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ABSTRACT

This report reviews the use of federal foster care funds under Title IV-E of the Social Security Act for emotionally disturbed and delinquent adolescent boys placed in the Rite of Passage (ROP) program which operates three facilities on Indian land in Nevada. The report indicates: (1) California counties paid about $434,000 in Title IV-E funds for 39 placements claimed as federally eligible as of May 31, 1986; (2) while the program is licensed and is a nonprofit, private institution, the Department of Health and Human Services has not yet determined whether the facility is operated primarily for reasons other than the detention of delinquents; (3) the Indian tribes use California and tribal standards (admission policies, safety, sanitation, and protection of civil rights) to license facilities but do not document inspection for compliance with all their licensing standards; (4) California counties generally meet case review and reunification service requirements; and (5) California monitors its foster care program through the Foster Care Information System, quality control case reviews, audits, and on-site monitoring by counties. Appendices, tables, and figures provide a chronology of investigation of abuses, placements, expenses, licensing history, comparison of personnel files, reasons youth left ROP and subsequent placements, and location of facilities. (NEC)

United States General Accounting Office

GAO

Briefing Report to the Honorable George Miller
House of Representatives

December 1986

FOSTER CARE

Use of Funds for Youths Placed in the Rite of Passage Program

GAO/HRD-87-23BR

GAO

United States
General Accounting Office
Washington, D.C. 20548

San Francisco Regional Office
B-200518

Suite 900, State Fund Building
1275 Market Street
San Francisco, CA 94103

December 9, 1986

The Honorable George Miller
House of Representatives

Dear Mr. Miller:

In response to your March 14, 1986, request and later discussions with your office, we reviewed the use of federal foster care funds under title IV-E of the Social Security Act for youths placed in the Rite of Passage program. You asked us to determine how much federal money was paid for placements in the program and whether such placements met the requirements of title IV-E. You also asked us to identify state and federal efforts to monitor the foster care program. The information we obtained is summarized below and discussed in detail in this briefing report.

The Rite of Passage program operates three facilities on Indian land in Nevada providing foster care for emotionally disturbed and delinquent adolescent boys. California counties placed all 39 youths at Rite of Passage who were claimed as federally eligible.

We interviewed officials and examined records at the Rite of Passage facilities, at the Indian tribes that licensed the facilities, and at several California counties that placed youths in the facilities. We also interviewed officials and examined records at the California Department of Social Services, which is responsible for administering the state's foster care program, and at the U.S. Department of Health and Human Services (HHS), Region IX, in San Francisco.

On April 7, 1986, HHS Region IX officials notified California that they believed Rite of Passage met the definition of a detention facility and that, therefore, Rite of Passage was not eligible for federal reimbursement. California disagreed, and HHS Region IX asked its general counsel to review Rite of Passage's status. As of November 25, 1986, the general counsel's opinion was still pending.

Responses to questions your office asked about Rite of Passage and the California foster care program are summarized below:

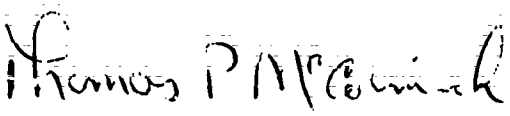
- How much title IV-E funding has been paid for youths placed at Rite of Passage? California counties paid about $434,000 in title IV-E funds for placements claimed as federally eligible as of May 31, 1986. (See p. 17.)
- Does Rite of Passage meet title IV-E criteria for a child-care institution? Rite of Passage meets two of the three criteria in the definition of a child-care institution—it is licensed and is a nonprofit, private institution. As noted above, however, HHS has not made a final determination regarding the third criterion—whether the facility is operated primarily for reasons other than the detention of delinquents. (See pp. 18 to 20.)
- What standards were used to license the Rite of Passage facilities? The Indian tribes used California and tribal standards to license the Rite of Passage facilities. These standards covered the areas mentioned in title IV-E: admission policies, safety, sanitation, and protection of civil rights. However, the tribes did not document inspections for compliance with all their licensing standards. (See pp. 20 to 23.)
- How do the tribes' inspections of Rite of Passage personnel files compare with California's inspections? California annually inspected personnel files at facilities it licenses, but the Indian tribes apparently did not inspect such files at the Rite of Passage facilities. (See pp. 23 to 24.)
- Are California counties providing periodic case reviews and reunification services to the title IV-E youths placed at Rite of Passage? California counties generally met the title IV-E requirements with respect to periodic case reviews for youths placed at Rite of Passage and the provision of reunification services to facilitate their return to their homes. (See pp. 24 to 26.)
- What is California doing to monitor its foster care program? California monitors its foster care program through its Foster Care Information System, quality control case reviews, audits, and on-site monitoring by its counties. (See pp. 26 to 27.)
- What is HHS doing to ensure compliance with title IV-E in California? HHS Region IX monitors for compliance with title IV-E requirements through its review of state plans, annual title IV-E financial reviews, and title IV-B, section 427 reviews. (See pp. 28 to 30.)

In accordance with discussions with your office, we obtained official oral comments from HHS on September 4, 1986, which we considered in preparing the report.

As previously arranged, we plan no further distribution of this briefing report until 10 days after its issue date, unless you publicly announce its contents earlier. At that time, we will distribute the report to interested

parties and make copies available to others upon request. For additional information, please contact me at (415) 556-6200.

Sincerely yours,



Thomas P. McCormick
Regional Manager

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Abbreviations

DSS	Department of Social Services
FCIS	Foster Care Information System
GAO	General Accounting Office
HHS	Department of Health and Human Services
IHS	Indian Health Service
ROP	Rite of Passage
WRP	Walker River Paiute

Introduction

Rite of Passage (ROP) is a nonprofit corporation providing facilities and services to emotionally disturbed and delinquent adolescent boys. The facilities, located on Indian land in Nevada, are licensed by the Washoe Tribe of Nevada and California and by the Walker River Paiute (WRP) Tribe. California counties have placed youths at ROP since its inception in February 1984 and have designated some of these placements as eligible for federal reimbursement under title IV-E of the Social Security Act.[1]

In December 1985, a California probation officer filed allegations of abuse with county officials regarding the treatment of youths placed at ROP. Based on these allegations and a later report issued by the Nevada State Fire Marshal, Representative George Miller asked us, on March 14, 1986, to provide information on the use of title IV-E funds for placements at ROP. Because of ongoing investigations, we were asked not to focus on the allegations of abuse. (For a chronology of the charges and ensuing investigations, see app. I.)

