

**Memorandum****DEC 22 2000**

Date June Gibbs Brown
From Inspector General *June G Brown*
Subject Audit of Protections Provided to Foster Care Children Through the Juvenile Justice System in California (A-09-99-00057)
To Olivia A. Golden
Assistant Secretary
for Children and Families

This is to alert you to the issuance of our final audit report on December 22, 2000. A copy is attached.

The objectives of our audit were to determine if the: (i) mandatory foster care protections consisting of the case plan, periodic reviews, and permanency hearings were provided; and (ii) critical protections consisting of the required judicial determinations were made on behalf of the federally-funded foster care children placed into foster care by county probation departments.

We found significant problems in the mandatory foster care protections provided to federally-funded foster care children within the juvenile justice system. Our review of case files showed that the State plan requirements for the case review system were, in large part, not met. Also, our review of the critical protections pertaining to the child's removal from the home disclosed that one or both of the required judicial determinations were not always made for these children.

Although 58 of the 81 cases in our sample had case plans, they did not comply with the requirements mandated by State and Federal regulations. The remaining 23 cases did not have case plans.

Periodic reviews were required for 80 of the cases in our sample. However, 76 cases had one or more of the following deficiencies: (i) periodic reviews did not meet the requirements of the State plan; (ii) periodic reviews were not always held; and (iii) periodic reviews were not always held timely.

For the 52 cases in our sample required to have a permanency hearing, 47 had one or more of the following deficiencies: (i) permanency hearings were not conducted in accordance with the State plan; (ii) permanency hearings were not always held; and (iii) permanency hearings were not always held timely.

Judicial determinations were not made for 22 of the 81 cases in our sample. For the 59 cases with judicial determinations, some determinations did not appear to be consistent with the facts of the case or in the best interests of the children.

Problems with the case review system diminished the effects of regulations intended to safeguard children and their families. These protections were not effective because there was a lack of oversight by the California Department of Social Services (CDSS). The department had not performed a case file review of the probation foster care cases to assess compliance with the case review system. In addition, the State did not have statutes codifying the juvenile delinquency court and probation department procedures for the federally mandated protections. During our audit, California passed legislation which will help bring it into compliance with Federal requirements.

We recommended that CDSS periodically review a sample of probation cases to ensure that the protections are being provided and furnish oversight and technical assistance to the county probation departments to ensure the proper implementation of the new legislation. The CDSS concurred with our recommendations.

Any questions or comments on any aspects of this memorandum are welcomed. Please call me or have your staff contact Donald L. Dille, Assistant Inspector General for Administrations of Children, Family, and Aging Audits at (202) 619-1175.

Attachment

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**AUDIT OF PROTECTIONS PROVIDED
TO FOSTER CARE CHILDREN
THROUGH THE JUVENILE JUSTICE
SYSTEM IN CALIFORNIA**



JUNE GIBBS BROWN
Inspector General

DECEMBER 2000
A-09-99-00057



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Region IX
Office of Audit Services
50 United Nations Plaza, Room 171
San Francisco, CA 94102

CIN: A-09-99-00057

Ms. Rita Saenz, Director
California Department of Social Services
744 P Street, Mail Station 1711
Sacramento, CA 95814

Dear Ms. Saenz:

Enclosed are two copies of U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), Office of Audit Services' (OAS) report entitled "Protections Provided to Foster Care Children Through the Juvenile Justice System in California." A copy of this report will be forwarded to the action official noted below for her review and any action deemed necessary.

Final determination as to actions taken on all matters reported will be made by the HHS action official named below. We request that you respond to the HHS action official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

In accordance with the principles of the Freedom of Information Act (Public Law 90-23), OIG, OAS reports issued to the Department's grantees and contractors are made available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act which the Department chooses to exercise. (See 45 CFR Part 5.)

To facilitate identification, please refer to Common Identification Number A-09-99-00057 in all correspondence relating to this report.

Sincerely,

for *Thomas P. Lenzon*
Lawrence Frelot
Regional Inspector General
for Audit Services

Enclosures - as stated

Direct Reply to HHS Action Official:

Sharon M. Fujii, Regional Hub Director
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EXECUTIVE SUMMARY

BACKGROUND

Certain protections are mandated for each foster care child under State supervision. The foster care protections provided by the case review system include: (i) a case plan, (ii) periodic reviews of the child's status in foster care, and (iii) permanency hearings to determine a permanent plan for the child.

In addition to the foster care protections, critical protections pertaining to the child's removal from the home are also required for the federally-funded foster care child. Under Federal regulations, a child's nonvoluntary removal from his/her home must be the result of a judicial determination to the effect that continuation in that home would be contrary to the welfare of the child. The regulations also require that reasonable efforts be made prior to the placement of a child in foster care to prevent or eliminate the need for removing the child from his or her home, and to make it possible for the child to return home.

In California, the Foster Care program is administered by the 58 county welfare departments under the supervision of the California Department of Social Services (CDSS). Children are placed into foster care by either the county welfare or county probation departments. Children placed by the county welfare departments are called dependents of the juvenile court. A dependent generally comes under the care of the county welfare department due to issues of abuse and/or neglect. In contrast, children placed into foster care by county probation departments are referred to as wards of the juvenile court. A ward comes under the jurisdiction of the county probation department either due to the child's incorrigible behavior or because of acts committed by the child would be considered criminal if done by an adult. In this audit, we limited our review to the protections provided to wards of the juvenile court.

OBJECTIVES

The objectives of our audit were to determine if the: (i) mandatory foster care protections consisting of the case plan, periodic reviews, and permanency hearings were provided; and (ii) critical protections consisting of the required judicial determinations were made on behalf of the federally-funded foster care children placed into foster care by county probation departments.

SUMMARY OF FINDINGS AND RECOMMENDATIONS

We found significant problems in the mandatory foster care protections provided to federally-funded foster care children within the juvenile justice system. Our review of case files showed that the State plan requirements for the case review system were, in large part, not met. Also, our

review of the critical protections pertaining to the child's removal from the home disclosed that one or both of the required judicial determinations were not always made for wards of the court.

We found that:

- ▶ For the 81 cases in our sample, 58 had documents that were identified by probation officials as case plans; however, the case plans did not comply with the requirements as mandated by State and Federal regulations. The remaining 23 cases did not have case plans developed.
- ▶ Of the 80 cases in our sample required to have a periodic review, 76 cases had one or more of the following deficiencies: (i) periodic reviews did not meet the requirements of the State plan; (ii) periodic reviews were not always held; and (iii) periodic reviews were not always held timely.
- ▶ For the 52 cases in our sample required to have a permanency hearing, 47 had one or more of the following deficiencies: (i) permanency hearings were not conducted in accordance with the State plan; (ii) permanency hearings were not always held; and (iii) permanency hearings were not always held timely.
- ▶ Out of the 81 cases in our sample, 22 did not have the required judicial determinations made on the court order. And, judicial determinations made for some of the cases did not appear to be consistent with the facts of the case or in the best interests of the children.

The problems with the case review system diminished the safeguards intended by the regulations for the children and their families. The protections were not effective because there was a lack of oversight provided by CDSS. Also, the department had not performed a case file review of the probation foster care cases to assess compliance with the case review system. In addition, the State did not have statutes codifying the juvenile delinquency court and probation department procedures for the federally mandated protections. During our audit, California passed legislation which will help bring it into compliance with Federal requirements. We are recommending that CDSS periodically review a sample of probation cases to ensure that the protections are being provided and furnish oversight and technical assistance to the county probation departments to ensure the proper implementation of the new legislation.

In response to the draft report, the CDSS concurred with our recommendations. The complete response is provided in the Appendix to the report.

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INTRODUCTION

BACKGROUND

Foster Care in California

The Foster Care program in California is administered by the 58 county welfare departments under the supervision of the California Department of Social Services (CDSS). In California, children are placed into foster care by either the county welfare or county probation departments. Children placed into foster care by the county welfare departments are called dependents of the juvenile court. A dependent comes under the jurisdiction of the juvenile dependency court due to issues of abuse and/or neglect. In contrast, children placed into foster care by county probation departments are referred to as wards of the juvenile court. A ward comes under the jurisdiction of the juvenile delinquency court either because of the child's incorrigible behavior (status offender), or because acts committed by the child (juvenile delinquent) would be considered criminal if done by an adult.

