

oppaga Progress Report

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Report No. 02-54

Delays Reduced But Persist in the State's Juvenile Competency Program

at a glance

- Since our prior report, the department has made progress in reducing admission and discharge delays in the Juveniles Incompetent to Proceed Program. Average admission delays have been reduced from 61 to 39 days, while average discharge delays have been lowered from 58 to 47 days. These reductions have resulted in more children attending competency training and lower costs to restore competency. The reductions are attributed to the creation of a 48-bed facility exclusively used for secure competency training, and better communication with stakeholders.
- Despite an improvement, significant discharge delays persist. These delays reduce the number of children who can be served and consume 10% of the program's budget.

Purpose

In accordance with state law, this progress report informs the Legislature of actions taken by the Department of Children and Families in response to a December 2000 OPPAGA report.^{1, 2} This report assesses the extent to which the department has addressed the findings and recommendations included in our report.

¹ Section 11.45(7)(f), *F.S.*

² *Justification Review: 72% of Youths Restored to Competency, Able to Move to Delinquency Proceedings*, OPPAGA [Report No. 00-27](#), December 2000.

Program Background

The Juveniles Incompetent to Proceed Program serves mentally ill and mentally retarded children who are charged with felonies, but do not have the ability to participate in legal proceedings.³ The court places the child in either a community or secure setting for training and counseling services to enable the child to understand the charges against them and the court proceedings.⁴ After placement the Department of Children and Families

- contracts for restorative training and case management;
- monitors the progress of cases and scheduling of hearings within the court system;
- maintains contact with the Department of Juvenile Justice, the courts, and the attorneys; and
- trains court personnel and attorneys about the program.

The department competitively bids competency training. Community-based training and secure residential training are bid separately.

³ Not all individuals with mental disorders have symptoms that interfere with their defense.

⁴ Competency restoration training assists children with participating in their own defense. Methods may include education, role-playing, watching videos, and game-playing. This training is designed to help the children appreciate the charges against them and the corresponding range and nature of possible penalties that may be imposed. The training also addresses the importance of disclosing pertinent facts to their attorneys, understanding the adversarial nature of the legal process, and displaying appropriate courtroom behavior.

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Community-based training takes place in a community setting, such as at a juvenile's home or a local public library. The department pays hourly rates of \$40 for community-based training. In addition, there is a charge of \$47.40 per hour for case management services. Brown Schools of Gainesville manages the program's community-based restoration services. The juveniles receive 20 hours of restoration training and 7 hours of case management per month. An evaluation of competency is performed every six months at a cost of \$880. The training is provided for an average of 7.33 months. The cost of training, case management, and evaluations is \$9,176 per child.

Brown Schools was also the initial contractor to supply secure residential training services, where the juveniles are confined to a facility for training. Brown Schools subcontracted with other mental health providers for secure residential placements. However, there were concerns that these facilities also served children who were not in the criminal justice system and that these facilities' classes were not specifically tailored to the program's needs.

Because of these concerns, the department determined that it needed a facility that would exclusively train program participants. This became a condition of the most recent round of contract bids. New Twin Oaks Juvenile Development, Inc., was awarded the bid. It provides a separate facility in Pensacola that exclusively houses 48 residential secure beds for program juveniles. Juveniles from other facilities were moved into the New Twin Oaks facility when it became operational in January of 2002.

The costs of secure training are substantial and increasing. The per diem rate for secure competency training has increased from \$225 per day per child in 1997 to \$290 per day as of October 2002. This training lasts an average of 220 days per child, for an average cost for secure placement of \$64,680 per child, including evaluations and case management.

The Legislature appropriated \$6,062,772 for program services in Fiscal Year 2002-03. The program allocated \$5,123,040 to secure training and \$939,732 to community-based training. In Fiscal Year 2001-02, the program needed additional funding of \$641,732.

From the program's inception in 1997 through September 1, 2002, 731 mentally retarded or mentally ill children completed training. The number of juveniles the program has served increased by 135%, from 167 in Fiscal Year 1997-98 to 376 in Fiscal Year 2001-02. Department officials expect the demand for program services to continue to grow. Exhibit 1 shows the increases in both budget and participants over the past five fiscal years.