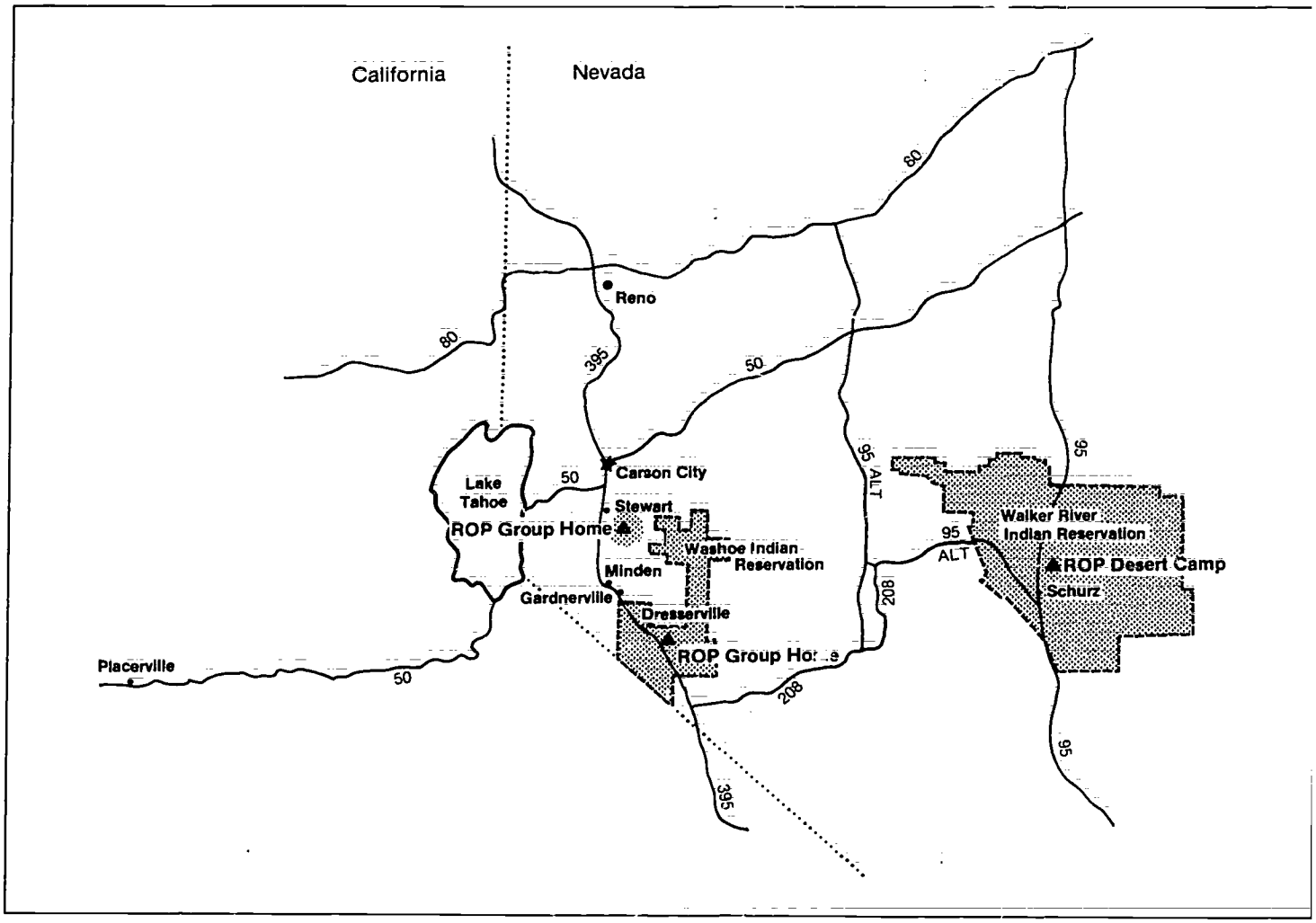
Rite of Passage

ROP's program, which emphasizes intense involvement in sports and academics, was designed to deal with youths who have histories of running away, destroying or stealing property, or becoming violent when placed in a conventional group home setting. Between February 1984 and May 1986, the number of youths in the program averaged about 46 a month. Over 90 percent of the youths at ROP were placed through California's foster care program. (See app. II.)

At the time of our review, ROP operated three facilities: a desert camp on the Walker River Paiute Reservation 15 miles outside of Schurz, Nevada, and two group homes on land belonging to the Washoe Tribe of Nevada and California in Dresserville and Stewart, Nevada. (See fig. 1.)

[1]Title IV, Part E—Federal Payments for Foster Care and Adoption Assistance (42 U.S.C. 670-676)—was enacted with the passage of the Adoption Assistance and Child Welfare Act of 1980 to define safeguards and services to be provided to children under federal foster care.

Figure 1: Location of ROP Facilities



All the youths begin their stay at ROP in a remote wilderness camp. When ROP first accepted youths into the program in February 1984, the camp was located in the Sierra Nevada Mountains near Gardnerville, Nevada. However, ROP staff found that a more remote setting was needed to discourage youths from running away, and in May 1984 the camp was moved to its present desert location. (See fig. 2.)

Figure 2: ROP Desert Camp

The ROP desert camp is at a remote site 15 miles outside of Schurz, Nevada, to discourage delinquent youths from running away. The camp had been home for about 37 youths, on the average, since it opened in May 1984. The youths slept in teepees, attended school in a wooden bungalow, and practiced sports on a dry lake bed.

At the desert camp, the youths are expected to participate in a rigorous athletic program and attend school 4 hours a day. The program requires 90 days of good behavior at the desert camp for the youths to "earn their way" to one of the two ROP group homes. The youths "earn" days of good behavior by showing respect, doing their schoolwork, participating in workouts, and keeping themselves and their area clean. The average length of stay in the desert camp is about 5 months.

Initially, conditions at the ROP desert camp were very primitive. The youths slept in tents, the water for showers was unheated, and the kitchen facility consisted of an open grill, an ice chest, and tubs for washing dishes. Since opening the desert camp, ROP has made many improvements in response to recommendations from the Indian Health Service and California probation officers. A chronology of these improvements is presented in figure 3.

Figure 3: Chronology of Improvements at Desert Camp

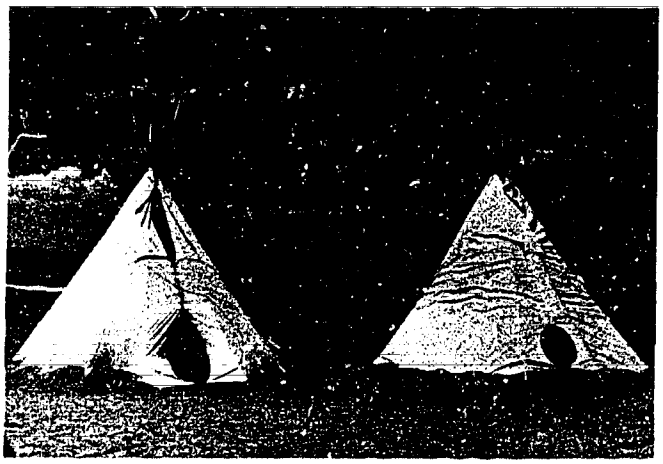
1984

August

- Installed teepees
- Rebuilt shower facility
- Constructed pit toilets
- Installed refrigerator
- Installed water line to kitchen area

October

- Constructed classroom
- Installed hot water heater
- Enclosed shower facility



1

2

3

1

Teepees made of heavy rubberized canvas provided sleeping quarters for youths at the camp. The 12-foot-tall teepees could accommodate up to 15 youths.

2

The wood-frame classroom was constructed in October 1984. Youths at the camp attended school 4 hours a day, 5 days a week, working toward a high-school diploma or a general education development certificate.

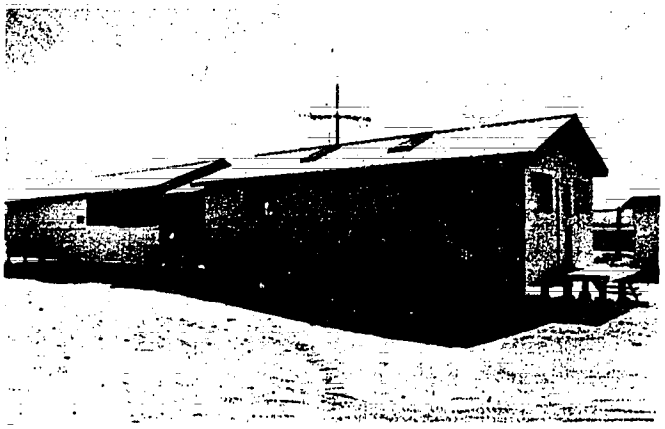
3

ROP installed shower facilities when the camp first opened in May 1984, but did not completely enclose these facilities or provide them with hot water until October 1984. Youths were required to take at least one shower a day.

1985

December

- Constructed dining hall and kitchen
- Installed more reliable radio communication system



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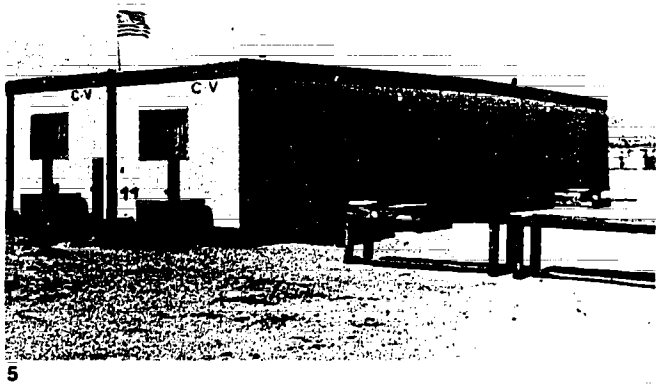
4

The wood-frame, insulated dining hall and kitchen were constructed in December 1985. The kitchen was equipped with three propane refrigerator-freezers, a three-compartment sink, and a commercial range and grill with exhaust hoods. The camp employed a professional full-time cook who prepared three meals daily.