County probation departments receive their authority to place children into foster care through written agreements with county welfare departments. The agreements are intended to ensure that the Federal and State foster care requirements are met. In the agreements, the county probation departments agree to establish a case review system and provide mandated protections to children in their care. The county welfare departments generally determine eligibility for Federal funding and process claims for reimbursement from CDSS for the county probation departments.

The county probation departments are local public agencies involved in the safety and protection of the community. They serve the municipal and superior courts of the counties by recommending sanctions to the courts, enforcing court orders, operating correctional institutions, incarcerating delinquents, placing delinquents into suitable private or county placement, and supervising individuals on probation in the community.

Children under the supervision of county probation departments may be committed by the court to a local detention or treatment facility such as juvenile hall, camp or ranch; or be committed to the probation officer for placement. This placement can be in the home of a relative, a child care institution, or a foster family agency. The court may also impose conditions of probation that include sanctions such as: (i) payment of a fine, (ii) community service, and/or (iii) other limitations on the child's freedom.

In the interest of public safety and protection, children under the jurisdiction of the juvenile delinquency court are required to receive care, treatment and guidance, which should be consistent with the best interest of the children and appropriate for the circumstances, while at the same time holding them accountable for their behavior. In fulfilling this responsibility, probation departments are required to provide the mandatory and critical protections to children in foster care as mandated by Federal regulations.

Criteria for the Mandatory and Critical Protections

The Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272 amended the Child Welfare Service program title IV, part B (title IV-B) of the Social Security Act (Act), and created the Federal Payments for Foster Care and Adoption Assistance, title IV, part E (title IV-E).

The child welfare services and Foster Care programs were intended to operate in consort to help prevent the need for out-of-home placement of children and, in cases where such placement is necessary, to provide protections and permanent placement for the children involved.

Public Law 96-272 mandated foster care protections for each child eligible for Federal foster care payments.¹ Under the Public Law the foster care protections are provided by the case review system. The case review system provides for (i) a case plan, (ii) periodic reviews of the child's status in foster care, and (iii) permanency hearings to determine a permanent plan for the child. In California, the title IV-E State plan implements the Federal requirements for foster care children under its supervision.

In addition to the foster care protections provided by the case review system, critical protections pertaining to the child's removal from the home are also required. Under title IV-E, a child's nonvoluntary removal from his/her home must be the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child. It is also required that reasonable efforts be made to prevent or eliminate the need for removing the child from his or her home, and to make it possible for the child to return home.

Case Plan The Act and the Code of Federal Regulations provide criteria for the case plan. The case plan is a discrete part of the case record, developed timely, and made available to the parent(s) or guardian(s) of the child. The elements which are required to be a part of the case plan include such items as a: (i) description of the type of home or institution in which the child is to be placed; (ii) discussion of the appropriateness of the placement; (iii) method showing how the responsible agency is planning to carry out the orders of the court; (iv) plan for assuring the child receives safe and proper care and that services are provided to the parents, child, and foster parents in order to improve conditions in the parents' home and facilitate the return of the child to his or her own safe home or other permanent placement; (v) plan that addresses the needs of the child while in foster care, including a discussion of the appropriateness of the services to be provided to the child under the plan; (vi) written description of a program and services to assist children age 16 or older transition from foster care to independent living; (vii) justification for placement out-of-State or a substantial distance from the home of the parent or guardian.

The case plan should also, to the extent available and accessible, contain the health and education records of the child including assurances that placement in foster care takes into account

¹Major amendments to Public Law 96-272 occurred under the Adoptions and Safe Families Act (ASFA) that was signed into law on November 19, 1997. The ASFA included new requirements and time periods which are applicable to the foster care protections. The effective date to be in compliance with the ASFA was the date of enactment unless a State required passage of legislation for compliance. California required passage of legislation for ASFA and was granted a delayed effective date by the Department of Health and Human Services. The delayed effective date was January 1, 1999.

proximity to the school the child was enrolled at the time of placement. The child's health records should contain information on the child's immunizations, medications, known medical problems and any other relevant health and education information concerning the child. The health and educational record described in the case plan is to be reviewed, updated and supplied to the foster care provider with whom the child is placed.

Periodic Review The Act requires that the status of each child be reviewed periodically, but no less frequently than once every 6 months, by a court or by administrative review. The periodic review is held in order to determine: (i) the continuing necessity for and appropriateness of the placement; (ii) the extent of compliance with the case plan; (iii) the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care; and (iv) a likely date by which the child may be returned to and safely maintained in the home, or placed for adoption or legal guardianship. The purposes of the periodic review are to assure that children in foster care are receiving appropriate attention and services, that cases are being properly managed, and that plans and activities are specifically directed towards a permanent placement for the child.

In California, the title IV-E State plan required an appearance hearing in juvenile court of the child's status in foster care at least every 6 months. At the hearing, the court determines whether or not the child should be returned to the parent or guardian. The court is also required to make the appropriate periodic review findings. The child, parent/guardian and legal counsel are to receive notice of the hearing and be provided the opportunity to participate in the proceedings.

Permanency Hearing The Act also requires that each child in foster care receive a permanency hearing in court. The purpose of this hearing is to determine the child's status after a period of time in foster care. The permanency hearing must determine whether the child should be returned to his parents, continued in foster care, placed for adoption, or whether some other permanent plan for the child is appropriate. Also, this hearing should determine if out-of-State placement is appropriate and in the child's best interest. In cases where the child is age 16 or over, the services needed to assist in making the transition from foster care to independent living should be specified.

The title IV-E State plan provided for permanency hearings and for ensuring due process is provided to the child and family. The California Welfare and Institutions Code (WIC) statutes cited in the title IV-E State plan stated that a permanency hearing will be held within 18 months of the original placement date and periodically, but no less frequently than once every 12 months thereafter throughout the period of foster care. The statutes specified the: (i) time periods to be used by the courts for assessing continuing reunification services or for establishing a permanency plan for the child; and (ii) due process procedures which include providing written notification of the hearing and the right to legal representation.

Judicial Determinations To be eligible for Federal funding, the Act provides that the removal of the child from his or her home must be the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of the child. In addition, the Act

requires a determination that reasonable efforts be made prior to a child's placement in foster care to prevent or eliminate the need for removal of the child from his or her home, and to make it possible for the child to return home. In its oversight role, the court decides if reasonable efforts were made to prevent removal and that efforts are continuing to be made by the agency for the child to return home.

The WIC contains the requirements for the judicial processes for the children who are dependents of the court. The law provides that the court must be informed why the child has been removed from the parent's custody; the need, if any, for continued detention; the services which could facilitate the return of the child to his or her home; and whether there are any relatives who are able and willing to take temporary custody of the child.

The court also makes a determination on record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from his or her home and whether there are services available which could prevent the need for further detention. Services that the court considers include: case management, counseling, emergency shelter care, emergency in-home care taking, parenting training, transportation and any other related child welfare services.

Population of Children

A CDSS statistical report for the month of August 1998 entitled, "Selected Characteristics of Children in Foster Care" showed that the total number of children in foster care was 82,172. Of this amount, 93 percent were children under the supervision of the county welfare departments and 7 percent were children under the supervision of the county probation departments. The report showed that the children in foster care under the supervision of the county welfare departments were generally placed in foster family homes. The children in foster care under the supervision of the county probation departments were generally placed in group homes.

OBJECTIVES, SCOPE AND METHODOLOGY

Objectives

The objectives of our audit were to determine if the: (i) mandatory foster care protections consisting of the case plan, periodic reviews, and permanency hearings were provided; and (ii) critical protections consisting of the required judicial determinations were made on behalf of federally-funded foster care children who are wards of the court and placed into foster care by the county probation departments.

Scope

Our audit was performed in accordance with generally accepted government auditing standards. The objectives of our audit did not require an evaluation of title IV-E eligibility and, accordingly, we did not review such eligibility determinations. Our review of internal controls at CDSS and

at the county probation departments was limited to those controls necessary to achieve our audit objectives.

The seven counties had 55 percent of the total statewide Federal probation foster care cases as of September 1998.

