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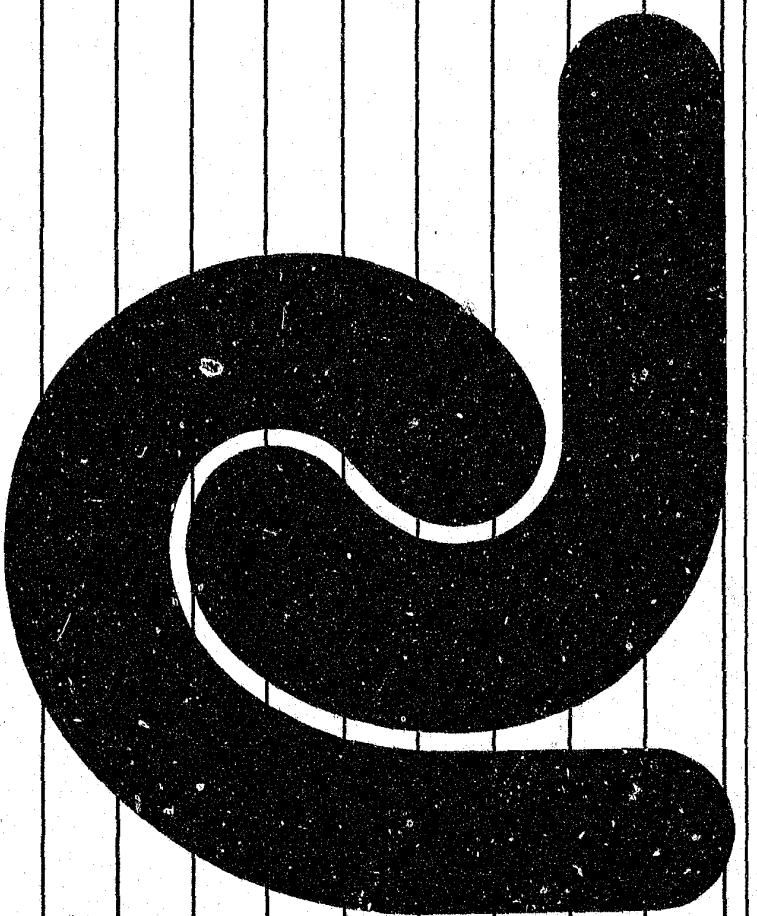
The Council of State Governments

The Interstate Placement of Children:

A Preliminary Report



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The Interstate Placement of Children: A Preliminary Report

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Foreword

Issues surrounding the interstate placement of children have arisen within many contexts during this country's history, from the opening of our western frontiers to the absorption of European immigrants into our Atlantic seaboard cities. In a very real sense, the question never changes: How can we do what is best for our children in such a way as to promote the perpetuation of our way of life?

Through this report, the Council of State Governments, in conjunction with the Academy for Contemporary Problems, attempts to shed new light on this problem. We hope this report contributes to the most current dialogue.

Herbert L. Wiltsee
Executive Director
The Council of State Governments

Lexington, Kentucky
August 1978

Acknowledgments

The Council of State Governments takes this opportunity to thank the people who contributed to this report. In Illinois, North Carolina, and Texas, many state officials, local officials, and facilities operators gave hours of their time for interviews and in preparing special statistical reports. Since so many assisted in the project, it is virtually impossible to thank them all. However, those with whom the Council had the most contact are enumerated in the introductory section to each of the case studies in Appendix C. Their contributions, as demonstrated by this publication, will have a positive impact on childrens' services in America.

The Council would also like to express its appreciation to Dr. James Howell, Director, National Institute for Juvenile Justice and Delinquency Prevention, for his recognition of the timeliness of this research and his encouragement of our request for funds to conduct the study. It has also been our pleasure to work with Ms. Pamela Swain, the project monitor. Always available and responsive, Ms. Swain helped enormously in expediting our requests which became necessary from time to time.

The Council owes a special thanks to the Academy for Contemporary Problems for directing the research and preparing the report in conjunction with Council staff. We would like to thank Mr. Joseph White, the Academy's Senior Fellow in Social Policy, for directing the project and preparing the report. Cooperation between the two organizations enabled everyone involved to act as a single research team. Mrs. Sandra Clapsaddle and Mr. John Hall, both of the Academy staff, also deserve commendation for their dedicated efforts, which frequently extended into weekends and holidays.

To everyone who assisted and who may have not been named, our sincere thanks.

Dr. Jack Foster
Director of Research
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Introduction

The placement of children in out-of-state residential care has recently received special attention. However, not much is known about this practice. The issue has been largely ignored in professional journals, despite a widespread and intensive examination by the news media over the last five years. Several studies by state agencies, legislative staff, and advocacy groups focusing on the question have not only raised public concerns about how children have been treated when sent to facilities in other states but, at the same time, have documented how difficult it is to gather data on either a statewide or national scale. Most of these reports reflect a combination of the presentation of whatever evidence was collectible, held together with anecdotes which were supposed to prove the point. Comprehensive, in-depth research simply has not occurred.

States' concerns over the placement of children can be traced back to the early years of this nation. It is clearly evidenced in child placement legislation in this century, which has attempted to regulate such transfers, and in licensing provisions to regulate the receivers. Current interest in the interstate placement of children in residential facilities has been generated by two factors: the possibility that such children are subjected to abuses because their placements may be in substandard facilities, and the due process and equal protection issues raised by sending children outside the jurisdiction of the placing court or public agency.

Numerous companion issues might be raised, as confirmed by this study. For example: some states placed hundreds of children out of state while other states seldom resorted to this practice; some of the reports cited instances where children were placed and apparently forgotten for several years; on-site monitoring and evaluation of out-of-state facilities' services were reported to be nonexistent.

Three interstate compacts have been developed to facilitate the interstate placement of children, each applying to different circumstances. Although most states are members of all three compacts, it is generally acknowledged that a sizable but unknown number of interstate placements are effected without the benefits or protections afforded by the compacts. The reasons for such avoidance might be attributable to intentional violative behavior, ignorance of the law, or the fact that certain placements do not come under the purview of any of the compacts. Since the frequency and circumstances of noncompact placements have never been nationally documented, the reasons are hard to pinpoint.

Accordingly, the Council of State Governments, in conjunction with the Academy for Contemporary Problems, undertook a pilot feasibility study in three states to determine the accessibility, retrievability, and reliability of certain types of data related to issues associated with the interstate placement of children. The unknown availability of statistics about such placements suggested that a national research effort might either be premature or nonproductive.

A number of different questions were discussed in the process of this study: the numbers and types of children involved; the circumstances under which they were placed; the total cost of placements; the legality of the practice; and the effectiveness of interstate compacts, licensing laws, and other statutes intended to safeguard the rights and well-being of children. For those concerned with the legal issues, Chapters 3 and 4 should prove useful.

The case studies of Illinois, North Carolina, and Texas help to gain a better appreciation of the real magnitude of the problem as well as the frustrations connected with the collection of data. For successfully conducting a national study of interstate transfers, the study documents what records are likely to exist, what information is not retrievable, and what the best sources are for each data element. Further, suggestions are offered which could improve practices and policies affecting children who are placed outside their states of residence.

Should a national study be commissioned, important ramifications for current practices would not be difficult to imagine. At the very least, many questions regarding the frequency and legality of interstate placements could be laid to rest. In any event, this feasibility study can stand on its own as an authoritative legal reference and a study of three states' practices.

Joseph L. White
Project Director

1. Methodology Review

The research design called for a preliminary study in three states in order to determine the feasibility of a national survey of children placed in out-of-state facilities. A number of major tasks were immediately identified: (1) a literature search; (2) the selection of states; (3) the determination of the most appropriate interviewees, and procedures for identifying them and obtaining their cooperation; (4) the identification of data elements that were relevant to the research; and (5) the creation of survey instruments.

Throughout the project, a critical point was the peculiar nature of feasibility studies. The objectives were to learn as much as possible about the practices relating to children who are sent out of the test states or received by them and, at the same time, what techniques would be practicable and what data would be predictably accessible if the study were replicated nationwide.

LITERATURE SEARCH

The literature search was divided into three segments:

1. A review of constitutional provisions, legislative acts (excluding interstate compacts), and judicial decisions relating to the interstate placement of juveniles.

2. A review of the three most critical interstate compacts that affect children, including the historical evolution of compacts as a mechanism for interstate cooperation.

3. A review of popular literature, professional books and journals, mass media publications, and research by advocacy organizations. Of particular note are the following two tasks connected with this portion of the research.

Searches of automated literature indices were made of Project SHARE; the National Criminal Justice Reference Service (NCJRS); and the Mechanized Information Center at the Ohio State University Library. The Council of State Governments' library of publications was also searched for applicable articles, monographs, journals, and texts.

In addition, personal letters were sent to executives of 16 organizations, enlisting their help in locating research documents, unpublished reports, and other information relating to interstate placement.[1]

In particular, the National Council of Juvenile and Family Court Judges, the Children's Defense Fund, the Child Welfare League of America, and the New York Civil Liberties Union were especially helpful in providing information.

The results of these inquiries constitute Chapters 2, 3, and 4. When taken together, the three chapters should provide the reader with a fairly complete understanding of what is presently known about the interstate placement of juveniles in America.

SELECTION OF STATES

In order to select the test states, several criteria were established which were designed to assure that as much useful data as possible could be collected in such a small sampling of states. States were judged according to their reputations for sending or receiving children, the extent to which children's services were the responsibility of state rather than local government, their respective responsibilities for licensing and monitoring private juvenile facilities in their states, the likelihood that relevant data would be available, and our assessment of the willingness of state agencies to cooperate. The states selected were Illinois, North Carolina, and Texas.

DETERMINATION OF INTERVIEWEES

Four different approaches were used to obtain the information for this report: (1) telephone surveys, (2) personal visits, (3) mailed surveys to receiving facilities, and (4) postcard surveys to foster parents.

The sending and receiving state data were to be acquired from five service delivery systems in which all state and local governments are involved: (1) juvenile justice, (2) child welfare, (3) education, (4) mental health, and (5) health.

State agencies were identified in each of the five service delivery areas through the use of specially designed questionnaires for telephone surveys. Individuals were identified who were responsible for administering interstate compacts, licensing, accrediting or monitoring facilities, placing or facilitating the placement of children into facilities

located in other states, paying for placements in other states, supervising the placement of children in other states, and overseeing the treatment received by children sent to their states from other jurisdictions. A limited number of local agencies, such as juvenile courts and mental health centers, were also visited, primarily as a control for assessing the reliability of state agency data.

During the course of preliminarily testing questionnaire forms in Texas, it became clear that three federal agencies were involved in the practice of interstate placement of juveniles. All three agencies were visited and information was obtained from them. These agencies were: CHAMPUS, Department of Defense; Bureau of Indian Affairs, Department of the Interior; and Bureau of Prisons, Department of Justice.

Ten different types of juvenile facilities were identified. For purposes of convenience, the data received from these various facilities were classified into five categories:

(1) *Boarding schools*, consisting of boarding schools and military schools.

(2) *Child-care facilities*, consisting of children's homes, orphanages, and shelter facilities.

(3) *Psychiatric hospitals*, consisting of hospitals which either are completely devoted to mentally ill juveniles or which have juvenile psychiatric units.

(4) *Residential treatment centers*, consisting of facilities that offer training and counseling as their primary services.

(5) *Other*, consisting of such facilities as maternity homes, seminaries, and other places that would be difficult to combine with those in the previous categories.

The mail and postcard surveys presented many problems. In one state, a decision was made to vary research procedures from the other states by mailing the surveys to eight facilities that had indicated they had admitted six or more out-of-state children during 1977 and indicated they would cooperate. In this way, the practicality of a mail survey to such institutions could be tested. Only one survey was completed and returned. Out of the 67 facilities visited in the three states, two psychiatric hospitals and two residential treatment centers refused to share their records.

In Illinois, a mailing could not be made to foster parents because staff did not have access to the directory of foster parents. In North Carolina, the mailing took place in two steps. The state Department of Human Resources distributed the mailings to county social services agencies, which addressed and mailed them to foster parents. In Texas, the mailing went to approximately 10 percent of all foster parents in the state. This represented the entire roster of foster parents living in about one half of the counties served directly by the state Department of Human Resources. The other one half, containing about 95 percent of the state's population, provide welfare and other social services through county offices and maintain their own foster parent rosters.

IDENTIFICATION OF RELEVANT DATA ELEMENTS

In determining the feasibility of a national study of the interstate placement of juveniles, certain types or clusters of information were considered to be important. The retrievability of the following data, therefore, became the basis for all of the work which followed:

(1) The types of agencies and persons engaged in the process of sending children to other states for residential care.

(2) The numbers and types of children placed in out-of-state facilities, except for placements not germane to the study.

(3) The reasons for out-of-state placements.

(4) The types of facilities receiving such children and their locations, personnel, degree of security, programs, and policies.

(5) The interstate compacts used for interstate placements, the extent of use and circumvention, and the reasons therefore.

(6) The differences in processing or treatment between in-state and out-of-state placements.

(7) The costs of such placements and the sources of funds.

(8) The types of data regularly collected by state agencies which bear upon the interstate placement of children.

In structuring a comparable manner in which data would be sought, classified, and analyzed, two policies were adopted. The first decision related to dividing the information sources based upon practices or activities; the second related to seeking data from specific public service delivery systems. As the practice of interstate placements was conceptualized, three distinct types of information appeared to be relevant:

(1) Practices of agencies in sending states. For purposes of convenience, the term "sending state" is used to

designate the child's state of residence. The actual senders might be parents, social agencies, or religious organizations, not just agencies of state government.

(2) Practices of state agencies in receiving states. Similarly, the term "receiving state" is used to designate the state in which the child is placed and is not intended to suggest that agencies of state government have assumed custody.

(3) Practices of public and private facilities that receive children from out of state.

It became readily apparent that many children might be placed in out-of-state facilities for reasons or through channels that had nothing to do with the juvenile justice system. In some cases, the apparent lack of connection might be misleading, as in the case of a delinquent child who might need residential mental health services. As a result, a judgment was made to expand, as much as reasonably possible, the types of juveniles to be covered by the research.

The following categories of children were included and excluded as foci of the study:

Categories included	*Categories excluded*
1. Delinquency	1. Adoption
2. Status offenses	2. Mental retardation
3. Dependency	3. Developmental disabilities
4. Neglect	4. Physical handicaps
5. Abuse	5. Out-of-state children arrested and confined for local crimes or on courtesy warrants
6. Mental illness	
7. Emotional disturbance	
8. Children with educational needs	

After some preliminary exploration of state agency statistical and financial data, a determination was made that no single fiscal year pattern would correspond to the recordkeeping practices of the states. In an effort to facilitate the data-gathering process, a decision was reached to seek fiscal 1977 data as base year information, based upon whatever fiscal year the agency or facility used, and to obtain fiscal 1976 and fiscal 1978 data for purposes of comparison.

DEVELOPMENT OF SURVEY INSTRUMENTS

The research design led quite naturally to the development of a number of questionnaires and other instruments. The forms were numbered from #001 to #008, corresponding in number to the sequence in which they were used. A final form, #009, was a time report maintained by each project staff member regarding time spent in each state for preparing the case study.

Forms #001 through #003 were designed to progressively focus upon the most appropriate and knowledgeable people in state government to interview. Once identified, proper use of the forms allowed the interviewers to set up appointments.

Forms #004 and #005 were used to interview state officials responsible, in one way or another, for sending or receiving children out of state. Form #006 was utilized to discriminate between receiving facilities that accepted no out-of-state children in 1977 and those that did. Among those facilities receiving such admissions, the form allowed for a further discrimination between those that received more than five children and those that received less than six. Within the former category, eight facilities received the mail survey (#007) and the remaining ones were administered Form #008 during on-site visits.

After first drafts were completed, the case studies were shared with one or two state officials who had proven to be the most helpful to the project. An identical procedure was used to solicit comments from federal agency officials for their portions of the report. The final drafts were distributed to one person in each major state agency that was central to the research. Review comments were considered and, in most cases, incorporated.

FOOTNOTE

1. The 16 organizations surveyed were: (1) American Civil Liberties Union, New York, New York; (2) American Public Welfare Association, Washington, D.C.; (3) Children's Defense Fund, Washington, D.C.; (4) Child Study Center, New Haven, Connecticut; (5) Child Welfare League of America, New York, New York; (6) Child Welfare Resource Information Exchange, Washington, D.C.; (7) Department of Health, Education, and Welfare, Youth Development Bureau, Administration for Children, Youth and Families, Office of Human Development Services, Washington, D.C.; (8) Edna McConnell Clark Foundation, New York, New York; (9) National Center for Health Statistics, Health Resources Administration, Hyattsville, Maryland; (10) National Center for Juvenile Justice, Pittsburgh, Pennsylvania; (11) National Coalition for Children's Justice, Princeton, New Jersey; (12) National Council of Juvenile and Family Court Judges, Reno, Nevada; (13) New York Civil Liberties Union, Children's Rights Project, New York, New York; (14) North American Center on Adoption, New York, New York; (15) University of Chicago, School of Social Service, Chicago, Illinois; and (16) University of Michigan, School of Social Work, Ann Arbor, Michigan.

2. A Review of the Literature

PROFESSIONAL JOURNALS AND TREATISES

Professional journals have ignored to a considerable extent the issue of interstate placement of children. With the exception of articles and papers relating to compacts for the legal regulation of interstate movement, the professional literature refers obliquely to interstate palcement in studies of foster care and the need for a family-focused policy rather than a fragmented focus on the child.[1]

Despite the lack of recent professional dialogue, the out-of-state placement of children as an issue is not new. Although the issue has been quiescent until the 1970s, it was very visible 100 years ago. An anthology published prior to the first White House Conference of Dependent Children in 1909 contains four of 14 papers on out-of-state placement: Hastings H. Part, *Placing Out Children in the West*, 1884; Lyman Alden, *The Shady Side of the Placing Out System*, 1885; Homer Folks, *The Removal of Children from Almshouses*, 1894; and Robert Hedderd, *Placing Out Children: Dangers of Careless Methods,* 1899.[2]

A few treatises are worthy of note from the current body of professional literature. In a recent treatise by Nicholas Hobbs, a significant point made is that the way a problem is defined determines its solution. The basic strategy advocated is to shift policy away from the present categorical focus to one that supports the family. He argues that social services should always be viewed as a supplement to enhance child development, not as a substitute for parents, unless it cannot be avoided. While Mr. Hobbs acknowledges that labels cannot be totally eliminated, he documents some of the consequences of labeling children as handicapped, delinquent, retarded, mentally ill, or emotionally disturbed.[3]

Gilbert Steiner, with the Brookings Institution, describes the recent politics of child policy, legislation, and administration of programs.[4] The conclusions of this analysis are relatively pessimistic. He demonstrates that setting priorities weakens coalitions of advocates, while having unfocused goals undermines the responsiveness of legislators. This paradox is described from an insider's perspective, citing the development of the Children's Bureau and the Office of Child Development in the context of such specific issues as day care, Headstart, children's allowances, and health care. The dynamics of the interaction of bureaucrats, professional organizations dealing with children, advocacy organizations, and Congress are analyzed and suggested priorities for the future are discussed. The study is valuable for describing the recent past and pitfalls to avoid in the future.

A study of patterns for financing out-of-state placements offers another way of approaching the issue but, again, little can be found.[5] Other than compiling statistics as to what states pay for placement, little has been written about the sources of funds and the tracing of dollars from source to vendor. Variations of payment practices between agencies in a given state are rarely documented, while variations in payment structure between states is only a little more often recorded. The authors of *Public Payments for Foster Care* reveal the wide differences in payment for placement from one state to another. They conclude that the variety of payment systems points to the need for a systematic look at the true costs of placement.[6] The use of federal dollars by states varies widely. According to their investigations, some states attempt to fund all placements through Medicaid, while many do not; some states avail themselves of Title XX dollars, but others do not. Different state agencies within a state seem to vary widely in their use of federal dollars in paying for child-care placements.

OTHER LITERATURE AND MEDIA REPORTS

In the past five years, however, other types of literature have added to our understanding of the interstate placement issue. Governmental reports and recommendations regarding interstate placement of children have proliferated. These activities responded, in great measure, to television, radio, and newspaper exposes which received a sympathetic response from the public.[7]

The first major attention by the media to the issue was in 1972 in Massachusetts. Critics of Massachusetts'

deinstitutionalization program charged that the former population of the closed state training schools were placed in private out-of-state institutions, some of them in foreign countries. Even as the Massachusetts experience attracted favorable attention in other parts of the country, the out-of-state placement issue remained a major theme.

Illinois became the next state to be examined. In early 1973, the Massachusetts commissioner credited with the deinstitutionalization trend assumed responsibility for the child welfare agency in Illinois. He found nearly 1,000 Illinois children placed out of state. A study was commissioned for children placed in Texas and a policy for immediate return of children placed out of state was established.[8] The media at first focused on the alleged abuses to children out of state, but when children were returned to Illinois, the media focused on what happened to the returned children.

The findings of the study indicated that Illinois wasted dollars in paying for services of unacceptable quality and for services that in some cases were not needed. Abuses abounded; some of the children were physically abused, and most were psychologically abused. In addition, there was abuse in the administration of medication. Licensing procedures by Texas were declared inadequate and the lack of monitoring allowed institutions to receive more children than their allowable capacity.

One conclusion stated: "By placing a ward in an out-of-state institution which could not comply with Illinois licensing requirements, the child's right to equal protection of law is violated."[9]

The report concluded with recommendations regarding monitoring practices, placement procedures, administrative restructuring, alternatives to be made available to courts short of placement, reforms for administering guardianship responsibilities, and compensatory education opportunities for the children returned from Texas.

In Texas, meanwhile, the media began exposing unlicensed child care facilities holding out-of-state children. The Texas House of Representatives responded by establishing a Committee on Human Resources to study child care in Texas. Public hearings were held and it soon became obvious that:

> Texas is presently unable to legitimately claim that all children receiving out-of-home care are receiving the minimal levels of care and treatment which we feel is this state's responsibility to guarantee.[10]

Shortly after the committee began its deliberations, Texas was confronted with the *Morales* federal court decision, and a few months later with the *Gary W.* decision, the latter involving a Louisiana boy in a Texas institution. The committee's report was not issued until November 1974, but by then remedial steps had already been initiated.

The intensity of the media coverage of the Texas, Illinois, and Louisiana issues aroused concern in other states. Probably one of the more important works to date was a book written in 1976 by Kenneth Wooden, *Weeping in the Playtime of Others: America's Incarcerated Children.*[11] Mr. Wooden's book attracted considerable attention. He argued that incarcerated children are the victims of the very system that was established to serve them. It is written in the tone of an investigative reporter with the intent of inciting the reader to action. One chapter deals with the interstate commerce of children. The book relies heavily on secondary sources but, since there is so little reliable information about interstate placement, the anecdotal illustrations sometimes strain credibility when they are purported to be typical.

In August 1977, the *New York Times*, in a front page story, gave a review of the issue from a national perspective.[12] In part, the article was reactive to recent interest in New York state government on the issue. Several months earlier, a report was released by the New York Division for Youth, identifying over 800 children under state care in 70 out-of-state facilities in 21 states.[13] The report criticized the practices of in-state facilities, which indirectly caused the need for out-of-state placement usage, and recommended a substantial reduction in the placement of children in other states' facilities. The legislature has since considered a bill to establish an Out-of-State Placement Bureau to oversee state and local placement practices. The bill, while defeated, will quite likely be reintroduced. The public interest in New York, expressed by media stories, litigation, and legislative activity, led to another study, published in March 1978, by the New York State Council of Voluntary Child Care Agencies. The report, *Where Are the Children?*, is actually a thesis by Adeline Bliven, an MSW candidate from Rutgers University, and consists of the results of a national survey, apparently mailed to the state agency officials responsible for administering the two principal interstate compacts on juveniles.[14] Her findings verified the anomaly, expressed by others in the field, that while most states are parties to the interstate compact, they lack basic information about the children placed and have no practical means of controlling either the sending or receiving practices of their states.

Following successful litigation in returning Louisiana children from Texas facilities (*Gary W.* case), the first systematic attempt to nationally explore the issue of out-of-state placement, in the context of general placement

practices, was undertaken by the Children's Defense Fund in 1975.[15] The staff sent a two-page questionnaire to both child welfare and probation offices in a stratified random sample of 140 counties nationwide. An in-depth study of seven states followed. Finally, all 50 states were contacted regarding sending practices in placing children in other states.

The report, *Children without Homes*, listed 10 major findings particularly critical of state and federal policymakers:

1. A pervasive antifamily bias in placement decisions.
2. Children placed not only are likely to be cut off from families but from the public system responsible for the placement.
3. States fail to meet their legal and moral responsibilities to children in or at risk of placement.
4. There is no overall explicit federal policy toward children out of their homes.
5. Available federal dollars encourage the breaking up of families.
6. Federal policies fail to provide adequate procedural and substantive safeguards for families and children in risk of or in placement.
7. The federal commitment to deinstitutionalization has met with practical obstacles and paid little attention to the special needs of children.
8. Federal programs for children are fragmental.
9. Federal compliance efforts for minority children at risk of removal or in placement are nonexistent.
10. There is an absence of useful information about children out of their homes.

The major recommendations urged a reexamination by states of their placement policies and practices, as well as a case-by-case reassessment of the need to keep currently placed children in other states.

State governments, and particularly state legislatures, began to respond in strikingly similar ways. Normally, a study would be commissioned, followed by substantial amendments to state codes in such areas as licensure, judicial discretion, constraints upon the use of state funds, or reporting requirements.

In Virginia, 1974 and 1975 studies by the House Committee on Health, Welfare and Institutions, the Virginia Advisory Legislative Council Committee, and the Virginia Advisory Legislative Council Subcommittee on the Juvenile Code Revision all addressed, in one way or another, the out-of-state placement issue. As a result, the house authorized, in 1976, a subcommittee on placement of children to report back for the 1977 session.[16]

Specifically, the Virginia study indicated the following concerns and problems:

1. That the number of children sent to out-of-state private facilities by traditional child-placing agencies is approximately the same as for in-state placements. (No figures were cited for placements in public facilities.)
2. That the costs of making out-of-state placements are significantly higher to traditional child-placing agencies than for in-state placements.
3. That children placed out of state are scattered throughout 29 states around the country.
4. That state residential centers are lacking in Virginia.
5. That licensure of public and private residential facilities is inadequate.
6. That on-site monitoring and evaluation of services and programs provided by residential facilities and institutions are almost nonexistent for children placed out of state.
7. That explicit, standard criteria are generally established by state and local child-placing agencies governing out-of-state placements. Priority in the decision is usually given to considerations for programmatic costs, proximity to parents or relatives, and child preferences.

In late 1973, California began a study on out-of-home placement of children.[17] Massachusetts and Indiana established task forces to study out-of-state placements. The Maryland legislature considered but defeated a bill to prevent out-of-state placements. Florida began investigating its licensing practices following a CBS 60 Minutes segment titled "Interstate Commerce in Kids."

New Jersey produced three different studies of out-of-state placements between 1975 and 1977.[18] The first New Jersey study viewed general placement practices in the state and highlighted out-of-state placements. The next two studies focused on out-of-state placements. Although education and mental retardation agencies placed children out of state, the study groups paid scant attention to them. Rather, they concentrated their efforts on the child welfare agency. As of May 31, 1977, 4 percent of the 45,000 children served by this agency (1,793 children) were in placement. Of these, it was reported that 595 were placed in 43 facilities in other states, although 372 were within 50 miles of the state line.

The New Jersey Department of Human Resources, Division of Youth and Family Services, responded to the

studies by issuing a plan to curtail out-of-state placements.[19] Specifically, they ceased referrals to 19 of the 21 out-of-state facilities beyond 50 miles. The report projected a reduction from 223 children to less than 50 children beyond 50 miles by June 30, 1978. There was to be a reduced reliance on facilities within 50 miles of the state line by developing in-state resources. One hundred and fifty new beds were to be available in New Jersey within the time period.

A reasonable conclusion, after reviewing the literature, is that most of it can be divided into two types. The first might be characterized as exposes which advocate various changes, based upon fragmentary, nationwide data. The other type is composed of governmental or quasi-governmental reports which, while quite factual, restrict the scope of inquiry to children from the individual states under investigation.

FOOTNOTES

1. For example, Ralph Brendes, *Interstate Supervision of Parole and Probation*, Crime and Delinquency, vol. H, no. 3 (July 1968), pp. 253-60.

2. Published in *Care of Dependent Children in the Late Nineteenth and Early Twentieth Century* (New York, N.Y.: Arno Press, 1909).

3. Nicholas Hobbs, *The Futures of Children: Categories, Labels and Their Consequences* (San Francisco, Calif.: Jossey Bass Publisher, 1975).

4. Gilbert Y. Steiner, *The Children's Cause* (Washington, D.C.: The Brookings Institution, 1976).

5. Data available periodically from the National Center for Social Statistics, U.S. Department of Health, Education, and Welfare.

6. James D. Cully, Dennis F. Healy, Barbara H. Settles, and Judith B. VanName, "Public Payments for Foster Care," *Social Work*, vol. 22, no. 3 (May 1977), pp. 219-23.

7. A few of the newspapers that have featured stories on the issue since 1972 are the *Boston Globe*; *Chicago Sun-Times*; *Chicago Tribune*; Austin, Texas, *American Statesman*; Houston *Post* and *Chronicle*; *Baltimore Sun*; Richmond, Va. *Times-Dispatch*; Trenton, N.J. *Trentonian* and *Times*. Electronic media also focused on the question. See National Broadcasting Company, Radio Division, *Out of State, Out of Mind*, 1977, on placement of children from New York and New Jersey in foster care institutions in other states.

8. Patrick A. Kennan, *An Illinois Tragedy: An Analysis of the Placement of Illinois Wards in the State of Texas* (mimeographed, August 1973). See also, Illinois Commission on Children, *Review of Out of State Placement of Children and Return of Same* (Springfield, Ill.: 1974).

9. Ibid., p. 139.

10. From transmittal letter to the Speaker of the House from Texas House Committee on Human Resources, accompanying *The Report on the Interim Study on Child Caring in Texas*, (Austin, Texas: November 1974).

11. Kenneth Wooden, *Weeping in the Playtime of Others: America's Incarcerated Children* (New York, N.Y.: McGraw-Hill Book Co., 1976).

12. Feature story by J. C. Borden, "Human Welfare Groups Concerned Over Dispersal of Problem Children," *New York Times*, August 14, 1977.

13. William H. Creighton, *The Placement of New York Children Out of State for Treatment* (Albany, N.Y.: New York Division for Youth, 1977). See also, New York Legislative Commission on Expenditure Review, *Foster Care for Children* (Albany, N.Y.: 1975).

14. New York State Council of Voluntary Child Care Agencies, *Where Are the Children?* (Albany, N.Y.: 1978).

15. The Children's Defense Fund, *Children without Homes: An Examination of Public Responsibility to Children in Out of Home Care* (Washington, D.C.: 1977).

16. Subcommittee on the Placement of Children, *Report of the House of Delegates, Committee on Health, Welfare and Institutions to the Governor and the General Assembly of Virginia* (Richmond, Va.: 1977).

17. Jessica S. Pers, *Government as Parent* (Berkeley, Calif.: Institute of Governmental Studies, University of California, 1976).

18. New Jersey Citizens Committee for Children, *Long-term Residential Care of Children in New Jersey: A Report of the Residential Task Force* (Montclair, N.J.: December 1975); New Jersey Office of the Public Advocate, *Out of State Placements by the Division of Youth and Family Services* (Trenton, N.J.: April 1977); and New Jersey State Legislature, Office of Fiscal Affairs, *A Study of the Division of Youth and Family Services Out of State Placement Procedures* (Trenton, N.J.: 1977).

19. New Jersey Department of Human Services, Division of Youth and Family Services, *A Plan to Address the Issue of the Placement of Children in Residential Facilities Outside of New Jersey* (Trenton, N.J.: 1977).

3. The Law of Interstate Placements

The interstate placement of children is a practice of obscure and virtually unexamined legality. In practice, courts and executive agencies, through their official decisions and informal concurrence, send children across state boundaries for placement in facilities and institutions far from their home communities. Basic questions concerning the legality of this practice seldom appear to have been asked. Do courts and executive agencies have authority to send children out of their home states? Even if legislatures have granted such authority, are there constitutional impediments to the practice? What certainty do sending states have that their out-of-state placement orders will be honored in receiving states? And, what continuing legal control—beyond mere cessation of subsidies or payments—can a sending state exercise over a child in a receiving state?

The law of interstate placements easily divides itself into two parts. One part, considered in this chapter, involves the few court decisions and statutes which touch issues involving interstate placements. The other part of the law is composed of the interstate compacts which attempt to give some regularity to the practice of interstate placements. The principal compacts—the Interstate Compact on the Placement of Children, the Interstate Compact on Juveniles, and the Interstate Compact on Mental Health—are discussed in Chapter 4.

THE CONSTITUTIONAL SETTING

In recent months, the interstate placement of children has come under the scrutiny of federal courts. Courts are being asked to rule on the legality of state practices which result in the placement of children from one state in institutions located in another state. One recent case, *Gary W. et al.* v. *State of Louisiana*,[1] which has received wide attention, resulted in the removal of all Louisiana youths who had been placed in Texas institutions. *Gary W.* was a class action comprised of Louisiana youths who had been placed in Texas either by the direct action of Louisiana state officials or whose placements were financially supported by state government. The plaintiffs claimed that the Texas placements deprived them of treatment rights to which they were entitled under the Constitution and federal statutes and, further, "the mere fact of their placement in out-of-state facilities is itself a denial of adequate treatment and therefore violates federal statutory and constitutional rights."

To support their claim that out-of-state placements were per se illegal, the plaintiffs asserted that the

> primary objective of institutional treatment must be the reintegration of children into their families and home communities. . . . The family of a child placed in residential treatment in Louisiana has the opportunity to participate in the child's treatment program and life by visiting the child and having the child make day or overnight visits home. . . . When institutional care is required it should be afforded near the parent's home; its goals must be the return of the child to the home; and the placement of the child must be in accordance with the inexorable application of "least restrictive alternative:" that is, the kind of treatment that is both nearest the home and imposes the least of all possible restrictions on the child's freedom.

The *Gary W.* court decided the case on "right to treatment" principles, an evolving concept of constitutional law. Cases involving the right to treatment are premised on due process and equal protection grounds, and Eighth Amendment principles. Typically, the cases arise in situations where the state exercises custodial powers over an individual and restricts his liberties. The statutory rationale underpinning the state's assumption of custodial powers is the individual's need for some type of treatment, rehabilitation, or therapeutic services. For the most part, right to treatment cases involve mental patients, prisoners, and institutionalized juveniles.[2]

Where courts have held that individuals have a right to treatment, the right is approached as a quid pro quo: if the state justifies restrictions on an individual's liberties by his need for services, then the state must provide the needed services as long as the liberties are restricted. If the state does not or cannot provide the services, it loses its legal basis for restrictions upon liberty.

The concept of the right to treatment does not necessarily involve interstate placements. The interstate aspect will likely arise in situations where a state has only limited specialized treatment resources, or where they are not available even outside the state. Where interstate aspects arise in a right to treatment case, other peripheral issues, such as a court or executive agency's legal authority to make such placements, are likely to arise and overshadow the right to treatment issue.[3]

While the right to treatment has chiefly been used to get an individual to appropriate treatment without regard to state boundaries, the *Gary W.* case was an attempt to use the principle to withdraw children from placements. Even though the *Gary W.* court granted plaintiff's relief, it did not hold that the right to treatment, federal law, or the Constitution provides a blanket prohibition on out-of-state placements. The *Gary W.* court held:

> What is required is that the state give thoughtful consideration to the needs of the individual, treating him constructively and in accordance with his own situation, rather than automatically placing in institutions, perhaps far from home and perhaps forever, all for whom families cannot care and all who are rejected by family or society.

The court rejected the plaintiffs' claims that legal principles forbid Louisiana officials from placing children in Texas institutions and require them to place children in their own communities.

> But the *a priori* thesis that Texas and all other states than Louisiana are tainted must be rejected. Each child must receive proper care wherever that child is placed. What is proper must be determined separately for each child based on that child's personal attributes and needs. What is proper for a particular child includes consideration not only of whether the child should be placed in an institution or treated in the community; it also includes consideration of the kind and geographic location of the institution or place of treatment.

The *Gary W.* court's refusal to issue a blanket prohibition on out-of-state placements is consistent with other decisions that examine an individual's right to association with family and friends. Although premised on other constitutional grounds than the right to treatment, these other cases examine how far a state may remove a person-in-custody from family and friends.

Much court action, particularly in the criminal and juvenile area, necessarily involves interference with family relationships. Dependency and neglect statuses presume that a court must interfere with a child's family relationship for his own protection. Similarly, incarceration always interferes with an inmate's relationships with family and friends. Yet, some recent challenges to court and prison officials' actions have been based partially on their interference with family relationships.

One early mention of the notion of a right to family and friends appears in *In re Gault*, where the conditions that give rise to due process rights include confinement in institutions that remove a child from "mother and father and sisters and brothers and friends and classmates."[4] In the *Gault* case, which did not involve interstate placement, the Court, through Mr. Justice Fortas, nevertheless held that where confinement deprives a child of family and friends, due process safeguards should not be denied. Similarly *Morales* v. *Turman* criticizes the use of Texas juvenile institutions that remove juveniles great distances from their home communities.[5]

While, as noted in the cases cited, an individual's associational interest with family and friends was always not legally sufficient to prevent state action, in other areas some legal significance appears to be evolving.[6] Due process rights attach when the state brings dependency or neglect proceedings to affect a child's relationship with his parents.[7] Similarly, there is an increasing tendency to accord even to children some legal protection for their "imperfectly formed" relationship with a foster parent.[8]

Given the unsettled constitutional principles applicable to interstate placements, a second approach to testing their legality involves basic issues of statutory authority to make such placements. A recent case, *Sinhogar et al.* v. *Parry et al.*, is testing the authority of New York officials to place youths in out-of-state facilities.[9] The *Sinhogar* plaintiffs allege four constitutional defects in New York interstate placement practices. First, the particular placements involved constitute denials of plaintiffs' right to treatment guaranteed by the Fourteenth Amendment. Second, by sending plaintiffs to out-of-state facilities, "thus separating them from their family and community," without a hearing to determine the appropriateness of the placements, the Fourteenth Amendment is allegedly violated. The third and fourth constitutional defects alleged by the plaintiffs are that the New York practice of placing some children within

New York state and others outside the state, and the granting of out-of-state placement hearings to delinquent youth but not to dependent children constitutes a denial of equal protection of the law.

In addition to due process and equal protection claims, the plaintiff's complaint challenges out-of-state placements because the institutions involved "are not authorized agencies as defined in Social Services Law 371(10) and which are not visited, inspected or supervised by the New York State Board of Social Welfare." Other defects of the placements cited in the complaint include noncompliance of the out-of-state facilities with New York standards for child-care institutions, failure to assure that the programs are appropriate for each child's needs and, by implication, the discouragement of the development of appropriate facilities within New York. If ultimately decided on the basis of the New York statute, *Sinhogar* will be a precedent-setting authority and will provide direction for understanding statutes in other states which authorize official placements.

STATUTORY AUTHORITY FOR COURT-ORDERED OUT-OF-STATE PLACEMENTS

Most juvenile court statutes provide a wide range of dispositional options, irrespective of the type of adjudication. Typically, the court is given options ranging from home placements to institutional commitments. Also, typically, these dispositional alternatives are not identified by any geographical limitations restricting court placements to within state borders.[10]

Can a court commit a youth to an out-of-state facility, absent specific statutory authorization? The few older court decisions on the question do not permit courts to make such out-of-state placements, while the more recent decisions tend toward construing court dispositional authority as broadly as possible in these situations. One 1947 Missouri case, *In re Church*, held that a court could not commit a youth to an out-of-state institution under a statute that was ambiguous on the point.[11] Similarly, a former Michigan statute was interpreted by the state attorney general to not authorize out-of-state placements.[12] One Pennsylvania court, without reference to a specific statute, held that:

> the action of the (trial) court placing (the child) under the jurisdiction and subject to the control of laws of another state and in the control of an institution not responsible to the court making the order or the laws of this Commonwealth, cannot be sustained.[13]

More recent cases decided under statutes as nonspecific as those considered by the Michigan attorney general and the *Church* court, take a more expansive view of juvenile court placement authority. Three recent cases involving out-of-state placements give broad interpretation to court authority to control placements.[14]

The statutory authority to place a youth in "some other suitable place" is a dispositional power common to juvenile court laws. "Suitable" might be construed to include or exclude out-of-state placements. Two cases have held that a juvenile court may make such placements under this statutory wording. In *Reyna* v. *Dept. of Institutions, Social and Rehabilitation Services*, an Oklahoma court construed its powers to place a dependent child "in the custody of a suitable person elsewhere" to give it authority in choosing between homes in Texas and in France.[15] One interesting feature of this case is the court's unexamined assumption that a significant difference between the two competing placements was that it would lose continuing supervisory jurisdiction over the child only if the placement were into the French home. The court nevertheless decided to place the child in the French home.

The second case involved a Georgia statute that permitted placements with some other suitable person. Georgia had enacted the Uniform Juvenile Courts Act which, in addition to placement with other suitable custodians also has specific provisions authorizing out-of-state placements. The court, *In re A.S.*, permitted such placements under either statute.[16]

Since juvenile courts are creatures of statute, their dispositional authority is based on the construction of statutory wording. The specifics of each state's statutes, therefore, are important in understanding out-of-state placement authority. For the most part, dispositional statutes are silent on the question of geographic limitations; a few states, however, do have relevant laws that circumscribe the dispositional powers of juvenile courts in geographic terms.

Statutes with Specific Geographic Limitations

Indiana is unusual in limiting a court's dispositional powers to either institutions "situated in the State of Indiana"[17] or to "child placing agencies in the state."[18] The one exception to these geographic limitations is when an Indiana court is permitted to approve a public or charitable guardian's request for a change of a ward's residence to another state.[19] Although courts in certain other states may place children out of state, agencies having custody or

guardianship may not do so without court approval. Authority requiring juvenile court approval for out-of-state placements is found in Idaho, Utah, and Wyoming.[20] In these states, even if the juvenile court commits a youth to a private agency, which later decides to place the youth out of state, the agency must return to the court and obtain its consent to the out-of-state placement.

Statutes with Specific Authority to Place Out of State

States that have enacted the Uniform Juvenile Courts Act, or variations of it, such as Georgia, Louisiana, North Dakota, and Tennessee, permit their courts fairly wide and detailed authority regarding out-of-state dispositions.[21] Portions of this uniform act attempt to address the problem presented when the family of a child who is under the court's jurisdiction plans to relocate to another state.

The uniform act also permits a court to make out-of-state placements to a "suitable person in another state."[22] An interesting feature of this provision is that if the other state has also enacted the uniform act, the sending court may request the juvenile court in the receiving state to assign a probation officer or other official to supervise the child in placement. No mention is made regarding the use of interstate compacts. As a matter of practice, reciprocal supervision takes place in most states usually through a compact, irrespective of the adoption of the uniform act, despite this authority of the courts to make such placements directly.

A third feature of the uniform act that may be applicable to out-of-state placements is the recognition given to receiving state probation officers and other officials to visit, counsel, control, direct, take into custody, and return children to the court of original jurisdiction. This last provision of the uniform act is, in effect, a grant of comity for the discretionary decisions of the respective state probation officers.

A common statutory provision permits juvenile courts to place a youth out of state if the facility is licensed by an agency in the receiving state "analogous" to the agency which licenses such facilities in the sending state.[23] North Carolina permits its juvenile courts to place out of state where it will result in the return of a nonresident child to his home state.[24] Missouri juvenile courts are permitted to place a juvenile in an out-of-state association, school, or institution, if the agency in the receiving state overseeing the importation of children gives it approval.[25]

Oregon has one of the more detailed statutes authorizing out-of-state dispositions.[26] The Oregon statute permits such dispositions when:

(1) There is an applicable interstate compact,

(2) There is an agreement with another state, or

(3) There is "an informal arrangement" with another state permitting the child to reside there while on probation or under protective supervision, or to be placed in an institution or with an agency in another state.

The Oregon statute contains the significant limitation that different legal categories of juveniles cannot be commingled in out-of-state placements to an extent greater than that permitted under Oregon law.

EXECUTIVE AGENCY AUTHORITY FOR OUT-OF-STATE PLACEMENTS

Similar to statutes affecting juvenile court powers, those authorizing local and state executive agency placements seldom mention geographical limitations. As an example, Nebraska's Department of Correctional Services is permitted to "use other public facilities or contract for the use of private facilities for the care and treatment of children in its legal custody."[27] Whether this permits out-of-state placements is not clear, but it is the typical phrasing in statutory descriptions of executive placement authority. Curiously, Nebraska has some subsequent statutory language which seems to indicate that out-of-state placements are authorized or, at least, not forbidden. Still referring to the Department of Correctional Services, the statute continues: "Placement of children in private or public facilities not under its jurisdiction shall not terminate the legal custody of the department."

This wording still contains ambiguity: the reference to "not under its jurisdiction" might signify geography, or the department's lack of authority over private facilities, or a division of authority between several state departments, each having some responsibility for children's services.

Another Nebraska statute regarding the Department of Correctional Services has a specific reference to placements out of state. In this statute, the department is authorized to place a person in institutions "in another jurisdiction" or "to an out-of-state institution." Whether these two phrases should be read in *pari materia* is not clear, but it is probably safe to assume that the lack of clarity on this point in the first statute gave rise to the latter statute.[28]

Statutes with Specific Geographic References

Reference to out-of-state placement authority may be clear or ambiguous. Louisiana and Vermont have ambiguous references to geography in their laws. In Louisiana, the Division of Youth Services, in developing a regional system of child-caring institutions, is directed to establish them "in or near places in the state."[29] Vermont, equally ambiguous, permits the commissioner of the Department of Corrections (for delinquent children) and the commissioner of the Department of Social and Rehabilitation Services (for CINS) to place children in "private or public agencies of the community where their assistance appears to be needed or desirable."[30]

Alaska and Connecticut have specific authority for executive agency out-of-state placements. Alaska's Department of Health and Social Services is empowered "to arrange for care of every child inside or outside the state."[31] Connecticut authorizes its commissioner of the Children and Youth Services Department to transfer children "to any appropriate resource or program administered or available to the department . . . within or without the state under contract with the department."[32] The commissioner of the Department of Social Services is given authority regarding children to "make reciprocal agreements with other states and with agencies outside the state in matters relating to the supervision of the welfare of children."[33]

Michigan is unusual in that the executive department is authorized to "place a state ward in a public or private agency incorporated under the laws of another state or country and approved or licensed by the other state or country."[34] Missouri's Division of Youth is authorized to place children out of state when it appears that plans for a child's rehabilitation have been made in some other state and the parents and director of the Missouri department give their approval to such placement.[35]

Delaware's Division of Social Services is given limited out-of-state placement authority when it concludes that a dependent child is improperly placed. Although not specified, it appears that this power only applies to children who were brought into the state under its importation statute.[36] In other words, this appears to be a re-placement authority only.

RECOGNITION OF COURT DISPOSITIONAL ORDERS IN OTHER STATES

Whether or not judges and other officials have specific statutory authority to make out-of-state placements, such placements are made. Beyond the basic question of the authority to make these placements, other questions arise concerning the legal effect of such placements. Are they "legal?" Are sending-state orders enforceable in a receiving state? Must a receiving state accord recognition to subsequent orders from the sending state?

Such questions raise many unresolved legal issues in the area of comity, the constitutional principal of full faith and credit, and conflict of laws. Modern decisions tend to ignore these questions and resolve cases on other grounds. In one case, *State ex rel. Juvenile Department of Multnomah County* v. *L.*, the Oregon Court of Appeals brushes aside the question of out-of-state enforceability:

> Any question concerning the court's authority to exercise continuing jurisdiction over L. by ordering her placement in the Chazen Institute [an out-of-state facility] is put to rest by the legislature's 1973 amendment to ORS 419.507 which provides:
>
> "Commitment of a child to the Children's Services Division does not terminate the court's continuing jurisdiction to protect the rights of the child or his parents or guardians."[37]

Older cases, rather than ignoring jurisdictional questions and treating out-of-state placements as problems of statutory authorization, more directly addressed these issues. Two such cases, which reached opposite conclusions, grew out of marriage disputes which challenged the placement of children with out-of-state custodians.

The earlier case, *Comm. ex rel. Lembeck* v. *Lembeck*, involved a Pennsylvania court order placing a child in a New York institution.[38] One of the parents challenged the order's legality on the basis "that the child has been committed to an institution not within the jurisdiction of the courts and that, therefore, the order is unauthorized and legally inoperative." The appeals court agreed with the parent and held that:

> It may be stated as a general proposition that no state can exercise jurisdiction by judicial process or otherwise over persons or property outside its territorial limits. There are certain exceptions to this rule not relevant as applied to the case under consideration. Little discussion is necessary to show that the institution to which this child was

> committed is not subject to the jurisdiction of the court making the order. It is not bound to comply with the order, not if it undertakes so to do is to subject it to the control or direction of the court with reference to the manner in which the appointment shall be exercised. The authority of every tribunal is restricted by the territorial limits of the state in which it is established and any attempt to exercise authority outside of those limits must be regarded as an illegal assumption of power. [*Pennoyer* v. *Neff*, 95 U.S. 714.] The child in this instance is in a sense a ward of the court; she is within the State of Pennsylvania; she is entitled to the protection which the laws of this State give her, and while the order was doubtless made wholly in the interest of the child and with regard to her welfare, the action of the court, placing her under the jurisdiction and subject to the laws of another state and in the control of an institution not responsible to the court making the order or the laws of this Commonwealth, cannot be sustained. As no tribunal territory established by this State can extend its process beyond its own territory so as to subject persons to its decisions, the result of the order complained of is to place the child in an institution over whose management the commiting court has no control and to remit the contending parents to a foreign jurisdiction for determination of a question lawfully subject to a court of competent jurisdiction.

However, in a case contemporary to *Lembeck*, a different conclusion was reached. A child was transferred by court order to an out-of-state third party as part of a divorce proceeding. One of the child's parents challenged the order as not based on any statutory authority for out-of-state placements. The court rejected this challenge, but considered as relevant whether the court might lose jurisdiction over the child by placing it out of state.

> Defendant's contention that the policy of the law to make effective its decrees is of controlling importance is without merit. The hazards of ineffective enforcement arising from the mere change of a ward's residence to another state are not such as to prevent the court from giving fullest force and consideration to the child's greatest welfare, which, as we have seen, is always the paramount and determining factor. . . . It is unnecessary whether a decree for the custody of a minor . . . is a judgment within the protection of the full faith and credit clause of the Federal Constitution . . . ; it is sufficient that, under the principles of comity customarily exercised among the states, the courts of each will give appropriate force to the official character of a custodian appointed in another state and recognize him, in the absence of changed conditions.[39]

Comity

Comity is legal principle that permits the courts of one jurisdiction to recognize and enforce rights created in another jurisdiction when there is no overriding reason for not giving such recognition. Rules of comity are made by both courts and legislatures. When legislatures statutorily define the recognition that courts may accord to out-of-state judgments, they have legislated rules of comity. One typical reason for not applying the principle of comity to a foreign judgment is that the foreign decree is inconsistent with the substantive law of the enforcing jurisdiction. Another reason is simply that the decreeing court in the foreign state was without authority to render the judgment. Comity is not based upon constitutional law, but is an out-growth of common law and international law doctrines which define the inherent powers of courts and legislatures.[40]

An example of comity legislation that is applicable to the topic of out-of-state placements of juveniles is the Uniform Child Custody Jurisdiction Act. A principal motivation for drafting this act was the desire to reconcile the conflicting decisions that had developed in case law involving the recognition of foreign child custody determinations arising from divorce and other postmarital disputes.[41]

The rules of comity provided by the act permit jurisdiction for a child custody determination if the state in which the deciding court sits is:

(1) The child's home state;

(2) The child and another party to the issues have a significant connection with that state and there is available substantial evidence concerning the child's present or future care, protection, training, and personal relationships;

(3) The child is present in the state and there is an emergency requiring the court to take action for his protection; or

(4) No other state could take jurisdiction under the statute.

The significance of this act for out-of-state placements of children is that it provides an orderly set of rules which will permit a sending state court to anticipate what recognition will be given to its orders affecting the custody of a child in out-of-state placement. Nineteen states have enacted this uniform act.[42]

Another statutory basis for the extension of comity to official placements can be found in child import/export statutes. These statutes, discussed in detail below, are found in a majority of states. No case law was found describing these laws as legislative grants of comity to court and executive agency interstate placements. The effect, however, is to provide grants of comity to interstate placements.

