacts was also said to occur for family court placements, and termination of jurisdiction before or at the point of placement was also reported.

Emergent issues in New York were discussed by some respondents and are very much on the minds of CCF, OMH, DSS, and OMRDD officials. Primary among future issues are aggressive prevention of placement out of the natural home and the planning of services for youth moving into the adult system. The best and as yet unaddressed response to troubled children and families is seen to be improvement of the family as a unit rather than contributing to its disintegration through out-of-home care. No state, in the minds of several state agency officials, has yet fully come to terms with this issue, but respondents in DSS see great promise in an evolving foster care prevention system. This effort aspires to keep all but the most disrupted of families together. Foster care prevention is viewed as much more cost effective than the present approach to child care and capitalizes on a greatly underused resource, which is the child's family itself.

CONCLUSIONS AND RECOMMENDATIONS

The strongest and most uniformly mentioned recommendation that was received from all agencies was for improved interagency planning and coordination of services. A coalition response, by all child-care agencies, to planning and funding of child placement was recommended to improve the coordination of public policy and the clear attribution of child care responsibilities. A unified statewide planning effort was seen as a way to prevent future occurrences such as in New York City, where one agency implemented a deinstitutionalization policy while another had inadequate mechanisms and resources to absorb children leaving institutions.

Recommendations toward the objective of integrated planning and coordination took many forms. Suggested with regard to out-of-state placements was the establishment of a centralized federally funded agency in New York which would be responsible for financing interstate transfers, updating compact manuals, and advising placing agencies on policy. Another recommendation was made to consolidate all interstate compacts into a single office which would have similar responsibilities as the one described above. Other respondents called for a multistate consortium which would identify, document, and investigate placement options and which would monitor both children in placement as well as quality of care provided by facilities. The establishment of a similar agency within New York was also recommended, which would receive case files for children needing placement and identify appropriate settings with vacancies for placement.

Compact officials called for the standardization of the interstate placement referral process and forms, and increased cooperation among states for the care, treatment, and supervision of children crossing state lines. Respondents also suggested the initiation of standardized monitoring for all children in placement. The latter theme was a strong one expressed by many persons interviewed, and its implementation is well under way for those New York children placed in other states.

Other recommendations in the area of planning and coordination called for the establishment of local interagency placement committees similar to those in place in the education system. Collaboration between the public and private child-care agencies was also noted to need substantial improvement, so that a full range of services are available in the combined resources of both systems.

The next most frequently mentioned type of recommendation had to do with the improvement in monitoring. These addressed case monitoring, as well as intergovernmental and fiscal monitoring.

Increased financial and staff resources, as well as the institution of a computerized monitoring system, were advocated to assure quality of care in placements both in and out of New York. These recommendations were made by compact offices and the SSC in New York. The CCF activities in the area of improving monitoring of both out-of-state children and facilities were widely endorsed, and one respondent in OMRDD called for broad support for CCF's effort

to centralize this function. Positive opinions were expressed about the trend toward improving state agency control and monitoring of individual placements as well as of the activities of local agencies. One respondent in the Division of the Budget advocated closer state-level oversight of placements across all agency types.

CCF's out-of-state placement project-related activities, as endorsed by advocacy concerns, included on-site visits to out-of-state programs. One respondent associated with an advocacy organization further suggested that the sending state pay for quarterly visits to unite family members, and that each child-care program keep a roster of children from other states, if appropriate.

There are many critics of the trend toward centralization of monitoring at the state level. One local official suggested that the system for funding and monitoring out-of-state placements be county-based. Another official, connected with the Sinhogar case, advocated a strong policy be implemented for the review of both public and private placements. However, this official asserted that this function would not be appropriately ascribed to placing agencies or courts. Instead, it was recommended that guardians ad litem be appointed to fulfill this role.

The lack of specialized child-care resources was expressed by officials throughout the study. Resources were reported to be in need of development, especially in the area of mental health services. Lacking in this area were said to be settings for young adults and older individuals requiring long-term care, and for aggressive adolescents. A continuum of services was said to be lacking for disturbed youth 16 to 25 years of age between hospitalization in a state psychiatric facility and foster family care. Services of this type are reportedly in the planning stages within the OMH for implementation within the next fiscal year. Locally administered mental health programs for youth were said to be in special need of improvement, and New York City was specificially described to have troublesome service gaps in this area. There was considerable sentiment expressed that the mental health system begin to replicate those facilities which are receiving New York's disturbed youth in other states.

Appropriate placement alternatives for multihandicapped children were also described to be lacking, though improving. One respondent in the DFY summed up the general thrust of people's comments as to the adequacy of in-state placement alternatives. This official called for further development of in-state specialized programs, a reduction in placing less-disturbed children in foster care, and increased emphasis on care to the severely handicapped.

Finally in terms of resources, it was acknowledged by officials in the CCF and the local child welfare system that programs for youth going into the adult system must be developed. Partly in recognition of this need, the DSS has established a Division of Adult Services. Demand upon the adult system may be expected to increase, and recommendation was made that early referral of handicapped young adults and transitional plans be made.

The management of the cost of care in placement was the focus of several recommendations. In an effort to move toward the widely recognized need for

cost effectiveness in child care, DSS officials will attempt to link reimbursement to agency performance. Officials in the agency advocate tying funding to the quality of permanency planning an agency is doing for children in its care. To this end, the DSS is developing and testing reliable criteria to judge the quality of agencies' performance. Some state and local officials recommended that family court judges be made more aware of the fiscal implications of specific orders for placement into expensive residential settings.

In the OMH, there was a call for the placement of children only in the most clinically appropriate and least restrictive levels of care, and for the reversal of fiscal disincentives to such practices.

There was some concern expressed by several respondents for the need to clarify New York's out-of-state placement policies and procedures. Confusion has apparently arisen about policy in this area because, although there is widespread sentiment against the practice, formal policy or regulations have not been sufficiently delineated. Although not inherently problematic, the situation has left some placing officials unclear about exactly how or when to proceed in obtaining care for exceptional cases out of state. Also in need of clarification was said to be ICJ applicability to status offenders and runaways, the meaning of "government-administered" in relation to agencies subject to the ICMH, and the operational meaning of terms describing handicapping conditions. Procedures for out-of-state placements were also said to be too slow and the cause of compact avoidance.

In terms of policy enforcement, there was a call among some state agency respondents for the reaffirmation of state placement policy and its strict enforcement. Compliance was said to need improvement for all three compacts, but especially among courts for use of ICJ and ICPC. Officials associated with ICPC and ICMH called for increased visibility of compacts within their organizations, and increased sanctions to bring about compliance.

Many respondents called for the complete halt of out-of-state placements, or their reduction to only the most serious of cases. Others approached the issue from the placement approval process. Rather than force a categorical prohibition on out-of-state placements, these respondents proposed to regulate the practice so that only appropriate placements become approved to quality settings. Suggested was the development of one list of approved settings which all agencies would use. Descriptive information on these agencies would be distributed to aid decisionmakers, and all placements would be made through the SED. This agency was selected in the belief that only handicapped children should be placed in facilities out of New York, and because the agency is mandated to provide free and appropriate services to eligible youth. Furthermore, this is the only state agency in which the commissioner's approval of placement is linked to payment, and it is the only one with an approved list of settings already operational.

Explicitly stated concern for equal care and treatment of children both in and out of state was heard more frequently in New York than perhaps any state that was visited. The removal of perceived racial and class biases from the way children get into out-of-home care was advocated. Noted was the observation

that white middle-class children tend to be placed by the education system, while black poorer children are more frequently placed by local DSS agencies.

Generally, there was advocated clear and comparable standards of care for children placed inside New York or in other states. One respondent also called for the inclusion of a hearing for dependent children, as well as for adjudicated delinquents, prior to out-of-state placements under the ICPC.

Probation and parole supervision in other states, said two respondents in DFY, should operate under clear standards and be subject to binding contracts. This contract would spell out responsibilities, roles, and services, and it would be negotiated for each case of courtesy supervision.

Sincerely stated concern for appropriateness of care and treatment was heard throughout New York. An SSC respondent offered the "best care" principle in this regard, which would preserve and implement the right of children in public charge to have the best treatment available as do privately arranged placements. Another respondent in New York City, affiliated with an advocacy organization, endorsed a balanced approach for each individual case. This would weigh the benefits of being close to home with those of having the best possible treatment, and the benefits of permanency with those of staying in placement to obtain the most benefits from treatment.

New York's child care system, in a period of only three or four years, has experienced pronounced upheaval and improvement. Conflict has emerged and issues have been broached which many states are far from approaching. Earlier-described litigation and public attention, which played an unusually strong role in this change, brought forth a measure of awareness about out-of-home care and out-of-state placement exceptional to New York and a handful of other states. The response of state and local public agencies, endorsed by the governor and spearheaded by the CCF, has caused the prevention of many out-of-state placements and the return of many of those children already placed. New York, once a state heavily engaged in out-of-state placement, now makes very few. The system is still coping with the shifts in services required with shifts in policy formulation, and can be expected to continue to do so for some time.

The description of events, issues, and recommendations is less focused on specific agency types in this case study than in the studies of the other six states. This was dictated, however, by the responses of persons contributing to the study. In New York more than in any state that was involved in case studies, respondents addressed issues about the improvement of child care in the broad sense, rather than in terms of their own agency's problems. Integration of services and interagency problems are reflected in the way respondents represented the issues, problems, and needs facing the system.

This frame of mind has led persons in the system, especially in the CCF, to anticipate problems in the adult system. It has also moved officials in many agencies, especially (in this case) in the DSS, to begin to grapple with the prevention of out-of-home care and the eventual dismantling of the foster care system that has existed for decades.

Respondents freely acknowledged these and other such problems as accountability for services and expenditures, monitoring, and integration of services and funding schemes. However, there is evidence that, given its history for innovation, other states may soon look to New York's public child-care system for answers as they have done so often in the past.