To meet our audit objectives we reviewed a random sample of 81 cases from seven counties.² These counties were: Alameda, Los Angeles, Riverside, Sacramento, San Bernardino, San Diego, and Santa Clara. In selecting the sample, we obtained foster care payment data files and/or copies of the documentation supporting the foster care payments made from each of the county welfare departments. The payment data contained probation cases for which a foster care payment was reported for the service month of September 1998. The payment data contained such information as: foster care aid type (Federal-AFDC foster care), probation code identifier, case number, case name, service month, placement type, and foster care payment amount. From the data provided by the county welfare departments, we developed a universe of non-duplicative Federal foster care probation cases that had a title IV-E foster care payment for the service month of September 1998.

The universe for the seven counties consisted of 1,738 title IV-E probation foster care cases with foster care payments totaling about \$5.6 million (Federal share \$2.87 million). The Federal foster care payment amount was calculated by multiplying the total foster care payments by the Federal share of 51.23 percent as stipulated by Federal regulations. Table 1 below shows the distribution of our sample among the seven California counties. For September 1998, these seven counties were among the jurisdictions that had the largest population of probation children in foster care of all the 58 counties in the State.

County	Sample Size	Percent
Alameda	10	12%
Los Angeles	29	36%
Riverside	10	12%
Sacramento	7	9%
San Diego	5	6%
Santa Clara	3	4%
San Bernardino	17	21%
Total	81	100%

Table 1. Distribution of Sample

Because some of the protections, such as the periodic reviews or permanency hearings, are provided after a period of time in foster care, we selected an audit period from April 1, 1996 through March 31, 1999, to assess the protections for these 81 cases.

²We had selected ten counties from which a random sample of 100 foster care probation cases were selected for review. However, due to the problems found at the seven counties we visited, we stopped our review at 81 cases. We concluded that the remaining 19 cases would not materially change the results of our review.

Methodology

To meet the objectives of our audit we performed the following audit procedures:

- ▶ Reviewed applicable Federal regulations, policies, and issuances relevant to our audit.
- ▶ Reviewed applicable State regulations and statutes, title IV-E State plan(s), and the California Rules of Court.
- ▶ Reviewed the agreements entered into between the county welfare departments and county probation departments for the seven counties selected for our review.
- ▶ Obtained an understanding of the policies and procedures for implementing the requirements applicable to the foster care protections through discussions with appropriate officials at the CDSS and the county probation departments.
- ▶ Obtained an understanding of the judicial process applicable to the periodic reviews, permanency hearings, and judicial determinations through discussions with the presiding judges of the juvenile delinquency courts in two counties.
- ▶ Assessed the oversight provided by CDSS and/or county welfare departments for the provision of the foster care protections and judicial findings relevant to the wards placed into foster care by the county probation departments.
- ▶ Reviewed the probation case files for the sample of 81 cases to determine if the required protections had been provided to each child.
- ▶ Reviewed service files pertinent to 11 children in our sample at five group homes in one county.

Our audit was performed from May 1999 through August 2000 with field work performed at the seven county probation departments. Preliminary audit work was performed at CDSS in January 1999.

FINDINGS AND RECOMMENDATIONS

Our review disclosed significant problems in the provision of the mandatory foster care protections for federally-funded foster care children within the juvenile justice system. Based on our review of a sample of foster care probation cases, we found that the title IV-E State plan requirements for the case review system were not met. In addition, our review of the critical protections pertaining to the child's removal from the home disclosed that one or both of the required judicial determinations were not always made for wards of the court.

Our sample of 81 cases in seven California counties consisted of children who were juvenile delinquents under the jurisdiction of the juvenile delinquency court. Placement for these children as of September 1998 consisted of the following: 70 in group homes; 6 in certified family homes of Foster Family Agencies; and 5 in county licensed or approved foster family homes. The acts committed by these children included both felonies and/or misdemeanors. Based on the act(s) committed by the child, the court established a maximum physical confinement time that could be imposed for purposes of confining the child within local detention or treatment facilities such as a juvenile hall, camp or ranch. The maximum physical confinement time varied greatly among these children. For example, one child's maximum physical confinement time was 6 months for the act of property vandalism. Another child's maximum physical confinement time was 10 years for the act of sexual assault. The time the children spent in a local detention or treatment facility, such as a juvenile hall, camp or ranch was applied against their maximum physical confinement time. The time spent in foster care type facilities such as group homes and foster family homes was not.

Our findings specific to the case review system and judicial determinations are discussed below.

CASE REVIEW SYSTEM

We found significant problems in the protections provided to federally-funded foster care children at the seven counties in California. These protections are intended to be provided through the case review system and consist of three major components: (i) the case plan; (ii) periodic reviews; and (iii) permanency hearing(s) to establish a permanent plan for the child. Our review of the foster care probation case files disclosed significant deficiencies in all three components.

We found that:

- ▶ For the 81 cases in our sample, 58 had documents that were identified by probation officials as case plans; however, the case plans did not comply with the requirements as mandated by Federal and State regulations. The remaining 23 cases did not have case plans developed. Also, our review at five group homes for purposes of assessing the effect of some of the case plan problems disclosed issues which impacted the oversight and delivery of services to the children and their families.

- ▶ Of the 80 cases in our sample required to have a periodic review, we found for 76 cases one or more of the following deficiencies: (i) periodic reviews did not meet the requirements of the title IV-E State plan; (ii) periodic reviews were not always held; and (iii) periodic reviews were not always held timely.
- ▶ For the 52 cases in our sample required to have a permanency hearing, we determined that 47 of them had one or more of the following deficiencies: (i) permanency hearings were not conducted in accordance with the title IV-E State plan; (ii) permanency hearings were not always held; and (iii) permanency hearings were not always held timely.

The problems with the case review system diminished the safeguards intended by the regulations for the children and their families. The lack of a comprehensive case plan could result in the children and families not receiving all of the needed services. Also, the periodic reviews and permanency hearings either not being held, or not conducted in accordance with the regulations, could result in children remaining in foster care longer than necessary.

The protections of the case review system were not effectively provided during our audit period because there was a lack of oversight by CDSS to the County probation departments. Case file reviews were not performed by CDSS to determine if the county probation departments were complying with the title IV-E State plan. Also, the State did not have statutes codifying the juvenile delinquency court and probation department procedures for the federally mandated protections. Interviews with probation officials also disclosed a limited understanding of how the mission and role of the probation department coincided with the foster care protections as intended by the title IV-E State plan and Federal regulations.

During our audit, the State of California passed Assembly Bill 575 which codified into State law the protections that are mandated by Federal regulations for wards in foster care. Prior to this time, California had statutes that pertained only to dependents of the court but not to status offenders or juvenile delinquents. Proper implementation of this legislation should help CDSS and the counties provide the protections to probation children in foster care. Accordingly, we recommend that the State (i) periodically review a sample of probation case files to ensure that the proper protections are being provided, and (ii) provide training and technical assistance to county probation departments to ensure that the protections are properly implemented.

Case Plans

Our review of the 81 case files for the seven counties disclosed systemic problems with the development and design of the probation case plan for the child. We found that 58 of the 81 children in our sample had a case plan developed by the county probation departments which did not meet the Federal or State requirements for such plans. For the remaining 23 children, we found that no case plans had been developed. This occurred either because the probation department in general did not prepare a case plan, or did not prepare a case plan because the child was in placement with a relative.

Case Plans Did Not Comply With Federal and State Criteria For 58 of the 81 cases, the case plans identified by probation officials as case plans varied as to format and content. For example, one county had a document entitled *Placement Plan* that contained preprinted statements and items to circle. Another county had a document called *Assessment of Need* which needed to be completed by the probation officer. And, a third county had a *Case Plan* which contained preprinted standard wording. Although these documents contained some of the required elements of a case plan, they did not comply with the Federal and State criteria for such plans.

These documents, identified as case plans, were missing one or more of the following items: (i) preplacement preventive services; (ii) reasons justifying out-of-county or out-of-State placement; (iii) discussion as to why the placement was appropriate for the child; (iv) measurable time-limited goals or objectives; (v) methods of how the agency is carrying out the orders of the court; (vi) services to be provided to the family to improve conditions in the child's home or other planned permanent placement for the child; (vii) discussion of the appropriateness of the services provided; (viii) independent living plans for children age 16 or older, and (ix) educational and medical information of the child.