The clearest example is the Wyoming importation statute, which is applied to every "person, firm, partnership, corporation, state or political subdivision or agency thereof" bringing or sending children into Wyoming. For interstate placement decisions to be recognized in Wyoming, officials in other states must only comply with Wyoming's notice and reporting requirements. Wyoming is unusual in its specific reference to governmental placements. Another interesting feature of the Wyoming law is its implied exemption from penalties for officials who fail to comply with the requirements of the importation statute.[43]

A few other state importation laws have coverage that might contain specific recognition of other state official placements. The Delaware statute is applied to "any person, institution, agency, association, corporation, bureau, board or commission outside Delaware."[44] The Oregon statute is applied to a "person, agent, agency or institution of another state."[45] South Dakota applies its law to agencies "operating under the laws of another state."[46]

Besides the child import/export statutes, another area where rules of comity have developed which affect interstate placements is found in the recognition accorded guardians appointed in sister states. Comity in this area is a mix of common law and statutes. While the development of comity principles applied to guardians and wards has occurred independently of the import/export statutes, in most states both sets of comity principles may be equally applicable to situations involving interstate placements. This is likely because the parties involved in interstate placements will typically have a guardian status of one sort or another. The difficulty in concluding whether to apply the comity rules for recognizing a guardian's authority involved in an interstate placement results from the diverse meanings attached to the phrase "guardian and ward" and "ward of the court."

In most states, a youth can become a "ward" by court order following either of two judicial procedures. One process is by application to a probate court by a third party for letters of guardianship. Typically, these are special statutory proceedings independent of delinquency, status offense, neglect, or dependency proceedings. A second court process resulting in the appointment of a guardian for a child involves juvenile court proceedings. Typically, an adjudicated delinquent or dependent child is referred to as a "ward of the court" and the person or facility receiving custody of the child is called his "guardian."

The rights and duties for the care and custody of a child imposed on a guardian under either process are probably not significantly different (except as to liability for costs of maintenance of the child and conservancy of his estate); however, what is not clear is whether the guardianship of wards placed out of state is identical for appointments under each procedure.

One case, *Pfortenhauer* v. *Hunter*, illustrates a type of situation where a court will recognize a guardianship created in another state.[47] After denying the applicability of an interstate compact as a vehicle for returning the ward to Nevada, the Oklahoma Supreme Court observed that:

> The guardian voluntarily invoked the jursidiction of the Nevada court. She sought and obtained letters of guardianship and accepted the trust and responsibility the Court reposed in her to faithfully execute her duties as guardian. She is now estopped from denying the jurisdiction which she invoked. . . . Neither is she able to divest that court of jurisdiction over the guardianship by removing herself and the child from the territorial limits and refusing to return because her removal from Nevada was fraudulent.

Where an out-of-state facility accepts a placement from a court and is appointed guardian, the principle suggested by the Oklahoma Supreme Court might be applicable to subject the facility as guardian to orders from the sending court: the voluntary acceptance of the court's appointment as guardian of a child enables a court to continue its jurisdiction after the child has left the state.[48]

Since this principle has only been applied in probate cases, there is no certainty that it is equally applicable in cases involving guardians appointed by courts following adjudication of delinquency, status offenses, dependency, or neglect.

Full Faith and Credit

The second principle that is applicable to out-of-state placement orders is the full faith and credit clause of the U.S. Constitution. This requires that judgments of a sister state's courts be accorded recognition. However, recognition and enforcement of a sister state judgment is required only to the extent that the rendering court had jurisdiction over the parties and subject matter when the decree was made, that the court satisfied the requirements of due process, and that the judgment rendered was a final order.[49]

This last point may be significant for out-of-state placements because, in the majority of cases, they may not be final decisions. Because juvenile courts normally regard their jurisdiction as continuing throughout the period of placement, the full faith and credit clause might not require enforcement of the original decision in a receiving state.[50]

A major problem inherent in the application of the principles of comity and full faith and credit to juvenile cases is that neither principle is applicable to the enforcement of another jurisdiction's penal judgments, including such diverse court decrees as convictions for crimes and public attempts to enforce delinquent tax bills. Because the exact quality of juvenile court judgments is becoming increasingly ambiguous—whether they are criminal or civil, or whether they create penalties or duties, benefits or rights—justifying out-of-state enforcement of these judgments on the principles of comity or by full faith and credit would have unknown legal effects.

Long-Arm Statutes

"Long-arm statutes" is a term applied to legislation that permits courts to acquire personal jurisdiction over parties outside the boundaries of a state. Long-arm statutes base this extension of jurisdiction on events occurring within the state which involved the person in question, usually a civil defendant. Typical events that activate long-arm jursidiction are contracts and torts.

The typical use of such statutes in cases of interstate placement appears to relate mostly to agreements between the sending agency and the receiving facility, specifying such items as financial arrangements, notice requirements for changes in circumstances, and methods for the return of children to the sending state.[51]

If the agreement is approached merely as a contract, it is enforceable by a court as any other contract. If this contract were used to effect an out-of-state placement, most long-arm statutes would give a court in the sending state jurisdiction over enforcement of the contractual terms.

The difficulty involved in this approach is that such a contract for the transfer of physical custody over a child might not be viewed by a court as an ordinary contract. It is not clear whether courts of general jurisdiction would accept such a case because of the contractual elements, or shunt the case to a juvenile court because custody of a juvenile was involved. One trend that further obscures the contractual elements in the situation is the willingness of some courts to recognize rights of children in the relationship that they form with foster parents.[52]

Besides the tendency for the custody and care issues to obscure contractual issues, another difficulty involves the application of contract remedies to situations involving breached agreements for child care. Contracts usually only give rise to money damages for their breach. In the case of a sending agency trying to enforce such contractual terms as "standards of care" or "return of custody," money damages would obviously be inappropriate. The only other contractual remedy normally available would be a suit for specific performance of the contract. Specific performance is an equitable remedy available when the remedy at law is inadequate. If the contract between the sending agency and the receiving facility is not a contract for personal services (which normally is not entitled to specific performance), and if the standards of care or conditions giving rise to return of the child are specified in the contract, specific performance might provide a method for sending agencies to regulate out-of-state placements. Return of a child could be effected, of course, by termination of payments, but improvement of standards could not be controlled through this method.

One recent development in long-arm statutes that might be useful for the enforcement of out-of-state placements is their extension to the field of domestic relations. Within the last seven years, long-arm statutes, which traditionally have been used only for contracts and torts, have been increasingly applied to divorce, alimony, and custody proceedings.[53] Some states have expanded their long-arm statutes to give state courts very broad jurisdictional bases. Oklahoma provides:

> (a) A court may exercise personal jurisdiction over a person who acts directly or by an agent, as to a cause of action or claim for relief arising from the person's omission . . .
> (b) Maintaining any other relation to this state or to persons or property . . . which

> affords a basis for the exercise of personal jurisdiction by this state consistently with the constitution of the United States.[54]

A broad long-term statute such as this would permit a sending state agency to seek enforcement of an out-of-state placement contract in courts within the sending state.

ADMINISTRATIVE REGULATION OF INTERSTATE PLACEMENTS

One type of statute common to many state codes simultaneously regulates the importation and exportation of children. Typically, these statutes describe the regulated activity as "importation of" and "exportation of" or "bringing or sending into" and "taking or sending out" children. These particular words were probably used rather than immigration or emigration because the laws are not directed at the children but to the activities of their custodians. A few states have recently adopted the phrase "interstate placement" to describe the type of activity regulated in these statutes, which suggests that import/export statutes and interstate placement statutes are beginning to cover the same type of activity.[55] Throughout this discussion, however, the words importation and exportation are used simply for clarity.

Typical techniques of regulation found in these statutes include performance bonds; licensing, inspection, and reporting requirements by receiving agencies; and specific prohibitions against the importation of certain types of children.

Alabama's statute provides an example of the typical techniques of regulation found in these statutes.

> No person or agency shall bring or send any child into the state of Alabama for the purpose of placing him or procuring his adoption or placing him in any child-care facility, as defined herein, without having first obtained the consent of the department. The department shall have the power to impose and enforce reasonable conditions precedent to the granting of such consent; and such conditions shall be for the purpose of providing the same care and protection for the child coming into the state of Alabama for placement or adoption as are afforded to a child who is born in the state of Alabama.[56]

The first set of conditions listed gives the department authority to inspect proposed adoptive parents' and foster parents' homes and to receive information about the child from out-of-state agencies. Following these provisions, regulations for other placements are provided.

> The department shall be authorized to make a thorough investigation of any child-care facility to which any child is being brought or sent to determine conformity to minimum standards prescribed herein for approval or licensing and to determine the suitability of such child-care facility for the care, supervision, training and control of said child; (6) in case said child, subsequent to being brought into the state of Alabama, becomes dependent, neglected, or delinquent prior to his adoption or becoming of legal age of majority, said child shall be subject to the provisions of chapter 7 of Title 13, Code of Alabama, 1940. . . . (7) the child will be placed in conformity with the rules and regulations of the department; (8) the person with whom the child is placed shall be responsible for his proper care and training; (9) the department shall have the right of visitation and supervision of the child and the home or the child-care facility in which he is placed until adoption becomes final or the child becomes eighteen years of age; (10) the department may, pursuant to the provisions of this article, prescribe the conditions of an agreement or contract with the designated out-of-state agency, when a child is brought into the state of Alabama. The person or agency receiving the child in Alabama shall report to the department at such reasonable times as the department may direct, as to the location and well-being of the child, so long as he shall remain within the state and until he shall have reached the age of 18 years or shall have been legally adopted.[57]

The Alabama statute's requirements for notice and consent, inspection and standards, and reports are typical elements of regulation in all of the import/export statutes. Such regulations are designed to involve the state child-care apparatus in the care of all children in its state, regardless of their geographical origin.

Importation

By far, the most common regulatory statute circumscribes the importation of children. While these laws usually limit their coverage to cases of adoption, they are included here because of the ambiguity of the full extent of the meaning of the phrase, "placement for adoption." The legal meaning of placement for adoption can be based on the intent of the party placing a child or that of the party receiving a child; it might be based on the legal status of a child or his relationship with his parents; or it could refer to the legal relationship between a placed child and the placing custodian.

In many "placement for adoption" statutes, the place is not mentioned: it might be an orphanage, a group home, or a family home. In the case of a placement into a family's home, where all of the parties agree that a child will remain in the home and be adopted, and an adoption actually occurs, the situation is readily understood to be a "placement for adoption," based on the intent of the parties involved. In the two former situations, the intent might be to place the child until adopting parents can be found or until an adoption actually takes place. In South Carolina, the attorney general has interpreted that state's import law to properly apply to placements subsequent to the termination of parental rights "regardless of whether, where or when an adoption proceeding is actually begun."[58]

Activities Regulated

States have adopted a variety of language to describe the kinds of importation placements that are regulated, sometimes appearing as a part of or in connection with the state's laws which license foster homes and child-care facilities. Since there is no case law on the subject, it is impossible to conclude how similar or diverse the activities covered by the various statutes might be. The following list summarizes the ways in which receiving states' activities are listed in the various importation statutes:

Importation for placing or caring in any home or institution.[59]
Importation for care or supervision.[60]
Importation for placing him or procuring adoption or placing him in any child-care facility.[61]
Importation for placing or boarding in a family or home with a view to adoption, guardianship, custody or care.[62]
Importation to place in a foster home or procure an adoption.[63]
Importation to place in foster care or possible adoption.[64]
Importation to place in family home or for adoption.[65]
Importation for placing in a private home.[66]
Importation for placing or procuring placement in any free wage, boarding home, or for purposes of adoption.[67]
Importation to place in any home.[68]
Importation to place in a family home.[69]
Importation to give his custody to some person or procuring adoption.[70]
Importation for adoption.[71]
Importation for placing or procuring his adoption.[72]
Importation to place in any family home with or without indenture or for adoption.[73]
Importation for giving custody to some person, institution, corporation, or agency in the state or procuring its adoption.[74]

Individuals Regulated

Like most regulatory statutes, the child importation statutes specify the individuals who are to be regulated. Some of the statutes attempt to be all-inclusive, reaching the broadest possible range of individuals. Typical phrasings for these laws are:

Any person, corporation, association, or institution.[75]
Any person, any public or private agency, corporation, or organization.[76]
Any person, partnership, association, corporation, charitable agency, or other entity.[77]

These all-inclusive attempts at coverage may also be phrased as a negative:

No person.[78]
No person or institution.[79]
No person, agency, association, institution, or corporation.[80]

These various phrasings all indicate legislative intent to regulate broad ranges of individuals involved in interstate

placements; it is likely, however, that they all reach similar groups of individuals. Other child importation statutes contain qualifications limiting applicability to specified categories of sending agencies. Kansas, Missouri, and Nebraska limit the application of their importation statute to "associations incorporated in another state."[81] Seemingly, unincorporated associations, unincorporated child-caring organizations, parents, or officials do not come within the coverage of these statutes.

Other specific descriptions of statutory application are "a public or private agency of any state, accredited in such state for the placement of children,"[82] and "no person or organization except Delaware authorized agencies."[83] Most of the importation statutes exclude from coverage interstate placements by relatives: relatives by blood or marriage, or relatives with specified degrees of kinship or relationship.[84] North Dakota excludes, from regulation, placements by relatives or guardians, provided the guardian is not an agency.[85] New Jersey excludes placements by relatives in their own home, but if an interstate child is subsequently re-placed, the normal import regulations apply.[86] Connecticut also excludes placements to any summer camp operating less than 90 days, and to any educational institution.[87]

Exportation

A few states have statutes regulating the exportation of children. Almost all are in conjunction with importation statutes giving both regulatory authorities to the same executive agency.

Activities Regulated

Like the importation statutes, the activities regulated are diverse and, because of the absence of case law, the exact activity reached by the export statutes may be broader than the phrasings found in the statutes. The activities regulated in the exportation statutes are:

Exportation for adoption.[88]

Exportation to place in a foster home.[89]

Exportation to place in a foster home or in a child-caring institution.[90]

Exportation for foster care placement.[91]

Individuals Regulated

Again, similar to the importation statutes, different categories of individuals are regulated or excluded from regulation by the exportation statutes. Florida requires everyone except "an agency or the department" to comply with its exportation requirements;[92] Minnesota excludes only parents and guardians from exportation regulation; Nebraska also excludes persons with a "right to dispose" of a child.[93]

The import and export statutes fill a gap in the discussion of interstate placement issues. They express legislative awareness of the problems involved in sending children across state lines. As rules of comity for court and administrative placements, they establish methods for "regularizing" such placements and assuring comparable state involvement in interstate and intrastate placements.

Based on the absence of court interpretations of these statutes, the conclusion is suggested that the import and export statutes are not extensively utilized. They also appear to be alternatives to the Interstate Compact on the Placement of Children and the Interstate Compact on Juveniles for regulating the interstate placement of children. Because of the absence of court decisions construing the application of all of these laws, it is not possible to conclude whether there is any congruence in their coverage.

CONCLUSIONS

Attempts to apply constitutional doctrines to interstate placements are a recent development. The right to treatment issue was raised in the *Gary W.* case; there, the federal court interpreted the doctrine as not encompassing a per se ban on out-of-state placements; rather, the *Gary W.* court appears to have viewed the right to treatment as a two-edged sword. The doctrine can be used to require the placement of children outside a state if appropriate treatment can only be found there, or it can be used to return children to the sending state if the out-of-state placement is inappropriate. The *Gary W.* court viewed the basis for the complaint as the needs of each individual child rather than the interstate nature of the placement.

Sinhogar, a current New York challenge to interstate placements, raises due process issues related to the right to treatment. The *Sinhogar* plaintiffs also raise two other constitutional issues. First, the plaintiffs allege that New York's

practice of placing some youth within New York state and others outside the state is per se a denial of equal protection. Second, the granting of hearings to delinquent youths but not to dependent children to determine the suitability of interstate placements is also a denial of equal protection.

Most statutory authority for court or executive agency placements of children does not mention geographic limitations. A few states have statutes expressly authorizing interstate placements by courts or executive agencies. Michigan expressly authorizes international placements. For statutes that do not mention geographic limitations on placement authority, more recent judicial decisions construe the statutes to permit interstate placements. This reverses the earlier tendency to construe ambiguous statutes as not authorizing placements anywhere but within the territorial limits of the state having jurisdiction over the child.

Several legal doctrines appear to be available to support out-of-state enforcement of an interstate placement order. Although specific case law is minimal, the doctrines of full faith and credit, comity, and long-arm jurisdiction appear to give some basis to the legality and enforceability of interstate placement orders.

As to state administrative regulation of interstate placements, the majority of states have a statutory basis in their child importation and exportation laws, sometimes applied through licensing procedures. Although these statutes appear to have developed from legislative concern with informal interstate placements, several such laws are clearly applicable to official interstate placements. Because of the absence of judicial construction of these import/export statutes, it is unclear whether all are applicable to official interstate placements by courts and executive agencies.

FOOTNOTES

1. *Gary W. et al.* v. *State of Louisiana*, 437 F. Supp. 1209 (D.C., La., 1976).

2. *O'Connor* v. *Donaldson*, 422 US 563, 95 S.Ct. 2486, 45 L.Ed. 2d 396 (1975); *Rouse* v. *Cameron*, 373 F.2d 451 (D.C. App., 1966 as amended 1967); *Wyatt* v. *Stickney*, 325 F. Supp. 781 (D.C., Ala., 1971); *Wyatt* v. *Aderholt*, 503 F. 2d 1305 (5th Cir., 1974); *Martarella* v. *Kelley*, 349 F. Supp. 575 (S.D. N.Y., 1972).

3. *In re Dennis M.*, 370 NYS 2d 458 (1975); *State in the Interest of F.D.*, 351 A.2d 43, 138 N.J. Super. 383 (1975); *State ex rel. Juvenile Department of Multnomah County* v. *L.*, 546 P. 2d 153 (Ct. of App., Ore., 1976).

4. *In re Gault*, 387 US 1 (1967), p. 27.

5. *Morales* v. *Turman*, 383 F. Supp. 53 (D.C. Tex., 1974), pp. 115-118, reversed, 535 F. 2d 864 (5th Cir., 1976); per curium opinion reversing 5th Cir., 20 Cr.L. 4196.

6. *Sinnett* v. *Mountain Mission School*, 1 F.L.R. 2710, filed U.S. D.C., Western District, Va., Docket No. 75-0306 (1975); *Park* v. *Thompson*, 13 Cr. L. 2132 (D.C., Hawaii, 1973); 356 F. Supp. 789, citing with approval J. Soloman in *Capitan* v. *Cupp*, Civil No. 73-738 (D.C., Ore., Dec. 1972); and *Rebideau* v. *Stoneman*, 17 Cr. L. 2463 (D.C. Vt., 1975), 398 F. Supp. 805, p. 809 and 814.

7. R. S. Levine, "Caveat Parens: A Demystification of the Child Protection System," *University of Pittsburg Law Review*, vol. 35, no. 1 (Fall 1973), p. 1.

8. L. S. Tabakin, "Increasing the Rights of Foster Parents," *University of Pittsburgh Law Review*, vol. 36, no. 1 (Spring, 1975), p. 715; J. Evans, "C.V.C. v. Superior Court: Court Versus Adoption Agency Control of Agency Adoptions before a Petition for Adoption is Filed," *Hastings Law Journal*, vol. 26 (Sept. 1974), p. 312. But see *Smith* v. *Org. of Foster Parents*, 3 FLR 3143.

9. *Sinhogar et al.* v. *Parry et al.*, filed July 26, 1977, Supreme Court, New York County, Docket No. 14138/77.

10. Beyond the statutes considered in this section, several states have constitutional provisions that may have some effect on authority to make out-of-state placements. These state constitutional provisions usually limit "exiling" or "transportation out of state" as punishments for crimes. Whether these provisions have any application to court or executive agency interstate placements of juveniles has not been the subject of reported judicial decisions.

11. *In re Church*, 204 S.W. 2d 126 (Ct. App., Mo., 1947).

12. Michigan Attorney General Opinion, April 8, 1946, No. 0-4543.

13. *Comm. ex rel. Lembeck* v. *Lembeck*, 83 Pa. Super. 305 (1924).

14. *State in the Interest of D.F.*, 351 A. 2d 43, 138 N.J. Super. 383 (1975); *In re Dennis M.*, 370 N.Y.S. 2d 458 (1975); *State ex rel. Juvenile Department of Multnomah County* v. *L.*, 546 P. 2d 153 (Ct. of App., Ore., 1976).

15. *Reyna* v. *Dept. of Institutions, Social and Rehabilitation Services*, 546 P. 2d 622 (Sup. Ct., Okla., 1976).

16. *In re A.S.*, 232 S.E. 2d 145 (Ct. Apps., Ga., 1977).

17. Ind. Code, Sec. 31-5-2-1.

18. Ind. Code, Sec. 31-5-7-15.

19. Ind. Code, Sec. 29-1-18-8. This statute is ambiguous in whether it applies to all guardians appointed by Indiana courts or merely to "probate" guardians.

20. Idaho Code, Sec. 16-1814(3); Utah Code Ann., Sec. 78-3a-42; Wyo. Stat., Ann, Sec. 14-115.30(A) (vi).

21. Ga. Code Ann., Title 24A Chaps. 1-40; La. Rev. State. Ann., Secs. 13:1561.1 and ff.; N.D. Cent. Code, Secs. 27-20-01 through 27-20-59; Tenn. Code Ann., Secs. 27-201 through 27-281.

22. E.G. La. Rev. Stat. Ann., Sec. 13:1571.7.

23. Idaho Code, Sec. 16-1814(3); Okla. Stat., Title 10, Sec. 1116(a)(2); Nev. Rev. Stat., Sec. 62.200(1)(b).

24. N.C. Gen. Stat., Sec. 7A-286(2)(c).

25. Mo. Rev. Stat., Sec. 211.181(2)(c).

26. Ore. Rev. Stat., Sec. 419.507.

27. Neb. Rev. Stat., Sec. 83-108.04.

28. Neb. Rev. Stat., Sec. 83-175.

29. La. Rev. Stat. Ann., Sec. 15:1092.
30. Vt. Stat. Ann., Title 33, Sec. 638.
31. Alaska Stat., Sec. 47.10.230.
32. Conn. Gen. Stat. Ann., Sec. 17-420.
33. Conn. Gen. Stat. Ann., Sec. 17-32(g).
34. Mich. Stat. Ann., Sec. 25.399(54).
35. Mo. Rev. Stat., Sec. 219.086.
36. Del. Code Ann., Title 31, Sec. 352.
37. *State ex rel. Juvenile Department of Multnomah County* v. *L.*, 546 P. 2d 153, p. 159 (Ct. of App., Ore., 1976).
38. *Comm. ex rel. Lembeck* v. *Lembeck*, 83 Pa. Super. 305 (1924).
39. *Butler* v. *Butler*, 143 A. 471 (Sup. Ct., N.H., 1928), p. 473; see, also, *Watkins* v. *Brannon*, 309 So. 2d 464 (Ct. of Civ. Apps., Ala., 1974), cert. denied, Mar. 6, 1975, 309 So. 2d 468 (Sup. Ct., Ala., 1975).
40. *American Jurisprudence Second*, vol. 16, Conflict of Laws, Secs. 4-7; *Corpus Juris Secundum*, vol. 14A, Conflict of Laws, Sec. 3.
41. Brigette M. Bodenheimer, "The Uniform Child Custody Jurisdiction Act," *Family Law Quarterly*, vol 3, no. 4 (Dec. 1969), pp. 304-16. The text of the act can be found following the article.
42. Alaska Stat., 25.30.010-25.30.910; Calif. Civ. Code (West, Secs. 5150-5174; Colo. Rev. Stat. Ann., Secs. 14-13-101 thru 14-13-126; Del. Code Ann., Title 13, Secs. 1901-1925; Fla. Stat. Ann., Secs. 61.1302-61.1348; Hawaii Rev. Stat., Secs. 583-1 thru 583-26; Idaho Code, Secs. 5-1001 thru 5-1025; Ind. Code, Secs. 31-1-11.61 thru 31-1-11.6-24; Iowa Code Ann., Secs. 598A-1 thru 598A-25; Md. Ann. Code, Art, 16, Secs. 184-207; Mich. Stat. Ann., Secs. 27A.651-27A.673; Minn. Stat. Ann., Secs. 518A.01-518A.25; Mont. Rev. Code, Sec. 48-331; N.D. Cent. Code, Secs. 14-14-01 thru 14-14-26; Ohio Rev. Code, Secs. 3109.21-3109.37; Ore. Rev. Stat., Secs. 109.700-109.930; Penn. Stat. Ann., Title 11, Secs. 2301-2325; Wisc. Stat. Ann., Secs. 822.01-822.25; Wyo. Stat. Ann., Secs. 20-143 thru 20-167.
43. Wyo. Stat. Ann., Sec. 14-4-109.
44. Del. Code Ann., Title 31, Sec. 307.
45. Ore. Rev. Stat., Sec. 418.290.
46. S.D. Compiled Laws, Sec. 26-6-10.
47. *Pfortenhauer* v. *Hunter*, 536 P. 2d 923 (Sup. Ct., Okla., 1975).
48. The jurisdictional principal of the *Pfortenhauer* case has been codified for all guardianship appointments in some states, e.g., Ariz. Rev. Stat. Ann., Sec. 14-5208, and Neb. Rev. Stat., Sec. 30-2612. Both of these statutes specify that, by accepting an appointment, a guardian "submits personally to the jurisdiction of the court in any proceeding relating to the guardianship that may be instituted by any interested person." A committee comment to the Nebraska statute explains the rationale for the statute:

> The "long-arm" principle behind this section is well established. It seems desirable that the court in which acceptance is filed be able to serve its process on the guardian wherever he has moved. The continuing interest of that court in the welfare of the minor is ample to justify this provision. The consent to service is real rather than fictional in the guardianship situation when the guardian acts voluntarily in filing acceptance.

49. U.S. *Constitution*, Art. 4, Sec. 1; see, generally, *American Jurisprudence Second*, vol. 16, Constitutional Law, Secs. 585-591.
50. For discussions of modifiable decrees, final judgments, and full faith and credit, see, *Restatement (Second) of Conflict of Laws*, Sec. 109 (1941); *Restatement of Judgments*, Sec. 41, comment a (1942); and tentative drafts, *Restatement (Second) of Judgments*, Sec. 41, comments a, c, d, and f (1973).
51. S. F. Katz, *Where Parents Fail* (Boston, Mass.: Beacon Press, 1971).
52. L. S. Tabakian, "Increasing the Rights of Foster Parents," *University of Pittsburgh Law Review*, vol. 36, no. 3 (Spring 1975), pp. 715-27. Recent cases involving foster parents include: *Bennett* v. *Jeffreys*, 356 N.E. 2d 277, 3 FLR 3009 (Ct. Apps., N.Y., 1976); *Ross* v. *Hoffman*, 372 A.2d 582, 3 FLR 2434 (Ct. Apps., Md., 1977); but see *Smith* v. *Org. of Foster Families*, 97 S.C. Rptr. 2094, 3 FLR 3143 (1977). For other recent cases, see note at 3 FLR 1122.
53. "Long-Arm Jurisdiction in Alimony and Child Custody Cases," Note, *Columbia Law Review*, vol. 73, no. 2 (Feb., 1973), pp. 289-317; "State Court Jurisdiction: The Long-Arm Reaches Domestic Relations Cases," Cal L. Raup, *Texas Tech Law Review*, vol. 6, no. 3 (Spring 1975), pp. 1021-1054. For current cases on the long-arm statutes in the family law area see 3 FLR 1151.
54. Okla Stat. Ann., Title 12, Sec. 1701.02.
55. Ga. Code Ann., Sec. 99-211(b)(3); Wisc. Stat. Ann., Sec. 48.98.
56. Ala. Code, Sec. 38-7-15.
57. Ibid.
58. South Carolina Attorney General Opinion, 1970-71, No. 3217, p. 200.
59. Conn. Gen. Stat. Ann., Sec. 17-51.
60. Ill. Rev. Stat., Title 23, Sec. 2226(a).
61. Ala. Code, Sec. 38-7-15.
62. Mass. Gen. Laws Ann., Ch. 119, Sec. 36.
63. S.C. Code Ann., Sec. 71-207.
64. Wyo. Stat. Ann., Sec. 14-4-108; N.D. Cent. Code, Sec. 40-12-14.1.
65. Mo. Rev. Stat., Sec. 210.010.
66. W. Va. Code Ann., Sec. 49-2-15.
67. Del. Code Ann., Title 31, Sec. 307.
68. N.J. Rev. Stat., Sec. 9:7-1.
69. Ore. Rev. Stat., Sec. 418.290.
70. N.C. Gen. Stat., Sec. 110-50.
71. R.I. Gen. Laws Ann., Sec. 14-7-3; Del. Code Ann., Title 13, Sec. 926.
72. Ga. Code Ann., Sec. 99-215; Minn. Stat. Ann., Sec. 257.05; R.I. Gen. Laws Ann., Sec. 40-12-5.
73. Kan. Stat. Ann. ,Sec. 38-315; Ky. Rev. Stat. Ann., Sec. 199.350; Neb. Rev. Stat., Sec. 43-704.
74. Tenn. Code, Sec. 14-1505.

75. Ind. Code, Sec. 12-3-21-1.
76. N.H. Rev. Stat. Ann., Sec. 170-B:23.
77. N.D. Cent. Code, Sec. 40-12-14.1.
78. Wisc. Stat. Ann., Sec. 48.98.
79. Mass. Gen. Laws. Ann., Ch. 119, Sec. 36.
80. Tenn Code Ann., Sec. 14-1505.
81. Kan. Stat. Ann., Sec. 38-315; Mo. Rev. Stat., Sec. 210.010; Neb. Rev. Stat., Sec. 43-704.
83. N.J. Rev. Stat., Sec. 9:7-1.
83. Del. Code Ann., Title 13, Sec. 926.
84. E.g., Ind. Code, Sec. 12-3-21-5 ("relatives"); Mass. Gen. Laws Ann., Ch. 119, Sec. 36 ("blood or marriage"); Minn. Stat. Ann., Sec. 257.05(2) ("specified relatives").
85. N.D. Cent. Code, Sec. 40-12-14.1.
86. N.J. Rev. Stat., Sec. 9:7-4.
87. Conn. Gen. Stat. Ann., Sec. 17-51(2).
88. Fla. Stat. Ann., Sec. 63.207.
89. Minn. Stat. Ann., Sec. 257.06.
90. N.C. Gen. Stat., Sec. 110.52; Tenn. Code Ann., Sec. 14-1508.
91. Va. Code Ann., Sec. 63.1-207.1.
92. Fla. Stat. Ann., Sec. 63.207.
93. Minn. Stat. Ann., Sec. 257.06; Neb. Rev. Stat., 43-215.

4. Interstate Compacts

At present, all states belong to a number of interstate compacts, ranging from a high of 40 in New York to 12 in Hawaii. In each instance, the signatory states seek the mutually binding cooperation of other states in order to reduce interstate boundary conflicts, improve client services, reduce state costs, or increase state revenues.[1]

There are three interstate compacts that pertain to the interstate placement of children: the Interstate Compact on Juveniles (Juvenile Compact); the Interstate Compact on the Placement of Children (Placement Compact); and the Interstate Compact on Mental Health (Mental Health Compact). Currently, the Juvenile Compact includes all 50 states and the District of Columbia. Forty-three states belong to the Placement Compact and 45 belong to the Mental Health Compact.[2]

COMPACTS, AGREEMENTS, AND UNIFORM LAWS

Interstate cooperation may be obtained through three types of reciprocal instruments: compacts, agreements, and laws. Of the three, only the interstate compact creates a relationship mutually adopted by state legislatures and sanctioned by constitutional law.

Interstate compacts require the legislative adoption of model statutes that have, in effect, been agreed upon by the states in advance of passage. The legislatures usually must adopt the verbatim compact language presented to them or simply refuse to participate. Some variations are permitted, however, in limited ways. For example, states may, if they wish, adopt or reject earmarked sections of subsequent amendments without affecting their compact memberships. In addition, enabling legislation, which creates the administrative machinery for carrying out the compacts' intent, may vary in accordance with state procedures. In some states, statutory definitions may vary, such as the age limits of juveniles or the variations between misdemeanors and felonies. These differences must be resolved through procedures designed to implement compact intent. The process of legislative sanction and oversight is at times a slow and laborious one, but once a compact has obtained the necessary legislative endorsement, the possibility of a misunderstanding between the states is most remote.

There is a wealth of case law sustaining compact compliance, as well as a long history of successful compact adoption and implementation. Compacts have withstood numerous challenges and, although the full potential of interstate cooperation has yet to be reached, there is ample evidence to support the prediction of continued growth and application of the compact concept.

Interstate agreements, on the other hand, need not have full legislative support but may be entered into by state agencies or by executive order. Sometimes a legislature has delegated to the executive branch authority to enter into interstate agreements in such specific areas as motor vehicle registration, environmental protection, or highway markings. The agreement may have all the attributes of a compact, such as language and enforcement commonalities, but does not have the sanction that comes with legislative adoption.

Although frequently more expedient, there are several disadvantages to this type of agreement. There are no assurances that the common contractual elements will be subject to identical interpretation; neither are there statutory guarantees that conflicting state statutes will be superseded. Agreements created without legislative sanctions also run the risk of being compromised by the judgments of the administrators who signed them or their successors. While a compact enjoys statutory permanency, an agreement may last only through a single administration or be subjected to changes in the priorities of the state agencies involved. Yet, the history of interstate agreements is quite stable and more and more interstate cooperative efforts are accomplished through the agreement process.

Uniform laws present another means of obtaining interstate cooperation but, like interstate agreements, possess significant weaknesses in permanency and enforcement. The National Conference of Commissioners on Uniform State Laws meets annually to draft laws which are uniform in nature and mutually beneficial to those states which obtain adoptions. The uniform laws, however, are only suggested models and do not require absolute similarity in adoption. State legislatures are free to amend the recommended provisions according to their perceptions of state needs and the constraints of existing state legislation. A uniform law that is subjected to this process soon loses its uniformity. A

compact, unlike a uniform law, is adopted in its entirety and its basic provisions cannot be altered by participating legislatures. The uniform laws and interstate agreements do benefit from the "full faith and credit" guaranteed state statutes by the U.S. Constitution. Specific models for interstate cooperative laws have been established by the Uniform Law Commissioners and overall interstate cooperation has been successfully practiced.

COMPACT CONSTRUCTION

There is a series of basic elements that most compacts contain. These elements are usually translated into compact articles that collectively constitute the compact's subject matter: (1) a purpose or rationale for compact adoption; (2) procedures, obligations, and commitments required of the participating jurisdictions; (3) fiscal and organizational requirements for compact operations; (4) exceptions of law and operations required within the compact; (5) a severability clause, which enables participating jurisdictions to identify specific areas of non-participation without voiding the entire compact; (6) time and notification requirements for compact entry and withdrawal; and (7) an amendment procedure.

Generally, a specific enabling legislative model is also presented. The reason, of course, for such specificity is to assure that each jursidiction adopting the compact does so uniformly to avoid any default because of language alteration. For example, New Hampshire adopted the juvenile compact, but its legislature failed to utilize the proper compact model. This lack of compatibility of language and intent with all other member jurisdictions necessitated the withdrawal of the first New Hampshire statute and the subsequent adoption of the verbatim compact language. This requirement of commonality of language, especially in substantive areas of compact construction, reinforces a close correlation between compacts and the law of contracts when subsequent judicial interpretation is required.

Most reciprocal service delivery compacts do not require a common agency or individual administrator within the participating states. They do require that a compact administrator be appointed. Normally, national associations of administrators automatically evolve for the purpose of resolving issues concerning compact operations. In some compact organizations, a secretariat is designated, such as the Council of State Governments, the American Public Welfare Association, the American Association of Motor Vehicle Administrators, or other similar national organizations. In other compacts, the administrators' association provides its own secretariat services internally. Federal agencies, such as the Department of Health, Education, and Welfare, the Law Enforcement Assistance Administration, and the Department of Transportation have, from time to time, provided funds for secretariat services to support the mechanisms through which the compacts are maintained and updated.

A number of participating states have established governing boards, agencies, and authorities for the purpose of carrying out the business of the compacts involved. These agencies are empowered, in many instances, with bonding, taxing, and regulatory authorities that supersede general state statutes granting such powers. The New York Port Authority Compact of 1921 is a case in point. The Port Authority Compact provides New York and New Jersey with a cooperative agency that could accomplish joint planning, administration, and acquisition that was beyond the jurisdictional authority of the individual state governments. The Port Authority now owns and operates airports, tunnels, and bridges, and has withstood the challenge of both state court systems as to its capacity to tax, bond, and own property, independent of both New Jersey and New York State governments. Control of the Port Authority and other like agencies still lies within the state legislatures that created them, although legislatures do vary in the extent to which they exercise their oversight responsibilities.

Two excellent discussions on the phenomenon of interstate compacts may be found in *The Interstate Compact since 1925* and *The Law and Use of Interstate Compacts*.[3] The compacts, according to the authors, provide a "moral force" for interstate cooperation which favorably affects all citizens and government services in participating jurisdictions. There are also authors who view the compact concept with suspicion and charge that citizen, executive, and legislative prerogatives may be usurped by compact administrators. Marian Ridgeway, in *Interstate Compacts: A Question of Federalism*, is one who questions a blanket compact endorsement.[4]

CONSTITUTIONAL BASIS FOR COMPACTS

Three major litigations have transpired which firmly entrench the interstate compact as an effective means of obtaining state cooperation for mutual citizen benefits or for resolution of interstate conflicts. In each of the three landmark decisions listed below, the U.S. Supreme Court reaffirmed the constitutionality of interstate compacts and provided guidelines for continuing interstate cooperation.[5]

In *Virginia* v. *Tennessee*, the two states informally drew up a contract which established their mutual border.[6] In a

subsequent interstate compact, the two states formalized their initial agreement and did so without an official congressional act of approval. Congress claimed that it should approve the compact on the basis of Article 1, Section 10, of the U.S. Constitution. The Supreme Court ruled otherwise, declaring that congressional approval was "tacitly" given to the Virginia-Tennessee Compact when Congress utilized the border established by the compact as a basis for defining federal judicial districts. More to the point, perhaps, was the Court's test for determining when congressional approval was needed. It held that, even though Congress had "tacitly" agreed or implied its consent to the boundary compact, it was not really necessary so long as the "political balance" of the Union was not disturbed. The Court's opinion helped provide constitutional legitimacy for future compacts.

In the decision of *State ex rel. Dyer* v. *Sims*, the Court utilized the theory of contracts as an analogue to compact adoption.[7] That is to say, an offer is initiated by two or more states of eligible joinder to legislatively adopt a given compact written in the same or comparable language. Acceptance of the contract (compact) is executed by binding legislative acts of the participating jurisdictions which must agree to all provisions affected and, in particular, must obtain necessary legislation to withdraw or amend. Although contract law is maintained in all compacts, so is the option of severability. In cases where the severability clause is enacted, only those elements adopted are considered enforceable by other states.

Virginia v. *West Virginia* evolved out of an altercation concerning the partial assumption of Virginia's accumulated debt by West Virginia as a condition of independence.[8] The major issue was enforcement of compact precepts upon states of joinder by the U.S. Supreme Court. West Virginia had been reluctant to repay that portion of Virginia's debt assumed by compact agreement prior to its acquisition of statehood. Virginia claimed, and was upheld by the U.S. Supreme Court, that not only should the debt be paid by West Virginia as a compact obligation, but also that the Supreme Court was empowered to enforce the compact provisions. Since then, issues of compact maintenance have been relatively nonexistent. Not only does the U.S. Supreme Court resolve multistate jurisdictional disputes, but compact elements are considered superior to conflicting laws of joinder states and are enforceable by the U.S. Supreme Court.

INTERSTATE COMPACT ON JUVENILES

The Interstate Compact on Juveniles (Juvenile Compact) was patterned after the Interstate Compact for the Supervision of Parolees and Probationers (Parole and Probation Compact), which was initiated following the Crime Control Consent Act of 1934.[9] Until the Crime Control Consent Act of 1934, adult and juvenile parolees and probationers were restricted to in-state travel, unless "sun-down parole" or a "gentleman's agreement" for supervision could be reached between two state paroling authorities. In 1937, 25 states signed the Parole and Probation Compact and, by 1951, all states were members.

It soon became evident that the Parole and Probation Compact did not adequately meet the special needs of juveniles requiring interstate supervision. Recognizing the advisability for an interstate compact to provide for special juvenile circumstances, the Probation and Parole Compact Administrators Association, the National Council of Juvenile Court Judges, the National Association of Attorneys General, and a number of other concerned organizations cooperated with the Council of State Governments in drafting the Juvenile Compact. In January 1955, the compact was completed and all the states, plus the District of Columbia, Puerto Rico, and Guam are members. Although Congress had provided consent for the Parole and Probation Compact through the Crime Control Consent Act of 1934, the Senate Judiciary Committee determined that congressional consent was unnecessary for the Juvenile Compact.[10] The committee's reasoning was based upon the *Virginia* v. *Tennessee* "political balance" theory which determined that, so long as the federal system was not disturbed by the compact, congressional consent for joinder was unnecessary.

The authors of the 1955 Juvenile Compact took cognizance of state-to-state variations in guardianship responsibility, differences in procedural and supervisory practices, definitional differences, minority age limits, and a number of other issues pertaining specifically to juveniles. Three optional amendments were added to the original compact to provide for the return of runaways, for out-of-state confinement, and for rendition in third-party states.[11] These were only to take effect in participating jurisdictions. To date, 19 states have adopted the runaway amendment, 12 states have adopted the amendment on confinement, and 22 states have adopted the amendment on rendition. Together with these amendments, the Juvenile Compact has the following stated purposes:

1. To provide for the return of juvenile absconders and escapees to the state from which they absconded or escaped.

2. To provide for the return of runaways to their home states.

3. To permit out-of-state supervision of delinquent juveniles who should be sent to some state other than the state of jurisdiction and who are eligible for probation or parole.

4. To authorize agreements for the institutionalization of special types of juveniles, such as psychotics and defective delinquents outside the state of original jurisdiction.

The compact's four principal functions of (a) return of absconders and escapees, (b) return of runaways, (c) supervision of parolees and probationers, and (d) out-of-state confinement require separate procedures for both the sending and receiving state. Amendments to the compact are adopted from time to time by the Association of Juvenile Compact Administrators and are recommended to the states for adoption.[12]

Return of Absconders and Escapees. When a juvenile escapes from an institution or absconds from parole or probation supervision, the appropriate individual possessing authority over that youth forwards to the appropriate court or executive official in the jurisdiction where the delinquent juvenile is alleged to be located, a requisition for his return to the home court of jurisdiction. The compact procedure not only includes informing the local court but also provides access to the state's juvenile services network in the apprehension and return.

The compact's construction enables the asylum state (where an absconder or escapee is located) to return the delinquent, after a hearing to verify the facts. The apprehended escapee or absconder is taken to juvenile court where the judge is only required to determine that the requisition received from a demanding state is in order and that the juvenile in custody is the person being requested. The agency in the demanding state is then informed and agreement is reached as to the means of transporting the juvenile back to the demanding state.

The return procedures utilized in the compact, while providing due process safeguards, are not as stringent as adult extradition proceedings which require extensive court involvement and a chief executive's concurrence. The compact's returns are far less structured in that only a requisition's authenticity and the juvenile's identity are determined by the asylum state's court.

Return of Runaways. The compact procedures for the return of nondelinquent runaways, which are currently being reviewed in light of changes in juvenile court treatment of status offenders, are similar to those described above. Uniform procedures are designed to assure correct execution of the compact precepts and to also assure emancipated minors are not returned through the compact as runaways.

When a nondelinquent juvenile runaway objects to being returned home, the parents or guardians are informed. They must then petition the home juvenile court for a requisition to require the runaway's return. If approved, the home court then forwards the requisition to either the specific court where the juvenile is being held or to the executive authority of the state where the juvenile is assumed to be in residence. The juvenile court or state agency in the asylum state receiving the requisition issues an order to take the juvenile into custody, if he is not already being detained. Once the judge determines that the requisition is in order and the juvenile is the correct individual so identified, the juvenile is then turned over to the appropriate officer of the demanding state to be escorted home.

When a court has in its custody a nondelinquent runaway and has notified the home court of that juvenile's status but has not received the necessary return requisition, that court may hold the juvenile for up to 90 days so that a return may be arranged. If the juvenile's parents do not take the necessary action to obtain the runaway's return, the home court will be requested by the compact administrators to make appropriate and necessary custody arrangements in the home jurisdiction. The home court then has 90 days to either take custody of the juvenile or obtain other suitable custody, or the home state becomes responsible for the return of the juvenile. In practice, compact administrators cooperate to assure the juvenile's return or obtain a release for the juvenile in the asylum state if the 90-day time limit has expired.

Supervision of Parolees and Probationers. The compact's Articles II and VII provide for the supervision of parolees and probationers. At the same time, Article XV of the Juvenile Compact declares that the compact provisions are severable if they are "declared to be contrary to . . . the applicability thereof to any government, agency, person or circumstances." Since the Uniform Juvenile Court Act, adopted by many states, permits juvenile courts to make out-of-state placements, local courts might hold the state's compact provisions to be inapplicable. There is, therefore, an option left open to states to allow local courts to make their own placement arrangements, which would not have the protections offered juveniles through the compact.

Compact procedures call for preplacement investigation, regular monitoring of the placement, and the extension of the full protections offered juveniles under the laws of a receiving state. The extension of protection is of special value to juveniles who are in placement situations that are not adequate or are counterproductive. In cases where

inappropriate placements are made under the aegis of the compact, there are procedures available to either change placements or place such juveniles under the protection of the local court in the same manner as if the juveniles in question were residents. The compact, in essence, extends all the protections and services of both states to juveniles receiving parole or probation supervision in a receiving state.

Sometimes administrative revocation hearings are held, with compact administrators or case supervisors serving as the authorized representatives of the sending states. If the decision is reached to revoke parole or probation, the receiving state initiates a return procedure similar to that utilized for the return of runaways, absconders, and escapees. The sending state then exercises the option to either have the delinquent returned or makes arrangements through the compact for confinement in the receiving state. Each compact state has institutions designated as appropriate for compact cases and an involved procedure is required for their use.

Out-of-State Confinement. The Juvenile Compact is particularly specific in its treatment of out-of-state confinement. There are three possible methods of confinement. In the first example, a child on parole or probation has been placed in a receiving state under the Juvenile Compact. Upon commission of a new offense, the child is treated as if he were a resident, rather than seeking his return through the compact. In such cases, where ordered, the child would be confined outside his state of residence, even though he was not sent out of state for that purpose.

A second possibility occurs when to signator states mutually agree that the receiving state's facilities are better suited to a particular child's needs and a contract is signed providing for placement and payment. Under Article X, the child must have been adjudicated delinquent and a hearing must be held regarding the transfer.

A third method of effecting an interstate institutional confinement under the Juvenile Compact is through the adoption of the optional Out-of-State Confinement Amendment. This amendment has only been adopted by 12 states. Its applicability is limited to escapees, absconders, and to compact-supervised parolees or probationers when the sending state determines that confinement in the receiving state would be preferable to return. Other limitations in the Out-of-State Confinement Amendment require each state to designate a "Compact Institution"; provide approval prior to any change in location or status for those confined; require use of special billing and repayment procedures; and require other restrictions which have tended to minimize state interest in its adoption.

Procedures for placing a juvenile delinquent in out-of-state confinement, either under the basic compact or the Out-of-State Confinement Amendment, are primarily the same. A sending state compact administrator makes a request for placement utilizing the proper forms and the supporting case history documents. The receiving state administrator then makes the necessary arrangements with the institution and follows through with cooperative arrangements for delivery of the individual to be confined. The receiving state is obligated to provide a treatment environment comparable to that provided its own residents in the institutions and to provide regular reports to the sending state as to the status of the juvenile.

Although the treatment decisions are to be made at the institutional level, the sending state still maintains ultimate jurisdiction over the juvenile in placement and may at any time request release or placement changes.

It is important to note that out-of-state confinement under the auspices of the Juvenile Compact and the Out-of-State Confinement Amendment are constrained by states' definitions of "juvenile delinquent." In many states, this definition is restricted to criminal-type acts; in others, it will include status offenses or violations of previous court orders, or both. It is not only conceivable, but probable, that a sending state might seek to place a juvenile in a state for an act which, in the receiving state, would not be defined as an act of delinquency.

The data available from the Juvenile Compact administrators' report of 1976 on compact transfers reflects minimal institutional placements under this Amendment. Only 142 placements were reported by sending states. South Dakota, which places all its female commitments in institutions in other states, made the greatest use of the amendment with 42.

INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

The Interstate Compact on the Placement of Children (Placement Compact) was written in the early 1950s as a complementary document to the Juvenile Compact.[13] Its intent was to provide an interstate placement mechanism and supervision for children through adoptions, foster care, and institutionalization. The American Public Welfare Association (APWA), which serves as the compact secretariat, predicts full 50 state and territorial adoption in the next few years. The prediction seems well founded, given the general consistency of attitudes in the states regarding foster care and adoptions. The major portion of Placement Compact activity is related to either adoptions or foster home placement; however, its use for effective and protective interstate placement of children in institutions (about 5 percent

of compact activity) is of primary interest to this study. At present, the Placement Compact has 43 member states: 16 have joined in the last two years.

The Placement Compact, like its predecessor compacts, is based upon the U.S. Constitution, Article I, Section 10, and *Virginia* v. *Tennessee, Dyer* v. *Sims*, and *West Virginia* v. *Virginia* decisions. The Constitution's Article IV, Section 1 (full faith and credit clause), is also offered as a rationale for developing the compact. The reasoning offered is that, although the Constitution requires that "full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state," this does not require each state to enforce the laws of the other states.[13]

The drafters of the Placement Compact articulated specific policies governing compact implementation. The compact states that each child requiring placement will receive maximum opportunity to be placed in a suitable environment and with persons and institutions with appropriate qualifications, facilities, and commitment to care. The child is to be protected by having the proper authorities in the state of residence determine the level of care available in a potential placement in the receiving state. The authorities in the receiving state have the responsibility of evaluating the projected placement, and appropriate jurisdictional arrangements affecting the care of the child are to be promoted.

The Placement Compact creates a service network in the same manner as the Juvenile Compact. A compact administrator is appointed in each state who has responsibility for compact enforcement. All placements, pre-placement investigations, monitoring, terminations, returns, and all other required state activities for compact compliance are channeled through the administrators's office.

The procedures outlined for placement are circumscribed by the laws and practices in both the sending and receiving states, even though compact requirements do supersede conflicting state laws. The sending state does maintain legal jurisdiction over the placement and has a financial responsibility to pay for all costs accrued to the receiving state. Compact practice usually provides for reciprocal payments for state agency costs, but direct payment may be required for foster care, medical and dental payments, school tuition, per diem, and treatment charges in private institutions.

As mentioned earlier, interstate adoptions and foster care placements are the major uses of the Placement Compact, but institutional placements are of particular importance for juvenile cases requiring specialized care. The Placement Compact's language provides for "institutional placement in a state," as opposed to the Juvenile Compact which provides for "institutionalization of a juvenile in a state institution."

Through the Placement Compact, unlike the Juvenile Compact, adjudicated delinquents may be placed in out-of-state public or "private" institutions. The Placement Compact, with its institutionalization article (VI) and accompanying procedures, requires a hearing in the sending state prior to institutionalization. The parent, guardian, and counsel are required to be heard in the hearing prior to the out-of-state institutionalization of an adjudicated delinquent. The judge, however, may rule that the parent has no right to disagree with the disposition because of the delinquency status of the juvenile. The Placement Compact also enables a court to make direct placements to private, out-of-state agencies while still maintaining compact jurisdiction for the sending state.

The major requirement for an institutional placement under the compact is that it must be in the best treatment interest of the child, as determined by the local court or sending state agency.

An unfortunate limitation of the compact is that it does allow direct court placement out-of-state in a private institution without a mandatory pre-placement decision by the compact administrator of the receiving state. This potential flaw in compact practice may tend to encourage out-of-state institutional placements in private institutions that do not have adequate treatment programs or facilities. Compact administrators make themselves aware of treatment and care variations, and share their knowledge when institutional placement decisions are being made, but their ability to contribute is obviously compromised when the compact is bypassed. The main justifications offered by local senders when the compact is avoided are either based upon beliefs that the process is too time-consuming, or that the state contributes no funds to the placements and, therefore, should have nothing to say about them.

INTERSTATE COMPACT ON MENTAL HEALTH

The Interstate Compact on Mental Health (Mental Health Compact) currently has 45 member jurisdictions.[15] Its purpose is to assure appropriate care and treatment of mentally ill and mentally deficient patients who are moved from one state's institutions to another state's institutions. The Mental Health Compact, similar in structure to the Juvenile Compact, is limited to placement in public as opposed to private facilities.

