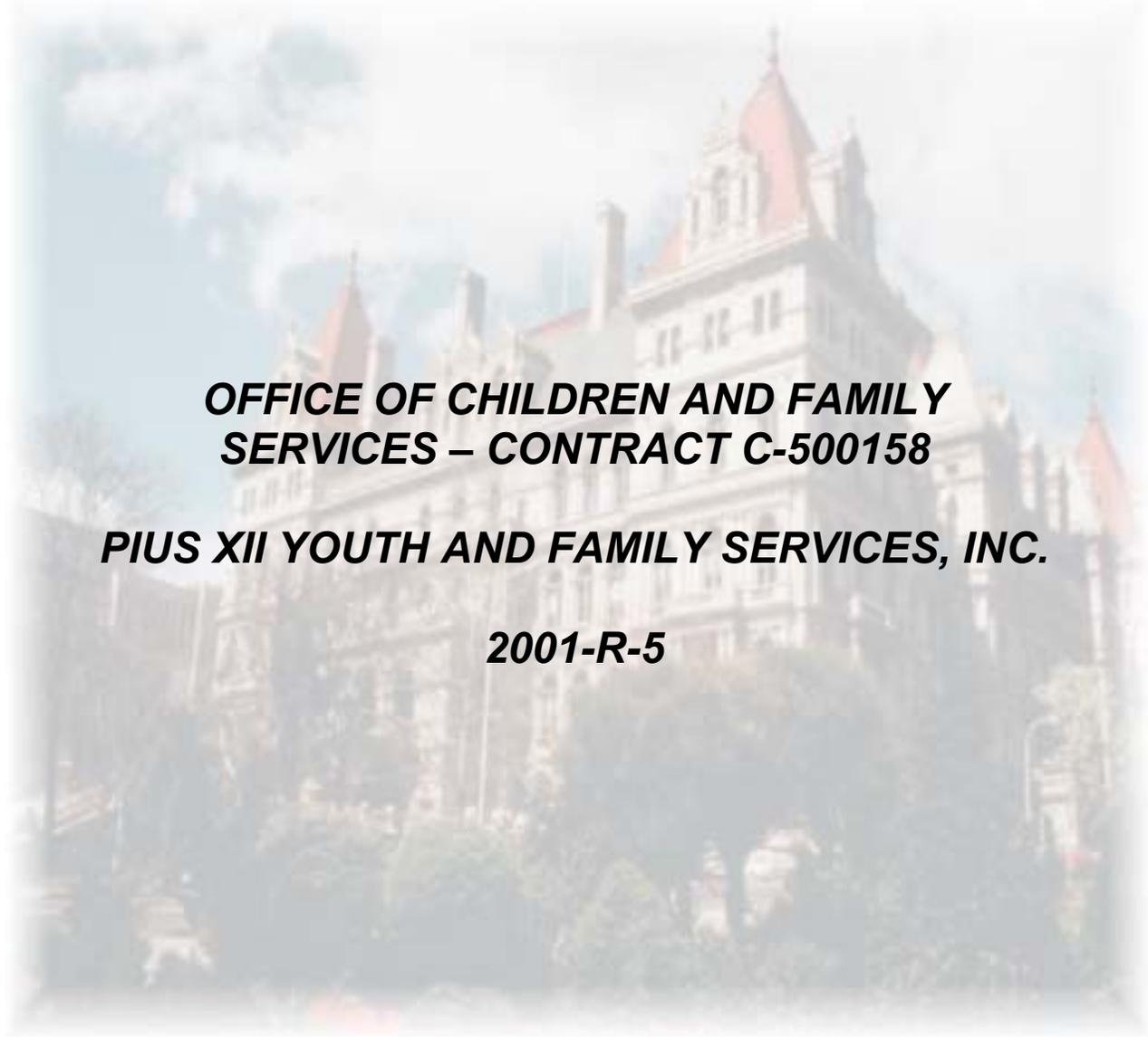


*A REPORT BY THE NEW YORK STATE
OFFICE OF THE STATE COMPTROLLER*

**Alan G. Hevesi
COMPTROLLER**



**OFFICE OF CHILDREN AND FAMILY
SERVICES – CONTRACT C-500158**

PIUS XII YOUTH AND FAMILY SERVICES, INC.

2001-R-5

DIVISION OF STATE SERVICES

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Alan G. Hevesi
COMPTROLLER

Report 2001-R-5

Mr. John A. Johnson
Commissioner
New York State Office of Children
and Family Services
52 Washington Street
South Bldg. 3rd Floor
Rensselaer, NY 12144

Dear Mr. Johnson:

The following is a report of our audit of Contract C-500158 between the New York State Office of Children and Family Services and Pius XII Youth and Family Services, Inc.