1986

July

- Installed modular units
- Installed swamp coolers to air-condition enlarged school facility



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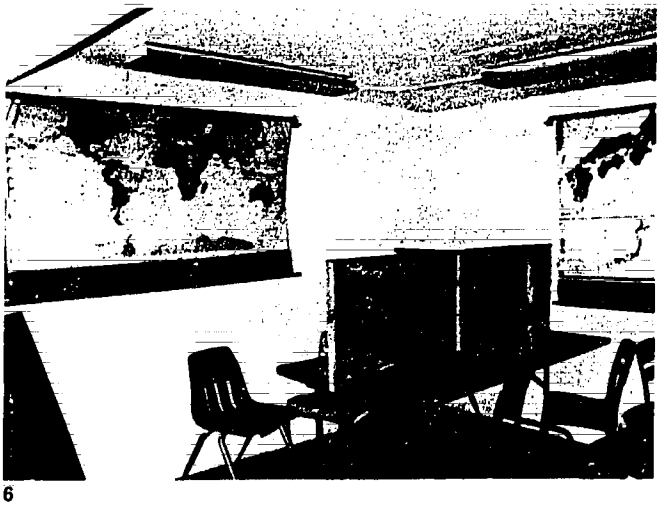

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The six heated and air-conditioned modular units installed in July 1986 provided kitchen and dining areas, a medical isolation area, showers, bathrooms, and staff living quarters.

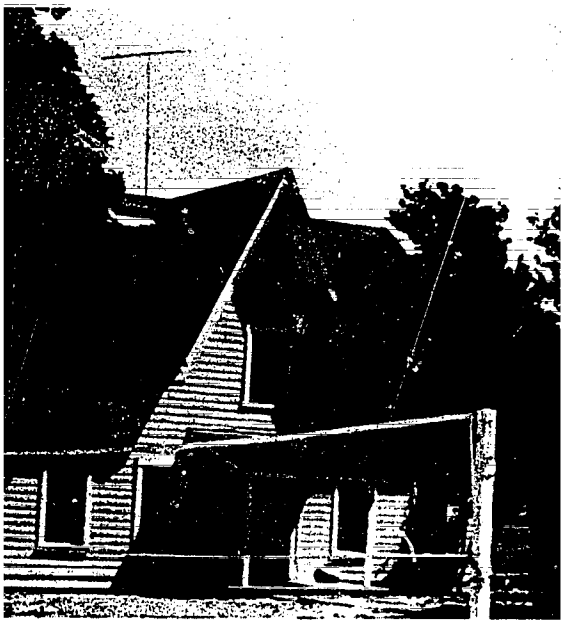
6

When the dining area was moved to the new modular units, the old dining hall was converted into another classroom, and both school facilities were equipped with swamp coolers for air-conditioning. Inside, study areas were arranged to accommodate up to 24 youths in each of the two classrooms.

Figure 4: ROP Group Home in Dresserville, Nevada

The wood-frame,
lived after comple
Dresserville hous

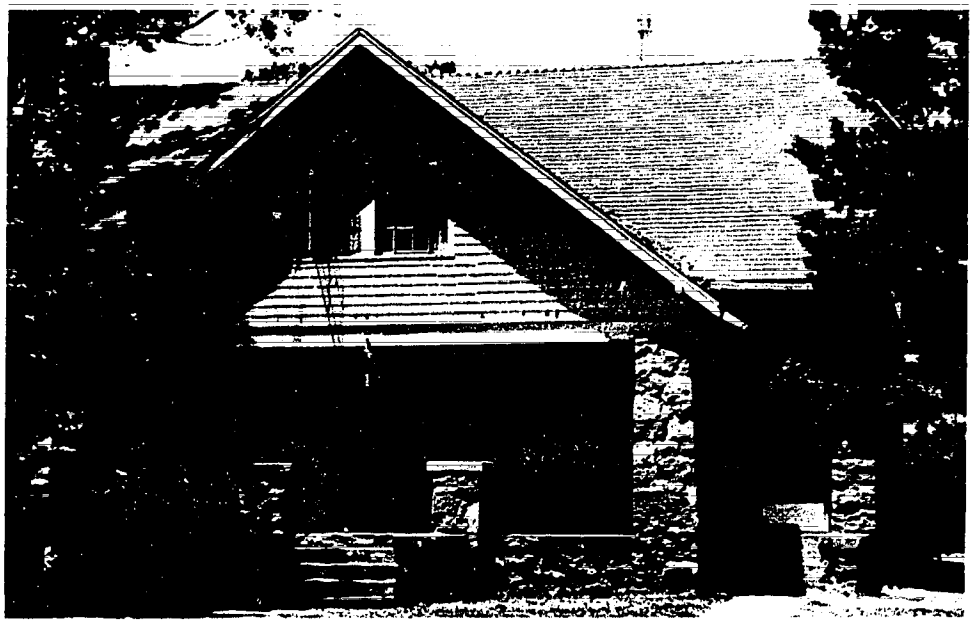
At the grou
setting. (See
the average
youths misb
before they



rville was one of two group homes where up to 14 youths
ıvior at the desert camp. Youths residing in the five-bedroom
s as tennis or skiing.

s live in a more conventional foster home
those graduating into the group homes,
to 3 months. About a third of these
porarily returned to the desert camp
noved from the program.

Figure 5: ROP Group Home in Stewart, Nevada



The two-story stone house in Stewart was home for up to nine graduates of the desert camp. The four-bedroom house accommodated youths who specialized in cycling and cross-country running.

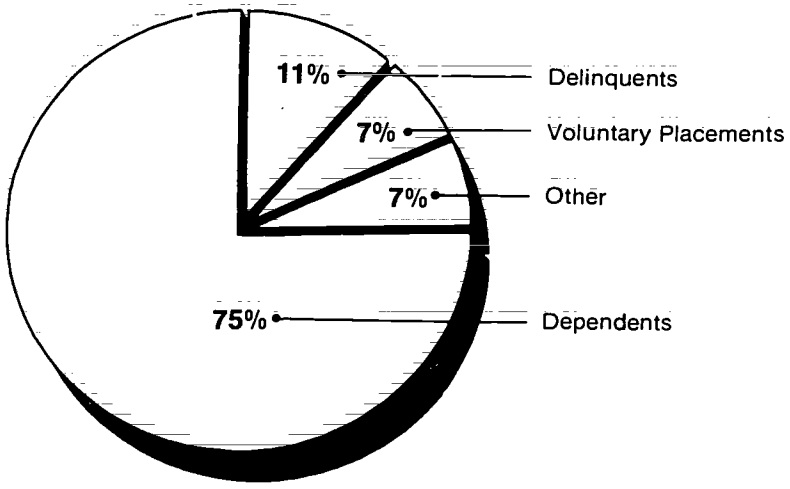
From February 1984 through April 1986, ROP spent $3.5 million on the operation of its three facilities. About half of this total was for child-care staff salaries. (For a more detailed breakdown of expenses, see app. III.)

Foster Care Placement and Funding Process in California

Children enter California's foster care program through county welfare and probation departments. About 75 percent of the children are declared dependents of a county court and are placed by a county welfare department, because they have no parents or their homes are unfit places to live. About 11 percent are declared status offenders or delinquents by a county court and are placed by a county probation department.[2] Another 7 percent are placed voluntarily by their parents or guardians through agreements with a county welfare department. The remaining children are placed under various other legal authorities. (See fig. 6.)

[2]Status offenders are children who commit offenses that are offenses only because they are committed by minors, such as habitually refusing to obey their parents or guardians, or habitual truancy from school. In contrast, delinquents are children who commit crimes in violation of state or federal laws.

Figure 6: Percent of Children Entering California's Foster Care System as Dependents, Delinquents, and Voluntary Placements



Regardless of whether a child is placed in foster care through the count welfare department or probation department, the county welfare department determines the child's eligibility for title IV-E funding. The county bases this determination on the circumstances of the child's removal from the home, the child's financial status, and the type of facility where the child is placed.

