



Telephone:
(916) 445-0255

STATE OF CALIFORNIA
Office of the Auditor General

Thomas W. Hayes
Auditor General

660 J STREET, SUITE 300
SACRAMENTO, CA 95814

February 1, 1988

P-750

Honorable Bruce Bronzan, Chairman
Members, Joint Legislative
Audit Committee
State Capitol, Room 448
Sacramento, California 95814

Dear Mr. Chairman and Members:

We reviewed the Department of Social Services' (department) regulation of four group homes for children in Santa Barbara County. The four homes were the targets of numerous complaints ranging from serious allegations regarding fraud and obscene photographs to minor allegations about loud talk and profanity. In reviewing the department's files of the four group homes, we found that the department properly licensed the group homes, conducted all of the annual inspections, conducted on-site inspections in response to all complaints filed, and took appropriate action against the homes for violations of licensing laws and regulations.* The licensees of the four homes closed three of the homes, and the department denied the licensees' application to renew the license of one home.

Background

In 1973, the California Community Care Facilities Act, (Health and Safety Code, Section 1500 et seq.) established a system for providing residential care for children and adults in need of care and supervision. The intent of the act is to ensure that all persons in need of care and supervision are served by community care facilities that meet established health and safety standards.

* In addition to reviewing the regulation of the four homes in Santa Barbara County, we completed an audit of residential facilities for children in May 1985 for our report entitled "Some of the State's Licensed Residential Facilities for Children Are Not Safe," Report P-448.

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The Community Care Licensing Division of the department licenses and regulates community care facilities. The department administrates the program to license facilities through 15 district offices, one of which is in Santa Barbara County. The department investigates the background of applicants for facility licenses and ensures that the facilities meet the required health and safety standards. In addition to licensing facilities, the department is required to conduct annual inspections and investigate complaints that it receives about facilities. When department staff inspect facilities, they may cite the facilities for "deficiencies," which are violations of state laws or regulations concerning community care facilities. The licensees must then correct the deficiencies or face possible administrative action, which could include suspension or revocation of a license or denial of the licensees' application for renewal of their license.

The Santa Barbara County Grand Jury of 1986-87 (Grand Jury) investigated group homes, focusing specifically on the New Directions' Butte, Tansana, Magna Vista, and Pintura houses. The Grand Jury's investigation of these homes was prompted by its receipt of a copy of a letter to the department alleging that the licensees of the four homes had committed fraud and forgery and had engaged in pornographic activities. After completing its investigation, the Grand Jury expressed concern in its report that a breakdown existed in the department's monitoring of group homes. The Grand Jury was also concerned because, throughout the spring of 1987, the number of complaints of unacceptable practices at the four homes had increased. Finally, the Grand Jury recommended an investigation to determine the licensees' "eligibility for private, nonprofit, tax treatment."

History of the Four Homes

The four group homes for children that the Grand Jury investigated were all licensed to the same married couple. The department licensed the first facility, Butte House, in December 1984, and the licensees resided in the facility. The second of the four homes, Tansana House, was licensed under a provisional license in May 1986 as a home for six pregnant minors and six infants. The department issued the regular license for this second facility in August 1986. The final two homes, Magna Vista and Pintura, were licensed in September 1986.

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Although the department received no complaints against Butte House before May 1986, from May 1986 through March 1987, a number of complaints were lodged against all four homes. Some of the complainants alleged that the licensees did not sufficiently supervise the children residing in the homes. Another complainant repeatedly alleged that the residents were in the back yard talking too loudly, using profanity, and smoking. The letter that prompted the Grand Jury's investigation of these homes alleged that the licensees had committed forgery and fraud and that two residents at one of the homes found photographs of the licensees engaged in sexual acts.

In April 1987, the licensees relinquished the licenses for three of the homes. The remaining home, where the pregnant minors resided, remained open until June 1987, when all the residents were removed from the facility.

Scope and Methodology

We reviewed the department's files of the four group homes to determine whether the department properly licensed and monitored these four group homes, properly responded to complaints filed against the group homes, and took appropriate administrative action against the licensees for any confirmed violations of state licensing requirements.

In addition, to determine the status of the licensees' nonprofit corporation, we reviewed records at the Secretary of State's Office. Moreover, to determine the requirements for a charitable trust and to determine whether the licensees complied with the requirements, we interviewed staff in the Registry of Charitable Trusts in the Department of Justice. We also obtained and analyzed data from the Franchise Tax Board to determine whether the nonprofit corporation was tax exempt. A nonprofit corporation is not automatically exempt from taxes; for example, the Franchise Tax Board must issue a determination exempting the organization from tax after the organization has submitted an application. The couple properly incorporated their organization as a nonprofit corporation in September 1984 by filing the appropriate articles of incorporation with the Secretary of State's Office. The corporation applied for and received its tax-exempt status for both federal and state taxes by September 1985. In addition, as a nonprofit organization incorporated for the public benefit, the licensees properly complied with the requirements for a charitable trust by filing the required financial reports with the attorney general. The licensees filed the required reports for calendar years 1985 and 1986, which were the two full years that they operated group

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homes under the nonprofit corporation. Moreover, in November 1987, the Franchise Tax Board received a request for a tax clearance certificate. According to a supervisor at the Franchise Tax Board, a corporation might file a tax clearance certificate if it wished to dissolve.