FOOTNOTES

1. McKinney's Cons. Laws of New York Anno., Book 52A, Sections 440-445.
2. New York Council on Children and Families, Annual Report (Albany, N.Y.: 1978).
3. Eileen H. v. Beine, 71 Civ. 3576 (S.D.N.Y. 1972).
4. Inmates of Boys Training School (Willowbrook) v. Affeck, 346 F. Supp. 1354 (D.R.I. 1972).
5. Sinhogar et al. v. Parry et al., 412 N.Y.S.2d 966 (Supreme Court, 1979); modified and remanded 427 N.Y.S.2d 216 (Appellate Division, 1980); appeal dismissed 431 N.Y.S.2d 813 (Court of Appeals, 1980).
6. New York Department of Social Services Administrative Directive No. 77 Adm-22 services to Commissioners of County Departments of Social Services, December 30, 1977, page 2.
7. New York Department of Social Services Bulletin No. B.200; Regulation 427.1.(b)., page 1.
8. Unpublished report on unannounced New York City Human Resources Administration's Special Services to Children visits to out-of-state facilities containing children placed by that agency. Transmittal of report to the New York City Board of Estimate, August 29, 1978.
9. New York Department of Social Services Memorandum on Foster Care Caseloads and Costs, November 1, 1979.
10. Eileen H. v. Beine, above.
11. William H. Creighton, The Placement of New York State Children Out of State for Treatment (Albany, N.Y.: New York State Division for Youth, 1977), p. 7.
12. Sinhogar et al. v. Parry et al. Filed July 26, 1977.
13. The Council of State Governments, The Interstate Placement of Children: A Preliminary Report. (Lexington, Ky.: 1978), pp. 9-10.
14. Sinhogar et al. v. Parry et al., above.
15. Unpublished report on unannounced New York City Human Resources Administration's Special Services to Children visits to out-of-state facilities containing children placed by that agency.
16. Temporary Commission on Child Welfare, Foster Care Reimbursement: A New Approach, (Albany, N.Y.: 1979).
17. New York Department of Social Services Bulletin No. B.200, page 7.
18. New York Department of Social Services Bulletin No. B.200, page 8.
19. Parham v. J.R., 442 U.S. 584, 61 L.Ed.2d 101, 99 S.Ct. 2493 (1979).

ACKNOWLEDGMENTS

The Academy staff gratefully acknowledges the assistance of Jane Hotchkiss, Deputy Compact Administrator, Virginia Department of Welfare, for her exceptional efforts to provide information, cooperation, and insight to us about Virginia's involvement in the out-of-state placement of children. Access to other key interviewees was made easier due to her ability to secure cooperation and inspire enthusiasm about the study. In addition, we express our appreciation to the many other Virginia state and local public officials who gave us their time, knowledge, and insights on the out-of-home care and out-of-state placement policies and practices in Virginia, particulary the following individuals.

Lucille Anderson, Supervisor
Special Education
Henrico County Public Schools

Virginia M. Babcock, Director
Appomattox County Department of
Social Services

Mary N. Blackwood, Administrative
Assistant to the Commissioner
Department of Mental Health and
Mental Retardation

Richard D. Blocker, Director
Student Services and Programs
Arlington County Public Schools

James Duffy, Assistant to the
Executive Director
Virginia Beach Community Mental
Health and Mental Retardation
Services Board

Val Emerson, Director
Division for Children

Lynda Eubank, Assistant Division
Chief
Social Services Division
Arlington County Department of
Human Resources

Margaret Foley, Director
Richmond Community Mental Health
and Mental Retardation Services
Board

Leslie Goode, Assistant
Superintendent
Tuition Program, Special Education
Department of Education

D. Scott Harlow, Correction Planner
Division of Community and
Prevention Services
Department of Corrections

Jean Hesson, Supervisor for
Special Education
Appomattox County Schools

Lelia B. Hooper, Staff Attorney
Division of Legislative Services
Virginia General Assembly

Candace Jennison, Case Work
Counselor Supervisor
Reception and Diagnostic Center
Youth Region
Division of Institutional Services
Department of Corrections

Diana La Mountain, Executive
Director
The Greater Richmond Child
Advisory Office

Clyde Laushey, Chief of Operations
Division of Community and Prevention
Services
Department of Corrections

Kate Lewis, Program Manager for
Tuition
Norfolk City Schools

Nan Manning, Visiting Teacher
Pupil Personnel Department
Arlington County Public Schools

Ray Morgan, Senior Social Welfare
Supervisor
Division of Social Services
Richmond Department of Public Welfare

Roland B. Murphy, Director of
Court Services Unit
Tenth Judicial District

Dwight Perry, Juvenile Correspondent
Interstate Compact Unit
Department of Corrections

D. Ray Sirry, Assistant Director
Division of Social Services
Department of Welfare

The Honorable Frank M. Slayton
Virginia House of Delegates

W. Graham Taylor, Chief
Bureau of Placement Services
Division of Social Services
Department of Welfare

Shirley Underwood, Director of
Special Education
Norfolk City Schools

Barbara Walker, Probation Counselor
Arlington Probation Department

William E. Weddington, Assistant
Director
Program Development and Evaluation
Division
Department of Corrections

John J. Willis, Director of Court
Services
Henrico County Probation Department

Lucas Wills, Jr., Supervisor
Family and Children's Services
Division
Henrico County Public Welfare
Department

INTRODUCTION AND METHODOLOGY

Virginia was selected as a state for case study for several reasons. First, active legislative involvement in out-of-state placement issues underscores the uniqueness of this branch of government to initiate and formulate public policy governing the practice. Private and public citizens' growing concerns about the number of children placed out of Virginia led to legislative hearings during the 1976 session of the Virginia General Assembly. These hearings were initiated to investigate the delivery of services for children, the protection of the rights of children, and the commitment to out-of-state residential facilities and state institutions. National media attention given to the Montanari Residential

Treatment Center in Florida, often used by Virginia public agencies, increased public awareness of the issues addressed by these hearings.

Second, some unique policy characteristics associated with Virginia's utilization of the Interstate Compact on the Placement of Children (ICPC) appeared to warrant study. Efforts have been made to centralize the management and reporting of out-of-state placements made by the child welfare, mental health and mental retardation, juvenile justice, and education placing agencies under the purview of this compact within the Department of Welfare.

Virginia has made other efforts towards improving interagency cooperation and centralizing service responsibilities. This is probably most evident in the area of licensing and certification. Six different offices in four state departments have been involved in establishing basic or "core" licensing standards. All had different regulations, standards, time schedules for inspections, procedures, and forms. Most of these offices lacked sufficient staff to accomplish in-depth facility reviews. The House Subcommittee on the Placement of Children gave its support to an already-existing interagency group to jointly develop uniform core standards in order to ensure quality control and minimum operating criteria in human service programs for children within the public and private sectors.

Another reason for the selection of Virginia for case study analysis is the disparity of per capita income among the geographic regions of the state, which apparently affects local service agencies' budget and placement capabilities. It was reported that the more affluent northern subdivisions, e.g., Fairfax, Arlington, Louden, and Prince William Counties, and the City of Alexandria, are more likely to place children out of state using local money and, therefore, not reporting that information to the state Department of Welfare, despite legal restrictions. Less affluent political subdivisions in the central and southern parts of the state cannot afford to place children out of state without state assistance.

A review of material and information obtained during earlier phases of the study was undertaken before the selection of case study respondents began. From these sources, specific persons or positions were identified for preliminary telephone contact. This list represented state government officials in agencies responsible for child welfare, mental health and mental retardation, juvenile justice, and educational services. These officials were contacted to confirm the appropriateness of their selection as the persons most knowledgeable about placement policy, regulation, and monitoring. Suggestions were also solicited for identifying other critical contacts in state government and any legislators, interest groups, media people, or other key informants familiar with the issues surrounding out-of-state residential placements.

A set procedure was used to select the specific sites in which the Academy staff would carry out case study interviews. These sites were chosen in an attempt to gain a representative view of governmental involvement with interstate placements, including perceptions and practices of officials in agencies under the auspices of local governments. Virginia's governmental structure of counties and independent cities required the site selection procedure to be slightly altered in order to gain a more characteristic view of the state. Therefore, both state and local respondents in Richmond, local officials in

Norfolk and Virginia Beach, all independent cities, and Henrico, Appomattox, and Arlington Counties were interviewed about their knowledge of out-of-state placement policies and practices.

Efforts were made to contact respondents from county and independent city agencies offering services to children in the above locations, with the exception of Virginia Beach. (Only the Virginia Beach Community Mental Health and Mental Retardation Services Board was contacted, due to the emphasis placed on the agency's broad service delivery by a state respondent.) A three-member interview team spent four days in Virginia, administering an open-ended questionnaire to 29 respondents. Requests were also made for annual reports, budgets, legal citations, special studies, and other departmental written material which would aid the staff in gaining a comprehensive view of the various public agencies' involvement and operations in the placement of children.

DESCRIPTION OF THE STATE

Virginia is a state of many contrasts, reflected in its history, geography, political structure, and economy. As the site of one of the earliest New World settlements, Jamestown holds the roots of representative democratic government, which were initiated on Virginia soil during the American Revolution. This state was also the scene of early indentured black slavery, and the city of Richmond was once the capital of the Confederacy.

Ranked 36th in physical size with 39,780 square miles and 13th in population, with an estimated 5,158,000 people in 1978, the Old Dominion state shares borders with Maryland, North Carolina, Tennessee, Kentucky, West Virginia, and Washington, D.C. It is of interest to note that West Virginia was established during the Civil War from one-third of Virginia's original land. Today, Virginia stretches nearly 400 miles inland from its 112 miles of Atlantic coastline and the Chesapeake Bay to the historic Cumberland Gap of the Appalachian mountain range.

The eastern one-fourth of Virginia is traditionally called the Tidewater area. It is naturally divided into three peninsulas by the Potomac, Rappahannock, York, and James Rivers, which flow from the fall line running down the state from Washington, D.C., through Fredericksburg and Richmond. On the western side of this fall line, a broad plateau extends over nearly one-half the state to the Blue Ridge Mountains. The panoramic Shenandoah Valley lies between the Blue Ridge Mountains and the Allegheny Mountains to the west. The extreme southwest portion of Virginia, with its long ridges and narrow valleys, is part of the Appalachian Plateau.

There are eight Standard Metropolitan Statistical Areas (SMSA) in the state, three of which are shared with other states. The Washington, D.C., area, extending into Maryland and northern Virginia, is the most populous of these SMSAs with over 3 million estimated residents. The port cities of Norfolk, Portsmouth, and Virginia Beach comprise the next most-populated area, and neighboring

Newport News and Hampton Beach make up the third largest SMSA in Virginia. Nearly 66 percent of the state's population lives in metropolitan areas, most of which are in the eastern and northern parts of the state, with the exception of the Roanoke area. The estimated 1978 population of persons eight to 17 years old was 873,196.

While the state's population is gradually increasing, its minority population is declining in number. In 1970, 18.5 percent of Virginia residents were black, but by 1976 this racial group was estimated to comprise 15.9 percent of the total population. Less than two percent of Virginia's inhabitants are of other racial minorities.

Government structure in the United States has many of its roots in Virginia. The first representative legislative assembly was elected there. It was the early settlers of the Tidewater area who adapted the English shire or parish concept into the county government system. Staunton, Virginia, holds the distinction of being the first city in the country to use a city manager for municipal administration. Virginia has also maintained a somewhat unique local government practice which separates cities and counties into independent units. Currently the state consists of 95 counties and 41 independent cities, the latter not being part of any county. "Under the practice of city-county separation Virginia cities with a population of ten thousand or more are autonomous, primary units of local government and are as independent of the jurisdiction of any county or counties in which they are geographically situated as one county is from another."[1] These independent cities are responsible for providing the typical municipal services and for the functions expected of a county government by the state. Independent cities exist elsewhere in the United States, but they are typically large megalopolitan areas with populations much larger than 10,000 people, and they are not as commonly found as in Virginia.

