

Court-Ordered Placements at Residential Treatment Centers

**Management Audit Committee
November 2004**

Management Audit Committee

*Senator April Brimmer Kunz, Chair
Representative Randall Luthi, Vice Chair*

*Senator Tex Boggs
Senator Ken Decaria
Senator Grant Larson
Senator Curt Meier*

*Representative Liz Gentile
Representative Alan Jones
Representative Marty Martin
Representative Fred Parady
Representative Tom Walsh*

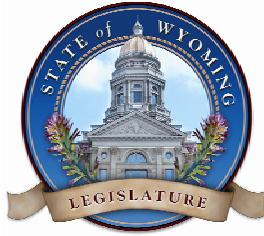
Program Evaluation Staff

Barbara J. Rogers
Program Evaluation Manager

Kelley Pelissier, Senior Program Evaluator
Paula Gordinier, Program Evaluator

Michael Swank, Associate Program Evaluator
Lynne Callaghan, Associate Program Evaluator

Jim Reuss, Associate Program Evaluator
Karla Smith, Associate Program Evaluator



Wyoming Legislative Service Office

EXECUTIVE SUMMARY

Court-Ordered Placements at Residential Treatment Centers

Program Evaluation Division

November 2004

Purpose

The Management Audit Committee directed staff to review court-ordered placements of juveniles. Juvenile Courts order some children under the age of 18 into out-of-home placements ranging from foster care to correctional institutions. The Department of Family Services (DFS) has primary administrative responsibility for out-of-home placement of children by Juvenile Courts.

This report focuses on one of the Court's options, residential treatment centers (RTCs) for children. It provides background information about RTC placements, and discusses why some juveniles come to be court-ordered into treatment while others go to detention or jail.

With respect to DFS management of court-ordered placement in RTCs, the report considers how DFS controls the rates it pays providers, and how it coordinates payments with two other agencies that fund services. The report also considers how DFS monitors appropriateness of services and measures treatment outcomes.

Background

RTCs offer 24-hour room, board, and supervision as well as educational and mental health services. RTC placements occur after petitions are filed in Juvenile Courts alleging children are abused or neglected, in need of supervision (CHINS), or delinquent. These are the categories Title 14 of Wyoming Statutes sets out for youth who come under the protections of Juvenile Court. Based upon adjudication or a consent decree, children in any of the three categories can be sent to any RTC. There are eight privately-run RTCs in the state, as well as

three BOCES (Boards of Cooperative Educational Services) residential treatment facilities.

For the 868 children who were in RTCs during FY'03 – '04, the average length of stay was 359 days at an average per-child cost of \$56,692. However, children with exceptionally long stays and high costs inflate these averages.

DFS shares the total cost of RTC placements with the Departments of Health and Education. The three agencies spent a combined \$40.7 million on RTC direct-care services for court-ordered placements in FY '03 – '04, with DFS contributing just more than half. Expenditure patterns among the agencies are changing because Medicaid has become a major contributor of funding for children in some RTCs (including all children placed in out-of-state facilities).

RTC placement rates in Wyoming have increased since 1999, from 472 of 100,000 juveniles (age 10 to 17) to more than 600 in both 2001 and 2003.

Principal Findings

Wyoming children are placed in RTCs through a justice system that lacks clarity and uniformity. Not all juvenile offenders are handled in Juvenile Court, which has special proceedings aimed at protecting the best interest and welfare of minors, and which can order therapeutic interventions such as RTC placement. Instead, most youth enter the court system at the Municipal or Circuit Court levels, having been cited for misdemeanor offenses. These courts are adult courts where, if convicted, juveniles are likely to receive

punishment, not treatment; they also acquire criminal records. Instead of being court-ordered into RTCs, youth cited into Circuit or Municipal might be sentenced to detention in juvenile detention facilities or adult jails.

Since the 1980's, there have been multiple reviews and reports on the state's juvenile justice system. Most have at least one recommendation directed at correcting the system's lack of uniformity. This has not been accomplished, leaving youth in different parts of the state receiving different treatment for similar problems and needs.

Although a uniform juvenile justice system remains elusive, DFS can take steps to improve its management of the existing system, especially with respect to court-ordered placements in RTCs. For example, DFS pays RTC providers individually-negotiated rates for room, board, and treatment. However, it does not have a methodology justifying the price differentials, nor a contracting procedure that specifies the services RTCs are to provide to the children in placement.

Without DFS leadership, providers are developing cost-based proposals for rate increases. DFS plans to develop a rate-setting methodology, as have or will the two other agencies funding these placements. Acting separately, however, the three cannot determine whether they have the same allowable costs, may be duplicating payments, or are inadvertently encouraging providers to act in ways that undermine the other agencies' objectives. Rate setting for RTCs, especially now that Medicaid has become more heavily involved, needs to be done collaboratively.

Experts and many states have acknowledged that putting children in residential facilities is restrictive and expensive, and that such intensive out-of home treatment is not necessary for all troubled youth. Clinical assessments of children can identify needs for behavioral or mental health treatment and guide placement decisions.

However, this type of assessment is not consistently or independently done in Wyoming. Multiple and unusually long placements suggest

that some RTC placements are not appropriate; such placements may not benefit children and in fact, may harm them. DFS should take the lead in developing a process that ensures youth receive independent clinical assessments prior to being placed in RTCs.

DFS caseworkers have important ongoing responsibilities for children both before and after they are placed in RTCs. To guide this case management, DFS has promulgated rules and procedures that correspond to best practices. However, from a case file review, we concluded that caseworkers throughout the state do not consistently follow them. We found that case plans do not specify treatment goals, caseworker contact with RTC-placed youth is infrequent, and caseworkers defer to provider recommendations for continued placement. Inactive DFS case management allows RTC care to go without the evaluative oversight that rules and procedures envision. DFS should actively manage court-ordered placement cases and should develop measures of treatment effectiveness.

Agency Comments

DFS agrees with the report's recommendations and has already developed plans to address them. However, in some cases, DFS believes it will need additional resources and statutory changes to implement changes called for in the report. DFS notes that correcting the lack of uniformity in the juvenile justice system calls for legislative action. The agency also recommends that statutes be amended to clearly place children in DFS custody so that DFS can be held accountable for placement decisions and treatment monitoring.

Copies of the full report are available from the Wyoming Legislative Service Office. If you would like to receive the full report, please fill out the enclosed response card or phone 307-777-7881. The report is also available on the Wyoming Legislature's website at legisweb.state.wy.us

Recommendation Locator

Page Number	Recommendation Summary	Party Addressed	Agency Response
32	DFS should develop a cost-based rate methodology in collaboration with the other agencies funding COPs, and develop a contracting process that facilitates the monitoring of service contracts.	DFS	Agree
41	DFS should develop rules and procedures to ensure that children receive uniform, independent clinical assessments prior to being placed in RTCs.	DFS	Agree
52	DFS should more actively manage COPs cases and should develop measures of treatment effectiveness.	DFS	Agree

Abbreviations

❖	AG	Attorney General.
❖	BOCES	Boards of Cooperative Educational Services Schools.
❖	CHINS	Children in Need of Supervision.
❖	COPs	Court-Ordered Placements.
❖	DFS	Department of Family Services.
❖	FY	Fiscal Year.
❖	IEP	Individual Education Plan.
❖	MDT	Multidisciplinary Team.
❖	NCSL	National Conference of State Legislatures.
❖	OJJDP	Office for Juvenile Justice and Delinquency Prevention.
❖	RTC	Residential Treatment Center.
❖	WDE	Wyoming Department of Education.
❖	WDH	Wyoming Department of Health.
❖	WYCAPS	Wyoming Children's Assistance and Protective System.
❖	YFS	Youth and Family Screen.

TABLE OF CONTENTS

Court-Ordered Placements at Residential Treatment Centers

Introduction: Scope and Acknowledgements	i
Chapter 1: Background.....	1
Chapter 2: Juvenile Justice System and Court-Ordered Placements	11
Chapter 3: DFS Has Not Justified Its Rates for Residential Treatment	21
Chapter 4: Many Court-Ordered Youth Need, But Do Not Get, Clinical Assessments	33
Chapter 5: DFS Case Management and Oversight Do Not Ensure Effective Treatment	43
Chapter 6: Conclusions.....	53
Agency Response	55
Appendices	
(A) <i>Selected Statutes</i>	A-1
(B) <i>DFS Service Expenditures and Placement Statistics by Placement Type</i>	B-1
(C) <i>COPs Provider Information</i>	C-1
(D) <i>Total Out-of-Home and RTC Placements Beginning FY '03</i>	D-1
(E) <i>Methodology</i>	E-1

INTRODUCTION

Scope and Acknowledgements

Scope

W.S. 28-8-107(b) authorizes the Legislative Service Office to conduct program evaluations, performance audits, and analyses of policy alternatives. Generally, the purpose of such research is to provide a base of knowledge from which policymakers can make informed decisions.

In January 2004, the Management Audit Committee directed staff to undertake a review of court-ordered placements of juveniles. The Committee requested an analysis of the program's costs, operations, and outcomes. Based on preliminary research, this study focuses on juveniles who are placed at in-state residential treatment centers (RTCs) and it addresses the following questions:

- What problems is residential treatment for juveniles intended to address? What does the treatment consist of, how much does it cost, and how long does it last?
- Does Wyoming have a higher placement rate than other states in the region?
- How do some juveniles come to be court-ordered into treatment, while others go to detention or jail?
- What is the process for determining to which RTC a juvenile will be sent, and what the length of stay will be?
- What strategies does the Department of Family Services use to control the rates it pays providers for room, board, and treatment? Is there a process for coordinating DFS' provider payments with payments from other agencies for medical and education services?
- How does DFS monitor provider operations to ensure that juveniles in placement receive appropriate services?

- What outcome data is available to indicate that those who complete their treatment have an improved ability to function in society?

Acknowledgements

The Legislative Service Office expresses appreciation to the many staff at the Department of Family Services who assisted in this research. We also gratefully acknowledge assistance from the Department of Health, the Department of Education, and from providers of residential treatment services around the state.

CHAPTER 1

Background

Courts Can Remove Children From Their Homes and Place Them In a Range of Settings

Each year, 800 to 900 children are ordered into out-of-home placements for the first time.

Each year, between 800 and 900 Wyoming children under the age of 18 who enter the state juvenile court system are court-ordered into placements outside their homes for the first time. Juvenile Court judges order them into out-of-home placements for a variety of reasons: some are victims of abuse and neglect; others are considered beyond the control of their families; some have committed crimes; and many have emotional, mental health, and substance abuse problems.

In the broadest sense, the term "court-ordered placements" (COPs) covers a wide range of out-of-home placements from which Juvenile Courts can choose. The options range from foster care and group homes to correctional institutions such as the Wyoming Boys' and Girls' Schools. For example, foster care placements are forms of COPs, as are group home placements and, in some cases, juvenile detention facilities.

Many children are placed multiple times.

In the FY '03 – '04 biennium, the state paid providers approximately \$67.7 million for all types of out-of-home placements (see Appendix B and C for more detail on DFS and overall COPs expenditures). During the six years from 1999 through 2004, children in the system had an average of 2.27 placements each, with a range of 1 to 23 placements for a single child. Children in placement ranged in age from newborns to over 20 years old, with stays in foster care as short as 1 day to as long as 14 years.

This Report Focuses on Juveniles Who Are Sent to Residential Treatment

RTC placements accounted for 2,670 of the 14,420 out-of-home placements.

One form of COPs, juveniles who are sent to residential treatment centers (RTCs), is the most expensive type of court-ordered placement. From July 1, 1998 through June 30, 2004 (FY '99-'04), RTC placements accounted for only 19 percent of the 14,420 total placements.¹ However, RTC placements cost the state \$101.5 million, or 71 percent of all COPs expenditures during that period. Figure 1.1 shows the number of children in RTCs on the first day of each fiscal year since FY '99.

Figure 1.1

Children in RTCs on the First Day of Each Fiscal Year

Date of Single Day Census	RTC Placements	Total Placements	Percent RTC
7/1/04	348	1400	24.9%
7/1/03	305	1368	22.3%
7/1/02	297	1219	24.4%
7/1/01	320	1225	26.1%
7/1/00	263	1091	24.1%
7/1/99	220	1018	21.6%
7/1/98	211	902	23.4%

Source: LSO Analysis of DFS data.

We focused on juveniles placed in Wyoming RTCs.

This report focuses on issues associated with juveniles in Wyoming RTCs. The narrow definition we give to the term "COPs" is that it covers Juvenile Court-placed children in Wyoming RTCs.² The definition and focus are appropriate due to this category's high budget and policy profile and the long history of legislative attempts to contain growth in its numbers and costs. In addition, the vulnerability of the population and the urgency of linking troubled youth with appropriate services are of great

¹ Because children whose placement spanned more than one fiscal year were counted in each of the fiscal years but only once for the overall period FY '99 – '04, the combined period percentage (19 percent) is lower than the individual year percentages in Figure 1.1.

² Out-of-state RTC placements, which used to be a high-cost category, now account for a much smaller percentage of expenditures.

importance.

Juveniles can be sent to any RTC, regardless of adjudication category.

RTCs offer 24-hour room, board, and supervision as well as educational, medical, and mental health services. Placements at RTCs take place after a petition is filed in Juvenile Court alleging a child is abused or neglected, a child in need of supervision (CHINS), or delinquent,³ based on adjudication or a consent decree. Juveniles adjudicated in any of the three categories can be sent to any RTC.

DFS and legal classifications are not comparable.

DFS does not track youth according to the three adjudication categories

Rather than consistently tracking these children according to adjudication category, DFS tracks them according to the rule categories of DFS services: Child Protection, Youth and Family, and Probation. For the most part, these categories are not comparable to those in Title 14; also, many children have multiple adjudications and the cost of services cannot always be linked to a specific type of adjudication. Thus, with DFS data, it is not possible to determine with certainty either the numbers of children or costs of services by statutory category.

RTCs and BOCES Provide Intensive Residential Treatment

As shown in Figure 1.2, Wyoming has eight privately-run RTCs, as well as three BOCES (Boards of Cooperative Educational Services) that provide intensive residential treatment for troubled youth. Treatment is considered appropriate because national studies show that the majority of arrested youth have a mental health disorder such as substantial anxiety, conduct disorder, or they exhibit suicidal behavior (see Appendix C for placement and cost information for RTC providers paid by the State of Wyoming).

Figure 1.2

In-State Providers of Residential Treatment

³ Wyoming Statutes outline three categories of adjudications: W.S. 14-3-401 through 440 is the Child Protection Act for abused and neglected children; W.S. 14-6-201 through 252 is the Juvenile Justice Act for delinquent children; and W.S. 14-6-401 through 440 is the Children In Need of Supervision Act (slated to sunset July 1, 2005). Supreme Court data for calendar year 2002, drawn from reports by Clerks of District Court, shows 1,429 petitions filed statewide: 60 percent were delinquent; 22 percent CHINS; 17 percent abuse and neglect. As in any other year, some petitions were dismissed and only a fraction of the children named were placed in RTCs.

Capacity and Placement Numbers

Juvenile Court RTC placements filled 310 of the 590 available beds on July 1, 2004.

RTC Providers ¹	Location	Certified Capacity ²	COPs July 1, 2004
Attention Homes, Inc.	Cheyenne	26	20
Cathedral Home for Children	Laramie	60	30
Frontier Correctional Systems, Inc. (Jeffrey C. Wardle Academy)	Cheyenne	92	47
Normative Services, Inc.	Sheridan	113	73
Red Top Meadows Treatment Center, Inc.	Wilson	14	16
St. Joseph's Children's Home (Newell Children's Center)	Torrington	96	48
Wyoming Behavioral Institute	Casper	45	18
Youth Emergency Services	Gillette	32	16
Total		478	268

BOCES	Location	Certified Capacity ²	COPs July 1, 2004
Northeast Wyoming BOCES	Gillette	47	9
Northwest Wyoming BOCES	Thermopolis	20	7
Region V BOCES/(C-V Ranch)	Jackson	45	26
Total		112	42

Source: LSO analysis of DFS information.

¹ Attention Homes and Youth Emergency Services are also contracted to serve as crisis centers. Frontier's capacity includes residential treatment and detention beds.

² Some RTCs take placements from other states, and BOCES take school district placements. Providers did not submit total occupancy data for these facilities.

Half of all RTC children account for 80% of RTC costs

For the 868 children who were in residential treatment during the FY '03 - '04 biennium, the average length of stay was 359 days at an average per-child cost of \$56,692. Half of these children (shown by the median: 434 children) had a length of stay shorter than 291 days and cost less than \$43,465. The differences between the averages and medians indicate the upper half of the children had disproportionately longer and more expensive placements: they accounted for more than 80 percent of the placement days and costs (see Appendix C-6 for a graph).

State-Level Administration of COPs Is Split Among Three Agencies, Although DFS Has Primary Responsibility

The Departments of Family Services (DFS), Education (WDE), and Health (WDH) all provide funding for COPs, each for different aspects of a child's care, treatment, and education. In FY '03 – '04, the three agencies spent a combined \$40.7 million for COPs residential treatment services: DFS spent \$22.5 million, WDE \$13.1 million, and WDH \$5.1 million. To determine these costs, we obtained expenditure data from the Departments of Education and Health, but we did not further analyze their operations with respect to COPs payments.

One DFS staff member certifies all out-of-home placement providers.

Department of Family Services. According to W.S. 9-2-2101(a) through (c), DFS is "the state's youth authority" and "shall develop and administer a state program to provide shelter care for youth...." Two DFS Divisions, Juvenile Services and Protective Services, have administrative responsibilities for the program. One staff member certifies all types of substitute care providers, reviewing documentation and conducting site visits at the provider locations statewide. DFS certification focuses on children's physical health and safety in a facility, but does not set specific standards for diagnostic and treatment services or outcomes.

Much of DFS' management, oversight, and decision-making about individual cases takes place in the 27 full-time and 3 part-time field offices around the state. At the local level, 198 caseworkers, managers, and supervisors handle the day-to-day case management of all DFS-served children and families. For COPs, their duties include gathering required documentation for court appearances, contacting providers for potential placements, authorizing payment for services, and making on-site visits or phone contact with the children in placement.

One third of RTC placed children had special education needs in FY '03 – '04.

Department of Education. WDE pays DFS-certified providers for the educational costs of school-age (6 to 18 years old) COPs. Historically, WDE has paid for related special education services for about 32 percent of COPs children with Individual Education Plans, or IEPs. However, now providers bill IEP medical treatments such as speech, occupational, and mental health therapies to Medicaid. In addition to requiring DFS certification of a facility, WDE has its own process for approving providers' on-site educational programs. WDE also pays the education costs of children who are court-placed with out-of-state

providers that have approved education programs.

Medicaid certifies and pays some providers for "medically necessary" RTC services.