County payments made for the placement of federally eligible children are partially reimbursed by the U.S. Department of Health and Human Services (HHS) based on the "federal medical assistance percentage," established by HHS for each of the states every other year. In California, HHS pays 50 percent, the state pays 47.5 percent, and the county pays the other 2.5 percent. For placements of children determined to be eligible for the state foster care program but not for federal funds, the state reimburses the counties for 95 percent of the payments, and the county pays the other 5 percent. Appendix IV illustrates the placement and funding process in California.

Objectives, Scope, and Methodology

As agreed with Representative Miller's office, the objective of our review was to obtain information in response to the following questions:

- How much title IV-E funding has been paid for youths placed at ROP?
- Does ROP meet title IV-E criteria for a child-care institution?
- What standards were used to license ROP facilities?

- How do the tribes' inspections of ROP personnel files compare with California's inspections?
- Are California counties providing periodic case reviews and reunification services to the title IV-E youths placed at ROP?
- What is California doing to monitor its foster care program?
- What is HHS Region IX doing to ensure compliance with title IV-E in California?

To obtain information to answer these questions, we interviewed ROP staff and examined records at

- the ROP administrative offices in Minden, Nevada;
- the ROP desert camp 15 miles outside of Schurz, Nevada; and
- the ROP group homes in Dresserville and Stewart, Nevada.

In addition, we obtained financial data from ROP's certified public accountant in Reno, Nevada, and discussed issues with the ROP Board of Directors in Placerville, California. We also reviewed personnel files at ROP and at Wimbledon House, a similar program located in Placerville, California.

We spoke with tribal officials and reviewed records at the Washoe Tribe of Nevada and California in Gardnerville, Nevada, and at the WRP Tribe in Schurz, Nevada, to document the tribes' jurisdiction and licensing authority over ROP facilities and their records of inspections. We discussed the issue of tribal jurisdiction with officials from the Nevada Department of Human Resources and the Nevada Attorney General in Carson City. We also visited the U.S. Public Health Service's Indian Health Service (IHS) Reno District Office in Sparks, Nevada, to obtain additional records of inspections.

We visited 6 of the 12 California counties placing youths at ROP (Alameda, Contra Costa, Marin, San Bernardino, San Diego, and Santa Clara). These six counties accounted for 34 of the 39 youths designated as federally eligible between February 1984 and May 1986. We contacted the other six California counties (El Dorado, Humboldt, Lake, Placer, Sacramento, and Solano) and one Nevada county (Douglas) by phone. We spoke with eligibility unit employees in the county welfare departments and reviewed the youths' income maintenance files at the counties we visited to verify which youths were designated federally eligible while at ROP. In addition, we spoke with county probation officers and welfare caseworkers responsible for supervising the youths placed at ROP, and we reviewed the youths' service files at the counties

we visited, to determine the youths' status as dependents or delinquents, to identify the case reviews and reunification services provided for youths designated federally eligible, and to document county officials' visits to the ROP facilities.

We spoke with officials and reviewed and analyzed records at the California Department of Social Services (DSS) in Sacramento to compile the amount of title IV-E funds claimed for youths placed at ROP and to identify the state's policies regarding out-of-state placements and its efforts to monitor the foster care program. We also spoke with California state officials from the State Controller's Office, the Auditor General's office, and the California Youth Authority.

We asked HHS officials in Washington, D.C., to provide us their interpretation of certain provisions of the law and regulations regarding the federal foster care program. We spoke with officials and reviewed records at HHS Region IX in San Francisco to identify the region's efforts to ensure compliance with title IV-E requirements in California, particularly with respect to placements at ROP.

We did our fieldwork between May and July 1986. Our audit was done in accordance with generally accepted government auditing standards. We obtained official oral comments on the matters discussed in this report from HHS headquarters officials on September 4, 1986, and we considered those comments in preparing the report.

Questions and Answers

How Much Title IV-E Funding Has Been Paid for Youths Placed at ROP?

From February 1984 through the end of May 1986, 171 youths were placed at the ROP facilities. During this period, ROP received about $434,000 in title IV-E funds for 39 of these youths. All 39 were placed by California counties. (App. II lists the authorities that placed the youths at ROP and describes how the placements were funded.)

Based on rates established by the Washoe Tribe of Nevada and California, the counties paid $2,920 a month for each youth placed at ROP until July 1985, when the rate was increased to $3,037 a month. Table 1 summarizes the number of federally eligible youths and the amount of title IV-E funds claimed by each county.

Table 1: Amount of Title IV-E Funds Paid for Placements at ROP Through May 31, 1986

County	Number of youths claimed as federally eligible[a]	Amount of title IV-E funds paid as of May 31, 1986[b]
Alameda	7	$68,473
Contra Costa	1	5,132
El Dorado	2	11,449[c]
Humboldt	2	22,847
Marin	4	28,453
Sacramento	1	20,204
San Bernardino	8	63,272
San Diego	3	38,495
Santa Clara	11	175,471
Total	**39**	**$433,796**

[a]Based on county welfare department determinations and claims submitted for placements at ROP.

[b]Based on California's reimbursement rate of 50 percent. Amounts per placement vary based on the time a youth had been in the program as of May 31, 1986.

[c]Includes $3,015 paid by Tuolumne County after jurisdiction over one youth was transferred from El Dorado County during his stay at ROP.

Discrepancies in the Amount of Title IV-E Funds Reported by HHS

On April 16, 1986, HHS sent Representative Miller data on the number of federally eligible youths placed at ROP and the amount of title IV-E funds spent on these placements. Representative Miller's office asked us to verify the accuracy of the HHS data, which were based on information provided by California DSS as of March 6, 1986. We compared the HHS data with our data as of that date and noted some discrepancies, as shown in table 2.

Table 2: Comparison of HHS and GAO Data on Placements at ROP as of March 6, 1986

	HHS data	GAO data[a]	Discrepan
Number of youths California counties placed at ROP	98	133	
Number of youths designated federally eligible by the counties	26	35	
Amount of title IV-E funds California spent for these youths	$326,281	$404,270	$77,9

[a]To be comparable with the HHS data, this table presents our data as of March 6, 1986. These figures differ from those in table 1 because table 1 includes our data through May 31, 1986.

The discrepancies occurred because HHS used data from California's automated Foster Care Information System (FCIS), while we based our calculations on the claims submitted by the counties. HHS officials told u the department does not maintain data on the number of children place in each facility or the amount of funds claimed for placements in partic ular facilities, but instead relies on states to maintain such detailed information. California DSS officials told us that FCIS data are based on unverified reports from the counties and are less reliable than the clain data we used for our analysis. DSS supplied HHS with data from FCIS because the data were readily available.

In addition, the HHS data provided by California DSS did not include data from two counties placing federally eligible youths at ROP, Contra Costa and El Dorado counties. In our review of claims data, we found that these two counties had submitted payments to a facility in Placerville, California, known as Wimbledon House, for their youths placed at ROP. ROP was created by staff from Wimbledon House, and the counties' errors resulted from their failure to realize that ROP was a separate program.

Does ROP Meet Title IV-E Criteria for a Child-Care Institution?

Title IV-E requires that child-care institutions meet three criteria to be eligible for federal reimbursement. They must

- be licensed;
- be nonprofit, private institutions or public institutions that accommodate no more than 25 children; and
- be operated primarily for reasons other than the detention of delinquents.

ROP meets title IV-E criteria with respect to its licensing and nonprofit, private status. However, HHS has not made a final determination

regarding whether the facility is operated primarily for the detention of delinquents.

ROP Is Licensed by Indian Tribes

Title IV-E states that child-care institutions must be licensed or approved by the responsible state agency. The ROP facilities are licensed not by state agencies, but by the Indian tribes with jurisdiction over the facilities. Appendix V summarizes the licensing history of the ROP facilities.