Contrasts in lifestyles and socioeconomic conditions are probably best reflected in a description of Virginia's diversified economy. The state contains geographic pockets of wealthy and impoverished communities. Northern Virginia counties are readily identified by state residents as affluent. They serve as Washington, D.C., "suburbs" for federal employees and government-dependent white-collar workers. The state's 19.7 percent average of families earning $15,000 or more annually was more than doubled 1975 in Fairfax and Arlington Counties and the independent cities (IC) of Fairfax and Falls Church. Families in Prince William and Loudoun Counties, and Alexandria and Manassas independent cities averaged over 25 percent in this income level. Only seven other counties and four other independent cities throughout the rest of the state surpassed the state average in that year.

In sharp contrast, 74 counties had a larger percentage of families below the poverty level than the 1969 state 12.4 percent average. Because of the sharp discrepancy in income levels, it may be more accurate to report that 22 counties had twice the average percentage of below poverty level families and the westernmost county in the state, Lee, reported over three times the average. The far western, central, and south-central areas of the state are where most of these poor counties are clustered.

In 1976, the state distributed $495 million for Medicaid, Aid to Families With Dependent Children (AFDC), Supplemental Security Income, food stamps, and general assistance programs. Almost 30 percent of that amount was from state funds, the remaining percentage coming from the federal government. Virginia ranked 29th in its "per poor resident" outlay for these five programs.

The state's public primary and secondary education expenditures budget is ranked 14th nationally, much closer to its place as the 13th most-populated state than its position for social welfare. In fact, higher education is also a well-developed service in the state, with 68 private and public higher education institutions, making it 12th in the country in 1977.

The primary contributions to Virginia's economy are manufacturing, tourism, and agriculture, in that order. The state also ranks fourth in the nation for fishing yield and value. Menhaden, caught in the ocean and the lower Chesapeake Bay, is the bulk product, used for oil and fertilizer. Chemicals, tobacco products, textiles, foods, and transportation equipment are the most important industrial products manufactured across the state. The rich history of Virginia and its natural areas of physical beauty draw a $1 billion annual tourist income.

An estimated 10 million acres of farmland produce the principal crops of tobacco, apples, corn, hay, wheat, white potatoes, and peanuts. Small farms in the western portion of the state help low-income families subsist. Bituminous coal mining is large enough in Virginia to rank it fifth in mineral mining employment in the country. From coal miners in the Appalachians to cabinet secretaries residing in Arlington, Virginia has a diverse and widespread population for whom to develop and maintain public services.

DESCRIPTION OF ORGANIZATION AND SERVICES

Child Welfare

The Virginia Department of Welfare (SDW) is administered by a commissioner who reports to the Secretary of Human Resources. The department provides supervisory leadership and financial support to the 124 public welfare agencies operated by 95 county and 35 independent city governments, some agencies being jointly operated. A full range of social services are offered to adults and children through these locally operated offices, including general assistance, and specialized care for the elderly, the disabled, and those children deemed to be in need of protection or in need of supervision (CHINS).

The SDW is divided into five divisions. The Division of Administration and the Division of Licensing function as administrative and regulatory units. The Division of Licensing has been directly involved in the Interagency Task Force on Licensing and Certification of Children's Programs, to be discussed later. The Division of Field Operations supervises the seven regional offices of the

SDW, aimed at coordinating services in the 124 local public welfare agencies. Federal Title XX funds are managed, along with other monies, by the Division of Financial Services. Virginia SDW service programs are 75 percent supported by Title XX funds, with the remaining 25 percent coming from state and local dollars.

Primarily, the SDW helps the local public welfare offices provide services to children and youth through its fifth division, the Division of Social Services (DSS).

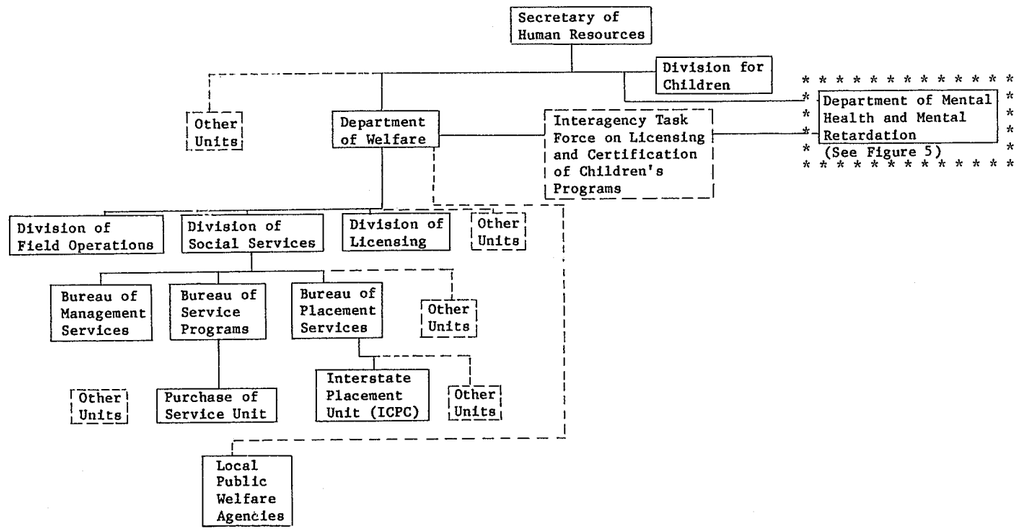
Each local agency has been mandated, since 1977, to develop a service plan for all children in custody. This plan must be directed toward a goal of permanency, whether it be a return to the parents' or original guardians' homes, adoption, or permanent foster care. The SDW provides technical training to local caseworkers, as well as foster parents, to support a successful implementation of this mandate.

Foster care, adoption, and the monitoring of children in the custody of the local welfare agencies are supervised by the DSS Bureau of Placement Services. The Interstate Compact on the Placement of Children was adopted by the Virginia General Assembly in 1975 and is administratively housed in the Division of Social Services. A formal Interstate Placement Unit within this division's Bureau of Placement Services was organized in order to implement the requirements of compact membership.

The Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program and other protective health programs are under the Bureau of Child Protective Services. The EPSDT program is implemented cooperatively with the Department of Health. The Bureau of Service Programs manages day care, family planning, purchase of service, and work incentive programs. The Purchase of Service Unit approves rates for private care and determines the acceptability of private in-state or out-of-state facilities for a Virginia child's placement. Finally, the Bureau of Management Services administers the information systems for the foster care and child protection services.

An abbreviated table of organization for the SDW follows in Figure 1, indicating those parts of the agency relevant to out-of-state placements.

FIGURE 1. THE ORGANIZATION OF SERVICES IN THE VIRGINIA DEPARTMENT OF WELFARE RELEVANT TO OUT-OF-STATE PLACEMENTS



Education

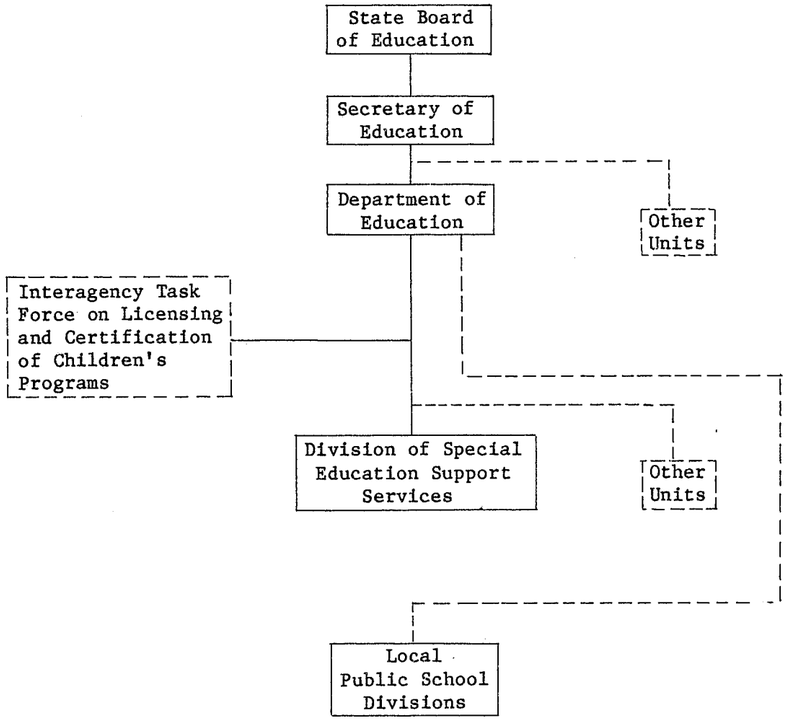
The Superintendent of Public Instruction, along with the State Board of Education, is responsible for the administration and supervision of the Virginia public school system. The Virginia Department of Education (DOE), under the direction of the superintendent and the board, formulates administrative rules and regulations to enforce the state school legislation. The DOE oversees the 135 Virginia local school divisions' compliance to those laws.

A full range of general education programs are offered to Virginia children by the local school divisions, which are districts operated by county, independent city, or cooperative municipal government bodies. The DOE does not currently operate its own schools, but is involved in the preparation of programs which are implemented by the local divisions. These 135 divisions have traditionally held a great deal of independence from the DOE, a factor which will be covered more thoroughly when discussing Virginia's education placement policies.

The Division of Special Education Support Services within the DOE has been authorized to "prepare and supervise the implementation by each school division of a program of special education designed to educate and train handicapped children."[2] It is also responsible for approving private nonsectarian schools which may be used by the local divisions for special education purposes. These mandated local special education programs are often headed by a designated director and sometimes involve a specialized staff and an administrative subdivision. Special education services for handicapped children vary, depending on the needs of the identified eligible children within the district. An eligibility committee, usually composed of a child's teacher, principal, guidance counselor, social worker, psychologist, and special education consultant, is convened by the local district for the purpose of evaluating a child's educational needs and the appropriateness of placement into a special education program. Members of this committee, along with the child's parents and other specialists, are responsible for developing the Individualized Education Program (IEP), which outlines the education and treatment plan of each child identified as "in need of special education services."

An abbreviated table of organization for the DOE follows in Figure 2, indicating those parts of the agency relevant to out-of-state placements.