Department of Health. WDH is involved with COPs in three ways through Medicaid, the federal health program for clinically needy and financially eligible individuals. First, Medicaid pays for various routine and other necessary medical services of children in DFS custody, including those in placement at RTCs. Second, when Medicaid deems a child's placement at an RTC to be "medically necessary," and when the provider is accredited, Medicaid – not DFS – pays for the cost of the placement (room, board, and treatment). In these cases, DFS uses General Funds to pay WDH the state Medicaid match (roughly 40 percent). Third, RTC providers bill IEP medical services to Medicaid, with WDE paying the state Medicaid match.

Expenditure Patterns Are Changing, With Medicaid Taking a More Prominent Role

DFS annual expenditures peaked in FY '02.

Historically, the state has not consistently tracked expenditures for COPs across all three agencies. We obtained expenditure data from DFS for three biennia (FY '99 – '04) and from WDE and WDH for one biennium (FY '03 – '04), covering all court-placed juveniles at RTCs during those years. Between FY '99 and FY '04, DFS annual expenditures for COPs increased more than 34 percent. However, DFS expenditures have shown signs of stabilizing since FY '02.

We determined that DFS expenditures for COPs in FY '03 and '04 amounted to more than \$22.5 million for room, board, and treatment payments. After cross-referencing individual cases among the three agencies' data, we found that WDE and WDH expenditures account for about 45 percent (or another \$18.2 million) of the total \$40.7 million in COPs room, board, treatment and education expenditures for that biennium.

WDH and WDE RTC expenditures will increase due

Each agency sets its own rates and pays different rates to different providers (see Chapter 3). This complex arrangement makes cross-agency analysis difficult, but it is clear that Medicaid is becoming a major source of funding for COPs in residential placement centers. With this trend, WDH expenditures will certainly increase, as will overall COPs costs since Medicaid

to individually negotiated rates. residential treatment rates are 70 to 100 percent higher than DFS rates. In addition, WDE negotiated higher tuition rates with providers; the effect was to increase its budget authorization for COPs by nearly 90 percent between FY '04 and FY '05.

The effect of increased Medicaid funding on DFS expenditures remains unclear

Three providers are now certified for Medicaid RTC reimbursement. Since 2002, the State Office of Medicaid has been able to reimburse RTC care for children in medical need of psychiatric residential treatment if the providers have certain national accreditations. To authorize this, Wyoming Medicaid has promulgated rules for providing inpatient psychiatric services for individuals under the age of 21 in "free-standing psychiatric residential treatment facilities." At the writing of this report, three in-state providers, Attention Homes, Inc., St. Joseph's Children's Home, and Cathedral Home for Children, qualify for Medicaid reimbursement for residential treatment services; only St. Joseph's was certified for most of FY '03 – '04. Medicaid also pays for all placement costs for children placed out-of-state⁴.

DFS costs for RTC direct care have decreased by 26% since FY '02. These three providers served 34 percent of COPs children in FY '03 – '04. If more providers acquire Medicaid certification, DFS expenditures for COPs would seemingly decrease, as it pays only the General Fund match for these services. In fact, between FY '02 and FY '04, its annual RTC expenditures decreased by 26 percent. Further, in the 2004 Budget Session, the Legislature approved DFS' transfer of \$1.9 million from the 600 series supporting COPs to fund 19 additional social workers.

Medicaid's impact on future DFS RTC expenditures remains unknown. However, several factors make it difficult to gauge the future level of DFS RTC expenditures for COPs. As discussed in Chapter 3, DFS will likely be negotiating higher rates with RTCs. These rates, along with uncertainty over future numbers of RTC-placed children who may or may not be covered by Medicaid, will impact future DFS costs. Further, Medicaid funding may supplant other federal funding that DFS currently matches for some children. If so, the Medicaid match will be higher than one based on lower DFS rates. Changes in RTC Medicaid rates and the required state match will also affect DFS expenditures.

⁴ Out-of-state providers usually have higher rates, sometimes as much as \$900 per day. In the FY '03 – '04 biennium, these placements cost the state \$4.1 million for 65 children, averaging stays of 177 days.

remains unknown.

Wyoming's System for Placing Juveniles Makes It Difficult to Compare Rates and Costs With Other States

State-by-state placement rate comparisons are problematic.

Legislators have voiced a concern that Wyoming has one of the highest rates in the region for placing juveniles. Our research showed that there is no current placement rate data comparing all states. We also concluded that state rates and costs of placement have limited usefulness for comparisons because of the many differences among states in how they identify and adjudicate juveniles needing treatment, how they deliver that treatment (whether primarily in the community or in public or private out-of-home placements), and how their reimbursement systems operate. For example, many states require that a standard assessment be administered to juveniles so they can be directed into effective treatment, but Wyoming's system does not include this requirement.

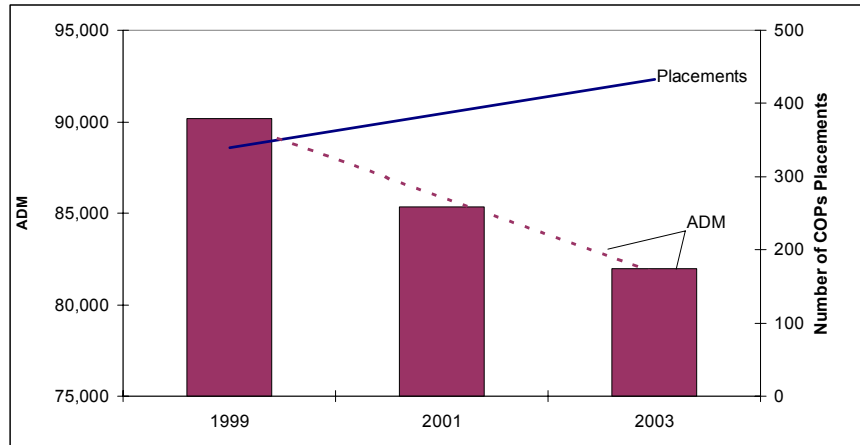
We reviewed an Office for Juvenile Justice and Delinquency Prevention (OJJDP) report that found Wyoming had the second highest juvenile placement rate in the region in 1997 and 1999, and analyzed the methodology used in it. The comparator states were Colorado, Idaho, Montana, Nebraska, South Dakota, and Utah. While Wyoming's rate appeared high, the OJJDP report was comparing *all* residential placements by Juvenile Courts. Since Wyoming's Juvenile Courts place children from three categories (abuse and neglect, delinquent, CHINS), not just juvenile delinquents, Wyoming's broader definition of "juvenile placement" is at least a partial cause for its seemingly high rate.

Wyoming's increasing placement trend contrasts with the state's declining student population

However, our analysis does indicate that Wyoming's rate for placing children in RTCs has been increasing in recent years. According to our calculations, the rate was 472 in 100,000 juveniles age 10 to 17 in 1999, and that rate increased to more than 600 in both 2001 and 2003. Figure 1.3 gives more detail on Wyoming's residential treatment placements since 1999.

Figure 1.3

Change in COPs Placements and Wyoming Schools' Average Daily Membership (ADM), FY '99-'03



Source: LSO analysis of DFS and WDE data.

Wyoming RTC placements continue to climb while school enrollments decline.

This increase in RTC placements occurred during a period when Wyoming's youth population has been declining: school age membership decreased by more than nine percent between FY '99 and FY '03. If this pattern continues, and even if the number of placements remains stable or decreases slightly, Wyoming's actual rate of placement may remain high. This is because the proportion of children in placement would be increasing relative to the total youth population.

Certain Aspects of the COPs System Are Undergoing Change

DFS is currently taking steps to improve

Currently, COPs administration and expenditures are receiving considerable scrutiny, with the Legislature including the topic in several studies, and DFS undertaking numerous initiatives to study and address perceived system problems. DFS is working on the Juvenile Court Enhancement Initiative, which will issue recommended guidelines for local teams that advise judges on juvenile cases, and on the Court Improvement Project to assist judges in handling children's abuse and neglect cases. DFS has also directed an internal reorganization designed to better meet the specialized nature of each type of case (abuse and neglect, delinquent, and CHINS) and is making changes in response to

COPs program administration.

negative findings from a 2002 federal Child and Family Services Review. Nevertheless, despite DFS efforts, multiple outside studies, statutory changes, and considerable legislative attention over the years, RTC placement numbers and aggregate (three-agency) costs have continued to grow.

Although Not Solely Responsible for RTC Placements, DFS Performance Can Improve

On the one hand, DFS does not single-handedly make the decision on when and where children are placed for treatment (see Chapter 2), and it is just one of three agencies paying for these services. Consequently, many factors such as placement numbers and costs are beyond its control. On the other hand, DFS is the state agency responsible for important components of the COPs process, such as preparing background reports for the court, monitoring the progress of the youth while in treatment to make sure that each child's length of stay is appropriate, and administering one of the funding streams and payment processes that account for expenditures. These duties are critical to ensuring that RTC placements are as clinically appropriate and cost effective as possible.

DFS has responsibility for important program functions that need improvement.

In the following chapters, we provide a summary description of Title 14 and the role of the courts in ordering placements, followed by an analysis of key DFS responsibilities with recommendations for change. The recommendations are based on the premise that even if the Legislature does not choose to change the workings of a complex, uneven juvenile justice and placement system, DFS needs to make improvements within its scope of authority.

CHAPTER 2

Juvenile Justice System and Court-Ordered Placements

Complex Juvenile Justice System Makes Residential Treatment an Option Only for Some Troubled Youth

It is essential to understand the complicated judicial and statutory framework for COPs.

Although COPs can take many forms, this report focuses on issues associated with juveniles in Wyoming RTCs. Before turning to specific findings about RTC placements, however, it is useful to know how juveniles are processed through the justice system and levels of court: District, Juvenile, Circuit, and Municipal Courts. According to the State Advisory Council on Juvenile Justice and other observers, Wyoming’s juvenile justice system is unclear, difficult to describe, and something of a maze to navigate. Understanding the judicial and statutory framework within which COPs are made is an essential prerequisite to making statutory, policy, and procedural improvements to the process.

Juvenile Courts Share Jurisdiction With Other Courts Over Most Children’s Cases

Children’s cases can be handled in all levels of court.

In Wyoming, only some youthful offender cases are handled in Juvenile Court, a branch of District Court. Juvenile Courts handle all substantiated child abuse and neglect cases referred by the prosecuting attorney, as well as delinquency cases (other than status offenses¹) of minors under the age of 13. Cases involving other children can originate and be tried in Circuit or Municipal Courts, which are both adult courts, and the prosecuting attorney can also seek to transfer these cases to District Court, where the juvenile will be tried as an adult – or to the District Court sitting as Juvenile Court, for the young person to be tried as a juvenile.

¹ Status offenses are acts such as truancy and curfew violations that, if committed by an adult, would not constitute an act punishable as a criminal offense or violation of a municipal ordinance. *W.S. 14-6-201(a)(xxiii)* However, status offenses do not include violations of *W.S. 12-6-101(b)* or *(c)*: possession of alcoholic beverages or using a false identification to purchase alcoholic beverages.

Multiple entry points mean children can be treated very differently.

One description that offers some clarity is that the juvenile justice system has several doors through which a young person can enter, only one of which leads to Juvenile Court. The following information elaborates on that concept and provides a general context for understanding how some juvenile offenders come to be court-placed at RTCs to receive treatment, while others are prosecuted as adults and may be convicted of a crime and sentenced to detention without the same opportunity for specialized treatment.

A Primary Purpose of the Juvenile Justice Act Is To Rehabilitate the Child

Juvenile Courts have special proceedings to protect and treat children.

As is true in other states, Wyoming bases its criminal justice system for juveniles on principles of treatment and rehabilitation, as opposed to criminal prosecution and punishment. Juvenile Courts have special proceedings, the underlying philosophy of which is the belief that society should handle children who misbehave differently than adults, since children lack the maturity to fully understand consequences. The process is aimed at protecting the best interest and welfare of the minor while treating the problem.

Title 14 of Wyoming Statutes sets out three categories of youth who come under the protections of Juvenile Court: abused and neglected children, children in need of supervision (CHINS), and delinquents.² Juvenile Courts must consider a mix of legislative purposes when dealing with these three categories of youth. Title 14's overall emphasis is on treatment and protecting the best interest of all children, and its other purposes have the same general tenor: to protect public safety and welfare, to discipline and rehabilitate the youth, and to remove the taint of criminality from them.³

² A delinquent act is one that would have been a crime if committed by an adult. Crimes are defined by Title 6 of Wyoming Statutes.

³ Punishment is a statutory purpose only for those youth adjudicated as delinquents. *W.S. 14-6-201(c)(ii)(A)*

MDTs assist the judge in determining how to handle children's cases.

Special provisions apply to Juvenile Court proceedings. Children are not convicted but instead are “adjudicated”⁴ (and thus not stigmatized); their records are confidential, the public is excluded, and hearings are informal; and the judge is required to appoint a multi-disciplinary team (MDT) to assist in developing recommendations for how best to handle the case. The Juvenile Justice Act emphasizes accountability and responsibility not only of the juvenile but also of the family. The court’s authority over parents can be important in assuring that the juvenile’s treatment needs are not addressed in isolation from other causative factors.

Only the Juvenile Court can place a young person at an RTC.

The goal of the Juvenile Court process is, whenever possible, to achieve positive outcomes for young persons in a family environment. When this is not possible, the court may give custody to DFS and order the juvenile to be placed in an environment outside the home that will provide the protection and treatment that were not available there. Only the Juvenile Court, not the adult courts, can order therapeutic interventions for the juvenile and the family to address issues related to the youth’s situation and condition, and only the Juvenile Court has authority to “place” a young person at an RTC.

Juveniles Accused of Crimes Also Can Be Prosecuted In Adult Courts

Few of the children who come into contact with the legal system appear in Juvenile Court.

Because Title 14 applies to just a small portion of the juveniles who come in contact with the legal system,⁵ most young persons who come into contact with the legal system do not appear before a Juvenile Court. In 2002, over 6,000 juveniles in Wyoming were arrested for offenses ranging from minor misdemeanors to violent felonies, yet only 854 delinquent cases were disposed of in Juvenile Court. Little collective information exists about the outcomes of the other 5,000+ juvenile arrests. The State Advisory Council on Juvenile Justice has undertaken a project to develop a central data system for collection of information on juvenile offenders, but at present, the lack of historical data makes

⁴ Adjudication means there is a finding by the court or the jury, incorporated in a decree, as to the truth of the facts alleged in the petition. *W.S. 14-6-201(a) (i)*.

⁵ Only certain children, such as those who are abused and neglected, CHINS, and those under 13 who are accused of a felony or a misdemeanor punishable by more than six months in jail, are guaranteed a hearing in Juvenile Court.

it difficult to track and analyze what has been happening to juveniles involved in Circuit and Municipal Court proceedings.

Children prosecuted and convicted as adults are likely to be punished, not treated.

Even though precise statistics are not available, it is known that most children enter the court system when they receive a citation from a law enforcement officer for a misdemeanor offense; these offenses often involve allegations of alcohol or drug use. Criminal violations can be cited into the adult court systems of city and county government, Municipal or Circuit Court, or into District Court. If prosecuted and convicted as adults, they are likely to receive punishment, not treatment. Thus, how a juvenile is charged determines where (in which level of court) the case will be heard.

In Adult Court, Juveniles Do Not Receive the Same Protections and Opportunities

Juveniles whose cases are heard in adult court face very different procedures and consequences than in Juvenile Court: they can be tried, convicted, and sentenced as adults. Municipal and Circuit Court proceedings are open to the public, criminal conviction with a criminal record is a possible result, and incarceration may be ordered. Juveniles in adult courts do not have the benefits that Title 14 provides such as the possibility of treatment and court-ordered involvement of the parents.

Statewide, sentencing practices vary considerably.

Sentencing practices vary considerably around the state, but typical dispositions of Municipal and Circuit courts are diversion, fines, community service, probation, or time in a juvenile detention facility or jail⁶. There is little reliable information about what treatment and educational services juveniles receive while in detention. Detention can be ordered in both pre-trial and post-conviction (or post-adjudication, in the case of Juvenile Courts) circumstances, with some courts sending juveniles to detention in adult jails and others ordering them to juvenile detention

⁶ In 2003, at least 400 juveniles were held in adult jails in Wyoming: the majority of them were of pre-trial or accused status, and some were under 13 years of age. Wyoming is the only state that does not fully comply with terms of the Juvenile Justice and Delinquency Prevention Act of 1974, which requires eliminating the practice of detaining juveniles in adult jails. Many more juveniles were held in juvenile detention facilities.

facilities.⁷ Both types of detention are correctional and punitive.

Officials in local jurisdictions decide how juveniles will be brought to court.

Under this structural arrangement, with local jurisdictions deciding how juveniles will be brought to court, law enforcement officers and prosecuting attorneys become the principal gatekeepers of the juvenile justice system. The actions and decisions of individuals in these positions around the state determine whether a citation will be issued or criminal charges filed against juveniles (which takes them into the adult court system), or whether a petition will be filed in Juvenile Court. This “door” into Juvenile Court (the filing of a petition) can be critically important because it opens up options for an entirely different process and outcomes for the juvenile.

Depending on Location, Youth Can Be Subject to Different Standards, Procedures

The system gives decision-making latitude to a number of professionals at every step of the way – local law enforcement officers, prosecuting attorneys, judges, and MDT members who advise the judges, and all have considerable discretion in deciding whether and how a case will proceed. Community norms about youth, crime, and punishment, as well as the attitudes and working relationships among local law enforcement, attorneys, judges, and DFS personnel, vary greatly and can also influence these decisions.

Statutory sanction guidelines are not routinely referenced in MDT reports and court orders.

Because the system has so many decision-makers and allows so much flexibility, local practices vary widely. The Legislature established statutory “Progressive Sanction Guidelines”⁸ to “ensure that juvenile offenders face uniform and consistent consequences” statewide, but MDT reports and court orders do not ordinarily reference these sanction levels.

Children convicted in lower courts for

The system can also produce illogical outcomes. For example, children who commit minor offenses are usually charged as adults and even though treatment and rehabilitation can be quite

⁷ Frontier Correctional Systems, Inc. operates two juvenile detention facilities, one in Natrona County and the other in Laramie County; Fremont County operates its own juvenile detention facility.

⁸ W.S. 14-6-245 through 252.

***misdemeanors may
end up with criminal
records.***

effective at this stage, these children generally do not have that option. Furthermore, juveniles convicted in lower court for misdemeanors may end up with criminal records, while those who have committed more serious crimes and appear in Juvenile Court do not – they may be ordered to receive treatment instead of punishment for their problems.

Statutes Support Community-Based Services, But Statewide There Are Gaps

Although Wyoming statutes support the concept of community-based services for juvenile offenders and mentally ill youth, many communities around the state lack a continuum of alternatives to meet these needs. Where local programs are not fully developed, out-of-home and out-of-community treatment may be the only options.