Title IV-E does not specifically extend licensing authority to Indian tribes. However, the HHS regulatory definition of a foster family home includes group home facilities licensed by Indian tribes (45 C.F.R. 1355.20). HHS officials told us this regulation is based on a long-standing departmental policy to encourage tribal self-determination in the licensing of foster family homes. In addition, HHS officials said the tribes' licensing authority satisfies the title IV-E licensing requirements. They based this interpretation on a provision of the Indian Child Welfare Act which states that, for purposes of qualifying for federal assistance, licensing or approval of foster homes or institutions by an Indian tribe is equivalent to licensing or approval by a state.

In response to inquiries from California state and county officials, on December 12, 1985, the Nevada Attorney General similarly concluded that Indian tribes have the right to establish standards and to license the ROP facilities on their land in Nevada. This conclusion was based on the fact that Indian tribes in Nevada, unlike those in California, have opted to retain tribal jurisdiction for civil and criminal matters not governed by federal law.

The 25-Child Limit Does Not Apply

Title IV-E requires that child-care institutions either be nonprofit, private child-care institutions or public child-care institutions. Public institutions must accommodate no more than 25 children.

In May 1985, the Internal Revenue Service determined ROP to be a nonprofit institution under section 501(c)(3) of the Internal Revenue Code. As a nonprofit, private institution, ROP is not limited as to the number of youths it may legally accommodate under title IV-E.

HHS Region IX Officials Believe ROP Is a Detention Facility

According to title IV-E requirements, detention facilities may not receive federal reimbursement. HHS Region IX officials have tentatively determined that ROP is not eligible for title IV-E funds because it functions as a detention facility.

Title IV-E precludes federal reimbursement for children placed in detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent. HHS regulations define a detention facility as

> ". . . a physically restricting facility for the care of children who require secure custody pending court adjudication, court disposition, execution of a court order or after commitment." (45 C.F.R. 1355.20)

The ROP desert camp is in a remote wilderness area to discourage youths who are difficult to control from running away. As of May 31, 1986, 153 (89 percent) of the 171 youths placed at ROP were determined by the courts to be delinquents.

None of HHS's monitoring efforts as of February 1986 had raised any concerns that ROP might be considered a detention facility. However, after inquiries from Representative Miller, on April 7, 1986, HHS Region IX officials told the California DSS that they believed ROP met the definition of a detention facility and was therefore not eligible for federal reimbursement. They asked DSS to review the nature of the facility to determine whether it concurred. On April 18, 1986, DSS officials responded that they disagreed with the HHS determination because ROP is not a locked facility and the youths in ROP do not require secure custody.

HHS Region IX program officials continued to believe ROP met the definition of a detention facility. However, in light of DSS's disagreement, before taking action to disallow federal payments, they asked the Region IX general counsel to review ROP's status and issue an opinion. As of November 25, 1986, the general counsel had not issued the opinion.

What Standards Were Used to License the ROP Facilities?

Title IV-E requires that states apply their standards to any foster family home or child-care institution receiving title IV-E funds. These standards must cover such areas as admission policies, safety, sanitation, and protection of civil rights, and must be reasonably in accord with recommended standards of "national organizations concerned with standards for such institutions or homes."

California DSS officials told us DSS does not apply its standards to out-of-state facilities, such as ROP, which are not subject to its licensing. Because the Washoe and WRP tribes have jurisdiction over the ROP facilities, DSS officials accepted the tribes' standards and licensing in place of California's.

The Washoe Tribe used California standards to license the ROP group homes, and the WRP Tribe used tribal standards to license the ROP desert camp. We determined that these standards addressed the areas specified in title IV-E, but we did not compare the standards with those of national organizations. The HHS specialist for licensing and foster care told us that, to his knowledge, neither HHS nor the states review standards for compliance with this provision and that a comparison would be difficult because national organization standards vary greatly.

California Does Not Apply Its Standards to Out-Of-State Facilities

California DSS does not have authority to license out-of-state facilities. In addition, DSS officials told us they do not assess whether conditions at out-of-state facilities meet DSS standards—either by inspecting them or by obtaining copies of inspection reports. DSS officials told us that they accept other states' standards and licensing in place of California's standards and licensing and that they extended the same consideration to the Washoe and WRP tribes. According to HHS Region IX officials, it is common practice for states to accept licensure by other states and jurisdictions as California does.

Tribes Applied Standards to ROP

The Washoe and WRP tribes used standards that cover the areas mentioned in title IV-E, and IHS documented inspections for compliance with those standards related to safety and sanitation. However, the tribes did not systematically document inspections for compliance with all their standards in other areas.

Officials from the Washoe Tribe of Nevada and California said that they used California group home standards to license the two ROP group homes. California standards for licensing group homes cover personnel qualifications, children's intake procedures and personal rights, services and activities to be provided, and the physical environment. The tribe's social services representative said that tribal officials inspected the group homes to ensure they met licensing standards but did not retain records of those inspections.

The WRP Tribe used its own wilderness camp standards to license the RO desert camp facility. The Bureau of Indian Affairs reviewed the WRP Tribe's standards for the desert camp in December 1984 and concluded that the standards were thorough and complete, particularly the section on youths' rights and privileges.

The WRP Tribe's standards were comparable to California's standards for group homes in the areas mentioned in the law: admissions policies, safety, sanitation, and protection of civil rights. The WRP Tribe and California DSS both have admissions policies that require an assessment of the child's needs, development of a service plan, and a determination as to the appropriateness of the facility. Both have safety and sanitation standards that require fire safety inspections, water quality inspections proper handling of food and medications, and sanitary waste disposal. Both also have standards to protect youths' rights with respect to cruel and unusual punishment, use of restraining devices, and complaint procedures.

The WRP Tribe's standards require tribal officials to visit the facility regularly. WRP tribal council minutes showed that the tribe's social services representative visited the desert camp about every other month. The representative also occasionally prepared a written report on these visits. However, neither the minutes nor the reports documented systematic inspections for compliance with all licensing standards.

Both the Washoe and WRP tribes relied on IHS, Reno District, to inspect the ROP group homes and desert camp to ensure compliance with standards related to the areas of safety and sanitation. As of May 31, 1986, IHS inspectors had conducted three comprehensive inspections of the desert camp and two comprehensive inspections of each group home. Inspectors prepared reports on each of these inspections. In addition, between June and October 1984, IHS inspectors made several visits to the camp, which they discussed in letters to the WRP Tribe.

Both the comprehensive inspection reports and letters to the tribe described conditions at the ROP facilities, identified deficiencies and recommendations for corrective actions, and discussed progress made in addressing recommendations from previous reports. IHS officials told us that although they noted deficiencies, they found ROP has consistently demonstrated a willingness to improve its facilities.

While IHS documented inspections for compliance with safety and sanitation standards, the tribes did not systematically document their

inspections. As a result, there was no assurance that ROP was inspected for compliance with standards related to other areas, such as admissions policies and protection of civil rights. Tribal officials said that in the future, they will routinely document their inspections for compliance with all their standards before licensing.

How Do the Tribes' Inspections of ROP Personnel Files Compare With California's Inspections?

The February 28, 1986, Nevada State Fire Marshal's report raised concerns regarding the qualifications and training of staff at ROP. (See app. I.) As a result, we were asked to determine if the tribes inspected ROP's personnel files to ensure that staff qualifications and training were documented and to compare the tribes' inspections with California DSS's inspections of personnel files at a similar program located within the state.

The tribes apparently had not examined the personnel files at ROP. Washoe tribal officials, who license the two ROP group homes, told us they were not aware of any inspections that included a review of staff personnel files. WRP tribal officials, who license the ROP desert camp, said that they had not examined staff personnel files.

In contrast, California DSS examined the contents of personnel files annually at a similar program licensed by the state, Wimbledon House. DSS annual inspection reports on the Wimbledon House facilities noted deficiencies and the facilities' corrective actions with respect to the contents of personnel files. We selected Wimbledon House for the comparison with ROP because both programs serve troubled adolescent boys and emphasize athletics.

Both California DSS and the tribes require foster care facilities to maintain personnel records that document the employees' experience, lack of criminal background, and in-service training. We compared personnel files for counselor-coaches at ROP with those at Wimbledon House for documentation in those three areas. We selected counselor-coach files because these staff have direct contact with youths and comprise the majority of the personnel at both institutions. Although neither program had complete personnel files for all three areas we reviewed, the Wimbledon House personnel files were more complete than those of ROP. (See table 3.)