Changes in the patient's family place of residence are the major reasons for the use of the compact. To date, the transfers have been primarily institutional; however, no provision in the compact would limit its use for out-patient

services, so long as they were limited to public treatment facilities.

The compact has a further purpose to enable temporary placements of escapees who have been apprehended in foreign jurisdictions. These temporary placements, as well as all other transfer procedures, require the resident state to assume all costs for transportation, custody, and treatment services.

The major problems in compact operation are related to either those inherent in the compact provisions or in the structure and practices of state compact administration. If, for example, state licensure agencies are lax in the enforcement of compact provisions, there may be no other state agency that can control what patients receive when placed out of state. In addition, long delays are frequently experienced, at times one and two years.

COMPACT PROCEDURES FOR INTERSTATE PLACEMENTS

Procedures utilized for transferring a child under all three compacts are quite similar. A court or social agency determines that a child, over which it has jurisdiction or custody, needs some type of assistance. For whatever reason, a decision is made that the child should be placed in another state. In some cases, a specific institution is selected and contacted to determine the child's acceptability. In other cases, the child's particular service needs are clearly understood, but no facility is identified by the sending agency, either because many facilities could be utilized appropriately or because the child's needs are so unusual that no facility known to the sending agency would seem to satisfy them. In either event, the interstate compact administrator is contacted.

The cognizant compact administrator will contact the counterpart administrator in another state or in several other states, depending upon whether a specific facility has been identified for the child's placement. The correspondence will typically include a request for assistance; information about the types of services being sought; copies of the child's records, including medical and social histories; and some indication about the maximum per diem allowable, as well as identification of the financially responsible party.

Upon accepting the placement request, the receiving state compact administrator will forward the information about the child either to the identified facility or to several facilities that generally meet the programmatic and per diem criteria established by the sending state administrator. The channels for communication have now been fully established. Once the facility indicates its willingness to accept or reject the child, its response is delivered to the court or social agency in the sending state through the two compact offices.

At this point, assuming at least one affirmative response, the sending agency may either begin or continue direct contact with the selected facility, or indicate through the compact offices its willingness to place the child. Assumed in this scenario is the proper licensing or accreditation of the receiving facility, which is recognized by both compact administrators. In some cases, a pre-placement investigation is undertaken by the receiving state compact administrator in order to assure the sending state administrator and sending agency of the caliber of services provided. It is also possible that both sending and receiving state compact administrators will actually participate in transporting the child to and from the airport or, in other similar ways, become personally involved in assuring a smooth transfer between the sender and the receiving facility.

Depending upon requests made of them, compact administrators will remain only sporadically involved in the case, usually to periodically monitor the placement and to forward facility progress reports, or to intervene in cases where complaints are made about services or payments. If requested to do so, compact administrators will also help to effect the child's return, after the placement has been terminated.

In comparing their applicability to different kinds of children, senders, and receivers, it is clear that, both individually and collectively, the three compacts do not relate to many cases of interstate placement. As shown in Table 1, although there is very little overlap between the compacts, there are a number of categories of children for whom compact procedures are meaningless. Particularly significant to this project are the placements of children in boarding schools and private psychiatric facilities, whose transfers are not subject to the procedures of any compact.

Table 2 shows two other ways in which the fundamental question of compact applicability might be determined.

While the Placement Compact covers most potential senders, it does not apply to cases where members of the child's family place the child in another state by virtue of a specific exemption in Article VIII. The Juvenile Compact relates primarily to the placement of delinquent children which would, by definition, eliminate many children's services agency placements, as well as those made by family members. The Mental Health Compact is used almost exclusively by the state department responsible for operating mental health and mental retardation institutions.

In terms of receivers, all medical facilities except public psychiatric hospitals may accept out-of-state adolescent patients without the benefit of compact intervention. Similarly, boarding schools are not covered by any compact,

Table 1
APPLICABILITY OF CHILDREN'S COMPACTS, BY CATEGORY OF CHILD

Child category	*Placement Compact*	*Juvenile Compact*	*Mental Health Compact*
Abused	★	N/A	N/A
Adoptive	★	N/A	N/A
Delinquent	★	★	N/A
Dependent	★	N/A	N/A
Developmentally disabled	N/A	N/A	N/A
Emotionally disturbed	N/A	N/A	★(a)
In need of education	N/A	N/A	N/A
Mentally ill	N/A	N/A	★(a)
Mentally retarded	N/A	N/A	★(a)
Neglected	★	N/A	N/A
Physically handicapped	N/A	N/A	N/A
Status offender	★	★(b)	N/A

N/A—Not applicable.
(a) If placed in a public mental institution.
(b) If state definition of delinquency includes status offenses or if the return of a runaway is involved.

Table 2
APPLICABILITY OF CHILDREN'S COMPACTS, BY TYPES OF SENDERS AND RECEIVERS

Types of senders and receivers	*Placement Compact*	*Juvenile Compact*	*Mental Health Compact*
Senders			
State agencies	Yes	Yes	Yes
Local public agencies	Yes	Yes	No
Private agencies	Yes	No	No
Independent placers (parents, guardians, close relatives)	No	No	No
Receivers			
Psychiatric hospitals			
Public	No	No(a)	Yes
Private	No	No(a)	No
Boarding schools	No	No(a)	No
Medical hospitals	No	No(a)	No
Other public facilities	Yes	Yes	No
Other private facilities	Yes	No(a)	No
Relative homes	Yes	Yes	No
Foster homes	Yes	Yes	No

(a) Sometimes applied to placement of juveniles on probation and parole.

despite extremely high enrollments from all parts of the world. As intended, the Placement Compact covers placements in both public and private residential facilities and in all forms of foster care, with one exception. A child's parents or guardian may send a child to live with a close relative without using the compact. However, the same placement, made by a court or social agency, would have to go through either the Placement or Juvenile Compact office. This is particularly significant in the latter type of cases when relatives (other than parents) cannot afford to maintain the child in their home without financial assistance. Compact coverage frequently enables public agencies to treat such placements as other foster care cases.

FOOTNOTES

1. *Interstate Compacts, 1783-1977: A Revised Compilation* (Lexington, Ky.: The Council of State Governments, 1977). See, also, Martha Bell Conway, *The Compacts of Virginia* (Richmond, Va.: State of Virginia, 1963); Richard H. Leach and Redding S. Sugg, Jr., *The Administration of Interstate Compacts* (Baton Route, La.: Louisiana State University Press, 1959).

2. The verbatim texts of all three compacts appear in Appendix A. A listing of current memberships in each of the compacts appears in Appendix B.

3. Frederick L. Zimmermann and Mitchell Wendell, *The Interstate Compact since 1925*, and *The Law and Use of Interstate Compacts* (Lexington, Ky.: The Council of State Governments, 1950 and 1976, respectively).

4. Marian E. Ridgeway, *Interstate Compacts* (Carbondale, Ill.: Southern Illinois University Press, 1971).

5. See, U.S. Constitution, Article I, Section 10: "No State shall, without the Consent of Congress . . . enter into any Agreement or Compact with another State, or with a foreign Power."

6. *Virginia* v. *Tennessee*, 145 U.S. 503 (1893).

7. *State ex rel. Dyer* v. *Sims*, 341 U.S. 22 (1955).

8. *Virginia* v. *West Virginia*, 246 U.S. 565 (1918).

9. Crime Control Consent Act of 1934, Title 4, U.S.C. 111.

10. For a discussion surrounding S.R. 130, 85th Congress, First Session, 1957, see *The Handbook on Interstate Crime Control* (Lexington, Ky.: The Council of State Governments, 1966), p. 53.

11. See Appendix A.

12. From the inception of the compact until 1976, the Council of State Governments served as secretariat to the Association of Juvenile Compact Administrators. Sam Houston State University, Center for Crime and Delinquency, Huntsville, Texas, is the current secretariat.

13. See, generally, Brendan Callanan and Mitchell Wendell, "The Interstate Compact on the Placement of Children," *Juvenile Justice*, vol. 26, no. 2 (May 1975), pp. 41-46. The authors are employed by the American Public Welfare Association, which serves as compact secretariat.

5. Case Study Digest

A digest of each case study appears below. By necessity, the justification and documentation for many statements could not be incorporated into the digests and still meet the intent of offering a condensation of the larger document. For those readers for whom the digests are insufficient, the complete versions are in Appendix C.

ILLINOIS CASE STUDY DIGEST

Over 11 million persons resided in Illinois during 1975, making it the fifth most populous state in the country. All of the five SMSAs in the state, including several principal cities, are situated near state boundaries. The contiguous states include Iowa, Indiana, Kentucky, Michigan, Missouri, and Wisconsin. The state recently ranked 40th in its incarceration rate of juvenile delinquents in state and local institutions.

Law of the State

Since 1974, Illinois has been a member of the interstate compacts on juveniles, placement of children, and mental health. The 1973 Illinois Unified Code of Corrections and the 1970 Juvenile Court Act establish the current jurisdiction, responsibilities, and organizational structure for juvenile justice. The judiciary, which is usually responsible for juvenile detention and probation, is organized on a circuit basis.

As stipulated in the statutes, most Illinois child-care facilities are regulated by state licensure through the Department of Children and Family Services (DCFS). Licensing standards consist of minimum criteria for staff, facility, and program characteristics. The law provides for a special license which entitles a facility to place children in other residential facilities it approves.

Other legislation establishes state appropriations for Private Tuition Reimbursement Funds and Individual Care Grants. These grant programs, which are administered by the Illinois Office of Education (IOE) and the Department of Mental Health and Developmental Disabilities (DMHDD), respectively, provide funds to purchase private educational or mental health services. Placements under either grant are initiated locally.

Organization of Youth Services

Since 1970, juvenile corrections has been consolidated with adult corrections in a single state department. The Department of Corrections, Juvenile Division, operates nine state institutions. However, many services for juvenile delinquents are community-based and administered through four regional offices. Detention and probation are operated by local governments. The state has the distinction of having the country's oldest juvenile court in Cook County.

Child welfare services are the responsibility of DCFS. This department serves about 50,000 children a year, including dependent, neglected, and abused children; minors in need of supervision; and delinquents under 13 years old. The eight regional offices provide community-based services through an extensive network of private vendors. For example, DCFS contracts with about 5,300 foster homes and 100 child-placing agencies. The broad responsibilities of DCFS include responsibility for licensing most child-care facilities in the state.

In addition to administering Private Tuition Reimbursement Funds, IOE registers all nonpublic facilities that are eligible for accepting children placed under those grants. Review of its *Directory* revealed an extensive list of approved facilities, and several were not located in Illinois.

The Department of Mental Health and Developmental Disabilities provides mental health, developmental disability, and alcoholism services through 28 state-operated facilities and seven regional offices. A major portion of services purchased from private agencies are funded by Individual Care Grants. These grants, which are usually initiated by a patient's family, are primarily provided to mentally regarded or developmentally disabled children. However, some emotionally disturbed children receive a few.

The Department of Public Health is responsible for licensing private psychiatric hospitals. No other responsibilities of the agency were immediately relevant to the study.

Sending and Receiving Practices

The inquiries with state officials and the survey of residential facilities produced important results. The study determined that three state agencies were involved in the placement of 382 children in out-of-state residential facilities in fiscal 1977. DCFS placed seven children out of state. Each placement was individually reviewed and approved by nine different agency officials, including the agency's director and the placement compact administrator. Two children were placed in out-of-state public psychiatric hospitals through the Mental Health Compact. Through Individual Care Grants, DMHDD expended about $54,128 for 10 children placed out of state. None of these 10 children was placed through an interstate compact. The vast majority of out-of-state placements known to state officials were facilitated by Private Tuition Reimbursement Funds provided by IOE. Essentially arranged by parents in cooperation with local school districts and without utilization of a compact, these funds purchased 363 placements in out-of-state facilities. The study suggests that other children were placed in out-of-state residential facilities that were unknown to state officials and not reported by any governmental agency.

Concerning the number of nonresidents accepted in Illinois facilities in fiscal 1977, state officials knew of only 15 such placements. Each of these children received was placed in Illinois through an interstate compact. Eight out-of-state children were received through the Placement Compact, one through the Juvenile Compact, and six through the Mental Health Compact. It was reported that no out-of-state children were received in Illinois public corrections institutions or detention homes.

The survey of 85 residential facilities found the actual number of out-of-state children in Illinois greatly exceeded the amount reported by state officials. The results revealed 74 out-of-state children in boarding schools, 47 in child-care facilities, 89 in private psychiatric hospitals, 44 in residential treatment centers, and three in maternity homes. Thus, compact officials knew about 6 percent of the placements subject to compact intervention. The survey also collected comparable data about important characteristics of these facilities. Ninety-two percent of the out-of-state children they accepted had home residences in contiguous states. In many cases these facilities were close to a juvenile's home residence despite being across state lines. Fifty-four percent of the out-of-state referrals were made by public agencies. Other information included service and staff characteristics, accountability procedures, descriptive data about their clients, and fiscal information.

Services

Illinois officials typically thought the major reason for sending children to out-of-state facilities was that comparable services were not available within the state. Considering facilities approved by IOE for children germane to this study, it was determined that 17 facilities were locataed in Illinois and 76 in other states in the nation. Sixty-one percent of the Illinois children reported in Texas and North Carolina facility surveys were in boarding schools. Twelve Illinois children were placed in one particular residential treatment center in Texas. Thus, a significant number of children sent from Illinois to other states were receiving educational services, but also included were milieu therapy and specialized counseling services.

Nonresident children in Illinois residential facilities were mostly received in psychiatric hospitals and boarding schools. While educational services were usually given in all receiving facilities, counseling, psychiatric therapy, and simple residential services were purchased by out-of-state sending agencies. The average child in all these facilities had access to the community with only minimal supervision.

Fiscal Data

Through Private Tuition Reimbursement Funds and Individual Care Grants, Illinois state government expended about $1,143,128 in fiscal 1977 to purchase placements in out-of-state residential facilities. State expenditures actually exceeded this amount. However, administrative costs and DCFS expenditures were not available.

Among the facilities in Illinois that received children from out of state, the average per diem rates received ranged from $158.50 in psychiatric hospitals to $18 in boarding schools. Child-care facilities and residential treatment centers averaged $23.03 and $45.34 respectively. Three facilities indicated they received different per diem rates for in-state and out-of-state children. The variance ranged from $2.13 more per day for in-state children in one facility, to $10 more per day for out-of-state children in another.

NORTH CAROLINA CASE STUDY DIGEST

North Carolina is largely a rural state, despite the fact that it contains well over 5 million people. Located on the eastern seaboard, its land mass extends well into the Appalachian Mountains. The demographic and economic data available suggest that North Carolina shares many common characteristics with its neighboring states.

Law of the State

The interstate compacts on juveniles, placement of children, and mental health have all been adopted in North Carolina, although the Uniform Juvenile Court Act is not part of state law. There are numerous laws affecting placement of children in and out of state, outside of the compacts and the state's Juvenile Court Act. Import/export legislation exists, most frequently used in cases of adoption, as do rather stringent licensing laws which have resulted in minimal standards of care in receiving facilities within the state. Of particular importance is a 1975 state attorney general's opinion that prohibits state mental health funds from being used to pay for out-of-state inpatient care. Based on this opinion, most other state agencies have imposed a similar self-restriction. The major exception is the state's Department of Public Instruction which administers a statutorily created grant program for exceptional children.

Organization of Youth Services

In juvenile justice, the state Administrative Office of the Courts has superintendency powers of 30 district courts with juvenile jurisdiction. Adoptions and certain felonies by minors are handled by the state's superior courts, also under the oversight of the Administrative Office of the Courts.

While foster care and private facility placements are usually arranged by the district courts or county social services agencies, public institutional services are provided by the North Carolina Department of Human Resources (DHR), Division of Youth Services. For juveniles convicted as adults, units are maintained by the Department of Corrections, Youth Service Complex.

Child welfare services are provided through the state's principal social service agency, the Department of Human Resources. In addition to operating the delinquency institutions mentioned above, another division in DHR licenses public and private residential facilities and foster homes, provides adoption and other protective services, administers the interstate compacts on juveniles and placement of children, and supervises the operations of the county social services agencies. These county agencies enjoy a great deal of autonomy, and a large proportion of service delivery decisions are made at the local level.

Also within DHR is the Division of Mental Health and Mental Retardation Services that, among other duties, supervises local mental health district offices and administers the Interstate Compact on Mental Health.

The state's educational systems are funded and regulated through the Department of Public Instruction (DPI). Within the department, there is a Division of Exceptional Children which is directly involved in placing children in other states. Another unit, the Division of Non-Public Schools, is responsible for accrediting private boarding schools.

Sending and Receiving Practices

The Department of Human Resources and the Department of Public Instruction are the two major agencies in state government responsible for sending and receiving out-of-state children, or for funding or regulating those practices.

From a sending standpoint, the responsibilities in DHR revolve around either processing children under one of the three interstate compacts for which it is responsible, or maintaining records of children placed outside those processes but nevertheless reported to the state. In DPI, the major sending activity relates to the administration of its Educational Expense Grants for Exceptional Children program, which pays up to $2,000 per child who must be educated in private or out-of-state schools. Some of these cases involve out-of-state boarding school placements.

At the same time, these state agencies do not technically place children in out-of-state facilities. They merely assist, in one way or another, local public and private agencies in making their placements. In those cases where state intervention is not sought, either because no funding is available or because the procedures are considered to be superfluous, out-of-state placements do take place without the knowledge of state agency officials. Such placements might be initiated by the district courts, the county social services agencies, private or sectarian agencies, or parents, and would not normally be reported to the state despite the legal requirement, in most cases, to do so.

In 1977, state agencies knew of 525 children placed out of state, 473 through DHR and 52 through DPI. Of that

number, only 54 were reported to be involuntary placements: 20 children were placed in institutions and 34 in family foster care homes. Another 25 children were residing in psychiatric hospitals in 1977, having been sent to these out-of-state facilities during prior years. In aggregating these 45 institutional placements with the 52 cases of out-of-state educational placements, a total of 97 children were known to state agency officials to have been placed in out-of-state facilities. In general, the children were usually sent to states in the southeast, particularly those states surrounding North Carolina.

As with sending practices, DHR and DPI are central to these activities, the former through compact administration and licensing supervision, the latter through the accreditation of boarding schools. Yet, no out-of-state children were received in public corrections institutions or detention homes. There are various types of agencies and facilities that are either not required to report the acceptance of out-of-state children or fail to do so even though they are required to report such cases. This includes medical and psychiatric hospitals, and boarding schools which, while accredited, are not required to report out-of-state admissions. In addition, private facilities might accept such children without bothering to report them. It became obvious during the surveys of receiving facilities and foster homes, that considerably more children were received than were reported to DHR.

A complete understanding of North Carolina's child welfare system must include reference to the Duke Endowment. Originally begun as a fund to benefit orphans, the endowment now contributes funds to operate most child-care facilities in the state. In exchange for the gifts, facility operators reciprocate with information about children received. There is a great deal of cooperation between the endowment, Duke University, private institutions, and DHR which has resulted in a child welfare system that has standards, licensure, common data, and a communication network. However, data on the question of out-of-state placements, although slightly better from Duke Endowment than from DHR, only reflected a small portion of children actually discovered through the detailed research procedures.

Only five children were known to state officials to be accepted in North Carolina facilities during 1977; for the same period, Duke Endowment reported 26 placements. The statewide survey identified 732 out-of-state children in 22 facilities. However, 85 percent were found in boarding schools and 10 percent were found in psychiatric hospitals. Since neither type of facility was required to report such admissions to any state agency or to the endowment, the remaining number corresponds fairly closely to the placements known by state officials and Duke Endowment.

Services

Generally speaking, state officials expressed the strong belief that families and communities should take care of their own children. The extremely small use of out-of-state institutions and the extremely high proportion of foster care placements with persons to whom the children are related would clearly bear out this philosophy. Interestingly enough, the immigration appeared to follow the same pattern: less than 5 percent of the out-of-state children were found in North Carolina facilities that have historically received delinquent and status offender children.

For most institutionalized children, the services tended to emphasize educational and therapy programs as the principal services offered beyond room and board. The boarding schools offered the greatest amount of access to surrounding communities, while psychiatric hospitals were locked facilities which tended to offer very limited community contact.

Fiscal Data

While only general estimates of costs were available, it was estimated that North Carolina spent $1,441,500 on out-of-state care in 1977: $700,000 in institutional care, $487,500 in foster care, $104,000 in Educational Expense Grants for Exceptional Children, and the remaining $150,000 in administrative costs.

Within North Carolina's private facilities, the per diem costs depended upon the type of facility and, sometimes, upon the facility's reliance on outside non-per diem income. Per diem charges varied slightly in boarding schools and much more noticeably in psychiatric hospitals. The three child-care facilities reported a flat rate of $5 per day. The average charges of boarding schools and residential treatment centers were comparable, $13.44 and $14.83, respectively. As could be anticipated, the highest charge was made by psychiatric hospitals, averaging $132.25 per day.

TEXAS CASE STUDY DIGEST

Knowledge about the peculiar distribution of the state's population and its very large land mass are important to a full understanding of any case study about Texas. It is the second largest state in the country, and in 1975 the

population reached 12,237,000. One county contained only 69 persons and 10 other counties had over one half of the state's total population. Of additional importance is that the state shares a border of several hundred miles with Mexico.

Law of the State

As of September 1975, Texas became a member of the interstate compacts on juveniles, placement of children, and mental health. Dispositional alternatives applicable to juveniles adjudicated delinquent or children in need of supervision are explicitly stated in the Texas Family Code. Only delinquents can be committed to the Texas Youth Council, but both children in either adjudicatory category may be placed in other "suitable" public or private institutions. Texas has not adopted the Uniform Juvenile Court Act and each of its 254 counties has one or more of their courts designated to handle juvenile matters.

The state enacted an omnibus Child Care Licensing Act in 1975. The licensing standards promulgated by the Department of Human Resources (DHR) as a result of this act, together with the compacts and the Placement of Children from Another State statute, provide a comprehensive basis for regulating child care and the interstate placement of children. For instance, placing an out-of-state child in a Texas facility without compact intervention or permission from DHR can result in a misdemeanor conviction and license revocation.

DHR licenses nearly all residential facilities in the state. Exceptions include private boarding schools which are accredited by the Texas Education Agency and private psychiatric hospitals and alcoholic health care facilities which are licensed by the Department of Health. Although state-operated facilities are exempt from licensure, they are subject to certification and must meet the same standards as private facilities.

Organization of Youth Services

State government's responsibility for juvenile justice is consolidated within the Texas Youth Council. In addition to operating state corrections institutions, the agency administers parole services for juvenile offenders and funds several community-based residential and nonresidential programs. Detention and probation services are under the auspices of local government and usually under the jurisdiction of juvenile courts.

In addition to its important licensing responsibilities, DHR administers most child welfare services in the state. The supervision and coordination of local operations is carried out by 11 regional offices. However, except for several sparsely populated counties, county child welfare boards support and administer general assistance programs. In a recent year, DHR responded to numerous referrals involving teenagers, including 40,000 reports of truancy, juveniles without supervision, and related problems.

The establishment of funding policy and accreditation standards for the Texas education system is the major responsibility of the Texas Education Agency. The agency accredits all state and nonpublic residential schools, but there is no formalized local-state government system for accreditation, monitoring, and compliance. Without accreditation, a school facility is ineligible for state educational appropriations.

Eight psychiatric hospitals, several out-reach centers, and 28 community mental health centers are under the auspices of the Department of Mental Health and Mental Retardation. The department formulates mental health policy and coordinates the activities of the mental health centers primarily through monitoring practices and the application of compliance standards for grant awards. Each local mental health center operates its own residential facilities and may purchase services from private agencies.

The Texas Department of Health has been delegated the authority for licensing private psychiatric hospitals and facilities for drug and alcohol problems. The licensing standards that have been established by the department mainly focus upon health conditions. The department's issuance of a directory of private hospitals was of special importance to this study.

Sending and Receiving Practices

State officials reported 19 children placed in out-of-state residential facilities during the survey year. There were 13 children sent out of state through the Placement Compact, four through the Juvenile Compact, and two under the Mental Health Compact. None of these placements was made by agencies, which was understood to be consistent with a state government administrative policy prohibiting the expenditure of state revenue to purchase services in other states. This means such placements, when and if they occur, must be paid for out of county or private resources. No private agencies or parents were contacted. However, interviews with knowledgeable local officials suggested that

some juvenile courts and at least one child welfare agency have placed children out of state. Therefore, state government information is incomplete and likely to underrepresent the actual number of Texas children placed out of state.

Further information reported by state officials and the systematic analysis of information received from a survey of 171 residential facilities found that a considerable number of out-of-state children were received in Texas facilities without any direct governmental intervention or knowledge. The consensus was among all officials that out-of-state placements were not made to public corrections institutions or detention homes. Predicated upon interstate compact information, state officials reported 189 out-of-state children received in Texas during fiscal 1977. Thirteen children were received through the Juvenile Compact and 176 through the Placement Compact.

Facility administrators included in the statewide survey reported accepting a total of 1,128 out-of-state children during the same period. There were 559 out-of-state children in boarding schools, 84 in child-care facilities, 73 in psychiatric hospitals, 364 in residential treatment centers, 18 in maternity homes, and 30 in foster homes. It is important to understand that these placements were made to only 59 residential facilities and 190 foster homes. After excluding placements that were not subject to compact intervention—boarding schools and private psychiatric hospitals—compact officials still only knew of 38 percent of the out-of-state children received in one year.

Several explanations can be offered to explain this lack of information. A major cause would appear to be the significantly large volume of voluntary, parental placements that were not subject to compact intervention. Only a very small proportion of the out-of-state children received in these facilities were placed involuntarily by court order or some other social agency. In addition, the enforcement of licensing standards and the systematic collection of information in the DHR about out-of-state children is in the developmental stages.

An interesting situation examined in association with receiving practices in Texas concerned a strong challenge to the state's ability to regulate private facilities through licensure. A network of evangelistic facilities, which refused to participate in the survey but was estimated to accept a large number of out-of-state children, refuses to submit to DHR's licensure. Currently in litigation, the facility executives argue that their operations are not subject to governmental regulation because of the constitutional provision regarding separation of church and state. The decision in this case may have a significant impact upon licensing laws in Texas.

Services

It was explained in Texas that most out-of-state placements are made for purposes of adoptions, changes in foster parents' residences, placement with relatives, and other reasons not germane to this study. The small number known to state officials were described as placements located close to the child's home despite being across state lines. A few cases involved attempts to maintain a definite separation between the child and his family and friends. Most of the time, the major service purchased is simply residential care. However, specialized psychiatric services and milieu therapy were also arranged for.

Out-of-state children accepted in Texas facilities had home residences in most parts of the world. Predominantly from Mexico, 36 percent of the children in the facilities surveyed were from foreign countries. Most sending states and foreign countries placed children in Texas for services provided in boarding schools. The boarding schools typically offered educational (usually college preparatory), religious, recreational, and social development services. Residential treatment centers generally specialized in milieu therapy with some modality of individual and group counseling. Other services purchased from Texas residential facilities included psychological, psychiatric, maternity, and simple residential services.

Fiscal Data

No cost data was given for the 19 out-of-state placements known to state government. The source of most expenditures was local and private revenues.

The average per diem rates received from out-of-state children ranged from $3 in maternity homes to $122 in psychiatric hospitals. Boarding schools averaged $15 per diem rates, child-care facilities $4, and residential treatment centers about $51. Six facilities charged different per diem rates for children from out-of-state than in-state.

FEDERAL AGENCIES INVOLVED IN SENDING JUVENILES

It became apparent, through the survey of receiving facilities, that a number of juveniles were sent by or through federal agencies. Although outside the scope of the project, the questions raised seemed to warrant further

investigation. Three agencies were investigated, namely, the Bureau of Indian Affairs, the Bureau of Prisons, and CHAMPUS.

Bureau of Indian Affairs

The Bureau of Indian Affairs (BIA), within the Department of the Interior, operates an extensive social service and boarding school program for Indians living on or near reservations. Most Indian child welfare assistance and service programs are provided by BIA, either directly or through contracts with tribes or state welfare agencies. In most cases, Indian children or their families seek assistance. In a number of instances, however, referrals are made by tribal courts or social service departments. Services provided do include foster care and institutionalization, sometimes outside of the state in which the reservation is located. According to BIA statistics for fiscal 1976, only 73 cases out of 1,165 involved out-of-state institutional care, about 7 percent. In 1977, the number increased slightly, to 82. In both years, over one half of the children (boys) were sent to two facilities in Arizona, both of which normally accept delinquent and status offender children. The only facility used that corresponded to the test states was the Brown School in Texas. The school admitted two children in 1976 and three in 1977 who were mentally retarded.

BIA also maintains its own network of 15 elementary and secondary boarding schools, none of which is located in the test states. The schools are used primarily to provide education for over 5,000 Indian children who live in such sparsely populated areas that schools are not maintained closer to their homes. In some cases, the BIA Social Service Program will refer children for placement in one of the boarding schools. When this occurs, it is apparent that reasons other than the need for an education are present, such as family disintegration.

Bureau of Prisons

The Bureau of Prisons (BOP), within the U.S. Department of Justice, receives both juveniles and adults committed to its custody from U.S. district courts. For purposes of this project, only juveniles committed under the federal Juvenile Justice Act are relevant. These would include those who committed offenses prior to their eighteenth birthday and proceeded against before they became 21 years of age. BOP categorizes its cases by status, not age. That is to say, only juvenile delinquents are juveniles; even its youthful offender and adult populations may include adolescents. In fiscal 1976, 30 percent of its caseload was 18 or younger.

Since 1975, BOP has drastically altered its incarceration policies regarding juveniles. Until that time, several hundred juveniles were confined each year in seven federal facilities, along with young adults. Effective February 1977, the decision was made to remove all juveniles from federal facilities and place them in state and local public facilities, private facilities, or foster homes. As of January 1968, there were two juveniles still remaining: one located at the Federal Correctional Center in Butner, North Carolina, and the other, a Mexican alien, in California. Since foster care is rarely used, it is fair to assume that a large percentage of its 218 juveniles boarded out are in state and private institutions.

Detention of federally charged juveniles is handled by U.S. marshalls. When a juvenile is apprehended, he is taken to the nearest approved place of detention, usually a county or state detention facility. It might also be the juvenile quarters of a jail or a federal detention facility, such as those in San Diego and Miami. Since out-of-state detention is not tantamount to out-of-state placement, this issue was not pursued.

CHAMPUS

CHAMPUS (Civilian Health and Medical Program of the Uniformed Services) is operated by the U.S. Department of Defense. CHAMPUS benefits dependents of military personnel, covering medical and surgical conditions; nervous, mental, and chronic conditions; and contagious diseases. It may not be used to provide domiciliary or custodial care that is not medically necessary. The program operates similar to Medicare/ Medicaid in that third-party payors are used to pay for the care received. These third-party payors, usually insurance companies, then claim reimbursement from CHAMPUS. To qualify, both the facility and the patient must be approved by CHAMPUS. Authorization to incur the debt is then issued.

Of the 250 children in its program receiving residential care for nonphysical handicaps, less than 200 are placed in facilities outside their states of residence or countries of domicile. Presumably, many of these are of the nervous, mental, and chronic condition variety. While CHAMPUS is prohibited form paying for court-ordered placements, it does appear that it pays for residential care for delinquents or status offenders so long as mental illness or a handicap condition is present. The statistical data generated by CHAMPUS was not relevant to this project.

6. Data Collection Issues

Data sources available in each of the states varied in adequacy, validity, reliability, and retrievability. What all states had in common was that the state agency officials who were in the best positions to know how many children had been sent or received, consistently believed they were aware of practically all of the placements. In reality, they all knew of a relatively small proportion of children sent or received across state lines.

The reasons for this curious phenomenon are readily apparent from a comparison of the various data problems of the sending state, the receiving state, and the receiving facility.

SENDING STATE DATA PROBLEMS

Information available from state officials about children sent to other states was representative of three circumstances. First, state agencies were able to report the number of children under their care or custody whom they placed in other states. This number was negligible in all the states, normally restricted by state laws or opinions of attorneys general proscribing state funds from being used for out-of-state placements.

The second circumstance resulted from situations in which state funds, or funds controlled by state agencies, were used to pay for placements made by local courts, school districts, or public agencies. In all probability, the information obtained from state education agencies was the most complete, as far as it went. That is to say, the likelihood is extremely slight that local school districts placed children out of state without state reimbursement. The other state agencies' officials were either unaware or unsure of local governmental practices, or were positive that no such placements occurred. Instances were discovered, however, that verified that locally initiated placements occurred, frequently in violation of state law and unknown to state agency officials.

The third circumstance where state agencies had information resulted from placements either being arranged through interstate compacts or from placements not made under the compacts that were nevertheless reported to a compact office. Again, violations of compact procedures were discovered, the extent of which could not be determined without a thorough investigation of local records. Because of the limited uses intended for both the Juvenile and Mental Health Compacts, it can be safely assumed that almost all extralegal placements arranged by local governments or private agencies represent violations of Placement Compact provisions. There is a bit of irony here. Since restrictions have been imposed on the use of state funds for out-of-state placements, local agencies are forced to use either private or local public monies. Because of this, some feeling was expressed that such placements were no longer the state's business. Thus, by cutting off funds in an effort to reduce or eliminate such placements, a state may have reduced its ability to know when placement occurs. The absence of funding appears to be a greater reporting disincentive than license revocation, while other sanctions appear to serve as reporting inducements.

There are, of course, many other explanations and the observations above should not be interpreted as a blanket conclusion that state agencies have no information or that there is no compliance by local agencies. If receiving state data is in any way reflective of sending practices in the test states, then it would be appropriate to conclude that the vast majority of placements are made by parents under completely noncoercive circumstances, primarily because they either wish to purchase private education for their children or because they find it necessary to place their children in private psychiatric hospitals. It is somewhat difficult to identify the public interest in such circumstances, except for assuring the quality of facilities and protecting the rights of the affected children. In neither instance does there seem to be much to distinguish out-of-state from in-state placements.

In addition, there are incredibly large categories of placements that are simply not reportable to any state agency because of specific exclusions in the interstate compacts or in other state laws. Children placed by parents with close relatives are exempted, as are placements in educational, medical, and private psychiatric facilities, and in facilities serving retarded, epileptic, or disabled children. In addition, certain important but statistically less significant instances were discovered. For example, some facilities are part of interstate networks owned by a single corporation

or religious denomination. Children might well be transferred from one campus to another without informing a compact office.

Although the full impact could not be documented through state agencies, it should be pointed out that some state juvenile court legislation contains enabling provisions which permit the juvenile court to make out-of-state placements. While the uniform provisions of the compacts are intended to supercede such inconsistent provisions, it is conceivable that some courts interpret state juvenile court legislation to justify out-of-state placements without resort to the compacts.

Also unknown to state officials are the placement activities of federal agencies, except for those limited instances where placements are made in state corrections facilities, with the consent of the cognizant state agency. Of the three test states, only Texas permitted this practice. The placements by federal agencies of juveniles into federal facilities would be understandably unknown to state officials. For example, one juvenile was found in the Bureau of Prisons' Federal Correctional Center in Butner, North Carolina, who was not known to North Carolina officials. Also, when a federal district court judge in North Carolina commits a child to the Bureau of Prisons and the bureau places the child in a private facility in Texas, neither state's officials are aware of the placement. The same is true of cases where the Bureau of Indian Affairs intervenes to remove children from Indian reservations and places them in private facilities. Neither the state where the reservation is located nor the state where the facility is located would have been notified.

The conclusion reached, with respect to the lack of reliable data about the frequency of interstate placements by state agencies, is that no amount of diligence and enforcement by state agencies will correct this condition. Major changes in the compacts and other state laws would have to occur before these agencies would even possess sufficient authority to address the problem more comprehensively.

With respect to those children about whom the state agencies were aware, a number of problems were encountered. Except for Illinois, the states do little to personally inspect or monitor out-of-state facilities or the children in them. Heavy reliance is placed upon past successes and reports from the facility operators or compact administrators. Once the placements have occurred, compact administrators play a small role unless a problem arises, such as a runaway from placement, a return, or delinquent payments. In such cases, compact administrators do whatever is appropriate under the circumstances.

It was clear from the interviews that the foster care, placement, or compact offices of state agencies, or federal agencies for that matter, do not arrange their records in ways consistent with the objectives of this research. Even where project staff obtained data that was both responsive and fairly complete, the information had to be generated by way of special reports. In a number of instances, the figures given were admittedly estimates. For many pieces of data, the only way to obtain them would be to manually review thousands of case files, thus rendering otherwise available data virtually inaccessible. The apparent inconsistency between the relatively few out-of-state placements and the thousands of files can be explained in one of two ways. In some agencies, all children served are in a single, alphabetical file, regardless of the type of services delivered. In other agencies, 1977 data had already been merged, alphabetically, with files from the previous 10 or 15 years. Despite much interest in the project and an incontrovertible desire to help, state agency personnel were unable to take the time necessary to unearth the requested information. Another irony that seemed to crop up was the fact that data was frequently harder to get from computerized systems than they were from hard-copy ones.

Conclusions concerning Retrievability of Sending State Data

For purposes of convenience, the discussion will be broken down into subtopics centering upon clusters of questions having common themes.

Number of Juveniles Sent. It is possible to obtain data about the number of juveniles sent out of state only under the following circumstances:

(1) When the state agency is the sender.

(2) When the state agency is the payor for the placement.

(3) When the child is placed under an interstate compact.

(4) When a local agency informs the state agency of a placement due to statutory reporting requirements.

(5) When children are placed under the auspices of federal agencies. This information is available from those agencies directly.

If the research were organized in a different manner to specifically include local public agencies as an original data source, it would be possible to obtain data about the number of children sent out of state under the following

circumstances:

(1) When a local court or public agency places a child and pays for it with local funds.

(2) When a local court or public agency places a child in a free placement.

(3) When there is no statutory requirement to report out-of-state placements or where such requirement is intentionally avoided.

(4) When out-of-state placements are statutorily proscribed but occur anyway. For example, North Carolina prohibits the use of state funds to place children in out-of-state facilities. However, some evidence was encountered of such placements paid out of Title XX funds.

It is not possible to obtain accurate numbers about placements made under the following circumstances:

(1) When a parent, guardian, custodian, attorney, or family agent places a child directly in the out-of-state facility.

(2) When foster parents move and take the child with them.

(3) When the child is placed under the auspices of certain religious groups that maintain interstate networks of child care facilities.

States of Placement. Generally speaking, state administrators knew which states were most frequently used for those children of whom they were aware. However, normal recordkeeping practices did not generate reports on this point. It would only be possible to collect the information through examination of children's case records, and probably would have to be done by project researchers. In some states, such information should be readily available at the courts or local agencies, thereby avoiding the need for case file examinations.

Reasons for Placement. In most cases, state administrators demonstrate a good understanding of the reasons why out-of-state placements are deemed to be necessary. Federal agency officials are even more specific. The Bureau of Indian Affairs only uses a handful of facilities in the country; for example, one for deaf and blind Alaskan Indians, located within the continental United States.

Identification of Senders. Sending agencies can be clearly identified in the areas of juvenile justice, mental health, education and, to a much lesser extent, in child welfare. That is to say, in the first three types of agencies they know, in a general way, who sends children out of state, even though they may not know the frequency. In child welfare, the information seems to be lacking with any specificity beyond local and (decentralized) state child welfare offices. For example, they may know that "religious organizations" may place children out-of-state, but they would not know about the Baptists or Lutherans. What has become very apparent is that state government agencies are unaware of a number of locally arranged placements frequently made by public agencies. This is true despite some state laws requiring that all senders report out-of-state placements to pertinent state agencies. In addition, the research in the three test states clearly indicates that state and local health department should be eliminated from further inquiry. They were not at all involved in interstate placements of children.

Cost of Placements. The evidence shows that it is much easier to determine how much a state agency spends on out-of-state placements in the aggregate than on an individual child. In states where the use of state funds is prohibited for out-of-state placements, the only cost data available from state agencies would be for payments made from such federal programs as AFDC or Title XX. Although not collected in this study, public funds paid by local governments for out-of-state placements would be identifiable, but only through a county-by-county study. Private funds, especially those paid by religious groups and parents, are not identifiable from those sources because those organizations will not share that information and because they cannot be accurately identified.

To the extent that cost data is available through state agencies, it is aggregated and not available on a per child or per diem basis. Since lengths of stay are not the same for every child, dividing the aggregate amount by the product of the number of children and estimated average length of stay to determine average per diem cost would be unrealistic and only marginally useful. In some cases, foster care is reported separately by in-state and out-of-state costs; in other cases, the data is merged.

Monitoring Practices. It is possible to determine the extent to which states exercise their authorities under the compacts in two respects: monitoring practices of public and private agencies in placing children in other states, and monitoring the services provided by out-of-state facilities for children sent from their respective states. Generally speaking, monitoring practices in either situation are weak, except for requested assistance from compact administrators.

Size and Type of Facilities. Except for the advertisements and literature provided to them by the receiving facility administrators, sending state officials have poor information on the size or type of facilities to which children are sent.

Illinois is the only state in the sample that systematically visited out-of-state facilities where Illinois children are sent.

Types of Children. While the total number of children sent is not known by state officials, they do have information regarding children's legal status and reasons for placement for those children of whom they are aware. It is assumed that much more specific information concerning legal status, public guardianships, individual education, and behavioral and psychiatric problems would be more readily available from local government agencies.

Use of Compacts. Sending states can provide reliable information on the use of interstate compacts. Further, good information can be obtained regarding problems and shortcomings of compact administration, particularly with respect to why compacts are not used more consistently.

RECEIVING STATE DATA PROBLEMS

When viewing the data available relating to receiving practices, two main sources were used: state agencies and receiving facilities. In some ways, it offered a measure of the states, in terms of their awareness of children in placement. In order to have a truer picture, the factors mentioned above had to be taken into account; that is to say, state education agencies knew nothing about the number of children in boarding schools from other states because there were no reporting requirements imposed on the schools. Even so, in facilities where, either because of compact requirements or licensing conditions, complete reporting should have taken place, the numbers of children from out of state exceeded the numbers reported to the state agencies. In all three states, lists were supplied containing the names and addresses of licensed facilities that might potentially have out-of-state children. Agency officials could easily identify the facilities most likely to be ones that admitted large numbers and they were invariably correct. But other facilities were also found to have received out-of-state children, of which state agency officials were obviously not aware. Basically, the state data reflected compact placements and little else.

Conclusions concerning Retrievability of Receiving State Data

Number of Juveniles Received. It is possible to obtain information from state officials about those children placed under compacts. Almost nothing is known about the numbers of children placed without compact involvement, except that some state licensing offices and regional offices of state agencies do get involved in monitoring facilities and do have some data on out-of-state children.

Sending States. Receiving state agency officials have access to information about the states of origin of children placed under the compacts. However, the data is not routinely extracted. It would require, in most instances, a case-by-case examination of folders kept by compact administrators. The folders, whether filed by child or by state, are not filed by date. Therefore, a second step of culling the merged data for a particular time period would be required.

A national study could eliminate these steps through a reliance on sending state and receiving facility data.

Reasons for Sending. Because of their background and experience, compact administrators generally believe they know why children are sent. While there is no reason to doubt the validity of their impressions, no reliable set of reasons could be established for compact cases because many of the case records would not indicate the reasons for placement and the majority of cases were not processed through compacts.

Identification of Receiving Facilities. State agencies are usually aware of the major receiving facilities within their areas of responsibility which get large numbers of out-of-state children, but they are not aware of all placements. In addition, social service administrators do not know much about boarding schools, which are well known to education agency officials, and vice versa.

Use of Compacts. Since both sending and receiving compact practices are controlled by the same people, the response under Sending States Data Problems is equally applicable here.

RECEIVING FACILITY DATA PROBLEMS

The data collection effort at the receiving facilities presented its own set of problems. Out of the 119 facilities contacted which admitted out-of-state children, two facilities and two psychiatric hospitals refused to cooperate. Difficulties in obtaining mailing lists of foster parents from state agencies, and in the mailing process itself, resulted in a mailing in Texas to about a 10 percent sample; a mailing in North Carolina through county social services agencies, with an extremely poor response rate; and no mailing in Illinois at all. A more detailed discussion is in Chapter 1.

In considering the facilities that agreed to cooperate, a number of problems were encountered. In all cases, the number of out-of-state admissions could be identified. In some types of facilities, particularly boarding schools, out-of-state children could be identified by name and state or country of residence, but not for all three years. In other

facilities, admissions records had to be manually searched for the same pieces of information. All information concerning per diem charged for such children, payments received from out of state, reasons for placements, and services provided to out-of-state children was obtained from administrators based upon recollection and their knowledge of how their facilities functioned. Specific key data elements were simply nonexistent. For example, most facility operators assumed that children who came to them were voluntary admissions, with some allowances for particular children whom they remembered. They did not know how many were under court jurisdiction, although they conceded that some children may have been under court orders when placed. What could be reliably determined were the numbers of out-of-state children accepted and the services they most likely received.

Conclusions concerning Retrievability of Receiving Facility Data

Number of Juveniles Received. Obviously, receiving facilities are the best source for this information.

Sending States. In all cases, this is known. However, in most institutions it is not regularly reported. Some facilities, such as boarding schools, collect and disseminate the states and foreign countries represented within the student bodies for each current school year, but then dispose of the data. It would be retrievable, through examination of individual children's records.

Reasons for Sending. As in the other two data sources, facilities' operators subjectively know why juveniles were sent to their facilities, but have only anecdotal evidence to substantiate their beliefs. The best source for this information would be local government agencies.

Program, Staff, and Treatment Differences. This information is fairly easy to acquire, if descriptive and not evaluative information is desired. For example, the size of the teaching or social work staff can be determined with no difficulty, but the quality of such programs cannot be obtained through interviews. Similarly, it is easy to learn that facility administrators perceive few differences in the manner in which they treat out-of-state children in relation to in-state children. Whether those perceptions are accurate cannot be fully determined through these interview techniques.

Size and Type of Facilities. This is the most obvious kind of information obtainable from this source. One way to verify the proper classification of facility types seems to be by determining to what professional associations the facility belongs.

Types of Children. Here is one of the most remarkable differences in the data collected from different sources. Facilities classify children according to behavioral, physiological, or educational needs, rather than by legal status. That is to say, a facility may serve "emotionally disturbed children" and not collect (or, in some cases, not even have) information about the number of delinquent, status offender, or abused children in the population. Again, sending state data from local governments would be the best sources.

Security Characteristics. Facility administrators were quite willing to discuss security and to offer tours of the grounds. Information about both physical and psychological restraint is easily obtained.

Cost of Placements. Most facility administrators were willing to openly discuss per diem and other sources of income. It was possible to determine per diem normally charged, whether scholarships or partial payments were accepted, and approximately how much was obtained from federal grants, gifts, church funds, and other sources. Further, little if any information was obtainable about payments made from third-party payors, since parents or social agencies generally pay the facility billings and are reimbursed from insurance companies, federal grants-in-aid, or insurance programs, estates, or similar sources after the fact.

Use of Compacts. Receiving facilities know sometimes whether they receive children under compacts, but they keep no statistics on this point. State agencies are the best source for this type of information.

CONCLUSION

The discussion to this point has identified a series of data collection problems associated with the efforts to collect sending state, receiving state, and receiving facility information. These findings assume additional importance when synthesized and recapitulated to indicate recommended sources for data collection. Table 3 lists the pertinent types of information and presents, in summary form and with comment, the best source for collecting the type of data being considered.

Table 3
SUMMARY OF DATA COLLECTION ISSUES
RELATING TO THE INTERSTATE PLACEMENT OF JUVENILES

Type of information	*Best source*	*Comment*
Number of children	Receiving facilities	This would include private and public, voluntary and involuntary placements
Legal status of children	Local and state sending agencies	This would only include public, mostly involuntary, placements
Reasons for and costs of placements	Local and state sending agencies	Aggregate data is the most accessible, resulting in generalizations that are nevertheless useful
Extent of compact usage	State agencies responsible for compacts	The majority of interstate placements are not now subject to compact applicability
Relevance of licensing laws	State agencies in receiving states	Reporting out-of-state placements is frequently tied to licensing compliance

7. Recommendations for a National Study

The following discussion will set forth a series of alternative approaches for any future research concerning the interstate placement of children. These recommendations are predicated upon the feasibility studies conducted in Illinois, North Carolina, and Texas; the review of pertinent literature, interstate compacts, and other laws; and some level of understanding about the informational needs of federal and state governments. With respect to this last point, a fuller appreciation for the implications of the following recommendations can be achieved through an examination of their underlying assumptions.

The basic purpose of a national study about the interstate placement of children would be to fill a presently existing information gap. In other words, the initial assumption maintains that there is an absence of comprehensive and authoritative information about the interstate placement of children in the states. Furthermore, the types of information desired must be relevant to the public interest. The desired information must also be systematically and reliably retrievable.

Specific research topics about the interstate placement of children can be organized into three general areas: categories of children, types of facilities, and units of organization. Possible informational elements will be identified for each topic area, followed by a comment about data collection issues.

CATEGORIES OF CHILDREN

Four categories of children may be relevant to a national study. They are:

(1) Court-ordered placements after adjudications for delinquency, status offenses, dependency, or other statutory categories.

(2) Involuntary placements by public and private social agencies after juvenile courts have transferred jurisdiction, custody, or guardianship.

(3) Voluntary placements by social, religious, and education agencies, whether or not the children were, at the time, under court jurisdiction.

(4) Voluntary placements by parents when the children were, at the time, under court jurisdiction.

Private facilities receiving out-of-state placements are rarely cognizant (or failed to expressed any cognizance) of court-ordered or involuntary placements. For the most part, facility administrators indicate that internal policies prohibit involuntary placements. The overwhelming number of children found in facilities are placed there voluntarily by parents or guardians. While some parents may place them over their children's objections and while other parents may place them to avoid court orders, there is no legitimate research technique that would capture this information on a national basis. A small sample study, focusing on a few selected counties, might be feasible, but it might only tend to verify the nonretrievability of such factors as parental motives. Another approach might be to administer a self-reporting questionnaire to children in such facilities but, again, it would have limitations.

RECOMMENDATION

A national study on the interstate placement of children should include court-ordered and other involuntary types of placements, based upon court and social agency sending practices of the states.

TYPES OF FACILITIES

Applying the categorization of facilities developed in this feasibility study report, the following types of facilities *could* be included in a national study:

1. *Boarding schools*, consisting of boarding schools and military academies.
2. *Child-care facilities*, consisting of children's homes, orphanages, and shelter facilities.
3. *Psychiatric hospitals*, consisting of hospitals which either are completely devoted to mentally ill juveniles or which have juvenile psychiatric units.

4. *Residential treatment centers*, consisting of those facilities that offer training and counseling as their primary services.

5. *Other*, consisting mostly of maternity homes.

6. *Foster homes.*

The facilities were found to be an excellent source of information about children; however, many administrators gave estimated data. The majority of out-of-state placements are found in facilities that are not normally regarded as "juvenile justice" facilities. By far, the largest group is composed of voluntary placements in private boarding schools. Other children would be found in psychiatric hospitals, certain types of residential treatment centers, child-care facilities, and such facilities as maternity homes. Traditional juvenile justice facilities, such as detention homes and corrections facilities, contain so few out-of-state placements as to be negligible. In Texas, a few children were detained for the Bureau of Indian Affairs, as a courtesy, until private treatment center openings occurred. No out-of-state placements were found in public corrections facilities except for two juveniles, one at the Federal Correctional Center in Butner, North Carolina, and the other in California.

Although state agencies are excellent sources for obtaining lists of facilities and foster homes which may have out-of-state children, the process of elimination is extremely tedious. For example, 65 percent of the 171 facilities contacted in Texas had no out-of-state children for any of the three years investigated. Also, while the survey of foster homes was especially problematic, no source of information (including the postcard survey) suggested that foster homes receive any significant number of out-of-state placements. In Texas, for example, out of 625 foster parents surveyed, 190 responded, 92 percent of them negatively. Of the 16 foster home parents that responded in the affirmative, 30 children were reported for 1977.

RECOMMENDATION

A national study on the interstate placement of children should include:

Placements in child-care facilities, based upon the types of children normally sent there.

Placements in residential treatment centers, based upon the types of children normally sent there.

Placements in detention and corrections facilities, based upon state and federal agency records. (The facilities need not be individual surveyed since out-of-state placements are made through compacts or the intervention of either the Bureau of Indian Affairs or the Bureau of Prisons. Information that could only be available through surveys of public detention and corrections facilities would be to document the frequency of and reasons for the confinement of out-of-state children. For example, if there is interest in knowing how many runaway children are detained in other states or how many such children are confined in corrections facilities for offenses committed in those states, then detention and corrections facilities must be individually surveyed.)