Finally, we attempted to contact the licensees; however, according to an assistant district attorney in Santa Barbara County, the licensees apparently have left the State. Because we were unable to contact the licensees, we were unable to audit the corporation's financial records.

The Department Properly Licensed
the Four Group Homes

To receive a license to operate a residential facility for children, the applicant must complete an application that requires basic information such as the name of the applicant, the location of the property to be used as the facility, the name and address of the owner of the property if the applicant is renting, the name and business address of each of the applicant's partners, and the name and address of each person owning more than 10 percent of the stock if the applicant is a corporation. Also, the applicant must indicate the category of facility that will be operated, the maximum number of persons who will be served, and the age range, sex, and types of persons who will be served.

In addition, the applicant must obtain a fire clearance from the State Fire Marshal's Office and furnish the department with fingerprints for all the applicants, permanent residents, and employees or persons who have frequent or routine contact with the residents. Health screening reports verifying good health for all personnel, including volunteers, must be signed by the person performing the screening. In addition, to obtain a license to operate a group home for children, the facility must be administrated by a person who meets the following minimum requirements: a high school degree or its equivalent and at least three years' experience administrating or supervising social workers, child-care staff, or support staff who provide direct services to children in an agency or in a community care facility with seven or more children.

The department properly licensed the first home, Butte House, in December 1984. The applicants submitted the required fingerprints for criminal-record clearance and also submitted health screening reports

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for themselves and for all staff. The applicants also submitted the required fire clearance from the State Fire Marshal's Office, their operating plan, and information about their background, their control of the property, and their financial resources. The applicants, who served initially as the administrators, also submitted documents to support their education and experience. For example, one of the applicants had a master's degree from the University of Florida and appeared to have five years' experience in directing or counseling youth. The other applicant appeared to have four years' experience working with youth.

The second home, Tansana House, was first licensed in May 1986 under a provisional license, which the department has the authority to issue for a maximum of six months when it determines that full compliance with the licensing regulations will be achieved within that time. By August 1986, the licensees had met all the licensing requirements for the second home, and the department properly licensed the home. In addition, the applications for licensing Magna Vista and Pintura houses, the third and fourth homes, were complete, criminal-record clearances revealed no problems, and the State Fire Marshal's Office approved the fire clearances. Therefore, the department also properly licensed these homes.

The Department Conducted All Required Annual Inspections of the Group Homes

Section 1534 of the Health and Safety Code requires the department to conduct at least annual inspections of all licensed facilities to ensure that the licensees have complied with state requirements. The department conducted three of these inspections for Butte House and Tansana House. Because Magna Vista and Pintura were licensed for less than one year, no annual inspections were required or conducted. At the inspection of Butte House in December 1985, the department cited the home for two minor violations: one staff person did not have first-aid training, and two residents' files did not contain the residents' medical assessments. The licensees corrected these deficiencies. At its next inspection, the department cited Butte House for a more serious violation. The department cited the facility for insufficient supervision because staff sleeping quarters were separate from and not close to the residents' bedrooms. The licensees developed a plan of correction that was acceptable, and the department cleared this deficiency.

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At the inspection of Tansana in August 1986, the department cited some minor problems, such as the absence of one window screen. In addition, the department identified more serious deficiencies, including an insufficient supply of perishable foods and incomplete fingerprint records for one staff person. However, the licensees corrected all these deficiencies.

The Department Conducted On-Site
Inspections for All Complaints
Filed Against the Four Group Homes

Any person may request an inspection of a community care facility by filing a complaint with the department alleging the facility's violation of state requirements. When a complaint is filed against a licensed (or unlicensed) community care facility, the department is required to make a preliminary review, and unless the department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it must generally make an on-site inspection within ten days after receiving the complaint.

The department did not receive any complaints against Butte House until May 1986. However, from May 1986 through March 1987, the department received nine complaints from four complainants. In addition, the department received four complaints against Tansana, one complaint against Magna Vista, and two complaints against Pintura during the time that these homes were licensed. The department properly investigated all complaints and cited deficiencies for any violations that it identified. For example, in its on-site investigations of the complaints against Butte House, the department confirmed allegations that residents of the home were locked out of the facility when they arrived home from school, that the facility staff had allowed a resident to spend the weekend away from the facility, and that the facility was in need of repair. After confirming the allegations, the department cited the facility for a lack of supervision and the poor condition of the facility.

Some of the allegations, however, could not be confirmed. For example, the department could not confirm that a resident was required to go to school when ill, that food and clothing were insufficient, or that the residents were too noisy at night, used profanity, or were verbally abusive towards a complainant. Therefore, the department could not cite the facility for any deficiencies in these areas.