We were generally unable to locate any medical or educational records within the probation case files for these children. Also, these various case plan documents were not always developed timely, were not always dated or signed by the probation officer, and did not contain the signature of the parent or guardian of the child. In addition, we found that a copy of the case plan was neither included in the report to the court nor provided to the parent or guardian of the child.

Impact on Children and Families Our review disclosed an impact on the children and families due to either the lack of a case plan or incomplete case plans being developed. For example, we found some of the following situations: (i) a parent who was surprised at how long the child would be in a group home placement; (ii) a parent who was unable to attend family sessions at the group home due to distance and transportation problems; (iii) a child who was placed in an out-of-county facility despite a court order to place the child close to the parent; and (iv) a child who was placed with a relative without receiving the treatment services prescribed.

County probation officials informed us that case plans are provided to placement providers such as group homes. These group home providers prepare a needs and service plan for the child and family which supplements the probation case plan. While we recognize that certain case plan activities can be performed by these providers, some of the case plan elements can only be completed by the probation department. Since many of the children in our sample were placed into group homes, we expanded our review of the child's case plan to include an evaluation of the coordination between the probation case plan and the needs and service plan at the group home.

Selection and Review at Five Group Homes Five group homes were judgmentally selected from one county based on the level of care and the licensed facility capacity. As of September 1998, 11 of the children in our sample were in placement at these group homes. Four

of the group homes primarily served children who were juvenile delinquents. Our review at these group homes did not include an assessment on whether the facilities were physically restrictive.

We used regulations issued by a division of CDSS known as Community Care Licensing (CCL) for purposes of assessing the needs and service plans for: (i) timely development and updates; (ii) verification that the process was open to the participation of the child's authorized representative; (iii) verification of the approval of the needs and service plan and updates by the child's authorized representative; and (iv) required CCL elements contained in the needs and service plan.

The review disclosed problems that impacted services. Although the group homes generally prepared and updated the child's needs and service plans timely, we found problems in coordination between the probation case plan and the needs and service plan at the group homes for all 11 cases.

The needs and service plan for the child did not fully complete the probation case plan such that all title IV-E required case plan elements would be met. We noted that the needs and service plans did not incorporate all the missing probation case plan elements and did not include all of the required CCL elements such as: (i) the needs and services for the family, (ii) visitation frequency and/or visitation restrictions, (iii) planned length of placement, or (iv) the feasibility of returning the child to his or her home. The missing information could result in services not being provided to the family, visitation restrictions not being enforced, and uncertainty on the part of the child regarding return to his or her home.

There was no written verification in the probation case file that: (i) the development of the needs and service plan and updates were open to the child's probation officer; and (ii) the child's probation officer approved the child's needs and service plan. Although we were informed by group home officials that such information is provided verbally, the CCL regulations required written documentation to substantiate these activities. The lack of involvement, as well as approval, could result in needs and services plans being developed that did not meet the needs of the child and family. For instance, for one child the needs and service plan did not include the parent education classes specified for the parent. For another child, the needs and service plan did not include an assessment for the child's medication needs.

Our review of the medical information at the probation department and group homes disclosed that neither agency had complete medical records for the child. Although the probation case plan did not include any medical information, the probation department did provide a medical discharge summary from juvenile hall to the group homes. However, the medical discharge summary did not contain the child's complete medical history. The medical information provided was for the services provided to the child while at juvenile hall. The information did not include prior medical information on the child. Our review of information within the probation case files indicated that prior medical information for some of these children could be important. For example, one child had taken psychotropic medicine for behavioral disorders and

also had a heart problem. The medical information would be important to the group home operator to avoid misdiagnosis and to assure that needed medical services would be provided.

The medical information at the group homes also disclosed that the medical records were only pertinent to the services provided while the child was at the group home. We were informed by the group home administrators that the child's medical information is not turned over to the probation department when the child's placement ends. The lack of centralized medical information being maintained by the probation department and furnished to the group home providers could impact the medical services provided to the child. For example, we noted for one case that the child had been re-immunized for certain childhood diseases such as measles, mumps, rubella, hepatitis B and diphtheria. This possibly would not have occurred if the child's complete medical records were made available to the group home operator. The availability of complete medical records would help decrease the medical risks for the child, as well as preventing unnecessary Federal and State medical costs.

As with the medical information, the probation case plan did not include educational information on the child. Although the probation department is required to provide educational information under the requirements of the case review system, this did not occur for the 11 cases. We were informed by group home administrators that they attempt to acquire prior educational records on the child. However, this information was not always available timely. For example, a group home did not have information regarding the child's prior attendance at a school that specialized in children with learning disabilities and behavioral problems. While this child was at the group home, he attended a regular school and did not have an individual educational plan. The lack of educational information, according to some group home officials, could delay the child's enrollment into school. And, as with the medical records, the educational records at the group home are not turned over to the probation department when the child's placement ends.

As described above, there were problems in the coordination of the probation case plan and the group home needs and service plan for the child. These problems impacted the delivery of services to the child. Completing the case plan elements, as well as providing complete and updated medical and educational information on the child could improve this coordination.

Periodic Reviews of the Child's Status in Foster Care

Although periodic reviews were being held to review the child's status in placement, we found significant deficiencies. The problems found lessened the assurances that children in foster care were receiving appropriate attention and services; that cases were being properly managed; and that plans and activities were specifically directed towards a permanent placement for the child. See Table 2 below.

County	Number of Cases				
	Required by Review	Periodic Reviews Not Held	Periodic Reviews Not Always Held	Periodic Reviews Not Held	Periodic Reviews Not Held
Alameda	10	10	0	1	0
Los Angeles	28	25	3	6	15
Riverside	10	9	1	1	2
Sacramento	7	7	0	2	4
San Bernardino	17	13	4	9	12
San Diego	5	0	0	0	1
Santa Clara	3	3	0	1	3
Total	80	67	8	20	37

Table 2: Review of Periodic Reviews

[The number of cases with problems do not total 76 because a case may have more than one problem.]

Out of the 80 cases required to have one or more reviews, 76 cases had one or more of the following periodic review deficiencies: (i) periodic reviews did not meet the requirements of the title IV-E State plan or the agreements; (ii) periodic reviews were not always held; and (iii) periodic reviews were not always timely. These problems did not provide assurance that the children were receiving appropriate attention and services and that plans and activities were specifically directed towards permanent placements for the children. The problems among the seven counties varied in degree and are detailed in Table 2.

Periodic Reviews Did Not Meet Title IV-E State Plan or Agreements For the 81 cases in our sample, 80 were required to have one or more periodic reviews. We noted that for one case a periodic review was not required during our audit because the child was no longer in foster care. For 67 of the 80 cases, the periodic reviews were neither held as an appearance hearing nor always open to the participation of the parent and child as required by the title IV-E State plan. Instead, the periodic reviews held for juvenile delinquents in foster care were conducted by the juvenile delinquency court as either judicial reviews or non-appearance hearings. Judicial reviews are done in chambers, generally, without other parties present. Although the title IV-E State plan required periodic reviews conducted by the juvenile court to be appearance hearings, the Juvenile Court Rules allowed these reviews to be held as non-appearance hearings for juvenile delinquents.

The judicial reviews, as evidenced by the court documents, disclosed the absence of the child, parent, legal counsel and court reporter. Also, for the non-appearance hearings we found the lack of presence of the child and parent, and in many cases legal counsel and a court reporter. Although the Juvenile Court Rules required notice to be provided to the child and parent prior to the periodic reviews, this did not occur for many of the cases. We were informed at several different county probation departments that written notices were beginning to be provided near the end of our audit period.

We were unable to determine for many of the cases if the courts had made the required periodic review findings. These findings were not documented on the court order or within the probation officer's recommendations that were incorporated by the court. We found that some counties had begun to include the required determinations either in the court orders or probation officer recommendations near the end of our audit period.

Periodic Reviews Were Not Held No periodic reviews were held for 8 cases, and for 20 other cases there was one or more instances in which the required periodic review was not held. They were generally not held because the child ran away from a foster care placement or had a placement change. In the cases in which the child ran away, the scheduled periodic review was canceled and not rescheduled unless the child was found and returned to the placement. In the cases in which the child had a change in placement, the periodic review was canceled and rescheduled once the child was in the new placement. However, according to Federal policy issuances from the Administration for Children and Families (ACF), these periodic reviews should occur as scheduled. Foster care had not been interrupted but was continuous since the child had not been returned home and the responsibility of the State had not been terminated.