A national study on the interstate placement of children *could* include:

Placements in psychiatric hospitals, depending upon certain considerations. It is clear that the facilities are secure and that many of the patients are there involuntarily. On the other hand, mental illness and probate court procedures may be beyond the primary focus of the survey. The decision for or against inclusion would probably turn on these points.

Placements in other facilities, depending upon the public interest in pregnant girls receiving obstetric care outside their states of residence.

A national study on the interstate placement of children should not include:

Placements in boarding schools, since the infrequency of involuntary placements by public agencies appears to argue against inclusion.

Placements in foster homes, although clearly relevant, since the infrequency of foster home usage for out-of-state placements would not lend itself to any cost-effective way to collect the data. In addition, the typical homelike environments found in foster homes might suggest less of a public concern for these types of placements.

UNITS OF ORGANIZATION

Topics associated with this final area of information are research-oriented in scope and represent the best methods for collecting data about public and private sector involvement in interstate placement practices. Decisions reached under the first two categories impact upon the scope of information to be considered here. Therefore, predicated upon the recommendations that have previously been made, research topics would include: (1) fiscal resources, (2) interstate compacts, and (3) licensing and related laws.

Fiscal Resources

It is assumed that there is a public interest in investigating the sources and amounts of funds expended for the interstate placement of children. Of particular concern might be the extent to which federal grant-in-aid funds are used to facilitate this placement practice. Such data is extremely difficult to retrieve, since out-of-state institutional care costs are usually merged with either general foster care expenditures or are indistinguishable from in-state placement costs. However, the feasibility study report suggests that certain approaches in acquiring this information are more successful than others. The agency or unit of government sending children to facilities in other states is the best source for identifying the amounts and sources of funds associated with interstate placement practices. In two of the test states, certain state agencies administered special state grant-in-aid programs that were used by local governments for placing children out of state. Obviously, state agencies could accurately report on these expenditures. At the same time, it was determined, in all three states, that county government must be examined for fiscal information relative to local sending practices.

RECOMMENDATION

A national study on the interstate placement of children should include the amounts and sources of funds associated with these placements, based upon a survey of county and state government expenditures. In about 20 to 25 states, state expenditure data might be adequate. In the remaining 25 to 30 states, examination of county records would be the only realistic approach to data collection.

Interstate Compacts

The three compacts investigated reveal that the Juvenile and Placement Compact provisions are frequently violated by both senders and receivers, and that the Mental Health Compact is rarely applicable. In addition, the circumstances surrounding the placement of large numbers of children are outside the purview of any of the compacts. Even though these compacts were found to have serious limitations, it was clearly established that they essentially provide the only legislatively uniform basis for regulating and monitoring interstate placement practices.

RECOMMENDATION

A national study on the interstate placement of children should include a policy review of state and local practices involved in sending, receiving, and regulating the interstate placement of children under the interstate compacts. Focusing upon the juvenile, placement, and mental health compacts, the study should also develop suggested amendments that would establish more uniform and effective compact utilization.

Licensing and Related Laws

In addition to interstate compacts, licensing laws and standards were found to have a profound importance on interstate placement practices. Reporting procedures and standards of care, which are built into some licensing laws, provide a means by which states could gain better oversight for out-of-state children being placed in private facilities. Based upon the organization of state agencies in the test states, it appears that the interrelatedness of compact administration and facility licensing activities is not fully appreciated.

RECOMMENDATION

A national study on the interstate placement of children should include consideration of existing licensing laws and standards, based upon a coordinated effort involving compact associations and their constituents, together with national and regional associations of licensing agency representatives and administrators. The effort should focus upon identifying methods for strengthening the regulation of the interstate placement of children through both the compact and licensing channels.

As a further implication to a national study, it should be understood that other than their administration of education grant-in-aid programs and accreditation of non-public schools, state departments of education were found to have no significant relationship to the interstate placement of children. Considering the lack of relevance of boarding schools and that the grant-in-aid programs usually fund placements in them, a national study could exclude an investigation of state departments of education. A few exceptions may be necessary where education grant-in-aid programs can be used to fund out-of-state placements in residential treatment centers or other such facilities for

children that are behavioral problems in schools. Also, because of insufficient relevance to the interstate placement of children, state departments of health should be eliminated from a national study.

CONCLUSION

It is felt that a national study would be possible but should be focused more sharply than this feasibility study. It is recommended that such a study include the collection of information about court-ordered and other forms of involuntary placements in child-care facilities and residential treatment centers. Facilities such as psychiatric hospitals and "other" facilities could be included, based upon policy decisions concerning them. Detention and corrections facilities should also be included but need not be individually surveyed, again, depending upon policy considerations.

Policy research into state and local government practices concerning the use of interstate compacts, funding resources, and licensing standards, should be undertaken. These tasks would have to be approached from both the viewpoints of sending practices in the sending states and regulatory practices in the receiving states.

Finally, it is recognized that a series of needs will naturally arise from the generation of statistical reports and policy analyses of state and local interstate placement practices. This information, and its implications for policy development, should be broadly disseminated to policymakers, planners, administrators, compact and licensing officials, and other relevant individuals. This could be accomplished through several methods, but national or regional conferences, seminars, and workshops would provide the best alternative. In other words, a grant to fund a national study should also include sufficient funding to disseminate the findings to decisionmakers who can use them.

Appendix A

Text of the Compacts

- Interstate Compact on the Placement of Children
- Interstate Compact on Juveniles
- Interstate Compact on Mental Health

INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

ARTICLE I. Purpose and Policy

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

ARTICLE II. Definitions

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

(b) "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

ARTICLE III. Conditions for Placement

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

(1) The name, date and place of birth of the child.

(2) The identity and address or addresses of the parents or legal guardian.

(3) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child.

(4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

ARTICLE IV. Penalty for Illegal Placement

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

ARTICLE V. Retention of Jurisdiction

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in

the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof.

ARTICLE VI. Institutional Care of Delinquent Children

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

1. Equivalent facilities for the child are not available in the sending agency's jurisdiction, and
2. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

ARTICLE VII. Compact Administrator

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE VIII. Limitations

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by his parent, step-parent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or non-agency guardian in the receiving state.

(b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

ARTICLE IX. Enactment and Withdrawal

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

ARTICLE X. Construction and Severability

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

INTERSTATE COMPACT ON JUVENILES

The contracting states solemnly agree:

ARTICLE I—Findings and Purposes

That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to (1) cooperative supervision of delinquent juveniles on probation or parole; (2) the return, from one state to another, of delinquent juveniles who have escaped or absconded; (3) the return, from one state to another, of non-delinquent juveniles who have run away from home; and (4) additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively. In carrying out the provisions of this compact the party states shall be guided by the noncriminal, reformative and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

ARTICLE II—Existing Rights and Remedies

That all remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.

ARTICLE III—Definitions

That, for the purposes of this compact, "delinquent juvenile" means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; "probation or parole" means any kind of conditional release of juveniles authorized under the laws of the states party hereto; "court" means any court having jurisdiction over delinquent, neglected or dependent children; "state" means any state, territory or possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and "residence" or any variant thereof means a place at which a home or regular place of abode is maintained.

ARTICLE IV—Return of Runaways

(a) That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, either with or without a hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding 90 days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state,

or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

(c) That "juvenile" as used in this Article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.

ARTICLE V—Return of Escapees and Absconders

(a) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding 90 days, as will enable his detention under a detention order issued on a requisition pursuant to this Article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a delinquent juvenile is returned under this Article shall be responsible for the payment of the transportation costs of such return.

ARTICLE VI—Voluntary Return Procedure

That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of Article IV(a) or of Article V(a), may consent to his immediate return to the state from which he absconded, escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

ARTICLE VII—Cooperative Supervision of Probationers and Parolees

(a) That the duly constituted judicial and administrative authorities of a state party to this compact (herein called "sending state") may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact (herein

called "receiving state") while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

(b) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

(c) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact, without interference.

(d) That the sending state shall be responsible under this Article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

ARTICLE VIII—Responsibility for Costs

(a) That the provisions of Articles IV(b), V(b) and VII(d) of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(b) That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to Articles IV(b), V(b) or VII(d) of this compact.

ARTICLE IX—Detention Practices

That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

ARTICLE X—Supplementary Agreements

That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall (1) provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished; (2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody; (3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonable inspection of such institutions by the sending state; (6) provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and (7) make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

ARTICLE XI—Acceptance of Federal and Other Aid

That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize, the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

ARTICLE XII—Compact Administrators

That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE XIII—Execution of Compact

That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form or execution to be in accordance with the laws of the executing state.

ARTICLE XIV—Renunciation

That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this

compact shall be by the same authority which executed it, by sending six months notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under Article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six months' renunciation notice of the present Article.

ARTICLE XV—Severability

That the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstances shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

ARTICLE XVI—Additional Article

That this article shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute the same.

For the purposes of this article, "child," as used herein, means any minor within the jurisdictional age limits of any court in the home state.

When any child is brought before a court of a state of which such child is not a resident, and such state is willing to permit such child's return to the home state of such child, such home state, upon being so advised by the state in which such proceeding is pending, shall immediately institute proceedings to determine the residence and jurisdictional facts as to such child in such home state, and upon finding that such child is in fact a resident of said state and subject to the jurisdiction of the court thereof, shall within five days authorize the return of such child to the home state, and to the parent or custodial agency legally authorized to accept such custody in such home state, and at the expense of such home state, to be paid from such funds as such home state may procure, designate, or provide, prompt action being of the essence.

Amendment to the Interstate Compact on Juveniles,
Concerning Interstate Rendition of Juveniles
Alleged to Be Delinquent

(a) This amendment shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute the same.

(b) All provisions and procedures of Articles V and VI of the Interstate Compact on Juveniles shall be construed to apply to any juvenile charged with being a delinquent by reason of a violation of any criminal law. Any juvenile, charged with being a delinquent by reason of violating any criminal law shall be returned to the requesting state upon a requisition to the state where the juvenile may be found. A petition in such case shall be filed in a court of competent jurisdiction in the requesting state where the violation of criminal law is alleged to have been committed. The petition may be filed regardless of whether the juvenile has left the state before or after the filing of the petition. The requisition described in Article V of the compact shall be forwarded by the judge of the court in which the petition has been filed.

INTERSTATE COMPACT ON MENTAL HEALTH

Section 1. The Interstate Compact on Mental Health is hereby enacted into law and entered into by this state with all other states legally joining therein in the form substantially as follows:

The contracting states solemnly agree that:

Article I

The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further, the party states find that the necessity of and desirability for furnishing such care and treatment bear no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

Article II

As used in this compact:

(a) "Sending state" shall mean a party state from which a patient is transported pursuant to the provisions of this compact or from which it is contemplated that a patient may be so sent.

(b) "Receiving state" shall mean a party state to which a patient is transported pursuant to the provisions of the compact or to which it is contemplated that a patient may be so sent.

(c) "Institution" shall mean any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental deficiency.

(d) "Patient" shall mean any person subject to or eligible as determined by the laws of the sending state, for institutionalization or other care, treatment, or supervision pursuant to the provisions of this compact.

(e) "After-care" shall mean care, treatment and services provided a patient, as defined herein, on convalescent status or conditional release.

(f) "Mental illness" shall mean mental disease to such extent that a person so afflicted requires care and treatment for his own welfare, or the welfare of others, or of the community.

(g) "Mental deficiency" shall mean mental deficiency as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing himself and his affairs, but shall not include mental illness as defined herein.

(h) "State" shall mean any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

Article III

(a) Whenever a person physically present in any party state shall be in need of institutionalization by reason of mental illness or mental deficiency, he shall be eligible for care and treatment in an institution in that state irrespective of his residence, settlement or citizenship qualifications.

(b) The provisions of paragraph (a) of this article to the contrary notwithstanding, any patient may be transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of said patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors referred to in this paragraph shall include the patient's full record with due regard for the location of the patient's family, character of the illness and probable duration thereof, and such other factors as shall be considered appropriate.

(c) No state shall be obliged to receive any patient pursuant to the provisions of paragraph (b) of this article unless the sending state has given advance notice of its intention to send the patient; furnished all available medical and other pertinent records concerning the patient; given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient if said authorities so wish; and unless the receiving state shall agree to accept the patient.

(d) In the event that the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.

(e) Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and such further transfer of the patient may be made as seems likely to be in the best interest of the patient.

Article IV

(a) Whenever, pursuant to the laws of the state in which a patient is physically present, it shall be determined that the patient should receive after-care or supervision, such care or supervision may be provided in a receiving state. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state shall have reason to believe that after-care in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of affording the patient such after-care in said receiving state, and such investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge it is proposed to place the patient, the complete medical history of the patient, and such other documents as may be pertinent.

(b) If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state and the appropriate authorities in the receiving state find that the best interest of the patient would be served thereby, and if the public safety would not be jeopardized thereby, the patient may receive after-care or supervision in the receiving state.

(c) In supervising, treating, or caring for a patient on after-care pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care, and treatment that it employs for similar local patients.

Article V

Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of any such dangerous or potentially dangerous patient, he shall be detained in the state where found pending disposition in accordance with law.

Article VI

The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact, without interference.

Article VII

(a) No person shall be deemed a patient of more than one institution at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state.

(b) The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any two or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs as among themselves.

(c) No provision of this compact shall be construed to alter or affect any internal relationships among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(d) Nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to any provision of this compact.

(e) Nothing in this compact shall be construed to invalidate any reciprocal agreement between a party state and a non-party state relating to institutionalization, care or treatment of the mentally ill or mentally deficient, or any statutory authority pursuant to which such agreements may be made.

Article VIII

(a) Nothing in this compact shall be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's guardian on his own behalf or in respect of any patient for whom he may serve, except that where the transfer of any patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts as such court may by law require, relieve the previous guardian of power and responsibility to whatever extent shall be appropriate in the circumstances; provided, however, that in the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state shall have the sole discretion to relieve a guardian appointed by it or continue his power and responsibility, whichever it shall deem advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

(b) The term "guardian" as used in paragraph (a) of this article shall include any guardian, trustee, legal committee, conservator, or other person or agency however denominated who is charged by law with power to act for or responsibility for the person or property of a patient.

Article IX

(a) No provision of this compact except Article V shall apply to any person institutionalized while under sentence in a penal or correctional institution or while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, said person would be subject to incarceration in a penal or correctional institution.

(b) To every extent possible, it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jail or lockup, but such patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.

Article X

(a) Each party state shall appoint a "compact administrator" who, on behalf of his state, shall act as general coordinator of activities under the compact in his state and who shall receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by his state either in the capacity of sending or receiving state. The compact administrator or his duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any patient processed thereunder.

(b) The compact administrators of the respective party states shall have power to promulgate reasonable rules and regulations to carry out more effectively the terms and provisions of this compact.

Article XI

The duly constituted administrative authorities of any two or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or cooperative basis whenever the states concerned shall find that such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental deficiency. No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

Article XII

This compact shall enter into full force and effect as to any state when enacted by it into law and such state shall thereafter be a party thereto with any and all states legally joining therein.

Article XIII

(a) A state party to this compact may withdraw therefrom by enacting a statute repealing the same. Such withdrawal shall take effect one year after notice thereof has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any patient who has been sent to said state or sent out of said state pursuant to the provisions of the compact.

(b) Withdrawal from any agreement permitted by Article VII(b) as to costs or from any supplementary agreement made pursuant to Article XI shall be in accordance with the terms of such agreement.

Article XIV

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Section 2. Pursuant to said compact, the [commissioner of ..... shall be] [governor is hereby authorized and empowered to designate an officer who shall be] the compact administrator and who, acting jointly with like officers of other party states, shall have power to promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator is hereby authorized, empowered and directed to cooperate with all departments, agencies and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or of any supplementary agreement or agreements entered into by this state thereunder.

Section 3. The compact administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of other states pursuant to Articles VII and XI of the compact. In the event that such supplementary agreements shall require or contemplate the use of any institution or facility of this state or require or contemplate the provision of any service by this state, no such agreement shall have force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service.

Section 4. The compact administrator, subject to the approval of the [chief state fiscal officer], may make or arrange for any payments necessary to discharge any financial obligations imposed upon this state by the compact or by any supplementary agreement entered into thereunder.

Section 5. The compact administrator is hereby directed to consult with the immediate family of any proposed transferee and, in the case of a proposed transferee from an institution in this state to an institution in another party state, to take no final action without approval of [designate appropriate court].

Section 6. Duly authorized copies of this act shall, upon its approval be transmitted by the [secretary of state] to the governor of each state, the attorney general and the Administrator of General Services of the United States, and the Council of State Governments.

Section 7. [Insert effective date.]

Appendix B

Statutory Citations of Compacts and Other Laws

- Interstate Compact on the Placement of Children
- Interstate Compact on Juveniles
- Interstate Compact on Mental Health
- Others

INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN AND RELATED STATUTES

Alaska Stat., Secs. 47.70.010 thru 47.70.080 (1976)
Ariz. Rev. Stat. Ann., Secs. 8-548 thru 8-548.06 (1976)
Calif. Civ. Code, Secs. 264 thru 274 (1974)
Colo. Rev. Stat. Ann., Secs. 24-60-1801 thru 24-60-1803 (1975)
Conn. Gen. Stat. Ann., Secs. 17-81a thru 17-81i (1967)
Del. Code Ann., Title 31, Secs. 381 thru 389 (1969)
Fla. Stat. Ann., Secs. 409.401 thru 409.405 (1974)
Ga. Code Ann., Secs. 99-4701 thru 99-4709 (1977)
Idaho Code, Secs. 16-2101 thru 16-2107 (1976)
Ill. Rev. Stat., Ch. 23, Secs. 2601 thru 2609 (1974)
Ind. Code, 1978 Supp., Ch. 23, Secs. 12-3-23-1 thru 12-3-23-8 (1978)
Iowa Code Ann., Secs. 238.33 thru 238.45 (1967)
Kans. Stat. Ann., Secs. 38-1201 thru 38-1206 (1976)
Ky. Rev. Stat. Ann., Secs. 199.341 thru 199.347 (1966)
La. Rev. Stat. Ann., Secs. 46.1700 thru 46.1706 (1968)
Maine Rev. Stat. Ann., Title 22, Secs. 4191 thru 4200 (1961)
Md. Ann. Code, Art. 16, Secs. 1[illegible] thru 212F (1975)
Mass. Gen. Laws Ann., Ch. 119 (App.), Secs. 2-1 thru 2-8 (1975)
Minn. Stat. Ann., Secs. 257.[illegible]hru 257.48 (1973)
Miss. Code Ann., Secs. 43-18-1 thru 43-18-17 (1976)
Mo. Rev. Stat., Secs. 210.620 thru 210.640 (1975)
Mont. Rev. Codes Ann., Secs. 10-1401 thru 10-1409 (1975)
Nebr. Rev. Stat., Sec. 43-1101 (1974)
N.H. Rev. Stat. Ann., Secs. 170-A:1 thru 170-A:6 (1965)
N.M. S.B. 209 (1977)
N.Y. Soc. Serv. Law, Sec. 374a (1960)
N.C. Gen. Stat., Secs. 110-57.1 thru 110.57.7 (1973)
N.D. Cent. Code, Secs. 14-13-01 thru 14-13-08 (1963)
Ohio Rev. Code Ann., Secs. 5103.20 thru 5103.28 (1976)
Okla. Stat. Ann., Title 10, Secs. 571 thru 576 (1974)
Oreg. Rev. Stat., Secs. 417.200 thru 417.260 (1975)
Pa. Stat. Ann., Title 62, Secs. 761 thru 765 (1973)
R.I. Gen. Laws Ann., Secs. 40-15-1 thru 40-15-10 (1967)
S.D. Compiled Laws Ann., Secs. 26-13-1 thru 26-13-9 (1974)
Tenn. Code Ann., Secs. 37-1401 thru 37-1409 (1974)
Tex. Rev. Civ. Stat. Ann., Art. 695a-2 (1975)
Utah Code Ann., Secs. 55-8b-1 thru 55-8b-8 (1975)
Vt. Stat. Ann., Title 33, Secs. 3151 thru 3160 (1972)
Va. Code Ann., Secs. 63.1-219.1 thru 63.1-219.6 (1975)
Wash. Rev. Code Ann., Secs. 26.34.010 thru 26.34.080 (1971)
W. Va. Code Ann., Secs. 49-2A-1 thru 49-2A-2 (1975)
Wis., Ch. 354, Laws of 1977
Wyo. Stat. Ann., Secs. 14-4-101 thru 14-4-109 (1963)

INTERSTATE COMPACT ON JUVENILES AND RELATED STATUTES

Ala. Code, Secs. 44-2-1 thru 44-2-7 (1965)
Alaska Stat., Secs. 47.15.010 thru 47.15.080 (1960)
Ariz. Rev. Stat. Ann., Secs. 8-361 thru 8-367 (1961)
Ark. Stat. Ann., Secs. 45-301 thru 45-307 (1961)
Calif. Welf. and Inst'ns. Code, Ch. 4, Secs. 1300 thru 1308 (1955)
Colo. Rev. Stat. Ann., Secs. 24-60-701 thru 24-60-708 (1957)
Conn. Gen. Stat. Ann., Secs. 17-75 thru 17-81 (1957)
Del. Code Ann., Title 31, Secs. 5201 thru 5228 (1953)
Fla. Stat. Ann., Secs. 39.25 thru 39.31 (1957)
Ga. Code Ann., Secs. 99-3401 thru 99-3407 (1972)
Hawaii Rev. Stat., Secs. 582-1 thru 582-8 (1955)
Idaho Code, Ch. 19, Secs. 16-1901 thru 16-1910 (1961)
Ill. Rev. Stat., Ch. 23, Secs. 2591 thru 2595 (1973)
Ind. Code, Secs. 31-5-3-1 thru 31-5-3-9 (1957)
Iowa Code Ann., Secs. 231.14 thru 231.15 (1961)
Kans. Stat. Ann., Secs. 38-1001 thru 38-1007 (1965)
Ky. Rev. Stat. Ann., Secs. 208.600 thru 208.990 (1960)
La. Rev. Stat. Ann., Secs. 46.1451 thru 46.1458 (1958)
Maine Rev. Stat. Ann., Title 34, Ch. 9, Secs. 181 thru 195 (1955)
Md. Ann. Code, Art. 41, Secs. 387 thru 395 (1966)
Mass. Gen. Laws Ann., Ch. 119 (App.), Secs. 1-1 thru 1-7 (1955)
Mich. Stat. Ann., Secs. 4.146(1) thru 4.146(6) (1958)
Minn. Stat. Ann., Vol. 17, Secs. 260.51 thru 260.57 (1957)
Miss. Code Ann., Secs. 43-25-1 thru 43-25-17 (1958)
Mo. Rev. Stat., Secs. 210.570 thru 210.600 (1955)
Mont. Rev. Codes Ann., Secs. 10-1001 thru 10-1006 (1967)
Nebr. Rev. Stat., Vol. 3, Secs. 43-1001 thru 43-1009 (1963)
Nev. Rev. Stat., Secs. 214.010 thru 214.060 (1957)
N.H. Rev. Stat. Ann., Secs. 169-A:1 thru 169-A:9 (1957)
N.J. Rev. Stat., Secs. 9:23-1 thru 9:23-4 (1955)
N.M. Stat. Ann., Secs. 13-16-1 thru 13-16-8 (1973)
N.Y. Unconsol. Laws, Book 65, Part I, Secs. 1801 thru 1806 (1955)
N.C. Gen. Stat., Secs. 110-58 thru 110-64 (1965)
N.D. Cent. Code, Secs. 27-22-01 thru 27-22-06 (1969)
Ohio Rev. Code Ann., Secs. 2151.56 thru 2151.61 (1957)
Okla. Stat. Ann., Title 10, Secs. 531 thru 537 (1967)
Oreg. Rev. Stat., Secs. 417.010 thru 417.080 (1959)
Pa. Stat. Ann., Title 62, Secs. 731 thru 735 (1956)
R.I. Gen. Laws Ann., Secs. 14-6-1 thru 14-6-11 (1957)
S.C. Code Ann., Sec. 55-65 (1970)
S.D. Compiled Laws Ann., Secs. 26-12-1 thru 26-12-13 (1961)
Tenn. Code Ann., Secs. 37-801 thru 37-806 (1955)
Tex. Codes Ann., Fam. Code, Secs. 25.01 thru 25.09 (1965)
Utah Code Ann., Secs. 55-12-1 thru 55-12-6 (1955)
Vt. Stat. Ann., Title 33, Secs. 551 thru 575 (1968)
Va. Code Ann., Secs. 16.1-323 thru 16.1-329 (1956)
Wash. Rev. Code Ann., Secs. 13.24.010 thru 13.24.900 (1955)
W. Va. Code Ann., Secs. 49-8-1 thru 49-8-7 (1963)
Wis. Stat. Ann., Secs. 48.991 thru 48.997 (1957)
Wyo. Stat. Ann., Sec. 14-5-101 (1957)
D.C. Code Ann., Secs. 32-1101 thru 32-1106 (1970)

INTERSTATE COMPACT ON MENTAL HEALTH

Ala. Code, Secs. 22-55-1 thru 22-55-4 (1975)
Alaska Stat., Sec. 47.30.180 (1959)
Ark. Stat. Ann., Secs. 59-401 thru 59-406 (1959)
Colo. Rev. Stat., Secs. 24-60-1001 thru 24-60-1006 (1965)
Conn. Gen. Stat., Secs. 17-258 thru 17-261 (1955)
Del. Code Ann., Ch. 61, Secs. 6101 thru 6105 (1962)
Fla. Stat. Ann., Secs. 394.479 thru 394.484 (1971)
Ga. Code Ann., Secs. 99-301 thru 99-3817 (1973)
Hawaii Rev. Stat., Secs. 335-1 thru 335-5 (1967)
Idaho Code, Secs. 66-1201 thru 66-1205 (1961)
Ill. Ann. Stat., Ch. 91.5, Secs. 50-1 thru 50-5 (1965)
Ind. Code, Secs. 16-13-8-1 thru 16-13-8-5 (1959)
Iowa Code Ann., Secs. 218A.1 thru 218A.6 (1962)
Kans. Stat. Ann., Secs. 65-3101 thru 65-3106 (1967)
Ky. Rev. Stat., Secs. 210.520 thru 210.550 (1958)
La. Rev. Stat. Ann., Secs. 28:721 thru 28:726 (1958)
Maine Rev. Stat. Ann., Secs. 2561 thru 2574 (1957)
Md. Ann. Code, Art. 41, Secs. 319 thru 338 (1963)
Mass. Gen. Laws Ann., Ch. 123 App., Secs. 1-1 thru 1-4 (1956)
Mich. Stat. Ann., Secs. 14.800(920) thru 14.800(930) (1965)
Minn. Stat. Ann., Secs. 245.51 thru 245.53 (1957)
Mo. Stat. Ann., Secs. 202.880 thru 202.895 (1959)
Mont. Rev. Code, Sec. 80-2412 (1971)
Nebr. Rev. Stat., Secs. 83-801 thru 83-806 (1969)
N.H. Rev. Stat. Ann., Secs. 135-A:1 thru 135-A:6 (1957)
N.J. Stat. Ann., Secs. 30:7B-1 thru 30:7B-18 (1956)
N.M. Stat. Ann., Secs. 34-5-1 thru 34-5-5 (1969)
N.Y. Mental Hygiene Law, Sec. 67.07 (1956)
N.C. Gen. Stat., Secs. 122-99 thru 122-104 (1959)
N.D. Cent. Code, Secs. 25-11-01 thru 25-11-06 (1963)
Ohio Rev. Code Ann., Secs. 5123.63 thru 5123.66 (1959)
Okla. Stat. Ann., Title 43A, Secs. 501 thru 506 (1959)
Oreg. Rev. Stat., Secs. 428.310 thru 428.330 (1957)
Pa. Stat. Ann., Title 62, Secs. 1121 thru 1126 (1961)
R.I. Gen. Laws, Secs. 26-6-1 thru 26-6-3 (1957)
S.C. Code, Sec. 32.1051 (1959)
S.D. Codified Laws, Secs. 27A-6-1 thru 27A-6-5 (1959)
Tenn. Code Ann., Secs. 33.1501 thru 33.1506 (1971)
Tex. Ann. Civ. Stat., Art. 5561f (1969)
Vt. Stat. Ann., Title 18, Secs. 9001 thru 9052 (1959)
Wash. Rev. Code, Ch. 72.27 (1965)
W.Va. Code, Secs. 27-14-1 thru 27-14-5 (1957)
Wis. Stat. Ann., Secs. 51.75 thru 51.80 (1965)
Wyo. Stat., Secs. 25-4-101 thru 25-4-106 (1969)
D.C. Code, Secs. 6-1601 thru 6-1606 (1972)

OTHERS

State Constitutional Limitations on Transportation Out of State for Crimes

Alabama Constitution of 1901, Art. I, Sec. 30
Arkansas Constitution of 1874, Art. II, Sec. 21
Georgia Constitution of 1976, Sec. 2-118
Illinois Constitution of 1970, Art. I, Sec. 11
Maryland Constitution of 1967, Declaration of Rights, Art. 23
Massachusetts Constitution, Part I, Art. 12
Nebraska Constitution, Art. I, Sec. 15
New Hampshire Constitution of 1783, Part I, Art. 15
North Carolina Constitution of 1970, Art. I, Sec. 19
Ohio Constitution of 1851, Art. I, Sec. 12
Oklahoma Constitution of 1907, Art. II, Sec. 29
Tennessee Constitution of 1879, Art. I, Sec. 8
Texas Constitution of 1876, Art. I, Sec. 20
Vermont Constitution of 1793, Ch. I, Art. 21
West Virginia Constitution of 1872, Art. III, Sec. 5

Long-Arm and Related Jurisdictional Statutes and Rules

Ala. Rev. Civ. Proc., Rule 4.2; Ala. Code, Secs. 6-4-1 thru 6-4-22
Alaska Stat., Sec. 09.05.015
Ariz. Rev. Civ. Proc., Rule (4)(e)(2); Ariz. Rev. Stat. Ann., Sec. 14-5208
Ark. Stat. Ann., Secs. 27-339 thru 27-340; 27-2501 thru 27-2507
Calif. Civ. Proc. Code, Secs. 410.10 thru 410.50
Colo. Rev. Stat., Secs. 13-1-124 thru 13-1-125
Conn. Gen. Stat. Ann., Sec. 52-59b
Del. Code Ann., Title 10, Secs. 3104 and 3111
Fla. Stat. Ann., Secs. 48.071, 48.161, 48.181, and 48.193
Ga. Code Ann., Secs. 24-113.1 thru 24-116
Hawaii Rev. Stat., Sec. 634-35
Idaho Code, Secs. 5-514 thru 5-517
Ill. Rev. Stat., Ch. 110, Sec. 17
Ind. Rules Civ. Proc., Rule 4.4; Ind. Code, Sec. 34-5-1-1
Iowa Rules Civ. Proc., Rule 56.2
Kans. Stat. Ann., Sec. 60-308
Ky. Rev. Stat. Ann., Sec. 454.210
La. Rev. Stat. Ann., Secs. 13:3204 and 13:3206
Maine Rev. Stat. Ann., Title 14, Sec. 704A
Md. Cts. and Jud. Proc. Code Ann., Sec. 6-103
Mass. Gen Laws. Ann., Ch. 223A, Sec. 1-3
Mich. Stat. Ann., Sec. 27A.705
Minn. Stat. Ann., Sec. 543.19
Miss. Code Ann., Sec. 13-3-57
Mo. Rev. Stat., Sec. 506.240
Mont. Rules Civ. Proc., Rule 4B
Nebr. Rev. Stat., Secs. 25-535 thru 25-541, and 30-2612
Nev. Rev. Stat., Sec. 14.065
N.H. Rev. Stat. Ann., Sec. 510.4
N.J. Rev. Stat., Sec. 2A:15-26
N.M. Stat. Ann., Sec. 21-3-16
N.Y. Gen. Bus. Law, Sec. 389
N.C. Rules Civ. Proc., Rule 4; N.C. Gen. Stat., Sec. 1A-1
Ohio Rev. Code Ann., Sec. 2307.382
Okla. Stat. Ann., Title 12, Sec. 187
Oreg. Rev Stat., Sec. 14.035
Pa. Stat. Ann., Title 42, Secs. 5301 thru 5323
R.I. Gen. Laws Ann., Sec. 9-5-33
S.C. Code Ann., Sec. 10-424
S.D. Compiled Laws Ann., Secs. 15-7-1 thru 15-7-5
Tenn. Code Ann., Sec. 20-235
Tex. Rules Civ. Proc., Rule 108
Utah Code Ann., Secs. 78-27-20 thru 78-27-26
Vt. Rules Civ. Proc., Rule 4(e)
Va. Code Ann., Secs. 8.01-328 and 8.01-328.1
Wash. Rev. Code Ann., Sec. 4.12.025
W. Va. Rules Civ. Proc., Rule 4
Wis. Stat. Ann., Sec. 801.05
Wyo. Rules Civ. Proc., Rule 4
D.C. Code Ann., Secs. 13-421 thru 13-425

Child Import/Export Statutes

Ala. Code, Title 49, Sec. 84(15)
Ariz. Rev. Stat. Ann., Sec. 8-503
Conn. Gen. Stat. Ann., Sec. 17-51
Del. Code Ann., Title 31, Sec. 307
Ga. Code, Sec. 99-215
Ind. Code, Sec. 12-3-21-1 thru 12-3-21-4
Kans. Stat. Ann., Sec. 38-315
Ky. Rev. Stat. Ann., Sec. 199.400
Mass. Gen. Laws Ann., Ch. 119, Sec. 36
Minn. Stat. Ann., Sec. 257.05 and .06
Mo. Ann. Stat., Sec. 210.010
Mont. Rev. Code Ann., Sec. 71-711
Nebr. Rev. Stat., Sec. 43-704 thru 43-709
N.H. Rev. Stat. Ann., Sec. 170-B:24
N.J. Rev. Stat., Sec. 9:7-1 thru 9:7-6
N.Y. Soc. Serv. Law, Sec. 382
N.C. Gen. Stat., Sec. 110-50 thru 110-55
N.D. Cent. Code, Sec. 40-12-14.1
Ohio Rev. Code Ann., Sec. 2151.39
Okla. Stat., Title 10, Sec. 33
Oreg. Rev. Stat., Sec. 415.090
Pa. Stat. Ann., Title 62, Secs. 741 thru 745
R.I. Gen. Laws Ann., Sec. 15-7-3
S.C. Code Ann., Sec. 71-207
S.D. Compiled Laws Ann., Sec. 26-6-10
Tenn. Code Ann., Secs. 14-1505 thru 14-1509
W. Va. Code Ann., Sec. 49-2-15
Wis. Stat. Ann., Sec. 48.98
Wyo. Stat. Ann., Sec. 14-52.8

Uniform Juvenile Court Act

Ga. Code Ann., Title 24A, Chs. 1-40
La. Rev. Stat. Ann., Secs. 13:1561.1 and ff.
N.D. Cent. Code, Secs. 27-20-01 thru 27-20-59
Tenn. Code Ann., Secs. 37-201 thru 37-281

Appendix C

The Case Studies:

Illinois
North Carolina
Texas
Federal Agencies Involved in Sending Juveniles

ILLINOIS

INTRODUCTION

The approach to studying the interstate placement of children in Illinois followed the general methodological design outlined in Chapter 1. Several inquiries, sometimes leading to structured, personal interviews, were conducted with various state and local public officials. Supplemental information was taken from organizational annual reports, policy and procedure manuals, special reports, and Illinois statutes. In addition, every licensed or approved residential facility (except group homes and foster homes) in the state that accepted juveniles was surveyed.

Entry level inquiries in Illinois varied from the approach taken in the other states studied. Cooperation from state government was expected to be more problematic because of the relatively recent attention of interstate placement issues in the major media throughout Illinois. Therefore, instead of relying upon professional contacts and preliminary visits to suggest key offices and administrators in state government relevant to the study, all contacts were initiated at the agency executive level. In some departments, this approach worked better than in others.

The major effort in state agencies focused upon the Department of Children and Family Services (DCFS); the Illinois Office of Education (IOE); the Department of Corrections, Juvenile Division (DOC/JD); and the Department of Mental Health and Developmental Disabilities (DMHDD). Interviews were also conducted with the juvenile justice staff of the Illinois Law Enforcement Commission and the administrator of a statewide association of private child-care agencies—the Child Care Association of Illinois. Locally, officials in the Cook County Juvenile Court, the Chicago Board of Education, and certain regional offices of DCFS, DMHDD, and DOC were contacted either in person or by telephone.

All persons interviewed voiced interest in the study and most provided important contributions to broadening the understanding of interstate placement practices in Illinois. Special assistance and considerable effort was provided by: Larry Rogers, Deputy Compact Administrator, Department of Corrections; William Ireland, Research Director, Department of Children and Family Services; Irene Gagaoudaki, Licensing Services Specialist, Department of Children and Family Services; Donald Beatty, Non-Public School Approval, Illinois Office of Education; Gail Lieberman, Manager, Program for Exceptional Children, Illinois Office of Education; and Galen Goode, Private Care Consultant, Department of Mental Health and Developmental Disabilities.

The work in Illinois was enhanced by other factors. A member of the project staff formerly worked in Illinois state government and could provide certain information immediately relevant to the study, based upon his experience and knowledge from having worked there. Also, the interstate placement of children was recently publicized by the media and by the work of a special task force commissioned by DCFS. Review of major newspaper articles and the study report, "An Illinois Tragedy," provided an information base not available in other study states (see Chapter 2 for a discussion of these materials).

Although not that serious, project staff did experience problems in conducting work in Illinois. The winter weather was severe on occasion and weather conditions caused some scheduling difficulties. As a result, a number of facilities was surveyed by mail rather than personally visited. Further problems, both technological and bureaucratic in nature, hindered the accessibility of lists of licensed foster and group homes, so those facilities were not included in the survey. A total of 15 work days was spent in the state completing the interviewing process with government officials and facility administrators. An additional 13 working days was spent in scheduling the interviews.

DESCRIPTION OF THE STATE

The 1975 population estimates and related statistical information pointed out several pertinent characteristics of Illinois.[1] In that year, Illinois had the fifth largest population in the country—11,145,000 persons. However, the state ranked only twenty-fourth in geographic size. A major portion, about 82 percent, of the state's population resided in large metropolitan areas. For instance, Illinois has five areas with populations over 200,000 or Standard Metropolitan Statistical Areas (SMSAs). These SMSAs include Chicago; Peoria; Rockford; Rock Island-Moline-Davenport, Iowa; and East St. Louis, St. Louis, Missouri. Other principal cities are Springfield (the state capital), Decatur, Galesburg, Quincy, Champaign-Urbana, Joliet, and Bloomington-Normal. It is important to realize that two SMSAs include portions of other states, and other SMSAs along with some principal cities are located very close to neighboring states. The contiguous states include Indiana, Iowa, Kentucky, Michigan, Missouri, and Wisconsin.

Illinois has the distinction of having the country's oldest juvenile court. Legislation in 1899 established a juvenile court in Cook County, Chicago. There are now 102 juvenile courts—one in each county. In 1975, these courts had jurisdiction over about 3.5 million children or about 31 percent of the state's total population.

Similar to most other states, crime and delinquency is perceived as a major social problem in Illinois. The state ranked tenth in the number of residents in state prisons and 35th in its rate of incarceration. When considering juvenile offenders, Illinois ranked 40th in the incarceration rate of delinquents in state and local facilities. The total expenditures for institutionalized delinquents placed Illinois in the top half of the country (14th).

LAW OF THE STATE

Compacts

In 1965, the state became a member of the Interstate Compact on Mental Health.[2] Basically, this compact is designed to regulate the interstate placement of children in public mental health and retardation residential facilities. The provisions of the compact make it applicable only to mentally retarded or mentally ill children when relocation by their parents or guardians from one state to another necessitates placing the child in another state. A related statute covers transfer of patients to states that have not adopted the compact, although in Illinois the provisions of the compact are applied whether working with compact or noncompact states.[3] All administrative responsibilities have been delegated to the DMHDD, Interstate Services Branch.

Illinois adopted the Interstate Compact on Juveniles in 1961.[4] Commonly called the Juvenile Compact, it regulates the interstate supervision of probationers and parolees and the placement of juvenile offenders in institutions. Authority for administering the Juvenile Compact is with DOC/JD.

Effective October 1974, Illinois became a member of the Interstate Compact on the Placement of Children.[5] The Placement Compact is

administered by DCFS and establishes procedures for children being placed across state lines, regardless of whether the receiving facilities are public or private.

Juvenile Code

Illinois has not adopted the Uniform Juvenile Court Act. The current jurisdiction, responsibilities, and organizational structure for juvenile justice in Illinois was established by the 1973 Illinois Unified Code of Corrections and the 1970 Juvenile Court Act. Section 701-2 of the Juvenile Court Act describes a delinquent as any minor who prior to his seventeenth birthday has violated or attempted to violate, regardless of where the act occurred, any federal or state law or municipal ordinance. The act delineates minors in need of supervision as "MINS" and defines these children as:

> Any minor under 18 years of age who is beyond the control of his parents, guardian, or other custodian; any minor subject to compulsory school attendance who is habitually truant from school; any minor who is an addict, as defined in the 'Addiction Act'; and any minor who violates a lawful court order made under this Act.

Juvenile probation services are organized on a circuit basis under the direction of the chief judge of each circuit. Juvenile detention services are also locally operated. Children adjudicated MINS may be committed to DCFS and those adjudicated delinquent to DOC/JD.[6]

Licensing Law

The child-care facility licensing standards require all facilities that offer residential care and treatment to meet specific staff, facility, and program requirements. Authority to license is given to DCFS, Licensing Services Office. Criteria utilized for licensure include fire, safety, and health regulations as stipulated by the Illinois Department of Public Health. Staff accreditation and ratio criteria place heavy emphasis on the professionalization standards developed by the Child Welfare League of America.

Administrative criteria require a specific reporting schedule to DCFS which identifies the facility's placements, their residence, and program planning. Written policies for the facility plus financial responsibility are included. This law further provides a means for a single agency to accept a license and place children in other residential facilities it approves. Private agencies involved in placing children for adoption or for social or psychological treatment services are also licensed by DCFS.

Educational Grants

The Illinois Office of Education administers a funding program for special education designated as Private Tuition Reimbursement.[7] This reimbursement is provided to local school districts for children who have educational needs that cannot be satisfied in public schools. Placements are made by the local public school district to private facilities approved by IOE. The maximum annual tuition reimbursement possible is $2,500 and a $500 summer tuition supplement.

Individual Care Grants

DMHDD appropriates funds for Individual Care Grants.[8] These grants are to facilitate services for children unable to receive adequate treatment in public facilities. A patient can receive whatever is necessary to purchase private mental health treatment and care. Rates, however, must be approved by the Office of Health Finance, Department of Public Health.

ORGANIZATION OF YOUTH SERVICES

Juvenile Justice

Since 1970, juvenile and adult corrections have been consolidated within DOC. The Juvenile Division has statutory authority to accept only children between the ages of 13 and 18 for correctional custody and treatment. All delinquents under age 13 and status offenders and nonoffenders are the responsibility of DCFS.

Population pressures, especially in adult institutions, were the agency's major concern in fiscal 1977. During the fiscal year, the nine juvenile institutions had an average daily population of 800.

The Juvenile Division has divided the state into four regions for the delivery of community services. Each region has the capability to directly receive juvenile court commitments and arrange for regional day care, place children in community residential facilities, or send children to the state reception center for institutional placement.

Cooperation among DOC/JD, the Division of Vocational Rehabilitation (DVR), and DMHDD mostly occurs in funding of specific programs or placements. Another state interagency relationship exists between DOC/JD and the Illinois Office of Education. IOE certifies the Juvenile Division's institutional school program, since they are a recognized statewide school district, and also processes requests for various HEW assistance projects.

Child Welfare System

The DCFS is charged with delivering child welfare services in Illinois. This responsibility includes services to dependent, neglected, and abused children (nonoffenders); minors in need of supervision (status offenders); and delinquents under the age of 13. The department annually serves about 50,000 children and is awarded guardianship of approximately 28,000.

DCFS was organized into 18 regional offices based upon unique geographical divisions. A recent reorganization has consolidated the regional offices into eight regions. Each regional office operates with a certain level of autonomy which includes significant responsibility for arranging services for both DCFS wards or guardianship cases and referrals. These regional offices do not operate their own residential programs but, instead, purchase services from private agencies or refer cases to the centrally operated state facilities.

The Licensing Services Office is responsible for licensing most child-care facilities in Illinois. Public institutions operated by DMHDD and DOC/JD are exempt from licensure. All other residential facilities serving children are licensed by DCFS, with the following exceptions: medical and mental health hospitals licensed by the Department of Public Health and boarding schools which are registered with IOE. The licensing office is assisted by regional office staff that serve as both investigators for licensure applications and as monitors for compliance with standards.

The broad responsibilities of DCFS require the development and maintenance of several interagency linkages. For instance, DCFS

frequently cooperates with education officials to arrange jointly sponsored services to school-aged children and their families. A similar case-by-case interagency relationship is shared with the Division of Vocational Rehabilitation. DVR provides special funding opportunities for children under DCFS auspices.

Similar state agency cooperation is obtained from DMHDD for providing special care funding to DCFS children requiring DMHDD services. For example, children and families may receive clinical assistance from county and regional mental health centers.

Further interagency cooperation was evidenced in the work of the "Committee of 30" which was comprised of 15 representatives of DCFS and 15 from voluntary child-care agencies. This unique committee was formed in September 1977 and met to develop and implement a standard contract form for agencies that provide services to DCFS children. The committee also identified major child-care issues and recommended changes for the Illinois human services system.

Education System

Educational services for Illinois' children follow traditional service patterns by public and nonpublic schools and related educationally focused residential facilities. Two functions of IOE have particular relevance to this study. First, the agency registers nonpublic facilities that provide special education programs to children. According to the state's School Code, Section 14-7.02, the State Board of Education, through IOE, is commissioned to declare eligibility for the placement of "handicapped students" from Illinois public school districts in nonpublic schools. However, the local public school district of a student's residence determines the suitability of each placement according to an assessment of the child's needs.

Review of *The 1977-78 Directory of Non-Public Facilities Eligible to Educate Handicapped Students from Illinois Public School Districts* revealed an extensive list of such facilities. The study was particularly interested in the location of facilities and the types of students the facility's program was focused upon. Considering only those facilities that identify a program for "emotionally maladjusted," "socially maladjusted," and "behavior disorder" children, 17 were located in Illinois out of 93 in the nation.

The second functional responsibility of IOE that is of major importance to this study is its administration of the private tuition line-item appropriation. This tuition reimbursement is specifically for nonpublic special education for Illinois children. These funds are only intended to compensate for tuition expenses up to $2,500 per child per school year with an additional $500 available for summer programs.

The restriction of the Private Tuition Reimbursement Funds to include only tuition expenses results in opportunities for interagency cooperation to meet full costs for many placements. Occasionally, DMHDD and DCFS utilize IOE tuition funds available through local education agencies to supplement expenses on a per child basis. Procedures for obtaining the special education funds are the same for DMHDD and DCFS children. A DCFS caseworker is involved in the enrollment, case study, placement, and monitoring process.

An Interagency Committee has recently been administratively established. Among its tasks are the development of guidelines intended to improve coordination and communication among agencies for jointly arranged placement activities. The committee includes representatives of IOE, DMHDD, and DCFS. Since the committee is only in the formative stages, more explicit information regarding its functions is unavailable.

Mental Health System

DMHDD has primary responsibility for the provision of public mental health, developmental disability, and alcoholism services in Illinois. The department operates 28 residential facilities. Community services are delivered organizationally through seven regional offices. These offices have a certain level of individual autonomy to purchase services through private vendors. A considerable portion of the private services that are purchased are arranged through the Individual Care Grants. These grants enable families to offset the expenses of private foster care, group home care, residential school services, residential medical services, and respite care.

Individual Care Grants were originally awarded individuals, primarily children, who are unable to obtain adequate treatment through placement in a public facility. Today, however, the grants are used to avoid public facility placements. The case investigation, supervision, and monitoring associated with Individual Care Grants is a local or regional responsibility often involving DCFS in the placement decision if the recipient is not an adult. Placement of an eligible child outside of the local school district may also involve a tuition reimbursement via the local education agency and IOE.

Interagency relationships and linkages with private service providers is of significant importance to DMHDD. For example, the Joint Committee of Community Service Providers was established to provide a forum for new ideas, provide feedback on DMHDD policy and procedures, and assist in identifying and resolving statewide issues related to mental health, alcoholism, and developmental disabilities. This committee includes representatives from DMHDD and seven related statewide associations.

Health System

The Illinois Department of Public Health has no major responsibilities that are directly relevant to this study. The only exception involves its responsibility for licensing private psychiatric hospitals. However, the licensing process is mostly concerned with determining public health and safety standards and assessing these measures with existing conditions in private hospitals.

SENDING PRACTICES IN THE STATE

Procedures and Practices

The practice of placing children in out-of-state facilities became a controversial public issue in Illinois during 1972. In that year, there were 785 DCFS children residing in out-of-state residential facilities. Since that time, practices have changed significantly. During fiscal 1977, DCFS reported only 35 children residing in facilities outside of Illinois.[9] These numbers represent a 95.5 percent decrease between the two years in question, at least for that department. Through their administration of special funding mechanisms, two other state agencies were involved in sending Illinois children to out-of-state residential facilities during fiscal 1977: DMHDD and IOE.

Juvenile Justice. The Department of Corrections, Juvenile Division, was involved in interstate probation and parole supervision and return of runaways and absconders, but made no out-of-state residential placements during fiscal 1977. It was also reported that Illinois juvenile courts did not send children to out-of-state residential facilities. For example, the director of court services in the Cook County Juvenile Court recently corresponded about this matter and indicated the court could not assume financial responsibility for children placed out of state. Most Illinois juvenile courts do not have budget allotments facilitating interstate placement practices.

Child Welfare. In early 1975, an administrative mandate was issued in DCFS to better regulate the practice of placing children out of

state.[10] This new policy outlined a strict administrative procedure to be followed. Basically, the process allows a DCFS child to be placed out of state only through the Placement Compact and after nine separate approvals have been obtained from various departmental officials. The request for placing a child out of state is initiated with the child's DCFS social worker who must verify, in writing, that in-state alternatives were actively explored and found inappropriate. Further authorization must be given by area and regional administrators, the deputy director of operations, the supervisor of out-of-state placements, the director of DCFS, and the interstate compact administrator. The official procedure is not complete until the appropriate interstate compact agreement has been signed by the receiving state indicating their authorization for placement. The length of time associated with making a placement ranges from one to six months and averages two months.

Mental Health. The Department of Mental Health and Developmental Disabilities paid for children placed in out-of-state residential facilities in fiscal 1977 under the auspices of Individual Care Grants. These grants are given to provide treatment and care services for those children who are determined able to receive adequate care outside of state mental health agencies.

Generally, a child's relative or guardian initiates the application for an Individual Care Grant through a DMHDD regional office for approval. The regional office assesses the child's need for residential services and presents the applicant's family with information concerning regionally approved facilities offering the recommended services. Placements of emotionally disturbed or mentally ill children in out-of-state facilities must have final approval of the department's Child and Adolescent Program Office. Developmental disability placements must be approved by the Developmental Disabilities Division's central office. In addition to the usual materials required, requests for out-of-state placements must be accompanied by a plan for monitoring the individual on a monthly basis.[11]

Other sources of funds are frequently used to supplement resources available under the Individual Care Grants program. For example, a funding package might include a number of state and local resources in addition to private funds. The length of time from initiation of a request for an out-of-state placement to a child's admission to the facility ranges from one to six months, and averages three months. Individual Care Grant placements are not made through the Mental Health Compact because the facilities used are operated under private auspices.

Education. The Illinois Office of Education was involved in sending children out of state in fiscal 1977 through its Private Tuition Reimbursement Funds. These funds are made available to children who have special education needs that cannot be satisfied in the public schools. Placements are made by the public school district under a contract initiated by the district, agreed upon by the private facility, and in accordance with procedures set forth in the School Code of Illinois.[12]

The local education agency administrator, in conjunction with the director of special education, initiates a request for private tuition funds by submitting the appropriate applications. This is based upon a comprehensive case study, a multidisciplinary staff conference, and an individual educational program.[13] Furthermore, the local school district must certify the requested placement is in the least restrictive alternative possible. Eligible facilities are approved and registered by the IOE as stipulated in the school code.[14]

When the final placement decision is reached, a preplacement education plan and contract is developed in cooperation with the nonpublic facility. IOE then reviews the application from the local education agency and approves or disapproves the placement. The local school district initially pays the cost for the placement and is later reimbursed by IOE. The length of time from the placement decision to admission to an out-of-state residential facility averages two months. Of course, most placements that are funded are not necessarily under the purview of an interstate compact.