***Community-based
services for youth
are lacking in many
communities.***

Since passage of the Community Human Services Act of 1979, statutes have encouraged development of comprehensive community services for youth. Law enacted in 1983 allowed counties to receive juvenile community alternative funds “to keep youth in the home and community and to work with the family....” Community Juvenile Services Boards⁹, created in 1997, were designed to enable communities to establish juvenile services and allow decisions about those services to be made locally. Although the latter mechanism remains on the books, the Legislature has not appropriated state funding for it and it is not presently in use.

Despite statutory authority for a network of community-level alternative programs for youth, their present status can be characterized as widely varied: some cities, towns and counties have developed their own local diversion projects and services for youth, while others have created little of this nature. The “coordinated network of services” for juveniles envisioned in 1983 legislation has not been developed, and creation of DFS under the reorganization of state government in 1991 has brought about neither the strengthened “Continuum of Care System” nor the lower costs hoped for at the time.

⁹ W.S. 14-9-101 through 108

The Legislature Has Attempted to Improve Wyoming's Juvenile Justice System

For more than two decades, the Legislature has tried to improve the juvenile justice system while attempting to introduce more state-level accountability and cost control over COPs. We reviewed over 20 reports from conferences, consultants, independent reviews, and legislative task forces and evaluations written since 1979, all concerning some aspect of Wyoming's juvenile justice system or treatment of mentally ill adolescents. The most recent of these efforts was a legislative Select Committee on Juveniles in 2003, charged with studying specific aspects of Title 14.

Decades of studies and reports came to the same conclusion: the state lacks a uniform juvenile justice system.

We found considerable similarity and overlap among the findings and recommendations in these reports. Many of the studies concluded that the state does not have a uniform juvenile justice system, and that youth can be subject to disparate treatment depending on where they live, where they are arrested, how and if the elected prosecutor charges them, and in which court they appear. Most of the reports have at least one recommendation directed at correcting this lack of uniformity, such as designating a county gatekeeper, mandating consistent assessment procedures, establishing a family court, or requiring more central coordination.

Although the Legislature has not implemented these particular recommendations, it has made a number of changes ostensibly aimed at either controlling costs or providing more uniformity and consistency to the COP process. For example, when placing a juvenile in an out-of-state RTC, courts are required to state on the record why no in-state placement is available. Courts also must enter on the record their reasons when deviating from an MDT's recommended disposition.

Although Uniformity Within the Juvenile Justice System Remains Elusive, DFS Can Improve Its Performance

In 1981, the state released a report from Columbia Research

Center, which conducted a 15-month study to evaluate Wyoming's juvenile justice system. Allowing for legislative changes in court structure that, in subsequent years, have eliminated the Justice of the Peace function and County Courts while creating Circuit and Drug Courts, our research suggests the consultant's findings continue to apply in 2004 (see excerpts from the Columbia report on page 19).

DFS can take a more active managerial and leadership role.

Past efforts to clarify, simplify, and make this complicated structural arrangement more uniform have not changed its fundamental makeup. Historically, in sorting out and defining its role within this system and in implementing its statutory responsibilities, DFS has carefully picked its way through contradictions and complexities and has not taken on an active managerial or strong leadership role. The next chapters examine specific areas, the contracting and payment process, the need for a uniform assessment function, and the monitoring of treatment, where we think DFS needs to make significant changes and become more proactive.

prosecuting attorneys and the Juvenile Court judges.... This flexibility may mean that children in different parts of the state receive radically different treatment for similar problems and needs.”

Page

Excerpts from *The Wyoming Juvenile Justice System: An Evaluation*
Columbia Research Center, Vancouver, Washington; 1981

4

¹⁰ Justice of the Peace and County Courts have since been replaced with Circuit Courts.

This page intentionally left blank.

CHAPTER 3

DFS Has Not Justified Its Rates for Residential Treatment

Chapter Summary

DFS does not specify what services providers should deliver for its rates.

DFS pays RTC providers individually-negotiated rates but it does not have a methodology justifying the price differentials. DFS also does not have contracts with RTC providers specifying the services to be delivered to children in placement. By not specifying what costs the rates should cover and what services providers should deliver, DFS lacks assurances as to the quality and quantity of services for which it is paying. Without leadership on rate-setting from DFS, providers, both individually and in groups, are developing cost-based methodologies and attempting to set the terms for future rate increases.

The three state agencies funding RTC services for COPs are independently determining their methodologies for rates. Acting separately, the three cannot determine whether they have the same allowable costs, may be making duplicate payments for the same services, or may be inadvertently encouraging providers to act in ways that undermine the other agencies' objectives. Rate-setting for RTCs, especially now that Medicaid has become a major funding source, needs to be done in a collaborative manner.

Providers Seek Increases in Six-Year Old DFS Rates to Reflect Their Actual Costs

DFS has negotiated rates individually with each provider.

The current DFS daily rates for providers (see Figure 3.1), which cover room, board, and treatment, for the most part date from the 1999-2000 biennium when the Legislature last appropriated additional funds for an adjustment. DFS has negotiated rates individually with the mix of private provider organizations that serve COPs: associated non-profits, independent non-profits, for-profit providers, and Boards of Cooperative Educational Services (BOCES). Some of these facilities are eligible to receive reimbursement from Medicaid for residential treatment services, while others are not.

To this point, DFS has mostly resisted provider requests for higher rates.

DFS and providers have had an understanding that the agency will adjust rates only after the Legislature authorizes additional funding for this purpose. Although DFS did not ask for rate increases in its FY '05 – '06 budget request, some providers have since sought an increase in rates from existing DFS funding for grants and aid payments, or 600 series. DFS has resisted requests for increases, other than for slightly adjusting the rates of a few providers, and officials say they are not planning to request supplemental funds in the 2005 General Session for this purpose.

Recently, a group of associated non-profit providers brought forward a proposal for cost-based rates. At roughly the same time, for-profit providers also said they must receive higher rates from DFS, with one indicating it will simply raise its rates, which courts could require DFS to pay. On the other hand, there are providers who believe their DFS rates are adequate.

Figure 3.1

Daily Reimbursement Rates for RTC and Education Services by State Agency, FY '04

Residential Treatment Centers	DFS	WDE	Total Daily Rate
Attention Homes, Inc.	\$100	\$75	\$175
Cathedral Home for Children	\$115	\$75	\$190
Frontier Correctional Systems, Inc. (Jeffrey C. Wardle Academy)	\$130	\$75	\$205
Normative Services, Inc.	\$105	\$75	\$180
Red Top Meadows Treatment Center, Inc.	\$105	\$74	\$179
St. Joseph's Children's Home	\$117	\$98	\$215
Newell Children's Center	\$220	-----	\$220
Wyoming Behavioral Institute	\$220	\$73	\$293
Youth Emergency Services	\$95	\$70	\$165
BOCES			
Northeast Wyoming BOCES	\$124	\$140	\$264
Northwest Wyoming BOCES	\$125	\$140	\$265
Region V BOCES/(C-V Ranch)	\$125	\$140	\$265

Providers receive daily tuition payments from WDE only for days in which children are schooled.

Source: LSO analysis of COPs data.

Providers receive higher rates from Medicaid

But not all providers qualify for Medicaid reimbursement.

Apart from DFS action, payments for residential treatment have increased for some providers in the state. All providers received increases in their daily tuition rates from WDE, ranging from 3 to 112 percent, as a result of the FY '05 implementation of individual cost-based rates for education services. In addition, some have attained the national accreditation that qualifies them to receive Medicaid reimbursement for providing medically necessary residential treatment to COPs. Medicaid rates are higher than DFS rates, in part because of the increased staffing necessary to meet accreditation standards.

Providers want a DFS rate increase for children not covered by Medicaid.

St. Joseph's Children's Home has billed Medicaid for RTC services for qualified children since January 2003 at individually-negotiated rates of up to \$233 per day. Attention Homes, Inc. has billed Medicaid since mid-2004 at rates ranging from \$170 to \$212 per day, and in FY '05, Cathedral Home for Children began billing Medicaid for RTC services at \$205 per day for qualified children.

The rate increase some providers are seeking from DFS, as described above, is for children who receive residential services that are not covered by Medicaid. These are children placed with providers which are not Medicaid-eligible, or they are children in Medicaid-covered facilities who are no longer in medical need of treatment at an RTC. DFS must continue paying for their care until the courts terminate their placements.

Rates paid by other states subsidize low Wyoming rates, providers say.

Providers receive higher rates from other sources

If they take them, providers get different rates for children whom entities other than Wyoming Juvenile Courts place in their care. Some of these placements come from agencies and courts in other states. Providers say that rates paid by out-of-state payers subsidize low Wyoming rates. Frontier Correctional Systems, Inc. also provides detention services for cities and counties, and it receives rates from Wyoming local governments that differ from DFS rates. Providers' different rates are not publicly available, nor could we determine the magnitude of placements in Wyoming RTCs from entities other than Wyoming Juvenile Courts. DFS does not track the number of children, other than those in DFS custody, who are placed in the facilities it certifies.

At our request, DFS attempted to obtain a census showing the

DFS does not track Wyoming provider census, so out-of-state occupancy is unknown.

number of placements in each state-approved facility for all levels of Wyoming judicial placements, as well as all other placements, as of a date certain: July 1, 2003. Only five providers (three RTCs and two BOCES) responded to this request, and just two of those reported out-of-state placements on that date, for a total of 70 children. The BOCES showed placements from member school districts, which typically account for 50 percent or more of their placements. None of the reporting providers accepted lower court placements. Thus, this incomplete census count indicates that payers other than the State of Wyoming covered almost 17 percent of the DFS total licensed capacity for these residential treatment centers (590), on July 1, 2003.

DFS Rules Call for the Determination of Standard Costs of Services

DFS has not consistently determined standard costs for services.

Although department rules indicate that rates should be cost-based, DFS has not documented its justification for daily rates. DFS rules for RTCs and group homes require that it determine “standard costs for services,” including a variety of direct (food, clothing, treatment, salaries and benefits) and indirect (building maintenance, office supplies, administrative) costs. The rules date from 1989, and require that DFS promulgate standard costs on a yearly or more frequent basis. However, DFS has not consistently done so.

Establishing allowable costs is a standard practice

In-state providers likely have encountered the concept of allowable costs when dealing with other states. For example, a provider that also receives payment from Nebraska Medicaid noted that that entity had set allowable costs. Another neighboring state, North Dakota, has detailed rules for rate-setting for RTCs, including provisions to:

Other states have detailed rules for RTC rate-setting.

- Limit allowable administrative costs included in the established rate to no more than 15 percent of the total allowable costs, exclusive of administrative costs.
- Establish the cost allocation for center operations, such as salaries for direct care employees and supervisory personnel, and plant and housekeeping expenses.
- Itemize non-allowable costs, such as compensation for

officers (unless services are actually performed and required to be performed), lobbyist and fundraising expenses, and all costs for services paid directly by the state agency to an outside provider.

- Require centers to identify income to offset costs when applicable so state rates do not supplant or duplicate other funding sources.

Wyoming Medicaid plans to develop a cost-based model for RTC reimbursement.

Medicaid also can employ a cost-based approach

The Wyoming Office of Medicaid plans to develop a cost-based reimbursement approach for COPs providers in 2005. It will have substantial flexibility in establishing payment methodologies and setting payment amounts because Medicaid requirements for rate-setting are fairly broad. One major consideration is ensuring that provider reimbursement is sufficient to maintain beneficiaries' access to care relative to others' access for the same services in the community. Another is that states must ensure that payment rates are consistent with efficiency, economy, and quality of care. "Reasonable" costs include both direct and indirect provider costs but exclude those that are "unnecessary in the efficient delivery of services covered by the program." Wyoming's state Medicaid Officer summarizes this as reimbursing providers for the "cost of the care, not the cost of doing business."

Medicaid allows states to define allowable and non-allowable costs.

Wyoming Medicaid rules use a cost-based methodology for nursing homes and also define allowable and non-allowable costs. Allowable costs are those documented as patient-related on cost reports, and those which contribute directly or indirectly to patient care. The rules itemize specific non-allowable costs, such as wages paid to non-working officers, employees or consultants, and public relations expenses. There are also capital and operating cost components specified in rules.

Finally, Medicaid payment rates are subject to a public process requirement, including publication of proposed rates and the methodologies and justifications underlying them. A part of this process is allowing providers and beneficiaries the opportunity to review and comment upon the rates and methodologies.

DFS Has No Contracts with RTCs, Only Payment Authorizations

Although statute authorizes DFS to “contract with any child caring facility for the care and custody of Wyoming children which have been placed therein by court order under the Juvenile Court Act or otherwise,” DFS does not formally contract for these services. DFS has no actual contracts with providers that specify the services providers should deliver under the general description of “room, board, and treatment.”

***Caseworkers
authorize payments
to RTCs, with little
specification of
services to be
provided.***

Instead, DFS’ payment system is highly decentralized. Individual caseworkers and their supervisors, at the local office level, authorize payments to RTCs through forms generated by the department’s on-line automated case management system (WYCAPS). At the state level, DFS’ Financial Services Division conducts post audits of 10 to 25 percent of WYCAPS payments, which include many more categories of services than residential treatment. According to a DFS financial official, these audits rarely find items that should not have been paid.

DFS payment authorizations have little specificity regarding the services to be provided, instead serving essentially to confirm and secure available space to house and treat children. We reviewed 135 files from COPs cases that had an RTC placement during FY ’03,¹ and for the most part, saw payment authorizations that lacked detail. They included wording such as “(Child’s name) will attend a drug therapy program,” or “The provider will improve (child’s) self-image,” or “The provider will provide residential treatment for (child).”

Payment Authorizations Do Not Meet Attorney General Standards

By rule, DFS can authorize payment for up to six months of residential and treatment costs on any court-ordered placement at one time. In our file review, we found that caseworkers

¹ The selection was a stratified systematic sample covering each of the three legal categories (abused and neglected, CHINS, and delinquents) of juveniles in court-ordered placements. The selection included cases from all counties and judicial districts; files requested from the Wind River Indian Reservation were not provided.

Payment authorizations often exceed the \$7,500 level at which the AG Manual calls for contracts.

typically authorized payments for residential treatment for periods of three to four months. At one of the lower DFS daily provider rates (\$105), a payment authorization for three months of residential treatment totals \$9,450, well exceeding the \$7,500 level at which the Attorney General Contract Manual for State Agencies says a contract must be in writing and approved as to form by the Attorney General (AG). DFS has not requested AG approval of its payment authorizations, nor would these documents meet AG standards in their current form.

Even without contracts, the state is indemnified from liability.

If DFS were to use contracts that meet AG requirements, they would include basic elements such as the purpose of the contract; contractor responsibilities, which the AG advises should state clearly the services expected; indemnification of the state from liability which may arise out of the contractor's performance; and provisions to terminate the contract in the event the Legislature does not continue funding. Without explicit contracts, the state is still protected from liability by the Wyoming Governmental Claims Act, but the stipulation of services to be delivered has to come from case planning documents, which also tend to be non-specific (see Chapter 5).

DFS does not maintain provider placement agreements that meet rule specifications

DFS uses an electronic document that does not match rules.

DFS certification standards call for maintenance of a document for each placed child, the provider placement agreement, which would better define expected services than do payment authorizations. DFS standards say that providers should keep these agreements on file and provide them to all signing parties, including the agency with custody (DFS). However, DFS now uses a WYCAPS screen for this agreement that does not meet the specifications set out in rules.

If these agreements matched rules, they would detail such expectations as family contact; nature and goals of care, including any specialized services to be provided; anticipated dates for the development of treatment plans; anticipated discharge dates and plans; and the responsibilities of all agencies and persons involved with the child and family. In the course of our study, DFS developed a paper form to serve as the provider placement agreement, although it lacks much of this important information.

Providers Are Seeking Cost-Based Rates Before DFS Has Defined Expected Services

Providers want to use essentially the same methodology they developed with WDE.

Absent DFS initiative in this area, providers are moving ahead to define both allowable costs and payment terms. Some of the major non-profit RTCs joined together and recently presented DFS with individual cost-based proposals for higher rates, based on essentially the methodology they had developed together with WDE to set individual cost-based rates for education payments. From what we learned of these proposals, however, they are not in line with what we have seen from other states, or with what Wyoming Medicaid defined as allowable costs for nursing homes.

Without DFS guidance, providers inconsistently interpret allowable levels of cost reimbursement.

Further, some aspects of the WDE methodology may not be compatible with DFS priorities. For example, WDE individual rates were calculated to reimburse providers for 100 percent of their education program costs, as statute requires, but DFS does not have a similar statutory mandate or agency policy.

Nonetheless, the providers' proposals, based upon the WDE methodology, call for DFS rates that would reimburse them for various levels of total residential treatment costs, from 64 to 100 percent, and for various levels of certain cost categories. Without guidance from DFS, providers have inconsistent interpretations of what might be allowed rates of reimbursement.

In addition, some providers have added categories of reimbursable costs, such as fundraising and advertising, to WDE allowable costs. They have requested widely ranging amounts for reimbursement for administration salaries and benefits, from approximately \$60,000 to \$306,000. This suggests a lack of limits in allowable costs for administration, as there are in North Dakota rules. Finally, providers' proposals and actions continue the practice of private negotiations between DFS and individual providers (or associated providers) rather than a public rule-based process as Medicaid requires.

Title 14 Disposition Purposes

For children adjudged neglected, dispositions should place the child in the least restrictive environment consistent with what is best for the

Provider business decisions can trump DFS objectives

By not having established allowable costs or contract specifications, DFS lacks business controls over the quality, quantity, and efficiency of the services for which the state pays. Through their orders, the courts (as advised by MDTs) direct the “purchase” of services from specific providers. Even so, DFS has an important role in implementing controls to ensure that state funds support the objectives outlined in Title 14 (at left).

Without guidance from DFS, providers have discretion in how they use the portion of their revenues that comes from state COPs payments. For example, one non-profit provider made a nationally publicized high compensation award to organization officers for 2002 from cash reserves that may have in part been built from state payments. Through our research, we also learned that Wyoming providers are increasing their residential capacity, enhancing their services, and otherwise expanding the residential treatment industry in the state. Further, some are marketing these services to those making placement decisions and recommendations.

By defining allowable costs and contract specifications, DFS could ensure that state funding is focused toward support for the state’s objectives. For example, North Dakota has controls that limit the level of officer compensation allowed as a cost for rate calculation. It also has rules that specify how rates will be adjusted to reflect facility increases in capacity. These controls enable that state to direct its payments primarily toward direct services.

The COPs provider network benefits the state because providers can offer flexible, community-based services, and enable the state to limit the size of government. Providers, both for-profit and nonprofit, generate jobs and spending in the economy. However, DFS must be an active partner in identifying needed services and capacities. This is especially important if the system becomes cost-based; otherwise, DFS may find itself supporting expansion and services that do not support Title 14 objectives.