FIGURE 2. THE ORGANIZATION OF SERVICES IN THE VIRGINIA DEPARTMENT OF EDUCATION RELEVANT TO OUT-OF-STATE PLACEMENTS



Juvenile Justice

The state-operated juvenile and domestic relations courts in Virginia's 31 judicial districts have original jurisdiction over dependency, neglect, and abuse cases, as well as over proceedings involving youth under 18 years of age charged with committing delinquent or status offenses. Each district serves a geographical area which may include more than one county or independent city. Adoption petitions are handled by the district circuit courts.

In 1978, eight of the judicial districts housed 11 locally operated court service or probation units, the majority serving independent cities. The remaining 23 districts receive these probation services through the state-operated

Division of Community and Prevention Services (DCPS), Department of Corrections, which also administers juvenile parole, referred to as aftercare services in Virginia. The DCPS runs four community youth homes, helps support 20 other locally operated homes, aids in community delinquency prevention programs, and assists in the planning, development, financing, and monitoring of all community-based residential care facilities.

Since 1977 and the revision of the Virginia Juvenile Code, all court service units are required to have a screening procedure carried out by an intake officer. This officer may divert a child to other special services, detain the youth for a hearing for up to 72 hours, or release the child to a guardian or parent.

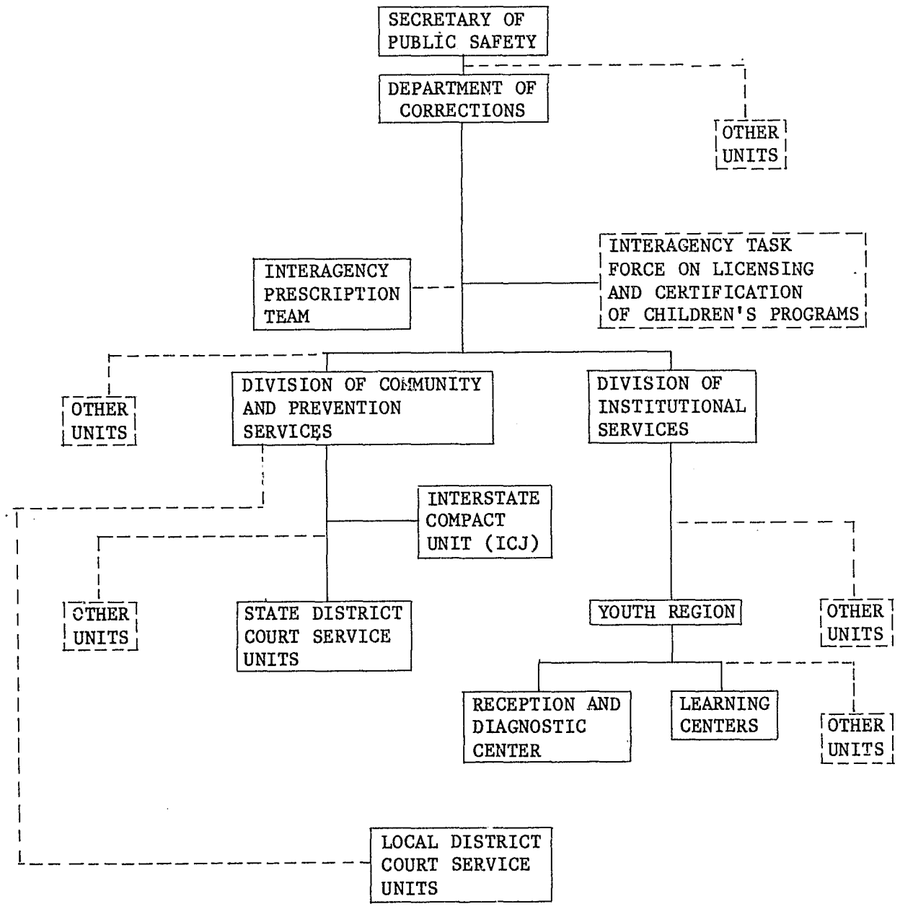
The Juvenile Code, Section 16.1-279, allows the district court judge or court services unit to use private facilities, either in or out of the state, with the approval of specific state officials. Also, through special funding called the "286 Fund" (after code Section 16.1-286), the court can purchase services only within Virginia, including private residential care.

A director, under the Secretary of Public Safety, heads the Virginia Department of Corrections, which is responsible for both adult and youth corrections services. The department reorganized itself in 1978, making the former Division of Youth Services part of the new Division of Institutional Services (DIS), one of five divisions in the department. Five regions of DIS supervise adult institutions, while a specialized Youth Region operates the Bon Air Reception and Diagnostic Center (RDC) and six learning centers throughout the state. Juveniles adjudicated delinquent by a district court may be committed to the Department of Corrections' Youth Region. However, children determined to be dependent, neglected, or in need of services (CHINS) cannot be committed to the department. Most often, juveniles committed to the Youth Region are sent to the learning centers after an evaluation at the RDC. Other public and private residential treatment centers are used by the DIS when these state learning centers are not seen to be appropriate for the youth. It is the responsibility of the RDC Resource Directory Unit to certify all private facilities which meet approval for special placements.

Virginia became a member of the Interstate Compact on Juveniles (ICJ) in 1956. The administrative staff for this compact is located in the Interstate Compact Unit of DCPS, along with the adult probation and parole compact.

An abbreviated table of organization for the DOC follows in Figure 3, indicating those parts of the agency relevant to out-of-state placements.

FIGURE 3. THE ORGANIZATION OF SERVICES IN THE VIRGINIA DEPARTMENT OF CORRECTIONS RELEVANT TO OUT-OF-STATE PLACEMENTS



Mental Health and Mental Retardation

The Virginia Department of Mental Health and Mental Retardation (DMHMR) is administered by a commissioner who reports to the Secretary of Human Resources.

A deputy commissioner is responsible for all operational divisions, and assistant commissioners head each of the administrative divisions, which include the Division of Mental Health and the Division of Mental Retardation.

The DMHMR has direct responsibility for the operation of 16 state hospitals and residential treatment centers. Each institution receives a separate line-item appropriation; however, they must adhere to systemwide guidelines on operation.[3] Two of these facilities offer mental health treatment specifically for children: DeJarnette Center for Human Development and the Virginia Treatment Center for Children. Six other state mental health facilities offer in-patient services for adults and children and the five state training centers for the mentally retarded are available for young patients as well. Children are referred to these state facilities by community mental health and retardation agencies, the courts, the Department of Corrections, and the Department of Welfare and its local counterparts through local mental health services boards. This interagency referral network is particularly evident in a state-level Interagency Prescription Team, which evaluates and refers youth in the custody of the Department of Corrections who may need specialized mental health in-patient services. This is a multidisciplinary team made up of specialists from five public agencies.

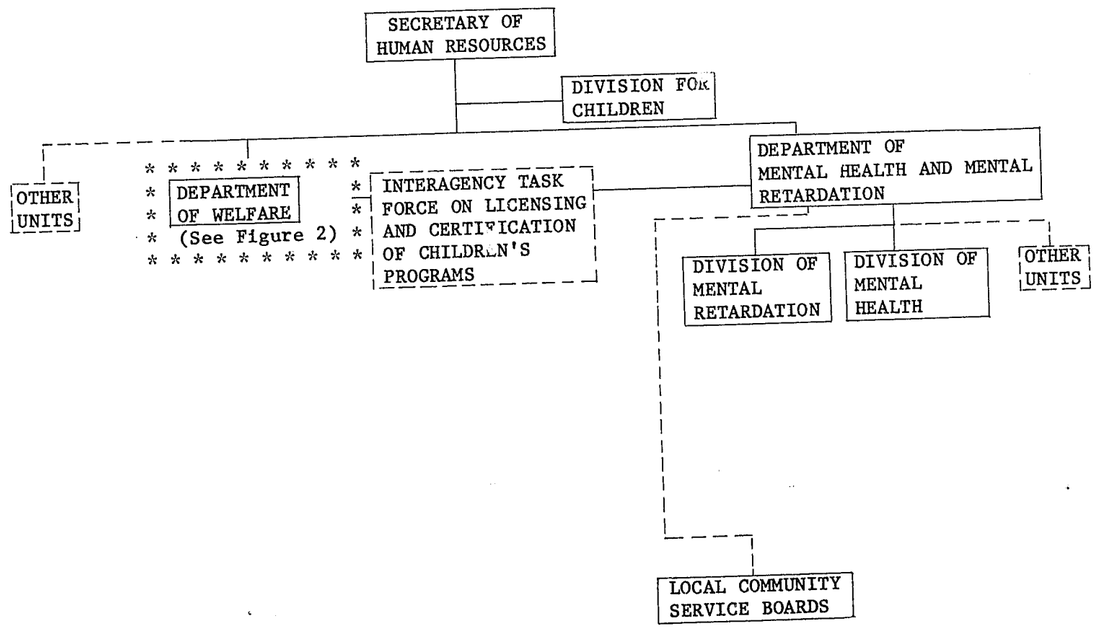
Outpatient and other community-based mental health and mental retardation services are primarily a local government responsibility through the community service boards. However, the DMHMR presently operates three clinics where local services have not been developed. In 1968, Chapter 10, Title 37.1, Code of Virginia, enabled local jurisdictions, including counties and independent cities, to establish mental health and mental retardation service boards for community-based services. These "Chapter 10 Boards," or community service boards, presently exist in 36 localities, funded by both state and local governments based upon a per capita state and local matching grant formula. Total 1979 revenues for community mental health services obtained from federal, state, and local governments, and from patients' fees was $27.4 million. Mental retardation community services in that same year received $16.7 million in revenue.

Community service boards can offer an array of services either directly or on a contractual basis with private nonprofit clinics. The DMHMR's regional staff offer consultation and technical assistance to these boards through mental health and mental retardation coordinators. Services the boards provide to the community may include those for outpatient and inpatient diagnosis and treatment; aftercare for clients released from mental hospitals, therapeutic communities, halfway houses, group homes, or other residential facilities; and other services.[4]

Long-term residential care for Virginia children with psychological or developmental handicaps is primarily provided by the state in its public facilities. It was reported by several local board sources that inpatient treatment is not normally provided by public community agencies, but may be purchased from private psychiatric hospitals or from other providers.

An abbreviated table of organization for the DMHMR follows in Figure 4, indicating those parts of the agency relevant to out-of-state placements.

FIGURE 4. THE ORGANIZATION OF SERVICES IN THE VIRGINIA DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION RELEVANT TO OUT-OF-STATE PLACEMENT



Other Related Agencies

In July 1978, the Virginia Division for Children was formed as a public child advocacy agency whose director reports to the Secretary of Human Resources. This agency emerged from a series of earlier organizations which began in 1968 as a response to planning requirements from the 1960 White House Conference on Children and Youth. Currently, the division is primarily focused on assessment of Virginia public services for children, especially as they relate to "early primary prevention" of family breakup.

