

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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REPORT NUMBER 2004-111, DECEMBER 2004

Departments of Developmental Services, the Youth Authority from Youth and Adult Correctional Agency, and Mental Health responses as of December 2004

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 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 Act does not require that consumers provide criminal histories,

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.

such as prior sex offenses, when accessing services provided through regional centers. Furthermore, the law only allows the California Attorney General (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: Pending.

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. It stated that this information would enhance the regional center's ability to assist those consumers in complying with related laws and also to assess the appropriate type and level of services and supports that the person needs. To that end, Developmental Services reported that it will immediately begin exploring options, in collaboration with the Association of Regional Center Agencies, that address the need to obtain sufficient information to meet the legal requirements for consumers who fall under Penal Code, Section 290. It also stated that such options would include

a review of the individual program planning process by which regional centers have the ability to solicit information to ensure that consumers receive services and supports appropriate to their needs and to protect consumers from situations that may not be in their best interest.

Legislative Action: Unknown.

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.

Youth Authority Action: Pending.

The Youth Authority agreed with our recommendations and has assigned a project coordinator to oversee various groups that will have responsibility for addressing the deficiencies noted in our report. For example, the Youth Authority stated that a work group has been established to address the deficiencies in its out-of-home placement standards and to modify its regulations. This work group has been instructed to include specific input from the Department of Social Services, Community Care Licensing, and the Department of Alcohol and Drug Programs on their respective standards and licensing requirements. In addition, the Youth Authority stated that it would devise a plan for getting back into compliance with regard to conducting case conferences. The Youth Authority also reported that it has assigned the deputy director of Administrative Services the task of coordinating a meeting with General Services and Finance to ensure that its contract process is consistent with state law and its own policies. Further, the Youth authority stated that a workgroup will address the issue of the appropriate tracking of costs associated with housing sex offenders and will review the billing, contracting,

and payment process. The Youth Authority stated that it will assign a staff person to conduct a study of its out-of-home placement rates and to chair a workgroup to ensure that its rates are commensurate with the services the homes provide. Finally, the Youth Authority reported that its personnel office is in the process of establishing a checklist to ensure that statements of economic interest are filed when an employee assumes or leaves office. The Youth Authority stated that it also revised its conflict-of-interest code to include positions for employees who are performing duties similar to supervising parole agents. The revision is scheduled to take effect in October 2005. In the interim, the Youth Authority stated that it would request all parole agents with supervisory responsibilities to complete statements of economic interests.

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 Action: Partial corrective action taken.

Mental Health stated that although it will need to receive new funding to reinstate positions eliminated through past budget reductions, it will use Conditional Release Program operations staff to review invoices and supporting documentation prior to making a payment. However, Mental Health did not address fully its efforts to ensure that contractors adhere to the contract terms and conditions for the SVP component of the Conditional Release Program. Specifically, although Mental Health plans to review invoices and supporting documentation prior to making payments to its contractors, as the State Contracting Manual requires, it fails to address adequately the steps it will take to fulfill the audit functions we described in our audit report. Specifically, Mental Health does not indicate if it will seek funding for the auditor position nor does it outline the specific audit steps its Conditional Release Program staff will undertake. Thus, we look forward to Mental Health's subsequent responses relating to this audit issue.

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 will update the Conditional Release Program policies and procedures manual to specify the right to cancel contracts if circumstances cause the service or product to be no longer needed. In addition, Mental Health stated that one contractor enacted procedures to ensure that SVPs are made aware of and follow through with the need to pursue all other sources of support before they receive life support funds. This contractor also added language to its standard terms and conditions stating that the amounts received

by SVPs in the Conditional Release Program as life support funds must be repaid by the SVP. Mental Health also stated that it will update the policies and procedures manual to specify that the amount an SVP receives in life support funds to pay the cost of housing will be evaluated and determined separately from the amount received to pay the cost of other items such as food and clothing.

Legislative Action: Unknown.

