
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

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

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

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.

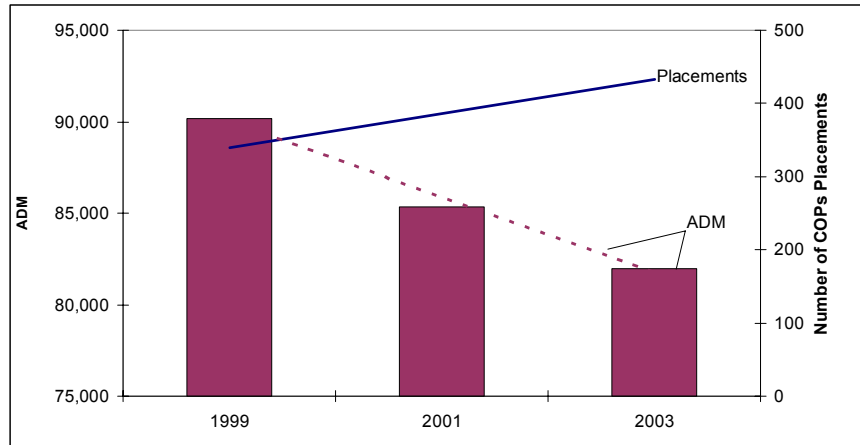
We reviewed an Office for Juvenile Justice and Delinquency Prevention (OJJDP) report that found Wyoming had the second highest juvenile placement rate in the region in 1997 and 1999, and analyzed the methodology used in it. The comparator states were Colorado, Idaho, Montana, Nebraska, South Dakota, 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***DFS has responsibility for important program functions that need improvement.***

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.

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.