DFS plans to move to cost-based rate-setting

DFS officials acknowledge that rate adjustments are necessary,

DFS officials want to establish more accountability and enhance monitoring.

and although planning to move toward a cost-based system, they have not yet established a methodology to do so. They also intend to establish more accountability in the provider payment system, but predict this will be a lengthy process. Officials discussed incorporating accountability measures such as contracts to specify services, a cost-based methodology as envisioned in rules, and an enhanced monitoring capability.

In developing a cost-based methodology, DFS officials intend to review providers' operating expenses. This is done in Colorado, where the state requires RTC providers to submit independently audited cost reports. Although DFS has access to providers' annual financial audits through its certification requirements and now reviews them through its Financial Services Division, it has not established a process for conducting periodic program and on-site fiscal reviews of the operations of all providers.

The Three Agencies Funding COPS Develop Their Rate Methodologies Independently

Agencies' rate-setting approaches can cause providers to make business decisions that are not in state's overall best interest.

Since WDE has already implemented a cost-based funding methodology, and the WDH Office of Medicaid reports plans to do so, if DFS goes forward with its plans, this will be a third separate approach. However, according to a National Conference of State Legislatures (NCSL) publication on Medicaid cost containment, one agency's rate-setting may affect providers' business decisions in ways that may not be in the state's overall best interest. NCSL says states need to carefully consider program objectives because different rate strategies inevitably affect what providers will do.

Already, there is some evidence that the rate negotiations of one agency have affected another. For example, WDE increased rates to an extent that, combined with existing DFS rates, can reduce providers' incentive to become eligible for Medicaid reimbursement. We learned that one provider bills other states' Medicaid programs for their placements, but for Wyoming placements, prefers to take WDE tuition rates and the lower Wyoming DFS rates. This avoids the Wyoming Medicaid review for medical necessity of ongoing services, allowing adolescents to stay longer, which better fits this provider's treatment program.

Higher WDE rates may allow providers to avoid Medicaid and its periodic review of the necessity of ongoing services.

stay longer, which better fits this provider's treatment program. However, having children in out-of-home placement for longer periods conflicts with DFS requirements under the Adoption and Safe Families Act to seek permanency for children in foster care (which, under federal definition, includes placement in RTCs) for 15 of the last 22 months.

Both providers and state officials say that meeting the national accreditation standards necessary to be approved as a Medicaid provider improves treatment services. It also increases total costs of services, but because the federal government (through Medicaid) pays a portion, children receive higher quality services without the state having to fully fund them. This enables the state to share the cost of children placed with Medicaid providers as long as the children are medically needy.

WDH says the DFS payment does not cover treatment.

WDH assumption affects DFS purposes

In its policy development, WDH has made a funding assumption that potentially contradicts DFS purposes: it has determined that current DFS rates cover residential services only, not treatment. The implication of this decision is that RTCs receiving only the DFS rate for all or some placements are not being paid to provide treatment to those children. However, DFS does consider the rate as inclusive of treatment, and courts are placing children with that expectation. This also raises questions about how Medicaid-approved RTC providers will differentiate the services they provide to Medicaid-funded and DFS-funded children in placement. If they do not differentiate the services, Medicaid-funded placements will subsidize DFS-funded placements.

The potential exists for the three agencies to pay for the same services.

By independently setting rates through separate cost-based methodologies, state agencies do not see how costs are allocated among the other payers. This creates the potential for duplicated payments for some services. For example, all three funding sources cover mental health counseling. If not coordinated, the three-prong funding system risks redundancy and inconsistency, when its purpose should be to ensure quality of and access to care for children who are being placed in RTCs.

Recommendation: DFS should develop a cost-based rate methodology

in collaboration with the other agencies funding COPs, and develop a contracting process that facilitates monitoring.

DFS should proceed with its plans to make the payment system for residential treatment more accountable. It should establish allowable costs, and with more specificity than current rules require. As examples, both the Wyoming Medicaid rules for nursing home reimbursement and the North Dakota rules for RTCs better reflect the breadth of considerations involved in determining rates that use state and federal dollars as the primary support for private businesses.

However, it will be counter-productive for DFS to develop a cost-based rate-setting methodology without obtaining necessary expertise and collaborating with both the Departments of Health and Education. Further, the process should be a public process that identifies the methodologies underlying the rates and that gives all interested parties an opportunity for review and comment.

It will be counter-productive for DFS to act independently from WDE and WDH in developing cost-based RTC funding.

Along with developing the rate justification methodology, DFS should work with the Office of the Attorney General to establish a contract process with providers that specifies services to be provided and performance data to be monitored. DFS should also move forward with its intention to develop a means to monitor services being provided in RTCs. According to management literature, monitoring is the key to privatization because when a government's direct role in the delivery of services is reduced through privatization, more sophisticated monitoring and oversight are needed to protect the government's interest. If DFS cannot reconfigure existing resources to accomplish this oversight, it should develop a proposal to request necessary resources and expertise.

CHAPTER 4

Many Court-Ordered Youth Need, But Do Not Get, Clinical Assessments

Chapter Summary

National research, best practice standards, and other states' systems are in agreement in supporting clinical assessment of troubled youth who show signs of emotional or behavioral problems. Experts agree that if a child is going to receive effective treatment for problems, the nature of the underlying problem must be accurately diagnosed. Because of the high incidence in this population of emotional and mental health problems, as well as developmental and learning disabilities, many COPs youth should be receiving clinical assessments to inform placement and treatment decisions.

DFS rules require that all children be screened and, if necessary, assessed.

Although DFS rules require youth to be screened using a tool the agency developed, only some of these youth receive an initial screening that might pick up on deeper issues. Even fewer receive independent clinical assessments, and those who do are not necessarily receiving the evaluations in time to inform courts' placement decisions. Often, providers themselves carry out the only evaluation the youth get, after the youth is placed.

The consequences of not assessing children prior to placing them in RTCs can be great: children may be improperly placed, and the cost may be greater and the treatment less effective than necessary. Children in this system should be uniformly screened, and those being considered for placement in therapeutic facilities should be independently assessed using a recognized mental health assessment tool.

Assessments Provide Critical Information

Assessments are essential to determine whether a child needs to be in an out-of-home placement in the first place, to identify the treatment approaches to which the child will most likely respond,

and to identify a provider with a treatment approach that meets the child's needs. Proper assessments also produce data that establish behavioral and clinical baselines by which to measure the child's progress while in treatment.

Not every provider's program is appropriate for every child.

Because Wyoming RTCs have developed some degree of specialization, they differ in the variety of services provided, the intensity of those services, and the types of problems they treat. This means that not every provider's program may be appropriate and effective for each child in need of treatment. Initial screening and proper assessment can help to assure a proper match of needs to services.

DFS Rules Require All COPs Youth To Be Screened, But Many Are Not

DFS rules require youth to be screened at intake, within defined time lines related to their legal category. The screening indicates what assessments may be necessary. DFS may pay for up to 45 days of interim placement, during which time information can be gathered for the predisposition report that assists the court and the MDT in formulating a proper disposition for the youth.

Screening identifies children who need more in-depth assessments.

Caseworkers are to use a series of safety and risk screens on abuse and neglect children as part of child protective services investigations, while a single tool, the Youth and Family Screen (YFS) is used with CHINS and delinquent youth. Screening instruments flag potential problems that may require more in-depth evaluation in order to accurately identify the problem. For example, a high overall YFS score, or a high YFS community protection, competency development, or accountability score is required to consider RTC placement.

Our review of case files suggests that DFS caseworkers are not administering the YFS screening instrument on every CHINS or delinquent, and further, that screening results do not appear to be a determiner for RTC placement. We reviewed files for 101 children adjudicated as CHINS or delinquents; only 52 percent (53) of the files contained YFS scores or references to them. If nearly half of this population is not being screened, a critical step

to “flag” the youth in need of clinical assessment is missing. Moreover, only two of these cases had even one high score indicating that a criterion for residential treatment had been met.

Without Screening, Children Needing Assessments May Not Be Identified

Caseworkers do not have the clinical training to diagnose mental health problems.

Clinical assessments, as compared to screening instruments, are tools designed to assemble a comprehensive clinical understanding of a child’s problems, needs, and strengths. DFS does not expect caseworkers to have the clinical training necessary to identify and diagnose mental health problems. Because of the recognized vulnerability of abused and neglected children, DFS rules require that mental health assessments be performed by physicians or mental health professionals when screening instruments indicate they are needed.

This presumption is not apparent in DFS rules and procedures for juvenile offenders, even though this population is known to have a higher percentage of mental health issues than the juvenile population at large. National studies estimate between 20 and 70 percent of juvenile offenders may have mental health disorders, and this population is also at a higher risk for learning disabilities and mild mental retardation. DFS could not estimate the extent of these problems in Wyoming’s juvenile offender population, but providers told us that they are pervasive in the RTC population and in no way dependent on adjudication category.

Providers may need to do additional assessments once children are placed with them.

DFS is not the only entity ordering assessments. By statute, after a petition or motion is filed, the court may order assessment either on an outpatient basis or by temporarily placing the youth in a facility it designates to conduct the assessment. After placement, in order to develop treatment plans, service providers may also perform assessments.

Our case file review showed that fewer than 40 percent of case plans indicated an evaluation was done in time to inform the placement decision (see Figure 4.1). Many of the case files contained insufficient information to determine whether the date of the assessment was current enough to be useful.

Our sample included a case in which the juvenile had been in 19 separate placements without documentation of ever having been clinically assessed. Of the 22 juveniles in the sample who were adjudicated as abused and neglected, only 10 files contained evidence that a court had ordered an assessment.

Figure 4.1
Case Plans Indicating Child was Assessed at Some Point

Assessments	Total files reviewed	Number	Percent of all cases reviewed
Done in order to determine appropriate placement	135	49	37
Children specifically placed for assessment	135	30	22
Providers performed additional evaluations	135	67	49

Source: LSO analysis of case file review data

Youth may be placed specifically for evaluation

Courts may temporarily place youth in an RTC for evaluation, or the youth may be adjudicated and then placed at the facility.

Very few children receive independent assessments.

However, based on documents in the case files, we found that of the 49 cases where children had been assessed prior to their '03 placement, only 27 received an independent assessment, meaning the assessment was performed by a facility different from the one where the youth was ultimately placed. An additional three files indicated that the same RTC in which a child was placed for assessment became the RTC for the child's placement.

More often than not, if assessments are done, providers do them after placement

Interviews indicated a perception that RTC providers assess children soon after placement. Providers say they conduct assessments for a number of reasons: the information provided upon placement may be inadequate; an earlier evaluation may be outdated; they assess all youth on intake to meet specific accreditation standards; or they need assessments to properly fit the child within their facilities' different programs. We found this

perception to be somewhat optimistic: altogether, only 67 of the files contained evidence that providers completed additional assessments of youth during treatment.

DFS does not require the use of a uniform assessment tool.

Further, we learned that while some youth did not seem to receive any form of assessment, others were repeatedly assessed upon each move to a new RTC. With each new placement, the provider needs to know why the youth has been sent to them and how that youth is likely to fit into their treatment regimen. Since DFS does not require providers to use a uniform assessment tool, assessment information is not easily transferable among facilities, and some may not readily accept the evaluation of others.

Assessments are necessary because legal categories are not diagnostic

Juvenile justice legal or adjudication categories are not indicative of the underlying condition of the youth in question. Adjudication to a specific category (abuse and neglect, CHINS, or delinquent) appears to be more a function of how the youth first came into the legal or DFS system, rather than an indication of the youth's underlying problem or problems.

Without Assessments, Treatment Effectiveness Cannot Be Determined

According to a 1999 report by the U.S. Surgeon General, "residential treatment centers are the second-most restrictive form of care (next to inpatient hospitalization) for children with severe mental disorders." The outlay of DFS funds in FY '03, just for room, board, and treatment at RTCs, was over \$12 million. Despite large expenditures for residential treatment, there is no way to determine if the treatment delivered was both warranted and beneficial.

Some children are placed in inappropriate facilities

Assessments are not uniformly provided to all youth prior to their being placed in RTCs, and not all programs are suitable for all types of youth. Under these circumstances, the placement process gives no assurance that problem youth and treating facilities are correctly matched.

Inappropriate placements may be disruptive or even dangerous.

Providers told us youth may be quiet, non-expressive or street-smart, any of which can mask the true problem and result in an improper placement. Additionally, providers told us that inappropriate placements may be more than a disservice to the misplaced youth: housing a sexual offender with a sexual victim may be dangerous, and treating a high-functioning conduct disorder child in the same setting as low IQ emotionally disturbed children may disrupt treatment progress for all children involved.

Multiple and unusually long placements suggest that some placements are not appropriate; inappropriately placed children may not benefit from the treatment they receive and in fact, may be harmed. In 2003, six youth from our sample were finally placed at BOCES, which are specialized facilities serving severely emotionally disturbed and developmentally disabled children. Each of these youth had from 2 to 11 prior out-of-home placements. That these six children were ultimately found to need BOCES services suggests there was a need for early clinical assessment to properly diagnose and place them, to avoid the cumulatively disruptive effects of multiple placements.

Multiple placements and long stays are common

According to DFS data on all children whose placement in an RTC began in FY '03, 29 percent had more than one RTC placement in that year. Our case file review showed similar results: 30 percent of the children had more than one RTC placement in FY '03, and some were sent to as many as six different RTCs (see Appendix D).

DFS is currently trying to determine why some children's treatments take so long.

We identified several COPs cases that have been in and out of placements since the 1990's, one since 1992. DFS is currently reviewing all youth in treatment for longer than one year to determine the reasons for the extended treatment duration.

The problems, needs, and behaviors of children in residential treatment can change during the course of treatment, making it important to conduct supplementary assessments during treatment. A youth's progress towards resolving problems needs to be monitored and evaluated in order to adjust protocols and services as necessary. DFS does not require RTCs to administer assessments during placement and does not require current

assessment results to accompany a recommendation for discharge. Our file review shows that some providers conduct interim assessments, but there was little documentation showing that pre-discharge assessments are done.

System relies on provider decisions

Caseworkers lack basic information about service decisions.

The lack of independent assessment data at all stages (pre-placement, during-placement, and at the end of placement), encourages a provider-driven RTC service infrastructure rather than one responsive to individual needs. Under these circumstances, the services that providers choose to offer may tend to become, by default, the services children need. Given the lack of basic information, caseworkers have little basis either for objectively evaluating whether a child has made progress in treatment, or for justifying a recommendation that treatment is complete and the child should be released.

Time Constraints and Procedural Ambiguities Appear to Impede the Assessment Process

Complete assessments take time to perform. The generally accepted time-frame for complete evaluation, as suggested in professional literature, is one to two months. We found that many youth, particularly CHINS and delinquents, are rushed through Wyoming's legal system too quickly to allow for in-depth assessments.

Few children in predisposition detention are assessed.

Even when they are in predisposition detention long enough to allow for thorough assessments, few youth are receiving them. In our review, 34 of the 135 cases were in predisposition placements for longer than two months, although there may have been more that we could not identify because of incomplete date information in the case files. Of these 34, only 13 had references to evaluations having been used as part of the placement decision. An additional 22 youth were in predisposition detention on average for almost three months; these youth were not assessed.

When a youth is in predisposition detention for more than 45 days, payment responsibility becomes unclear. DFS limitations on

Financial responsibility for predisposition assessment is not clear.

interim cost payments may discourage the use of much needed assessments and treatments. The system's ambiguity as to who is financially responsible for additional detention time or services such as assessments provided during this period, may deter caseworkers, courts, and providers from ordering or performing what may be non-reimbursable expenses.

Providers say moving a youth from one facility to another can be difficult, even if the provider has assessed the youth and determined that the placement is inappropriate. The system does not facilitate easy movement of youth within it, since according to some providers and DFS officials, changing a placement often involves obtaining a court order. This process can be difficult and time-consuming, as well as stressful for the youth.

Other states take more systematic approaches

Some states require independent assessments prior to placement.

Other states have not settled on a single approach to ensure informed placement decisions and to eliminate inconsistency in assessments. Solutions range from requiring the use of a prescribed assessment instrument or instruments, to a mandatory assessment by an independent licensed and certified entity, to a mandatory stay in a centralized or regional assessment center. Utah is one of several states that have adopted the state of Washington's assessment tool in an effort to implement standardized assessments; Montana and New Mexico are developing their own uniform assessment tools. Florida, Utah, Arizona, and Ohio require youth to be assessed in designated facilities prior to placement.

States using regional assessment centers place youth immediately on contact with the system, for a specified period of time. These centers provide a clinical and diagnostic, rather than detention type, environment for the purpose of comprehensive assessment. There is a recognition that comprehensive assessment prior to placement gives decision makers the precise information they need to make appropriate and cost-effective placements.

Many previous studies of DFS have stressed that accurate assessment is essential for the proper placement and treatment of juveniles. As long ago as 1979, a report suggested creating, testing, and if feasible, implementing multi-jurisdictional regional

Previous studies identified the absence of assessments as a system shortcoming.

testing, and if feasible, implementing multi-purpose regional youth service centers to provide inpatient psychological evaluation and treatment, as well as halfway house components for pre- and post-institutional screening. Many of the prior studies indicate the “state” (without specifically suggesting DFS be the proactive entity) should initiate changes, including establishing a uniform assessment unit. More recently, a 1996 report stated that the lack of uniform assessment tools may result in inappropriate placements, which ultimately increases costs without benefiting youth.

Recommendation: DFS should develop rules and procedures to ensure that children receive uniform, independent clinical assessments prior to being placed in RTCs.

Many states have acknowledged that putting children in residential treatment is restrictive and expensive, and that intensive out-of-home treatment is not necessary for all troubled youth. One of the key factors they consider is clinical evidence of the need for behavioral or mental health treatment. They require all youth to be screened and further assessed if screens generate “flags” that there are underlying clinical problems. The assessment results guide placement decisions.

Decision makers need objective information to inform placement decisions and evaluate treatment effectiveness.

Historically, DFS’ interest in uniform assessments has met with resistance, but we believe the agency can take the lead in identifying a tool that is valid, reliable, and acceptable to RTC providers. DFS then needs to propose a system in which assessments are conducted by an independent entity, one that does not have a financial or professional interest in a particular treatment approach or facility. DFS can make ordering such assessments a standard part of its casework requirements for those children being considered for residential treatment.

This will provide decision makers such as judges and MDTs with the necessary information to place the youth based on objective and timely evidence-based clinical evaluations. Collectively, the

assessment data will also provide a baseline of information on which to begin building a system to evaluate the effectiveness of various forms of treatment for different types of cases.

CHAPTER 5

DFS Case Management and Oversight Do Not Ensure Effective Treatment for COPs in Residential Treatment

Chapter Summary

DFS caseworkers have important ongoing responsibilities for children both before and after they are placed in RTCs. They become case managers for children who are receiving treatment services from private providers, needing to make sure that placements are initially and continue to be appropriate and effective for children. Their responsibilities are to identify needed services and then monitor, evaluate, and coordinate with providers to adjust service provision in response to each child's progress in treatment.