The division attempts to develop projects and research which will meet the three objectives of providing information, training, and technical assistance across all state agencies serving children; planning comprehensive services for children; and evaluating and monitoring state services to children.

A project undertaken by the division which directly relates to the out-of-state placement of children was the construction of an inventory of services and facilities used by Virginia public agencies. Facilities in and out of the state are listed in this central registry file, along with a brief synopsis of the services they offer.

INTERSTATE PLACEMENT POLICY, IMPLEMENTATION, AND PRACTICES

In 1975, the Virginia House of Delegates requested the House Committee on Health, Welfare and Institutions to form a Subcommittee on the Placement of Children. This subcommittee conducted a study on the placement and institutionalization of children both in and out of the state. Members of the House of Delegates, state and local officials, and other concerned private citizens made up the subcommittee's membership. Their investigation lasted two years and eventually was instrumental in the passage of several bills relevant to out-of-state placement policies and practices.

During the course of the investigation, the subcommittee found that "fragmented" and "compartmentalized" programmatic approaches to providing services to children existed in state and local service agencies and that those practices resulted in "inadequate" services to youth.[5] Specifically related to the subject of out-of-state placement of children, the subcommittee's study revealed a "lack of placement alternatives for children in foster care and the need for therapeutic foster homes, the absence of treatment facilities in Virginia for the emotionally disturbed and mentally retarded adolescent;" a complex process of funding out-of-home care which relied on multiple sources to support the placement; and "little or no interagency communication concerning the placement of children in out-of-state and instate facilities, and . . . no mandatory reporting procedure for any such actions."[6]

A number of resolutions and bills were recommended to and eventually passsed by the General Assembly, which were formulated to address some of the problems.

These important developments included new administrative policies and requirements for closer interagency collaboration and cooperation. As a further control, the Department of Welfare's placement practices were made subject to the General Assembly's oversight. The Departments of Welfare and Corrections were determined to hold sufficient authority over locally operated agencies to formulate regulations and procedures needed to implement the policies recommended by the subcommittee and made into law. The Department of Education and the Department of Mental Health and Mental Retardation, maintaining no legal custody of children, were encouraged to help prevent further out-of-state placements through whatever means were available.

The subcommittee also recommended the formation of an Interagency Task Force on Licensing and Certification of Children's Programs to help resolve the problems stemming from state agencies having "varied authority and responsibility in 'approving', by way of licensure or certification, facilities under their jurisdiction in which children reside outside of their own homes."[7] The various facility approval systems operating in Virginia were considered administratively duplicative and inadequate to assure the quality of care sought by the subcommittee. Currently, this task force is working toward a core set of standards for public and private child care facilities within Virginia, also to be used for approval of out-of-state facilities.[8] These core standards will be used by all agencies serving children, either for licensing or certification, with the possibility of adding extra "modules" for each type of specialized service being offered. The standards are mandated to be developed by July 1, 1980, and will be administered within the Department of Welfare.

The following discussion of out-of-state placement policies and practices in Virginia is divided into three portions, focusing on the areas of supervisory authority over current policies.

Child Welfare, Juvenile Justice, Mental Health and Mental Retardation

The out-of-state placement policy which regulates the Virginia SDW and local departments of welfare also encompasses children served by the Department of Mental Health and Mental Retardation (DMHMR) through the community service boards, as well as certain children under the custody of the juvenile and domestic relations district courts and their court service units. This centralization of policy across agencies is a direct result of legislation passed in the late 1970s, mentioned above.[9]

The Virginia Department of Welfare, in seeking to centralize all residential out-of-state placement regulation into the Interstate Placement Unit responsible for the ICPC, has worked to develop an organized system of case management, supported by strong legislation and broad jurisdictional regulations. Implementation of the regulatory policy appears to have been carefully planned. For example, the prelegislation task force, formed to study regulatory problems, included members who worked in local agencies which would have to comply with the new laws and practice guidelines. This decision appears to have aided in

securing cooperation from local agencies which had traditionally held themselves more independent from the SDW.

Since July 1, 1977, the commissioner of SDW has been required to personally approve all out-of-state placement plans developed by either the state or local welfare offices. Plans requesting placement into out-of-state adoptive, foster, and group homes, or into other types of residential care, must be accompanied with documentation that an appropriate instate facility was not available for meeting the needs of the child. In addition, a prospective out-of-state facility must be listed among those the SDW has approved as complying with its purchase-of-service standards. These standards require the Purchase of Service Unit of the Bureau of Service Programs in the SDW's Division of Social Services to approve the rates charged by the facility. Also, the prospective facility must be licensed or certified as a child-care institution by the state in which it operates. The final requirement is that approved out-of-state placements must also be processed through the Interstate Compact on the Placement of Children.

Local public welfare offices become involved with children in need of out-of-state placements in several ways. For instance, the local community service board, the juvenile court, or a private individual may refer a child to an agency for services and a placement plan. Each agency's institutional placement committee or equivalent body first attempts to locate appropriate services within the state. SDW regional coordinators help by reviewing the state's network of public and private facilities. If this search fails to locate a placement which could meet the child's needs, a request is submitted to the SDW's Interstate Placement Unit and the department commissioner for approval of an out-of-state placement. The local sending agency generally selects the out-of-state facility it considers most appropriate for the child being placed, using facility review evaluations made available by the state agency. On-site review of a facility by a local agency is not likely to occur unless a special program appraisal is needed or when several sending agencies request a review of a facility which has not been visited and approved by the state agency.

In 1978, 103 children were reported to have been placed by 28 local child welfare offices into residential settings in other states. Fourteen other local agencies could not report their involvement in that practice at the time of the survey. The children who were placed outside of Virginia were sent to specialized facilities, the homes of relatives other than parents, with the relocating foster family they had lived with in Virginia, and adoptive homes. Sixteen of these local welfare offices reported being involved with other Virginia public agencies in the arrangement of 62 of their out-of-state placements. This interagency involvement and cooperation in placement decisions was often referred to by Virginia public officials. At least 78 percent (80) of these placements were arranged with the use of an interstate compact, while 11 children were placed out of Virginia by local agencies without compact use. Compact information was not available for the remaining 12 placements.

A special department regulation stipulates that the same documentation is required for all out-of-state placements described above, "regardless of whether the receiving state is a Compact member or not and as to the type of institutional placement."[10] This regulation is statutorily permitted

in the child welfare laws, Section 63.1-207.1, which stipulates that "notwithstanding the provisions of Article II(d) of the compact . . . the State Board shall prescribe procedures and regulations to govern such placements out of the State by licensed child-placing agencies."[11] This legal amendment for placement regulation gives the Department of Welfare the authority to require all licensed child-placing agencies to report to the Interstate Placement Unit all foster children placements into mental and educational institutions, hospitals, and medical facilities which are listed in the exclusionary article of the ICPC. Specifically, out-of-state placements to residential facilities which are considered subject to ICPC processing in Virginia include those made to group homes, treatment centers, child care institutions, boarding schools, maternity homes, hospitals, and medical facilities.

In addition to these policy requirements for licensed child-placing agencies, Virginia ICPC administration requires that all out-of-state placements made to treatment centers, child care institutions, and special schools by other public agencies (e.g., school divisions, courts, court service units, and the Department of Corrections) and not processed through another compact must be reported to the SDW's Interstate Placement Unit. There have been some problems in the interagency understanding of this expanded policy, a problem experienced in other states as well and discussed in Chapter 4 of this report. The specific points of conflict in Virginia regarding this policy are discussed in the following pages.

Due to the relatively long period of time now required to complete ICPC procedures, the child may actually be placed out of state before formal approval is received by the local office due to the emergency nature of the case. The amount of time involved in the ICPC approval process was primarily due to the receiving states' portion of the procedures, according to a Virginia state official. Out-of-state placement approval or disapproval by the commissioner is supposed to be transmitted to the sending agency within three weeks of the date all required information is received by the commissioner. The interviewed local welfare office staff reported high levels of compliance to the SDW-required procedures. This reportedly includes regular compliance with the out-of-state facilities' monitoring regulations. Semiannual on-site visits are required to be made whenever a local agency has placed a child in or out of Virginia in a childcare facility.

Only 15 out-of-state facilities are currently approved by the SDW for use by these local welfare agencies. However, relatives' homes outside of Virginia make up a large part of the placements Virginia children are in, as well as foster families who move and, with approval, take their foster children with them. A local welfare respondent pointed out that, in some cases, an out-of-state relative who petitions the court for custody of a Virginia child may enter the state to transport the child and not use the required ICPC procedures for home approval.

The SDW's Interstate Placement Unit uses the state-operated Foster Care Information Service (FOCIS) and the Warrant Register (a local office expenditure accounting system) as two means for determining local welfare offices' compliance with the SDW placement policies. Records on all payments to private providers or foster families help to isolate those offices using local funds to place children out of state. This practice was reported to most likely occur in

the more affluent communities of northern Virginia. The threat of withdrawal of state financial support appears to have been less effective in these locations than in less affluent locales.

The revised Virginia Juvenile Code also requires prior approval by the commissioner of SDW's court-ordered out-of-state placements of children in need of services or those considered neglected or abused. The transfer of the children's legal custody to the local or state Department of Welfare is not a necessary prerequisite to this action. However, the local welfare or mental health agency may become directly involved in the children's cases and treatment plans, along with the court personnel, as a means of finding appropriate in-state services before the SDW commissioner's approval is sought for an out-of-state placement.

It was reported by both court and Interstate Placement Unit personnel that the courts were more actively involved in carrying out appropriate reporting for the placement of children in need of services than in the past. However, the two locally operated court service units which reported placing children out of Virginia in 1978, also reported not utilizing an interstate compact for any of these placements. Local welfare offices, when aiding in the funding of such placements, apparently report their involvement to the SDW, as required by the state regulations. More difficulty has been experienced by the Interstate Placement Unit in determining the Department of Corrections' and local school divisions' involvement in out-of-state placements. It was reported by all parties involved that observance of SDW procedures and jurisdiction by the DOC was in question. Interagency correspondence and discussions with respective legal counsel for SDW and the Department of Corrections are being used to encourage a better understanding of each agency's responsibilities and jurisdiction.[12]

The Department of Welfare's placement policy applies equally to the State Department of Mental Health and Mental Retardation (DMHMR), although neither the DMHMR nor the community services boards are directly involved in the out-of-state placement of children. The DMHMR neither has legal custody of any children nor funds for residential placements. It does, however, become involved in the transfer of children into another state's institution when parents move. Sixteen children were transferred in 1978 utilizing a compact-like process. However, Virginia is not a member of the Interstate Compact on Mental Health but interacts with other states through similar procedures. The DMHMR's inclusion in the Interagency Prescription Team, its operation of state facilities, and its roles as advisor and financial supplementor to the local community service boards are the basic means for the department's tertiary involvement in special placements of children.