In addition to these three state agencies, local private agencies, as well as parents and guardians, sent children to facilities in other states. For those agencies or parents utilizing the compacts, the procedures for sending have been described above. However, for placements outside the purview of the compacts, specific procedures for sending out of state cannot be described, since parents and private agencies were not contacted concerning these sending practices as that was outside the scope of this study.

Regulating Senders

The sending practices associated with a number of state and local agencies, as well as many in the private sector, are subject to the regulatory guidelines established by interstate compact provisions. These provisions are specifically discussed in detail in Chapter 4. Excluded from compact regulations are placements made by parents, close relatives, and guardians; placements in institutions primarily educational in nature; and placements in psychiatric hospitals and other medical facilities.

In addition to the regulations inherent in compact placements, administrative policy and state law govern the practices of state agencies. The School Code of Illinois governs educational placements. The Mental Health Statute and administrative policy regulate placements made under Individual Care Grants. If DCFS is funding all or any part of an out-of-state placement, DCFS regulatory guidelines must be followed. Therefore, IOE, DMHDD, or any other public or private agency which is jointly funding a placement with DCFS must adhere to the regulatory guidelines established under the Placement Compact.

Non-use of the Placement Compact has been mostly attributed to the delays involved in this process. For example, in January 1978, an overload of the Placement Compact office delayed responses. As much as a 60-day backlog in processing requests has been experienced from time to time, although this condition appears to have been greatly improved. Further, placements arranged by parents or those received in boarding schools and private psychiatric hospitals are nonapplicable to compact procedures.

Children Sent

Information collected about the number of children sent to out-of-state residential facilities is representative of compact-arranged placements, and those facilitated by Private Tuition Reimbursement Funds and Individual Care Grants. These statistics underrepresent the total number of children placed out of state due to the exclusion of many privately sponsored placements.

The number of Illinois children sent to out-of-state residential facilities during fiscal 1977 reached 382. Children committed to DCFS and placed in an out-of-state facility numbered seven. IOE estimated 363 children were placed out of state under Private Tuition Reimbursement Funds.[15] Ten children were reported placed out of state under Individual Care Grants administered by DMHDD.[16] In addition, two children were sent to public facilities in other states through the Compact on Mental Health.

Due to some circumstances when several agencies provided a portion of the funding necessary to make a placement, it is possible that total Illinois placements do not accurately reflect the number of children in placement. That is, children may have been included in more than one agency's count of children placed out of state. For example, a child placed with private tuition funding from local education agencies/IOE may also be the recipient of DMHDD funds and, as such, could be counted as a placement by each agency.

The number of court-ordered placements, involuntary social agency placements, and voluntary placements could not be determined by

any of these senders. Also, the number of youthful offenders, juvenile delinquents, status offenders, abused or battered children, and dependent or neglected children was not available from Illinois sending agencies.

Receiving States

The states to which children were sent by IOE and DMHDD, and the number of children residing in each are kept by these agencies but are not readily accessible in forms germane to this study. Thus, IOE cannot statistically distinguish between children placed for reasons of mental retardation, physical handicaps, or developmental disabilities.

Still other difficulties were experienced in DCFS. The accessibility of its information was limited to children in residence and, therefore, included 28 children placed during prior years.

Table A presents information collected about the number of children placed (or residing) by state of residence and source of information. As discussed, the information is not discrete and is given simply for illustrative purposes. For DMHDD and IOE placements, the only distinction made was between "contiguous" and "distant" states.

Actual information about the types (size) of facilities to which Illinois children were sent was not obtained; neither was any information about how facilities are selected. However, most individuals reported that experiential knowledge suggested that children were placed in out-of-state facilities because comparable services were not available in Illinois.

Table A
NUMBER OF CHILDREN PLACED OR RESIDING OUT OF STATE IN FISCAL 1977 BY SENDING AGENCY AND RECEIVING STATE

Receiving state	*Department of children and family services*	*Mental health compact*	*Dept. of mental health and developmental disabilities*	*Office of education*
Indiana (a)	2	...	...	...
Iowa (a)	6	...	...	...
Kansas	2	...	...	...
Michigan	4	...	...	...
Minnesota	1	...	...	...
Missouri (a)	5	...	..	...
New Jersey	1	...	...	...
New York	...	1	...	...
Pennsylvania	1	...	...	...
Tennessee	...	1	...	...
Texas	2	...	...	...
Wisconsin (a)	11	...	...	...
Contiguous states	...	...	188	254
Distant states	...	...	39	230
Total	35	2	227(b)	484(c)

(a) Contiguous states.
(b) About 10 of these placements are estimated to be relevant to this study.
(c) About 75 percent of this figure, or 363 children, are estimated to be relevant to this study.

Monitoring Out-of-State Placements

Each of the sending agencies in state government has a monitoring requirement relative to placement. These requirements provide for reporting systems, requiring both program and fiscal information, as well as site visits and direct casework supervision by either Illinois agency staff or through contracted supervision. Cooperative agency monitoring is also stressed, with supervisory monitoring and on-site investigation reports shared with the receiving state in many cases.

IOE conducts on-site monitoring visits in facilities within 50 miles of Illinois. For those placements further away, IOE visits them when five or more Illinois children are placed there. For the others, requests for information are directed to the receiving state's education agency. Monthly reports are required which contain academic and behavioral progress and medical information.[17] Since fiscal reimbursement is contingent upon receipt of a monthly report, adherence to the monthly reporting requirements is assured. Biennial reports (January and June) which describe attendance, treatment progress, and academic progress are also required. In specific cases, an on-site courtesy visit to the receiving facility may be required in addition to the monthly reporting. In addition, specific narrative treatment plans are required at least on an annual basis.

During fiscal 1977, DCFS developed placement monitoring criteria. Typically, monitoring reports covering all treatment and care areas are required at specific intervals based on each case, with written progress reports required by the central office every six months. In addition, the out-of-state placement office functions to provide ongoing monitoring services. As part of this responsibility, that office submits periodic reports to the director of the department concerning the status of out-of-state residential care placements of DCFS wards.

DMHDD requires preplacement plans and monthly monitoring reports reviewing care and treatment progress. Two states have reciprocal monitoring agreements with DMHDD, and all others receiving Illinois children have contracted consultants who make monthly visits to each placement. Monitoring reports regarding facility and client progress are forwarded to the regional areas from whence the placement originated. The central office of DMHDD receives monitoring and budget reports to carry out the grant reimbursement function.

Monitoring provisions established by DMHDD include, among others: review of the individual treatment plan, presence and provisions of services contracted for that child, progress of child in treatment, assurances against abuse and neglect of a child, and review and evaluation of continued need for residential treatment.[18]

Cost

Public funding for a major portion of identified out-of-state placements came from IOE's special private tuition appropriation. In 1977, the agency expended approximately $8.4 million for all placements. No payment schedule is presently available which breaks down payments by state, facility, child, or total allocated for out-of-state placements. However, considering what is known about IOE out-of-state placement practices, it can be estimated that the total dollar amount did not exceed $1,089,000. This figure was calculated by multiplying the number of out-of-state placements (363) by the maximum yearly grant allowable ($3,000).

Although Individual Care Grants (DMHDD) will pay for per diem treatment costs, the parent or guardian pays on a sliding scale basis, up to $100 per month. Presently families pay medical costs, but there is an agreement between DMHDD and the Department of Public Aid to

obtain Medicaid for the residential patients. The total expenditures by DMHDD for out-of-state residential care in fiscal 1977 was about $1,353,000. However, only 4 percent or $54,128 of this amount was attributed to out-of-state placements relevant to the study.

DCFS purchased services for 35 wards residing out of state in fiscal 1977. This is accomplished in a cooperative funding arrangement with either or both DMHDD and IOE. Information concerning a breakdown of DCFS expenditures, according to receiving facility, receiving state, child, or total payments is not readily accessible. It was reported that DCFS typically pays 80 to 85 percent of monies assessed by in-state facilities, as compared to paying 100 percent of assessments for out-of-state facilities. Aggregate dollar amounts were not ascertained.

With all three departmental out-of-state placement practices, there is a cooperative effort to assure that a child who has been identified as requiring out-of-state services not only obtains that placement, but without the stress of financial obligations. Accordingly, the various case workers and central offices work together to obtain a funding package that meets the requirements of the facility, subject to final approval by the Department of Public Health, Office of Health Finance. Occasionally, local funds are used where available, but there are no records of these payments available at the state level. Private agencies, including sectarian organizations, that have Title XX and other third-party resources, may be requested to assist in certain costs. Although there is no record of these contributions at the relevant state agencies, they are considered minimal. Courts do not have the resources to contribute, so IOE, DCFS, and DMHDD share the major public funding responsibility for children placed in out-of-state residential facilities.

RECEIVING PRACTICES IN THE STATE

Regulating Receiving Facilities

In Illinois, regulating practices of residential facilities receiving out-of-state children is largely accomplished by two offices within DCFS—the Placement Compact office and the Licensing Services office. Essentially, the regulatory procedures require notification to the compact administrator of the admission of out-of-state children but does not prevent a facility from accepting such children without compact intervention. Facilities primarily educational or medical in nature, psychiatric hospitals, and relatives' homes are excluded from even this regulation by DCFS.

Some of the regulatory responsibility is shared with IOE, which "registers" and evaluates educational programs and facilities. DMHDD shares certification responsibility for nonpublic mental health facilities with the Department of Public Health. In Illinois, the Department of Public Health licenses psychiatric hospitals, in conjunction with the Joint Commission of the American Medical Hospital and Psychiatric Associations which accredit such facilities. Although none of these state agencies license public facilities, such facilities are expected to meet standards relevant to their particular area of service delivery.

A variety of activities related to child care and treatment are regulated by DCFS, including: staff qualifications, programmatic components, policy board and administrative functions, reporting and records schedules, facility characteristics related to size and health and safety, and admission procedures.[19]

IOE deals only with the educational component of the nonpublic schools and child-care facilities, regulating curricula, staff qualifications, learning materials and resources, and facility safety. It does not regulate activities or policies relevant to the residential components of facilities.[20] Similarly, the Department of Public Health does not regulate activities or policies pertaining to the treatment or care aspects of mental health facilities or psychiatric hospitals, but limits its role to regulation of fire, health, and safety conditions.

Practices of Receiving State Agencies

At least in one instance each, the three different interstate compacts were utilized to admit a child from out of state to certain Illinois receiving facilities. The Mental Health Compact was employed for admitting all out-of-state children to public psychiatric facilities. Practices were similarly described for the Juvenile Compact and public juvenile corrections facilities; however, no out-of-state children were received in state institutions.

Utilization of the Placement Compact by private receiving facilities in Illinois was considered minimal. This finding can be at least partially explained by the nature of DCFS licensure requirements. The procedures for receiving children from out of state do not distinguish between in-state or out-of-state placements. The requirements of preplacement planning; a complete medical, educational, and treatment history prior to placement; and a regularly scheduled monitoring system are the same for both resident and nonresident children. Out-of-state children may be accepted in residence without the intervention of the Placement Compact. Another important factor associated with the low level of Placement Compact usage for receiving children from out of state is the length of time involved in completing a placement. In the past, some facilities experienced a 60-day delay.

Children in Residence

The number of out-of-state children known by state officials to have been admitted to Illinois public or private facilities in fiscal 1977 is around 15. This number reflects both placements reported to the Placement Compact office and placements arranged through interstate compacts. Seven (or eight) children were admitted utilizing the Placement Compact, one child arrived through the Juvenile Compact, and six were received via the Mental Health Compact.[21] Comparison data from fiscal 1976 and a part of fiscal 1978 were unavailable. It was reported that no out-of-state children were received in Illinois public corrections institutions or detention homes during those three years, except for the infrequent incarceration of fugitives or children violating Illinois law.

Information about the problems characteristic of the children received, such as mental illness, truancy, alcohol abuse, or pregnancy, was unavailable. Also not reported by the compact administrators is the number of children in the following categories: adjudicated youthful offenders, juvenile delinquents, status offenders, abused or battered children, and dependent or neglected children.

States of Origin

The Placement Compact office could not provide specific information concerning the states from which the seven children were sent. The Juvenile Compact office stated that their only placement was sent by Georgia. Of the six children admitted to public psychiatric facilities via the Mental Health Compact, three were sent by New York, two came from Missouri, and one child was received from Hawaii. Reasons that sending agencies selected Illinois facilities were typically not known to Illinois state agency officials. With the Mental Health Compact placements, Illinois would have been selected because the parents of the child had moved to Illinois and wished to have their child in closer proximity.

Monitoring Placements from Other States

Other than the monitoring of Placement Compact placements by DCFS regional caseworkers, there is little known monitoring activity by any agency. Supervision of assigned compact placements by DCFS caseworkers requires quarterly reporting and monitoring on a more frequent basis, if requested by the sending state. As monitoring reports are received by the Illinois Compact office, they are forwarded to the sending state compact office which has the responsibility for contacting the particular sending agency. For Mental Health Compact placements, once a child has been accepted and transported to a state facility in Illinois, information provided to the sending state ceases. Since the parents are then Illinois residents monitoring occurs long enough to assure that the facility and parents have established a working relationship.

RECEIVING FACILITIES

There were 85 residential facilities in Illinois that were telephoned and agreed to respond to our survey. As in the other two states, these facilities were identified from lists or directories acquired from different state agencies. Four separate listings were actually utilized as references to potential receiving facilities.[22] Although the number of facilities included on these lists was quite large, several were eliminated from consideration without a telephone contact. This was usually accomplished from information included on the lists indicating a facility exclusively serving clients inappropriate to the study. Still other facilities were eliminated because they were defunct or no telephone listing could be obtained.

The results of this telephone survey are given in Table B.

Those facilities responding that they received six or more out-of-state juveniles in fiscal 1977 were then either visited and surveyed, or asked to respond to a mailed survey. A total of nine facilities were personally visited and seven were asked to complete a mailed questionnaire. Results received from both the visits and the mailing substantiated the response range concerning the number of out-of-state admissions. Thus, our surveys found 16 facilities in Illinois that received six or more out-of-state admissions in fiscal 1977.

Unlike the other two states surveyed, foster homes were not surveyed in Illinois. This was because the directory of licensed foster homes could not be obtained.

The total number of out-of-state children accepted in Illinois residential facilities during fiscal 1976, 1977, and 1978 can be determined through aggregating comparable information received in responses to our telephone survey, the mailed questionnaire, and the nine on-site visits. The composite results are displayed in Table C.

Some fairly straightforward trends are evident in the table. The total number of out-of-state children in Illinois remained fairly constant over the three-year period. Clearly, psychiatric hospitals and boarding schools accounted for most out-of-state placements, but child-care facilities and residential treatment centers also received significant numbers. The total number of out-of-state children accepted in the 85 facilities reached 257 in fiscal 1977, 213 in fiscal 1976, and 197 in fiscal 1978.

Table B
TELEPHONE SURVEY RESPONSES, BY FACILITY TYPE AND OUT-OF-STATE ADMISSIONS FREQUENCY

Facility type	*Number of out-of-state children accepted in fiscal 1977*			
	None	*Under 6*	*6 or more*	*Total*
Boarding schools.....	4	3	4	11
Child-care facilities...	28	7	6	41
Psychiatric hospitals..	3	1	3	7
Residential treatment centers.....	16	2	3	21
Others.....	3	2	...	5
Total.....	54	15	16	85

Table C
AGGREGATE NUMBER OF OUT-OF-STATE CHILDREN REPORTED, BY FACILITY TYPE AND YEAR

Facility type	*1976*		*1977*		*1978(a)*	
	Number reporting	*Number of children*	*Number reporting*	*Number of children*	*Number reporting*	*Number of children*
Boarding schools.....	7	67	7	74	7	67
Child-care facilities...	13	36	13	47	13	30
Psychiatric hospitals..	4	81	4	89	4	56
Residential treatment centers.....	5	29	5	44	5	44
Others.....	2	...	2	3	2	...
Total.....	31	213	31	257	31	197

(a) Based upon data obtained between December 1977 and April 1978.

Characteristics of Receiving Facilities

There were nine residential facilities in Illinois that were visited on-site and surveyed, but only eight of these fully cooperated and responded to the questionnaire. An additional seven facilities were asked to complete the mailed questionnaire, but only one of these was returned. Therefore, the following discussion sets forth information collected about nine facilities that accepted six or more out-of-state children in fiscal 1977. Throughout, the information is generally discussed in the sequence by which it was requested on the survey forms. Several tables were developed and included to facilitate a better understanding of the data, particularly as they relate to different facility types.

If information requested was not readily available or simply not recorded in the manner requested, administrators were instructed to estimate based upon their personal experience and knowledge of the facility. Several instances arose where administrators found it necessary to estimate or state exceptions to certain descriptive responses. Occasionally, administrators were either unwilling or unable to even provide estimates or respond to descriptive questions. In those cases, the data was reported as not available. Due to the nature of this study, special attention is given to data accessibility throughout the entire discussion.

No facilities were located in SMSAs which include portions of another state. However, some came very near this type of situation. For example, a child-care facility in Alton is very close to the St. Louis, Missouri, SMSA. All out-of-state children accepted by this facility are residents of Missouri, and most are from St. Louis. Although not in an SMSA, two other facilities are located in Quincy which also borders Missouri and is very near the southeastern edge of Iowa. Similar to the one in Alton, these facilities accept most of their out-of-state children from Missouri and Iowa. Collectively, these three facilities account for 34 percent (41) of the total number of out-of-state children in the nine facilities.

The nine facilities operated with four different fiscal years. The most common months included as a basis for a fiscal year were July to June.

All nine facilities operated under private auspices and most were non-profit agencies. The three facilities which were profitmaking operations accepted 33 percent of the total out-of-state admissions. Table D gives the distribution of the Illinois facilities, by aegis of operation and facility type. As seen in the table, the only boarding school and all psychiatric hospitals in Illinois found to have accepted six or more out-of-state children are private for-profit agencies.

The typical facility was licensed for 89 beds, but they ranged in size from 20 to 184 bed capacities. The psychiatric hospitals and the boarding schools tended to be larger facilities than those categorized as child-care facilities and residential treatment centers.

During visits to the Illinois facilities and in the mailed questionnaire, administrators were asked to report the number of out-of-state children they accepted in fiscal 1976, 1977, and 1978. Both rates and patterns of admission can be discerned from data collected for different time periods, by facility type. Table E gives this information for the nine facilities reporting. Review of the table shows that child-care facilities admitted more out-of-state children than the other types of facilities. Furthermore, the number of out-of-state children accepted to all facility types has slightly increased over the three-year period.[23]

Table D
AEGIS OF OPERATION, BY FACILITY TYPE

Facility type	*Public*	*Private, non-profit*	*Private, for-profit*
Boarding schools	...	...	1
Child-care facilities	...	4	...
Psychiatric hospitals	...	...	2
Residential treatment centers	...	2	...
Total	...	6	3

Table E
NUMBER OF OUT-OF-STATE CHILDREN REPORTED, BY FACILITY TYPE AND YEAR

Facility type	*1976*		*1977*		*1978(a)*	
	Number reporting	*Number of children*	*Number reporting*	*Number of children*	*Number reporting*	*Number of children*
Boarding schools	1	14	1	12	1	12
Child-care facilities	4	44	4	48	4	19
Psychiatric hospitals	2	19	2	28	2	13
Residential treatment centers	2	26	2	34	2	34
Total	9	103	9	122	9	78

(a) Information includes first four months of calendar year 1978.

Of the 122 out-of-state children placed in Illinois residential facilities in fiscal 1977, administrators reported that 10 were paid for under the CHAMPUS program. Table F gives the number of CHAMPUS-paid placements, by facility type. As might be expected, all CHAMPUS placements were accepted in facilities characterized as psychiatric hospitals. Considering the combined number of out-of-state admissions to these two psychiatric facilities, CHAMPUS funds are involved in 36 percent of the cases.

A very small number of the out-of-state children accepted in Illinois residential facilities were arranged through interstate compacts. Of the 100 out-of-state children reportedly accepted in eight facilities, a total of 16 were arranged under the Placement Compact. No placements were arranged under the auspices of the other interstate compacts. This information is further explicated in Table G.

Table F
RELATIONSHIP OF CHAMPUS-PAID PLACEMENTS TO OUT-OF-STATE ADMISSIONS, BY FACILITY TYPE

Facility type	*Number of fiscal 1977 out-of-state admissions*	*Number of CHAMPUS-paid placements*
Boarding schools	12	...
Child-care facilities	48	...
Psychiatric hospitals	28	10
Residential treatment centers	34	...
Total	122	10

Table G
RELATIONSHIP OF INTERSTATE COMPACT-ARRANGED PLACEMENTS TO OUT-OF-STATE ADMISSIONS, BY FACILITY TYPE

Facility type	*Number of out-of-state admissions*	*Number of compact-arranged placements*		
		Placement compact	*Juvenile compact*	*Mental health compact*
Boarding schools	12	...	...	...
Child-care facilities	48	7	...	...
Psychiatric hospitals	28	...	...	...
Residential treatment centers(a)	12	9	...	...
Total	100	16	...	...

(a) Information was not received from one facility.

A little over one half (54 percent) of the out-of-state children accepted in Illinois residential facilities were placed by public agencies, including juvenile courts and public social services or children's services agencies. The remaining number were placed by parents or guardians. The information collected about referral source is organized by facility type and given in Table H.

It can be seen that all public agency placements were made to child-care facilities and residential treatment centers. Table H further shows that each facility type accepted at least some parentally referred placements from out of state. Several administrators further explained, however, that many parents referred children to their facility with the assistance and sometimes through the insistence of public officials such as juvenile judges, probation officers, or social services staff.

Most of the out-of-state children accepted in the eight reporting facilities were from the United States and generally were from neighboring states. Table I shows that only two out-of-state children were from foreign countries and both were accepted in the same facility.

This same information is presented in further detail in Table J. The table isolates individual states and areas of foreign residence by facility type for the eight reporting facilities. The relatively large number of out-of-state children from neighboring states is made apparent in the table and is of special significance to the Illinois study. Children from Indiana (52), Missouri (16), Iowa (3), Wisconsin (5), and Michigan (16) account for 92 percent of all out-of-state admissions during the year.

Although located in another state, this data suggests that many out-of-state children had resided in communities fairly close to the facilities receiving them for placement. Facility administrators generally substantiated this impression. Responses to the survey indicated that 68 children (62 percent) had home residences within 50 miles of the facility's location.

Table H
NUMBER OF OUT-OF-STATE CHILDREN, BY FACILITY TYPE AND REFERRAL SOURCE

Facility type	*Referral source*				
	Public agencies	*Private sectarian agencies*	*Private non-sectarian agencies*	*Parents or legal guardians*	*Unknown*
Boarding schools	...	...	...	12	...
Child-care facilities	40	...	...	8	...
Psychiatric hospitals	...	...	...	28	...
Residential treatmnet centers	26	...	...	8	...
Total	66	...	...	56	...

Table I
NUMBER OF CHILDREN FROM OTHER STATES AND FOREIGN COUNTRIES, BY FACILITY TYPE

Facility type	*Number of children from other states*	*Number of children from foreign countries*
Boarding schools	12	...
Child-care facilities	46	2
Psychiatric hospitals	28	...
Residential treatment centers(a)	12	...
Total	98	2

(a) This information was not received from one facility.

Juveniles accepted for placement in these facilities were usually characterized as experiencing problems resulting from emotional disturbance or truancy. These problems were especially common among juveniles accepted in residential treatment centers, child-care facilities, and boarding schools. The juveniles admitted to psychiatric hospitals tended to have more pronounced difficulties resulting from drug and alcohol abuse. No major differences were identified between in-state or out-of-state juveniles.

If the facility accepted any adjudicated juveniles, regardless of the legal category, they were likely to have been commingled or housed together. However, most administrators were not cognizant of a juvenile's adjudicatory history and did not have access to records that would determine either the presence or absence of adjudicated children. They were more familiar with labels denoting an individual's mental health or educational abilities and, therefore, needed to estimate in responding to the questions.

Eight facilities provided some very rough estimates about the number of out-of-state children they accepted that had been adjudicated in particular legal categories. Boarding schools and psychiatric hospitals accepted no adjudicated children. The other facility types accepted 22 dependent or neglected children, 4 delinquents, and 26 status and 2 youthful offenders. The data collected does not allow the reporting of actual numbers of children adjudicated in certain legal categories by the type of placement (voluntary or involuntary).

Although actual numbers were commonly not available and estimates were given, most administrators reported what they considered satisfactorily representative information about the sex, race, age upon admission, and average length of stay for children admitted during fiscal 1977. In all cases, estimates were given to differentiate characteristics between in-state and out-of-state children. This data is reported in Table K.

Out-of-state children accepted in these Illinois facilities tend to be female (58 percent), white (66 percent), a little over 13 years old, and stay in the programs an average of one year. The major difference between facility types is related to length of stay which ranges from three months in psychiatric hospitals to 21 months in child-care facilities. Another significant difference is the disproportionate number of females accepted in child-care facilities.

All facilities accepted much larger numbers of in-state children. Juveniles from out of state frequently comprised less than 15 percent of the total population. For the most part, the characteristics of in-state admissions, including their average length of stay, was quite similar to those from out of state.

As reported in Table L, six of the eight facilities reporting information about their per diem rates had no sliding fee scales. However,

Table J
NUMBER OF CHILDREN FROM OTHER STATES AND FOREIGN COUNTRIES, BY GEOGRAPHICAL AREA OF ORIGIN AND FACILITY TYPE

State, jurisdiction, or foreign area	*Boarding schools*	*Child-care facilities*	*Psychiatric hospitals*	*Residential treatment centers*	*State, jurisdiction, or foreign area*	*Boarding schools*	*Child-care facilities*	*Psychiatric hospitals*	*Residential treatment centers*
Alabama	...	...	...	...	New Mexico	...	...	...	...
Alaska	...	...	...	...	New York	1	...	...	...
Arizona	...	...	...	...	North Carolina	...	...	...	...
Arkansas	...	...	...	...	North Dakota	...	...	...	...
California	...	...	...	...	Ohio	...	...	1	...
Colorado	1	...	...	...	Oklahoma	...	...	...	...
Connecticut	...	2	...	...	Oregon	...	...	...	...
Delaware	...	...	...	...	Pennsylvania	...	...	1	...
Florida	1	...	1	...	Rhode Island	...	...	...	...
Georgia	...	...	...	...	South Carolina	...	...	...	...
Hawaii	...	...	...	...	South Dakota	...	...	...	...
Idaho	...	...	...	...	Tennessee	...	...	...	...
Illinois	...	...	...	...	Texas	...	...	...	...
Indiana	3	20	17	12	Utah	...	...	...	...
Iowa	...	3	...	...	Vermont	...	...	...	...
Kansas	...	...	1	...	Virginia	...	...	...	...
Kentucky	...	...	...	...	Washington	...	...	...	...
Louisiana	...	...	...	...	West Virginia	...	...	...	...
Maine	...	...	...	...	Wisconsin	1	1	3	...
Maryland	1	...	...	...	Wyoming	...	...	...	...
Massachusetts	...	...	...	...	Dist. of Col.	...	...	...	...
Michigan	4	4	4	...					
Minnesota	...	...	...	...	Africa	...	...	...	...
Mississippi	...	...	...	...	Asia	...	1	...	...
Missouri	...	16	...	...	Canada	...	...	...	...
					Caribbean	...	...	...	...
Montana	...	...	...	...	Central America	...	...	...	...
Nebraska	...	...	...	...	Europe	...	...	...	...
Nevada	...	...	...	...	Mexico	...	...	...	...
New Hampshire	...	...	...	...	Middle East	...	...	...	...
New Jersey	...	...	...	...	Pacific	...	...	...	...
					South America	...	1	...	...

Table K
DISTRIBUTION OF OUT-OF-STATE ADMISSIONS, BY FACILITY TYPE, SEX, RACE, AVERAGE ADMISSION AGE, AND AVERAGE LENGTH OF STAY

Facility type(a)	*Sex*		*Race*				*Average admission age (years)*	*Average length of stay (months)*
	Male	*Female*	*White*	*Black*	*Hispanic*	*Oriental*		
Boarding schools (1)	12	...	6	6	...	...	11	9
Child-care facilities (4)	6	42	30	14	1	4	13.7	21
Psychiatric hospitals (2)	12	16	26	2	...	...	15	3
Residential treatment centers (1)	12	...	4	7	1	...	13.5	15
Total	42	58	66	29	2	3	13.3	12

(a) The numbers in parentheses represent the number of facilities reporting.

Table L
RANGE OF PER DIEM PAYMENTS, BY FACILITY TYPE

Facility type	*Average minimum per diem*	*Average maximum per diem*	*Average rate received*	*Number of facilities with flat per diem*
Boarding schools	$ 18.00	N/A	$ 18.00	1
Child-care facilities	21.64	30.00	23.03	3
Psychiatric hospitals	154.00	171.00	158.50	1
Residential treatment centers	45.34	N/A	45.34	1

three facilities indicated they received different per diem rates for in-state and out-of-state children. The variance ranged from $2.13 more per day for in-state children in one facility, to $10 more per day for out-of-state children in another. In each case, the differences were attributed to policies of the sending agency instead of the facility itself.

Per diem rates tended to vary between the four categories of facilities as shown in Table L. The table gives information by facility type about the average minimum, average maximum, and the overall average per diem rate received for fiscal 1977 admissions. Also included in the table are findings concerning the number of facilities with no range in per diem rates.

Each category of facilities had at least one facility with no sliding fee scale and accepted only a certain flat fee. The dollar amount of per diem rates varied considerably among different categories of facilities, with a nine-fold difference between the highest and the lowest. Placement in psychiatric hospitals is considerably more costly than in child-care facilities, boarding schools, or residential treatment centers. In fact, psychiatric hospitals are about three and one half times more expensive than residential treatment centers, which are the second most costly facilities.

The actual number of different purchasers of services with the eight reporting facilities was relatively small. Administrators reported only receiving per diem payments from parents, state and local departments of finance, CHAMPUS, and MEDICAID. Table M shows the relationship between the most commonly ranked sources of per diem payments and the four categories of facilities. Each source was ranked on the basis of total funds received.

The information generally received concerning the purchaser of service was suspect to accounting procedures of each facility. Typically, facility administrators were unable to report this fiscal information in the manner requested or only with very rough estimates. The difficulty was due to a lack of knowledge about original funding sources or the relative contributions made by multiple contributors to a single payment. For example, administrators would not know if parents who made per diem payments were reimbursed from insurance companies or the Veterans' Administration.

Other fiscal information requested from facilities concerned an attempt to determine how much of the total revenue received in each facility consisted of per diem payments. Facility recordkeeping practices allowed this type of information to be easily supplied in all cases. Table N gives the findings about the average percent revenue in per diem payments received, by facility type. This information, together with that in Table L, shows that a greater reliance on revenue from per diem payments is directly related to higher charges. For example, psychiatric hospitals and residential treatment centers are more dependent upon revenue from purchasers of service and at the same time charge more than other facility types.

Table M
RANKED SOURCES OF PER DIEM PAYMENTS, BY FACILITY TYPE

Facility type	*Ranked sources of per diem payments*
Boarding Schools (a)	N/A
Child-care facilities	County department of finance, state department of finance, parents
Psychiatric hospitals	Parents, CHAMPUS, MEDICAID
Residential treatment centers	State department of finance, parents

(a) This facility was surveyed with a form which did not ask this question.

Table N
AVERAGE PERCENTAGE OF REVENUE FROM PER DIEM PAYMENTS, BY FACILITY TYPE

Facility type	*Average percentage of revenue from per diem payments*
Boarding schools (a)	N/A
Child-care facilities	48
Psychiatric hospitals	100
Residential treatment centers	74

(a) This facility was surveyed with a form which did not ask this question.

Comparable information was collected in each facility about its architectural and programmatic features. The inquiry particularly focused on characteristics related to security measures. No facility visited contained architectural or programmatic security features that allowed many comparisons with traditional juvenile justice facilities such as detention homes or training schools. However, all facilities had some minimal level of security (or monitoring) that was facilitated through building design or programmatic policy. Table O attempts to establish typical programmatic and architectural features associated with the four categories of facilities.

From a comparable list of possible services, each administrator was asked to rank, in the order of their importance, the services they provided. Further comparisons between facility types are possible by noting any differences in these findings as given in Table P. The table provides a typical sequence of service ranking, by facility type.

Table O
TYPICAL PROGRAMMATIC AND ARCHITECTURAL FEATURES, BY FACILITY TYPE

Facility type	*Typical programmatic and architectural features*
Boarding schools	Staff and peer group responsibility for monitoring the movement of juveniles.
Child-care facilities	Some with locked doors; however, most employed room restrictions and staff and peer group responsibility for monitoring the movement of juveniles.
Psychiatric hospitals	Most secure type facility visited. All had locked doors, special security hardware, room restrictions, and staff and peer group responsibility for monitoring juveniles.
Residential treatment centers	Although some juveniles were given access to community without supervision, all were subject to room restrictions and staff and peer group monitoring procedures.

Table P
TYPICALLY RANKED SERVICES, BY FACILITY TYPE

Facility type	*Typical sequence of serving ranking*
Boarding schools (a)	N/A
Child-care facilities	Residential services, educational services, milieu therapy, recreation, social development, and religious development available.
Psychiatric hospitals	Individual therapy, milieu therapy, psychological evaluation, and physical health maintenance and care.
Residential treatment centers	Milieu therapy, residential services, recreation, and social development.

(a) This facility was surveyed with a form which did not ask this question.

Expectedly, there was a close correlation between the relative ranking of services and the personnel and service delivery patterns found among the nine facilities. Professional personnel and the typical weekly hours of services they provide a juvenile are profiled for each category of facility in Table Q.

Generally, receiving facility administrators had opinions similar to sending agency officials concerning the reasons out-of-state juveniles were placed in their facilities. Most stated that juveniles from out of state were placed in their programs because of successful prior placements and the lack of comparable services in the sending state. Less common reasons given for placement included that the facility was

Table Q
PERSONNEL AND SERVICE DELIVERY PROFILE,
BY FACILITY TYPE

Facility type	*Personnel and service delivery profile*
Boarding schools	Professionals consisted of full-time and part-time educators and social workers or school guidance counselors. The average juvenile received 50 or more hours a week of educational instruction and 1 to 3 hours a week of counseling, focused on academic and vocational goal setting.
Child-care facilities	Staff mostly consisted of social workers, part-time psychologists, full-time nurses, and sometimes educators. One facility had several part-time tutors. Services reflected heavy emphasis on recreation and social development. The typical child received 1 to 3 hours per week of individual and group counseling.
Psychiatric hospitals	Usually several part-time psychiatrists, health professionals, and social workers were cited as key professional staff. At least 3 hours per week psychiatric therapy and more than 6 hours per week of individual and group counseling were provided the usual child.
Residential treatment centers	Core professional staff included full-time social workers and educators. Usually, a nurse and a psychologist were also employed. Most juveniles were provided about 40 hours educational instruction a week. During a typical week, a child also received 1 to 3 hours individual counseling and 4 to 5 hours of group counseling.

located close to the juvenile's home residence, despite being across state lines, and the juveniles had been chronic failures in the sending state's residential facilities.

Although an infrequent decision, six facility administrators had denied admission to certain juveniles from out of state. The reasons given were fairly similar. Sometimes the facility was operating at capacity and had no available bed space. However, in most cases, the denial of admission was based upon a juvenile's ineligibility resulting from a past history of serious emotional or behavior problems. In psychiatric hospitals, an occasional child is denied admission because his parents appeared financially irresponsible.

Several different reasons were given as the basis for returning juveniles to their sending state. Although unsuccessful discharges were uncommon, each facility reported a few occasions when this occurred. In child-care facilities, running away was a typical reason for returning the custody of a juvenile to the sending state. Another typical reason among the other facilities was that the juvenile was determined not amenable to the treatment program.

With only two exceptions, Illinois receiving facilities have policies and procedures which are applied equally to juveniles from in state and out of state. The differences were:

1. In one facility the administrator reported that the placing agency designates the length of stay permissible, more frequently for in-state juveniles.
2. One facility always arranges aftercare placement for in-state juveniles and only occasionally for those from out of state.

SUMMARY OF DATA

Population

Collectively, the number of Illinois children reported sent to out-of-state residential facilities totaled 382. As shown in Table R, the largest number of these out-of-state placements (363) was voluntary and facilitated by special education tuition funds administered by IOE. None of them were arranged through an interstate compact and were only known to state government because of fiscal accountability policies. DMHDD reported 12 children placed out of state: 10 under individual care grants and two through the Mental Health Compact. The seven remaining children were placed through the Placement Compact and reported by DCFS. The number of children placed by parents and private and public agencies without compact or other state intervention is unknown.

Table R
REPORTED NUMBER OF ILLINOIS CHILDREN SENT
TO OUT-OF-STATE RESIDENTIAL FACILITIES
IN 1977, BY STATE AGENCY (a)

Reporting state agency	*Number of children reported sent*
Department of Corrections Juvenile Division	...
Department of Children and Family Services	7
Office of Education	363
Department of Mental Health and Developmental Disabilities	12
Total	382

(a) The study found 51 Illinois children placed in residential facilities, 39 in Texas and 12 in North Carolina, 31 of whom were accepted in boarding schools.

State government information about the number of nonresidents accepted in Illinois facilities was dependent upon the use of interstate compacts. It was reported that 15 out-of-state children were received in fiscal 1977: eight under the Placement Compact, one through the Juvenile Compact, and six by the Mental Health Compact.

The on-site and mailed survey of Illinois facilities reported 16 compact-arranged placements, all under the Placement Compact. The discrepancy between this finding and that given by compact officials was probably due to misunderstandings in one facility about the difference between compact-arranged placements and compact-reported placements. Some facilities, as part of licensing, must report the receipt of out-of-state children.

On the other hand, total numbers of out-of-state children were far in excess of those cases that came through the compact. The surveys in Illinois for 1977 found a total of 257 out-of-state children in Illinois facilities: 74 in boarding schools, 47 in child-care facilities, 89 in psychiatric hospitals, 44 in residential treatment centers, and three in other types of facilities. In other words, compact officials were aware of about 6 percent of the out-of-state children placed in private facilities in Illinois.

Procedures and Practices

Each relevant agency in Illinois state government is subject to legislation, administrative policy, and/or fiscal prohibitions regarding procedures for sending children out of state and receiving non-residents in its residential facilities. However, sometimes practices were found to differ from stated procedures.

DCFS established a very firm administrative policy that outlines specific procedures for placing a child out of state. Included among these procedures are mandatory use of the Placement Compact, an extensive administrative review process, and limits on per diem rate payments to private vendors. Most services, including the out-of-state placement of children, take place locally as arranged through DCFS regional offices. Practices within these offices may sometimes vary from procedures called for by the central administration. Such an instance was recorded in a DCFS memorandum, which could suggest other variations in procedures. The memo states:

> an exception to the policy on placement in out-of-state residential facilities which allows the Moline Area to place in two specified facilities in Davenport, Iowa without prior approval from the Director.[24]

In this same document, it further indicated that the Moline Area placed four children in one of two facilities in Davenport and "did not follow proper procedures and were not approved through the Interstate Compact."[25] No information was received to suggest that additional violations in procedure by other regional offices were not reported to (and monitored by) the central administration. Thus, there is no strong reason to doubt the key officials in DCFS who stated that practices normally follow procedure with regard to sending children out of state, even though the exceptions occurred.

Facilities that are operated, funded, or licensed by DCFS are also subject to certain departmental procedures for receiving children from out of state. Basically, the procedure only requires a facility to notify the Placement Compact administrator of the admission of out-of-state children, but does not prevent a facility from accepting such children without compact intervention. Information collected from receiving facilities indicated this procedure is not necessarily followed in practice. For example, only three of the nine facilities surveyed reported always informing state regulatory agencies (e.g., DCFS) about the admission of out-of-state children. This finding was substantiated by agency officials who indicated a lack of confidence in the Placement Compact office data as a measure of out-of-state juveniles residing in DCFS-licensed facilities.

In the area of education, IOE has been delegated responsibility for facilitating the placement of "handicapped children" in nonpublic schools when publicly sponsored programs do not serve their educational needs. This responsibility includes expending legislative appropriations for funding in-state and out-of-state placements, as well as promulgating facility eligibility criteria and applying them when placements are needed.

For the most part, practices appeared to coincide with IOE procedures. However, some variations were noted, along with some interesting trends in practice. Sometimes the private facility receiving the placement is not approved by IOE prior to actually accepting the child in residence. In these cases, the child is typically placed by parents, and then IOE is requested to approve the placement for Private Tuition Reimbursement Funds.

Perhaps even more important and seemingly incongruent to the scope of this program, the majority of these grants are awarded to children experiencing "behavioral disorders" and "social maladjustments." Considering those facilities approved for placement by IOE and identifying programs for "emotionally maladjusted," "social maladjusted," and "behavior disorder" children, 17 are located in Illinois and 76 in other states.[26] None of the 363 placements to other states were arranged through an interstate compact.

Similar in intent to Private Tuition Reimbursement Funds, DMHDD has responsibility for administering funds appropriated for Individual Care Grants. Mostly arranged through its regional offices, these grants are provided to individuals who do not require placement in a public facility. Although very few of these grants are awarded to individuals included as part of this study, it is important to state that none placed out of state in 1977 was subject to procedures requiring interstate compact usage, since none was placed in public mental health facilities.

Procedures associated with the Juvenile Division of DOC are straightforward, comprehensive, and involve mandatory usage of the Juvenile Compact. No variations in procedure were found, although it must be noted that very few out-of-state placements were arranged during the past several years, and none during 1977. Most interstate placements that occur in juvenile justice appear limited to local government activity. A sample of Illinois juvenile courts revealed equally limited activity and, then, through the Juvenile Compact. This would suggest that delinquents on probation were probably placed with relatives, not in residential facilities.

Services

Illinois officials generally felt the major reason for sending children out of state was because comparable services were not available within the state. They further explained that many children were placed in certain out-of-state facilities because these programs were actually located closer to the child's residence than a comparable in-state program. It is interesting to note that administrators in Illinois receiving facilities gave similar placement reasons for the out-of-state children they received.

A sizeable number (12 in 1977) of Illinois children were placed in one particular private residential treatment center located in Texas. This facility functions with a milieu therapy approach to treatment and is primarily staffed by part-time psychiatrists, and full-time psychologists, social workers, and teachers. As indicated by the professions of the key staff, this program provides educational services as well as various types of counseling services, including group and individual modalities and psychiatric therapy. During a child's stay in this facility, his movement is somewhat restricted and closely supervised by child-care and professional staff.

Sixty-one percent of the Illinois children found in Texas and North Carolina had been placed in boarding schools. The services provided in Illinois facilities are not dramatically different from similar facilities located in Texas or North Carolina. For instance, boarding schools in Texas receiving Illinois children and those in Illinois receiving Missouri children essentially provided the same services. Furthermore, residential treatment centers or other facility types had similar programs, staffing patterns, and services among the three states.

Nonresident children in Illinois residential facilities were found mostly in psychiatric hospitals and private boarding schools, although several out-of-state children were placed in Illinois child-care facilities and residential treatment centers. An important finding was that the majority of out-of-state children who were placed in Illinois facilities (92 percent) had home residences in neighboring states such as Indiana, Michigan, and Missouri.

The largest number of out-of-state children were received in psychiatric hospitals, many of which are in the Chicago area. These specialized programs were all privately operated and several were a part of larger organizations such as a university, hospital, or medical center. Key professional staff included psychiatrists, other health professionals, and social workers. An average child receives during a typical

week three hours of psychiatric therapy and six hours of individual and group counseling.

Although staff monitors the movement of residents, the typical child has access to the community without supervision. The professional staff in these schools includes mostly full-time educators and a few school social workers or psychologists. The usual child receives 40 hours a week of educational instruction and another one to three hours of vocational and academic counseling. Secondary services include recreation and social development and, in several facilities, religious instruction.

Fiscal Data

The total expenditures incurred by DMHDD in fiscal 1977 under its Individual Care Grants reached $1,353,000. This amount represents less than 1 percent of the department's total annual expenditures. Furthermore, those Individual Care Grants that went to out-of-state placements amounted to even less money.[27] Roughly, 4 percent or $54,128 of the $1,353,000 was attributed to placements germane to this study.

IOE expended $8,400,000 in fiscal year 1977 under its Private Tuition Reimbursement Funds. The proportion of that amount given to out-of-state placements was not accessible or estimated by Illinois officials.[28] Considering what is known about IOE placements, it is suspected that the total dollar amount did not exceed $1,089,000. This figure was calculated by multiplying the estimated number of out-of-state placements for "behavioral and social problems" (363) by the maximum yearly grant allowable under law ($3,000).

Among the facilities in Illinois that received children from out of state, the average per diem rates received ranged from $158.50 in psychiatric hospitals to $18 in boarding schools. Typically, child-care facilities and residential treatment centers received $23.03 and $45.34 respectively. Private sources of per diem payments among the different types of facilities comprised especially significant portions of total revenue in psychiatric hospitals, boarding schools, and residential treatment centers. Public per diem payors were more prominent in child-care facilities; however, in these facilities per diem payments amounted to lesser proportions of total revenue.

DATA COLLECTION ISSUES

Information known to state government about the number of Illinois children sent to residential facilities in other states without use of state compacts or funds was distinctly incomplete. Furthermore, Illinois state agencies had fairly limited data concerning the number of nonresident children accepted in Illinois residential facilities. Accessibility issues associated with basic data requests, as well as inquiries related to other areas of the study, will be highlighted in the following discussion.

Sending State Data Problems

Information found available in Illinois state government about the number of children sent to out-of-state residential facilities was representative of three circumstances. First, state agencies were able to report the number of children under their care and custody that had been placed in facilities in other states. For instance, the Juvenile Division in DOC or DCFS could report the number of children under their jurisdiction that had been placed in out-of-state residential programs. However, these agenceis were not necessarily able to accurately report the number of probationers sent out of state by each county juvenile court.

The second circumstance when such data was available resulted from policies determining fiscal accountability. State agencies had explicit data, or could estimate from aggregate dollar amounts expended, about the number of children for whom they purchased services from out-of-state facilities. Thus, IOE directly placed no children in out-of-state facilities, but facilitated the practice through its Private Tuition Reimbursement Funds. As a result, IOE was able to report what it considered to be reliable data about the number of children placed out of state by local school districts and funded by it.

Finally, state agencies knew about out-of-state placements when they were arranged through interstate compacts. Information concerning the number of children placed under the Placement Compact, the Juvenile Compact, and the Mental Health Compact was readily available, at least on a case-by-case basis. Therefore, the number and types of children placed out of state by parents, private and public agencies, or juvenile courts who were not under state custody, compact intervention, or state funding were unknown to Illinois state officials.

The procedures and regulatory provisions applicable to state agencies for placing Illinois children out of state were readily determined through interviews with state officials, review of policy manuals, and a legal search. The names of specific states receiving Illinois children were not readily accessible. In reports from two agencies, no distinction was made about receiving states other than the fact that they were "distant" or "contiguous" states. Also, recordkeeping practices usually required estimates to identify those placements germane to this study; not all officials were willing to do so. For instance, DCFS indicated the states in which Illinois children resided during 1977 but, since departmental records did not distinguish between those placed during the base year and those placed during prior years, the department did not wish to speculate on the relevant number of admissions.

Inquiries about fiscal information, the characteristics of the children placed, the nature of receiving facilities, and the type of placements usually produced further data collection problems. Most fiscal data was derived or estimated, if supplied at all.

Receiving State Data Problems

The only centralized sources of information in state government concerning the number of nonresidents received in Illinois facilities were those offices administering the interstate compacts. Those children accepted in Illinois facilities and whose placements were arranged under one of the three compacts were readily identified. Of course, such a count excludes those children not placed under any interstate compact.

The project staff experienced certain significant problems related to data accessibility with the survey of receiving facilities. Lists and directories of possible receiving facilities were usually acquired after a period of hesitation. In some cases, the delay associated with obtaining a list was prohibitive. A list of licensed foster homes was not released to staff and, as a result, foster homes were not included in the survey.

Although certain information was accessible by a telephone survey, the results were sometimes found inaccurate based upon data collected through personal visits. Sometimes the number of out-of-state children was overreported in the telephone survey. The response rate associated with the mailed questionnaire was especially poor; only one out of eight was returned.

Clearly, the circumstances under which state agencies were able to report either the number of Illinois children sent out of state or the number of nonresidents accepted in Illinois facilities produced information that led to a very narrow view of interstate placement practices. The on-site interviews with administrators of receiving facilities produced more comprehensive and detailed information but, as discussed, this method also had certain problems. The study found that, with both state officials and facility administrators, the requests for data that

would further describe the children who were adjudicated delinquent, or who were involuntarily placed out of state by juvenile courts, usually resulted in incomplete or estimated information. In fact, the study found that even less systematic information was known about basic characteristics of the out-of-state children in Illinois, the nature of their problems, or the reasons associated with their placement, than with children sent to other states.

Other types of data requests sometimes produced limited information due to their inaccessibility. The type of basic information necessary to determine the total expenditures for Illinois children placed out of state was simply not available in any form, including even speculations about a range in amounts. A figure could only be reached after a series of rather risky assumptions and estimates. Clearly, the final result proved only marginally useful for most purposes.

Although limited in scope, some information about state government expenditures was supplied and had some value. However, no fiscal information was acquired for DCFS placements or those made by local government. In addition, state government expenditures for Illinois children under other public programs, such as AFDC, Title XX, and Social Security, was not ascertained. Sending state officials could not discern dollar amounts attributable to these sources, and receiving facility administrators were equally uncertain of this information.

It is expected that private payments for out-of-state placements far exceed those made from public revenue. Potential sources of funds in the private sector would include personal income, insurance companies, estates, church funds, and academic scholarships.

The study in Illinois concluded that the best source of information concerning fiscal data is the receiving facilities themselves. However, facility administrators were not always able to supply the information in the manner requested, at least without making some estimates. Even fiscal records do not necessarily distinguish between in-state and out-of-state revenue. Further, original sources of per diem payments were not always known to administrators. Thus, fiscal data about CHAMPUS funds, insurance company payments, and other possible sources of per diem reimbursements were probably underreported in the facility survey, although aggregate and per diem cost information should be quite reliable.

FOOTNOTES

1. U.S. Bureau of the Census, *Statistical Abstract of the United States: 1976* (Washington, D.C.: 1976).
2. Ill. Rev. Stat., Vol. 2, Ch. 91.5, Secs. 50-1 to 50-5.
3. Mental Health Code, Sec. 12-7.
4. Ill. Rev. Stat., Ch. 25, Sec. 2411.
5. Ill. Rev. Stat., Ch. 23, Sec. 2601.
6. Delinquents under 13 years of age are committed to DCSF.
7. Article 14 of The School Code of Illinois.
8. Mental Health Code, Sec. 12.
9. See, Illinois Department of Children and Family Services, "Families 1977," *Annual Report* (Springfield, Ill.: 1977), p. 29.
10. Official Bulletin, 78-24, April 30, 1975.
11. See Department of Mental Health and Developmental Disabilities, *Individual Care Grant Guidelines—Mentally Ill Children and Adolescents* (Springfield, Ill.).
12. See Article 14-7.02, The School Code of Illinois and Article 8, Rules and Regulations to Govern the Administration and Operation of Special Education.
13. IOE Form 19-88 (8/77).
14. See Rules and Regulations for Approval of Non-Public Facilities Educating Handicapped Students under Section 14-7.02 of The School Code of Illinois.
15. Seventy-five percent of all out-of-state placements funded under this program were estimated to result from placements for behavioral or social adjustment problems. A few of these placements were nonresidential but could not be distinguished.
16. Of the 227 out-of-state placements arranged by DMHDD, only 10 were for reasons other than developmental disabilities or mental retardation.
17. See, IOE Form 19-50 (10/77).
18. "Individual Care Grant Guidelines," p. 3.
19. Ill. Stat. Ann., Ch. 23.
20. See, Rules and Regulations for Approval of Non-Public Facilities Educating Handicapped Students under Section 14-7.02 of the School Code of Illinois.
21. Officials in DCFS estimated that in fiscal 1977, there were either seven or eight out-of-state children accepted in their licensed facilities and known to the Placement Compact office.
22. The lists included "The Department of Children and Family Services Active Licensed Facilities," "Directory of Non-Public Facilities Eligible to Educate Handicapped Students," "Directory of Health Care Facilities, 1977," and "Current List of Facilities Having Contracts with the Department of Mental Health and Developmental Disabilities."
23. Fiscal 1978 data is incomplete, but administrators anticipated a similar trend.
24. Quoted from a November 30, 1977, memorandum from Sharon Morris, Supervisor of Out-of-State Placements, to Margaret Kennedy, Director of DCFS.
25. Ibid.
26. *1977-78 Directory of Non-Public Facilities Eligible to Educate Handicapped Students from Illinois Public School Districts.*
27. Excluding placements for mental retardation, developmental disabilities, and physical handicaps.
28. Ibid.