Our review of case files shows DFS caseworkers are not consistently following rules and procedures.

DFS rules and procedures envision an active role for agency caseworkers in informing placement decisions and monitoring children after they are placed. From our review of professional literature, these requirements are in line with best practices for this sort of case management. However, in our file review, we found caseworkers throughout the state inconsistently follow these rules and procedures. We found that DFS is neither consistently providing the basic information to guide placements, nor establishing goals and expectations for care upon which to evaluate the effectiveness of provider services and costs.

Arguably, caseworkers may have been taking the case management steps necessary to comply with rules and procedures but simply did not document their actions in the files. Indeed, there often were missing documents in the files we reviewed, and when information was present, it tended to be superficial and incomplete. However, based on the documentation that was in the files, we came to the conclusion that case management practices for children in placement in RTCs should improve.

Caseworkers Are Integral to the Placement Process

Once a petition referring a child to a Juvenile Court for adjudication has been filed, statute requires DFS to assemble a predisposition report. Preparing this report calls for the caseworker to gather information and records about the youth from a number of different sources, including schools, family members, mental health professionals, law enforcement, and others. Normally, the caseworker also serves as a member of the statutorily required multi-disciplinary team (MDT), which makes case planning and sanctions recommendations to the Juvenile Court.

Case planning, monitoring, and oversight are crucial DFS responsibilities.

DFS procedures call for the caseworker to develop a case plan guiding the course of the child's treatment while in the state's custody. This plan involves, among other things, identifying and securing services appropriate to the treatment needs of the juvenile, and determining outcomes, estimated timetables for completion, and cost estimates for treatment.

Once a child is placed, the caseworker is to maintain contact with the child and with treatment providers, to ensure that treatment is appropriate to the child's needs and effective in meeting treatment outcome objectives. Finally, DFS procedures require caseworkers to make placement continuation recommendations as a part of the quarterly court review process and the court's annual permanency hearing.

Predisposition Reports Are Not Timely

A predisposition report summarizes DFS' investigation of each case and has a number of statutory, rule, and procedurally-required elements. When met, these elements include a complete social, medical, educational, and psychological history of adjudicated children and their families, as well as placement recommendations, if any. The report is a source of information for both the court whose order may identify a specific facility, and for the MDT, which advises the court on the need for placement and may recommend a specific facility.

Few predisposition reports are available in time to inform placement decisions.

About six percent of the cases we reviewed contained documentation showing that a current predisposition report was available at the time of disposition. Only about half the cases we reviewed contained a predisposition report, and about a third of those included a DFS recommended facility placement (see Figure 5.1 below). However, this portrays a more positive view than may be warranted. In the majority of these cases, the placement order predated the predisposition report by more than a year. This indicates the report would not have been available as a resource to the court for making the placement decision.

**Figure 5.1
Case Files Containing Predisposition Report
and DFS Facility Recommendation**

Predisposition report	Total files reviewed	Number	Percent of all cases reviewed
Present	135	68	50
Recommends specific facility	135	25	19
Date indicates it was available to MDT/court to inform decision to place or specify facility	135	8	6

Source: LSO analysis of case file review data

Case Plans Do Not Specify Treatment Goals

The purpose of case plans is to provide guidelines to achieve desired outcomes.

DFS rules call for written case plans to be developed for all adjudicated youth. Case plans guide all participants toward resolving the problems of adjudicated youth and their families. These plans also guide placement facilities in developing treatment plans for the children committed to them, and enable caseworkers to evaluate individual children’s progress in facilities. Case plans must describe treatment approaches and anticipated treatment goals, estimate the length of time needed to reach treatment goals, and estimate the expected costs of treatment.

Our file review identified numerous problems with case plans.

Very few case plans contained required information.

Only 95 of the 135 files we reviewed contained case plans, and just 14 of these plans appeared to be current for the FY '03 placement (see Figure 5.2 below). Some of the case plans had been developed more than a year prior to adjudication, and some had been developed after the provider's treatment plan was already operative. Very few files (21) included a case plan that specified a treatment goal.

Fewer case plans (12 of 135) contained measurable goals that could be used to gauge progress. Although a slightly higher number of plans contained an estimated length of time for treatment, only seven had any mention of estimated cost. No case plans contained all four of these required elements.

Figure 5.2

Case Files Containing Plans and Required Components

Case Plan	Total files reviewed	Number	Percent of all cases reviewed
Present in file	135	95	70
Current	71	14	10
Treatment goal			
Specified	135	21	16
Measurable	135	12	9
Estimated duration	35	28	21
Estimated cost	135	7	5
All 4 required elements	135	0	0

Source: LSO analysis of case file review data

Caseworkers Have Infrequent Contact with COPS

An important part of DFS monitoring and managing COPS cases is its rule requiring caseworkers to have monthly communication with COPS youth through face-to-face contact, or if necessary, by telephone. This contact helps ensure that the caseworker develops and maintains a relationship with the placed child. Caseworkers also are to contact providers to monitor and collaborate on

modifications and review service payments.

DFS rules require regular contact between caseworkers and children in RTCs.

We reviewed case files to see whether any caseworker contact with children and providers was documented in the narrative. We did not attempt to count the number of contacts made in each case, but in files where there was documentation of both types of contact, we counted both. We found that caseworkers’ levels of contact with providers and with the children in placement were similar (see Figure 5.3).

Even counting those cases where the worker documented just one contact during the entire period of placement, the documented level of caseworker contact with children falls far short of DFS’ requirements. A little over half of the files showed the caseworker had at least one face-to-face contact with the child at some time during placement, and slightly more than a third showed at least one phone contact.

Figure 5.3

Case Files Indicating Caseworker Made At Least One Contact

Contact	Total files reviewed	Number	Percent of all cases reviewed
Face-to-face			
With child	135	75	56
With provider	135	58	43
Telephone			
With child	135	51	38
With provider	135	70	52

Source: LSO analysis of case file review data

Some youth have little contact with their caseworkers.

These results raise concerns that while placed in RTCs, some youth may not have contact with their caseworkers. Providers said active communication and contact on DFS’ part is more frequent if the placement is local. We found that in many instances where the placement was not local, providers were initiating the contact with DFS, through phone calls, incident reports, and monthly progress updates. While this type of business communication is important, it cannot substitute for

regular personal contact between a caseworker and a child in placement.

DFS Allows Providers to Make Recommendations Relating to Continuing Placements

Statute requires that every three months, the court receive a recommendation as to whether or not a child should remain in the facility in which it has been placed. Every 12 months, the court shall conduct a formal review to assess and determine the appropriateness of the current placement, the reasonable efforts made to reunify the family, the safety of the child and the permanency plan for the child. Although statute says that these quarterly reports regarding continued placement can come from the “institution or agency” holding the child, DFS rules require caseworkers to write these reviews and provide placement recommendations in updated case plans for these reviews.

DFS rules require that caseworkers make placement recommendations, but sometimes providers do this.

In reviewing cases, we saw that caseworkers sometimes allow providers to make these recommendations to the court. In 95 of 135 cases, we found evidence that a court review had taken place. Of these, the caseworkers were involved in continued placement recommendations in 73 cases, but sometimes their participation consisted of simply signing off on a check-list. In 35 cases, providers participated in making the recommendations, and they appeared to be the sole sources recommending continued placement in 22 cases.

Treatment May Be More Expensive Than Necessary and Less Effective Than Possible

In our case file review, we found that treatment outcomes for individual children could not be measured. This is due in part to the lack of definition as to what constitutes successful treatment outcomes, and in part to caseworkers inconsistently following DFS procedures. Because staff are not following DFS procedures, the agency cannot ensure that these are the proper procedures for acquiring and managing services for COPs youth.

DFS cannot evaluate the effectiveness of its procedures.

DFS has requirements in place to provide active management, oversight, and evaluation of the children in its custody, such as case plans, predisposition reports, MDT participation, and review protocols. According to best practices literature, these procedures are important factors in determining successful outcomes, and DFS rules and policies appear adequate to the task of accomplishing statutory, agency, and treatment goals. However, until DFS staff adhere to these procedures with consistency, by preparing predisposition reports and submitting required court review recommendations in all cases, and contacting children and providers regularly, the effectiveness of COPs placements cannot be determined.

Millions of dollars spent on treatment without independent evaluation

In the FY '03 – '04 biennium, DFS, WDE, and WDH spent over \$40.7 million on youth in RTCs for room board, treatment and education, with DFS contributing \$22.5 million of that amount. Because DFS does not seem to be applying the active and evaluative oversight that its rules and procedures envision, the state loses its primary means of measuring the impact these funds may have had in treating the problems of the COPs population. It is unknown to what extent these children may have benefited from their stay in state custody. Public safety may have been secured by placing some of these youth in RTCs, but judgments about whether their treatment, rehabilitation and reintegration were successful are matters of individual opinion.

Case plans do not set provider performance expectations

DFS does not measure treatment effectiveness.

DFS case plans usually state general goals such as “independent living” or “family reunification,” and do not specify how a particular treatment program will lead to the accomplishment of these goals. In the files we reviewed, case plans did not include provider performance expectations by which a caseworker could gauge whether the juvenile was receiving effective treatment. Additionally, DFS does not track individuals once they have completed an RTC program, nor require the providers to track and report post-release information. The lack of case plan specifics is more critical given that DFS does not use contracts to specify provider performance (see Chapter 3).

Providers indicate that DFS' primary oversight of their operations comes through the licensure and certification process of the facilities. This certification, however, deals primarily with health and safety issues and not with treatment outcomes, and certification reviews occur once every two years.

Other participants fill operational voids in the absence of assertive DFS management

With caseworkers not measuring treatment outcomes in a systematic way, DFS relies upon providers to assess whether their own treatment programs are having positive impacts. The providers' treatment plans are, in effect, substituted for the case plans. Providers' definitions for successful treatment outcomes appear to be subjective, ranging from the child completing the provider's program, going home, staying out of placement for varying periods of time, reducing negative behavior, to simply aging out of the system. In the absence of regular communication regarding each youth's progress and of objective measures of treatment progress, DFS is heavily reliant on the provider's judgment to determine a child's progress through treatment.

Providers' definitions of successful treatment outcomes vary.

Staff Turnover and Agency Culture May Be Obstacles to Effective Case Management

The interviews we conducted, along with other research, suggest at least two general circumstances that appear to inhibit DFS from operating to the potential it has outlined for itself through procedures and rules. While we do not have hard data, we believe that staff turnover and an agency culture of hesitancy have negatively affected staff performance.

Our case file review showed that 44 percent of the youth had multiple caseworkers over the course of their stay in custody. We believe in some cases turnover may have affected case-worker ability to implement agency policies: inadequate and inconsistent documentation, such as we found in many files, could impair a new caseworker's ability to assimilate and process needed information. Compounding the problem, according to a recent federal review, is that DFS does not have an effective staff development program or ongoing training requirements.

DFS personnel focus on crisis

management. LSO made similar findings in its 1999 evaluation of *Child Protective Services* and also noted that caseworkers were struggling to manage widely different kinds of cases, from abused infants to juvenile offenders, as a part of their case loads. Such dual assignments, according to DFS personnel with whom we spoke for this report, often meant that caseworkers focused on the more immediate needs of child protection cases and not on managing cases for children who were in placement. During the course of this study, the DFS Juvenile Services Division reorganized in order to allow individual caseworkers to focus on specific types of cases, including those involving youth in placement. Officials believe this will lead to a more efficient use of staff as well as less turnover.

DFS has been hesitant to assume active oversight

We also learned that DFS caseworkers have traditionally taken a back seat in decision making related to COPs. The statutory authority for COPs decision making is clearly centered at the local level under the leadership of the courts and MDTs (which include a DFS presence). In interviews, we were often told that DFS is but one party to the process, and moreover, that it is disadvantaged by not being respected in some communities, especially by legal officials. For example, we heard caseworkers were often intimidated by court proceedings, and that "...some of our folks are reluctant to speak up." A lack of either credibility or competency, which can result from turnover among caseworkers, may be contributing to this perceived lack-of-respect cycle.

DFS personnel and performance may lack credibility among other COPs participants.

Not having control over placements seems to have made DFS staff reticent about meeting the expectations of case management, as set out in agency rules and procedures. According to several DFS officials, as an agency DFS has the reputation and has adopted the attitude that "Basically, DFS pays the bill and takes the fall if the placement is wrong" for COPs youth, rather than making a determined effort to actively participate in COPs case management.

Recommendation: DFS should more actively manage COPs cases and should develop measures of treatment effectiveness.

DFS management needs to ensure that all COPs cases have documented goals; that these goals guide placement and treatment decisions; that there are meaningful outcome measures for each goal; and that workers statewide are consistently following agency rules and procedures. This foundation has to be established before DFS can determine which of its procedures promote expected goals and which may need to be adjusted. Ultimately, adherence to its rules will put the agency in a better position to demonstrate the effectiveness and appropriateness of various forms and providers of treatment.

CHAPTER 6

Conclusion

The state has unclear expectations for juvenile treatment.

RTCs are meant to serve youth with severe family, emotional, behavioral, or mental health problems who cannot function in a less restrictive setting. However, the means by which certain children come to be placed at RTCs while others do not are difficult to understand. In general, the purposes of residential treatment are unstated, the results of treatment are not measured, and the data simply do not exist to answer such basic questions as “How do we know the right children are going to RTCs?” and “Are they getting effective treatment?”

The placement process is not structured to deliver accountability.

Given the state’s unclear expectations for juvenile treatment services, DFS has difficulty performing an important set of responsibilities – although its problems are far from the only ones. The process the Legislature has set up (or perhaps more accurately, has allowed to evolve) is not structured to deliver accountability. Decision making is largely local and highly fragmented, funding is handled at the state level by three agencies that do not coordinate their actions, the statutes that guide COPs are convoluted, and the legal system is so complex as to itself be something of an impediment to proper placements.

Other systemic problems aside, DFS can do much to improve its own performance.

Nevertheless, setting aside the larger system’s idiosyncrasies, DFS can improve its part of the overall performance. It can, for example, ensure that before children are sent to RTCs for treatment, their problems have been clinically assessed. It can work with private providers to develop out-of-home placement guidelines so that courts and MDTs can match the severity of each youth’s problems with a setting likely to provide an appropriate amount and intensity of services and restrictiveness.

Further, DFS can establish performance-based contracts with providers and require outcome data from them. It can set standards for the minimum number of hours of scheduled treatment services to be provided in a week, for the types of services to be provided, and for what constitutes successful

completion of treatment. It can ensure that caseworkers prepare case plans tailored to each juvenile's individual needs, and it can require providers to develop treatment plans that contain measurable goals and time frames. DFS needs to stop accepting generic plans and boilerplate language in these critically important documents, and it must hold caseworkers accountable for such fundamentals as keeping complete documentation and staying in touch with juveniles who are in placement.

At the state level, current DFS staff may not have the special skills and experience needed to initiate some of these systems. The agency should assess its present capacity and if it finds some expertise is lacking, request approval for the additional staff or contract funding that may be needed.

Once systems are in place to generate provider performance information and placement outcome data, DFS will be in a position to show which RTC providers do better with certain types of problem youth, what the strengths and weaknesses of each facility are, and whether more expensive RTC programs have greater success than less expensive alternatives. These new types of information can assist MDTs and the courts in making more informed placement recommendations and decisions.

The larger question of how to create a uniform and effective youth services system still needs to be addressed.

This report focuses primarily on problems that we believe DFS has the responsibility and authority to correct. The question of whether and how the state should establish a uniform, efficient, and effective youth services system was beyond the scope of this study and would require a major system overhaul. Nevertheless, we urge the Legislature to consider revisiting the issue.

In our 1995 evaluation of *The Youth Treatment Center*, we noted that the state's expectations for COPs had not been defined, and that a comprehensive plan for serving these children did not exist. The Legislature closed the Youth Treatment Center, but this has not resulted in an effective, accountable system that ensures the right children go into RTCs and that they function better after treatment. The recommendations in our current report continue to speak to the state's obligation to ensure quality treatment for the troubled youth in its charge.

AGENCY RESPONSE

Court-Ordered Placements at Residential Treatment Centers

Note: The attachments referenced in the Agency Response are on file with the Legislative Service Office.

STATE OF WYOMING
DEPARTMENT OF FAMILY SERVICES

Dave Freudenthal, Governor
Rodger McDaniel, Director



HATHAWAY BUILDING, 2300 CAPITOL AVENUE, CHEYENNE, WY 82002-0490 (307)777-7561
FAX (307)777-7747 INTERNET:TTASSE@STATE.WY.US

October 18, 2004

Senator April Brimmer Kunz, Chair
Management Audit Committee

Dear Senator Kunz and Committee,

First, I'd like to thank the committee for focusing much needed attention on Wyoming's children being served in residential treatment centers (RTCs) through court ordered placements (COPs). These children deserve appropriate and effective treatment. Residential treatment is a critical part of a comprehensive array of services DFS must manage wisely. The management must be responsive to research-based innovations as well as limitations on resources. The Department would also extend gratitude to the LSO staff who participated in this endeavor. They were professional and took the time necessary to develop the expertise to write a helpful report that will improve our work for children.

While it is clear the Department of Family Services has critical responsibilities for children and families who come into the juvenile justice system, DFS is but one of many players in the process. Indeed, juvenile justice is a process relying on having people with the right expertise at the right place in that system, able to use their expertise. The legal process should provide the tools necessary for good management, yet Wyoming's juvenile laws continue to fail us in this area. The most serious problem described in this report is far beyond the power of our agency to correct. It is a well established fact Wyoming does not have a fair or uniform juvenile justice system. Over the years, numerous studies and reports have concluded the system is broken in key respects.¹ This brokenness seriously undermines the state's investment in family success by providing counterproductive and conflicting authority and resources to various levels and branches of government.

While preparing this response, a case characteristic of the problem crossed my desk. The first time this child came to the attention of DFS was when the Department received a court order. That order adjudicated the youngster delinquent and ordered him placed at Normative Services, Inc. with neither notice to DFS nor any other DFS involvement or recommendation. The Department was made aware of this placement nearly three weeks later when it received a copy of the order. The statutory requirement for a predisposition report and an MDT were waived. An assistant district attorney, the child's GAL and parents appeared before the court and the child was placed in one of the most expensive RTC's in the state with no assessment, MDT or predisposition report.

This case mirrors many others where the view of some courts seem to be that DFS and the state of Wyoming have little role other than to write very large checks to providers. There is no doubt our current juvenile justice process can cause or exacerbate the problems a youth will ultimately bring to our

¹ The most recent critique of the juvenile court system was written by a University of Wyoming Law School Professor. See "Juvenile Justice in Wyoming" written by John M Burman, *Wyoming Law Review*, Volume 4, Number 2 (2004) at page 669.

juvenile court. The Department accepts the criticism that we can and should do a better job within our authority but urges a broader review of the juvenile system so systemic flaws can be addressed and true accountability and improvement may be realized.

