

SEX OFFENDER PLACEMENT

Departments That Are Responsible for Placing Sex Offenders Face Challenges, and Some Need to Better Monitor Their Costs

Audit Highlights . . .

Our review of the departments of Developmental Services (Developmental Services), the Youth Authority (Youth Authority), and Mental Health (Mental Health) processes and related costs for releasing sex offenders into the local community revealed:

- Developmental Services cannot identify the total number of individuals it serves who are registered sex offenders, or the related costs, and is not required to do so.*
- Youth Authority's out-of-home placement standards do not conform to laws and regulations otherwise governing housing facilities. In addition, it cannot track the cost of housing sex offenders in the community because of an inadequate billing system.*
- Only three sexually violent predators (SVPs) have been released to Mental Health's Forensic Conditional Release Program, but procuring housing for SVPs may continue to be difficult, and the program has proven costly.*

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Department of Developmental Services, the Division of Juvenile Justice from the California Department of Corrections and Rehabilitation, and Department of Mental Health responses as of November 2005 and December 2005

The Joint Legislative Audit Committee (audit committee) asked us to review the process and costs of the departments of Developmental Services (Developmental Services), the Youth Authority (Youth Authority), and Mental Health (Mental Health) for placing sex offenders in local communities. Specifically, the audit committee asked us to review the three departments' policies and procedures for identifying, evaluating, and placing sex offenders in local communities. It also asked us to review the contracts these departments have with homes used to house sex offenders and to identify the placement costs that each department incurred for the last three fiscal years. Finally, the audit committee asked us to evaluate the relationship between regional centers' housing agents and homeowners for a sample of placements made through Developmental Services during the last fiscal year. For purposes of our audit, we defined a sex offender as follows: At Developmental Services, these are consumers who are required to register as sex offenders under the Penal Code, Section 290; at the Youth Authority, this population includes youthful offenders eligible for placement in its Sex Offender Treatment Program; at Mental Health, this population includes Sexually violent predators (SVPs) as defined by the Welfare and Institutions Code, Section 6600. We found that:

Finding #1: Various laws complicate the treatment of sex offenders by Developmental Services.

Developmental Services cannot identify the total number of its consumers who are sex offenders and is not required to do so. Specifically, the Lanterman Developmental Disabilities Services

In addition, the State currently has no process to measure how successful the SVP component of this program is or to determine how to improve it.

Act does not require that consumers provide criminal histories, such as prior sex offenses, when accessing services provided through regional centers. Furthermore, the law only allows the California Attorney General to provide Developmental Services the criminal histories of its potential consumers in very limited circumstances. That same law generally prohibits law enforcement agencies and others from sharing this information with Developmental Services or the regional centers. Because Developmental Services cannot always identify the registered sex offenders in its consumer population, it cannot isolate the costs associated with placing them in local communities. Developmental Services also may not be able to identify and assist consumers with specific services and supports needed to address the behaviors related to his or her sex conviction. When regional centers identify consumers who are sex offenders, they face barriers in placing them in local communities. For example, one community's protest caused Developmental Services to postpone a regional center's implementation of the community placement plan for a small group of consumers in that community.

To most appropriately provide services and supports to its consumers, we recommended that Developmental Services consider seeking legislation to enable it and the regional centers to identify those consumers who are sex offenders by obtaining criminal history information from the attorney general. If the Legislature chooses not to allow access to criminal history information, Developmental Services should seek to modify its laws and regulations governing the individual program plan process to include a question that asks potential consumers if they must register as sex offenders.

Developmental Services' Action: Corrective action taken.

Developmental Services agreed that a mechanism should be in place to facilitate regional centers' ability to identify those of its consumers who are required to register as sex offenders under Penal Code, Section 290. Developmental Services reports that it has implemented a plan to use the Megan's Law Web site to identify consumers who are registered sex offenders. Developmental Services states that the information obtained from the Web site will be used solely to ensure that regional center consumers who are registered sex offenders receive appropriate services pursuant to the Lanterman Developmental Disabilities Services Act and will not be used in a manner prohibited by law.

Finding #2: The Youth Authority has problems with placement and monitoring of sex offenders, as well as with contracting.

The Youth Authority's standards to assure that basic and specialized needs of the parolees are met do not conform to laws and regulations otherwise governing housing facilities. Because parole agents do not always complete evaluations and inspection of these homes, the safety of the parolees may be in jeopardy. For example, parole offices failed to perform background checks of owners, operators, and employees for 12 of the 14 homes that we reviewed. Also, parole offices do not always follow procedures for supervising parolees who are sex offenders, making it difficult for parole agents to promptly identify whether these youths need more intensive monitoring. Specifically, the Youth Authority could not provide documentation to demonstrate that parole agents held case conferences for nine of the 60 paroled sex offenders in our sample. Moreover, according to our review, parole agents were up to 96 working days late in documenting the case conferences for 36 of the sex offenders.

In addition, the Youth Authority's contracts with homes do not contain some of the elements of a valid contract. For example, the contracts do not specify the term for the performance or completion of the services, nor do they clearly describe the level of service the homes must provide. Moreover, the Youth Authority could not justify the rates it pays to homes. Further, the Youth Authority has not adequately designed and implemented a billing system to track housing costs for youthful offenders. Finally, although the Youth Authority has a conflict-of-interest code meant to avoid potential conflicts of interest, it does not ensure that all of its supervising parole agents and those employees who perform the duties of the supervising parole agents file statements of economic interests.

To assure that at a minimum it meets the basic and specialized needs as well as safety of sex offenders who are on parole, we recommended that the Youth Authority address the deficiencies in its out-of-home placement standards and modify its regulations accordingly. It should also conduct periodic reviews of a sample of the parolees' case files to ensure parole agents' compliance with its supervising procedures. In addition, to ensure that its contracting process meets state requirements, we recommended that the Youth Authority seek guidance from the departments of General Services (General Services) and Finance (Finance).