Periodic Reviews Were Not All Held Timely There were 37 cases in which one or more of the periodic reviews were not held timely. The period of untimeliness for these 37 cases generally ranged from 7 to 16 months after the child had entered foster care. A primary reason the periodic reviews were not timely was the date used for calculating when the periodic reviews should occur. We found that the periodic reviews were generally scheduled 6 months from either the date of the dispositional hearing or the date the child was placed into a foster care facility such as a group home. A dispositional hearing is a proceeding in which findings are made regarding the status of the child such as where he or she is to be placed. The date which should have been used was the day when a child was detained and a court made the probation department responsible for supervising the child.³

Permanency Hearings

In our sample, 52 cases were required to have either an initial and/or subsequent permanency hearing. For 47 cases, we found one or more of the following problems: (i) initial and/or subsequent permanency hearings did not meet the requirements for such hearings; (ii) initial and/or subsequent permanency hearings were not held; and/or (iii) initial and/or subsequent permanency hearings were not held timely. See Table 3 below.

³The date used for purposes of calculating when the periodic review should be held has been changed under the ASFA. Section 475(F) of the Act states "A child shall be considered to have entered foster care on the earlier of (i) the date of the first judicial finding that the child has been subjected to child abuse or neglect; or (ii) the date that is 60 days after the date on which the child is removed from the home."

Counties	Number of Cases				
	Required ID State Permanency Hearings	Permanency Hearings Did Not Meet State Plan or Agreements	No Permanency Hearings Were Held	All Permanency Hearings Not Held	Permanency Hearings Held But Not Timely
Alameda	6	5	0	2	0
Los Angeles	14	0	14	0	0
Riverside	8	8	0	0	1
Sacramento	7	7	0	4	5
San Bernardino	11	3	8	2	2
San Diego	4	0	0	0	1
Santa Clara	2	0	0	1	1
Total	52	23	22	9	10

Table 3: Review of Permanency Hearings
[The number of cases with problems do not total 47 because a case may have more than one problem.]

The protection of a permanency hearing for title IV-E children in foster care is to ensure that children do not remain adrift in the foster care system by requiring States to focus on the difficult question of what the child’s permanent plan should be. Therefore, while permanency hearings were being held, we found the manner in which these hearings and/or reviews were held lessened the safeguards. These weakened safeguards could result in children languishing in foster care, or being released to parents or relatives who were unable or unwilling to care for them.

Hearings Did Not Meet Title IV-E State Plan or Agreements We found that the permanency hearings did not meet all of the title IV-E requirements for such hearings for 23 cases. Our review disclosed:

- ▶ 11 cases had permanency hearings held as judicial reviews;
- ▶ 12 cases had permanency hearings held as non-appearance hearings.

Many of the problems identified for the periodic reviews are similar to those of the permanency hearings in counties that conducted both proceedings simultaneously. For example, we noted that neither the child, parent/guardian, nor legal counsel were present at these reviews and hearings. In addition, many of the hearings did not have the presence of a court reporter. We also found for many cases that written notice of the permanency hearing was not always provided to the child and parent. Some of the notices that were provided did not disclose that the hearing was to be a permanency hearing and that the parties had a right to legal representation at the hearing.

Other problems noted in review of the permanency hearings disclosed that the required findings necessary for such hearings were not always documented either in the court orders, or in the probation officers’ recommendations incorporated as findings and orders by the court. Probation officials and juvenile court judges told us that the requirements of the permanency hearing were difficult to apply to juvenile delinquents. It was indicated by these officials that the permanency hearing requirements were more relevant to children who were removed from their homes due to abuse and neglect, then to children who had been removed from home due to the acts committed

by the child. However, these hearings are also required and are important to the juvenile delinquent population in foster care. If the child had been placed into a local detention or treatment facility such as a juvenile hall, camp or ranch, the child's maximum physical confinement time would be reduced by the time spent in those facilities. A child could not be maintained in such facilities longer than his or her confinement time. However, if the child is placed into a foster care facility the time spent in the facility does not reduce the child's confinement time. Therefore, a child could be maintained in a foster care facility beyond the child's maximum confinement time. Without the safeguard of a permanency hearing it is possible that a juvenile delinquent child could: (i) languish in foster care, and (ii) experience physical and/or mental trauma due to uncertainty about when he or she will be released and to whom.

Hearings Were Not Held For the 52 foster care probation cases required to have either an initial and/or subsequent permanency hearing, 22 cases had no permanency hearings, and 9 cases did not receive one or more subsequent permanency hearings. For these 31 cases we noted the following:

- ▶ For 22 cases permanency hearings were not held. In 14 of the 22 cases, we noted that the juvenile delinquency court held only 6-month non-appearance reviews. The parties and their legal representatives were not present at the reviews, the reviews were not identified as permanency hearings, notices of the reviews were not provided to the child or parent/guardian, and the reviews did not establish or address a permanent plan for the child. For 8 cases, we found that the scheduled permanency hearings were canceled when the child ran away from placement even though responsibility for the child remained with the probation department. Policy issuances by ACF stated that such hearings should still be held since the child is still considered to be in foster care.
- ▶ For 9 cases, subsequent permanency hearings were not held to determine if the permanent plan was still appropriate for the child even though the child was still in foster care. The lack of subsequent hearings was due primarily to the probation departments using an 18-month period for the subsequent hearing rather than a 12-month period as required by Federal and State regulations.

Hearings Were Not All Held Timely We found that 10 cases had permanency hearings which were not timely. The delays for the hearings ranged from 13 to 29 months after the child had entered foster care. In some counties, the date used for calculating the permanency hearing date was either the date of the dispositional hearing or the date the child was placed into a group home. The date which should have been used was the day when a child was detained and a court made the probation department responsible for supervising the child. Some of the probation departments were using an 18-month period for calculating the date for the subsequent permanency hearing instead of 12 months as required by Federal and State regulations.

Reasons for the Case Review System Deficiencies

The CDSS did not provide effective oversight of the county probation departments that we visited. It had not performed a case file review of the probation foster care cases to assess compliance with the case review system requirements. We were informed that the State did not include them in its review because the policies in the CDSS Child Welfare Services Manual did not specify these requirements for children placed by the probation departments.

In addition to the lack of oversight, there was a lack of clarity regarding case review system activities required for the juvenile justice children in foster care. Although CDSS officials informed us that the probation departments were required to follow the same case review system activities as are required for abused and neglected children, this was not clear to some of the county probation officials we talked with. County probation department officials informed us that it was not apparent that such policies and regulations promulgated by CDSS applied to them.

Also, there was a lack of State statutes codifying the case review system requirements for wards of the court such as the judicial and probation department processes for the periodic reviews and permanency hearings. According to some of the probation officials, the lack of State statutes affected the implementation of the protections because it was unclear how the title IV-E requirements should be applied. There was a consistent opinion among these officials that implementing the case review system requirements was more difficult for the juvenile delinquent population due to the lack of sufficient State guidelines, CDSS oversight, and technical assistance provided to the probation departments. For example, although termination of parental rights, and adoption or legal guardianship should be considered for children in foster care, we were informed by probation officials that these considerations generally did not apply to the juvenile delinquents in foster care. Also, some of the juvenile justice officials we talked with indicated that the permanency hearings were not held for the probation foster care cases as intended under title IV-E. The opinions expressed by these juvenile justice officials indicated that a lack of State statutes defining the proceedings for wards in foster care and a lack of training for the judges were considered to be contributing factors.

In addition to the above, our review of the agreements entered into between the county welfare and probation departments disclosed that they had been entered into many years ago. These agreements did not contain all of the title IV-E requirements and had not been updated to reflect changes to Federal and State regulations. The agreements also did not define the probation department's responsibility in situations in which a child may not be in a foster care placement but still be in foster care.