This audit was performed pursuant to the State Comptroller's authority, as set forth in Article V, Section 1 of the State Constitution; and Article II, Section 8 of the State Finance Law. We list major contributors to this report in Appendix A.

Office of the State Comptroller
Division of State Services

April 11, 2003

EXECUTIVE SUMMARY

OFFICE OF CHILDREN AND FAMILY SERVICES – CONTRACT C-500158

PIUS XII YOUTH AND FAMILY SERVICES, INC.

SCOPE OF AUDIT

Pius XII Youth and Family Services, Inc. (Pius), is a voluntary agency that provides social services in both residential and community settings. The Office of Children and Family Services (OCFS) contracted with Pius to provide youth designated by the courts as juvenile delinquents and persons in need of supervision with care, treatment, education, rehabilitation, and guidance at its two residential facilities – the Holy Cross campus in Rhinecliff and the Chester campus in Orange County. In June 1999, OCFS received allegations regarding the inappropriate activities of Pius staff. The allegations included staff bringing firearms and illegal substances into the facilities, and having sexual relations with the resident youth. The contract covered the period of July 1, 1996 through June 30, 2001. Because it was concerned about conditions at the Holy Cross facility, OCFS suspended its operating certificate and closed it in May 2000. Without OCFS intervention, Pius decided in the following month to close its Chester facility as well.

Our audit addressed the following questions for the period January 1, 1998 to June 30, 2000:

- Did Pius provide services required by the contract and hire qualified personnel?
- Did OCFS perform adequate oversight and monitoring of the contract, including the investigation of resident abuse/neglect allegations?
- Did Pius bill appropriately for the services it provided?

AUDIT OBSERVATIONS AND CONCLUSIONS

The contractual agreement between OCFS and Pius called for Pius to prepare written service plans for each resident, solicit resident/family involvement in the development of program services, provide health/medical and educational

services, hold resident treatment meetings, and complete a Uniform Case Record (UCR). UCRs contain information about the manner in which the resident's family functions, goal-setting, program progress, casework contacts, family visits, and target dates for goal achievement and discharge. UCRs had to be approved by an OCFS worker. We found that residents' case files were generally complete, and documented that services were provided as called for. However, OCFS approved only 53 percent of the UCRs. (See pp. 5-6)

In addition to providing the required services, Pius was responsible for verifying that its employees, who directly influenced the level of care and treatment provided to the residents, possessed the minimum qualifications required by New York Codes Rules and Regulations (NYCRR). Pius was required by the New York State Social Services Law and NYCRR to query the State Central Register of Child Abuse and Maltreatment for all new applicants who might have regular and substantial contact with residents. We noted a systemic lack of documentation that Pius workers met minimum job qualifications and also found that there was a significant lack of documentation that Pius had checked the references of its workers. OCFS had not identified these problems because it had not reviewed Pius' personnel files. (See pp. 7-9)

The contract between OCFS and Pius was not for a specific dollar amount; nor did it set a ceiling for payments. Instead, it was a fee-for-service contract under which Pius was paid a per diem rate for care days provided to OCFS residents. OCFS did not track the amount paid to Pius under this contract. Management cannot make informed decisions about the success of their programs without knowing the cost of such services. We estimate that total payments to Pius for OCFS residents during fiscal years 1998, 1999, and 2000 were \$20.2 million. (See pp. 11-13)

The Social Service Law authorizes OCFS to inspect and supervise voluntary agencies in the interest of protecting the life, health, safety, and comfort of the children who are receiving services. It also requires OCFS to investigate all reported child abuse allegations at the facilities. We found that OCFS' investigations of reported institutional abuse and neglect allegations were not done within the required time frames. After being notified by the Rockland County District Attorney's Office about allegations of gang-related activity at Pius facilities, OCFS conducted a comprehensive on-site review at Chester and Holy Cross, and, in September 1999, OCFS established an on-site presence at the Holy Cross facility. In January 2000, OCFS told Pius to take immediate steps to improve safety at Holy Cross, and in May 2000, OCFS suspended Pius' operating certificate and closed the Holy Cross Facility. The following month, Pius decided to close the Chester facility. (See pp. 15-19)

COMMENTS OF OCFS OFFICIALS

A draft copy of this report was provided to OCFS and Pius officials for their review and comment. Their comments were considered in preparing this report, and the comments of OCFS officials are included as Appendix B.

OCFS agreed with our recommendation to examine the events that led to the closing of Pius facilities and identify improvement opportunities in its monitoring practices. OCFS indicated that it has already taken steps to implement this recommendation. OCFS also indicated that it has made improvements in its procedures for reviewing Uniform Case Records.