This response is organized by report chapters and summarizes major actions DFS has initiated or hopes to initiate to address the problems identified in the report. The response also includes DFS agreement with all of the recommendations of the audit. Today the Department of Family Services commits to you we can and will do a better job of managing and treating these children. It has been my approach to redirect resources and take other actions to limit additional budget requests. The 2004 biennial budget for this Department represented only a 1.5% increase over the prior biennium though it included 20 new social workers. However, the LSO report recognized the Department may need to seek additional resources to carry out the recommendations and that cannot be avoided. Some of these critical actions will require additional resources and/or statutory changes to provide further clarity or authority. I invite you to partner with us in this opportunity.

Chapter 1: Background

This chapter concludes with the statement "The recommendations are based on the premise that even if the Legislature does not choose to change the workings of a complex, uneven juvenile justice and placement system, DFS needs to make improvements within its scope of authority." I began my tenure as Director of the Department of Family Services in March of 2003. The case file review and much of the data analyzed in this section reflect conditions at the start of my administration. The agency has since initiated numerous changes and projects, many targeting problems that directly impact the conclusions reached in this report.

Our first major effort was writing a Program Improvement Plan (PIP) in response to the federal Children and Families Service Review (CFSR). As a requirement of the Adoption and Safe Families Act, the U.S Department of Health and Human Services conducted a review of the child welfare system in every state. No state was deemed to have successfully passed the review. Under federal law, each state was then required to submit a Program Improvement Plan. The states have two years within which to implement the plan after which another review will be conducted. Failure then will result in the imposition of significant monetary penalties.²

The plan was submitted to the Federal Government in the summer of 2003 and approved for implementation beginning January of 2004. All of the processes and plans are intended to energize and empower our staff. Many of the efforts will improve outcomes for the children in Residential Treatment Facilities.

Some of the major efforts include:

Family Partnership Teams - a training process and social work practice model designed for families in crisis to increase the involvement of extended family and natural community supports. The model empowers families to take responsibility and control of the problems and identify a supportive network of family friends and professionals to help them. Family Partnership Teams also recognize many of the families are receiving services from multiple state and local agencies. The process attempts to coordinate those services under the umbrella of a single treatment/service plan with the involvement of other community providers. This represents a fundamental shift in case management practice, giving workers practical knowledge and skills enabling them to coordinate and mobilize the family to take ownership of and effectively address the needs of children and other family members. This practice model will be especially beneficial to youth in, or at risk of being placed in, a residential treatment facility.

Juvenile Court Enhancement Initiative (JCEI) - a collaborative effort designed to compliment the Supreme Court's Court Improvement Project (CIP) in the area of CHINS and Delinquency actions (Under federal funding restraints, the CIP must limit its work to neglect/abuse cases). The JCEI has launched an innovative Family Court pilot in one county; supported Family Treatment Court training and development within three (3) other juvenile courts. This DFS initiative has worked to bring more uniformity and

² It is worth noting that the federal review did not focus solely on the Department of Family Services. It reviewed the entire child welfare system to include the role of the courts, GAL's, county attorneys, providers and other stakeholders. Though the entire system is under review, the monetary penalties for failure fall only on the Department of Family Services.

collaboration to court processes – hosting a statewide Juvenile Justice Conference in June of 2004, developing recommended MDT standards (to be complete in December of 2004) and Court Process Standards (projected to be complete in Spring of 2005).

Training Academy – The Department has significantly improved its training program over the last year. By creating a Training Academy, we have developed focused training so workers are receiving timely and relevant training on an ongoing basis. We have implemented a nationally recognized curriculum for core training of child protection and probation workers. Under the auspices of the Training Academy, DFS is developing specially trained resource persons in every district to disseminate key information on best practices in the areas of substance abuse, domestic violence, special education, mental health and adult protection.

Recruitment Partnership – Together with the University of Wyoming, DFS is establishing a program to help educate, train and recruit qualified UW graduates. In this manner, we expect the quality of new workers to be stronger, recruitment facilitated and give us some hope of reducing turnover.

Management by Data – Through the development of a “Dashboard” instrument, we now have monthly statistical reports designed to help managers focus on the critical indicators measured under the Adoption and Safe Families Act (ASFA). Each month, managers can look at data to determine trends and to help them manage. For example, before the “Dashboard” only about 55 per cent face of kids in placement received a face to face visit with their worker. By using these monthly reports, that number has increased steadily and now exceeds 80 per cent.

Children & Families Initiative – This initiative was authorized by the Legislature in 2004. The Children and Families Initiative is a legislatively authorized process to develop a comprehensive plan for children and families based on the grass-roots input received from families and communities as well as other studies and the participation of a broad base of collaborators who represent a variety of interests related to the well being of children and families. It is a comprehensive process to identify barriers impeding the success of Wyoming families and develop a process for meeting key goals identified by citizens of the State. The expectation is the process will help expand the array of services giving more attention to prevention.

The final sentence of the second paragraph of page 3 reads: “Thus, with DFS data, it is not possible to determine with certainty either the numbers of children or costs of services by statutory category.” We understand the pending sunset of the Children In Need of Supervision (CHINS) statutes has generated questions and concern to legislators, related to cost and purpose of the statute. In an effort to fully inform legislators, DFS further analyzed the data for the FY '03 – '04 biennium and estimated that the portion of Court Ordered Placement costs expended for CHINS placements is approximately \$5.9 million or 26% of the DFS placement costs for that time period.

A heading on page 7 reads: “The Effect of increased Medicaid funding on DFS expenditures remains unclear.” The Department of Health has always set rates and paid for residential treatment involving psychiatric care for most out-of-state providers and one in-state provider, i.e. Wyoming Behavioral Institute. In 2002 this service was expanded in Wyoming to existing residential treatment centers who met Medicaid standards through a Memorandum of Agreement between the Department of Family Services and the Mental Health Division of the Department of Health. There was a provision in the agreement stating DFS would pay the state match for this expanded Medicaid service.

In December of 2002, St. Joseph's Children's Home in Torrington became the first existing DFS RTC provider to become Medicaid certified for which DFS pays the state match. Attention Homes of Cheyenne and Cathedral Home in Laramie became certified in 2004. Medicaid certification requires staffing and procedures additional to those required of non-Medicaid certified residential treatment. Therefore, the rate Medicaid will pay is significantly higher than the rate DFS pays to non-Medicaid providers. The impact of Medicaid funding and the resulting state share of expenditures is still unclear at DFS. More time is needed to analyze whether the state share of a higher Medicaid rate costs more or less than the state share of a non-Medicaid rate using various federal funding streams.

Chapter 2: Juvenile Justice System and Court-Ordered Placements

The final pages of this chapter provide some guidance to the legislature (page 17, final sentence of the third paragraph). "Most of the reports [issued since 1979] have at least one recommendation directed at correcting this lack of uniformity, such as designating a county gatekeeper, mandating consistent assessment procedures, establishing a family court, or requiring more central coordination."

Ongoing efforts to bring clarity to this problem have begun to coalesce around a few promising possibilities the legislature should act upon. Recognizing the critical and pivotal role played by the court, these include formally establishing 4-5 "family court" pilot projects designed to allow counties or districts of varying sizes to experiment with redistributing jurisdictional authority between the courts to meet fundamental requirements, within parameters established by the legislature. This would help the state develop a better juvenile justice process assuring fairness and uniformity. Other states have been very successful in addressing court reforms in this way and there are indications that some jurisdictions are ready for (asking for) this type of opportunity.

A second recommendation is the Legislature eliminate the CHINS sunset but amend the statutes to better define and address the population of youth that should be served by this type of intervention. CHINS serves a vital population of uninsured or underinsured children with serious mental health conditions. Past efforts have recommended a number of ways this could be accomplished.

Third, improving Guardians ad litem (GAL) representation by providing state funding to assist counties and ensure uniformity in standards and training and fair pay for this work is a vital reform. Fundamental to achieving appropriate placements is having child advocates who are well trained, who do not have burdensome caseloads and are paid fairly for this important service.

Fourth DFS suggests the Legislature consider amending the status offense definition to bring Wyoming into compliance with the Juvenile Justice and Delinquency Prevention Act. Wyoming now has the dubious distinction of being the only state yet to come into full compliance with the Juvenile Justice and Delinquency Prevention Act. With the persistent efforts of the Wyoming County Commissioner Association and the State Advisory Council on Juvenile Justice, most counties have already done the hard work necessary to comply. The critical final step can be taken by our legislature this year.

Chapter 3: DFS Has Not Justified Its Rates for Residential Treatment

RECOMMENDATION:

DFS should develop a cost-based rate methodology in collaboration with the other agencies funding COPs, and develop a contracting process that facilitates the monitoring of services contracts.

AGENCY RESPONSE:

Agree

COMMENTARY:

DFS will begin to implement the recommendation immediately, contracting with experts to advise the agency on 1) the establishment of a clearly defined service array for all out-of-home care services (excluding DFS family foster homes), 2) program/service monitoring, outcome measurements and quality assurance processes including results-based contracts, 3) a process for establishing cost-based rates for service array, and 4) writing a clear and effective Requests For Proposal (RFPs) for the services.

A recently released report titled "Helping Wyoming Become One of the First States to Pass their CFSR," written for the Wyoming Youth Services Association (WYSA) by the Child Welfare League of America, provides supplemental information that will be utilized to further refine this process. Once the recommendations are received, the agency will implement them as described below, provided sufficient resources are available. A budget exception request will be developed for July of 2006, once the costs can be more accurately estimated.

The rate establishment process will be collaborative, involving service providers as well as Department of Health and Department of Education and other stakeholders. Public input will also be solicited. The cost-based rate establishment for residential treatment facilities approved to provide Medicaid services will continue to be used for facilities seeking to provide Medicaid eligible RTC services.

DFS was involved in the Medicaid and Department of Education rate setting process and this information will be considered in our process.

DFS will identify the service array within residential treatment establishing "levels of care" and "intensity of interventions" concepts within the cost structure. These will be aligned with plans for improving the use of clinical assessments (discussed further in Chapter 4) to obtain a good profile of the child compared to services available in each facility in order to ensure a good match. Once the service array and contracting process is established, there will be a separate contract for treatment case management, contract and utilization review monitoring to assure best practices are being used and that client outcomes are being achieved with lengths of stay that are related to client need and outcomes. This RFP process will also include the participation and recommendations of reviewers from the partner agencies of Medicaid in the Department of Health and the Department of Education.

The agency will face one barrier that cannot be overcome without legislative action. Ultimate authority for the placement and treatment of children currently resides with the Juvenile Court. The statutes contain very minimal guidance to courts on the process that should be involved in this decision and there are no requirements for obtaining or using clinical assessments to assist in placement decisions, which are essentially therapeutic as opposed to legal in nature.

The report identified one of the problems in the current system: "We found that many youth, particularly CHINS and delinquents, are rushed through Wyoming's legal system too quickly to allow for assessments." Report at page 39.

A second systemic problem is the fact some judges actually make the placement decision including naming specific providers in their orders. This is problematic for a couple of significant reasons. One, it promotes an entrepreneurial approach of providers. Frequently providers market their services to courts, county attorneys and others. DFS believes this promotes an overstatement of the actual services and results in inappropriate placements. As I prepare this response, I have two examples on my desk.

In one order (Attachment A), the court names specific providers, at least one of which provides services duplicative of those already paid for by taxpayers who fund the DF probation system. When the judge names the provider and specifies the services, there is little DFS can do to contain costs and in this case, a child, who was ordered into a specific day treatment program will receive costly services exceeding the cost of residential treatment.

The second example (Attachment B) is an invitation to the "grand opening" of a new RTC in Cheyenne. This is a "for profit" facility. Even though it has neither submitted an application for DFS certification nor negotiated a daily rate, it is marketing itself to the court, GAL and district attorney's office. We have been told an order was signed (Attachment C) placing this 18 year-old adult in that facility at DFS expense as soon as it opens for business. It is evident to those who would make money off of the current system that it is "provider driven" and that DFS is little more than the checkbook. Under current law and court practices, you can be assured that "if you build it, they will come." The 24 beds in this facility will soon be filled and DFS costs will increase.

The second problem is that so long as judges make placement decisions, the state will be ineligible for significant federal funding for placement costs. Under Title IV-E of the Social Security Act, the federal government pays about 50% of the costs of non-detention placements for low income families if certain federal statutory conditions are met. One of those requirements is that the state child welfare agency and not the court make the placement decision. 42 USC Section 672.³ The statute expressly gives the authority for placement and care of these children to the state agency and not the court.

DFS recommends the statutes be amended to clearly place the child in the custody of the Department so that DFS can be held accountable for the placement decision, permitted to monitor the treatment plan and allowed to hold providers accountable whenever the MDT recommendations, supported by valid clinical assessments, indicates the child should receive services at the level of a residential treatment facility. Not only is this a prerequisite under federal law to receiving federal financial contributions, it is also a best practice that will help assure appropriate placements and cost management.

The statutes currently provide courts with an appropriate level of oversight to ensure the agency and MDT members are adhering to the statutes and properly fulfilling their obligations. The statute

³ Federal Register, Vol. 65, No. 16, January 25, 2000 at page 4058: "[W]e are clarifying in the regulation...that it is not permissible for courts to extend their responsibilities to include ordering a child's placement and care with a specific foster care provider." The federal statute defines "foster care provider" to include a child care institution such as Wyoming's RTC's.

should expressly preclude the court from placing or committing youth to specific treatment facilities. This will protect children from inappropriate treatment placements while also ensuring better fiscal accountability. (See Attachment A – Court order that has completely excluded agency participation, except to pay for a placement)

We have a saying in the Department, “aces in their places.” It means in every system, the best decisions are made when you have the best people exercising the proper role within their education, training and expertise. In the juvenile court system, judges should assure the integrity of the legal and court processes, GAL’s should advocate and social science experts should be allowed to do what they are specially trained for. We seek not only the authority to make those decisions but a process that makes certain we are fully accountable for the consequences.

Once the processes described above have been defined, DFS will provide extensive training to ensure workers understand both the clinical issues as well as the court process. In addition, other participants will need to be provided training to maintain or rebuild collaborative processes.

Chapter 4: Many Court-Ordered Youth Need, But Do Not Get, Clinical Assessments

RECOMMENDATION:

DFS should develop rules and procedures to ensure that children receive uniform, independent clinical assessments prior to being placed in RTCs.

AGENCY RESPONSE:

Agree

COMMENTARY:

DFS will issue a training letter by December 31, 2004, to clearly instruct workers on the circumstances and process for obtaining and documenting timely clinical assessments for children in state care, especially those currently placed or having a potential for placement in a residential treatment facility. Other actions are already in various stages of completion.

The Juvenile Services Division is in the process of changing its screening tool from the Youth and Family Screening instrument which screened for both risk factors and treatment to separate more tailored instruments to improve screening. For client treatment and service needs, a scientifically validated assessment tool known as the Quick-GAIN will be used to better align our process with the Substance Abuse Division. The new tool will do a better job of alerting workers to potential substance abuse or mental health problems warranting further assessment. The agency has tentatively selected the LSI-R (Levels of Supervision Index – R) for assessing safety and supervision needs for juveniles. The screening tool can be utilized for probation services and in institutional settings. DFS staff will be trained on the new instruments beginning in January, 2005.

The agency is issuing a new “family assessment” policy for the Juvenile Services and Child Protection divisions. This assessment is also designed to alert workers to indicators requiring further investigation or clinical assessments. More importantly the tool will help workers identify key strengths of the child and family that can be used to circumvent more intrusive and restrictive interventions, such as residential treatment.

The Department is also working closely with the Substance Abuse Division of the Department of Health on implementation of the Access to Recovery grant which will be piloted soon in Natrona County. The grant will improve addiction recovery supportive services and establish protocols for clinical assessments and other screening measures to improve our ability to match the child’s needs to appropriate levels of treatment services. The decision to apply for the Access to Recovery Grant was made jointly by the Governor’s Office, DFS and the Department of Health. The hope was these funds would be used to fill a big pot hole in Wyoming’s service system, i.e. the lack of substance abuse treatment capacity for juveniles. Assessments are important but equally important is being able to provide the treatment indicated by the assessment. That requires a capacity expansion.

While Wyoming’s application scored highest among all applicants and the grant was awarded, federal officials reduced the grant amount. If this hole in the service delivery system is to be filled, legislators will have to do so with other funds. We would encourage you to consider additional funds from the tobacco settlement which are available and proper for this important purpose.

In conjunction with the Access to Recovery project, the department will use the RFP process for monitoring and measuring outcomes (discussed in Chapter three) to develop more efficient and effective ways of obtaining clinical assessments. An assessment process will be developed, using independent professionals to determine the treatment needs of children. The focus will be to require separate assessments of the youth's treatment and supervision needs. The recommendations will be required to identify a level of care need rather than a specific placement recommendation. Other professional staff, outside the regional clinical assessment contractor, will then match the level of treatment and supervision needed by the youth to the best available service to meet the identified need. Policy will also address the timeliness of assessment, especially in rural areas, a front end process that will identify and address acute care needs, and will establish a process for interim care during the assessment process if safety is a concern or if the youth is homeless.

Levels of care will be established and length of stay will correlate with individualized treatment goals and needs. A utilization review process similar to the process required by Medicaid will be incorporated to ensure periodic reassessments that use peer reviews. Efforts to improve the legal processes associated with court-ordered-placements in residential treatment facilities will continue. The MDT Guidelines and Court Process Guidelines will emphasize the need for appropriate clinical assessments prior to making recommendations to the court.

Finally, treatment decisions must be made by qualified professionals, rather than an arbitrary legal process. The current system does not make a distinction between legal decisions and therapeutic decisions. To effectively incorporate clinical assessments into the residential treatment arena the law must remove ambiguity in this area of responsibility. This could be accomplished by requiring DFS to establish assessment requirements prior to placement decisions and providing agency rulemaking authority to accomplish this. The Department cannot be expected to simply "choose" an assessment tool. This decision is highly charged with professionals debating long and hard the merits of potential assessment tools. Providers have already voiced opposition to the DFS position, affirmed by this report, that assessments should be made independent of those providing the treatment services.

Accordingly, DFS should be given rule making authority to make that decision. The rule making process assures public and provider voices will be heard. It also assures a final decision can be made. A budget exception request will be developed for July of 2006 biennium in order to fully implement the plans outlined in this report, as they will require resources above and beyond the agency's current budget. Adequate resources and training will be the key to success.

Chapter 5: DFS Case Management and Oversight Do Not Ensure Effective Treatment

RECOMMENDATION:

DFS should more actively manage COPs cases and should develop measures of treatment effectiveness.