Exhibit 1

Program Resources Have Increased by 62% and Juvenile Participation Has More Than Doubled Over the Past Five Years

Fiscal Year	Appropriations	Number of Juveniles
1997-98	\$3,736,000	167
1998-99	3,703,000	210
1999-00	4,438,000	266
2000-01	6,523,000	306
2001-02	6,705,000	376
2002-03	6,063,000	N/A

Note: Some children are served in more than one year.

Source: Department of Children and Families.

Prior Findings

In our prior report, we concluded that the program was relatively successful in restoring children's adjudicative competency and returning them to the juvenile justice system to proceed with their delinquency proceedings. Overall, 72% of the children who completed training were sent back to the courts with their adjudicative competency restored. When children complete training, the program makes recommendations to the courts as to whether competency has been restored. Judges concurred with 98% of the program's recommendations for the period from May 1997 through September 2000.

However, we also concluded that there was a lack of statutory clarity about the number of required competency evaluations of children and the quality of these evaluations.⁵ We recommended that the Legislature clarify its intent that all children receive more than one evaluation. We also recommended that the Legislature establish a process to ensure that qualified professionals evaluate children who potentially may be ordered into competency restoration training in a secure residential environment.

Many children experienced admission delays. Program data indicated that 44% of children referred to the program waited more than a month from the

⁵ Determinations of juvenile competency are made at judicial hearings. Chapter 985.223(1)(b), *F.S.*, requires that findings of fact be based on not less than two expert evaluation of the child's mental condition. However, under subsection (1)(e) of Ch. 985.223, the law provides that competency evaluations related to mental retardation be done by Developmental Services Program of the Department of Children and Families and appeared to require only one evaluation. Stakeholders reported confusion about these seemingly conflicting requirements and told us that the confusion can lead to delays in children receiving services, as the department believes it is statutorily required to wait for the second evaluation before it can admit a child to the program.

date of the court-ordered referral until the time they began receiving services; 26% waited more than two months. These delays could be attributed to poor coordination between the courts and the program, which were due in part to a high rate of turnover among court personnel who interact with the program.

To increase the timeliness of admission processes, we recommended that the department

- devise a system to monitor the cases from the time competency is restored through the issuance of a court order and admission to the program;
- explore new strategies for educating court system personnel that focus on the statutory process for establishing competency and includes information about the types of children most likely to experience success in the program, as well as anticipated timeframes for completing competency restoration training; and
- create a web page on the Internet as a more effective means of ensuring ongoing access to important program information.

Discharge delays contributed to admission waits and added to costs. Most children spent additional time in the program after the service provider determined they could be discharged. Program data indicated that children spent an average of 58 days in the program after the service provider believed that training was complete. These delays reduced the limited number of slots available for secure residential placements, creating admission delays and increasing program costs.

While the department did not track costs associated with discharge delays, we estimated, that for those children who spent the extra two months in the program, the program absorbed additional costs of up to \$2,000 for each child served in the community and \$13,500 for each child served in a secure residential facility.

Stakeholders attributed these waits to delays in obtaining court hearings and delays in developing adequate discharge plans. They postulated that courts were reluctant to release potentially violent incompetent youths back into society without a plan for treatment being in place.

To increase its ability to serve children at the court-ordered level of security, we recommended the program monitor the length of time children wait for secure residential placements. We also recommended that the department collect information that would enable it to pinpoint reasons for discharge delays.

Current Status

The department has taken steps to implement the recommendations made in our prior report. These changes have contributed to reductions in admission and discharge delays. However, the delays are still substantial and further action is needed.

The department has worked with the circuit courts to ensure that each child receives two evaluations regardless of diagnosis. The Department of Children and Families (DCF) lawyers have resolved the conflicting interpretation of the statute during competency hearings. To assist the courts in choosing competent evaluators, DCF provides the courts an annual list of professionals who have completed training in juvenile competency assessments and evaluation at the University of South Florida, Florida Mental Health Institute.

The department has also taken steps to improve communication and better educate court system personnel about the program. DCF has established educational and informational materials to explain the program to court personnel. For example, the department presented a three-hour workshop explaining the Juveniles Incompetent to Proceed Program at the 2002 annual conference of state circuit courts. Brown Schools meet with circuit judges individually at least once a year. Furthermore, department attorneys and juvenile court liaisons explain DCF's role in juvenile competency proceedings to judges and lawyers; attend court hearings as a resource on a child's placement, progress and status; track procedural dates; and provide attorneys with evaluator lists, model orders and information on mental illness and mental retardation.