Table 3: Comparison of the Contents of Personnel Files for ROP and Wimbledon House Counselor-Coaches[a]

	Number of personnel files for counselor-coaches					
	ROP				Wimbledon House	
	Desert camp licensed by WRP Tribe		Group homes licensed by Washoe Tribe		Group homes licensed by California	
	Number	(Percent)	Number	(Percent)	Number	(Percent)
Total	**27**	**(100)**	**13**	**(100)**	**16**	**(100)**
Areas documented in files as required						
Education, experience, or training in juvenile behavior or counseling	8	(30)	5	(38)	15	(94)
Criminal record clearance	27	(100)	13	(100)	16	(100)
In-service training	16	(59)	6	(46)	11	(69)

[a]The information in this table does not reflect the actual training or background of the staff; it reflects only the information documented in staff personnel files.

When we discussed our findings with ROP staff, they told us they had not given their personnel files high priority in the past. Subsequently, they developed a checklist of required documents as a guide for completing their files.

Are California Counties Providing Periodic Case Reviews and Reunification Services to the Title IV-E Youths Placed at ROP?

Title IV-E requires states to provide for periodic reviews of the status of each child receiving federal assistance and to provide for reunification services to facilitate the child's return to his home. We found that California counties generally provided the required periodic case reviews and reunification services to the title IV-E youths while placed at ROP.

Periodic Case Reviews

Title IV-E requires that the status of each title IV-E child be reviewed periodically but no less frequently than once every 6 months. We found that California counties generally reviewed the status of title IV-E youths placed at ROP at least once every 6 months. Of the 39 title IV-E youths, 21 were at ROP for more than 6 months and received one or more reviews during their stay. Eighty-five percent of these reviews were prepared within 10 days of their due dates; 98 percent were prepared within 30 days. In addition to periodic reviews prepared by county officials, ROP social workers prepare quarterly reports, which are kept in each youth's case file and are sent to the placing counties to apprise

them of each youth's progress. We did not attempt to evaluate the quality of county or ROP reviews.

Reunification Services

Title IV-E requires that services be provided either to improve conditions in the parents' home and facilitate the child's return or to arrange for an alternative permanent placement of the child. According to the law, the child's case plan must discuss the reunification services to be provided during the child's placement.

County probation officers and welfare caseworkers told us that although family reunification is the primary goal for all children placed outside their homes, it is not always a realistic goal for the youths placed at ROP because they are near adulthood. County officials said emancipation, or living independently in the community, was often established as an alternative goal to family reunification for these youths. Of the 39 title IV-E youths placed at ROP as of May 1986, 23 had established family reunification as their goal, 12 were working toward emancipation, and 4 had goals of permanent placement outside their homes. Thirty of the 39 title IV-E youths had left the program as of May 31, 1986. Table 4 summarizes the reasons these youths left ROP and their subsequent placements.

Table 4: Reasons Title IV-E Youths Left ROP and Their Subsequent Placements

	Placement immediately after ROP					
Reason for leaving ROP	Home	Non-ROP group home	Juvenile hall	Job Corps	Unknown	Total
Graduated	3	7				10
Reached age 18[a]	1			1		2
Medical reasons	3					3
Runaway		3	3		2	8
Removed by placing county[b]	4	2	1			7
Total	**11**	**12**	**4**	**1**	**2**	**30**

[a]Youths reaching age 18 determine their own subsequent placements.

[b]Reasons for removal included concern over conditions at the camp, transfer of jurisdiction over the case to a county with a policy of no out-of-state placements, and failure of the youths to respond to the program.

We found no evidence that county officials treated the youths placed at ROP any differently from children placed in other foster care facilities. In preparing reviews and providing reunification services to youths at ROP,

officials followed the same policies and procedures used for all children placed outside their homes.

What Is California Doing to Monitor Its Foster Care Program?

Title IV-E requires states to monitor their foster care programs. California uses three methods to monitor its program: (1) FCIS, (2) quality control case reviews, and (3) audits. In addition, the state requires counties to provide on-site monitoring of children. California's efforts included the monitoring of youths placed at ROP, and identified concerns in some instances.

The Foster Care Information System

California DSS officials use FCIS to keep track of children in the state's foster care program. This system generates reports describing the legal status, demographic characteristics, location, and goals of foster care children. While information on youths placed at ROP was available from FCIS, as discussed on pages 17 and 18, we found discrepancies between the FCIS data and the data we compiled.

Quality Control Case Reviews

California DSS quality control case review procedures require ongoing reviews of placements through the foster care program. In these reviews, DSS reviewers verify the eligibility and the correctness of payments for a statewide sample of cases from the preceding 12-month period. Reports on these reviews summarize results in terms of eligibility errors, overpayments, underpayments, and procedural errors.

According to a DSS Quality Control Bureau official, youths placed at ROP have appeared in quality control case review samples. The official said quality control reviewers have not cited any eligibility errors for placements at ROP based on the facility's status as a detention facility, because they do not consider that factor in their review. With respect to facility eligibility, quality control reviewers examine only the basis for the facility's payment rate, whether the facility is licensed, and the facility's nonprofit status.

Audits

Both the California DSS and Auditor General conduct audits of the state's foster care program. California state law requires DSS to audit all foster care group home facilities at least every 3 years to examine the basis for calculating rates set by the state. Since California does not set rates for out-of-state facilities, facilities such as ROP are not audited by DSS.

Occasionally the California state Auditor General examines the state's foster care program to respond to specific requests of the state legislature. The Auditor General issued a report on June 26, 1986, entitled California Needs Better Control Over the Out-of-State Placement of Delinquent Minors. The report primarily focused on foster care placements in the VisionQuest program in Arizona, but it also included information on placements at ROP. The report concluded that California DSS had not ensured that minors placed in out-of-state facilities were guaranteed the same rights and protections that minors in California facilities receive. The report recommended that DSS establish guidelines for evaluating and monitoring out-of-state facilities' programs and for standardizing the counties' contracts with such facilities. As of November 1986, DSS's report on implementing these recommendations was not complete.

Role of the Counties

California DSS has assigned the counties primary responsibility for monitoring placements at out-of-state foster care facilities. Before placement, DSS requires the counties to ensure that eligibility requirements for state and federal foster care assistance are met. During placement, DSS also requires counties to visit children at foster care facilities at least every 6 months.

All 12 counties placing youths at ROP had procedures for evaluating facilities before the placement of children. Eight counties visited the ROP facilities, and six of those prepared evaluation reports based on their visits. Two of the other four counties contacted the state DSS or other counties to determine if the ROP facilities were suitable for placements. Officials from the two remaining counties, Contra Costa and Marin, made no inquiries specifically about ROP. Officials from these two counties told us they verified that California DSS had licensed Wimbledon House, which they mistakenly believed operated ROP.

After placing youths at ROP, 10 of the 12 counties visited the ROP facilities about every 4-1/2 months, on the average. The two counties not visiting the ROP facilities, El Dorado and Lake counties, had placed youths in the program for less than 6 months.

After visiting the desert camp, county officials occasionally documented their concerns about the program in letters to ROP. ROP staff told us that officials frequently discussed their concerns during visits to the camp, and that ROP had made many improvements at the facility to address such concerns.

What Is HHS Region IX Doing to Ensure Compliance With Title IV-E in California?

HHS Region IX has three methods to ensure compliance with title IV-E requirements: reviews of state plans, annual title IV-E financial reviews, and title IV-B, section 427 reviews. The region reviews the California state plan primarily to ensure the state is in compliance with procedural requirements. The region conducts annual financial reviews to monitor the financial management of California's title IV-E program, and it plans to conduct section 427 reviews to monitor services provided to children in California's foster care system. Region IX had not excluded youths placed at ROP, but none had appeared in the samples selected for these reviews as of February 1986, when Representative Miller initiated his inquiries. Consequently, Region IX conducted a special 427 review of placements at ROP.

Review of State Plans

To be eligible for foster care assistance, title IV-E requires that states have plans addressing all provisions of the law. HHS has designed a standard plan for title IV-E which restates the provisions of the law as direct quotations, paraphrases, or excerpts. The plan contains no specific information on how a state intends to implement the requirements of title IV-E.