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INTRODUCTION

Background

New York State created the Office of Children and Family Services (OCFS) in 1998, when the Division for Youth (DFY) and the Department of Social Services (DSS) merged. To fulfill its primary mission – promoting the development, well-being, and safety of the children, families, and communities of New York State (State) – OCFS establishes and enforces policies and procedures, collaborates with other State and community agencies, and funds and provides an array of services. It has numerous responsibilities, including the administration of foster care for youth who have been remanded to its custody by family and criminal courts.

OCFS administers foster care through a network of agencies that care for children temporarily until a more permanent situation can be arranged. For example, it operates and holds contracts with a number of community-based residential centers, and foster care facilities for displaced youths. In the case of all these facilities, OCFS is authorized by the New York State Social Services Law (Social Services Law) to provide assistance and monitor operations. At the time of our audit, OCFS operated 42 residential facilities and had placement agreements with 55 voluntary agencies that provide children with residential care.

One of OCFS' recent contracts was with Pius XII Youth and Family Services, Inc. (Pius). Pius is a voluntary child-care agency that coordinates and administers charitable and social service activities for needy children and adults in a wide range of residential, community, chemical dependency, and corporate services. DFY originally contracted with Pius to provide youth designated by the courts as juvenile delinquents and persons in need of supervision with care, treatment, education, rehabilitation, and guidance at its two residential facilities – the Holy Cross facility in Rhinecliff and the Chester facility in Orange County. Upon its creation in 1998, OCFS assumed DFY's contractual obligation with Pius, which

was for the period of July 1, 1996 through June 30, 2001, and paid Pius a fixed daily rate for each resident it housed. For the three fiscal years that ended on May 31, 2000, the estimated total expenditure under this contract was more than \$20 million.

In June 1999, OCFS received allegations regarding the inappropriate activities of Pius staff. The allegations included staff bringing firearms and illegal substances into the facilities, and having sexual relations with the resident youth. As a result of conditions and occurrences at the Holy Cross facility, OCFS suspended Pius' operating certificate and closed it in May 2000. Without OCFS intervention, Pius decided in the following month to close its Chester facility as well. Pius no longer has such contracts with OCFS. In mid 2001, these events were brought to the attention of the Office of the State Comptroller.

Audit Scope, Objectives and Methodology

The objectives of this financial-related contract audit were to follow up on allegations of resident abuse and neglect that were brought to our attention; review the manner in which Pius delivered the services outlined in the contract; determine the extent of OCFS' oversight and monitoring of the contract; and review the support for, and propriety of, Pius billings. To accomplish our objectives, we reviewed resident and employee case files, OCFS' monitoring policies/procedures and reports, case files related to resident abuse/neglect allegation investigations, and Pius billings. We reviewed Pius' delivery of contractual services to residents placed in the Holy Cross and Chester facilities by OCFS as well as payments to Pius for services provided to OCFS' residents for the period of January 1, 1998 through June 30, 2000. We also reviewed OCFS' monitoring and oversight of the provisions set forth in the contract. Finally, we also interviewed personnel at Pius, OCFS, the New York State Police (State Police), and the New York City Administration for Children's Services (ACS).

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to adequately

assess OCFS and Pius operations included within our audit scope. Further, these standards require that we understand OCFS' and Pius' internal control structures and their compliance with those laws, rules, and regulations that are relevant to the operations included in our audit scope. An audit includes examining, on test basis, evidence to support transactions recorded in the accounting and operating records and applying such other auditing procedures, as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments and decisions made by management. We believe that our audit provides a reasonable basis for our findings, conclusions and recommendation.

Internal Control and Compliance Summary

Our consideration of OCFS' and Pius' internal control structures over the contract found that they did not track contract payments adequately; nor did they compile statistics on total dollars spent for contractual services rendered. OCFS also did not monitor Pius' contract-related operations until August 1999 despite ample evidence that problems existed at these sites as early as January 1998. We provide details of these matters throughout this report.

Response of OCFS and Pius Officials to Audit

A draft copy of this report was provided to OCFS and Pius officials for their review and comment. Their comments were considered in preparing this report, and comments of OCFS officials are included as Appendix B. We revised some of the text in this report to reflect comments in OCFS' response.

OCFS agreed with our recommendation to examine the events that led to the closing of Pius facilities and identify improvement opportunities in its monitoring practices. OCFS indicated that it has already taken steps to implement this recommendation. OCFS also indicated that it has made improvements in its procedures for reviewing Uniform Case Records.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Office of Children and Family Services shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendation contained herein, and where recommendation was not implemented, the reasons therefor.

SERVICE PROVISION

The contractual agreement between OCFS and Pius called for Pius to provide OCFS residents with rehabilitative and therapeutic services that would enable them to achieve their maximum potential and either reunite with their families or prepare for independent living if a return home were not feasible. Contractual requirements included written service plans for each resident, resident/family involvement in the development of program services, health/medical and educational services, resident treatment meetings, and Uniform Case Record (UCR) preparation. UCRs contain information about the manner in which the resident's family functions, goal-setting, program progress, casework contacts, family visits, and target dates for goal achievement and discharge.