The state-level Interagency Prescription Team was started in November 1976, as a solution to problems experienced over the use of state mental health facilities by the Department of Corrections. In previous years, a substantial number of juveniles committed to the Youth Region were diagnosed at Bon Air RDC as being in need of residential and secure psychiatric care. The DMHMR facility administrators were unable or unwilling to handle the "difficult-to-place" cases, due to a lack of secure units for adolescents. Also, DMHMR personnel were not always in agreement with the diagnoses of need for special treatment outside the Youth Region's capabilities. At the same time, DOC officials were

concerned that emotionally disturbed delinquents not be placed among delinquency populations in DOC facilities.

The Interagency Prescription Team was developed as a means for bridging service gaps and for avoiding the development of duplicative psychiatric services by the Department of Corrections. The multidisciplinary team reviews the cases of youth referred by the Youth Region. Children's diagnostic tests and case history, submitted by the initial evaluators and team specialists, are evaluated in order to determine and recommend an appropriate placement. In the first 14 months of the team's existence, 105 individual cases were considered for placement. Over one-half of the first 55 cases considered were directed back to the Department of Corrections, 38 percent were sent to state mental health programs, and seven percent to state mental retardation services. One-fourth of the youth returned to the Youth Region were subsequently placed in private mental health facilities.[13]

A team recommendation for placement in a DMHMR facility must then be made to the commissioner of DMHMR who, in turn, decides which facility can most appropriately serve the youth. If a public facility is not deemed appropriate, the commissioner recommends placement to the Department of Welfare through the local child welfare agency, without naming any particular facility. It is then within the local agency and the Department of Welfare's responsibility to find a private setting for the child either in or out of Virginia. The courts are equally involved in the search for services, often maintaining custody of the child.

Emotionally disturbed or mentally ill adolescents, prone to acting-out or violent outbursts, were named as children most likely to be sent out of Virginia for special care. This profile of the "hard-to-place" child seemed to be the most common type of out-of-state institutional placements sought, both before and after the house subcommittee reports, even though the number of such placements declined dramatically after the reports were issued.[14]

The local community service boards are involved daily with children in need of care. When a community board's clinical personnel determine a child is in need of residential treatment, and a state facility or a locally contracted service is not appropriate, a referral is required to be made to the local department of welfare for placement and funding. This child is then under the same placement regulations regarding out-of-state placement as any young client of a welfare office.

Despite the DMHMR's responsibility to set standards of service and offer technical assistance to the local community service boards, the state department has not aggressively developed interagency linkages with these boards. This was evidenced when several DMHMR officials reported not knowing what the community service boards provide. These public boards may purchase some mental health, mental retardation, or substance abuse services from private providers in contrast to offering "direct public services" for their community, but this is generally the exception in Virginia jurisdictions. A state respondent reported that it was not known what types of services the boards provide, even though DMHMR partially funds them. As one DMHMR official stated, "If you find out what they

[the community service boards] do, please tell me." Local officials in three of these boards confirmed this apparent lack of DMHMR familiarity with community service boards' operations. According to one director, "The Department of Mental Health and Mental Retardation knows nothing about what we do." The DMHMR takes the position that there are separate state and local systems and that DMHMR authority over the local system is limited. It should be further understood that the General Assembly's Joint Legislative Audit and Review Commission, in reviewing state and local mental health operations and performance, concluded: "in the absence of clear lines of authority, it can be expected that there will be gaps in coordination and service delivery."[15] After the time of this study, the General Assembly moved to make the state MHMR Board a programmatic and fiscal policy-setting board, authorized to govern the community service boards, effective July 1, 1980.

Community service boards in most areas of Virginia find special private placement referrals to the local welfare offices to be financially necessary. Only the more affluent northern communities appear to afford boards' budgets large enough to allow independent out-of-state placements to occur. However, in 1978 no such placements occurred. Parental payment is one means of financing an expensive placement. When this occurs, the local board does not report the placement to any other public agency.

Education

The official out-of-state placement policy for public education agencies in Virginia is established at the state level of government by legislation and the Department of Education regulations. The Division of Special Education Support Services (DSESS) within this department supervises the 135 local school divisions regarding this policy. Virginia School Law, state regulations, and administration requirements approved by the State Board of Education give placement authority directly to these local divisions. By both federal and state law, the Virginia school divisions have been mandated to provide a free and appropriate public education, available to all handicapped children, within the "least restrictive environment."

The DSESS, along with the Department of Welfare's Purchase of Service Unit, must set the rates of payment. DSESS must also maintain a list of private schools approved for special education placement and partially reimburse school divisions that send students to these special schools, through the state tuition grant program. Beyond these responsibilities, the DOE has little involvement in the residential placement of Virginia handicapped children. DSESS approval of in-state private schools is based on the certification standards developed for Virginia public schools, with a few minor exceptions. Out-of-state schools, however, are placed on the DSESS-approved list if they are certified in their own state and if those certification standards are deemed comparable to Virginia's school approval criteria. This approval process is totally a state agency responsibility with no involvement from the local placing agencies. Discussions with state education officials showed that of the 69 residential

nonpublic schools approved by the DOE, only 13 of them were in Virginia. Forty-seven private nonresidential schools within the state were also approved.

The Virginia General Assembly, by House Joint Resolution, has encouraged the state education department to assist local districts and parents to "locate appropriate educational facilities and program resources in Virginia."[16] However, of the 989 residential placements that the DOE helped fund through reimbursement in school year 1978-79, 330 (33 percent) were out of state. These children may have resided in the out-of-state facility before 1978, but according to DOE officials, the appropriateness of each placement is totally reevaluated each year. It appears that out-of-state placement decisions are still primarily made by the local school divisions and the DOE has few regulations in effect to help carry out the legislature's directive.

According to a DOE respondent, the practice of placing children out of state dates to at least 1958, when the state set up the tuition grant program to place nonhandicapped Virginia children in out-of-state private academies. In reaction to the school desegregation efforts, occasioned by the landmark Brown v. Board of Education of Topeka Supreme Court decision in 1954, Virginia reportedly instituted the tuition grant program in order to circumvent the Supreme Court decision.[17] The DOE provided grant aid to parents of nonhandicapped children to help them in placing their children into in-state and out-of-state private academies. In fact, Prince Edward County actually closed its public school system between the years 1958 and 1962 in order not to comply with the Supreme Court's decision. The Griffin v. Board of Supervisors of Prince Edward County decision in 1962 prohibited the state from providing tuition grants to fund the placement of children in private academies.[18] In essence, the practice was declared unconstitutional by the court, and it was reported to no longer occur within the state.

The school divisions are responsible for identifying children with special education needs and for determining the program and environment which would most benefit the child. Each local division must have an eligibility committee to which children are brought for evaluation when a teacher or parent perceives a potential need for a special education program. This committee has the responsibility of determining the youth's eligibility, recommending the type of services the child needs, and often helping, along with other specialists, to develop an Individualized Education Program for that child. The school division must then search for or develop an appropriate program to meet the IEP. Recently, these committees' evaluations have been required for any court-ordered placement of a handicapped child; some difficulties have arisen as a result. Disagreement over the courts' authority to first order a child placed in a residential school and then demand that the local district fund this placement led to a number of official hearings and the development of DOE policy. Regulations were established by the DOE, in September 1979, to help solve an interagency problem between the district courts and the local school divisions. School district officials still experience problems with this authority question, but federal P.L. 94-142 (Education for All Handicapped Children Act) requirements for an IEP and DOE support have begun to alleviate the frequency of inappropriate requests. Nearly 100 of the school divisions' placements involved cooperation with either the courts or local public welfare offices.

State regulations stipulate that local eligibility and IEP committees place priority on locating a program within the district itself or in a nearby school district. If not available, a program is sought somewhere within the state, either in a public facility or in a private state-approved school. Only after these services are determined to be inappropriate or unavailable can an out-of-state residential school be considered. Again, the out-of-state facility must be approved by the DOE and notification of the selection must be made to the department.

Local school divisions contract with private schools for the special education of a child. Payment must be made directly by that placing division, with the 60 percent state reimbursement occurring after appropriate services as prescribed by the IEP are determined to be delivered. The school district is also held responsible for the federally required annual IEP review process. Federal P.L. 94-142 stipulates this procedure and federal funding is strongly linked to its implementation.

The local school divisions vary in their ability and desire to place children in residential schools, particularly outside of Virginia. For example, 47 school divisions were involved in placing 330 children out of state in 1978; however, 11 of these divisions placed 267, or 81 percent, of the children. Since the state tuition grant program only reimburses the local division for 60 percent of the placement costs, the amount a local division pays must include a nonrecoverable 40 percent of the cost. According to a DOE spokesperson, out-of-state placement costs per child vary, depending on the type of program needed, from $7,000 to $29,000 per year. Parents have paid some of this portion in the past, but federal and state law requires that a free education be available to the child.

On-site monitoring visits to out-of-state facilities are not required by Virginia law or DOE regulations. However, it was reported that some school districts are involved in regular on-site visits to out-of-state schools to monitor their students' progress. This is a locally initiated activity, funded by local monies. It is more common for a division to rely on written reports or telephone contact.

Although local school divisions can place children out of state without reporting these placements to the DOE, it was reported that they are not likely to do so because they would not be eligible for state tuition reimbursements. However, it was also reported that the more affluent school divisions in the northern part of the state, desiring to make placements in out-of-state residential facilities with programs they feel meet the special needs of a child but are not DOE-approved, are reimbursed retroactively by the state once the facility submits the necessary qualifying papers for approval to the DOE. Oftentimes, these affluent school divisions are reimbursed in the next fiscal year. It is interesting to note that one affluent division, Fairfax, placed 139 of the 330 children reported to be out of state. It was reported that the basic, approved out-of-state facility list is augmented through this retroactive-reimbursement placement process. According to one local school division spokesperson, "How do you think the state Department of Education comes up with its approved facility list?" Another official noted that a request for approval was seldom denied. Over several years, these steps probably have the result of divisions placing children in out-of-state facilities that, though not approved, are ultimately approved and the divisions are reimbursed from the tuition grant

program. In 1978, facilities in Pennsylvania, Washington, D.C., and Maryland were used for over 66 percent of the children placed out of state.

School divisions also get involved with placements of children into residential treatment centers, though not primarily for special education purposes, when other public agencies such as courts, the DOC, the SDW, or the DMHMR are actually responsible for the placement. DOE regulations require the local division to pay the "reasonable" educational expenses if the child is receiving special education services along with other care and treatment. The standard procedure for eligibility must be followed, however, and an IEP must be developed by the school division's eligibility committee.