Therefore, many of the problems found resulted from: (i) a lack of oversight and review of probation case files by CDSS to determine if the case review system protections had been properly implemented; (ii) no policies defining case review system activities such as case plan development and placement oversight required by the probation departments; (iii) no statutes codifying juvenile court and probation department procedures for the case review system protections such as the periodic reviews and permanency hearings; and (iv) no amendments to

the agreements to reflect changes to Federal and State regulations. However, actions have been taken by the State which should help address many of the problems raised in this audit.

Actions Taken by the State In 1999, during our audit, the CDSS issued emergency regulations which clarified the placement activities required by the probation departments for juvenile justice children in foster care. These regulations require the probation department to follow the policies in the CDSS Child Welfare Services Manual for placement activities such as assessment and case plan development. During our audit, we were informed by several probation officials that training was provided to them by CDSS for purposes of implementing these emergency regulations.

In addition, the lack of statutes for implementing the case review system requirements for juvenile justice children was addressed by Assembly Bill 575. This bill was approved by the Governor on October 10, 1999. The legislation was required to bring the State into compliance with the Federal requirements for the juvenile justice children in foster care. The legislation codified the juvenile delinquency court and probation department requirements pertinent to the protections provided by the case review system such as the case plan, periodic reviews and permanency hearings.

We were also informed by a State official that the CDSS had begun to include within its statewide review a small sample of probation foster care cases. The statewide review occurs over a 3-year period. Each year a certain number of counties are visited and case files are reviewed.

While actions have been taken by the State, the probation departments were in the process of implementing these changes as of the end of our onsite field work. Based on questions asked by probation officials, as well as the problems we found during our audit, we believe oversight of the implementation of these changes is necessary.

Recommendations

We recommend that CDSS:

1. Periodically review a sample of probation case files to ensure the protections of the case review system are being provided as required by Federal and State regulations.
2. Provide technical assistance to the probation departments, as needed, for developing procedures relevant to the case review system.
3. Obtain technical assistance from ACF for purposes of clarifying the case review system requirements for juvenile justice children in foster care.
4. Ensure training is being provided to the juvenile delinquency court judges for the periodic reviews and permanency hearing requirements.

5. Require the counties to modify their agreements to incorporate all of the Federal and State changes for the case review system.

CDSS Comments

CDSS Comments on Recommendation 1 In the written comments provided in response to the draft report, the CDSS concurred with the recommendation and indicated that as of July 1999 probation case files have been included as part of the Child Welfare Services compliance reviews. As a result of the review process, probation departments are required to submit a corrective action plan for any areas found out of compliance which will be monitored on a quarterly basis.

CDSS Comments on Recommendation 2 The CDSS concurred with the recommendation and acknowledged that in July 1999, it began providing probation departments with technical assistance regarding the case review process and corrective action plans. In addition, CDSS indicated that it will provide technical assistance to the Chief Probation Officers of California in their efforts to establish guidelines for developing case plans.

CDSS Comments on Recommendation 3 The CDSS concurred with the recommendation by indicating that it has worked closely with ACF, Region IX over the past several years on matters related to compliance requirements for title IV-E eligibility and to ensure that information is disseminated to the counties. The CDSS responded that its management meets quarterly with Department of Health and Human Services, Region IX staff to address a wide array of topics, and to maintain a regular forum of communication and collaboration.

CDSS Comments on Recommendation 4 The CDSS concurred with the recommendation. The CDSS responded that it entered into a contract with the Judicial Council of California to implement a Judicial Review and Technical Assistance (JRTA) project in California to provide technical assistance and training to all participants in the California juvenile court systems (judicial officers, court clerks, county social workers and probation officers). The JRTA's role is to ensure that the juvenile delinquency court judges are provided with information regarding periodic reviews and permanency hearing requirements during the yearly site visits. In addition, the CDSS disclosed that last year it augmented the JRTA contract to enhance the services provided to judicial officers and probation officers in delinquency cases by addressing all of the deficiencies raised in our audit.

CDSS Comments on Recommendation 5 The CDSS concurred with the recommendation by indicating that it issued two All County Letters which addressed the counties' responsibility to modify their agreements to incorporate changes in Federal and State law. In addition, CDSS stated that counties had been instructed to submit copies of newly-executed agreements to CDSS by July 17, 2000, and stated that noncompliance will result in the loss of Federal title IV-E funding for probation foster care cases. The CDSS stated that it will continue to monitor county agreements for compliance with State and Federal requirements.

JUDICIAL DETERMINATIONS

The required judicial determinations, which are considered critical protections to children in foster care, were not always being made by the court at either the detention or dispositional hearings. Out of the 81 cases in our sample, 59 cases had evidence of the required judicial determinations on court orders. However, 22 cases did not. In addition, we found certain problems for some of the cases in which the determinations were made that did not appear to be consistent with the facts of the case or in the best interests of the children.

These problems had the effect of weakening the protections that these determinations were intended to provide. The congressional intent for these determinations was to provide independent oversight of actions an agency might take for children under its care. This oversight is to ensure that: (i) children were not removed unnecessarily, (ii) services were provided to prevent removal, and (iii) services were provided to return the child home.

Based on our review and information provided to us by probation officers and juvenile justice officials, these problems were primarily caused by a lack of statutes implementing the title IV-E judicial requirements for juvenile delinquents, and a lack of training within the juvenile delinquency system for court personnel and probation officers relative to the title IV-E requirements.

In October 1999, the State passed legislation that addressed the judicial determination requirements for juvenile justice children. Therefore, we recommend that the CDSS provide technical assistance to the counties on implementing these provisions.

Juvenile Delinquency Court Procedures

A proceeding in the juvenile delinquency court to declare a child a ward of the court is commenced by the filing of a petition. The petition is filed by the following parties:

- ▶ Probation department for children who are alleged to be incorrigible (status offenders).
- ▶ District attorney on behalf of the people of the State for children who are alleged to be juvenile delinquents.

Prior to the juvenile court proceedings the child may or may not be detained. If the child is detained in custody, a detention hearing must occur within a reasonable period of time to determine if the child should be removed from his or her home. In California, the Juvenile Court Rules applicable to children who are alleged to be wards of the court require that if a court orders the child detained, the court must make certain findings. These findings must be on the record and in writing. Certain findings to be made by the court, if they are applicable, include: (i) continued residence in the home of the parent or guardian is contrary to the child's welfare; and (ii) reasonable efforts have been made to prevent removal, or the lack of effort was reasonable

because of the emergency nature of the removal. After finding that a child is a person described as a ward of the court, the court hears evidence on the question of the proper disposition to be made of the child. The probation officer prepares a report which includes a recommendation for disposition of the child such as home on probation, camp community placement, suitable placement in a residential facility, or California Youth Authority.

Review of Determinations at Seven County Probation Departments Out of the 81 cases in our sample, 59 had court orders which contained the required determinations. For these cases, determinations were generally made at either the detention or disposition hearing. However, we determined for 22 cases the court orders were missing one or both of the required determinations. These 22 cases were applicable to three out of the seven counties in our review. See Table 4 below.

County	Number of Cases	Number of Cases with Required Findings	Number of Cases with Missing Findings	Number of Cases with Missing Findings
Alameda	10	8	0	8
Los Angeles	29	2	2	2
Riverside	10	0	0	0
Sacramento	7	0	0	0
San Bernardino	17	12	4	12
San Diego	5	0	0	0
Santa Clara	3	0	0	0
Total	81	22	6	22

Table 4: Review of the Required Judicial Determinations
[The number of cases with problems do not total 22 because a case may have more than one problem.]

For the 22 cases we noted no evidence on the court order indicating that the court had made the required judicial findings. We found that the required findings were either not marked or not otherwise indicated on the court order. In some counties, the required findings are preprinted on the court order and the appropriate boxes are marked. In other counties, the findings of the court are indicated by specific narrative within the court order.

Analysis of determinations made disclosed some problems. In some cases determinations were made that weakened the assurances such findings are to provide. For example:

- ▶ Judicial findings to the effect that continuance in the home is contrary to the child’s welfare were not always being made at the hearing regarding the initial removal of the child from his home. For example, we noted for some cases that these findings would be included in a subsequent court order modification that would remove the child from juvenile hall and place the child into a temporary foster care facility. This finding at the hearing initially removing the child is critical for his or her protection.