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1 OF 2

NORTH CAROLINA

INTRODUCTION

The research design for North Carolina required county and state agency visitations, a visit to each facility reporting six or more out-of-state placements in fiscal 1977, and a complete mailing to all other child-care facilities. The mailed survey included some 3,600 foster homes under the auspices of the Department of Human Resources, Division of Social Services, Children's Services Branch, and all North Carolina group homes: 75 supervised by the Division of Social Services and 31 by the Division of Mental Health and Mental Retardation Services.

The administrators of state agencies included in the sending and receiving surveys were the Administrative Office of the Courts (AOC); the Department of Public Instruction (DPI); and the Department of Human Resources (DHR), Divisions of Mental Health and Mental Retardation Services, Health, Social Services, Facilities and Services, and Youth Services. Also included in the agency surveys were a county welfare department and a regional mental health clinic.

Interviews with representatives of the Duke Endowment, the state's Child Caring Association, and the University's Group Child Care Consultant Services were most productive. The Duke Endowment obtains placement data from all child-care facilities in North Carolina and shares the results with the state's children's services agencies. The Duke Endowment data, therefore, serves as the basis for any quantitative study of the interstate placement of children in North Carolina. The state's Child Caring Association also plays an important role, in that the association cooperated with the state agencies in drafting the standards for facility licensure. The University's Group Child Care Consultant Services not only offers continuing education courses for child-care staff, but also has ongoing research which investigates a host of factors involved in child placement and facility administration.

The instruments and methodology employed in North Carolina were compatible with those employed for the overall study, with two exceptions. The receiving facility mail questionnaire was not used; all North Carolina facilities reporting six or more out-of-state children in 1977 were surveyed through personal, on-site visits. In addition, the postcard mailings were sent indirectly to foster parents. Through correspondence between DHR's Division of Social Services and the state's 100 county social services agencies, a procedure was agreed upon wherein the explanatory letters and accompanying postcards were mailed to each county office in sufficient quantity to be forwarded to all foster parents in each county. While both the processes of negotiation and double-mailing considerably slowed the collection of data, the integrity of the relationships developed between DHR's Division of Social Services and its local counterparts was preserved.

Interviewing schedules included 12 state offices, four psychiatric hospitals, four child-care institutions, 12 boarding schools, two county public agencies, and three related organizations. A total of 24 work days were spent in the state completing the interviewing process. Another nine working days were spent in scheduling the interviews with government officials and facility operators.

Total cooperation was received from a number of state agency administrators with the following providing extensive assistance: Ms. Sue Glasby and Ms. Peggy Johnson of DHR's Division of Social Services, Children's Services Branch; William Nelson of DHR's Division of Facilities and Services; Dr. Elenore Behar of DHR's Division of Mental Health and Mental Retardation Services, Child Mental Health Section; Dr. Calvin Crimm and Dr. Paul Peters of the Department of Public Instruction; Robert Henkle of the Department of Natural and Economic Resources, Division of Law and Order; and the Administrative Office of the Courts. The agency administrators listed above and Parker McLanden of the Child Caring Association, Clifford Sanford of the University's Group Child Care Consultant Services, and Robert Mayer III of Duke Endowment all helped to create a working environment that made North Carolina an excellent research state. Not one facility, school, or hospital administrator refused to be interviewed. In fact, all were most gracious and cooperative.

A most significant factor that surfaced in the North Carolina study was exceptional local, private, and state agency cooperation. The working relationships between the individual child-care institutions, DHR's Division of Social Services, Children's Services Branch; the Child Caring Association; the University; and Duke Endowment provide a model for other state adoption.

DESCRIPTION OF THE STATE

North Carolina ranks 11th in population with 5,451,000 people residing in 100 counties.[1] Encompassing a land mass of 52,586 square miles, it is 28th in size and has a population density of 111.7 per square mile, ranking 17th nationally.

The entire eastern border of the state is part of the Atlantic seaboard. North Carolina shares common borders with four states: Georgia, South Carolina, Tennessee, and Virginia.

Although the state has a mixture of rural and urban populations, with a large part of the state sparsely populated in the forest and mountainous areas, it has experienced a population gain. Since 1970, it has reversed its outmigration from 94,000 to positive inmigration of 137,000. This growth trend is equalled only by California, Florida, Texas, and the Rocky Mountain States. Part of this changing pattern may be due to increased relocation by retired persons and by the proportionally large number of military bases in the state.

North Carolina shares a Standard Metropolitan Statistical Area (SMSA) with Virginia's Norfolk, Virginia Beach, and Portsmouth, (766,000), as well as having four other SMSAs within the state: Raleigh-Durham (854,000), Fayetteville (223,000), Charlotte-Gastonia (589,000), and Greensboro-Winston Salem-High Point (760,000). The rest of the population is mainly disbursed throughout rural and mountainous areas.

The state ranks 41st in per capita income and 45th in median family income, with the lower personal income attributed to the large percentage of the population committed to either agricultural or low-paying jobs in the textile, furniture, and tobacco industries.

North Carolina has one of the country's lowest per capita expenditures for state and local government. The state ranked 40th in the amount of money spent on state juvenile facilities and last in the number of dollars committed to community-based juvenile corrections facilities. It ranked 20th in total expenditures for juvenile services and yet is 12th in its number of facilities and bed space available for youth. The state's per capita expenditure for children's services was comparable to seven other states sharing the lowest ranking nationally, while it was 12th in total state tax revenue and 15th in the amount of federal dollars invested in its social service system.

Almost 32 percent of its population (1,715,000) are under the age of 19. Its Uniform Crime Reports for 1975 are close to national norms, as are the percentages of of juveniles involved. Of the 36,134 juvenile offenses in 1975, 1,680 children were committed to DHR's Division of Youth Services training schools, with the remainder either diverted, placed on probation under the district juvenile court system, or remanded to the adult court to be placed in one of the youth complex institutions of the Department of Corrections. It's juvenile court system received 15,152 delinquency and 5,275 children in need of supervision (CINS) petitions in 1975, and held 11,733 delinquency and 3,780 CINS hearings.

LAW OF THE STATE

Compacts

North Carolina participates in the interstate compacts on juveniles, placement of children, and mental health. The Juvenile Compact was enacted in 1965 and amended in 1971, 1975, and 1977.[2] The Placement Compact was adopted in 1973.[3] The administration of both compacts are delegated to the director of DHR's Division of Social Services.

North Carolina has also adopted the Interstate Parole and Probation Hearing Procedure for Juveniles, which assures juveniles of a show-cause hearing prior to facing a mandatory return to the sending state for parole or probation violations.[4] North Carolina has not adopted the compact's runaway or rendition amendments.

The Mental Health Compact was adopted by North Carolina in 1959.[5]

Juvenile Code

North Carolina's judicial system does not utilize the Uniform Juvenile Court Act. The North Carolina statute places all juvenile jurisdiction under the auspices of 30 district courts, with the exceptions of adoption and felony proceedings for juveniles 16 or over which remain at the superior court level.[6] The age of majority in North Carolina is 18, unless married or in the armed forces. District court jurisdiction includes a juvenile services division which has responsibility for intake, supervision, and aftercare.

North Carolina also has an import/export statute that regulates the interstate transfer of children.[7] When a child is brought or sent into North Carolina "for the purpose of giving his custody to some person in the state or procuring his adoption," the written consent of DHR is required. Penalties for violation of the import/export statute are fines up to $200 and/or 6 months in jail. The penalty provisions are specifically applicable to the "placing or adoption of juvenile delinquents or dependents." If no intermediaries are involved, a parent may place a child unless the child is under six months old and, in that case, separation from the parent requires written consent of the director of county social services.

Licensing Laws

Responsibility for licensing children's facilities in North Carolina is shared by two divisions in DHR. Child-care institutions are licensed by the Children's Services Branch within the Division of Social Services, while all other residential facilities are licensed by the Division of Facilities and Services. The licensing of child-care institutions includes a section which provides for a statutorily created Social Services Commission, with the authority to establish and adopt standards. State institutions, and religious and fraternal facilities are exempted. The licensing law includes annual renewals and requires permits for both full-time residential care facilities and child-placing agencies. The licensure law has penalties, including fines and imprisonment, for noncompliance, as well as a mechanism for revocation if the public good or the welfare of the children within any institution is not being properly served.[8]

Nonpublic schools of North Carolina are licensed for academic purposes through the Department of Public Instruction. All elements of instruction, ranging from teacher certification, school year length, instructional units, compulsory attendance, and reporting are governed by the Non-Public School Law. Two levels of licensure are available—for approved schools and for accredited schools. An approved school must meet minimal academic requirements. The accredited school must meet specific criteria of "excellence." These criteria specify teacher certification requirements as well as academic requirements.

Educational Grants

North Carolina statutes provide for Educational Expense Grants for Exceptional Children.[9] These grants are used to enable primarily handicapped children to obtain an education in an approved school either in the state or out of state if local public schools cannot meet their educational needs.

Attorney General's Opinion

In March 1975, the North Carolina attorney general reviewed the practice by North Carolina regional mental health clinics of placing patients in out-of-state treatment facilities. His opinion stressed the abrogation of patients' rights in out-of-state placements, in that the state's protection of patients could not be extended beyond the state's boundaries. The opinion also questioned the expenditure of state funds for out-of-state services. The result was that: (1) "An area mental health board may not enter into a contract with a hospital in another state to provide in-patient services for North Carolina citizens." (2) "A staff member of an area mental health center may not make calls on North Carolina citizens hospitalized in another state as a representative of the area mental health center."

The opinion utilized a theory of intent in the legislation establishing both DHR and its Commission for Mental Health Services that state funds provided these agencies were meant to be expended in the state. Based upon this opinion, most other state agencies tend to severely limit expenditure of their state allocations for out-of-state placements. The Department of Public Instruction, however, has a section within the Educational Expense Grants for Exceptional Children authorizing out-of-state placements.

ORGANIZATION OF YOUTH SERVICES

Juvenile Justice

The Administrative Office of the Courts has responsibility for the state's 30 district courts with juvenile jurisdiction, and their juvenile services components of intake and probation and aftercare supervision. Handling juvenile court cases, from intake to disposition, is the responsibility of the district juvenile court judge. The number of judges in each district vary considerably. In 1976, these 117 judges were assigned to hear juvenile cases.

Institutional services for delinquent children are provided at the state level by DHR, Division of Youth Services (DYS), which operates six institutions around the state. Foster care and private facility placements may either be arranged and paid for by the court or by the county social services agency, using either local or state funding.

Juveniles who are bound over to stand trial as adults may also be sentenced to state institutions. Within the Department of Corrections (DOC), units are maintained for youthful offenders, and are aggregated into a division known as the Youth Service Complex (YSC).

Child Welfare

As might be expected, DHR provides almost all state services in the field of child welfare. Within DHR, there are several divisions that deliver some kind of relevant service.

The Division of Facilities and Services (DFS) licenses and accredits most public and private institutions in North Carolina. The notable exceptions are exclusively child-care facilities, state institutions, psychiatric hospitals, and boarding schools.

The Division of Social Services (DSS) is the primary focus of services affecting interstate placements. Through a specialized division of labor, the Children's Services Branch of DSS provides adoption services, foster care services, administration of both the Juvenile and Placement Compacts and services to child-care institutions. Some of the services provided are licensing of child-care institutions, supervision of county social service agencies, compact facilitation, and payment for out-of-home residential care.

North Carolina's 100 counties and other local and regional government agencies enjoy a great deal of autonomy in operational areas, while having a close working relationship and shared responsibilities with state government agencies. Although DHR establishes licensure and other operational requirements and program guidelines, a large proportion of the service delivery decisions are determined autonomously at the local level. This autonomy apparently results in a trade-off between variations in service delivery and the development of a communication network for their counterpart state agencies. In this role, local agencies serve as monitoring resources for state standards compliance, supervisors over local placements, and as communication agents, informing state-level decisionmakers of current local practices.

A statutorily created Social Services Commission is charged with the responsibility of establishing licensing standards and other policies relating to social services delivery. This mechanism ensures that local government and the private sector will have access to state decisionmakers.

Education

North Carolina's Department of Public Instruction (DPI) has the major responsibility for its educational system, providing traditional services to local school districts in such areas as funding, accreditation, research, and technical assistance. Within DPI is a Division of Exceptional Children (DEC), which is directly involved with the placement of children in other states. The Division of Non-Public Schools (DNPS), on the other hand, is responsible for licensing and accrediting private boarding schools that receive children from out of state. As a final note, the State Board of Education is responsible for establishing criteria for accreditation and Educational Expense Grants for Exceptional Children, in addition to its other responsibilities.

Mental Health

Also a responsibility of DHR, the Division of Mental Health and Mental Retardation Services (DMHMRS) provides a number of services, mainly through its Child-Mental Health Section (CMHS). From an organizational standpoint, DHR/DMHMRS has been decentralized into 42 local mental health districts, each having a mental health center and most maintaining both residential and outpatient services. Through DHR/DMHMRS/CMHS, placement of and payment for mentally ill and retarded children are coordinated, Mental Health Compact services are provided, and local mental health services are supervised.

Health

The Division of Health, housed within DHR, has no direct involvement in the interstate placement of children. That is, alcohol and drug abuse treatment facilities, the only aspect of the health services system relevant to this study, are licensed by DHR/DFS and operated or funded by DHR/DMHMRS.

SENDING PRACTICES IN THE STATE

Procedures and Practices

State agencies appear to have readily available data concerning interstate placement under their auspices. Unfortunately, local public and private agencies do not always utilize interstate compacts or process their out-of-state placements through the appropriate state agency. Thus, state data does not completely reflect all out-of-state placements, in spite of statutory and licensing requirements for state agency or compact reporting.

Juvenile Justice. Because of the decisionmaking powers of the court, informal agreements may be reached with parents, guardians, and interested agencies for alternatives to judicial dispositions. This informal process may involve in-state or out-of-state courtesy probation under another court's jurisdiction, or placement in a private child-care facility either in or out of state. The decision to disregard the state's interstate compact services when these informal alternatives are offered is dependent upon the local court and is not reported to the compact office in DHR/DSS/CSB. Funding for the out-of-state placement requires local or private resources, since there are no state funds available for out-of-state placements, except for the educational grants. The requirement of local funding severely limits the number of out-of-state placements made by local courts. This also means that DOC, Juvenile Division, placed no youthful offenders out of state.

Child Welfare. Normally, children in need of traditional child welfare services matriculate into the county social services agencies through juvenile court referrals, protective service activities, or categorical assistance programs. When a child is found to be abused, neglected, or dependent, the district court hears the case and may transfer custody to the county department of social services. Similar arrangements as described under the previous section may also occur in the county agencies with the child welfare cases. Since no state funds are involved and because parents may be heavily involved in working out the placements agreed upon, there may be instances of out-of-state placements that are not reported to the state agency. What data is available represents instances where county offices did utilize the compacts.

Education. Children whose educational needs cannot be met in the local district, usually those with physical and sometimes emotional handicaps, may be transferred to a private school in the state, or to a public or private educational facility in another state. DPI/DEC administers a grant of $2,000 per year maximum payment for each eligible child. The state agency function is primarily one of disbursement of funds to local school systems that are responsible for processing applications and making placements.

The local school superintendent, in fulfilling the role of identifying valid grant candidates, cooperating in the placement selection, and arranging for required additional placement funding, works with a number of state and local agencies. Given the state's prohibition of the

expenditure of child-care funds for out-of-state placements, a local superintendent may cooperate with a county department of social services, a local agency receiving Title XX funds, an in-state or out-of-state residential facility, the county commissioners, the district court, or the regional mental health clinic in developing a funding package adequate to meet the needs of the child to be placed. This local and state agency cooperation results in placement of North Carolina children in out-of-state facilities, in at least some of the cases.

Mental Health. A child's entry into the mental health system is usually through a regional mental health center utilizing the traditional referral systems of family, school, agency, and social services. Diagnostic and referral services are provided locally and care and treatment obtained either through the clinic's own treatment facilities or through public and private agencies.

DHR/DMHMRS is not a principal agency in the interstate placement of children. As a state agency, it does not send children out of state for treatment, since this practice is proscribed under a recent attorney general's opinion, as previously mentioned. Also, whereas local mental health clinics may send juveniles out of state using funds other than state dollars, such as Title XX funds, this would not be reported to DHR/DMHMRS.

Regulating Senders

Each state agency involved in the placement of children is bound by enabling statutes pertaining to its out-of-state placement practices, as previously mentioned.

Because of North Carolina's membership in the Juvenile Compact, Placement Compact, and Mental Health Compact, most children placed out of state should enjoy the protections of the interstate statutes. However, excluded from the regulation of the interstate compacts are placements made by parents, close relatives, and guardians; placements in institutions primarily educational in nature; and placements in private psychiatric hospitals and other medical facilities. Placements made by North Carolina's mental health centers and through the Exceptional Child Grants are also excluded from compact administration.

According to the interstate placement coordinator, reasons for not using the compact for out-of-state placements were estimated to be the time required for the administrative process, authority conflicts perceived by juvenile judges, the use of church-related placements by private agencies, and a lack of awareness of the compact, its operation, and statutory enforcement by many potential users.

Because of the high transiency of military personnel in North Carolina communities, families that had foster children under county or state social service conservatorship were allowed to take their foster children with them to their new homes in other states when they were transferred to other bases. In those instances, the protections of the compact were provided, as was continued funding by the DHR/DSS.

Children Sent

In 1977, a total of 431 children were recorded by state agencies as being placed out of state, as reflected in Table A. However, only 72 children listed within that number were institutional as opposed to foster care placements.

Table A
OUT-OF-STATE PLACEMENTS IN 1977,
BY FACILITATING STATE AGENCY AND TYPE

Facilitating state agency	*Institutional placements*	*Foster care placements*
Department of Human Resources		
Division of Social Services		
Voluntary	...	325
Involuntary	20	34
Division of Mental Health and Mental Retardation Services	...	...
Department of Corrections	...	...
Department of Public Instruction	52	...
Total	72	359

DHR/DSS/CSB does not make direct placements; that responsibility rests with the 100 county social services departments under its jurisdiction. The county departments, however, make placements in out-of-state institutions, foster homes, and residences of relatives. Of the 379 placements made through DHR/DSS, 20 were out-of-state residential institutions processed through its compact office (nine were placed in residential treatment centers and 11 in child-care centers), 34 were placed in foster homes, and 325 placements were made in relatives' homes in 1977. All 52 children placed by DPI were made through its Educational Expense Grants for Exceptional Children program to out-of-state residential schools.

Children placed through the Placement Compact (20) had been adjudicated abused, neglected, dependent, mentally ill, or undisciplined (status offender). Delinquency was not a factor in any of these placements. More discrete data about adjudications would be available, according to officials, but only through case-by-case examination.

The Administrative Office of the Courts does not make direct placements; however, the juvenile divisions of the district courts are known to make an indeterminate number of "unofficial" institutional placements out of state through parents and guardians. These unofficial placements provide a parent with an option of an out-of-state placement for a juvenile as an alternative to adjudication and possible commitment to a youth services institution. In 1977 there were no reported Juvenile Compact cases placed in other states' institutions. However, there were 4,051 reported cases of probation, parole, absconder, and runaway returns.

In 1974, the year prior to the attorney general's opinion proscribing interstate placements with state funds, 25 placements were made by the 42 local mental health clinics. Today, all mental health patients are placed in facilities within North Carolina. The Mental Health Compact has not been utilized in the past two and one half years.

Receiving States

According to DPI statistics, the receiving states and the number of North Carolina educationally exceptional children in fiscal 1977 were: Connecticut (3), Florida (8), Georgia (6), Kentucky (3), Massachusetts (3), New Jersey (2), New York (2), Pennsylvania (5), South Carolina (4), Tennessee (4), Texas (1), Utah (2), and Virginia (9).

The 20 children placed in institutions through the Placement Compact were sent to the following states: Florida (8), Georgia (4), Pennsylvania (1), South Carolina (1), Tennessee (4), Texas (1), and Virginia (1).

Information concerning foster care (34) and family placements (325) was not recorded by the state.

Children were placed in other states via the Placement Compact for the following reasons, according to state officials: (1) they were chronic failures in North Carolina facilities, (2) the state does not have a facility which would meet the child's needs, and (3) the facility was close to the child's home even though across a state line.

Monitoring Out-of-State Placements

DPI monitors placements in residential facilities for exceptional children, with regular progress reports forwarded to the local school districts for both in-state and out-of-state placements. A visit to the facility prior to placement is statutorily required and is usually satisfied by the state department of education in the receiving state. Funding may be continued so long as the child remains eligible by virtue of school age, handicap severity, or lack of an appropriate program. The monitoring of the eligibility criteria, together with treatment progress, is a local responsibility in North Carolina and must be transmitted to the state office to assure continuous funding. An annual review is required within the July 1 to June 30 fiscal year.

Monitoring children placed under a compact is based upon the contractual nature of the compact. The compact agency in the state of placement provides quarterly reports, usually only on request, and these monitoring reports are distributed to the sending agency. The monitoring includes all care and treatment reports and, upon request, the cooperating state compact office arranges for onsite facility visits for supervision purposes to assure that a child in the receiving state receives treatment comparable to that available in North Carolina. However, no evidence was found that would suggest that preplacement visits or inspections ever took place.

No data is available concerning mental health monitoring activities.

Cost

North Carolina's DHR/DSS/CSB administers a foster care budget of $4.5 million, supporting approximately 12,000 placements. Of these, 34 children were identified as being out of state in 1977, all because their foster families had relocated. While not verified, it was speculated that some of the families were associated with the military and had been transferred. The cost of foster care is generally held at $125 per month or $1,500 per year. Based on the number of children identified, this would amount to $51,000, but would not be germane to the study. The main source of funding, in all cases, appeared to be AFDC, with the bulk of the funds provided through the state's federal grant. Similar sources were identified for the 20 out-of-state placements to institutions. However, the per diem is harder to calculate, since DHR/DSS/CSB pays whatever the facilities charge as opposed to controlling the per diem paid for foster care. A conservative estimate of such cost would be somewhere around $10,000 per year per child, or $200,000. It is assumed that foster children placed with relatives were supported out of local and federal funds. At $1,500 per year, the maximum cost for supporting the 325 identified children would be $487,500.

All placements made by DHR/DSS/CSB are eligible for Medicaid, and some of them are eligible for other types of funds, such as AFDC, Title XX, Title IVA and IVB, and mental health, retardation and developmental disability funds, depending upon criteria established for each federal program. In addition, many children may qualify under hospitalization insurance, CHAMPUS, or other third-party payor programs, usually resulting from parental employment fringe benefits. Finally, while state funds are not used by DHR/DSS/CSB for such placements, except for whatever state funds are necessary to match federal grants-in-aid, local funds would be involved in some placements. This might be public funds, general revenue monies, parental payments, or financial assistance from a private agency. However, no expenditure records are available at DHR/DSS/CSB.

The compact-placed children have funding provided by the initiating local agency and, other than requests for late payments, no record is maintained by the compact administrator of out-of-state expenditures.

The mental health placements were made by local agencies, in cooperation with the mental health centers, with private funding utilized. No records were available at the state level concerning these costs. However, the 25 children reported to be residing in out-of-state psychiatric facilities were estimated to cost about $500,000, for a per capita annual cost of $20,000.

The Exceptional Child Grants (237 total, with 52 out of state), are for $2,000 each. Additional funds from local resources are obtained when necessary to meet out-of-state costs, but there is no available data on these expenditures. The State Board of Education expended a total of $367,364 for Educational Expense Grants for Exceptional Children during the 1976-77 school year, of which $104,000 was expended out of state and $263,364 in state.

The administrative costs borne in these state agencies have not been included in the figures above. All costs reflect per diem payments or tuition. However, staff required to maintain these out-of-state practices are also legitimate costs of the program. In DPI, there are two administrators and two secretaries managing the Educational Expense Grants for Exceptional Children. In DHR/DSS/CSB there was one professional and one secretary who dealt with interstate foster care and the Interstate Compact Services Unit had one professional and two secretaries. While no attempt was made to determine percentages of supervisory time or other indirect costs, a conservative estimate of total administrative costs to state government would be $150,000.

The total costs of interstate placement in North Carolina, to the extent that placements are known to or managed by state agencies, are as follows:

Institutional placements	$ 200,000
Relative foster care placements	487,500
Mental health prior year placements	500,000
Educational Expense Grants for Exceptional Children	104,000
Administrative costs	150,000
Total	$1,441,500

RECEIVING PRACTICES IN THE STATE

Regulating Receiving Facilities

Three North Carolina state agencies regulate the practices of juvenile residential facilities and/or residential facilities that admit juveniles from out of state: DHR/DSS/CSB, DHR/DFS, and DPI/DNPS. The Social Services Commission, the Mental Health Commission, and the State Board of Education are the policymaking groups for these agencies.

DHR/DSS/CSB licenses and accredits all child-care institutions. The licensing and standards statutes do not apply to state corrections and mental health facilities. The laws exclude religious and fraternal institutions established prior to July 1, 1977, but to date, all but two such institutions have voluntarily sought and received both licensure and accreditation.

DHR/DFS has the responsibility for both public and private facility licensure. The primary thrust of DHR/DFS has been in the area of health and safety. To date, there have been no programmatic standards established for residential treatment facilities. The division has a yet-to-be-fulfilled obligation of completing a licensure system that contains standards and monitoring procedures for the mental health facilities. It is possible that children are placed from other states in North Carolina for reasons relating to mental illness, but if this occurs on a local level, it would not be routinely reported to the state agency.

There are, of course, regulation, licensure, and accreditation areas that are not covered. Psychiatric hospitals which possess Joint Commission of Psychiatric Hospitals' accreditation do not report out-of-state admissions. Juvenile courts accepting courtesy placement may make non-compact commitments to private agencies, and mental health clinic facilities have no specific reporting requirements. Nevertheless, the state does appear to have a relatively effective oversight of child-care institutions.

Even though DPI has the responsibility for accrediting all North Carolina schools, including private residential institutions, accreditation requirements are limited to curriculum factors, a phenomenon similar to accreditation policies in many other states. The lack of attention at the state accreditation level to concerns other than academic credit and building safety means that information about out-of-state children in boarding schools is not available at the state level.

Practices of Receiving State Agencies

DHR/DSS/CSB funding of approximately $4.5 million a year for foster placements, including child-care institutions, creates a sufficient fiscal incentive to encourage compliance with approved procedures for both in-state and out-of-state placements. Of course, the leverage which this offers in being apprised of out-of-state children relates almost entirely to children received in such facilities. It has little, if any, impact upon controlling the number of children sent out of state.

State and local cooperation is also required in the distribution and monitoring of Title XX monies. Through its state plan, monies are distributed to the local program level by a formula of 75 percent federal, 12.5 percent state, and 12.5 percent local dollars. Local funds are generated through the county commissioners and local participating agencies. The state maintains administrative control, while the county social services offices have program responsibility. State-local cooperation, in this instance, includes the public and private service providers, whose programs are monitored locally, and by state program and fiscal auditors.

A complete understanding of North Carolina's child welfare system cannot be fully appreciated without reference to Duke Endowment. Last year, the Duke Endowment provided approximately $1.2 million to North Carolina's 33 child-care institutions, the University of North Carolina's Group Child Care Consultant Services, and the North Carolina Child Caring Association. Originally begun as a fund to benefit orphans, the Duke Endowment has expanded its efforts to include most facilities serving needy children. In exchange for cash gifts, facility operators provide to the endowment staff information about children received, which serves as a data base for DHR/DSS/CSB, the institutions, and their state associations. The Duke Endowment's involvement in the child welfare system is unique to North Carolina and serves as an excellent catalyst for private and public cooperation. The endowment's contribution to the child-care institutions represents approximately 4.02 percent of their annual budgets, but the residual operating benefits to the child welfare system far surpass the dollars invested. There is a great deal of cooperation between the endowment, Duke University, private institutions, and the state which has resulted in a child welfare system that has standards, licensure, common data, and a communication network.

The Placement Compact requires preplacement investigation and continuing supervision once the placement has been made. These functions are provided locally by the county social services, with compact coordination at the state level.

Children in Residence

No reports are available from either DPI or DHR/DMHMRS concerning the number and types of out-of-state children in the facilities they regulate or operate. In order to obtain such information, each facility had to be contacted. However, for the number of children received by child-care institutions licensed and regulated by DHR/DSS/CSB, two sources of data exist: the Duke Endowment and the Placement Compact office (see Table B).

Table B
NUMBER OF OUT-OF-STATE CHILDREN ADMITTED AND RESIDING IN NORTH CAROLINA'S 28 CHILD-CARE INSTITUTIONS

	Duke Endowment report		*Compact report*	
	Fiscal 1976	*Fiscal 1977*	*Fiscal 1976*	*Fiscal 1977*
Number of out-of-state children admitted during year.....	19	26	2	5
Number of out-of-state children residing during year(a)	69	76	5	10

(a) Includes both admissions during the fiscal year and children who resided during the fiscal year, although they had been admitted prior to that time.

During fiscal 1977, 26 children were admitted from out of state to North Carolina's 26 child-care institutions, as compared to the 19 admitted in fiscal 1976, according to Duke Endowment's data collection system. The compact reported admitting five children to the same facilities during fiscal 1977 and two during fiscal 1976. The number of out-of-state children residing in these facilities in fiscal 1977 was reported by the Duke Endowment to be 76 in fiscal 1977 and 69 in fiscal 1976. The compact office reported 10 in residence in fiscal 1977 and five in fiscal 1976. When comparing the two sets of numbers, a logical conclusion would be that the state is aware of about 10 to 20 percent of the cases reported to the Duke Endowment.

With the exception of runaways and absconders being held for return, there were no out-of-state admissions identified in local detention centers by the Administrative Office of the Courts. Neither were there out-of-state placements in public youth corrections institutions.

States of Origin

According to the Duke Endowment, Virginia sent the largest number of children (seven) to North Carolina, Georgia sent six, and South Carolina four (see Table C). The compact office's records revealed that South Carolina sent 13 children to North Carolina's facilities, Virginia sent 12, and Georgia 7.

The Duke Endowment also reported two reasons that children were sent to North Carolina's child-care facilities: church affiliation with the placement and previous North Carolina residence.

Monitoring Placements

Cooperation between the local social service offices and DHR/DSS/CSB provides for an informal monitoring network for all children in residential care. Specifically, local offices monitor facilities in their jurisdiction and inform the state agency when problems occur or when a child-care facility is discovered that is operating without state certification. In these rare instances, a cooperative local and state office investigation is made and the facility either meets the required licensing criteria or is closed. Furthermore, the local welfare office scrutinizes each unit of a foster or group home system operating under the aegis of a child-placing agency's single license to ensure that each unit meets the licensure criteria required of independent facilities.

Table C
NUMBER OF CHILDREN RESIDING IN NORTH CAROLINA'S CHILD-CARE INSTITUTIONS IN FISCAL 1977, BY SENDING STATE AND SOURCE OF DATA

	Duke Endowment		*Compact office*		*Duke Endowment*		*Compact office*
Sending State	*Admitted*	*Residing*	*Admitted(a)*	*Sending state*	*Admitted*	*Residing*	*Admitted(a)*
Arizona	1	1	(	New Hampshire	1	0	0
Florida	2	5	4	Pennsylvania	1	0	0
Georgia	6	12	7	South Carolina	4	15	13
Maine	1	0	0	Tennessee	0	1	1
Maryland	1	3	1	Virginia	7	29	12
Michigan	1	2	2	West Virginia	1	0	0
Missouri	0	0	1	Unidentified	0	8	0
				Total	26	76	42

(a) Information unavailable concerning number residing in fiscal 1977 and the total also includes 37 foster home placements.

RECEIVING FACILITIES

The information concerning North Carolina residential facilities that received out-of-state children was acquired through a four-step process. First, it was necessary to identify all possible residential facilities serving children germane to this study.[10] Second, 79 facilities were surveyed by telephone. The results of this telephone survey are given in Table D. As shown in Table D, 26 North Carolina facilities accepted at least one child from out of state in fiscal 1977.

The third step involved an on-site survey of all facilities reporting over five out-of-state admissions and some that received a smaller number. A total of 22 facilities were visited, including several that overestimated the actual number of out-of-state children they accepted. In all, 12 boarding schools, five psychiatric hospitals, three child-care facilities, and two residential treatment centers were visited.

The fourth and final step consisted of an extensive survey of all North Carolina foster and group homes. A postcard questionnaire was mailed to 3,541 foster homes, 31 mental health group homes, and 26 DHR/DSS/CSB group homes. The findings from the survey of these facilities are given in Table E.

Despite the large number of postcard surveys distributed, only a small number were returned within the two months between the time of mailing and the date of publication. This might be explainable in terms of the mailing arrangements. The bulk of the survey packets were mailed to the 100 county social services offices, with requests that they be remailed to foster parents. Some of the subsequent mailings were either unduly delayed or were never sent. Although a low rate of response was obtained from the foster home survey, only a very small number of those reporting accepted out-of-state children in the three-year period.

When the numbers of children were combined from all surveys, the composite figures as given in Table E revealed that over three fourths of the out-of-state children were residing in North Carolina boarding schools. Furthermore, review of Table E shows that the number of out-of-state children in North Carolina remained fairly constant over the three-year period, reaching 746 in fiscal 1977.

Table D
TELEPHONE SURVEY RESPONSES, BY FACILITY TYPE AND OUT-OF-STATE ADMISSIONS FREQUENCY

	Number of out-of-state children accepted in fiscal 1977			
Facility type	*None*	*Under 6*	*6 or more*	*Total*
Boarding schools	...	...	12	12
Child-care facilities	23(a)	4	3	30
Psychiatric hospitals	25	4	1	30
Residential treatment centers	5	1	1	7
Total	53	9	17	79

(a) The state's four Baptist Children's Homes were covered by one survey.

Table E
AGGREGATE NUMBER OF OUT-OF-STATE CHILDREN REPORTED, BY FACILITY TYPE AND YEAR

	1976		*1977*		*1978(a)*	
Facility type	*Number reporting*	*Number of children*	*Number reporting*	*Number of children*	*Number reporting*	*Number of children*
Boarding schools	12	621	12	628	12	642
Child-care facilities	7	29	7	29	7	9
Psychiatric hospitals	5	72	5	72	5	44
Residential treatment centers	2	10	2	8	2	6
Foster homes	49	8	49	9	49	5
Total	75	740	75	746	75	706

(a) Based upon data obtained between December 1977 and April 1978.

Characteristics of Receiving Facilities

A description of the data obtained from the visits, utilizing the format of the receiving facility questionnaire, is given in the remaining discussion.

None of North Carolina's facilities receiving children from out of state were located in SMSAs shared with border states.

Fiscal year periods varied among the facilities visited. Schools used a fiscal year beginning in January, July, or October, and also a school year usually beginning in September. The child-care facilities in North Carolina use the October 1 to September 31 fiscal year to coincide with reporting requirements for the Duke Endowment. Therefore, the data based for fiscal 1977 will have beginning dates ranging from January to October, with most facilities using July 1 to June 30.

North Carolina's boarding schools and child-care institutions operate as private, nonprofit facilities, with either a religious or philanthropic history. Information about the aegis of operation of visited facilities is given in Table F. All but three facilities were private, nonprofit. Two psychiatric hospitals and a residential treatment center are private facilities, but have been incorporated as for-profit operations.

Bed capacity for the North Carolina facilities visited ranged from eight for a psychiatric hospital to 190 for a boarding school. The three child-care institutions had an average bed capacity of 78, the five psychiatric hospitals averaged 77, the 12 boarding schools averaged 117, and the two residential treatment centers averaged 35.

Although a number of facility administrators made estimates for admissions data, cross-checking on various questions and other verifications justified the estimates given.[11] The number of out-of-state children accepted in fiscal 1976, 1977, and 1978 shows a limited increase for boarding schools, a decrease for child care and residential treatment centers, and no change in the out-of-state population in psychiatric hospitals. The overall data for 1976 and 1977 was constant and a similar number of out-of-state admissions is expected for 1978. This information regarding the number of out-of-state children reported in the 22 facilities, by type of facility and fiscal year, is given in Table G.

Table F
AEGIS OF OPERATION, BY FACILITY TYPE

Facility type	*Public*	*Private, nonprofit*	*Private, for-profit*
Boarding schools	...	12	...
Child-care facilities	...	3	...
Psychiatric hospitals	...	3	2
Residential treatment centers	...	1	1
Total	...	19	3

Table G
NUMBER OF OUT-OF-STATE CHILDREN REPORTED, BY FACILITY TYPE AND YEAR

Facility type	*1976*		*1977*		*1978(a)*	
	Number reporting	*Number of children*	*Number reporting*	*Number of children*	*Number reporting*	*Number of children*
Boarding schools	12	621	12	628	12	642
Child-care facilities	3	24	3	24	3	4
Psychiatric hospitals	5	72	5	72	5	44
Residential treatment centers	2	10	2	8	2	6
Total	22	727	22	732	22	690

(a) Year to date, generally through March 1978.

Information reported about the number of CHAMPUS paid placements is provided in Table H. There was not consistent success in obtaining data on CHAMPUS admissions because in many instances CHAMPUS payments are paid for by an insurance company to the CHAMPUS-approved facility. The client utilizes a regular insurance claim process and the insurance company is reimbursed by CHAMPUS for approved expenditures. In those instances where it was known that CHAMPUS clients were admitted, the data was collected. Results of the survey indicate that CHAMPUS funds were involved in 34 cases, or about 33 percent of the out-of-state children accepted in child-care facilities, psychiatric hospitals, and residential treatment centers.

North Carolina's child-care institutions are required by licensing law to report all admissions, including those from out of state, to DHR/DSS/CSB. Further, the department's standards require that children should be admitted to a facility only under the auspices of an interstate compact. There are seven reported compact admissions by the child-care institutions surveyed. This information is given, by facility type, in Table I. All seven compact-arranged placements were through the Placement Compact and to child-care facilities.

Table H
RELATIONSHIP OF CHAMPUS-PAID PLACEMENTS TO OUT-OF-STATE ADMISSIONS, BY FACILITY TYPE

Facility type	*Number of fiscal 1977 out-of-state admissions*	*Number of CHAMPUS-paid placements*
Boarding schools	628	...
Child-care facilities	24	2(a)
Psychiatric hospitals	72	30
Residential treatment hospitals	8	2
Total	732	34

(a) Medical treatment only.

Table I
RELATIONSHIP OF INTERSTATE COMPACT-ARRANGED PLACEMENTS TO OUT-OF-STATE ADMISSIONS, BY FACILITY TYPE

Facility type	*Number of out-of-state admissions*	*Number of compact-arranged placements(a)*		
		Placement compact	*Juvenile compact*	*Mental health compact*
Boarding schools	628	...	...	...
Child-care facilities	24	7	...	...
Psychiatric hospitals	72	...	...	...
Residential treatment centers	8	...	...	...
Total	732	7	...	...

(a) Known to receiving facilities' operators.

The major portion of the out-of-state children (712) placed in North Carolina facilities were sent by parents or guardians. Only one boarding school reported a placement made by a public agency, as opposed to 627 made by parents or guardians. Data received about the referral sources of nonresidents in North Carolina facilities is given in Table J. Child-care facility placements included eight by public agencies and 16 by parents or guardians. Psychiatric hospitals accepted three placements from public agencies and 69 from parents and guardians. Residential treatment centers had each of their eight out-of-state placements made by a public agency. No out-of-state children sent under the aegis of private sectarian or nonsectarian agencies were reported.

The 732 out-of-state children received in North Carolina residential facilities were mostly from other states within this country. As given in Table K, only 55 children (8 percent) had home residences in foreign countries, and all were placed in boarding schools. The reasons

for foreign placements in boarding schools (55) were generally attributable to parents working as missionaries or American nationals overseas, or well-to-do foreign nationals. The last group was especially applicable to the Middle East.

Table J
NUMBER OF OUT-OF-STATE CHILDREN, BY FACILITY TYPE AND REFERRAL SOURCE

Facility type	Referral source				
	Public agencies	Private sectarian agencies	Private nonsectarian agencies	Parents or legal guardians	Unknown
Boarding schools	1	...	...	627	...
Child-care facilities	8	...	...	16	...
Psychiatric hospitals	3	...	...	69	...
Residential treatment centers	3	...	...	...	...
Total	20	...	...	712	...

Table K
NUMBER OF CHILDREN FROM OTHER STATES AND FOREIGN COUNTRIES, BY FACILITY TYPE

Facility type	Number of children from other states	Number of children from foreign countries
Boarding schools	573	55
Child-care facilities	24	...
Psychiatric hospitals	72	...
Residential treatment centers	8	...
Total	677	55

Table L displays this same information, by facility type, for states and areas of foreign residence. No out-of-state children had home residences within 50 miles of the facility in which they were placed, although most of the children found in North Carolina facilities in 1977 were from southern states. Several out-of-state children were sent from South Carolina (132), Tennessee (67), Virginia (90), Florida (70), and Georgia (65). Other states sending relatively large numbers of children included New York (43), Kentucky (34), and West Virginia (23).

Further review of Table L reveals other interesting patterns associated with the home residences of out-of-state children in North Carolina facilities. Of the children from New York (43), one boarding school admitted them all. Georgia (8), Virginia (14), and Florida (2) provided the 24 child-care placements, and Virginia (8) was the residence for all the residential treatment center admissions. Psychiatric hospitals received over one half of their placements from two states, South Carolina (19) and Tennessee (19).

Table L
NUMBER OF CHILDREN FROM OTHER STATES AND FOREIGN COUNTRIES, BY GEOGRAPHICAL AREA OF ORIGIN AND FACILITY TYPE

State, jurisdiction, or foreign area	Boarding schools	Child-care facilities	Psychiatric hospitals	Residential treatment centers	State, jurisdiction, or foreign area	Boarding schools	Child-care facilities	Psychiatric hospitals	Residential treatment centers
Alabama	13	...	5	...	New Mexico	...	...	...	...
Alaska	8	...	...	...	New York	43	...	...	...
Arizona	1	...	...	...	North Carolina	...	...	...	...
Arkansas	3	...	...	...	North Dakota	...	...	...	...
California	6	...	...	...	Ohio	8	...	3	...
Colorado	1	...	...	...	Oklahoma	1	...	...	...
Connecticut	1	...	1	...	Oregon	1	...	...	...
Delaware	3	...	...	...	Pennsylvania	8	...	...	...
Florida	61	2	7	...	Rhode Island	...	...	...	...
Georgia	54	8	3	...	South Carolina	113	...	19	...
Hawaii	1	...	...	...	South Dakota	...	...	...	...
Idaho	...	...	...	...	Tennessee	48	...	19	...
Illinois	11	...	1	...	Texas	4	...	...	...
Indiana	3	...	...	...	Utah	...	...	...	...
Iowa	...	...	...	...	Vermont	...	...	...	...
Kansas	1	...	...	...	Virginia	58	14	10	8
Kentucky	33	...	1	...	Washington	...	...	...	...
Louisiana	15	...	...	...	West Virginia	22	...	1	...
Maine	1	...	...	...	Wisconsin	2	...	...	...
Maryland	13	...	1	...	Wyoming	1	...	...	...
Massachusetts	4	...	...	...	Dist. of Col.	6	...	...	...
Michigan	7	...	...	...					
Minnesota	1	...	...	...	Africa	2	...	...	...
Mississippi	3	...	...	...	Asia	10	...	...	...
Missouri	...	...	1	...	Canada	...	...	...	...
					Caribbean	9	...	...	...
Montana	...	...	...	...	Central America	17	...	...	...
Nebraska	...	...	...	...	Europe	...	...	...	...
Nevada	...	...	...	...	Mexico	...	...	...	...
New Hampshire	...	...	...	...	Middle East	12	...	...	...
New Jersey	14	...	...	...	Pacific	1	...	...	...
					South America	1	...	...	...
					Unknown	3	...	...	...

The problems which best characterized the juveniles admitted to North Carolina facilities in 1977 varied by the type of facility. There were no differences noted in any facility between in-state and out-of-state admissions. Boarding school placements were characterized as experiencing educational problems. The child-care facility admissions were generally children who had been abandoned, neglected, abused, or orphaned. Administrators in these facilities also suggested that delinquency or truancy precipitated some admissions. Psychiatric hospital administrators identified their admissions as being mentally ill, emotionally disturbed, drug abusers, or alcohol abusers and, in three instances, "adolescent adjustment reaction." Children who were characterized as mentally ill or emotionally disturbed, learning disordered, and developmentally disabled were found in residential treatment centers.

In each facility visited, no distinction based on a child's adjudicatory history was noted in housing assignments. A child was given a housing assignment based upon bed space or factors other than his legal status. In most facilities, there was no formal record of adjudication status, and in those few facilities where a child could be identified as being under court jurisdiction, a conscious effort was made by the administrator to use individual treatment and care needs as criteria for housing selection.

North Carolina facilities, either by design or default, did not maintain admissions records that specifically identified a youth as a delinquent, abused, or neglected child. Neither were records obtainable that identified whether or not a child was voluntarily or involuntarily placed. Boarding school administrators were unanimous in their statement that all students were voluntary admissions. Only one child out of

628 reported in boarding schools was placed by a court, but he was considered voluntary with no different restrictions on community access than the other students.

A possible means of obtaining data concerning the voluntary or involuntary nature of placement, adjudication status, and agency or parent source of placement would have been to survey the out-of-state children on an individual basis, but that task was beyond the purview of this study. Evaluation of how admissions criteria were applied by those responsible for new admissions did not take place, but in those facilities where inquiry was made concerning the relevance of adjudication in the admissions process, it was evident that the data was not available except on a case-by-case review. Even when administrators implied that information might be available, questions arose concerning confidentiality and our need to know.

Data on sex, race, age at admission, and length of stay were similar in most respects for in-state and out-of-state admissions for all facilities visited. The few exceptions included a disproportionate number of females from out of state admitted to child-care, psychiatric, and residential treatment facilities. A second exception was a boarding school which had 90 percent of the black admissions from out of state and also all of the New York admissions (43). The distribution of out-of-state children by facility type, sex, race, average admission age, and average length of stay is given in Table M. Review of this table shows a fairly even distribution of males and females across facility types. Further, most out-of-state children were white, but several facilities would not report the race of their residents. It should be noted that while the average length of stay in psychiatric hospitals was 2.6 months, they ranged from 12 days to six months. Although there was no variation in the age of admission for in-state and out-of-state placements, the admission age ranged from 9.5 years for residential treatment centers to 15 years for psychiatric hospitals. The length of stay for boarding schools is the same for in-state and out-of-state students, but represents three school years rather than calendar years. Four schools identified a stay of two school years, three maintain students for a full four years, and the remaining five varied from two school years and a summer session to three school years and a summer session.

In computing per diem costs, it was evident that psychiatric hospitals were extremely expensive as compared to boarding schools and child-care and residential treatment facilities. The differences, as shown in Table N, are approximately 10 times the cost of boarding schools and residential treatment centers and 30 times the cost of child-care facilities.

Table M(a)
DISTRIBUTION OF OUT-OF-STATE ADMISSIONS, BY FACILITY TYPE, SEX, RACE, AVERAGE ADMISSION AGE, AND AVERAGE LENGTH OF STAY

Facility type	Sex		Race				Average admission age (years)	Average length of stay (months)
	Male	Female	White	Black	Hispanic	Oriental		
Boarding schools (12)	320	308	545	75	4	4	14.75	36
Child-care facilities (3)	8	16	24	...	...	...	12.5	35
Psychiatric hospitals (4)	32	40	...	...	...	...	15	2.6
Residential treatment centers (2)	5	3	...	...	...	...	9.5	18
Total	365	367	569	75	4	4	12.9	22.9

(a) The numbers in parentheses represent the number of facilities reporting, except for racial data when only the boarding schools and two child-care facilities reported.

Table N
RANGE OF PER DIEM PAYMENTS, BY FACILITY TYPE

Facility type	Average minimum per diem	Average maximum per diem	Average rate received	Number of facilities with flat per diem
Boarding schools	$ 13.35	$ 13.51	$ 13.44	11
Child-care facilities	5.00	N/A	5.00	3
Psychiatric hospitals	103.00	163.25	132.25	1
Residential treatment centers	14.83	N/A	14.83	2

The average per diem rate received in boarding schools was $13.44, $5 in child-care facilities, $132.25 in psychiatric hospitals, and $14.83 in residential treatment centers. Variations in the per diem cost for in-state and out-of-state admissions were evidenced in child-care facilities. A child placed from a church district that supported a particular facility may not have any per diem costs, or at least have them reduced. The reimbursement for children under the auspices of DHR/DSS/CSB had a set monthly rate of $125. Children placed from out of state had a per diem schedule determined by the placing parent's or agency's ability to pay. The rates for all the boarding schools were the same for both in-state and out-of-state admissions.

Table O gives the findings regarding the ranked sources of per diem payors, by facility type. Boarding school revenue was primarily derived from direct parent or guardian per diem payments. Most schools, however, had a minimal amount of scholarship money available for students whose parents were unable to meet total school costs. Two schools not only maintained scholarships but also had mandatory job requirements that generated approximately $100 a month for each student toward his annualized costs.

Child-care facilities had a sliding per diem scale, based upon ability to pay and the availability of county funds and other funding resources. Parents and guardians were usually the major source of revenue in these facilities. Psychiatric hospitals collected the major portion of their out-of-state income from private insurance companies, including CHAMPUS, with parents and guardians paying approximately one half the costs. One residential treatment center had a contract with the state of Virginia and collected its entire out-of-state per diem cost from this source.

The income from out-of-state children to these North Carolina facilities reached $3,674,722 in fiscal 1977. Facility administrators were usually quite well aware of the revenue generated by both in-state and out-of-state admissions, and were willing to freely discuss these figures.

Table O
RANKED SOURCES OF PER DIEM PAYMENTS, BY FACILITY TYPE

Facility type	Ranked sources of per diem payments
Boarding schools	Parents and guardians
Child-care facilities	Parents and guardians, sectarian agency, and county departments of finance
Psychiatric hospitals	Private insurance companies, CHAMPUS, and parents or guardians
Residential treatment centers	Other state finance departments

Table P
AVERAGE PERCENTAGE OF REVENUE FROM PER DIEM PAYMENTS, BY FACILITY TYPE

Facility type	Average percentage of revenue from per diem payments
Boarding schools	81
Child-care facilities	33
Psychiatric hospitals	98
Residential treatment centers	65

Estimates were made, in some instances, based upon average per diem and average stay, but there was general consensus as to the reliability of the amounts quoted and their sources.

The receiving facility questionnaire asks the percentage of operating income derived from various sources. Results of this inquiry are given in Table P. Per diem payments contributed the major portion of funds for all facilities. Psychiatric hospitals averaged 98 percent of their incomes from per diem payments. Boarding schools generally obtained 81 percent of their annual revenue from tuition, fees, and room and board payments. Child-care institutions only received 30 percent of their funds from per diem payments; however, an additional 30.3 percent was obtained from public agencies as a blanket contract for agency placements.

Individual contributions and gifts were income resources in each facility category, but were especially valuable in child-care and residential treatment facilities. The gifts from churches or individuals who had an affinity for a particular facility's work provided income for additional services that would otherwise be unavailable to the children admitted to the care and treatment facilities. Boarding school individual and gift contributions were usually collected through annual fund raising or special alumni gifts.

The programmatic and architectural features related to security varied considerably between facility types but were remarkably consistent within a single category. Typical descriptions of these features, by facility type, are given in Table Q. Although not described in the table, all psychiatric hospitals and one residential treatment center used medication as a behavioral control measure. Child-care facilities depended on both peers and staff for monitoring on-campus movement, but also allowed community access for school, work, church, and other purposes.

Further important information relating to the programmatic characteristics of these receiving facilities was collected. Administrators were asked to rank the services provided by their staff in terms of their importance. The most typical rankings are given in Table R. The boarding schools and child-care facilities both ranked educational services as most important. In these facilities, administrators also gave importance to recreation and social development, religious development, and residential services. Psychiatric hospitals and residential treatment facilities included milieu and individual therapy as most important services. Psychological evaluation and educational services were provided by the psychiatric hospitals and family counseling was offered by one residential treatment facility.