HHS regional offices are responsible for reviewing and approving state plans, but Region IX officials said their review of the title IV-E standardized plans is largely perfunctory. They added that the plans serve more as a tool to meet procedural requirements than as a tool for monitoring a state's foster care program. HHS Region IX approved California's state plan for title IV-E on November 9, 1982.

Annual Title IV-E Financial Reviews

HHS Region IX annually reviews state claims for title IV-E reimbursement and the state's systems providing oversight and control over financial reports. Its review examines eligibility, payment amounts, rate-setting, licensing, and administrative costs.

In California, Region IX reviews a random sample of payments from the seven counties that account for 70 percent of California's title IV-E funds: Alameda, Los Angeles, Orange, Sacramento, San Diego, San Francisco, and Santa Clara counties. Four of these counties made payments to ROP, but none of these payments had appeared in HHS's samples at the time of our review.

California's first claims for title IV-E reimbursement were for payments to foster care facilities in fiscal year 1983. HHS Region IX's review of

these 1983 claims found an error rate of 7.5 percent, identified about $5,000 as unallowable, and asked California DSS to deduct this amount from its next claim for title IV-E reimbursement.

HHS Region IX's review of California's 1984 claims identified a preliminary error rate of 31.6 percent. The review found such errors as unsigned court orders, placements in detention facilities, and failure to meet requirements for financial assistance. HHS Region IX's draft report on its review of 1985 claims identified a preliminary error rate of 34 percent. At the time of our review, the region had not confirmed the 1984 and 1985 error rates. When these rates are confirmed, regional staff told us they will apply them to the universe of title IV-E payments from the seven counties for those years and ask the state to reduce future claims for title IV-E reimbursement by the appropriate amounts.

Title IV-B, Section 427 Reviews

In addition to financial reviews, Region IX reviews compliance with title IV-B, section 427. This section stipulates the specific requirements for monitoring the services provided to all children in a state's foster care system, including children placed under title IV-E. It requires

- a statewide information system to monitor the status, demographic characteristics, location, and goals for every child;
- a case review system;
- a reunification service program designed to help children, where appropriate, to return to their families or be placed for adoption; and
- a preplacement program designed to help children remain with their families.

On August 10, 1984, HHS Region IX staff approved the California DSS systems designed to meet these section 427 requirements for monitoring children in foster care facilities.

At the time of our review, HHS Region IX had selected a sample of cases for a more detailed review of compliance with section 427 requirements. However, regional officials had not conducted this review because California DSS had resisted the region's request to centralize the case files. DSS told us that centralization would entail substantial effort, especially if it set a precedent for other welfare programs. On April 15, 1986, the HHS Grant Appeals Board ruled that California must assemble the selected case files in no more than three locations. HHS officials told us they plan to conduct the first section 427 case review of California early in fiscal year 1987 to cover cases from fiscal years 1983 and 1984. If

they find that an acceptable percentage of case files are in compliance, they plan to conduct the review only every 3 years.

In addition, HHS Region IX conducted a special 427 review of placements in the ROP program in response to concerns raised by Representative Miller. The draft report on this special review identified areas where the county probation departments did not fully comply with section 427 requirements, and raised questions about whether the foster care program should serve both delinquent and dependent children.

Chronology of Investigation of Abuse

12/18-19/85	A probation officer from Contra Costa County, California, visits two youths placed by the county in the Rite of Passage program.
12/22-23/85	The probation officer removes the two youths from the program and files a child abuse report with Contra Costa County Children's Protective Services, citing neglect and the intentional deprivation of adequate clothing and shelter.
12/24/85	Contra Costa County Probation Office officials notify the WRP Tribe and the Mineral County Sheriff's Office that they are pressing child abuse charges against the ROP camp facility. Three tribal officials visit the camp to inspect the facilities and interview the youths.
12/30/85	A tribal official and an IHS inspector visit the camp.
01/07/86	The Contra Costa County probation officer files a supplement to the child abuse report, citing specific instances of intentional deprivation of food and clothing, and the use of excessive force and restraints to control the youths.
01/15/86	The probation officer advises the county court that one of the minors should obtain legal counsel to ensure his rights are being protected.
01/16/86	IHS (see 12/30/85 above) issues a report making 23 recommendations to improve the facility, but concludes "The staff are to be commended for the many improvements made since the last survey. Overall, conditions looked good at the camp."
01/17/86	The WRP Tribe sends the tribal investigation report and the IHS report to the Mineral County Sheriff's Office.
01/30/86	Officials from the Bureau of Indian Affairs, the Nevada Division of Investigations, the Mineral County Juvenile Probation Office, and the Nevada State Fire Marshal visit the camp facility.

02/05/86	Bureau of Indian Affairs officials meet with tribal officials to discuss their concerns regarding whether the youths' basic needs are being met and whether their rights are being violated.
02/11/86	In response to an inquiry from Contra Costa County Children's Protective Services, the Nevada Department of Human Resources, Welfare Division, states that an investigative task force found that the ROP environment presented "no imminent hazard to the children in placement" and that plans were being made to correct the facility's problems. This task force includes representatives from the Bureau of Indian Affairs, the Nevada Division of Investigations, the Mineral County Sheriff's Office, the Juvenile Probation Office, and Indian tribal officials.
02/12/86	The Chief Deputy Fire Marshal meets with tribal officials to discuss her concerns; she is advised that the Nevada State Fire Marshal does not have jurisdiction to enforce regulations on an Indian reservation and that the tribe would not grant concurrent jurisdiction.
02/14/86	The ROP program sends a letter to the Mineral County Sheriff's Department reporting on the results of its investigation of the allegations.
02/28/86	The Nevada State Fire Marshal issues a report on the ROP camp facility which cites 18 violations of Nevada's uniform building code for institutional occupancy. The report concludes that the current structures could not be brought up to code and therefore should be replaced. In addition, the report contains a 13-page addendum of concerns unrelated to fire safety addressing such areas as staff qualifications, general living conditions, medical facilities, health and sanitation, security arrangements, education, disciplinary procedures, and the absence of qualified regulatory authorities.
03/14/86	Representative Miller requests that GAO investigate the use of federal foster care funds for placements in the ROP program.
03/28/86	The Mineral County District Attorney issues a statement on the ROP program which concludes, "conditions do not approach those that might

	constitute criminal child abuse or neglect, or otherwise compel Mineral County to exert its criminal jurisdiction over Rite of Passage."
April 1986	The Contra Costa County Court assigns the firm of Hinton and Pashkowski to the case of one of the youths removed from the ROP program (see 1/15/86 above), and the Youth Law Center in San Francisco refers another case to Hinton and Pashkowski involving an Alameda County youth placed in the program.
05/02/86	The law firm of Hinton and Pashkowski files a complaint for damages and a demand for a jury trial in the U.S. District Court, Northern District of California, and the California State Superior Court, Contra Costa County. The complaints are filed against Alameda and Contra Costa counties, Wimbledon House, and ROP for violation of civil rights, personal injury, false imprisonment, assault and battery, intentional infliction of emotional distress, punitive damages, and attorney's fees on behalf of two youths placed at ROP from Alameda and Contra Costa counties.

Placements at ROP From February 1984 Through May 1986

Placing authority	Total	Number of ROP placements funded by: State and county only	Title IV-E	Other
California				
Counties:				
Alameda	38	31	7	
Contra Costa	4	3	1	
El Dorado[a]	2	0	2	
Humboldt	9	7	2	
Lake	1	1	0	
Marin	18	14	4	
Placer	6	6	0	
Sacramento	4	3	1	
San Bernardino	20	12	8	
San Diego	27	24	3	
Santa Clara	23	12	11	
Solano	4	4	0	
Subtotal	156	117	39	
Private	6			6[b]
Total	**162**	**117**	**39**	**6**
Nevada				
Counties:				
Douglas	1			1[c]
Private	2			2[d]
Indian tribes:				
Washoe	4			4[e]
WRP	1			1[e]
Te-Moak Shoshone	1			1[e]
Subtotal	6			6
Total	**9**			**9**
Grand total	**171**	**117**	**39**	**15**

[a]Jurisdiction over one youth was transferred from El Dorado County to Tuolumne County during his stay at ROP.