The department is in the process of designing a website to assist judges, lawyers, and others in the court system. DCF estimates that the site will be available by late fall 2002. The launch of the website will provide court personnel with a ready source of program information, forms, and contacts.

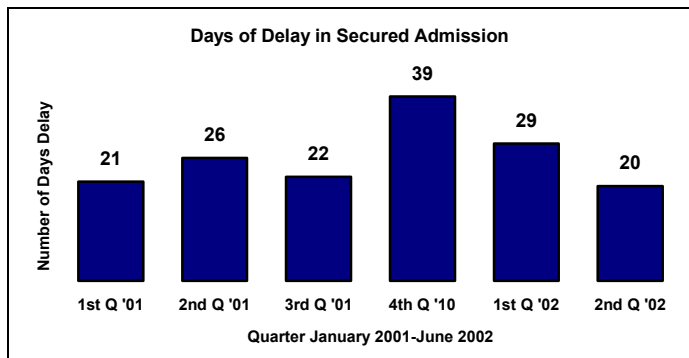
These efforts have contributed to overall reductions in admission delays. Since our prior report, admission delays have been reduced but remain substantial. As shown in Exhibit 2, the length of time that children wait for admission to a secure facility has declined from a high of 39 days to 20 days. This decrease occurred while the number of children being served has increased. The program has had a 27% increase in community placement orders from 191 orders in Fiscal Year 2000-01 to 242 in Fiscal Year

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2001-02. Secure residential placement orders have increased from 115 to 155 over this period.

Exhibit 2

Admission Delays Have Declined After Opening of New Facility, Despite Increase in Demand

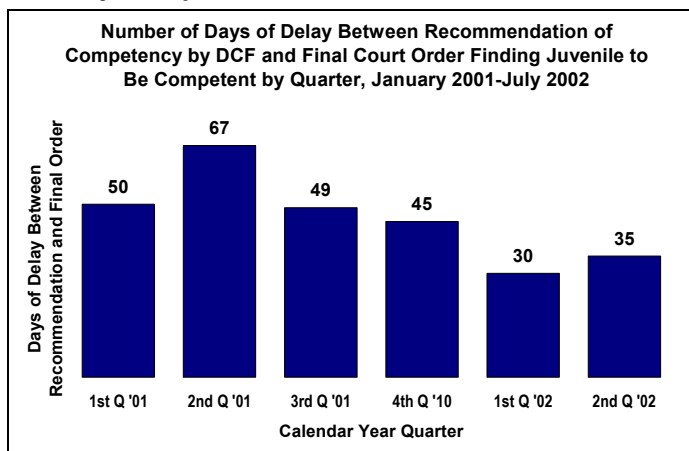


Source: Department of Children and Families.

Discharge delays have declined but persist. Since our prior report, discharge delays have also declined. As shown in Exhibit 3, the average wait time between recommendations of competency and the court order releasing the child from secured training was 35 days during the April to June 2002 period, compared to a high of 67 days during the same quarter the previous year. The overall delay has declined substantially from our first report, from 58 days for the first report period to 47 days in this report. See Exhibit 4.

Exhibit 3

Discharge Delays Have Declined, But Continue to Persist



Source: OPPAGA analysis of program data from May 1997 through July 2002.

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Delays need to be addressed

Discharge delays continue to add cost and unproductive time to juvenile proceedings. While the length of discharge delays has been reduced since our prior report, the average cost of these delays has not materially changed due to the increase in the program's per diem rate. As shown in Exhibit 4, we estimate that the average cost of the 47-day discharge delay is \$13,630 per child. Discharge delays wasted an estimated \$654,240 in Fiscal Year 2001-02 or 10% of the program budget, treating juveniles that the program deems competent. This is significant, as the program had a budget overrun of \$641,732 in that fiscal year.

Exhibit 4

Delays in Releasing Children from Secure Training Waste Program Resources

Year	Days of Delay	Daily Cost of Secure Training	Per Student Cost of Delay
1997-00	58	\$225	\$13,050
2000-02	47	290	13,630

Source: OPPAGA analysis of program data from May 1997 through April 2002.

If the program could eliminate the delay, it could train 14 more children with existing resources. As of September 2002, there were 17 children waiting for secure placement. Discharge delays contribute to the program's difficulties obtaining placement slots for newly admitted children. Eligible children cannot be served until secure training placement slots and financial resources are freed. The department needs to continue its efforts to further reduce discharge delays.

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