Table Q
TYPICAL PROGRAMMATIC AND ARCHITECTURAL FEATURES, BY FACILITY TYPE

Facility type	*Typical programmatic and architectural features*
Boarding schools	Access to community without supervision for all residents, and staff and peer group responsibility for monitoring.
Child-care facilities	Staff responsibility for monitoring, access to the community without supervision, restriction to own room for discipline, and peer group responsibility for monitoring.
Psychiatric/mental hospitals	Locked doors, security hardware, isolation room or restriction to own room for discipline and protection, and staff and peer group responsibility for monitoring and supervision.
Residential treatment centers	Locked doors, security hardware, isolation room or restriction to own room for discipline and protection, and staff and peer group responsibility for monitoring and supervision.

Table R
TYPICALLY RANKED SERVICES, BY FACILITY TYPE

Facility type	*Typical sequence of service ranking*
Boarding schools	Educational services, recreation, social development, and religious development.
Child-care facilities	Educational services, residential services, recreation, social development, and religious development.
Psychiatric/mental hospitals	Individual therapy, psychological evaluation, milieu therapy, and educational services.
Residential treatment centers	Milieu and individual therapy and family counseling.

There was a close correlation with the professional preparation of the staff and the type and amount of services delivered. A personnel and service delivery profile for each facility type is given in Table S. As would be expected, the boarding schools had a large portion of staff devoted to education, a regular medical staff, and supportive counseling services through psychologists. Child-care facilities tended to use full- and part-time teachers for remedial and tutorial work, a social work staff, and limited medical staff. The psychiatric hospitals and residential treatment facilities specialized in staff psychiatrists and social workers, plus supporting medical staff.

Each administrator identified successful prior placements as the major reason for his facility's selection by out-of-state sending agencies. However, a psychiatric hospital accepted admissions only if placed by a staff psychiatrist. Boarding schools also identified educational performance and acceptance of denominational missionary children as reasons for referrals to their facilities. Child-care, psychiatric, and residential treatment facilities also described situations where the sending states did not have comparable facilities for placement as a factor relevant to their receiving children from out of state.

All boarding schools, child-care facilities, residential treatment centers, and one psychiatric hospital denied admission to at least some out-of-state juveniles. The boarding schools reported denying admission to some children because they either did not meet academic criteria, did not wish to attend the school, or their parents were unable to meet the school's financial requirements. Child-care and residential

Table S
PERSONNEL AND SERVICE DELIVERY PROFILE, BY FACILITY TYPE

Facility type	*Personnel and service delivery profile*
Boarding schools	Teachers represented the major service delivery personnel category. Most schools had 30 or more hours of instruction per week. No psychiatrists and only one on-call social worker was available. Nine of the 12 schools had a psychologist either full- or part-time for counseling services.
Child-care facilities	Full- and part-time teachers provided educational services. In two facilities a separate public school was attended while in the other facility the school was an integral part of the program. Additional teachers were utilized for remedial education. Each facility had medical staff, psychiatric services on-call, and social workers for individual, group, and family counseling.
Psychiatric hospitals	One hospital had a regular education program with seven teachers while the remaining three had part-time teachers. Full- and part-time psychiatrists were on-call for psychological evaluations, and individual, group and family therapy. Full-time and on-call social workers were also available as were psychologists. Medical services were also available on either a full- or part-time basis in each hospital.
Residential treatment centers	Full-time and part-time teachers provided regular educational services. Part-time psychiatric and medical services were also available. Social workers and psychologists were available for individual, group, and family therapy, and psychological evaluation.

treatment facilities refused to accept some juveniles who did not wish to reside in the facility. An inability to pay, inappropriate characteristics for admission, and unavailable bed space were reasons for not accepting some children in the psychiatric hospitals.

Although not a common practice, some out-of-state children were returned home without successfully completing the program in which they were placed. When this happened, it was usually because of an assessment that the juvenile was not "amenable" to the program. For example, six boarding schools returned juveniles because they were found to possess inadequate educational competencies. In addition, some child-care facility administrators returned juveniles who had reached the age of majority.

There were five facilities that had policies or procedures resulting in differential treatment among in-state and out-of-state children. Four of these instances were within one boarding school. That particular school had an inordinate number of students from foreign countries and, therefore, was unable to require preplacement visits, and certain contact between the child and family.

SUMMARY OF DATA

Population

In 1977, 525 children were known to have been placed in other states, with 72 of them placed in other states' residential facilities, according to state officials. Another 25 children, placed during prior years, were also known to be residing out of state in 1977.

Table T gives the reported number of children sent to out-of-state residential facilities in 1977, by the reporting state agency.

Through DHR/DSS/CSB, 379 out-of-state placements were reported and arranged by the Placement Compact. Of these, 20 were involuntary placements in out-of-state residential facilities, 34 were involuntary foster care placements that were continued when North Carolina foster parents moved to other states and wanted to take their foster children with them, and the remaining 325 children had been placed with relatives. Although the exact legal status of children so placed could not be easily determined from available records, it was reported that none of the institutional placements were for reasons of delinquency. The number of children placed by parents, private and public social agencies, and district courts without resort to the compacts is unknown.

Through DPI, 52 children received stipends to be applied to tuitions charged by out-of-state boarding schools. The number of children placed in boarding schools without such assistance is unknown.

DHR/DMHMRS reported 25 children residing in out-of-state facilities during 1977, but all had been placed during prior years. The Mental Health Compact has not been used in the past three years.

Further, there were 94 juveniles placed, under conditions of probation or parole, through the Juvenile Compact, but none of these cases involved institutionalization. This condition prevailed, as well, in the three years prior to 1977.

In terms of receiving out-of-state children, only five were known to state officials to be accepted in North Carolina facilities during fiscal 1977. For that same period, the Duke Endowment reported 26 out-of-state children accepted in North Carolina residential facilities. The statewide survey identified 732 out-of-state children accepted in the 22 facilities visited, and nine were reported from group homes and foster homes administrators.

Of the out-of-state children placed in North Carolina institutions in 1977, 85 percent were found in boarding schools and another 10 percent were found in psychiatric hospitals. There is no record of whether any were delinquents, status offenders, or non-offenders, although very few were identified as involuntary placements.

Both in terms of sending and receiving practices, the largest number of children were transferred between North Carolina and its neighboring states, such as South Carolina, Tennessee, and Virginia.

Table T

REPORTED NUMBER OF NORTH CAROLINA CHILDREN SENT TO OUT-OF-STATE RESIDENTIAL FACILITIES IN 1977, BY STATE AGENCY*

Reporting state agency	*Number of children reported sent*
Department of Corrections	
Juvenile Division	...
Department of Human Resources	
Division of Social Services	
Children's Services Branch	20
Department of Public Instruction	52
Department of Human Resources	
Division of Mental Health and Mental Retardation Services	(25)(a)
Total	72 (97)

* The study found no North Carolina children placed in Illinois residential facilities and seven in Texas, all of whom were in boarding schools.

(a) All DHR, DMHMRS patients residing in out-of-state facilities during 1977 were placed in prior years.

Procedures and Practices

A wide variety of procedures were employed when it was deemed advisable to place a child in another state's facility. In most cases, the roles of state agencies are restricted to facilitating and overseeing the transfers and, in the case of exceptional child grants, funding the placements.

In all cases, the determinations that children require out-of-state care appear to originate in local agencies: district courts and county social service agencies, in the cases of juvenile justice and child welfare situations; local mental health centers which, in the past, have placed juveniles out of state; and local school districts, in the case of Educational Expense Grants for Exceptional Children.

In a number of cases impossible to quantify, local agencies, except for schools, will make their own arrangements for out-of-state placements, particularly where relatives or courtesy placement supervision are present. In other instances, the cases are routed through the compacts in DHR/DSS/CSB. The Placement Compact is invariably used for institutional placements, even though some such placements would be possible under either the Juvenile or Mental Health Compacts. In these cases, DHR/DSS/CSB handles the arrangements with their counterparts in the receiving states.

The procedures described above are somewhat comparable, when examining receiving practices. Some major points of differences relate to the state's responsibility for licensing institutions, group homes, and foster homes. Through the combined efforts of state and local

governments, an attempt is made to restrict placements to only licensed facilities and homes. This appears to be quite successful, despite the fact that out-of-state children turn up in licensed facilities without the knowledge of either the Duke Endowment or DHR. The major exclusions from the licensing laws, as they affect this research, are boarding schools, which are certified by DPI for essentially those factors relating to educational programming, and psychiatric hospitals, which are certified by the Joint Commission on Accreditation of Psychiatric Hospitals. Neither of these oversight agencies requires admissions reports or reports of out-of-state placements.

Services

Generally speaking, state officials expressed the strong belief that families and their communities should accept the responsibilities associated with meeting children's needs for care, protection, training, and control. As a consequence, there was no great interest in placing children in out-of-state facilities, except under circumstances that suggest that both local and in-state resources are either inadequate or nonavailable. The extremely small use of out-of-state institutions (about 17 percent of the official placements) and the extremely high proportion of foster care placements with persons to whom the children are related (about 75 percent), would clearly bear out that philosophy.

The inmigration of children seems to follow the same pattern. Almost 86 percent of the out-of-state placements are in North Carolina boarding schools, many of which are sectarian with good academic reputations. About 9 percent were found in psychiatric hospitals, and less than 5 percent of the children were found in institutions that have historically received delinquent and status offender children.

The services received tended to emphasize education and therapy as the principal services offered, beyond room and board. The boarding schools offered the greatest amount of access to surrounding communities, while psychiatric hospitals were locked facilities which tended to offer very limited community contact.

Fiscal Data

Because of an attorney general's opinion, state funds are not to be used to support North Carolina residents in placements outside the state. A notable exception to this proscription is the Educational Expense Grants for Exceptional Children program, administered through the North Carolina Department of Public Instruction, under which out-of-state placements are specifically permitted by statute.

The 1977 cost of the Educational Expense Grants for Exceptional Children program was $104,000, not including costs of administration. This was determined by multiplying the maximum amount permitted for each child ($2,000) times the number of children placed (52).

The cost of mental patients placed before 1977, but residing in out-of-state institutions during that year, amounted to approximately $500,000, according to DHR/DMHMRS estimates. Based upon calculations using this gross estimation, cost of care would amount to about $55 per day per patient.

The 325 foster children placed through DHR/DMHMRS were supported at an average rate of $1,500 per year or about $4 per day. The overall cost of $487,500 presumably came from local general revenue and federal grant-in-aid funds. This also appears to be true of the $51,000 required to maintain the 34 children allowed to relocate with their foster parents. The 20 institutional placements costs are unknown, but estimates would suggest about $200,000, or a per diem of about $27.

Administrative costs are extremely difficult to calculate but, based upon staff in the key state agencies who predominantly attend to interstate placements, an aggregate administrative cost of $150,000 would seem reasonable. When added together with the costs of sending North Carolina children to other states, the costs of these practices amount to $1,492,500, 82 percent of which is accounted for through county and federal funding. Private and other forms of independent funding for children placed but unknown to the state are, of course, not included.

Within North Carolina's receiving facilities, the per diem costs depended upon the type of facility. Average per diem charges varied slightly in boarding schools and much more noticeably in psychiatric hospitals. Child-care facilities and residential treatment centers reported flat rates, although all types of facilities, in one way or another, attempted to accommodate the inability of parents to pay the full bill. The average charges were: Boarding schools, $13.44; child-care facilities, $5; psychiatric hospitals, $132.25; and residential treatment centers, $14.83.

DATA COLLECTION ISSUES

Resources utilized in describing a state vary in their adequacy as well as their consistency. North Carolina is a case in point. Population, state income, and expenditures for human services, crime, and juvenile justice statistics vary, dependent upon the source. Census abstracts and LEAA's source book showed comparable data, but North Carolina's secretary of state *Manual* and the Administrative Office of the Court's *Annual Report* provided sufficient variation to question the validity of all data sources. The outcome was a greater reliance on state-generated data because state officials responsible for data collection were available to comment on the inconsistencies.

Sending State Data Problems

The statutes of North Carolina are explicit in requiring the use of the Placement and Juvenile Compacts for out-of-state placements. It is evident, however, that the compacts are not used by all agencies placing children out of state. The exclusion of medical, educational, and psychiatric institutions would still suggest that more than the 20 children known to the compact office are in out-of-state facilities.

Those placed through the compact were, in some instances, identified after placements had been initiated locally without the benefit of a preplacement investigation or facility licensure and accreditation check. The compact office was only apprised of the placement after the transfer had been made. Even when the compacts are used, there is a tendency for the transaction to be entirely administrative. That is, once the child is in the facility, reports are channeled through the compact office to the local agency initiating the placement and a series of interoffice accounting reports are filed by the compact office. Only when there are problems of funding, runaway, and severe behavior is the compact office involved with the case, and then only administratively. It is true that the placement has the protection of law that it otherwise could not enjoy, but the compact office remains primarily administrative. There is no involvement other than assuring that the receiving facility is licensed and accredited. As a result, the role of the compact office is not one of consistent involvement in placement, treatment, or return.

The juvenile court judges do not invariably use the compact for arranging out-of-state placements, presumably because they feel the process is time consuming or because state funds are not involved. From a legal standpoint, the North Carolina Juvenile Court Act permits out-of-state placements by juvenile court judges, despite other statutory constraints requiring use of compact procedures. Many children

placed out of state by parents, guardians, or agencies are unknown to any state official. The same is true for children transferred by private agencies in cooperation with regional mental health centers.

Although the compact is frequently bypassed by private agencies, and data concerning interstate transfers is lost, a major problem of work capacity could face the compact office if it were fully utilized. The tasks now required of the office--administrative arrangements for investigation, transportation, placement supervision, and monitoring--consume all available staff time. It is evident that not only are there problems in agencies bypassing the compacts, but a new set of problems, administrative in nature, would exist if the compacts were utilized as the law requires.

Data describing states that were receivers of North Carolina children was uneven in its availability. Although DHR/DMHMRS was aware that local mental health centers sent approximately 25 children out of state by using funds from Title XX, private funds, and county resources, the state agency did not have specific information on either the states or costs of placement. When DPI pays for exceptional child placements outside of North Carolina, it does so upon the assurance that local schools are inadequate to meet the child's needs, but this was the extent of available data. No further information was apparently required at the state level concerning the nature of either the child's need or the system's inadequacy.

None of the state agencies was able to describe its out-of-state placements in terms of voluntary or involuntary commitments or the adjudicated statuses of those children placed out of state. No case data was available to identify parental, court, or private agency placements, or the nature of the out-of-state facilities utilized. The out-of-state family and relative placements processed through compact were from county social service departments, but information was not available as to the states in which they were placed or reasons for placement.

There does not seem to be an economically feasible way to identify or obtain reliable data from the host of individuals and agencies who are senders or potential senders of children that do not utilize the compacts, the Educational Expense Grants for Exceptional Children, or DHR/DMHMRS, unless the cohort is defined to be those children who are placed by local government agencies or who are paid for or placed by or through state government.

Receiving State Data Problems

Information from state agencies concerning nonresident children placed in North Carolina is extremely limited. The Interstate Placement Office of DHR/DSS/CSB is the only agency with retrievable receiving data, and even that was not compatible with information provided by child-care facilities to the Duke Endowment. Boarding schools visited stated that their licenses required an annual report of students, both in-state and out-of-state, for DPI, but the Department did not have retrievable data about out-of-state admissions to North Carolina schools.

Information was retrievable that could identify the placing agency, court, or parent, and whether or not the placement was voluntary. This information, however, would only be available if each case file were individually reviewed.

Because of the Duke Endowment research, DHR/DSS/CSB was able to identify the institutions that reported out-of-state children, but there was no attempt to reconcile the differences in the available statistics presumably emanating from the same source. Apparently, the procedure of reporting the receipt of children from out of state is not a practice followed by most facilities. Specifically, the lack of any reporting procedure followed by mental health facilities and boarding schools suggests a problem area. Although there was a low correlation between facility information and that from the compact office, there was no data for comparison from DHR/DMHMRS or DPI. The lack of state agency oversight allows for residential facility independence in their treatment delivery, without any ability on the part of the state to assure adequate services.

Visits to North Carolina's receiving facilities resulted in a great deal of information with what appears to be a high degree of accuracy. In most instances, the administrators involved in the interviewing process provided necessary data and seemed open in the discussion of most data requests. The admissions for 1977 were easily obtainable, with the exception of three psychiatric hospitals. Their administrators were reluctant to provide information on specific admissions citing confidentiality and difficulty in retrieving the necessary data.

The response rate from the postcard questionnaire sent to 3,541 foster homes was especially poor. As explained in a previous section, the small number of returned questionnaires resulted from the mailing arrangements. While extremely good cooperation was received from DHR officials, some county social service offices either delayed or never sent out the mailings. There seemed to be no objection to the study or even an unwillingness expressed with respect to their addressing the envelopes. In all probability, their failure to address and mail the letters had more to do with an overtaxed labor force being unable to perform a nonessential task.

Another problem area appears to be the acceptance of out-of-state placements by juvenile court judges on a courtesy supervision basis. Courtesy supervision is known to take place regularly between juvenile court judges across state lines. The extent of this practice is unknown at the state level.

Data concerning costs of placement was usually readily available and considered to be reliable with the exception of treatment and therapy charges in psychiatric hospital that were in addition to regular per diem costs. Per diem for the psychiatric hospitals was consistent for both in-state and out-of-state placements. However, there was a wide variation in the different charges assessed individual patients for such treatments as electric shock, chemotherapy, and psychiatric therapy. The special billings over and above per diem were not available for computation and were not included in psychiatric hospital cost data.

Another problem in obtaining cost data was the lack of information concerning third-party funding. Facilities were only aware of the amount of money received from each paying source, but were unaware of where the paying source had obtained original funding. Insurance, including CHAMPUS, was usually paid directly to the psychiatric hospitals but, in many cases, insurance or other funds were paid directly to a client who, in turn, paid the per diem costs. Title XX, educational, or mental health federal dollars, were not identified by receiving facility administrators, even though a number of placements may have been supported from these sources.

There was a willingness to discuss funding resources and, in many instances, the facility's business manager was asked to provide complete access to such items as annual reports, budget reviews, and financial statements.

Because payment schedules, except psychiatric therapy costs, were the same for all placements, it was easy to estimate per diem on per client basis.

FOOTNOTES

1. Population, socioeconomic, and state expenditure data have been obtained from U.S. Bureau of the Census, *Statistical Abstract of the United States: 1976* (Washington, D.C.: 1976), and *The North Carolina Manual* (Raleigh, N.C.: Secretary of State).

2. N.C. Gen. Stat., 110-64.1 (1965).
3. N.C. Gen. Stat., 110-57.1 (1973).
4. N.C. Gen. Stat., 110-64.6 (1975).
5. N.C. Gen. Stat., Art. 13 (1959).
6. N.C. Gen. Stat., 7A-277 to 279, 1974 Supp.
7. N.C. Gen. Stat., 110-50 to 110-57, 1974 Supp.
8. *Standards: Child Caring Institutions* (Raleigh, N.C.: Division of Social Services, January 1977).
9. N.C. Gen. Stat., 115-315.7 to 115-315.12.
10. Lists were obtained from state agencies and the Duke Endowment.
11. The data was collected for November 1977 through March 1978, and reflected about 50 percent of the potential 1978 admissions for child care, psychiatric hospitals, and residential treatment centers, but 100 percent of the admissions for boarding schools.

TEXAS

INTRODUCTION

Texas was the first of the three sample states visited as part of this feasibility study about interstate placement practices during fiscal 1977.[1] As planned, much was learned from those first series of visits about how and with whom the questionnaires and other data collection techniques were most effective. For instance, both the receiving and sending state questionnaires were revised in terms of structure and substance as a result of the initial Texas visits. However, the study approach in Texas was comparable to the other two states and followed the general methodological design outlined in Chapter 1.

Several telephone inquiries, many leading to structured, personal interviews, were conducted with various state and local public officials. Additional, supplemental information was culled from organizational annual reports, policy and procedure manuals, special reports, and Texas statutes. Also, 166 residential facilities were surveyed by telephone, including 16 boarding schools; 111 child-care facilities; 17 psychiatric hospitals; 16 residential treatment centers; and six others. Thirty-six of these facilities were then visited on-site. Further information was collected from a postcard questionnaire that was mailed to 625 licensed foster and group homes.

Entry-level inquiries in Texas were conducted with appropriate professional contacts working in the state and with the three compact administrators. No serious constraints or lack of cooperation was experienced with completing the work in Texas, although a complaint was received that staff members were making excessive demands upon several members of the Department of Human Resources staff. This was corrected through better coordinating of contacts through a deputy commissioner of the department. The investigation of state agencies included the Department of Human Resources (DHR), the Texas Youth Council (TYC), the Texas Education Agency (TEA), the Department of Education under TEA (TEA/DOE), and the Department of Mental Health and Mental Retardation (DMHMR). Locally, officials were interviewed in six juvenile courts located in major cities, selected community mental health and mental retardation centers and DHR regional offices.

A total of 31 work days was spent in the state completing the interviewing process with government officials and facility administrators. An additional 16 working days were spent in scheduling the interviews.

All persons interviewed voiced an interest in the study and most provided important contributions to an understanding of the interstate placement of children in Texas. Special assistance and considerable effort was provided by: Merle Springer, Deputy Commissioner, Department of Human Resources; Margaret Gregg, Assistant to Deputy Commissioner, Department of Human Resources; H. E. Phillips, Director, Division of School Accreditation, Texas Education Agency; Adrian Moore, Assistant Director, Community Services Department, Texas Youth Council; and Hartley Sappington, Assistant Deputy Commissioner, Department of Mental Health and Mental Retardation.

A preliminary draft of the case study was shared with key officials in Texas for review. Their comments greatly enhanced the development of the final draft. Inaccurate or misleading information was corrected, omissions were added, and unclear discussion was made more understandable through incorporating the suggestions and comments received.

DESCRIPTION OF THE STATE

Texas is the second largest state, in area, in the United States, encompassing 267,339 square miles or one seventh of the country's total land mass. Its 254 counties exceed those in number of any other state.

Historically, Texas has been known as a predominantly rural state. This observation must be weighed with new trends even though the state is still highly rural in nature. In 1975, the population reached 12,237,000, making Texas rank third in the country, exceeded only by California and New York.[2] The distribution of the population varies significantly, with over one half the state's population residing in about 10 counties. The population ranges from 69 people in one county to four counties that rank in the top 50 in the country. The population residing in rural areas decreased by 41.6 percent between 1960 and 1970. In 1970, almost 80 percent of the total population lived in urban areas. Of additional interest is a belt, from Waco to Temple, containing several military installations.

Numbering 24, Texas has more SMSAs than any other state. One of these SMSAs includes a portion of a contiguous state, Arkansas (Texarkana, Texas-Texarkana, Arkansas).[3] Other contiguous states are Louisiana, New Mexico, and Oklahoma. Of special importance to this study is the fact that Texas is bordered by Mexico on the south and southwest, for a distance of several hundred miles. Its most important cities are Dallas-Fort Worth, El Paso, Houston, Austin, Corpus Christi, and San Antonio.

Similar to other states, crime and delinquency is a major social problem in Texas. The state ranks fifth nationally in its incarceration rate per 100,000 population and second in the actual number of incarcerated prisoners. However, by 1975, the state dramatically reduced its juvenile institutional population and ranked 47th in the ratio of incarcerated youth to total population. This decline correlates sharply with its expansion of community-based correctional placements. Texas still ranks third nationally in state and local juvenile facility capacity, behind California and Ohio. Texas was ranked sixth, nationally, in total state and local criminal justice expenditures and 42nd in per capita expenditures for public juvenile facilities.

LAW OF THE STATE

Compacts

The Interstate Compact on Mental Health was adopted by Texas in 1969. This compact essentially functions to transfer a patient from one state's public hospital to another state's public hospital and has no provisions covering transfers to private or community-based facilities.[4] The Texas Code specifies that it be administered by the Department of Mental Health and Mental Retardation. A companion statute enables the state to pay the transportation costs of children sent to other states via the Mental Health Compact.

In 1965, Texas adopted the Interstate Compact on Juveniles, which has primarily been used for supervision of probationers or parolees living with parents, relatives, or guardians.[5] Administration of the Juvenile Compact is delegated to the Texas Youth Council. The council's director is designated as compact administrator; however, transfer procedures are under the jurisdiction of an interstate compact supervisor within the TYC administrative division.

Effective September 1, 1975, Texas became a member of the Interstate Compact on the Placement of Children.[6] The Department of Human Resources, Special Services Division, is designated the agency to administer the Placement Compact, and the commissioner of that department is compact administrator.

Juvenile Code

The Texas Family Code defines delinquency as that conduct by a child, aged 10 to 17, other than a traffic offense, that violates either a penal law of the state punishable by imprisonment or by confinement in jail, or a previous court order.[7] Juveniles may be adjudicated as children in need of supervision (CINS) for conduct, other than a traffic offense, that on three or more occasions violates either of the following: penal laws of the state of the grade of misdemeanor that are punishable by fine only, the penal ordinances of any political subdivision, or a definite amount of unexcused voluntary absences from school or home.[8] First offenses for driving while intoxicated or under the influence of liquor or narcotic drugs and conduct involving the inhalation of the fumes or vapors from paints, glues, or other adhesives and protective coatings are also subject to a CINS adjudication.[9]

Dispositional alternatives available for these two categories of adjudicated youth are explicitly stated in the Texas Code. Only children adjudicated delinquent may be committed to TYC. However, both delinquents and minors in need of supervision (MINS) may be placed in a "suitable public or private institution."[10] Juveniles adjudicated MINS who violate conditions of a court order may then be found delinquent and committed to TYC.

Texas has not adopted the Uniform Juvenile Court Act. Each of the 254 counties has one or more of their courts designated as the juvenile court. Detention and probation are also under the auspices of local government and usually under the jurisdiction of a juvenile court judge.

Licensing Law

In 1975, a new Child Care Licensing Act was legislated in Texas which requires that all child-care facilities and child-placing agencies be licensed, certified, or registered.[11] The responsibility for administering this act was delegated to the Department of Human Resources, Licensing Services Branch (DHR/LSB). Duties of the Licensing Services Branch include licensing, inspection, and the promulgation of minimum standards for care for virtually all facilities housing juveniles in Texas.

Although the act itself does not speak directly to interstate placements, the standards established by DHR/LSB do.[12] The standards governing facilities providing 24-hour care and child-placing agencies require those facilities to maintain a monthly record including the number of out-of-state children in care. However, failure to maintain the record as required in the standards is not construed, in and of itself, as a cause for revocation of the facility's license.

The Placement Compact carries a penalty clause for placements made without meeting the requirements of the compact.[13] This section provides that violation of the compact constitutes sufficient grounds for suspension or revocation of a license held by the sending agency. This provision has not been incorporated into the Texas Child Care Licensing Act or the DHR Standards.

Another state law, Placement of Children from Another State, deals with the placement of children into Texas from a non-compact state.[14] This statute covers placement of children in a number of types of facilities, including institutions for the mentally ill, mentally defective, or epileptic, but does not include educational facilities or hospitals. The law also does not apply if children are being placed by their family in a relative's home or under another interstate compact agreement. Essentially, this companion statute sets forth the same requirements for such placements as would apply if the sending state was a member of the Placement Compact. If a facility violates any provisions in the statute, it can be found guilty of a misdemeanor and, upon conviction, the license must be revoked.

State-operated facilities are exempt from licensure, but are subject to certification and must meet the same standards as private facilities. Specifically, the TEA/DOE or the Southern Association of Colleges and Schools accredits facilities operating primarily for educational purposes.[15] The Department of Health's Commission on Alcoholism and Hospital Licensure Division license alcoholic health care facilities and hospitals, respectively.[16] DMHMR establishes rules governing licensure of private mental hospitals.[17]

ORGANIZATION OF YOUTH SERVICES

Juvenile Justice

State government's responsibility in juvenile justice is consolidated within TYC. In the past, this agency primarily operated state training schools and parole services. However, a major litigation, the national movement towards deinstitutionalization, and an effort to develop a master plan for youth services led the state legislature to appropriate TYC's first funds for community-based services in 1975. Today, the system includes state-operated and state-funded halfway houses, privately operated group homes, foster homes, residential treatment centers, and a program for funding local delinquency prevention efforts. Also, TYC plans to completely phase out its largest and oldest institution, the Gatesville School, by 1979. In fiscal 1976, the agency operated eight institutions, parole services, and community care programs. Three of the eight institutions are designated by TYC to accommodate youth formerly declared dependent or neglected by family courts. Youth are placed rather than committed by the courts to these facilities. In this regard, then, this particular service related to child welfare is a responsibility of TYC.

Child Welfare

Services related to child welfare in Texas are primarily the responsibility of DHR. Statewide policy development and service delivery are delegated to the Offices of Operations and Financial and Social Programs within DHR. Supervision and coordination of local operations is provided by 11 regional offices.

Central to this study, the Licensing Services Branch licenses, inspects, and promulgates standards for care for nearly every residential facility in Texas. Other major departmental functions consist of providing placement and protective services, including adoptions, foster family care, group homes, and institutional placements. DHR administers the AFDC program, but general assistance is supported and administered by local government. Due to the sparseness of their populations, about one half of the counties do not have child welfare boards. In these counties, general assistance and other child welfare services are usually provided through DHR regional offices.

DHR annually receives numerous referrals involving teen-agers. In fiscal 1976, the agency had an unprecedented number of such referrals. These were over 40,000 reports of truancy, juveniles without supervision, young unmarried parents, and other related cases served during the year. As a result, DHR has expanded its number of contracts with juvenile courts for counseling, and developed more group homes, emergency shelters, and foster homes.

Education System

The education system in Texas is primarily the responsibility of TEA, which includes the State Board of Education, the Texas Education Commission, and the Department of Education. These three agency divisions, in addition to other activities, establish funding policy and adopt accreditation standards at the state level. TEA/DOE accredits state and non-public residential schools. Under Texas law, accreditation is necessary only to qualify for receipt of state education monies, although all school facilities must meet fire and safety requirements as outlined in the Texas Code. Local reporting by school or local welfare personnel may bring attention to an unaccredited or unlicensed institution, but there is no formal local-state system established for licensure and monitoring.

Mental Health System

Delivery of mental health services in Texas is the responsibility of DMHMR. In addition to administrative support divisions, there are three service divisions of DMHMR: Mental Health, Mental Retardation, and Community Services. The Divisions of Mental Health and Community Services are relevant to this study. The Mental Health Division operates eight hospitals with several out-reach centers. The Community Services Division operates 28 community mental health centers collectively serving 125 counties.

Each mental health center is governed by a board of local officials and citizens, with county funds assisting in the support of the center. The center director, who is accountable to a local board, must operate within rules and procedures established by DMHMR. Each center has some residential beds under its direction and many of the centers contract with the private sector for services, which include residential facilities for children. Although the terms of these contracts vary widely and are controlled by the county office, the state monitors, audits, and approves all contracts, since contracts must conform to state standards and regulations.

Health System

The Department of Health has 10 public health regions and 17 state office bureaus assigned functions in specific diseases or health services, one of which is responsible for licensing and certifying hospitals, psychiatric hospitals, and clinics. This study was particularly interested in the department's licensing function as it relates to hospitals that deal primarily with alcohol or drug abuse problems and psychiatric services.

SENDING PRACTICES IN THE STATE

Procedures and Practices

In fiscal 1977, the number of Texas children placed in out-of-state residential facilities was quite small. Most placements arranged through or known to state government officials concerned adoptions, changes in residence of foster parents, placements with relatives, and other nonresidential placements. This finding is consistent with an administrative policy in state government prohibiting the expenditure of state revenue in other states. State funds are not to be utilized for out-of-state foster care or placements in residential facilities. This means such placements, when and if they occur, must be paid for out of county general funds or private resources.

Juvenile Justice. TYC did not place any children in out-of-state residential facilities. However, juvenile courts do place children in out-of-state facilities, from time to time, without advising the state or using the Juvenile Compact. This practice is fairly uncommon, however, because most Texas juvenile courts have severely limited foster care budgets. In cases where such placements are made, the court probation department usually negotiates directly with the receiving facility. Since the frequency of these placements is quite low, and since the state does not pay for them, TYC has apparently elected not to strenuously pursue compliance for Juvenile Compact utilization.

Child Welfare. The role of DHR in sending children to out-of-state residential facilities was limited primarily to placements for adoption or with relatives. The local welfare boards, through court-assigned conservatorship, have the authority to send children to out-of-state placements. Further, these agencies have fiscal resources to purchase the services and may do so without informing DHR, despite the requirement that the Placement Compact be used. At least one state official knew of an instance in a particular county where a child was placed in an out-of-state residential facility by the child welfare agency without reporting to DHR or through compact intervention.

Education. It was reported that the placement of Texas children in another state's public or private educational residential facilities was not a practice followed by either TEA/DOE or by county boards of education.

Mental Health. Mental health out-of-state placements are also not a practice of Texas state government or local mental health agencies. DMHMR administers the Mental Health Compact, through which it placed a few juveniles. However, the provisions of this compact apply only to placements involving a family relocation which are not centrally applicable to this study.

The time associated with making the few out-of-state placements that occurred ranged from one day to two months, with usually 30 days required. Children awaiting transfer are usually placed in foster or group homes and, at times, in a parent or relative's home, or such facilities as emergency shelters.

Regulating Senders

The authority for regulation of sending practices is stipulated by enabling statutes which outline the duties of the three compact offices.[18] Specifically excluded from regulation by any interstate compact are placements to private mental hospitals and boarding schools. The survey of selected juvenile courts found sending practices in those local agencies that were not subject to regulatory provisions in any interstate compact. Assessment of other collected information suggests that the local sending practices of at least some child welfare agencies may also exclude state or compact regulation. In addition, parents, guardians, attorneys for families, and some sectarian organizations place children in out-of-state residential facilities without using any interstate compact.

In Texas, the regulatory guidelines for placement include specific types of youth eligibility criteria identified by the field staff of DHR, specific limits on per diem rates, specific standards of care, specific standards of custody, and minimum standards for accountability and monitoring. In addition to establishing these guidelines, other related activities include making arrangements with the receiving state's compact officials for placing a juvenile, arranging transportation to and from the facility, and indirectly supervising and monitoring by obtaining reports from the receiving state compact office. In addition, agencies licensed by the state may supervise out-of-state placements, if such placements were made through the compact administrator.

Children Sent

The information about the numbers of children sent out of state was obtained through the three compact offices, as well as through interviewing selected local senders. These statistics probably underrepresent the actual number of children sent out of state, although state officials thought the extent of placements made by local and private agencies to be negligible. However, to obtain an exact figure, all private and local agencies as well as parents would need to be contacted, a task beyond the focus of this effort. The study did survey county juvenile courts in the five most populous counties.[19]

In fiscal 1977, 19 children were known to state agencies to have been placed out of state.[20] The children sent through the Juvenile Compact (four) had all been adjudicated delinquent, while those sent by means of the Placement Compact (13) were either dependent and neglected, abused, developmentally disabled, or in danger of becoming retarded through abuse.[21] Another two children, both mentally ill, were placed in out-of-state public residential facilities through the Mental Health Compact. However, the actual number of children who were delinquents, status offenders, abused or battered, or dependent and neglected could not be determined since such information is not recorded in the Placement Compact office files. Also not known by compact officials is whether placements are voluntary or involuntary. DHR officials reported that the 13 placements under the Placement Compact could be assumed to be voluntary, since policy requires the child's legal conservator to consent.

Receiving States

Of the four children sent through the Juvenile Compact, two were sent to Nebraska and one each to Kansas and Louisiana. Of the 13 children placed through the Placement Compact, the states and number of youths sent to each were not available, since tabulation would require a case-by-case search of all files in the compact office. Although not placed in fiscal 1977, the survey of juvenile courts found four children residing in out-of-state facilities in prior years. These children were living in private residential treatment centers in Arizona, Indiana, Louisiana, and Nebraska.

Texas officials reported that out-of-state placements were used because the facilities were located close to the youth's home or to maintain a specific separation with the family. Another major reason given for out-of-state placements was that they were an alternative to a training school commitment. In each instance, the reasons for selecting a specific state and facility were determined by either a staff member of the placing agency for Placement Compact children or by local officials for Juvenile Compact children. Usually, prior successful experience with a particular facility was a determining factor. In the area of foster care, this might mean the desire of the agency to continue a foster parent, even though the individual had moved out of state.

Monitoring Out-of-State Placements

Monitoring authority for compact-placed children rests in the compact law and statutory provisions specific to DHR. Monitoring activities followed by the Placement Compact office during fiscal 977 are reported here as well as whether each activity applied to all, some, or none of the out-of-state facilities in which Texas children were placed: annual on-site visits to conduct programmatic and architectural review (none); biennial on-site visits to conduct programmatic and architectural review (none); request annual progress reports regarding the youth's treatment (some); periodic telephone conversations with facility staff to assess youth's progress, performed by field staff of placing agency (some); periodic auditing to assess compliance with financial guidelines, performed by field staff of placing agency (some); minimum yearly on-site case conferences/case reviews (none); and request monitoring assistance from receiving state agency (all).

As is standard procedure, the compact office in the receiving state provides reports at intervals requested by the sending agency. These reports are then distributed to the sending agency.

Cost

No information on funding was available concerning the compact placements, since compact offices do not maintain records of per diem charges or specific source of funds, in either summary form or on a case-by-case basis. County monies and local agency monies were, however, known to be utilized for out-of-state placements, but the amount of money involved cannot be determined since there is no central source of information.

RECEIVING PRACTICES IN THE STATE

Regulating Receiving Facilities

Responsibility for regulating practices of facilities receiving out-of-state children is delegated by statute to DHR, DMHMR, DOH, and TEA. Of course, any state-operated facility is subject to its own departmental regulations, which apply the provisions of an interstate compact to the acceptance of any out-of-state children. Residential services purchased from private vendors by TYC are licensed by DHR. Most recently, the TYC Residential Contract Program and staff have been licensed by DHR as a child-placing agency which authorizes TYC to certify foster homes and group homes in accord with DHR licensing standards. This, in turn, essentially constitutes DHR licensing for those homes certified by TYC. As a point of information, TYC is currently in the process of implementing agency "child-care program requirements". Though in many instances child-care program requirements are duplicative of DHR licensing standards, the former specifically address: TYC skills, academic education, career education, counseling, recreation, daily living, family/community involvement, control and discipline, moral values and religious worship, nutrition, clothing, shelter, and medical and dental services. As DHR will conduct on-site inspection visits for the purpose of licensing compliance, TYC will also conduct quarterly monitoring visits with those vendors which are under contract for compliance with TYC child-care requirements.

Most types of facilities, the major exceptions being boarding schools and private psychiatric hospitals, that may receive children from out of state are under the regulations set forth in standards established by DHR, as mandated by the Child Care Licensing Act. Furthermore, another act requires agencies sending children into Texas for institutional care to obtain permission from the commissioner of DHR or through a compact administrator.[22] Failures to comply could result in a revocation of the facility's license and civil penalties.

Presently, standards required for licensing within Texas are highly specific and provide a means for the state to control not only residential treatment for Texas youth, but also to maintain oversight on any agency, institution, or foster home, regardless of whether in-state or out-of-state children reside at a facility. Facilities providing basic child care must meet the following minimum standards: (1) a specific statement of objectives, a governing body, and a statement of fiscal responsibility; (2) personnel policies and staffing patterns; (3) admission

procedures, including placements, intake, and trips away from the institution; (4) child development and training plans requiring regular program statements, medical and dental care, nutrition, community relationships, education, work, and training; and (5) adherence to the health, safety, and environmental codes of the DOH and regular updating of records and reports, including emergency records of child care and staff problems which must be reported immediately to DHR. All records of a child's progress must remain open and available for departmental investigation.

A specific standard has been established that relates to the licensing of an agency which may place children in foster family or foster group-care facilities under its own agency license. This type of secondary licensure is limited to family and foster group homes used exclusively by one agency and housing not more than five children. It assures that the same stringent requirements that an individual or agency must face for licensure of a single facility are also met under the blanket approval of an agency's facilities. The individual records of an agency's foster or group home must meet the same requirements as those of individual group homes and must be open for inspection at any time. If an individual group home or foster home operating under an agency's license does not meet the standards required by DHR, the entire agency may lose licensure.

Facilities are further regulated by licensure laws articulated in the Hospital Licensing Standards, the Education Code, and regulations regarding private mental hospitals. Beginning with the 1977-78 school year, any local school district or agency must be accredited in order to receive financial support from the Foundation School Fund.[23] However, TEA does not control the flow of out-of-state children into Texas nonpublic educational facilities, and it does not require data be reported to it concerning the number and types of out-of-state children in public or private schools.

Within DOH, a Commission on Alcoholism was established and provides for the development of regulations concerning facilities that treat alcoholics. This act, passed in 1977, provides for rules and regulations and standards that relate to the health, safety, and equipment requirements, as well as programs, staff, rules, and regulations for the given facility. Other licensure requirements cover all areas of architecture, with minimal attention given to patient care other than that related to safety and health standards. A Licensure Section was established, which has the responsibility for architectural review, structural review, and assures a continuing adherence to relevant standards. A public board has been appointed and is responsible for policy development for the Hospital Licensure Division of DOH.

DMHMR establishes rules governing licensure of private mental hospitals.[24] The rules cover all areas of facility safety, dietary health, and civil rights, as well as program and treatment procedures. Regulations in the medical area and in construction are based on the hospital licensure standards for DOH. Specifically, all individuals or corporations operating private mental hospitals in Texas are required to have a license. The basic premises of the rules are that each patient shall be provided medical and psychiatric care and treatment in accordance with the highest standards accepted in medical practice; the dignity, mental, and civil rights of the patient must be safeguarded; all personnel must be qualified for the type of work they perform; and that qualification and treatment is dependent upon professional and ethical standards established by the professional psychiatric and medical associations. Specific attention is given to such areas as clinical pathology, use of electro-shock therapy, social services, active therapy, and diet. It is important to note that the receipt of out-of-state children in local mental health facilities, whether public or private, need not be reported to DMHMR, since DMHMR does not collect data concerning private facilities that contract with local mental health centers.

Practices of Receiving State Agencies

Placement procedures for receiving children from out of state in licensed child-care facilities are comparable to those for receiving children from Texas, except an interstate compact must be used for receiving children from out of state. The Texas law and the DHR child-care standards require the following procedures be followed for children accepted in DHR licensed facilities: on-site visit prior to admission to inspect the facility; forwarding case history and diagnostic material from sending state to receiving facility prior to admission; taking juveniles to the receiving facilities for trial visits (in most instances, the sending state brings the child into Texas); diagnostic and medical exams must be completed prior to placement by the sending state; making arrangements with sending state officials for placement of a juvenile in a specific facility; sending state must have established individual treatment standards and goals for juveniles and then matched a youth to a receiving facility; and an interstate compact must be used or the commissioner of DHR must give permission for accepting children from out of state.

Generally, the Juvenile Compact procedures followed for out-of-state children were not known, except that, for some children, case histories and diagnostic material were forwarded from the sending states to the receiving facility prior to admission.

The extent of non-use of the compacts is considered by state officials to be significant in that a large segment of facilities ignore this requirement. Non-use of the compacts is believed to be due to the fact that administrators of the facilities do not perceive themselves as compact enforcers, even though their licenses may be jeopardized by accepting a child from another state without compact involvement. According to the compact office, the administrators of some of these facilities perceive the compact as an added burden to them and only use it because of the potential jeopardy to their licenses.

Children in Residence

Texas state government knew of 189 nonresident children placed in residential facilities during fiscal 1977.[25] It was reported that 176 children were received through the Placement Compact and 13 through the Juvenile Compact. No children were received by the Mental Health Compact during this period; however, two children were placed during the previous fiscal year.

According to the Placement Compact administrator, the types of children admitted to Texas facilities include developmentally disabled and mentally retarded, learning disordered, mentally ill or emotionally disturbed children, physically disabled, and status offenders (CHINS, PINS, JINS). The Juvenile Compact administrator suggested that placements to residential facilities were made for either delinquency or for mental illness and emotional disturbance. However, specific information about numbers of children who were adjudicated as delinquent, status offender, abused, and dependent and neglected, was not available from the compact administrators since such information is not always contained in case files.

TYC officials suggested there were about 100 out-of-state children residing in Texas facilities from which they purchased services. Perhaps many of these same children were accepted during fiscal 1977 and received through the Placement Compact; however, the actual circumstances surrounding their admission was not known to this agency.[26] Several of these out-of-state admissions were not received through the Placement Compact, as the children reportedly came from foreign countries, especially Mexico. Of further interest, agency officials indicated they occasionally accept out-of-state children for placement in a TYC institution from the Federal Bureau of Prisons.[27] It

was further understood that such placements do not normally occur and that public corrections institutions, as well as detention homes, do not accept children placed from out of state.

States of Origin

The office administering the Placement Compact could not readily provide specific information concerning the states from which the 176 children were sent without searching each case file. The Juvenile Compact administrator stated that six placements came from Alaska, two from Florida, three from Maine, one from Washington, D.C., and one from Michigan. Children from Maine going through the compact were transfers from Edgemead, a facility network having its home office in Maine with a Texas campus.

Monitoring Out-of-State Placements

Neither the Placement Compact staff nor DHR licensing staff specifically monitor out-of-state placements on any routine basis. However, regular monitoring visits are made to DHR licensed facilities in relation to license recertification. The DHR protective services staff, along with the licensing staff, are also involved when complaints of abuse or neglect are received regarding any child who is a resident of a licensed facility.

As a result of these practices, licensed facilities are monitored regularly, at least once every three months. Newly licensed facilities are inspected monthly for the first six months in which they are licensed. State officials report that licenses have been revoked and suspended.

The monitoring performed by the Placement Compact office is a mail process. Usually, it is conducted only at the request of the sending agency from the respective sending state. Similar monitoring procedures are associated with the Juvenile Compact.

RECEIVING FACILITIES

There were 166 facilities in Texas that were contacted by telephone and agreed to respond to the survey. Five other facilities were found to be closed and two refused to fully cooperate. All facilities contacted were identified from lists or directories obtained from different government offices. Usually these lists represented facilities that had been licensed or approved by a particular state agency.[28] The results of this survey are given in Table A.

Thirty-six of the 38 facilities that reported having accepted six or more out-of-state or foreign children in fiscal 1977 were then personally visited and surveyed. Ten of these facilities had inaccurately reported the number of out-of-state admissions. Actually only 26 facilities had six or more out-of-state children admitted during fiscal 1977. The adjusted list of 26 facilities included 11 boarding schools, two child-care facilities, five psychiatric facilities, seven residential treatment centers, and one maternity home in the other category. The numbers in parentheses in Table A reflect these corrections.

Due to a lack of centrally accessible information about Texas' foster homes, the postcard questionnaire mailing was delimited. DHR only contracts for foster homes in counties without local child welfare boards. The names and addresses of these residences were retrieved through a computer-generated mailing list. A total of 625 postcard questionnaires were sent out to 124 counties in Texas and the results of this survey are provided in Table B.

Table A
TELEPHONE SURVEY RESPONSES, BY FACILITY TYPE AND OUT-OF-STATE ADMISSIONS FREQUENCY

Facility type	*Number of out-of-state children accepted in fiscal 1977*			
	None	*Under 6*	*6 or more*	*Total*
Boarding schools...	1	4	11	16
Child-care facilities.	93	12 (16)	6 (2)	111
Psychiatric hospitals	7	4 (5)	6 (5)	17
Residential treatment centers.....	3	3 (6)	12 (7)	18
Others.....	2	1 (3)	3 (1)	6
Total	106	24 (34)	38 (26)	168

( ) = As adjusted after on-site visit.

Table B
AGGREGATE NUMBER OF OUT-OF-STATE CHILDREN REPORTED, BY FACILITY TYPE AND YEAR

Facility type	*1976*		*1977*		*1978(a)*	
	Number reporting	*Number of children*	*Number reporting*	*Number of children*	*Number reporting*	*Number of children*
Boarding schools.....	13	509	14	559	11	452
Child-care facilities...	18	129	18	84	17	15
Psychiatric hospitals..	8	67	10	73	8	12
Residential treatment centers.....	10	194	13	364	11	106
Others.....	2	8	4	18	2	4
Foster homes.....	190	28	190	30	190	10
Total	241	935	249	1,128	239	599

(a) Based upon data obtained between December 1977 and April 1978.

Through aggregating comparable information received in responses to the telephone survey, the postcard questionnaire, and the 36 on-site visits to administer a questionnaire, the total number of out-of-state or foreign children placed in Texas facilities in fiscal 1976, 1977, and 1978 to date can be ascertained. The composite results are shown in Table B.

Review of the table shows that Texas residential facilities accepted the greatest number of out-of-state children in fiscal 1977, which amounted to 1,128 children; however, the number reported in the other years remained fairly constant considering fiscal 1978 was incomplete during the survey. Among different facility types, boarding schools received the most out-of-state children during all three fiscal years. The least amount of children from out of state were in foster and maternity homes.

It should be noted that all facilities contacted did not have relevant data for the period in question. The actual number of facilities reporting during any one year may vary from the number in a previous or later period. Thus, a decrease or increase in the number of children is often correlated more to reporting practices than changes in interstate placement practices. In many cases, the variances are simply due to utilization of an earlier questionnaire which did not request this data for each year given in the table. For the base year, 1977, the maximum number of facilities is reported for each facility type.

Characteristics of Receiving Facilities

There were a total of 36 residential facilities in Texas that were visited on-site and responded to the survey questionnaire. The remaining discussion sets forth the results from that survey. In order to facilitate a better understanding of the information, several tables have been developed and are included.

If information requested on the questionnaire was unavailable or simply not recorded in the manner requested, interviewees were asked to estimate, based upon their personal experience and knowledge of the facility. Instances arose where persons interviewed were either

unwilling or unable to even provide estimates. In those cases, the data was reported as not available. Throughout the commentary, special attention is paid to the accessibility of information requested.

A total of four facilities were visited that were located in SMSAs; two in El Paso and two in Beaumont. As a group, children in these facilities only accounted for 47 out-of-state placements or less than 5 percent of the total.

The 36 facilities visited in Texas operated with nine different fiscal years. About 40 percent of them used January to December, or the calendar year.

Facilities visited were either private for-profit or private non-profit. No public-operated facilities in Texas reported accepting more than six out-of-state placements. In fact, only a very small number of public facilities had accepted any children from out of state over the past decade. The majority of facilities (28) that accepted out-of-state placements in 1977 operated as private non-profit agencies. However, the eight private for-profit facilities visited accounted for a relatively large number of out-of-state placements. Three of the six psychiatric hospitals visited operated as private for-profit and accepted 38 percent of the total out-of-state placements to these facilities. Five of the residential treatment centers were private for-profit agencies and they accounted for 58 percent (207 children) of the total out-of-state admissions to those facilities during the year. Table C shows the distribution of the 36 facilities, by type and aegis of operation.

On the average, facilities visited were designed with large bed capacities. They typically had 114 beds but ranged in size from 12 to 510 beds. Although 12 facilities were rated as 100 beds, eight of these were boarding schools. Therefore, it is important to understand that these statistics are slightly skewed by the characteristics of boarding schools.

During the visits to Texas facilities, information was requested about the number of out-of-state admissions accepted by each facility in their fiscal years 1976, 1977, and 1978. As might be expected, more current data was easier for facility administrators to supply.[29] The data is given in Table D, by facility type.

Table C
AEGIS OF OPERATION, BY FACILITY TYPE

Facility type	*Public*	*Private, non-profit*	*Private, for-profit*
Boarding schools	...	111	...
Child-care facilities	...	6	...
Psychiatric hospitals	...	3	3
Residential treatment centers	...	5	5
Others	...	3	...
Total	...	28	8

Table D
NUMBER OF OUT-OF-STATE CHILDREN REPORTED, BY FACILITY TYPE AND YEAR

Facility type	*1976*		*1977*		*1978*	
	Number reporting	*Number of children*	*Number reporting*	*Number of children*	*Number reporting*	*Number of children*
Boarding schools	10	499	10	548	10	449
Child-care facilities	6	103	6	63	6	6
Psychiatric hospitals	5	53	6	64	5	11
Residential treatment centers	7	185	10	356	8	105
Others	2	8	3	15	2	4
Total	30	848	35	1,045	31	575

The table clearly shows that the largest number of out-of-state children placed in Texas facilities are in boarding schools. The residential treatment centers, some of which have been successfully operating for several decades and have widespread favorable reputations, rank second in the number of out-of-state admissions. Between 1976 and 1977, all but child-care facilities experienced an increase in the number of out-of-state admissions. A similar trend appears evident for fiscal 1978.

Of the 1,045 out-of-state placements accepted in Texas facilities in fiscal 1977, 128 or about 12 percent of the total were paid for, according to facility operators, by the CHAMPUS program. Table E gives the findings concerning the number of CHAMPUS-paid placements in fiscal 1977, by facility type.