To ensure that it can accurately identify the costs associated with housing sex offenders in the community, we recommended that the Youth Authority identify and correct erroneous data in its billing system, implement controls and procedures to ensure the completeness and accuracy of the records, and reconcile the invoices in its billing system with the payments in its accounting records. To ensure that the Youth Authority places paroled sex offenders in group homes that provide the most adequate services for the least amount of money, we recommended that it conduct a study of out-of-home placement rates paid by each of its parole offices and ensure that the rates set are commensurate with the services the homes provide. Finally, to ensure that it avoids

potential conflicts of interest, the Youth Authority should ensure that all supervising parole agents and employees who are performing duties similar to those of the supervising parole agents file a statement of economic interests.

Division of Juvenile Justice's Action: Partial corrective action taken.

The Division of Juvenile Justice (division) within the California Department of Corrections and Rehabilitation (formerly the California Youth Authority) reports that it is working toward addressing the deficiencies in its out-of-home placement standards and modifying its regulations accordingly. Specifically, the division stated that a workgroup was formed and the group has revised the Parole Services Manual (PSM) to incorporate applicable laws, regulations, rules, and standards of public safety and service delivery. The division formed another workgroup to evaluate parole agents' compliance with its supervisory procedures. This group recommended changes to the PSM that require parole agents to adhere to case conference schedules and document their results. The division anticipates that the changes to the PSM made by both groups will be approved by March 1, 2006. In addition, the division reports that it made changes to its foster home agreement in September 2005 to include a specified period of time for the performance of services, the total amount of the agreement, and a description of the services. The division also reported that it formalized its billing system so that it can track the cost of sex offender group placements and that it has implemented measures to ensure the input of accurate data, and to enhance its ability to manage and monitor the system. Further, the division stated it completed a study of the out-of-home placement rates paid by each of its parole offices and found that the pay rate and services vary from office to office. The division developed a chart with three standard levels of service with a range of applicable costs to allow parole supervisors to review prior to procuring services, which it expects to fully implement by February 2006. Finally, the division reported that it revised its conflict-of-interest code policy for fiscal year 2005–06 to include positions for the employees who are performing duties similar to the supervising parole agent.

Finding #3: Mental Health should improve fiscal oversight of the Forensic Conditional Release Program, and the State lacks a process to measure its success.

Superior courts at the county level play a major role in the release of sexually violent predators (SVPs) to Mental Health's Forensic Conditional Release Program (Conditional Release Program) and retain jurisdiction over these individuals throughout the course of the program. Once an SVP resides in a secure facility for at least one year, he or she is eligible to petition the court to enter the Conditional Release Program. Although few SVPs qualify for the program (only three since the program's inception in 1995), procuring housing for them may continue to be difficult, and Mental Health needs to improve its fiscal oversight. For example, it lacks adequate procedures to monitor Conditional Release Program costs. According to the former chief of Mental Health's Forensic Services Branch, due to budget cuts it no longer has an auditor position available to perform audits and detailed reviews of costs. In addition, Mental Health does not adhere to its policies and procedures designed to reduce program costs. For

example, it does not presently ensure that SVPs apply for other available financial resources such as food stamps and Social Security income. Finally, the State currently has no process to measure how successful its Sex Offender Commitment Program is (the Conditional Release Program is its fifth treatment phase in this program) or to determine how to improve it.

To ensure that contractors adhere to the terms and conditions in its contracts, we recommended that Mental Health either reinstate the auditor position or designate available staff to fulfill the audit functions. In addition, Mental Health should follow through on its policy to reduce costs associated with the SVP component of the Conditional Release Program.

To enable the State to measure the success of the SVP component of the Conditional Release Program, we recommended that the Legislature consider directing Mental Health to conduct an evaluation of the program.

Mental Health's Action: Corrective action taken.

Mental Health reports that new funding to reestablish positions eliminated through past budget reductions has not been made available, hence it cannot reinstate the auditor position. However, Mental Health states that other steps have been implemented to better monitor and control contract costs. For example, Mental Health has reconciled all fiscal year 2004–05 claims paid to the contractor who has provided pre-release planning and post-release services for SVPs in the Conditional Release Program. In addition, Mental Health has reviewed invoices supporting negotiated rate expenditure claims for fiscal year 2004–05, for this contractor's costs of providing core services to SVPs, to determine if those claims are allowable, reasonable, and properly classified. Further, Mental Health's Conditional Release Program staff also prepare an expenditure profile for each SVP, based on court approved terms and conditions, which outlines all authorized treatment and supervision regimens and compares this profile to actual negotiated rate expenditures to ensure these costs are reasonable, allowable under the contract, and consistent with court-ordered treatment.

In response to our recommendation that Mental Health should follow through on its policy to reduce costs associated with the SVP component of the Conditional Release Program, Mental Health reported that it has updated the Conditional Release Program policies and procedures manual to specify that staff must always be aware of the need to discontinue a contract when current conditions make the procured activity or service unnecessary. This manual also includes a new life support fund policy for SVPs that specifies that the Conditional Release Program hospital liaison for SVPs is responsible for ensuring that SVPs pursue all other sources of support before receiving life support funds and ensuring that the hospital trust office initiates the Social Security Insurance/Medi-Cal application process. This new policy also specifies that SVPs qualifying for and wishing to participate in the life support

program are required to sign a life support repayment agreement before entering the Conditional Release Program and that the amount of life support funds will be evaluated every six months. Finally, the new life support policy addresses housing costs separately from other support activities.

Legislative Action: Unknown.