The use of the Interstate Compact for the Placement of Children by the Department of Education or the local school divisions appeared to be minimal. One local district spokesperson, when asked about compact use, was not familiar with its existence or purpose. At the time of this study, legal counsel for both the DOE and the Department of Welfare were negotiating an interagency agreement and DOE regulations on the compliance issue. Agreement was reached by the summer of 1980. Central to the argument was the claim, made by the Department of Welfare, that out-of-state placements, other than those "primarily educational in character," fall under the purview of the ICPC. The Department of Welfare has presented evidence to DOE that, while several out-of-state educational facilities appeared to be exclusively educational,

> the majority offer psychiatric, psychological and social services in addition to an educational program. . . . Those facilities that are considered "primarily educational in character" include boarding schools, military schools, colleges and prep schools, where the provision of educational services does not rely upon the provision of such therapeutic services as psychiatric, psychological and social services as necessary to appropriately serve residents.[19]

The DOE's position was that the DOE is not a child-placing agency, as is the Department of Welfare and, therefore, not under the compact's purview. This reporting procedure was not recognized in the DSESS regulations as they existed at the time of this study.

Juvenile Justice

Adjudicated delinquents committed to the Department of Corrections' Youth Region could, upon the Reception and Diagnostic Center's (RDC) evaluation, be determined to need special services not available in DOC-operated or funded programs. If preliminary evaluation of committed youth at the RDC reveals a need for residential psychological treatment, the Department of Corrections is required to bring these cases before the Interagency Prescription Team, as described in detail earlier. If admission to a state facility is not deemed possible or appropriate by the commissioner of DMHMR, the team refers the cases back to the Department of Corrections. DOC may then request the court which committed the youth to work with the local child welfare agency to make more

appropriate placements. The involvement of the local child welfare agency in selecting out-of-state facilities for adjudicated delinquents includes the possibility of receiving custody of the youth from the court. These child welfare agencies are required to report out-of-state placements to the Department of Welfare for the commissioner's approval, if they obtain custody, while the courts must report such a placement to the director of DOC, if custody remains with them.

DOC-committed youth, after an RDC or Interagency Prescription Team evaluation, could be placed into an out-of-state residential facility by the department. This type of placement is referred to as a "special placement" and the youth is not placed on probation or parole. According to the Department of Corrections' Interstate Compact Unit, only a youth officially on probation or parole must be placed out of state with the use of the Interstate Compact on Juveniles. Therefore, an RDC "special placement" is seen as not requiring ICJ involvement. The Youth Region director must approve such a placement and the RDC must place the youth in a facility certified by the RDC's Resource Directory Unit. Certification is generally based on the Department of Welfare's licensure of in-state facilities or the acceptance of the receiving state's licensure of a facility.

Interagency communication between the Department of Corrections and the ICPC office in the Department of Welfare has dealt with the question of what policy controls the placement of a committed adjudicated delinquent into an out-of-state residential facility. The discussion is based on Article VI of the ICPC which specifically places the adjudicated delinquent in out-of-state institutional care under the purview of that compact. The revised Juvenile Code and the Department of Corrections' interstate placement policy have not included this stipulation in their formal procedures and, in fact, conflict with the ICPC wording. (See Section 16.1-279 E9b of the Juvenile Code).

The Youth Region's RDC has had little involvement with purchasing out-of-state residential care for committed youth in recent years. It was reported by more than one source that only one child, in recent years, was placed outside of Virginia in a residential facility through RDC. This single placement contrasts with the report of nearly 100 youth placed out of state prior to 1977 by this state agency, a fact pointed to by many state officials. Approval for this placement was sought and gained from the Youth Region director. However, since the RDC special placement recommendation did not include placing the youth on probation, the Interstate Compact of Juveniles was not used. It appears the ICPC's Interstate Placement Unit was not notified either, due to the jurisdictional disagreements still being negotiated by the two departments. Department of Corrections officials reported that, "The Department of Welfare has no such authority except under 16.1-279 A3b and C5b and limits them to monitoring CHINS cases only." It was also reported that the Youth Region discouraged the use of out-of-state facilities for treatment of delinquent youth committed to it due to the substantial expense of the services and the logistics and costs of quarterly monitoring regulations. State officials reported that the quarterly on-site visit was an ideal which was difficult to implement, especially when the Department of Corrections had so many youth out of state. An exception seems to be made, however, for youth living close to Virginia's borders in out-of-state facilities.

The juvenile and domestic relations courts in Virginia have the option of following either one of two out-of-state placement procedures, depending on the status of the youth in question. As described earlier, the out-of-state placement of neglected or abused children or CHINS must be directly approved by the commissioner of SDW and processed through the Interstate Compact on the Placement of Children. However, placement of adjudicated delinquents determined to be in need of special services outside of Virginia must be approved by the director of the Department of Corrections, even if they have not been committed by the district court to DOC Youth Region. A quarterly on-site visit is also required by the DOC but is not always made. The courts do not regularly report these institutional placements of adjudicated delinquents to the Interstate Placement Unit in SDW. The courts can use the services of the Youth Region's RDC in order to determine the special needs of the youth without committing the juvenile to DOC. Local private evaluation can also be purchased by a court or an RDC evaluation may be conducted without the youth being sent to RDC.

Due to restrictions on the use of state "286 funds," discussed in the previous section, only local money could be used by courts for out-of-state placements without other agencies' cooperation. The use of a relatives' homes outside of Virginia, however, are of little cost to the courts and have been relatively common placements for youth on probation or determined to be in need of supervision. Despite the state agency requirements and the enactment of the ICJ, the supervision of the terms of probation or parole for a direct court placement are not always arranged with the receiving state by the Interstate Compact Unit. In 1978, all 52 children reported to have been placed out of state by two of the locally operated probation departments were not processed through a compact. These children were described as experiencing statuses which fit all types of court involvement, including juvenile delinquent; physically or mentally handicapped; unruly/disruptive; drug or alcohol problems; battered, abandoned, or neglected; and adopted. If an adjudicated delinquent is going to live in a private home during this period of supervision, the approval of the director of DOC may not, therefore, be sought.

The House Subcommittee on the Placement of Children noted that the Department of Corrections failed to maintain a record of placements made out of state by local court service units, regardless of the use of local funds. The committee was very critical of the failure of the department to monitor court placements: "As of December 1977, final regulations to carry out the Department's responsibility in this regard have still not been finalized or implemented. No statistics are available on the number of children independently placed out of the Commonwealth by the courts, and no reviews by the Department of Corrections for approval by the Director have taken place."[20] It appeared that the department was still attempting to construct and implement a regulatory plan in early 1980. Although state officials reported that these placements were not occurring in 1980 with their knowledge, local courts did arrange out-of-state placements during 1978 without involving the state agency.

The ability of a district court to order a local school district to use special education funds to place a child in residential care was one reported means to obtain funding for an expensive placement without involving the Departments of Corrections or Welfare. As stated earlier, recent hearings and discussions

have begun to limit this practice to those children evaluated by a school division's eligibility and IEP committees to need special education services not available in the Virginia public system.

ISSUES

Successful implementation of any policy depends on a multiplicity of factors. The Virginia General Assembly has attempted to centralize the regulation of public out-of-state placements using the authority of law. However, the laws are ones of enablement, focusing on accountability. The Departments of Welfare, Education, and Corrections are responsible for developing regulations to implement the "meaning" of these laws. Effectiveness, then, of legislative involvement in the regulation of out-of-state placements has a great deal to do with each responsible agency's ability to develop and carry out policy.

The Department of Welfare, given the greater scope of authority by law, has developed a broad spectrum of procedures to help regulate local welfare, community service boards, and court placements. However, due to the tradition of agency autonomy and the nature of intergovernmental relations, there has been difficulty in assuring that these agencies implement these procedures. The Department of Corrections, citing the Juvenile Code about the out-of-state placement of delinquents, does not agree that it is subject to any of these procedures. The locally operated agencies in more affluent Virginia communities have reflected a variance from policy due to the use of their own sources of revenue. In fact, the two local court service units which did report making 52 out-of-state placements in 1978 serve affluent communities and did not utilize either of the interstate compacts. Part of the confusion stems from the Department of Corrections, with its own placement budget, also being charged by the legislature to develop its own regulatory procedures for court service units, without specifying what policies are to be followed in regard to the placement of delinquents into out-of-state facilities. The SDW's Interstate Placement Unit continues to have difficulty clarifying its area of jurisdiction over these agencies, despite SDW interpretation of the authority it derives from its legislation. Similarly, the Department of Corrections has not yet gained full court compliance to the utilization of the Interstate Compact on Juveniles for the transfer of probation supervision of delinquent youth sent to the homes of out-of-state relatives, for instance.

The authority question is even more complex when speaking of the Department of Education and local school divisions' accountability. There is little disagreement within the Virginia education system that placement authority lies in the school divisions. However, when developing placement policy and regulations in response to the new legislation, the Department of Welfare interpreted compact jurisdiction to cover most educational facility placements. During the time of this study, it was being negotiated between the two state departments whether the SDW had the authority to make such a ruling, when the initial legislation did not specifically include the Department of Education or school divisions within its purview. By the summer of 1980, this issue had been resolved. As a state education official reported at that later time, "It has

been determined that the Department of Education is covered by the Compact and steps are now being taken to institute the appropriate process."

Therefore, loopholes in the regulation of out-of-state placements still exist in Virginia. Public officials interviewed, especially those spokespersons affiliated with local placing agencies, were able to point out many of them. Even personnel connected with both interstate compacts were aware of the most likely paths of departure from established policy. It is obvious from reviewing state placement records that more stringent accountability and greater regulatory control in state government have significantly reduced the number of children sent out of Virginia for services. However, in a state with a long history of locally operated services, increased state-level approval procedures could encourage avoidance. The use of special education funds via local school districts was the most obvious channel of avoidance acknowledged. Local school personnel view tuition grants and Department of Education procedures as part of larger efforts to meet federal requirements for education of the handicapped. The courts, however, appear to perceive special education funding as a means to purchase residential care without the need for state-mandated approval procedures.

As in the past, the absence of treatment facilities for emotionally disturbed and mentally retarded adolescents in Virginia was given, particularly by local agencies, as the most common reason youth were being placed out of state. A survey of these local agencies showed that one of the three child welfare agencies, all 11 school districts, and the single local probation agency which placed more than four children out of Virginia in 1978 reported the lack of comparable services within the state to be one of their reasons for making out-of-state placements in that year. However, with the passage of new legislation and the development of agency regulations to implement it, public agencies have been strongly discouraged from placing children out of Virginia, even though the development of appropriate in-state services to accommodate returned youth or new clients appears to be slow. As one local official reported, some children are not receiving comparable services in Virginia and, in fact, staff often settle for barely "adequate" in-state services rather than attempting to work through the long out-of-state placement approval process. Agency personnel question whether the stronger regulatory policies are in the best interests of children if little is being done to increase and upgrade the services available within Virginia. This viewpoint is not maintained by all Virginia respondents, however; several state officials pointed to the development of several dozen smaller private facilities in recent years, 12 of them being opened in the year immediately following the new legislation. In fact, one state official discussed the issue of service availability as one grounded in local agencies' desire to maintain independent control of their placement decisions without state interference.