Only psychiatric hospitals, residential treatment centers, and a maternity home (other) received CHAMPUS money. This finding seems consistent with the focus of the CHAMPUS program and the types of services provided by the facilities.[30]

Very few out-of-state placements received in Texas facilities were arranged through interstate compacts. Of course, boarding school placements are not subject to these compacts. However, even after excluding boarding schools from consideration, this finding persists as a common characteristic of receiving facilities in Texas. Review of Table F substantiates this observation. Compact-arranged placements totaled 54 during fiscal 1977 and represent less than 6 percent of all placements and only 11 percent when boarding schools are not considered. Many facility operators "report" all out-of-state placements, whether compact placed or not. This, they believed, put them in compact compliance. The only compacts reported to have been used were the Compact on Juveniles and the Placement Compact.

Table E
RELATIONSHIP OF CHAMPUS PAID PLACEMENTS TO OUT-OF-STATE ADMISSIONS BY FACILITY TYPE

Facility type	*Number of fiscal 1977 out-of-state admissions*	*Number of CHAMPUS-paid placements*
Boarding schools	547	...
Child-care facilities	63	...
Psychiatric hospitals	64	28
Residential treatment hospitals	356	97
Others	15	3
Total	1,045	128

Table F
RELATIONSHIP OF INTERSTATE COMPACT-ARRANGED PLACEMENTS TO OUT-OF-STATE ADMISSIONS, BY FACILITY TYPE

Facility type	*Number of out-of-state admissions*	*Number of compact-arranged placements(a)*		
		Placement compact	*Juvenile compact*	*Mental health compact*
Boarding schools	547	...	...	...
Child-care facilities	63	34	1	...
Psychiatric hospitals	64	...	...	...
Residential treatment centers	356	17	...	...
Others	15	2	...	...
Total	1,045	53	1	...

(a) Known to receiving facilities' operators.

Only a very small number of the out-of-state placements accepted in Texas receiving facilities were sent by public agencies such as courts, county social service agencies, and local mental health centers. Considering data about all facility types, the survey indicated that the 1,045 out-of-state placements accepted in Texas facilities were sent by the following referral sources: 15 percent by public agencies, 0.1 percent by private sectarian agencies, 0 percent by private nonsectarian agencies, and 84.9 percent by parents or legal guardians.

Table G shows that the public agency-arranged placements are mostly in residential treatment centers. However, for a fuller

understanding of the data about referral sources, it is important to realize that, in several instances, facility administrators reported that certain placements were actually arranged where the parents of a child would receive the assistance (sometimes the urging) of courts and local social service agencies in identifying and arranging for placements in out-of-state facilities. In such cases, only parental involvement is reflected in the data.

Sixty-four percent of the out-of-state placements accepted in Texas facilities in fiscal 1977 were children with home residences in states within the United States, mostly from California, Colorado, Illinois, Kansas, Louisiana, New Jersey, New Mexico, and Oklahoma. Table H provides aggregate information that distinguishes between children's residences in states and foreign countries, by facility type. Of special interest was the large number of children from foreign countries that were accepted in Texas facilities, especially in boarding schools.

Table G
NUMBER OF OUT-OF-STATE CHILDREN, BY FACILITY TYPE AND REFERRAL SOURCE

Facility type	*Referral source*				
	Public agencies	*Private sectarian agencies*	*Private nonsectarian agencies*	*Parents or legal guardians*	*Unknown*
Boarding schools	11	...	...	536	...
Child-care facilities	7	...	...	56	...
Psychiatric hospitals	2	8	...	54	...
Residential treatment centers	113	...	...	88	155
Others	...	3	...	7	5
Total	133	11	...	741	160

Table H
NUMBER OF CHILDREN FROM OTHER STATES AND FOREIGN COUNTRIES, BY FACILITY TYPE

Facility type	*Number of children from other states*	*Number of children from foreign countries*
Boarding schools(a)	264	329
Child-care facilities (b)	58	11
Psychiatric hospitals	62	2
Residential treatment centers (c)	224	9
Others	15	...
Total	623	349

(a) Data included for one boarding school represents fiscal 1978.
(b) Data included for one child-care facility represents fiscal 1976.
(c) Data for one residential treatment center was unavailable.

This same data has been further organized by facility type, states, and foreign countries in Table I for a more complete understanding of placement practices.

Considering all types of facilities visited, 76 juveniles (8 percent) from out of state were sent from distances less than 50 miles away However, as shown in Table I, bordering states and Mexico did place a disproportionate number of children in Texas facilities.

Table I
NUMBER OF CHILDREN FROM OTHER STATES AND FOREIGN COUNTRIES, BY GEOGRAPHICAL AREA OF ORIGIN AND FACILITY TYPE

States	*Boarding schools*	*Child-care facilities*	*Psychiatric hospitals*	*Residential treatment centers*	*Others*	*States*	*Boarding schools*	*Child-care facilities*	*Psychiatric hospitals*	*Residential treatment centers*	*Others*
Alabama	2	...	...	4	...	New Mexico	16	9	18	12	...
Alaska	...	...	...	5	...	New York	15	...	1	9	1
Arizona	7	1	1	7	...	North Carolina	7	...	...	...	...
Arkansas	4	3	1	2	1	North Dakota	...	...	...	...	...
California	24	11	...	10	...	Ohio	2	1	2	1	...
Colorado	9	3	2	23	...	Oklahoma	17	6	5	7	1
Connecticut	3	...	...	4	...	Oregon	1	...	...	...	...
Delaware	...	...	...	...	...	Pennsylvania	3	...	...	...	...
Florida	11	...	3	6	...	Rhode Island	...	...	...	...	...
Georgia	4	...	...	2	1	South Carolina	...	1	...	1	...
Hawaii	2	...	...	...	...	South Dakota	1	...	...	2	...
Idaho	...	...	1	...	...	Tennessee	1	...	1	5	...
Illinois	20	3	...	15	1	Texas	...	...	...	...	...
Indiana	3	1	...	9	...	Utah	3	...	...	...	...
Iowa	3	1	2	7	...	Vermont	...	...	...	...	...
Kansas	9	7	4	10	...	Virginia	8	2	...	6	...
Kentucky	3	...	...	2	...	Washington	1	...	1	...	...
Louisiana	27	3	16	28	7	West Virginia	...	...	...	...	...
Maine	1	...	...	...	...	Wisconsin	1	...	...	1	...
Maryland	2	2	...	2	...	Wyoming	1	...	...	...	...
Massachusetts	1	...	...	...	...	Dist. of Col.	...	...	...	...	...
Michigan	7	1	2	9	2						
Minnesota	7	...	...	2	...	Africa	16	...	...	...	...
Mississippi	6	...	1	4	...	Asia	10	1	...	...	...
Missouri	8	3	1	7	...	Canada	1	1	...	1	...
						Caribbean	...	...	...	...	...
Montana	...	...	...	15	...	Central America	16	...	...	...	...
Nebraska	...	...	...	...	...	Europe	12	1	...	...	...
Nevada	2	...	...	...	...	Mexico	188	8	1	5	...
New Hampshire	1	...	...	...	...	Middle East	53	...	...	1	...
New Jersey	21	...	...	5	1	Pacific	2	...	...	...	...
						South America	30	...	1	1	...

Among the 36 facilities visited, there were no significant differences concerning the types of problems characterizing both the juveniles admitted from Texas and out of state. Furthermore, each type of problem listed in the survey was reported characteristic of at least one facility's population. Mental illness and/or emotional disturbance was, however, the most common problem. In several facilities (15), the "Other" category was checked and the problems most commonly specified included behavioral acting-out, family conflicts, and educational needs.

Nineteen of the 36 facilities reported commingling either juveniles adjudicated to be abused, dependent, or neglected children, or delinquent, status, or youthful offenders. This finding should not be interpreted to mean that the remaining 17 facilities did not commingle juveniles with different legal statuses. Instead, these other facilities either did not accept adjudicated children or did not know the legal status of their population.

The most common characteristic of all facilities was one of only subjective knowledge about the legal status of the juveniles they

admitted. Several administrators were relatively unfamiliar with the juvenile justice system and the terminology used to define children under its jurisdiction. Typically, these adjudicatory classifications were perceived as unimportant or not applicable to the daily operations of their facilities. As a group, boarding schools intentionally accepted no adjudicated children. Those facilities that may have admitted such children maintained no records to substantiate it. Thus, these facilities were commonly unable to report the actual number of children adjudicated in certain legal categories or to further distinguish them by the nature of the placement and the referral source.

Although estimates instead of actual numbers were most common, most facilities were able to supply information about the sex, race, age upon admission, and length of stay for children admitted during the year. Due to recordkeeping practices, estimates were almost always used to differentiate characteristics between in-state and out-of-state admissions. Table J was developed to report those characteristics of fiscal 1977 out-of-state admissions, by facility type. Review of Table J reveals that males out-number females in most types of facilities; that while the majority of out-of-state admissions are white, Hispanics comprise a relatively large proportion of the total; that admission ages vary on the average from 11.9 years to 16 years; and that the average lengths of stay ranged from 2.6 months in psychiatric hospitals to 26.4 months in boarding schools.

When comparisons are made among those characteristics of out-of-state admissions and those from Texas, no major differences can be discerned. Other than larger numbers of in-state admissions (69 percent of the total), the types of children admitted and their length of stay in the facilities are quite similar.

Of the 32 facilities that responded to this question, over one half (17) had no sliding-fee scales. An examination of those 15 facilities that reported a variance in the per diem rates showed that six noted a difference among the rates received for in-state and out-of-state children. Table K gives information, by facility type, for the average minimum, average maximum, and average per diem rate received for both in-state and out-of-state residents. The number of facilities with no range in per diem rates are also included in Table K.

Table J*
DISTRIBUTION OF OUT-OF-STATE ADMISSIONS, BY FACILITY TYPE, SEX, RACE, AVERAGE ADMISSION AGE, AND AVERAGE LENGTH OF STAY

Facility type	Sex		Race				Average admission age (years)	Average length of stay (months)
	Males	Females	White	Black	Hispanic	Oriental		
Boarding schools	299	168 (8)	116	4	133	8 (6)	15 (8)	26.4 (9)
Child-care facilities	57	12 (6)	16	4	9	1 (5)	13.3 (5)	20.1 (6)
Psychiatric hospitals	34	16 (5)	41	2	7	... (5)	11.9 (4)	2.6 (6)
Residential treatment centers	249	97 (10)	277	23	8	9 (8)	12.8 (10)	16 (9)
Others	...	15 (3)	13	1	1	... (3)	16 (3)	3.7 (3)
Total	639	308	475	34	158	18	14.7	15.4

*The numbers in parentheses represent the number of facilities reporting.

Table K*
RANGE OF PER DIEM PAYMENTS, BY FACILITY TYPE

Facility type	Average minimum per diem	Average maximum per diem	Average rate received	Number of facilities with flat per diem
Boarding schools	$ 13.00	$ 21.00	$ 15.00	8
Child-care facilities (a)	4.00	13.00	4.00	4
Psychiatric hospitals	121.00	159.00	122.00	3
Residential treatment centers	46.00	75.00	51.00	3
Others	1.00	10.00	3.00	2

*Data rounded to nearest dollar.
(a) Three facilities in this category charged no fees.

When facilities reported a variance in the per diem rates they received for juveniles, they were asked to discuss the basis for such differences. Most explained that the differences were a result of an appraisal of a parent's ability to pay. Those facilities typically received Title XX monies, donations, or scholarships to assume such costs. In a few cases, usually in specialized residential boarding schools or psychiatric hospitals, the basis for a difference in per diem rates was founded upon the types of services received. For example, children who received more specialized, professional services were charged higher per diem rates.

Table L shows the relationship between the most commonly ranked sources of per diem payments to the five categories of facility types. Each source was ranked on the basis of the amount of funds in per diem payments a facility received during the fiscal year in consideration. Although Table L establishes definite patterns among the ranked sources of per diem payments, this data is more illustrative than absolute. Sometimes facility administrators were unable to report fiscal information in the manner requested or only with very rough estimates. The usual cause associated with this difficulty concerned a lack of knowledge about original funding sources or the relative contributions made by multiple contributors to a single per diem payment. For example, a child's parents may typically have made per diem payments to a particular facility, but later received partial or complete reimbursement from an insurance company.

In addition to the fiscal information discussed above, an attempt was made to determine how much of the total revenue received in each facility consisted of per diem payments. When compared to the preceding lines of fiscal inquiry, this type of information was more readily available through minimal interpolation of fiscal records. Table M gives the percentage of per diem payments relative to the total revenue received, by facility type.

Obviously, boarding schools, psychiatric hospitals, and residential treatment centers operate with heavy reliance upon per diem payments as their largest single source of revenue. Child-care facilities, such as orphanages and children's homes, generally rely primarily upon sectarian and private philanthropy.

Basic descriptive information relating to the architectural and programmatic features of each facility was requested, with particular attention given to characteristics associated with security measures. Very few of the facilities visited could be called secure when compared to traditional juvenile justice facilities. However, the movement of juveniles is usually monitored by staff members. In some instances, especially

Table L
RANKED SOURCES OF PER DIEM PAYMENTS, BY FACILITY TYPE

Facility type	Ranked sources of per diem payments
Boarding schools	Parents, sectarian agencies
Child-care facilities	Parents, state and local departments of finance, Social Security
Psychiatric hospitals	Private insurance companies, CHAMPUS, parents
Residential treatment centers	Parents, private insurance companies, departments of finance
Others	Parents, sectarian agencies

Table M
AVERAGE PERCENTAGE OF REVENUE FROM PER DIEM PAYMENTS, BY FACILITY TYPE

Facility type	Average percentage of revenue from per diem payments
Boarding schools	87
Child-care facilities	12.5
Psychiatric hospitals (a)	89
Residential treatment centers	98
Others	7

(a) All but one psychiatric hospital listed per diem payments as their only source of revenue.

in boarding schools, security measures were established in order to keep persons out of certain buildings rather than to keep them confined. A typical example would consist of security screens placed on windows of the girls dormitory in order to prevent boys from entering during unsupervised hours.

Table N provides information about the most typical architectural and programmatic features found associated with Texas facilities, by facility type. The list included with the survey was usually adequate to describe each facility. However, in two instances, both of which were child-care facilities, staff paddled residents as a control measure. In another facility, a psychiatric hospital, medication was administered in order to facilitate the behavioral control of residents.

In every facility, administrators were asked to rank, in the order of their importance, the services provided by the facility. Table O gives the findings from this question for the four most common ranked services, by facility type.

Table N
TYPICAL PROGRAMMATIC AND ARCHITECTURAL FEATURES, BY FACILITY TYPE

Facility type	*Typical programmatic and architectural features*
Boarding schools	Access to the community without supervision (no monitoring for all residents, and staff responsibility for monitoring the movement of juveniles.
Child-care facilities	Staff and peer group responsibility for monitoring the movement of juveniles.
Psychiatric hospitals	Locked doors leading outside facility, special security hardware, and isolation room for discipline or protection.
Residential treatment centers	A few with locked doors and special security hardware, but most had staff responsible for the movement of juveniles.
Others	All had some type of minimal security measures, including one with locked doors and security screening.

Table O
TYPICALLY RANKED SERVICES, BY FACILITY TYPE

Facility type	*Typical sequence of service ranking*
Boarding schools	Educational services, residential services, religious development, recreation, and social development.
Child-care facilities	Residential services, milieu therapy, recreation, and social development.
Psychiatric hospitals	Milieu therapy, psychological evaluation, individual therapy, and residential services.
Residential treatment centers	Milieu therapy, residential services, individual therapy, and family counseling.
Others	Individual therapy, physical health maintenance and care, and residential services.

The relationships between the relative ranking of services and the personnel and service delivery patterns were closely correlated in all facilities. Table P provides a profile of facility personnel and indicates the typical weekly hours of services provided in each category. In addition, any unusual or special characteristics of particular types of facilities are noted in the commentary.

Table P
PERSONNEL AND SERVICE DELIVERY PROFILE, BY FACILITY TYPE

Facility type	*Personnel and service delivery profile*
Boarding schools	Personnel included mostly full-time educators, and a few social workers or school psychologist. Usually had a doctor on-call and a full-time nurse. Some focused programs toward teaching English to Spanish-speaking children. Typical child received 40 hours a week of educational instruction and one to three hours of academic and vocational counseling.
Child-care facilities	Staffing patterns reflected heavy emphasis on social workers and child-care workers. Some maintained psychologists and psychiatrists on call or as part-time employees. Typical child received several hours a week of individual, group, and family counseling. Most had an educational program, usually remedial in focus.
Psychiatric hospitals	Psychiatrists, psychologists, social workers, and health professionals were included as key staff. The typical child received 4 to 5 hours a week of psychiatric therapy, psychological testing, and individual, group, and family counseling.
Residential treatment centers	Staffing patterns varied. Usually educators, psychiatrists, health professionals, social workers, and psychologists were represented in the facilities on some basis. Most had an educational program, typically vocational or remedial in scope. Compared to other facility types, centers placed greater emphasis on group counseling.
Others	Facilities in this category were maternity homes. Thus, health professionals and social workers formed most of the staff. The typical child received 4 to 5 hours per week of medical service and individual counseling.

Every facility administrator was asked why juveniles from other states and foreign countries were placed in his or her facility. Most were delighted to respond and took the opportunity to discuss various special attributes of their programs. By far, most administrators believed juveniles from out of state and foreign countries sought a placement in their facility for either of two reasons. First, the sending state or country did not have a facility that offered comparable services. Second, described as equally important, placements resulted from successful prior placements or "word of mouth."

Only 10 of the 36 facilities visited had denied admission to any juveniles from out of state. Decisions not to admit certain juveniles were typically based upon an inability to meet admission criteria or unavailable bed space. Among all facility types, certain admission criteria had been established and were closely adhered to. Several administrators reported denying admission to certain juveniles because they had emotional and behavioral problems that were too serious to handle. Many facilities, especially boarding schools, seemed fairly selective and had lengthy waiting lists for new admissions.

The two most common reasons for returning juveniles were parental requests or the determination that the juvenile was not amenable to the facility's program. However, unsuccessful or unsatisfactory discharges were fairly uncommon in all facilities. Most of the time, out-of-state juveniles successfully completed the facility's program.

The final line of inquiry with these facilities concerned an assessment of potential differences in the application of various procedures and policies among in-state and out-of-state juveniles. Overall, very few differences were identified among the 36 facilities. However, the differences reported were:

1. On-site visits to inspect the facility prior to actually placing a juvenile are more common with in-state placements. Significant differences with respect to this procedure were reported in seven facilities.
2. Interstate juveniles are afforded pre-admission visits to a facility more often than juveniles from out of state. Differences were identified in seven facilities, two of which reported that out-of-state juveniles never receive pre-admission visits.
3. In two cases, the facility was required to report out-of-state admissions to a state regulatory agency, but did not have to inform the agency of in-state admissions.
4. Facility arrangements for aftercare placement varied in three facilities because of a juvenile's state of residence.

5. Major differences were reported in eight facilities with respect to the frequency of parental visitation.

6. Other differences involved the frequency of on-site visitation to monitor the facility and the juvenile's progress. Such visits were more common with in-state juveniles, with major variations reported in eight facilities.

SUMMARY OF DATA

Population

State officials knew of 19 children that were placed in out-of-state residential facilities in fiscal 1977. This information appears in Table Q and is organized by reporting state agency. In each case, the information came from individual case records maintained in interstate compact offices. The number of children placed out of state without compact intervention was unknown to state officials. There were 13 children sent out of state through the Placement Compact, four through the Juvenile Compact, and two under the Mental Health Compact. Descriptive information about these children was not readily available and would have required a review of individual case records in the compact offices.

Table Q
REPORTED NUMBER OF TEXAS CHILDREN SENT TO OUT-OF-STATE RESIDENTIAL FACILITIES IN 1977, BY STATE AGENCY*

Reporting state agency	*Number of children reported sent*
Texas Youth Council	4
Department of Human Resources	13
Texas Education Agency	...
Department of Mental Health and Mental Retardation	2
Total	19

* The study found no Texas children placed in Illinois residential facilities and four in North Carolina, all of whom were in boarding schools.

Predicated upon comparable information available in the interstate compact offices, state officials reported 189 out-of-state children accepted in residential facilities in fiscal 1977; 176 children were received through the Placement Compact and 13 by the Juvenile Compact. As with sending data, these offices possessed a limited capability to report more detailed information about the out-of-state children received in Texas.

An extensive survey of receiving facilities found 1,128 out-of-state children were accepted in residential facilities in fiscal 1977. There were 559 in boarding schools, 84 in child-care facilities, 73 in psychiatric facilities, 364 in residential treatment centers, 18 in maternity homes, and 30 in foster homes.

The 559 children placed in boarding schools accounted for about 50 percent of the out-of-state children received in all facilities which are not subject to compact intervention. Another 73 children (about 6 percent) were placed in private psychiatric hospitals, again not subject to the compacts. After excluding those from the total, the number of out-of-state placements subject to compact intervention includes 496 children. Compact officials still only knew of 38 percent of the out-of-state children received.

Out-of-state children accepted in Texas facilities had home residences in most parts of the world. Thirty-six percent were from foreign countries, mostly Mexico, but some were from countries in the Middle East, South America, and Africa. Typically, children from foreign countries, as well as those from this country, were voluntary placements to facilities that offered services not available in their home residences.

Procedures and Practices

If children under the custody of a Texas state agency are sent to out-of-state residential facilities, it is usually to maintain relationships with foster care parents that have moved out of state or to facilitate an adoption. In any circumstance, an appropriate interstate compact is used to arrange the placement. In practice, however, the interstate placement of children is discouraged and is virtually prevented. An administrative policy prohibits the expenditure of state revenue to purchase services from out-of-state vendors.

Although the fiscal resources are commonly scarce, local government agencies are not bound by similar procedural practices. While the full extent was not determined, some county juvenile courts and child welfare agencies were reported to ordinarily avoid compact intervention when sending children out of state. It is further understood that parents and certain private agencies place children out of state through informal networks and in response to the advertising practices of receiving facilities.

The research showed that most attention should be centered upon DHR and the facilities the department licensed. By far, the majority of receiving facilities and their practices are regulated by the standards established by this department, although enforcement appears to be in the developmental stages. For example, these facilities are required to maintain records regarding the number of out-of-state children they accept. However, DHR does not yet systematically collect this information. State law also requires agencies sending children to Texas institutions to send them only after receipt of permission from the commissioner of DHR or through an interstate compact.

The Licensing Branch of the DHR indicated that most receiving facilities are or will be licensed, or are under some type of judicial sanction. A strong challenge to this practice is currently being conducted by a network of evangelistic facilities estimated to accept large numbers of children from Texas, other states, and foreign countries. The practices of the facilities operated by this religious organization are not regulated by DHR or any other governmental agency. As a result, their administrator has been summoned to court by DHR for a judicial order that would force licensure compliance. The facility operator claims that their operations are not subject to governmental regulation because of the constitutional provision regarding separation of church and state. The decision in this case may have a significant impact upon licensing laws in Texas. The Texas Supreme Court has upheld a lower court ruling in this case in which it found no basis for excluding these facilities from state government licensing. At present, the administrator of these evangelistic facilities is appealing the decision to the U.S. Supreme Court.

Another issue related to effectiveness of regulation is both the degree to which facilities maintain records concerning the receipt of children from out of state, and the extent to which the compact or the approval of the DHR commissioner is used for placing children in Texas private facilities. Although loss of license through judicial action threatens facilities not meeting these requirements, noncompliance was occurring.

Other special procedural problems identified through an analysis of survey data and information received from Texas state officials include:

1. The practice of informing the Placement Compact office, after the fact, when out-of-state placements are accepted.
2. A lack of specific monitoring staff to assure maintenance of standards articulated by the DHR compact staff.
3. Lack of plans by the placing agency to prepare a child for return to the sending state.
4. Lack of communication between the residential facility and the compact agencies when a termination of an out-of-state placement is made.

Services

Texas officials indicated that children are sent out of state mostly for adoptions, changes in foster parents' residence, placements with relatives, and other reasons not germane to this study. It was further reported that out-of-state placements were used because the facilities were located close to the child's home community or sometimes to maintain a specific separation between the child and his family and friends. In most of these cases, the major service being purchased is simply residential care. A few other placements were made to well-known facilities with reputations for psychiatric services and milieu therapy.

Other than to suggest that children are placed in Texas facilities for services not available in their home states, and to suggest a few important receiving facilities, Texas officials had only sketchy information concerning services being received specifically by out-of-state children. This kind of information was acquired in the facility survey.

Texas boarding schools typically provided educational, residential, religious, recreational, and social development services. Residential treatment centers, especially three key facilities, accepted a relatively large number of children from other states for services focused on milieu therapy, with some individual and group counseling. Specialized psychological and psychiatric services were given in psychiatric hospitals. Services related to maternity were purchased for the remaining children from out of state.

Fiscal Data

As required by administrative policy, state revenue was expended for the purchase of only a minimal number of residential placements in other states. Typically, services purchased from out-of-state residential facilities must be funded from county general revenues or private resources. Specific cost data that would represent any portion of Texas public or private expenditures for out-of-state placements was simply not available.

The survey of residential facilities identified some important fiscal data regarding services purchased in Texas by other sending states and countries. The average per diem rates received from out-of-state children ranged from $3 in maternity homes to $122 in psychiatric hospitals. Residential treatment centers received per diem payments of $51 for the average child, child-care facilities averaged $4, and boarding schools about $15.

Twenty facilities visited had no sliding scale fee. Six facilities received different per diem amounts—sometimes over several dollars a day—from in-state and out-of-state children. These different rates were a result of sending agency policy and not representative of higher charges based upon a child's state of residence.

In most receiving facilities, the per diem payments accounted for a significant portion of all revenue amounts. This finding was especially characteristic of boarding schools, psychiatric hospitals, and residential treatment centers. The other types of facilities were receiving supplemental income from Title XX, donations, and private gifts. Further, CHAMPUS funds and payments from private insurance companies were received by some facilities, in addition to per diem payments from public and private sources.

DATA COLLECTION ISSUES

Sending State Data Problems

The only state agency information retrievable about children placed out of state came from case records maintained by interstate compact administrators. This information was not aggregated in any manner, and did not include much data pertinent to this study. For instance, the records did not mention the reasons for the out-of-state placements, whether the placements were voluntary or involuntary, the adjudicatory history of the children, or the amounts paid for per diem charges.

This study suggests that a greater number of Texas children are placed in out-of-state residential facilities than are known to compact or other state officials. Even though Texas law requires all agencies to send children out of state through one of the interstate compacts, this does not occur. The compact administrators do not receive information for all children placed, despite the fact that an agency placing a child out of state could jeopardize its license by not going through an interstate compact.

The sample survey of county juvenile courts and child welfare agencies produced information about local sending practices that were not reported to any office in state government. In addition, the study suggested that a number of out-of-state placements were arranged under private auspices without any direct governmental intervention or knowledge. The Placement Compact respondents claim their major problem is that both courts and agencies avoid the Placement Compact by making direct or independent placements. They attribute this practice to a lack of knowledge concerning the fact that even if parents retain custody rights, placements still must be made via a compact.

Receiving State Data Problems

State officials commented about the number of out-of-state children in Texas facilities in terms that did not lead directly to quantification. For example, most persons indicated the number was not as large as in previous years and would confidently identify receiving facilities that had maintained some out-of-state business. In each instance, responses were based upon experience rather than more systematic forms of data collection. Surveys, sampling data, on-line information systems, or other comprehensive recordkeeping practices that could indicate the actual number of out-of-state children accepted in Texas facilities were not existent.

Even though DHR licensing standards request facilities to maintain monthly records regarding the number of out-of-state placements they accept, this information (if recorded as required) is not routinely collected by the department. Therefore, the only retrievable data in state government about the number of out-of-state children received represents occasions when compacts are utilized. The study showed rather convincingly that very few out-of-state children are placed in Texas facilities under an interstate compact. Thus, information that is accessible in state government would provide a fairly narrow view of the out-of-state children placed in Texas facilities.

The best source of information about the number of nonresident children accepted in Texas facilities is the facilities themselves. However, even that source had its limitations. A comprehensive and current directory of possible receiving facilities was not available and had to be created from several sources, including telephone directories. In addition, the computer-generated list of names and addresses of foster homes was about 2 percent accurate. Because of the unique reimbursement procedure in which social welfare services are paid in Texas, the computerized list only included foster care residences in sparsely populated counties.

Further data collection problems were experienced because facility administrators sometimes overestimated, during the telephone survey, the number of out-of-state children they had accepted in 1976, 1977, and 1978. They could not differentiate between in-state and out-of-state children through routine recordkeeping practices. Most information concerning specific characteristics of out-of-state children was estimated from memory. Of course, personal recollection worked better in smaller facilities. Except for reporting per diem charges, discrete fiscal data was frequently inaccessible, especially information about the original sources of per diem payments. Other data especially relevant to this study often required a terminology only vaguely familiar to some facility administrators. Thus, the adjudicatory history of out-of-state children was never substantiated in actual records.

A special data collection problem experienced in Texas was an inability to include information about the organization of a particular network of evangelistic facilities in the receiving facility survey. The facility administrators would not agree to participate in the survey because of litigation pending between them and DHR. The information that was given indicated the operation of two evangelistic facilities for juveniles, which includes numerous out-of-state children. One facility's administrator reported denying admission to over 3,000 children in fiscal 1977. He would not indicate the number of out-of-state children accepted during that period, but according to newspaper accounts it could be as high as 400. Therefore, the actual number of out-of-state children accepted in Texas residential facilities may considerably exceed the reported figure of 1,116.

FOOTNOTES

1. For most Texas agencies, especially those in state government, fiscal 1977 included the period September 1, 1976, to August 31, 1977.
2. U.S. Bureau of the Census, *Statistical Abstract of the United States: 1976* (Washington, D.C.: 1976).
3. Ibid., pp. 904-909.
4. Texas Mental Health Code, Sec. 5547-16, 1969 Civil Statute.
5. See Ch. 25, Sec. 2501-09.
6. Texas Rev. Civil Stat. Ann., Article 695a-2.
7. Texas Family Code, Sec. 51.03.
8. Ibid.
9. Ibid.
10. Ibid., Sec. 54.04.
11. Texas Revised Civil Statutes Annotated, Art. 695a-3.
12. Ibid.
13. Ibid., Art. 694a-2.
14. Texas Rev. Civ. Stat. Ann., Art. 695a-5.
15. Texas Education Code, Sec. 16.051 and 16.053.
16. Under the authority of H.B. 321 (September 1, 1977), and 56th Legislature (1959), reaffirmed in 1969.
17. Specified in 302.03.02.001-0.29 of the "Rules of the Commissioner of Mental Health and Mental Retardation" under Art. 5547-95A, V.A.C.S. and Art. 5547-202, Sec. 2.12(a), V.A.C.S.
18. See the previous discussion on Law of the State and Chapter 4 for a full discussion of Texas law and specific compact provisions.
19. Although not placed in fiscal 1977, this survey found four children residing in out-of-state facilities.
20. Actually, 66 out-of-state placements were reported; however, 49 children were placed for adoption or with relatives and, thus, not relevant to the study.
21. This data does not represent the full fiscal 1977. Instead, it included the period from January 1, 1977 to September 30, 1977.
22. Texas Rev. Civ. Stat. Ann., Art. 695a-5.
23. *Principal Standards and Procedures for the Accreditation of School Districts*, Office of Planning and Evaluation, Texas Education Agency; based upon H.B. 1126 (1964 Texas legislation).
24. *Rules of the Commissioner of Mental Health and Mental Retardation.*
25. No data was accessible from the DHR for an actual fiscal year count under the Placement Compact. The data supplied by this agency actually represents January 1, 1977, through September 1, 1977; however, the information is included for purposes of comparability.
26. This number was not added to the total number of children reported received in the earlier discussion because it may largely amount to a duplicated count. In other words, many of the same children could have been reported by DHR.
27. See Chapter 5 and the next case study for a fuller discussion of the Federal Bureau of Prisons' practices with respect to interstate placement of children.
28. The survey was conducted with facilities drawn from the following: *Licensed Hospitals in Texas*, 1977; *Directory of Child Welfare Resources*, 1975; *Accredited Boarding Schools in Texas*, 1977-78; *Non-Public Schools for Exceptional Children*, 1977-78; and *List of Vendors to the Texas Youth Council.*
29. Not all facilities responded, because the initial facility visits did not include a question about fiscal years 1978 or 1976. The fall-off in N size may not be due to data accessibility or to annual variances in placing practices, but may be due to the inadequacy of the early Form #008.

30. Because CHAMPUS reimburses third-party payers, the number of CHAMPUS-paid placements may be underreported in many instances. It is likely that facility administrators were actually estimating CHAMPUS funding in a number of cases. At the same time, the number of children reported by psychiatric hospitals and residential treatment centers probably include some developmentally disabled or other children placed for purely medical reasons, when measured by CHAMPUS criteria.

FEDERAL AGENCIES INVOLVED IN SENDING JUVENILES

As interviews were conducted in receiving facilities, particularly in Texas, it became apparent that a number of juveniles admitted did not come from or through state agencies. Instead, the responsible public agencies were part of the federal government. Although outside the literal scope of the project, the questions raised seemed sufficiently legitimate to warrant further investigation. Three agencies were investigated in order to better understand the circumstances surrounding their placement activities, namely, the Bureau of Indian Affairs, the Bureau of Prisons, and CHAMPUS.

BUREAU OF INDIAN AFFAIRS

The Bureau of Indian Affairs (BIA) is located within the U.S. Department of the Interior. The bureau operates an extensive social service program (in excess of $80 million annually) for the benefit of Indians living on or near reservations throughout the country.

The bulk of its social service budget is expended in general assistance. Indians are eligible for assistance under the Social Security Act, including AFDC, AFDC-FC, and SSI, on the same basis as non-Indians. In addition, BIA provides, through its 11 area offices and staff located on reservations, a wide range of services to children, families, and elderly Indians, including counseling, foster and institutional care, and facilitating the acquisition of state and local welfare services for Indians living in those respective jurisdictions.

Most child welfare assistance and services programs available to Indians residing on or near traditional reservation settings are provided directly by BIA or by tribes through contract with BIA. In some instances, BIA has contracted with certain state departments of public welfare for the provision of foster care to Indian children.

Because of the unique character of Indian tribes and their tribal lands in relationship to federal, state, and local governments, the role of BIA is rather precisely circumscribed. It is, therefore, important to understand the nature of that situation to place the bureau's role in perspective.

Indian reservations were created, mainly in the nineteenth century, through federal treaties and land grants. By those documents, Indians were given a measure of self-determination and autonomy. However, it is by no means complete, when measured by economic, political, or jurisdictional standards. Tribes do maintain tribal courts that have jurisdiction over most offenses committed on reservations. However, serious felonies, committed by either adult or juvenile Indians, must be referred to federal district courts. Indians who are charged with offenses which occurred off the reservation are legally under the jurisdiction of state and local courts. In those cases where Indian children are found to be delinquent by federal courts, they are referred to the Bureau of Prisons; in cases where they are adjudicated by local or state courts for either a status or a criminal offense, they will receive whatever services are available to such courts, or they will refer such children back to tribal courts or social service departments. BIA will not intervene in either those cases heard by federal district courts or by local and state courts, unless ordered to do so. It will only provide services to children referred to it from tribal courts or to those children who, individually or through their families, request services, which could include foster care or institutionalization.

As a general rule, tribal courts request that BIA find placements mainly for abused, dependent, or neglected children. However, in some instances, children are referred for school truancy or acts of delinquency. In cases of self-referral, or referral by parents, the reasons may have more to do with physical or mental handicaps, or with family breakdown.

When foster care is indicated, BIA staff on the reservations first explore the feasibility of foster homes rather than institutional care. In fiscal 1976, over one half the children receiving residential care were placed in foster homes (1,391 out of 2,546). BIA generally uses foster homes on or near Indian reservations and, whenever possible, with Indian families. In some isolated cases, when particular reservations like the Navajo Reservation extend into two or three states, it is possible that an Indian child might be placed on, or just off, his reservation, and actually be in another state. But this does not appear to be very relevant, either in terms of frequency or importance to this research.

More traditional facilities were used fairly often for a variety of reasons. These placements do not occur as a result of court orders; rather, they result from social casework decisions and at the request of either the children or their families, or both. In either event, the parents must consent to the placements. In fiscal 1976, over 93 percent of the institutional placements were made in the states of residence: 73 out of 1,165 institutional placements were made out of state. Although BIA could not provide a breakdown of the reasons for the out-of-state placements, it could provide statistical data on the total number of in-state and out-of-state placements for fiscal 1976. These figures are reflected in Table A.

Table A
BUREAU OF INDIAN AFFAIRS STATISTICS
CHILD WELFARE FOSTER CARE COSTS
(Fiscal 1976)

Reason for placement	*Number of children*	*Total annual cost*	*Average monthly cost*
Foster care	1,391	$2,145,336.10	$128.53
Mental facilities	415	2,274,695.10	456.77
Blind and deaf	65	330,847.26	424.16
Dependent	331	1,142,532.52	287.65
Delinquent	181	1,253,062.52	576.92
Maternity	28	160,848.11	478.72
Other	146	560,465.08	319.90
Total institutional	1,165	5,772,450.59	424.02
Special needs	210	142,612.39	56.59
Total	2,766	$8,010,399.08	$241.34

As stated earlier, only 73 of the 1,165 children placed in institutions were placed out of state. Out of the total budget of $8,010,399.08, it was estimated that about $400,000 was expended for out-of-state placements. In conversation with BIA officials, it was noted that there are no facilities for Indian blind or deaf children anywhere in Alaska. Also, there is some negative stigma still attached in many tribes, particularly those in Alaska and Arizona, to pregnancies among unmarried Indian women. It is probable that a larger proportion of the out-of-state placements would be for these reasons.

In fiscal 1976, the 73 children so placed were sent to 16 facilities in five states. The same facilities were used in fiscal 1977 for 82 Indian children, as reflected in Table B.

Another unit within BIA, the Division of Elementary and Secondary Education, maintains an Office of Indian Education Programs which oversees the operation of a network of Indian boarding schools throughout the country. While a number of them are on reservations, many of these schools are located on federal non-Indian lands. These facilities are predominantly secondary schools, although there are some at the elementary and junior high school levels. The schools are used primarily to provide education for Indian children who live in such sparsely populated areas that schools are not maintained closer to their homes. In some cases, the BIA Social Service Program will refer children to the Office of Indian Education Programs, for placement in a boarding school. When this occurs, it is apparent that reasons other than education are present. The reasons, according to BIA officials, have mainly to do with either problems of family disintegration or with the desires of certain children to have greater exposure to courses on Indian heritage.

The bureau maintains 15 boarding schools, none of which are located in the three test states. For better comprehension, their locations and other information are nevertheless listed in Table C.

The BIA Division of Elementary and Secondary Education apparently does not record data relative to the status of the students' origins. Instead, such records are recorded according to tribes or reservations of origin. As frequently occurs, reservations cross state lines, sometimes occupying parts of three or four states. Since some of the school rosters identify over 50 tribal origins of their student bodies, it seemed pointless, at least at this juncture, to proceed with a process of translating reservations to state data.

Table B
BUREAU OF INDIAN AFFAIRS STATISTICS
OUT-OF-STATE PLACEMENT FACILITIES
(Fiscal 1976 and 1977)

State	*Facilities*	*1976*	*1977*
Arizona	Intermountain Youth Center Tucson, Arizona	30	30
	Center for Youth Development and Achievement Tucson, Arizona	13	13
	Chazen Institute Tucson, Arizona	4	4
	Florence Crittenden Phoenix, Arizona	1	1
	Jewish Family Services Phoenix, Arizona	1	1
	Patterdale Phoenix, Arizona	12	20
California	Father Caspenalas Sacramento, California	1	1
	Wood Lake Sacramento, California	1	1
	Laurel Hills Sacramento, California	1	1
	West Institute of Human Resources Sacramento, California	1	1
	Kate School Clovis, California	1	1
	Westgate Center San Jose, California	2	2
Massachusetts	Perkins School for Blind Boston, Massachusetts	1	1
Texas	Brown School Austin, Texas	2	3
Utah	Utah Blind and Deaf School Ogden, Utah	1	1
	Utah Industrial School Ogden, Utah	1	1
Total		73	82

Table C
BUREAU OF INDIAN AFFAIRS
BOARDING SCHOOL INFORMATION

Name of school	*Location*	*1977 average number of students*	*1977 average annual cost*
Mt. Edgecumbe Indian School	Alaska	318	$ 13,267
Phoenix Indian School	Arizona	594	5,127
Riverside Indian School	California	617	5,582
Albuquerque Indian School	New Mexico	283	7,406
Stewart Indian School	Nevada	401	6,304
Wahpeton Indian School	North Dakota	303	5,499
Seneca Indian School	Oklahoma	103	11,237
Concho Indian School	Oklahoma	256	6,527
Riverside Indian School	Oklahoma	194	10,039
Sequoyah Indian School	Oklahoma	205	9,337
Chilocco Indian School	Oklahoma	312	7,905
Fort Sill Indian School	Oklahoma	181	8,640
Chemawa Indian School	Oregon	206	14,300
Flandreau Indian School	South Dakota	444	5,579
Intermountain Inter-Tribal School	Utah	750	8,331
Total		5,167	$125,080

BUREAU OF PRISONS

The Bureau of Prisons (BOP), located within the U.S. Department of Justice, is charged with the responsibility of providing correctional services to individuals committed or sentenced to it by the U.S. district courts. Technically speaking, the commitment is made to

the custody of the U.S. Attorney General, who delegates such authority to the director of BOP. Adjudications that lead to such dispositions are predicated upon one of several portions of the U.S. Code: Juvenile Justice and Delinquency Prevention Act, Youth Corrections Act, Narcotic Addict Rehabilitation Act, and the penalty provisions related to the specific offenses. Each of the acts limits, by age, its jurisdictional applicability.

However, the ages are not completely mutually exclusive, apparently offering some discretion to U.S. district attorneys for prosecution. A juvenile may be prosecuted under the Juvenile Justice Act if the alleged offense was committed prior to the child's eighteenth birthday. In addition, the defendant must be proceeded against before his twenty-first birthday and may be held under an order of disposition until the age of 22. Under the Youth Corrections Act, a youth must be under the age of 22 (or 26, under certain circumstances) at the time of conviction. The sentence is a flat six years, but no more than four years may be served in the institution. There is a provision, however, for sentences up to the maximum permitted by the statute. Parole may occur at any time, despite the flat-time sentence.

Under the federal Criminal Code, the minimum age of the defendant, at the time of the commission of the alleged act, is somewhat unclear. Any juvenile charged with an act of delinquency, which act would be a crime if committed by an adult, may request that he be tried as an adult (18 U.S.C., Sec. 5032). The U.S. attorney may also make such a motion, without the consent of the juvenile, but only if the juvenile is at least 16 years of age. Therefore, it is theoretically possible for an eight year old to request that he be tried as an adult, and for the request to be granted, since the federal criminal code fails to specify a minimum. The example is, of course, ludicrous, but it does mean that a U.S. attorney may prosecute a relatively young minor as an adult. It is, therefore, possible for persons under the age of 18 to be committed or sentenced to BOP under one of three procedures: (1) as a juvenile delinquent, (2) as a youthful offender, or (3) as an adult criminal.

It is also important to note that BOP categorizes an individual as a juvenile or an adult, not on the basis of age, but on status. That is to say, it recognizes only juvenile delinquents as juveniles, even though it knows its youthful offender and adult populations contain adolescents. Ironically enough, over 70 percent of BOP's delinquency population in fiscal 1976 was over the age of 18. Even so, the examination will focus upon juvenile delinquents.

In January 1975, BOP restricted the confinement of juvenile delinquents to seven federal facilities: Englewood, Colorado; Morgantown, West Virginia; Pleasanton, California; Tallahassee, Florida;[1] Fort Worth, Texas; Lexington, Kentucky (for females only); and later Miami, Florida, when it opened. Morgantown and Pleasanton were co-ed facilities at the time. Transfers of juveniles were made to young adult facilities only when a juvenile presented a serious escape risk or was seriously assaultive and unmanageable. In all of these seven institutions, Youth Act cases and young adults were also confined. The director of BOP began reevaluating this practice, in light of the Juvenile Justice Act of 1974, in the latter part of 1976. As a consequence, in February 1977, the decision was made to remove all juveniles from federal facilities. This meant that BOP staff had to find alternative placement in public and private facilities. The practice of contracting with non-federal facilities was established years ago, as all the younger juveniles (usually 16 and under) were boarded in non-federal facilities whenever possible. It only had to be expanded to older delinquents. The effect, as shown in Table D is self evident.

Table D
BUREAU OF PRISONS
INCARCERATION OF JUVENILES

Date	*Institutionalized*	*Boarded out*
January 1976	N/A	30
January 1977	220	40
January 1978	2	218

The only juveniles presently confined in BOP facilities are two male juveniles: one at the Federal Correctional Center, Butner, North Carolina and the other, a Mexican alien, in California. The reason for these exceptions is that these boys were considered mentally unstable and the bureau was unable to find a suitable place that would accept them, despite numerous requests to state and local, public and private facilities.

Because of the declining number of juveniles over the past six or seven years, BOP has had a long-range goal of removing all juveniles from federal facilities. In January 1977, for example, only 260 cases were juvenile out of a caseload of 30,000. By comparison, in January 1971, there were approximately 500 juveniles under BOP.

The Juvenile Justice Act requires diversion to state authorities, whenever possible. However, certain cases simply cannot be turned over to state authorities. For example, about one fourth of the juvenile caseload consists of Indians who committed serious felonies. An estimated 10 percent is composed of aliens, mainly from Mexico, Canada, and South America. Table E reflects the number of juveniles confined in federal institutions over the past three years, showing both state of residence and state of confinement.

Because BOP rarely uses foster homes, its cost of purchase-of-care placements is fairly high. Finding adequate homes, according to BOP officials, is extremely difficult because many of its juveniles need greater controls and professional help than are normally provided by foster parents. Contract rates charged to BOP for juvenile facilities are given in Table F.

Detention of federally charged juveniles is handled entirely differently from those cases where an adjudication has been made. The arrest and detention of juveniles for federal offenses is the responsibility of U.S. marshals. When a juvenile is apprehended, he is taken to the nearest approved place of detention, usually a county or state juvenile detention facility. At times, it might be in the juvenile quarters of a jail. In either event, the detention will occur within the federal judicial district which has jurisdiction of the case, normally coinciding with the geographical place of arrest. On rare occasions, due mainly to local unwillingness or inability to accept federal prisoners, juveniles will be placed in special juvenile detention facilities within one of five federal facilities. Recent information regarding this practice is given in Table G.

Since out-of-state detention is not tantamount to out-of-state placement, this information is not being incorporated into the aggregated data but is merely being presented for whatever value it may have to the reader.

Table E
SENTENCED FEDERAL JUVENILES CONFINED IN FEDERAL INSTITUTIONS, BY STATE OF RESIDENCE

State of residence	State of confinement	Fiscal 1976	Fiscal 1977	Fiscal 1978
Alabama	Florida	2	1	...
	Kentucky	1	...	...
	West Virginia	1	...	...
Arizona	Arizona	2	...	...
	California	2	1	...
	Colorado	8	1	...
	Missouri	1	...	...
California	California	1	1	...
	Colorado	3	1	...
	Kentucky	1	...	...
Colorado	California	1	...	...
	Colorado	2	...	...
Connecticut	West Virginia	1	1	...
Delaware	West Virginia	1	...	...
Georgia	Florida	...	1	...
Illinois	West Virginia	1	...	...
Indiana	Florida	1	...	...
	Kentucky	1	...	...
	Missouri	1	...	...
Kentucky	West Virginia	4	1	...
Louisiana	Florida	1	1	...
	Texas	...	1	...
Maryland	California	1	...	...
	Kentucky	1	...	...
	North Carolina	1	...	...
	West Virginia	1	...	...
Michigan	Michigan	1	...	...
Minnesota	Colorado	2	...	...
Missouri	Colorado	3	...	...
	Missouri	...	1	...
Montana	California	1	...	...
	Colorado	5	4	...
New Mexico	Colorado	2	1	...
New York	Colorado	...	2	...
	Florida	1	...	...
	New York	2	...	...
North Carolina	Colorado	1	...	...
	Illinois	...	1	...
	Kentucky	3	...	...
	West Virginia	3	1	...
North Dakota	Colorado	1	1	...
Ohio	Kentucky	...	1	...
	North Carolina	...	...	1
	West Virginia	2	...	...
Oklahoma	Colorado	...	1	...
Oregon	Colorado	2	...	...
South Carolina	Kentucky	1	...	...
	West Virginia	3	...	...
South Dakota	California	...	1	...
	Colorado	3	1	...
Tennessee	Florida	1	1	...
	Kentucky	...	1	...
	West Virginia	1	...	...
Texas	Colorado	6	1	...
	West Virginia	1	...	...
Virginia	West Virginia	3	...	...
West Virginia	West Virginia	1	1	...
Wyoming	California	1	...	...
	Colorado	1	...	...
Total		91	29	1
Mexico	California	18	8	1
	Colorado	22	2	...
	Florida	1	...	...
	Virginia	1	...	...
Total		133	39	2

Table F
BUREAU OF PRISONS STATISTICS
CONTRACT RATES FOR JUVENILE FACILITIES, BY YEAR AND PER DIEM RANGE*

Fiscal year	Per diem rates
1976	Average per diem rate: $27.14 Highest per diem rate: $49.89
1977	Average per diem rate: $32.20 Highest per diem rate: $62.33 Lowest per diem rate: $ 9.50
1978	Average per diem rate: $32.20 Highest per diem rate: $62.33 Lowest per diem rate: $ 9.50

*The above rates represent the rates agreed to in advance through negotiation, not the actual cost. For example, in fiscal 1977, the actual average cost, based upon use, was $37.26 per day.

Table G
BUREAU OF PRISONS STATISTICS
AVERAGE JUVENILE DETENTIONS IN FEDERAL FACILITIES, BY FACILITY

Facility name	Average number of juveniles per year
Metropolitan Correctional Complex, San Diego, Calif.	5 to 10
Metropolitan Correctional Complex, Chicago, Ill.	1 to 2
Metropolitan Correctional Complex, New York, N.Y.	...
Federal Correctional Institution, Miami, Fla.	1 to 2
Federal Correctional Institution, Milan, Mich.	...

CHAMPUS

CHAMPUS (Civilian Health and Medical Program of the Uniformed Services) is operated as a part of the U.S. Department of Defense, responsible to the Assistant Secretary for Health Affairs. The program is actually operated from its headquarters located on Fitzsimmons Air Base, Denver, Colorado.

Since military personnel are guaranteed medical care, this program does not apply to them. CHAMPUS benefits dependents of active duty, retired, and deceased uniformed personnel. Payments may be made for treating medical or surgical conditions; for nervous, mental, and chronic conditions; and for contagious diseases. It may not be used to provide domiciliary or custodial care that is not medically necessary.

CHAMPUS operates very similarly to Medicare/Medicaid programs, for purposes of reimbursement. If a child is approved for residential care, the parents or guardian will place the child in an approved facility (there are 72 approved facilities) and direct that billings be forwarded to a third-party payor for payment. These third-party payors, such as insurance companies, then periodically submit aggregated billings to CHAMPUS for reimbursement.

Of the 250 children in its residential care program (nonphysical handicap), less than 200 are placed in states outside their states of residence or countries of domicile. The regulations governing program operation are quite voluminous. For this study, it is probably sufficient to note that, while CHAMPUS is prohibited from accepting "court-ordered" placements, it does appear that it will approve and pay for residential care for delinquents, status offenders, and mentally ill juveniles, before or after adjudication, but only so long as mental illness or a physically handicapping condition is present. In cases where a juvenile dependent of a military person needs residential care because of his behavior, CHAMPUS funds may not be used.

CHAMPUS has generated considerable statistical data within the past year, as a first effort to inform the public about types of services provided, types of clients and their presenting problems, and highly specific cost breakdowns of its budget. Unfortunately, none of the data was particularly relevant to this study, since it either failed to discriminate between adults and juveniles, or because the juvenile data failed to discriminate between those receiving services for nonphysical handicaps and those which relate strictly to placements for purely physical handicaps. In addition, the data, when broken down by age, makes a first cut between age 19 and age 20, slightly higher than the normal point of separation between minority and adulthood.

An attempt was made to obtain special computer reports from CHAMPUS headquarters that would specifically cross-tabulate data germane to this study. After several discussions, it was concluded that, based upon the agency's present ability to generate reports and its backlog of requests, it would take about a year. Therefore, this approach was abandoned. What can be reported is that there are about 200 children supported in approved facilities for nonphysical handicaps in this country through the CHAMPUS program.

FOOTNOTE

1. Sometime in 1976, the federal facility in Ashland, Kentucky, underwent a major change in population focus and, for all intents, transferred its juvenile functions to Tallahassee.

END