AGENCY RESPONSE:

Agree

COMMENTARY:

The agency does not have sufficient resources to recruit, train and retain staff adequately. When I assumed leadership of DFS I noted many of the problems contained in the report. Our staff struggles daily to stay on top of wave after wave of new challenges, including high caseloads, high turnover, rising social problems like methamphetamine addiction and economic boom and bust cycles in some communities as well as a myriad of federal requirements, audits and reviews. Non-competitive pay, crushing work loads, the sheer difficulty of the work combined with vague and conflicting authority have all contributed to this environment.

However, I want to assure you we will meet the challenges put forth in this report. There is an underlying core of bedrock at the heart of this agency. It is based on the fundamental belief that we do make a difference in the lives of the children and families we touch. We have, over the last 18 months, charted a new course and we are moving toward healthier youth and families using the tools at hand to the best of our combined abilities. The agency is implementing a quality assurance process as part of the Program Improvement Plan. It will address many of the case management concerns raised in this report.

However we do not have the resources or staffing capacity, especially in the state office, to provide adequate oversight. Some offices are stretched far too thin by a variety of circumstances and they operate in a near constant state of crisis. Adequate case management of residential treatment placements often falls off the radar in that work environment. The report indicates we may require Juvenile Services to reduce its caseload standards to 17-18 open cases per worker, the level recently established for child our child protection division in order to ensure time for adequate management of residential treatment placements, which are predominately managed by juvenile services. I also believe the additional workers authorized in the 2004 session will greatly help bring the agency closer to meeting our current caseload goals. None of us should overlook the reality of the current energy boom in many parts of the state. When couple with the meth crisis, it means that although you gave us 19 new social workers, the culture gave us hundreds of new children and families with whom to work.

The other key component of the recommendation in this chapter has to do with monitoring treatment effectiveness. The RFP for contract monitoring/utilization review/outcomes on placements (discussed in chapter three) – is critical to addressing this problem but it can not be implemented without new resources. This will require clinical case management, which is beyond the basic responsibilities or training of our field office caseworkers.

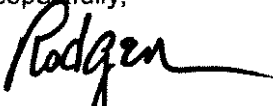
Chapter 6: Conclusions

In conclusion, the Department of Family Services agrees with each of the three recommendations contained in your report and we have set a course to implement them. We have also offered our recommendations for reforms that will make a difference. Most are not new. Indeed, most are reiterations of those contained in numerous studies over many years, e.g. piloting family courts, improving child representation, expanding the capacity of community-based prevention and treatment among others.

While those changes are vital and we encourage you to give them attention, there are three improvements immediately responsive to the recommendations your staff have made. The first we can do under current law, though additional financial resources may be required. It is the development of a system for monitoring contracts and outcomes, justifying rates as well as treatment. The second and third require legislative action. They are (1) provide DFS with authority to begin a rule making process aimed at identifying and using a common assessment tool to aid in placement and demonstrate effectiveness of treatment; the process should result in independent, timely, accessible, uniform and cost effective assessments; and (2) amend the statutes to provide DFS has the authority and accountability for making placement decisions.

I couldn't be more proud of the hard work and dedication of the entire staff at the Department of Family Services, but more importantly, I believe the staff are proud of their accomplishments and I have and will continue to fully support them in their efforts to assume leadership and improve the Department's services to all children and families. Nor could I be more respectful of our responsibilities to you and your constituents. We share the goals and offer to partner with you in meeting them.

Respectfully,



Rodger McDaniel
Director

APPENDICES

Court-Ordered Placements at Residential Treatment Centers

APPENDIX A

Selected Statutes

The statutes pertaining to court-ordered placements are too extensive for it to be practical to reproduce them as appendices to this report. These statutes are in three acts in Title 14, each addressing one of the three populations that courts can order into placement. Although the acts are similar in many respects, each has provisions that are specific for the population it addresses. These statutes can be viewed from the Wyoming Legislature's web page, www.legisweb.state.wy.us, under Wyoming Statutes, Title 14, Children.

- W.S. 14-3-401 – 14-3-440, the Child Protection Act concerning minors alleged to be abused and neglected;
- W.S. 14-6-201 – 14-2-252, the Juvenile Justice Act, concerning minors alleged to have committed delinquent acts; and
- W.S. 14-6-401 – 14-6-440, the Children in Need of Supervision (CHINS) Act, concerning minors under the age of seventeen who are ungovernable, or who have committed status offenses. The CHINS Act is repealed effective July 1, 2005 unless the Legislature re-authorizes it.

Appendix A does include the section in Title 21 (Education), Chapter 13 that describes how the Departments of Family Services and Education fund court-ordered placements (W.S. 21-13-315).

TITLE 21 Education

CHAPTER 13 School Finance

ARTICLE 3. STATE FINANCIAL SUPPORT Selected Section

21-13-315. Costs of court ordered placement of children in private residential treatment facilities, group homes, day treatment programs and juvenile detention facilities.

(a) The department of family services shall establish an account to pay residential and treatment costs excluding educational and medical costs of court ordered placements of children in private residential treatment facilities and group homes located in Wyoming. Programs providing education services including programs for children with disabilities provided by a board of cooperative educational services, shall bill the department of education directly for educational costs of court ordered placements. In addition, costs of all related services for children with

disabilities and costs of education assessment for other children incurred as a result of court order prior to any placement, shall be billed directly to the department of education. The department of family services shall promulgate reasonable rules and regulations to provide procedures for implementing subsection (m) of this section. If the court rejects an in-state placement recommendation of the predisposition report or multidisciplinary team under W.S. 14-6-227, the court shall enter on the record specific findings of fact relied upon to support its decision to deviate from the recommended disposition. No court shall order an out-of-state placement unless:

- (i) Evidence has been presented to the court regarding the costs of the out-of-state placement being ordered together with evidence of the comparative costs of any suitable alternative in-state treatment program or facility, as determined by the department of family services pursuant to paragraph (d)(vii) of this section, whether or not placement in the in-state program or facility is currently available;
- (ii) The court makes an affirmative finding on the record that no placement can be made in a Wyoming institution or in a private residential treatment facility or group home located in Wyoming that can provide adequate treatment or services for the child; and
- (iii) The court states on the record why no in-state placement is available.

(b) Except to the extent costs are covered under subsection (n) of this section, the department of education using federal or foundation funds, or both, shall pay for the allowable education costs of juvenile and district court ordered placements of children residing in private treatment facilities and group homes where a fee is charged, including court ordered placements in programs for children with disabilities provided by a board of cooperative educational services. No district shall receive funds, either directly or indirectly, from any facility or home receiving payment under this section for providing education programs and services to children placed and residing in the facility or home, but the district may count the children among its average daily membership. The department of education shall adopt reasonable rules and regulations prescribing standards and allowable costs for educational program services funded under this section. Standards shall be subject to W.S. 21-9-101 and 21-9-102 and rules and regulations of the state board and shall be designed to fit the unique populations of residential centers, group homes, programs and services provided by boards of cooperative educational services and out of state placement facilities.

(c) Costs shall be billed monthly by the program provider to:

- (i) The department of family services account for residential and treatment services; and
- (ii) Except to the extent costs are covered under subsection (n) of this section, the department of education for approved educational services specified under subsection (b) of this section.

(d) If a placement of a child is to be made and funded under this section, the predisposition study required by W.S. 14-6-227 shall include:

- (i) A description of efforts to provide services to the child in the home prior to placement;

- (ii) Contact with other agencies involved with the child. At a minimum, those contacted shall include the child's school and the field office of the department of family services;
 - (iii) The presence of any preexisting and identified handicapping conditions;
 - (iv) A review of the financial resources of the child's parent or guardian;
 - (v) A certification by the department of family services that funding for the placement is available within the appropriation. The placement of the child shall not be funded under this section if the department of family services is unable to make the certification. The department of family services shall make the certification only if unencumbered funds are available within the appropriation making allowance for the costs for children already placed. Funds shall not be certified available if an adequate, less restrictive, less expensive placement is available;
 - (vi) The names of persons and agencies contacted in preparing the report; and
 - (vii) If an out-of-state placement is under consideration, the name, address, program description and costs of each Wyoming institution and each private residential treatment facility and group home located in Wyoming that the department of family services has determined can provide adequate treatment or services for the child, and whether placement in the in-state institution, treatment facility or group home is available.
- (e) If at any time the placement is found to be educationally inappropriate or not the least restrictive placement available, the placement shall be referred back to the court with a recommendation on what would be a suitable placement.
- (f) Only group homes and residential treatment facilities certified by the department of family services are eligible to receive funding for residential and treatment services under this section. Costs for education services shall be paid by the department of education under this section only if the educational program of the group home or residential treatment facility or the program provided by the board of cooperative educational services meets the standards of subsection (b) of this section and has been approved by the department. The department of family services and the department of education shall provide the courts with a list of approved facilities and services. The court shall determine the parents' or the guardian's contribution to the court ordered placement for all costs excluding necessary education costs based on the parents' or guardian's ability to pay as provided by W.S. 14-6-236.
- (g) Repealed by Laws 1987, ch. 221, § 2.
- (h) In the placement order the court shall declare the child's school district or school districts of residency in any district or districts which it deems proper in the best interests of the child. The declaration by the court shall be binding upon the school districts.
- (j) In the placement order the court shall determine that adequate efforts were made to maintain the child in the child's home prior to placement.
- (k) This section applies to children who are at least six (6) years of age but who are under eighteen (18) years of age.

(m) The department of family services shall regularly monitor the amount of unencumbered funds available within the appropriation making allowance for the costs for children already placed. If the projected costs exceed the amount available, the division shall terminate its contracts for services under this section after notice of thirty (30) days and reduce the rates it pays to all providers by a uniform percentage. The percentage shall be determined by the division and shall bring the costs and projected fund availability into balance. The division shall readjust rates dependent upon change in availability of funds.

(n) Prior to billing the department of education under paragraph (c)(ii) of this section, program providers shall bill the department of health for costs of approved educational services covered under the school health program under the Wyoming Medical Assistance and Services Act pursuant to W.S. 42-4-103(a)(xxx).

Note: There is no subsection (i) or (l) in this section as it appears on the printed act.

APPENDIX B

DFS Service Expenditures and Placement Statistics by Placement Type

Figure B.1

DFS Expenditures by Service Type and Aggregate Expenditure Change, FY '99 – '04

Service Type	FY '99 Expenditures	FY '04 Expenditures	Percent Change in Annual Expenditures	FY '99 - '04 Expenditures
RTC	\$9,314,726.30	\$10,320,612.37	10.80%	\$68,768,145.91
Group Home	\$1,740,064.46	\$2,570,835.40	47.74%	\$14,612,587.48
Foster Care	\$2,515,692.29	\$2,280,333.66	9.36%	\$14,589,913.11
Adoption	\$414,870.71	\$1,412,731.28	240.52%	\$5,138,458.18
Family Preservation	\$113,609.29	\$491,888.80	326.57%	\$1,652,728.15
Counseling	\$250,639.08	\$229,328.90	-8.91%	\$1,453,112.26
Guardianship Subsidy	\$2,040.00	\$402,852.80	19,497.69%	\$1,243,946.73
Child Placing Agency	\$14,040.00	\$568,435.25	3,948.68%	\$955,128.58
Detention ¹	\$0.00	\$334,013.75	N/A	\$943,944.75
Other ²	\$475,693.33	\$1,362,463.43	184.53%	\$5,181,162.71
Total	\$14,841,375.46	\$19,973,495.64	34.44%	\$114,539,127.86

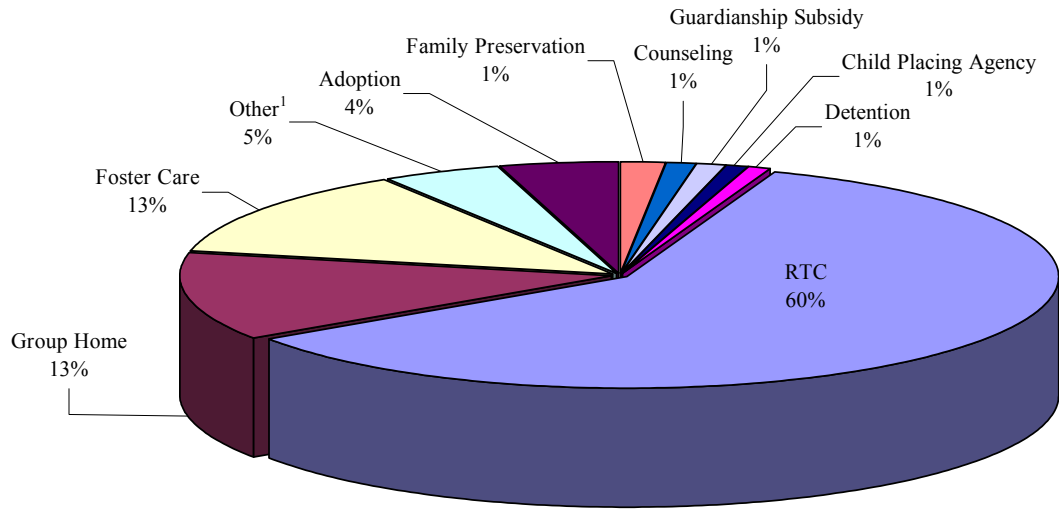
Source: LSO analysis of DFS data.

¹ DFS has only paid for Detention services since FY '01.

² "Other" services include: Bed Hold ['03+]; Case Management ['99]; Clothes Allowance; Day care; Day Treatment ['00+]; Educational Services ['99]; Electronic Monitoring; Evaluation; Family Support ['99]; Housing ['99]; Independent Living; IYS ['99]; Legal; MDT Coordinator ['01+]; Mentoring; Out of Home Placement Health ['04]; Parenting; Placement Fee ['04]; Respite; Specialized Disabled ['04]; Substance Abuse – In-patient['99-'00]; Substance Abuse – Out-patient; Transportation. Year in parentheses indicates the year(s) in which that service category was used to pay providers.

Figure B.2

DFS Services Types by Percent of Overall Expenditures for Court Placed Youth, FY '99 – '04



Source: LSO Analysis of DFS data.

¹ "Other" services include: Bed Hold ['03+] <1%; Case Management ['99] <1%; Clothes Allowance <1%; Day care <1%; Day Treatment ['00+] <1%; Educational Services ['99] <1%; Electronic Monitoring <1%; Evaluation <1%; Family Support ['99] <1%; Housing ['99] <1%; Independent Living <1%; IYS ['99] <1%; Legal <1%; MDT Coordinator ['01+] <1%; Mentoring <1%; Parenting <1%; Placement Fee ['04] <1%; Respite <1%; Substance Abuse – In-patient ['99-'00] <1%; Substance Abuse – Out-patient <1%; Transportation <1%. Year in parentheses indicates the year(s) in which that service category was used to pay providers.

Figure B.3**DFS Placements by Type, With Average Length of Stay and Average Age at the Beginning of Placement, FY '99 – '04**

DFS Placement Types	FY '99 - '04			
	Placements	Percent of Total Placements	Length of Stay (LOS)	Age At Beginning of Placement
Adoption	433	3%	1,378	6.99
Boys School	687	5%	163	15.91
Crisis Center	960	7%	35	14.39
Detention	600	4%	29	15.88
Foster Care Non-Relative	4,320	30%	153	7.53
Foster Care Relative	377	3%	379	7.75
Girls School	431	3%	295	15.74
Group Home	2,401	17%	104	14.87
Hospital	17	0%	21	13.10
Independent Living	103	1%	160	17.61
Jail	122	1%	20	16.14
Long Term Foster Care Non-Relative	86	1%	1,102	9.88
Long Term Foster Care Relative	32	0%	1,317	8.51
Pre-Adoption Home	80	1%	378	8.37
Psychiatric Residential Treatment Center	295	2%	113	13.70
Residential Treatment Center	2,375	16%	269	14.77
Runaway	16	0%	20	15.95
Specialized Foster Care Non-Relative	514	4%	259	10.15
Specialized Foster Care Relative	5	0%	183	9.58
State Hospital	104	1%	72	15.31
Therapeutic Foster Care Non-Relative	439	3%	399	11.86
Therapeutic Foster Care Relative	10	0%	483	9.34
Trial Home Placement	13	0%	101	13.35
Total Placements	14,420	100%	217	11.98

DFS Placement Types ¹	FY '99 - '04			
	Placements	Percent of Total Placements	Length of Stay (LOS)	Age At Beginning of Placement
All Foster Care Placements	5,783	40%	217	8.15
All RTC Placements	2,670	19%	252	14.65
All Other Placements	4,745	33%	200	14.16
All State-Run Institution Placements	1,222	8%	201	15.8
Total Placements	14,420	100%	217	11.98

Source: LSO analysis of DFS data.

¹ "All Foster Care Placements" include: Foster Care Relative, Foster Care Non-Relative, Long Term Foster Care Relative, Long Term Foster Care Non-Relative, Specialized Foster Care Relative, Specialized Foster Care Non-Relative, Therapeutic Foster Care Relative, and Therapeutic Foster Care Non-Relative. "All RTC Placements" include: Psychiatric Residential Treatment Center and Residential Treatment Center. "All Other Placements" include: Crisis Center, Detention, Hospital, Independent Living, Jail, Pre-Adoption Home, Runaway, and Trial Home Placement. Finally, "All State-Run Institution Placements" include: Boys' School, Girls' School, and State Hospital.

APPENDIX C

COPs Providers

Figure C.1

Residential Treatment Providers Placements (July 1, 2004), with Average Length of Stay and Average Age of Children at the Beginning of Placement, FY '99 – '04

Residential Treatment Center Providers	Placements July 1, 2004		DFS Placements, FY '99 - '04			
	RTC Placements	Other ¹	RTC Placements	Other ¹	Length of Stay at RTC (days)	Age at the Beginning of Placement (years old)
Attention Homes, Inc.	20	4	200	185	144	15.32
Cathedral Home for Children	30	1	225	16	341	14.68
Frontier Correctional Systems, Inc. (Jeffrey C. Wardle Academy)	47	17	308	601	243	15.90
Normative Services, Inc.	73	0	346	8	414	15.62
Red Top Meadows Treatment Center, Inc.	16	0	85	0	359	15.96
St. Joseph's Children's Home	48	0	594	17	182	13.32
Wyoming Behavioral Institute	18	1	269	5	93	13.80
Youth Emergency Services	16	4	153	138	183	15.41
Total	268	27	2,180	970	236	14.68

Source: LSO analysis of DFS data.

¹ Some RTC providers also take more/less restrictive placements. Examples include Attention Homes, Inc. also taking group home placements and Frontier Correctional Systems, Inc. taking detention placements.