- ▶ We found cases in which a finding of continuance in the home is contrary to the child's welfare was made but the child was released home pending placement. We also found cases in which the judicial finding that reasonable efforts had occurred to prevent the removal of the child from his or her home; however, information in the case files, as well as in the circumstances of the case, indicated that efforts to prevent removal had not been provided.
- ▶ Some court orders contained preprinted "blanket" title IV-E judicial determinations which did not have to be marked. As a result, the specific judicial determination could not be determined on a case-by-case basis. For example, one of the court documents used had a preprinted "blanket" statement at the very top of the document that indicated that it was contrary to the child's welfare to remain in the home of the parents or legal guardian. However, this statement covered all actions that the court could order such as detain the child or release the child. The "blanket" statement did not provide clear evidence that the judicial determination was made on an individual case by case basis.
- ▶ Judicial findings indicated that reasonable efforts were made even though there was insufficient or lack of information within the report of the probation officer regarding the preplacement preventive services, considered or offered to the parents or legal guardian of the child by the probation department.

Reasons for the Deficiencies and Actions Taken by the State

For about 27 percent of the cases, one or more of the required determinations were not made by the courts. The majority of the cases were primarily in two counties, indicating a need for the CDSS to provide additional technical assistance and training to these counties for implementing the judicial determination requirements. And, although the judicial determinations were made for 73 percent of the cases in our sample, certain problems weakened the assurances of those determinations. Some of those problems were addressed in the new legislation signed into law in October 1999. The legislation codifies into statute the judicial determinations required at the initial hearing removing the child from his or her home, as well as, what the probation officer is to include in the report to the court. However, since these statutes were signed into law in October 1999, the probation departments and juvenile delinquency courts had not implemented all of the new and amended requirements as of the end of our onsite field work. Therefore, CDSS should ensure that the new legislation is implemented by the probation departments and the juvenile delinquency courts.

In addition to the lack of statutes that codified the judicial determinations, discussions with juvenile justice officials indicated that technical assistance should be provided to help address the other problems identified in our review. These problems were court documents containing preprinted "blanket" title IV-E determinations and title IV-E judicial determinations that appeared contradictory to other information relevant to the case.

Recommendations

We recommend that CDSS:

1. Provide technical assistance to the probation departments and juvenile delinquency courts in (i) implementing the title IV-E judicial determination requirements; (ii) ensuring court documents provide, on a case-by-case basis, the required judicial determinations; and (iii) training juvenile delinquency court personnel and probation department personnel on the intent of the title IV-E judicial requirements.
2. Provide oversight to ensure that the new legislation pertinent to the title IV-E judicial determination requirements is implemented by the county probation departments and juvenile delinquency courts.
3. Instruct the applicable counties to determine if the 22 cases are still in foster care, and if so determine their eligibility for Federal funding.

CDSS Comments

CDSS Comments on Recommendation 1 The CDSS concurred with the recommendation and indicated that it has an interagency agreement with the Resource Center for Family Focused Practice of the University of California, Davis to provide training to probation officers regarding their responsibilities for foster care placements. The CDSS anticipated that the training will commence in the Winter of 2001 and stated that it will ensure those training efforts include information on recently enacted legislation including Assembly Bill 575 and the Adoption and Safe Families Act Final Rule, case plan development, and title IV-E judicial determination requirements. In addition, CDSS commented that the JRTA team has provided county, regional and statewide training on the requirements, purpose and intent of title IV-E.

CDSS Comments on Recommendation 2 The CDSS concurred with the recommendation by commenting that the Department's Foster Care Policy and Child Services Operations Bureaus, in conjunction with JRTA training efforts, will provide technical assistance to ensure that the new legislation to the title IV-E requirements is implemented by the county probation departments and juvenile courts. The CDSS indicated that it will take the lead with the respective probation departments for such technical assistance, and JRTA will assume the lead with the juvenile courts. In addition, CDSS commented that it will coordinate these efforts to ensure that the interpretation of the legislative mandates is consistently applied by both probation departments and juvenile justice systems.

CDSS Comments on Recommendation 3 The CDSS concurred with the recommendation and indicated that its on-site reviews revealed that either one or both judicial determinations were missing. The CDSS commented that appropriate counties will be issued letters instructing them to submit claim adjustments to reflect ineligibility for Federal funding of the cases.

OTHER MATTERS

As part of our audit we reviewed 42 foster care cases under State supervision that were not federally-funded. Under Federal regulations, States are required to provide the same protections to all children in foster care under their supervision regardless of funding source. The purpose of our review was to determine if the foster care protections were provided to these cases in the same manner as the federally-funded cases. We found the same general lack of noncompliance with the State funded cases as we did with the federally-funded cases. The only significant difference was that the county agreements between the welfare and probation departments did not cover the State funded cases.

APPENDIX

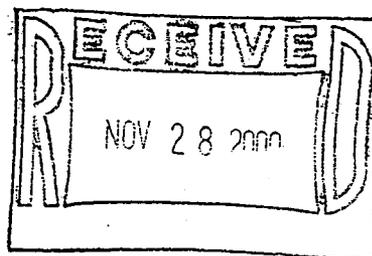
**CALIFORNIA DEPARTMENT
OF SOCIAL SERVICES RESPONSE**

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



November 27, 2000



Lawrence Frelot
Regional Inspector General for Audit Services
U.S. Department of Health and Human Services, Region IX
Office of Audit Services
50 United Nations Plaza
San Francisco, California 94102

Dear Mr. Frelot:

SUBJECT: U.S. OFFICE OF INSPECTOR GENERAL (OIG) DRAFT AUDIT REPORT A-09-99-00057, "PROTECTIONS PROVIDED TO FOSTER CARE CHILDREN THROUGH THE JUVENILE JUSTICE SYSTEM IN CALIFORNIA"

This is in response to OIG draft audit report A-09-99-00057, "Protections Provided to Foster Care Children Through the Juvenile Justice System in California", transmitted to the California Department of Social Services (CDSS) by the Office of Audit Services on September 29, 2000. In general, the Department concurs with OIG's findings and recommendations. Since the audit period from April 1, 1996 through March 31, 1999, I believe CDSS has made significant efforts toward ensuring the provisions of mandatory foster care protections for federally funded foster care children within the juvenile justice system. You will find examples of these efforts incorporated into our responses to the draft report's recommendations.

The following are OIG's draft audit recommendations and our responses.

CASE REVIEW SYSTEM

- 1. "Periodically review a sample of probation case files to ensure the protections of the case review system are being provided as required by federal and State regulations."**

The CDSS concurs. Probation case files have been included as part of the Department's Child Welfare Services (CWS) compliance reviews since July 1999. County probation departments will be reviewed on a three-year cycle along with county CWS agencies. Additionally, probation departments are required to submit a corrective action plan for any areas found out of compliance as a result of the review process. These corrective action plans will be monitored on a quarterly basis.

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2. **“Provide technical assistance to the probation departments, as needed, for developing procedures relevant to the case review system.”**

The CDSS concurs. Again, in July 1999, CDSS began providing probation departments with technical assistance regarding the case review process and corrective action plans. The Department will also provide technical assistance to the Chief Probation Officers of California (CPOC) in their efforts to establish guidelines for developing case plans.

3. **“Obtain technical assistance from the Administration for Children and Families for purposes of clarifying the case review system requirements for juvenile justice children in foster care.”**

The CDSS concurs. The CDSS has worked regularly and closely with the federal Department of Health and Human Services (DHHS), Administration for Children and Families (ACF), Region IX over the past several years on matters related to compliance requirements for Title IV-E eligibility, and to seek clarification and interpretation of federal statute and regulations to ensure that information is accurately disseminated to the counties. This has been particularly critical with the passage and implementation of the Adoption and Safe Families Act (ASFA) and regulations.

Additionally, CDSS management meets quarterly with DHHS, Region IX staff to address a wide array of topics, and to maintain a regular forum of communication and collaboration.

4. **“Ensure training is being provided to the juvenile delinquency court judges for the periodic reviews and permanency hearing requirements.”**

The CDSS concurs. In 1995, the Department entered into a contract with the Judicial Council of California to implement a Judicial Review and Technical Assistance (JRTA) project in California. The JRTA project is designed to provide technical assistance to county court systems statewide and to improve compliance with Title IV-E requirements. The JRTA staff provide a range of services to all participants in the California juvenile court systems. These services include legal and technical assistance and training for judicial officers, court clerks, county social workers and probation officers.