[b]No federal, state, or county funds were involved. All six California private placements were from El Dorado County, where Wimbledon House is located, and all but one were arranged at a reduced rate of $150 a month through the El Dorado School District in exchange for assistance in setting up and maintaining ROP's school program. The most recent private placement from El Dorado County was for the full rate of $2,920 a month.

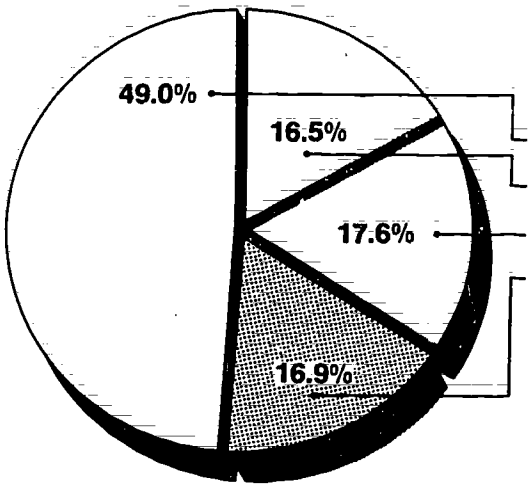
[c]Free placement was arranged as a favor to the Douglas County Probation Office in exchange for assistance in looking for runaways. According to the Director of the Youth Services Division, Nevada Department of Human Resources, Nevada's Juvenile Probation Offices do not have access to title IV-E funds. He said title IV-E funds are used exclusively for Welfare Division placements.

[d]No federal, state, or county funds were involved. Both Nevada private placements were from Douglas

County. One placement was free, and the other was arranged at a reduced rate of $1,000 a month in exchange for county services.

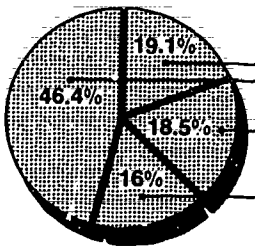
[e]Officials from all three tribes told us that their tribes did not receive title IV-E funds. The Washoe and Te-Moak Shoshone tribes paid a reduced rate of $850 a month for placements at ROP, which were funded by the tribes' social services grants from the Bureau of Indian Affairs. The WRP Tribe's placement was free, based on a provision in the lease with ROP.

Total ROP Expenses From February 1984 Through April 1986



Direct Childcare	$1,724,989
Building and Equipment	581,688
Administration	619,092
Child-Related	592,541
Total	**$3,518,310**

Child-Related



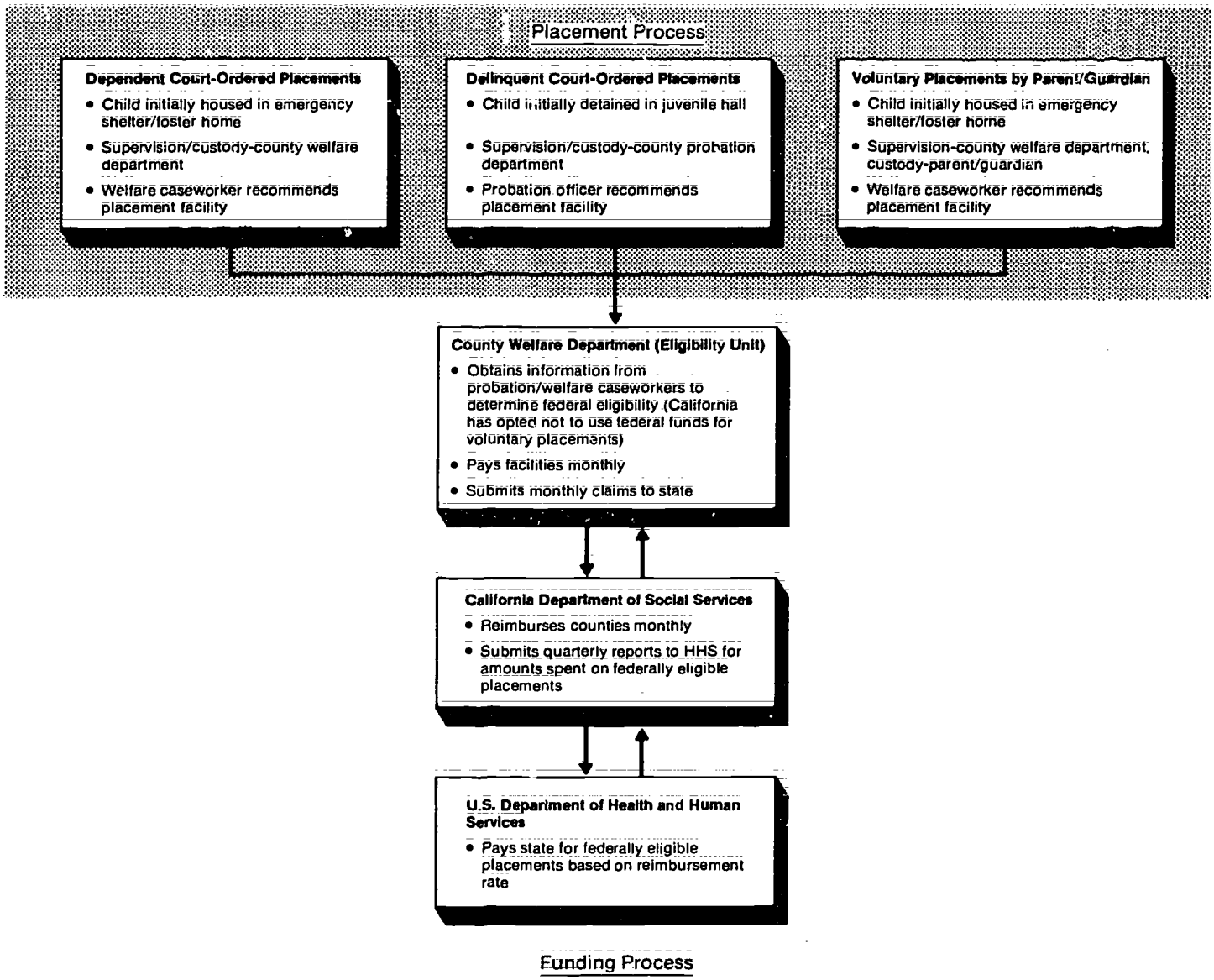
Clothing[a]	$113,134
Food[b]	274,902
Food Workers	109,665
Other[c]	94,840
Total	**$592,541**

[a]Based on the average number of youths in the program, ROP spent about $88 per youth per month on clothing.

[b]Based on the average number of youths in the program, ROP spent about $213 per youth per month on food.

[c]Within the category of child-related expenses, "other" is defined as kitchen supplies, personal and incidentals, school supplies, transportation of children, child-related payroll and benefits, recreation, and miscellaneous child-related expenses.

Foster Care Placement and Funding Process in California



Licensing History of the ROP Facilities

Facility	Licensing authority	Licensing history		
		Dates	Type of license	Capacity
Wilderness camps				
Mountain camp[a]	Washoe Tribe	2/84 to 6/84	No separate license[b]	-
Desert camp	WRP Tribe	7/84 to 9/84	Provisional	35 boys ages 11 - 17
		10/84 to 2/85	Provisional	50 boys ages 11 - 17
		2/85 to 2/86	1-year	(same)
		2/86 to 2/87	1-year	50 boys ages 12 - 18
Group homes				
Dresserville group home	Washoe Tribe	8/83 to 8/84	1-year	16 boys ages 11 - 17
		8/84 to 11/85	1-year[c]	14 boys ages 12 - 18
		10/85 to 10/86	1-year	(same)
Stewart group home	Washoe Tribe	5/85 to 8/85	1-year[c]	9 boys ages 12 - 18
		8/85 to 8/86	1-year	(same)

[a]The first wilderness camp was located in the mountains on Washoe land.

[b]No separate license was issued because youths at the mountain camp were viewed as on an "extended excursion" from the licensed group home in Dresserville.

[c]These licenses stated, "license is good for 1 year," even though the dates covered 15-month periods.

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