Mental health services for children have been receiving more attention in recent years by local community service boards, according to local officials. Cooperative work between the local mental health and mental retardation agencies and Virginia public schools was the most predominant area of activity observed. One local official reported that 60 percent of the children referred to the local board were initiated by the public schools. Programs were beginning to be cooperatively developed in order to serve this population. However, it should be recalled that a per capita state and local matching grant formula is utilized

to fund these boards. It has been reported that this method of support has resulted in a "highly uneven distribution of state general funds," depending on the localities' ability to match funds.[21]

CONCLUSIONS AND RECOMMENDATIONS

Virginia has benefited from the active role its General Assembly has taken in helping to provide greater accountability for out-of-state placement decisions. The legislature has been an effective overseer of state and local service agencies' policies and practices. It has offered a forum for all public agencies involved with children to present their perspectives and suggestions about the capabilities of community-based services and the need for residential placements.

The General Assembly also played an important role in initiating and supporting interagency cooperation for the improvement of services to children. These efforts resulted in the Interagency Prescription Team and gave legislative support to the current attempt of developing core standards for facility certification. This cooperation was seen by many state-level respondents to be the crucial step towards the resolution of several problems with Virginia's services to children.

Obviously, there are expected benefits from the decision to centralize the regulation of out-of-state placements in state government. Greater accountability for placement decisions is predominant among these benefits, and is used as a means for assuring that less inappropriate placements are made by child-placing agencies. The use of approved facilities is more assured through centralization, helping to avoid abuses in placement. With the accumulation of placement information in one office, service needs not being met in Virginia are more visible to state officials and planners. This centralized source of information may also help to promote interagency cooperation in service development, which would also help to alleviate or avoid unnecessary duplication of services.

Most persons interviewed in Virginia were satisfied that the centralization of placement policy within the Department of Welfare would continue to aid in the regulation of out-of-state placements, bringing the number of children placed outside of Virginia to an even lower level. The persons directly involved in the application of the regulatory policy expressed a need for stronger negative sanctions for noncompliance. Suggestions ranged from financial disincentives, that is, cutting of public funds to offending agencies, to terms of imprisonment for public officials. The conflicting interpretations of policy jurisdiction were recognized by some respondents as a problem, particularly when the interviewees felt their authority was being thwarted. This was particularly true in regard to the Interstate Placement Unit's perception of jurisdiction over court-ordered residential and school division placements. Interagency memos and meetings with involved personnel were used as a means to resolve this problem, a problem, to reiterate, reported only by SDW personnel.

Local child-care workers stressed their concern over the courts' authority to remove children from their homes and place them in out-of-state care without child welfare involvement. The courts' encouragement of a relative's removal of a delinquent or abused and neglected child to another state was cited as a form of compact noncompliance which needed closer scrutiny by both the juvenile justice system and the SDW Interstate Placement Unit. In the Department of Corrections, a one-person staff in the office of the Interstate Compact on Juveniles could not ensure judicial compliance, with little time for monitoring or court personnel training. The local courts' perception of the prolonged length of time involved in having out-of-state supervision arranged through the official ICJ approval process was also mentioned as a deterrent to regular compliance.

The Department of Mental Health and Mental Retardation received the most attention by all respondents when questioned about areas of concern and solutions to perceived problems. The weak lines of communication between the state agency and the community service boards were considered to be detrimental to the service population. The General Assembly officially identified community mental health services as in need of development and efforts are under way to remedy this problem. The DMHMR has been criticized in General Assembly reports for a lack of adequate guidance of the community service boards. Study respondents reiterated these problems. It was reported by several sources after the Academy's site visits that efforts for greater state and local agency coordination were beginning to be successful. Long waiting lists for admission to state institutions for the mentally retarded were mentioned as a serious problem for community-based staff. Several suggestions were offered by both state and local mental health respondents, as well as from representatives of other service areas. For instance, it was reported that the lack of adequate incentives for the expansion of the private child-care sector, especially for emotionally disturbed youth, has placed a great deal of pressure on the DMHMR-operated facilities already in existence. Private providers need more financial and other nonmonetary incentives to develop resources in Virginia, according to some of the public respondents. In turn, the current pressure on public facilities has helped to highlight the weaknesses and deficiencies of the state institutions. The lack of availability and poorer quality of Virginia's public residential mental health care were criticisms made by a number of respondents. Financial backing for public service development was seen to be a primary resolution to these problems. However, it was pointed out that interaction between DMHMR and community service boards needed to be strengthened for future projects to be successful. This was seen to be particularly important in bridging the interagency gap between mental health and juvenile justice agencies.

At the state agency level, the Interagency Prescription Team is aiding in resolving the historical problem of youth "ping-ponging" between the two service areas. Juvenile justice respondents expressed a need for more mutual support between the courts and the local mental health agencies. They argue that adjudicated youth with emotional problems could be helped within their own communities, if mental health service arrangements could be made. Similarly, more secure treatment centers or units in DMHMR facilities were seen to be needed for youth committed to the Youth Region. The desire for more cooperation between DMHMR and the Department of Corrections was expressed by personnel in both agencies and at the local level of services. Yet, impediments to a better working understanding do exist. The use of DMHMR facilities for violent disturbed youth

committed to the Youth Region is still an area of concern, with each agency feeling the other is the more appropriate placement for such difficult cases. The Virginia Division for Children's work, in carrying out a statewide needs assessment, has helped to highlight these needed areas of development.

A number of SDW and state juvenile justice respondents expressed a belief that interagency cooperation would be enhanced and residential services to children improved by the development of the legislatively mandated core licensing standards. However, interviews with task force personnel involved in developing this standards package reflected a high level of frustration stemming from two identified problems. The purpose of and the extent to which the core standards would be used appeared to be unclear to both the administrative staff appointed to implement the standards and to many of the agency representatives on the task force. In the search for clarification, the task force has found itself defining its own project parameters with a great deal of difficulty. Agreement among the involved agencies has been difficult to obtain.

The second problem is the repeated failure of several of the involved agencies to submit a package of recommended standards for the core standards or for the specialized service modules. Until this is accomplished, the core package is not complete and not ready for implementation. An interesting paradox exists in this project: interagency cooperation is seen to be increased by the development of the core standards, but these standards cannot be developed until there is interagency cooperation.

Virginia's local education officials had few criticisms of the Department of Education's placement policy and department officials reported their satisfaction with local divisions' placement decisions. Department of Welfare respondents, as mentioned earlier, expressed concerns about school division compliance to their broad regulatory policy, an interpretation not shared by education personnel until after the Academy's on-site visits. The number of children placed in out-of-state facilities by 47 school divisions was almost as high as that reported by the Department of Welfare to the 1977 legislature, which caused changes to be made in the child welfare system. One school division official expressed a need for cooperation among school divisions to develop regional special education facilities for handicapped children, as an alternative to the purchase of services from in-state or out-of-state private providers. A local mental health and mental retardation official pointed to cooperative efforts between school divisions and community service boards as a means to this end, particularly for emotionally disturbed youth. A general goal of all local officials appeared to be toward keeping young clients within the community but, finding local resources lacking, using more distant residential facilities as an alternative, without regard to location of state boundaries.

It appears that Virginia, already having substantially curtailed the rate of out-of-state placement of children, still has a number of issues to resolve before all the goals set by the legislative subcommittee and the participating agencies are met. Communication channels between public agencies have certainly been enhanced through the General Assembly's efforts and continued progress in regulating placement decisions and improving services to children appears highly probable.

FOOTNOTES

1. Chester W. Bain, A Body Incorporate: The Evolution of City-County Separation in Virginia (Charlottesville, Va.: The University Press of Virginia, 1967), p. 26.
2. Virginia School Law 1978, reprinted from the 1950 Code of Virginia and 1978 Cumulative Supplement (The Michie Compacy, 1978), Section 22-10.4, p. 33.
3. Joint Legislative Audit and Review Commission, Virginia General Assembly, Deinstitutionalization and Community Services (Richmond, Va.: 1979), p. 16.
4. Ibid., pp. 18-19.
5. House of Delegates Committee on Health, Welfare and Institutions, Subcommittee on the Placement of Children, House Document No. 16 and No. 22 (Richmond, Va.: Commonwealth of Virginia Department of Purchases and Supply, 1977 and 1978). Also House Bill No. 1789 and No. 1640.
6. House of Delegates Committee on Health, House Document No. 22, p. 8 and House Document No. 16, p. 6.
7. House of Delegates Committee on Health, House Document No. 16, p. 28.
8. An interesting note is the exemption of the Mountain Mission Home in Grundy, Virginia, from Department of Welfare regulation, under Section 63.1-218 of the Code of Virginia.
9. House Bills 518 and 1789 and Senate Bill 867, amending Sections 63.1-56 and 63.1-207 of the Code of Virginia.
10. Henry L. Gunn III, to William L. Lukhard, (Department of Welfare), interoffice communication, June 1977, p. 2.
11. Code of Virginia, Section 63.1-207.1.
12. Henry L. Gunn III, to William L. Lukhard, interoffice communication.
13. House of Delegates Committee on Health, House Document No. 22, p. 23.
14. It was reported to the legislative Subcommittee on the Placement of Children (House Document No. 16) that 442 foster care children in the custody of local welfare departments were placed in institutions for care or treatment in 1975, while in 1978 the Department of Welfare had knowledge of only 180 children having been placed out of state into residential facilities, or adoptive, foster, and relatives' homes.
15. Joint Legislative Audit and Review Commission, Deinstitutionalization and Community Services, p. 20.
16. House of Delegates Committee on Health, House Document No. 22, p. 17.
17. Brown v. Board of Education of Topeka, 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873 (1954). Also, 349 U.S. 294, 75 S.Ct. 753, 99 L.Ed. 1083 (1955).
18. Griffin v. Board of Supervisors of Prince Edward County, 203 Va. 321 (1962).
19. Jane Hotchkiss (Department of Welfare) to Leslie Goode (Department of Education), interdepartmental letter, July 6, 1979.
20. House of Delegates Committee on Health, House Document No. 22, p. 15.
21. Commission on Mental Health and Mental Retardation, Report of the Commission on Mental Health and Mental Retardation to the Governor and the General Assembly of Virginia (Richmond, Va.: Commonwealth of Virginia, 1980).

*U.S. GOVERNMENT PRINTING OFFICE : 1982 0-361-233/1915

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