The JRTA has a staff of six attorneys with expertise in juvenile law. Each California county is assigned to an attorney. The attorney reviews each county's dependency and delinquency court files on an annual basis to assess the level of compliance with Title IV-E requirements. The attorney meets with the judicial officers and the staff of the county social services and probation departments following the review of court files to discuss the outcome of the review and make recommendations for improvements. The JRTA team of attorneys continues to be available by telephone, mail, and e-mail to answer questions and concerns. The JRTA team also provides additional on-site training as needed.

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The JRTA is designed to ensure that the federally mandated judicial determinations required for continued Title IV-E funding of foster care placements are being made on a consistent basis. Juvenile delinquency court judges are provided with information regarding periodic review and permanency hearing requirements during the yearly site visits.

Due to the high turnover in judicial officers assigned to juvenile court (approximately 30 percent each year), there is a need for continued education of judicial officers. The JRTA team provides on-going training and technical assistance at each juvenile court in the state. Last year, the Department augmented JRTA contract to enhance the services provided to judicial officers and probation officers in delinquency cases. The enhanced training addresses all of the deficiencies raised in OIG audit.

Since July 1, 2000, JRTA team has provided 50 trainings to an estimated 1,170 judges, court clerks, probation officers and CWS staff in over 30 counties.

5. **“Require the counties to modify their agreements to incorporate all of the federal and State changes for the case review system.”**

The CDSS concurs. The Department issued two All County Letters (ACLs) which addressed the counties' responsibility to modify their agreements to incorporate changes in federal and State law. The ACL 99-96, dated November 2, 1999, provided counties basic information regarding the written agreement between county probation and county welfare departments that must be in effect in order to claim Title IV-E for foster children supervised by the county probation departments. The ACL 00-22, dated March 27, 2000, instructed counties to incorporate, at a minimum, the requirements of Assembly Bill (AB) 575 (Chapter 997, Statutes of 1999) into their existing agreements.

Pursuant to ACL 00-22, counties were also instructed to submit copies of newly-executed agreements to CDSS by July 17, 2000. The Department will send a final demand letter to the remaining few counties who have, to date, failed to submit copies of newly-executed agreements. These counties will be reminded that noncompliance will result in the loss of federal Title IV-E funding for their probation foster care cases. The Department will continue to monitor counties' agreements for compliance with State and federal requirements.

JUDICIAL DETERMINATIONS

1. **“Provide technical assistance to the probation departments and juvenile delinquency courts in (i) implementing the title IV-E judicial determination requirements; (ii) ensuring court documents provide, on a case-by-case basis, the required judicial determinations; and (iii) training juvenile delinquency court personnel and probation department personnel on the intent of the title IV-E judicial requirements.”**

The CDSS concurs. The Department has an inter-agency agreement with the Resource Center for Family Focused Practice of the University of California, Davis to provide training to probation officers regarding their responsibilities for foster care placements pursuant to MPP Division 31 regulations. Presently, the curriculum is being reviewed and revised. It is anticipated that training will commence in the winter of 2001. The Department will work with CPOC and the University of California, Davis during the current State fiscal year to ensure that this Division 31 training effort includes information on recently enacted legislation including AB 575 and the ASFA Final Rule, case plan development, and Title IV-E judicial determination requirements.

AB 575 also requires that the Judicial Council of California adopt rules of court, forms, and procedures to implement statutes pertaining to children in foster care placements. The Department is committed to ensuring that the training curriculum meets AB 575 intent. The JRTA team provides individual trainings on the above topics to the probation departments and juvenile delinquency courts during the yearly site visits to review court files for Title IV-E compliance. The JRTA team has provided county, regional and statewide training on the requirements, purpose and intent of Title IV-E.

2. **“Provide oversight to ensure that the new legislation pertinent to the title IV-E judicial determination requirements is implemented by the county probation departments and juvenile delinquency courts.”**

The CDSS concurs. The Department's Foster Care Policy and Child Services Operations Bureaus will provide technical assistance, in conjunction with JRTA training efforts, to ensure that the new legislation to the Title IV-E judicial requirements is implemented by the county probation departments and juvenile courts. The CDSS will take lead with the respective probation departments for such technical assistance, with JRTA assuming lead with the juvenile courts. These efforts will be coordinated to ensure that the interpretation of the legislative mandates is consistently applied by both probation departments and juvenile courts. The JRTA team provides individual trainings to probation departments and juvenile delinquency courts during the yearly site visits to review court files for Title IV-E compliance. The JRTA team has provided county, regional and statewide training on the requirements, purpose and intent of Title IV-E.

3. **“Instruct the applicable counties to determine if the 22 cases are still in foster care, and if so determine their eligibility for federal funding.”**

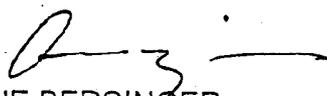
The CDSS concurs with the federal findings in these 22 cases. The Department and staff from Alameda, Los Angeles and San Bernardino counties have made every effort to determine whether the federal judicial determination requirements for the 22 cases were in fact made. On-site reviews of the actual case files were conducted in the three counties.

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Attachment A summarizes the federal findings and our responses to the 22 cases. Those individual counties will be issued letters instructing them to submit claim adjustments to reflect ineligibility for federal funding of the 22 cases.

We appreciate the opportunity you have provided us to furnish information and comment on the findings and recommendations of this draft audit report, and for granting CDSS additional time, until November 28, 2000, to submit our response. If you have any questions regarding these comments and responses, please contact Patricia A. Aguiar, Chief, Foster Care Branch at (916) 324-9084.

Sincerely,



ANNE BERSINGER
Chief Deputy Director

Enclosure

ALAMEDA COUNTY

Sample Number	Open or Closed	Federal Finding	State Response
793	Expunged	Missing "continuance in home is contrary to child's welfare" finding.	Record expunged
781	Closed	Missing "continuance in home is contrary to child's welfare" finding.	CDSS concurs
776	Closed	Missing "continuance in home is contrary to child's welfare" finding.	CDSS concurs
830	Expunged	Missing "continuance in home is contrary to child's welfare" finding.	Record expunged
788	Closed	Missing "continuance in home is contrary to child's welfare" finding.	CDSS concurs
771	Closed	Missing "continuance in home is contrary to child's welfare" finding.	CDSS concurs
805	Closed	Missing "continuance in home is contrary to child's welfare" finding.	CDSS concurs
815	Closed	Missing "continuance in home is contrary to child's welfare" finding.	CDSS concurs

LOS ANGELES COUNTY

Sample Number	Open or Closed	Federal Finding	State Response
1110	Closed	Missing both "continuance in home is contrary to child's welfare" and "reasonable efforts to prevent removal" findings.	CDSS concurs
1641	Closed	Missing both "continuance in home is contrary to child's welfare" and "reasonable efforts to prevent removal" findings.	CDSS concurs

Sample Number	Open or Closed	Federal Finding	State Response
51	Closed	Missing "continuance in home is contrary to child's welfare" finding.	CDSS concurs
321	Closed	Missing both "continuance in home is contrary to child's welfare" and "reasonable efforts to prevent removal" findings.	CDSS concurs
126	Closed	Missing both "continuance in home is contrary to child's welfare" and "reasonable efforts to prevent removal" findings.	CDSS concurs
49	Closed	Missing both "continuance in home is contrary to child's welfare" and "reasonable efforts to prevent removal" findings.	CDSS concurs
87	Closed	Missing both "continuance in home is contrary to child's welfare" and "reasonable efforts to prevent removal" findings.	CDSS concurs
300	Closed	Missing "continuance in home is contrary to child's welfare" finding.	CDSS concurs
134	Open	Missing "continuance in home is contrary to child's welfare" finding.	CDSS concurs
122	Closed	Missing "continuance in home is contrary to child's welfare" finding.	CDSS concurs
256	Closed	Missing "continuance in home is contrary to child's welfare" finding.	CDSS concurs
169	Open	Missing "continuance in home is contrary to child's welfare" finding.	CDSS concurs
318	Closed	Missing "continuance in home is contrary to child's welfare" finding.	CDSS concurs
1	Closed	Missing "continuance in home is contrary to child's welfare" finding.	CDSS concurs