Figure C.2**BOCES Provider Placements (July 1, 2004), with Average Length of Stay and Average Age of Children at the Beginning of Placement, FY '99 – '04**

BOCES	Placements July 1, 2004		DFS Placements, FY '99 - '04			
	RTC Placements	Other	RTC Placements	Other	Length of Stay RTC (days)	Age at the Beginning of Placement (years old)
Northeast Wyoming BOCES	9	0	24	1	548	13.96
Northwest Wyoming BOCES	7	0	21	0	344	10.87
Region V BOCES/(C-V Ranch)	26	0	92	1	813	14.71
Total	42	0	137	2	694	13.99

Source: LSO analysis of DFS data.

Figure C.3**Other Providers with RTC Placements (July 1, 2004), with Average Length of Stay and Average Age of Children at the Beginning of Placement, FY '99 – '04**

Other Providers ¹	Placements July 1, 2004		DFS Placements, FY '99 - '04			
	RTC Placements	Other	RTC Placements	Other	Length of Stay RTC (days)	Age at the Beginning of Placement (years old)
Central Wyoming Counseling	3	22	69	119	47	16.71
Hemry Home	3	2	20	78	192	14.80
Virginia Hirst Home	0	0	54	7	272	15.16
Unknown	0	0	14	0	264	14.95
Total	6	24	158	203	162	15.78
All Providers Total (from Figures C.1, C.2, C.3)	316	51	2,474	1,176	257	14.71

Source: LSO analysis of DFS data.

¹ These providers received residential treatment payments from DFS during FY '99 – '04. We were unable to determine the name of one provider.

Figure C.4**DFS Payments to Select RTC, BOCES and Other Providers Which Had Residential Treatment Placements, FY '99 – '04**

Residential Treatment Center Providers	DFS Expenditures
Attention Homes, Inc.	\$3,160,837
Cathedral Home for Children	\$8,097,802
Frontier Correctional Systems, Inc. (Jeffrey C. Wardle Academy)	\$10,073,952
Normative Services, Inc.	\$13,480,953
Red Top Meadows Treatment Center, Inc.	\$2,710,279
St. Joseph's Children's Home	\$10,524,888
Wyoming Behavioral Institute	\$3,571,695
Youth Emergency Services	\$3,115,447
Subtotal	\$54,735,853
BOCES	DFS Expenditures
Northeast Wyoming BOCES	\$1,770,218
Northwest Wyoming BOCES	\$824,309
Region V BOCES/(C-V Ranch)	\$6,995,979
Subtotal	\$9,590,506
Other Providers	DFS Expenditures
Central Wyoming Counseling	\$757,343
Hemry Home	\$1,310,317
Virginia Hirst Home	\$1,328,146
Unknown	\$831,220
Subtotal	\$4,227,026
All Providers Total	\$68,553,386
All Agency Costs	\$114,539,128
Percent of Payments	60%

Source: LSO Analysis of DFS data.

Figure C.5

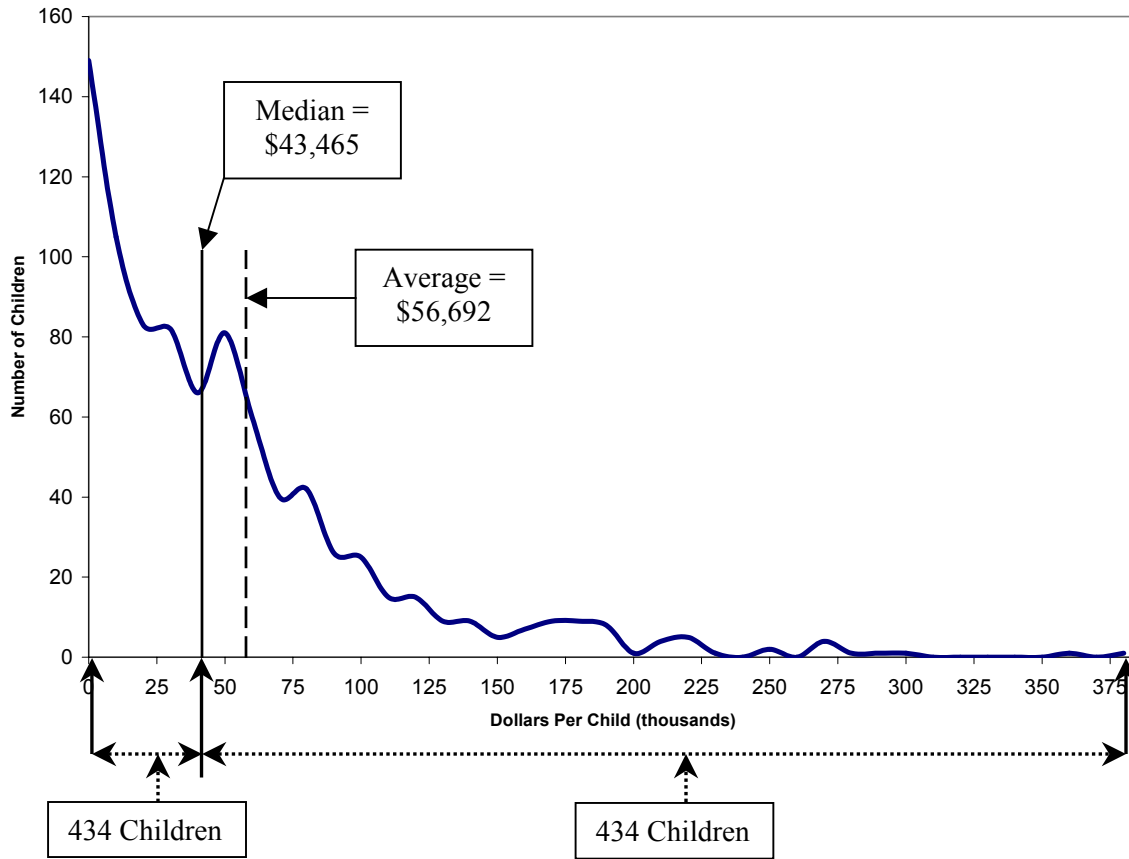
DFS, WDE and WDH Payments to Select RTC, BOCES and Other Providers Which Had Residential Treatment Placements, FY '03 – '04

Residential Treatment Center Providers	DFS Expenditures	WDE Expenditures	DOH Expenditures	3-Agency Expenditures
Attention Homes, Inc.	\$1,583,553	\$560,385	\$113,237	\$2,257,175
Cathedral Home for Children	\$2,255,625	\$1,211,542	\$0	\$3,467,167
Frontier Correctional Systems, Inc. (Jeffrey C. Wardle Academy)	\$4,818,385	\$1,738,197	\$105,505	\$6,662,087
Normative Services, Inc.	\$5,009,285	\$2,517,775	\$0	\$7,527,060
Red Top Meadows Treatment Center, Inc.	\$963,900	\$424,671	\$0	\$1,388,571
St. Joseph's Children's Home	\$1,552,602	\$1,841,041	\$5,037,853	\$8,431,496
Wyoming Behavioral Institute	\$999,963	\$87,725	\$2,122,423	\$3,210,111
Youth Emergency Services	\$1,343,671	\$385,066	\$373	\$1,731,410
Subtotal	\$18,526,985	\$8,766,402	\$7,379,390	\$34,672,777
BOCES	DFS Expenditures	WDE Expenditures	DOH Expenditures	3-Agency Expenditures
Northeast Wyoming BOCES	\$895,913	\$1,017,302	\$1,915	\$1,915,130
Northwest Wyoming BOCES	\$461,625	\$890,208	\$0	\$1,714,517
Region V BOCES/(C-V Ranch)	\$2,183,517	\$2,057,215	\$124,527	\$9,177,721
Subtotal	\$3,541,054	\$3,964,725	\$126,442	\$7,632,221
Other Providers	DFS Expenditures	WDE Expenditures	DOH Expenditures	3-Agency Expenditures
Central Wyoming Counseling	\$262,487	\$0	\$0	\$262,487
Hemry Home	\$371,910	\$0	\$0	\$371,910
Virginia Hirst Home	\$27,100	\$0	\$0	\$27,100
Unknown	\$0	\$0	\$0	\$0
Subtotal	\$661,497	\$0	\$0	\$661,497
All Providers Total	\$22,729,536	\$12,731,127	\$7,505,832	\$42,966,495
All Agency Costs	\$40,734,248	\$13,144,697	\$13,850,847	\$67,729,792
Percent of Payments	56%	97%	54%	63%

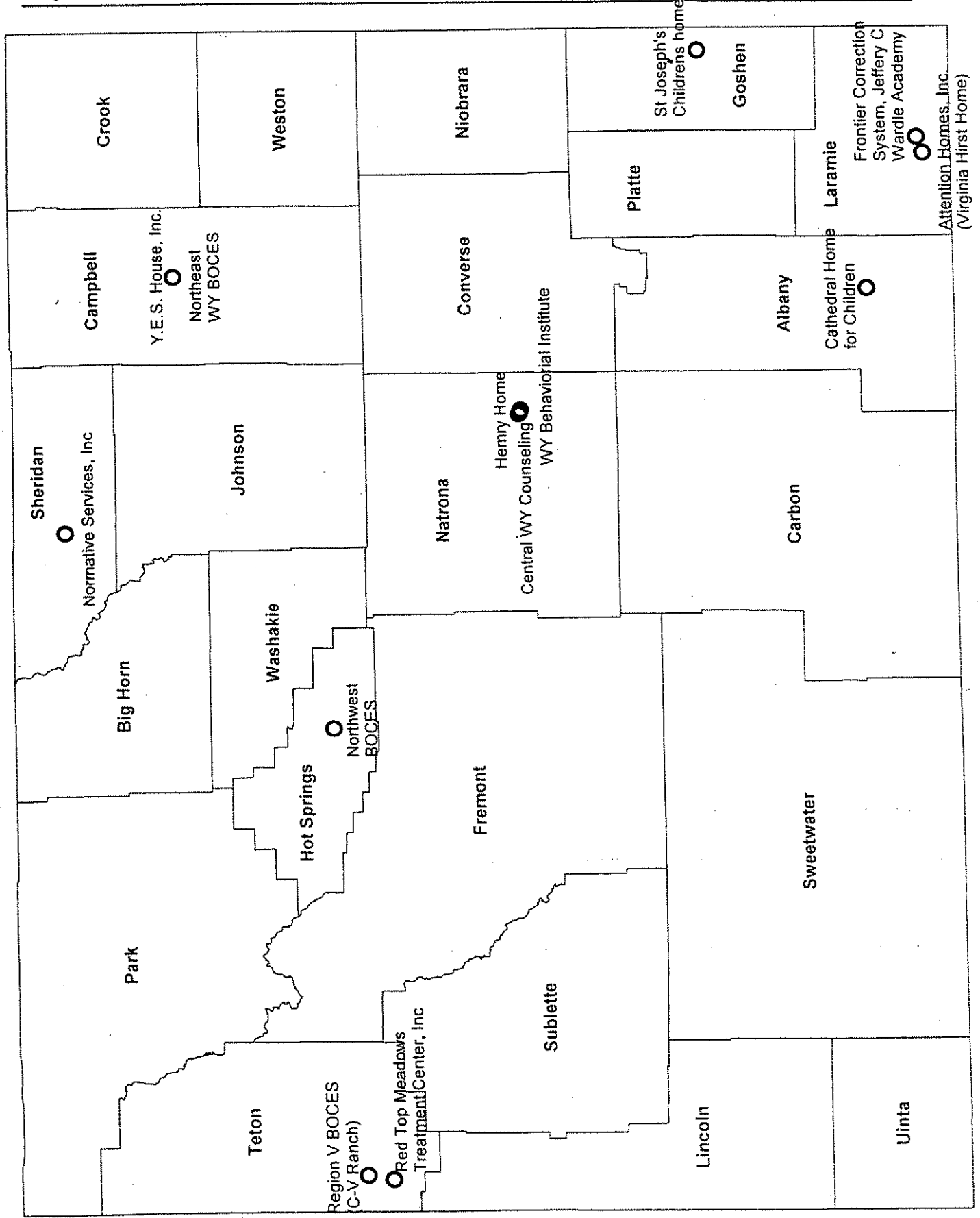
Source: LSO analysis of DFS, WDE and WDH data.

Figure C.6

FY '03 – '04 Aggregate, Per-Child Cost Distribution for Children in Residential Treatment



Source: LSO analysis of DFS, WDE, and WDH data.



APPENDIX D

Children With Multiple Juvenile Court Placements

Figure D.1

Children with Multiple Out-of-Home and RTC Placements,
Population Sampled for Casefile Review

Number of Different Placements	Casefile Review Population – Beginning an RTC Placement in FY '03	Casefile Review Sample	
		Out-of-Home Placements	FY '03 RTC Placements
1	218	68	94
2	28	41	31
3	14	11	8
4	15	6	2
5	10	5	
6	9	4	
7	4		
8	9		
9	2		
10	1		
11	2		
12	5		
13	0		
14	1		
15	1		
16	0		
17	0		
18	0		
19	1		
Total Cases	320	135	135
Percent with 1 Placement	68.13%	50.37%	69.63%
Percent with 2 - 9 Placements	28.44%	49.63%	30.37%
Percent with >10 Placements	3.44%		

Source: LSO analysis of DFS data.

Figure D.2

**Children With Multiple Out-of-Home and RTC Placements,
DFS Children for FY '99 – '04**

Number of Different Placements	Number of Placed Children	Number of Placed Children RTC -
1	3,169	1,121
2	1,377	289
3	756	121
4	348	42
5	241	31
6	147	16
7	103	14
8	70	5
9	32	3
10	30	1
11	25	0
12	17	0
13	9	0
14	3	1
15	6	↓
16	1	
17	2	
18	0	
19	2	
20	1	
21	0	
22	1	
23	1	
Total Children	6,341	1,644
Total Placements	14,420	2,670
Percent with 1 Placement	49.98%	68.19%
Percent with 2 - 9 Placements	48.47%	31.69%
Percent with >10 Placements	1.55%	0.12%

Source: LSO analysis of DFS data.

APPENDIX E

Methodology

Summary of Methodologies

This evaluation was conducted according to statutory requirements and professional standards and methods for governmental audits. The research was conducted from January through July 2004.

General Methodology

To compile basic information about the court-ordered placement system, we reviewed relevant statutes, rules, professional literature, legislative history, agency and provider literature, agency budget requests, previous studies and reports from 1979 to 2003, information from other states, and other relevant information. To gain further understanding, we interviewed a variety of past and present state agency officials and managers as well as other persons knowledgeable about the system. We interviewed service providers and toured seven residential treatment centers and one BOCES facility.

DFS, WDE and WDH produced documents and electronic data

We requested state agency documents and electronic data to gather specific cost and placement information on court-placed youth. We obtained copies of contact and payment authorizations, provider billing invoices, payment procedures, and other financial documentation from DFS, WDH, and WDE. In addition, we obtained data from DFS' automated case management system, WYCAPS, in order to analyze placement numbers and per-child costs for FY '99 – '04. We cross-referenced this data with similar data from WDE and WDH for FY '03 – '04. We analyzed each agency's data by individual according to age, gender, placement type, length of stay while in placement, and by provider and service categories.

Since DFS was the agency we engaged for this evaluation, we chose to use DFS data and documentation as the baseline for comparing information from WDE and WDH: for example, in defining providers, counting numbers of children in residential placement, ascertaining providers' daily reimbursement rates, and calculating overall service costs. During preliminary research, we found that many children began placements in one fiscal year, but ended their placement in the following fiscal year(s). Consequently, when assessing the data, we concluded it was more accurate to look at the data covering multiple years. This would better account for those placements that overlapped fiscal years and/or those children who changed providers, and it would also lessen the impact of unknown start and end dates for children's placements which fell outside our information

request parameter for each agency. For example, when aggregating each agency's cost information by RTC provider (shown in Appendix C, Figure C.5), our figures reflect FY '03 – '04 data, as those were the only years for which we received complete datasets from each agency.

Case file review

To review caseworker practices in managing COPs cases and determine whether practices vary according to field office or judicial district, we conducted a case file review of children who were placed during FY '03. Rather than taking a random sample, we chose to draw a systematically stratified sample to ensure a distribution across category type and judicial district. The sample was also expected to include a broad representation of facilities, thus showing a range of acceptable practice in treatment plan specifications.

We chose FY '03 for three reasons. First, calling for records from a completed fiscal year was expected to be less disruptive for caseworkers who might need to use current records for active case management. Second, we anticipated choosing this year would provide a snapshot of cases with a broad range of diversity of youth for both placement stages and scenarios. Third, a new DFS administration took charge during the second half of FY '03; because any of its policy or procedural changes during its first six months would be unlikely to show measurable effects so quickly, this study can be used as a baseline evaluation to gauge the longer-term impacts of such changes.

DFS provided WYCAPS data for 375 cases; after deleting duplicate records, the remaining population consisted of 320 cases. We systematically selected 167 cases which included: all CPS cases, all Northern Arapahoe and Eastern Shoshone placements, and all cases from the smaller districts (those with fewer than 20 cases); the remaining CHINS and delinquent cases were chosen systematically by district based on the total number of each type of case in each district.

Our final sample size was reduced to 135 because of 12 files not produced, and also by our decision to systematically exclude approximately 20 files due to such factors as time constraints (our intent was to return case files promptly), similarities in case file management, and the disproportionately large number of cases we received from three districts.

We examined each of the cases for 212 items mandated by statute, DFS rule, and DFS procedural requirements. Each item was noted as *present* if the information was present in the file regardless of quality or whether it adhered to required format. Due to inconsistencies by field offices and general incompleteness of file documentation, additional quality analysis of case file contents was not feasible. We entered information obtained through this review into an Access database for analysis.

Recent Program Evaluations

Cost-of-Living Adjustments: WRS Public Employees' Pension Plan	October 1996
Crime Victim Services	January 1997
Legislatively Designated Investments	May 1997
State-Owned Vehicles	September 1997
Agency-Provided Housing	September 1997
Professional Teaching Standards Board	December 1997
Game and Fish Department Limited-Quota License Draw	December 1997
UW's Institute for and School of Environment and Natural Resources	June 1998
Wyoming Department of Education School District Accreditation Reporting	June 1998
Laboratory Privatization and Consolidation	October 1998
Community College Governance	May 1999
Child Protective Services	November 1999
Wyoming State Archives	May 2000
Turnover and Retention in Four Occupations	May 2000
Placement of Deferred Compensation	October 2000
Employees' Group Health Insurance	December 2000
State Park Fees	May 2001
Childcare Licensing	July 2001
Wyoming Public Television	January 2002
Wyoming Aeronautics Commission	May 2002
Attorney General's Office: Assignment of Attorneys and and Contracting for Legal Representation	November 2002
Game & Fish Department: Private Lands Public Wildlife Access Program	December 2002
Workers' Compensation Claims Processing	June 2003
Developmental Disabilities Division Adult Waiver Program	January 2004

Evaluation reports can be obtained from:

*Wyoming Legislative Service Office
213 State Capitol Building Cheyenne, Wyoming 82002
Telephone: 307-777-7881 Fax: 307-777-5466
Website: <http://legisweb.state.wy.us>*