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In February 1987, the department received a complaint alleging that the licensees were guilty of fraud and forgery. Similar allegations, including information that obscene pictures were found at Butte House, were reported to a probation officer, who, in March, relayed these allegations to the department. Staff from the district office in Santa Barbara County solicited the assistance of the department's legal staff and the assistance of the department's Office of Audits and Investigations to audit the licensees' financial activities. In addition, a subpoena was issued for the pictures, and staff from the district office contacted witnesses and took sworn statements.

During the department's investigation, it learned that two residents of Butte House had found the pornographic pictures in a locked garage not intended for use by the residents while the two residents were helping a staff person move personal belongings stored in the garage. Moreover, the department confirmed that, according to the staff person who received the pictures from the two residents, no children were shown in the pictures.

During its on-site inspections to investigate the complaints filed, the department confirmed that staff were not at Butte House when residents arrived home from school and cited the licensees for their failure to provide proper care and supervision. The department also cited the licensees for their failure to maintain the facilities in good condition, their failure to provide fingerprints of new employees, and their failure to report that they had hired a new administrator. The licensees corrected some of the deficiencies. However, the department did not follow up on all of the deficiencies because the licensees voluntarily closed the home.

Finally, staff from the district office also conferred with the county district attorney regarding the alleged fraud and forgery. According to an assistant district attorney, as a result of the Grand Jury's interest, the district attorney investigated the allegations of fraud. Although he did not confirm that all of the allegations were true, the district attorney did determine that the licensees misused a \$10,000 donation that should have been used for purchasing a residential facility for emotionally disturbed females. The licensees did not use these funds to purchase the facility. According to the assistant district attorney, in November 1987, as a result of the district attorney's investigation, the licensees pleaded guilty to a misdemeanor and returned the \$10,000.

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The Department Took Appropriate Actions Against the Homes

The department can take various actions against licensees to ensure that licensees comply with state licensing requirements. For example, the department can deny the licensees' application for renewal of their license if the licensees are not in substantial compliance with applicable state requirements at the time of the renewal. Also, the department has the authority to revoke or suspend a license. For example, the director of the department can issue a temporary suspension order when, in the opinion of the director of the department, an immediate threat to the residents' health and safety exists. When the department revokes, temporarily suspends, or denies the renewal of a license, the licensees of the facility can appeal the action and, except when the department issues a temporary suspension order, can continue to operate until an administrative law judge rules otherwise.

When serious or chronic deficiencies exist at facilities and when revocation or suspension of the license may not be appropriate, the department can request an informal conference. Generally, the informal conference is held at the district office and is attended by the administrator and the licensee of the facility, the department's evaluator and supervisor, and when appropriate, the district manager. During the informal conference, the attendees discuss the problems at the facility and formulate a plan for resolving the problems. The conference may also be used to advise the licensees that if noncompliance continues, the department may pursue other enforcement action.

In April and, again, in May 1987, the department scheduled informal conferences with the licensees. After the informal conference in April, the licensees voluntarily surrendered the licenses for Butte, Magna Vista, and Pintura houses. After the informal conference in May 1987, the department denied the licensees' application for renewal of their license for Tansana House, which would have expired in August 1987. The department's basis for denying the renewal of this license was the licensees' failure to provide proper care and supervision, failure to obtain and submit the fingerprints of new employees, failure to report unusual incidents, failure to employ competent staff, and failure to administrate the homes in compliance with state requirements. On June 12, 1987, the licensees closed Tansana House, and all the residents were removed from the facility.

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Conclusion

The Community Care Licensing Division of the Department of Social Services properly licensed and monitored the four group homes, conducted on-site inspections in response to all complaints filed, and cited the facilities for deficiencies that it identified. Finally, the department took appropriate action against the licensees for their continued failure to provide proper care and supervision of the residents of the four group homes.

We conducted this review under the authority vested in the Auditor General by Section 10500 et seq. of the California Government Code and according to generally accepted governmental auditing standards. We limited our review to those areas specified in the audit scope section of this letter.

Respectfully submitted,


THOMAS W. HAYES
Auditor General

Department of Social Services' response to this report

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814



January 27, 1988

. Thomas W. Hayes
Auditor General
Office of the Auditor General
660 J Street, Suite 300
Sacramento, CA 95814

Dear Mr. Hayes:

OFFICE OF THE AUDITOR GENERAL'S (AGO) REPORT ENTITLED "A REVIEW OF THE DEPARTMENT OF SOCIAL SERVICES' REGULATION OF FOUR GROUP HOMES FOR CHILDREN IN SANTA BARBARA COUNTY (P-750)"

Mr. Clifford Allenby, Secretary, Health and Welfare Agency, has asked me to review and comment on the above draft audit report.

I appreciate the opportunity to respond to your report prior to its release. I am most pleased that your report found that the Department acted appropriately. I have no other comments on your findings.

If you have any questions, please contact me at (916) 445-2077, or have your staff contact Mr. Fred Miller, Deputy Director, Community Care Licensing Division, at (916) 322-8538.

Sincerely,

A handwritten signature in cursive script, reading "Linda S. McMahon".

LINDA S. McMAHON
Director