We analyzed a total of 25 (out of 501) randomly-selected case files for residents living at the Holy Cross and Chester facilities during the period of January 1, 1998 through June 23, 2000. We sought to determine whether:

- Pius had solicited resident/family involvement in the development of program services;
- facility personnel had completed required UCRs in a timely manner;
- UCRs had been approved by an OCFS worker;
- residents had received health/medical and education services;
- resident service plan reviews/treatment meetings had been held; and
- caseworkers had prepared case notes tracking resident progress.

The Pius case files we analyzed were well-organized and contained extensive documentation to substantiate service provision for the residents. All of the case files contained case notes and documentation indicating that all required services were provided. Twenty-four of the 25 case files we reviewed contained UCRs that had been completed timely by Pius personnel. However, just 58 (53 percent) of the 109 required UCR approvals by OCFS personnel were evidenced in the case file folders.

In response to our draft report, OCFS officials indicated that: “OCFS staff has been notified of their responsibility to promptly review all Uniform Case Records received from voluntary agency contractors. After review, if approved, the case manager must sign the appropriate form and provide the voluntary agency with a copy of the executed signature page retaining a copy for the case file. Written procedures reflecting this recommendation, including a tracking system and greater supervisory oversight, have been developed, distributed and implemented.”

PERSONNEL PRACTICES

In addition to providing the required services, Pius was responsible for verifying that its employees, who directly influenced the level of care and treatment provided to the residents, possessed the minimum qualifications required by New York Codes Rules and Regulations (NYCRR). Pius was required by the New York Social Services Law and NYCRR to query the State Central Register of Child Abuse and Maltreatment (SCR) for all new applicants who might have regular and substantial contact with residents. The SCR, which is operated by OCFS, handles phone calls from the public reporting alleged incidents of child abuse, neglect, and maltreatment. It also performs data base checks of prospective employees for child care organizations, foster care agencies, and other groups hiring individuals who will have unsupervised contact with residents. The law further states that all applicants applying for employment at voluntary child care agencies must provide detailed information regarding their employment history and references, as well as a sworn statement attesting to any criminal convictions. Pius' Employment Policy Manual, which included those requirements, also required candidates to complete an application form, be interviewed by agency personnel who must verify references and certifications, and submit to background checks in conjunction with the Division of Criminal Justice Services.

In September 1999, Pius requested the Division of Criminal Justice Services to begin supplying it with background information on prospective employees. However, the Division did not approve this request until October 1999 and Pius did not obtain the necessary equipment to begin the process until April 2000. Therefore, our sampled population had not been subjected to employee background checks because Pius had hired no new staff since April 2000.

In addition, Pius' Job Descriptions Manual listed all employee positions at the Holy Cross and Chester facilities, including job titles, responsibilities, and minimum qualifications for all positions offered at the facilities. To determine Pius' compliance with personnel hiring requirements, we reviewed 20 (out of 181) randomly-

selected Pius personnel files for positions such as counselors, recreational workers, and other facility employees.

Our file reviews focused on questions of whether prospective employees had submitted the required employment documentation, had met the minimum job requirements, or had been interviewed by departmental personnel. We also reviewed whether Pius personnel had requested SCR database checks, verified or attempted to verify specific application information, or obtained appropriate approvals for hiring applicants.

We found that all candidates had completed their applications thoroughly and had provided sufficient references. However, our review of 20 personnel files revealed that 15 did not contain copies of the applicants' high school diplomas. These 15 applicants were required to be high school graduates. In addition, one applicant did not have a departmental interview, while the files for five others did not contain the results of a SCR data base check. Nor did any of the sampled personnel files contain evidence that Pius had performed the required telephone reference checks to verify applicant references. Furthermore, there was no documentation showing that the program director, as required by Pius policy, had met with and/or approved of the applicants before they were offered employment.

According to Pius officials, telephone reference checks and applicant meetings with the program director took place; however, Pius personnel did not document these actions. Pius officials also maintained that applicants were high school graduates, as required. Pius did not require copies of diplomas, but relied on applicants' attestations or "indirect evidence" of graduation. Additionally, they stated that Pius personnel request SCR database checks on all new employees.

OCFS officials stated that employee qualifications had not been verified when the Pius contract was renewed in July 1996. They explained that one facet of their oversight approach is an 18-month to 36-month facility review, in which they utilize a "facility review instrument" to perform on-site evaluations at the facilities. OCFS' facility review

instrument requires OCFS personnel to conduct interviews of three facility employees in which each employee is asked about his or her educational background and job experience. However, OCFS' review instrument does not include an assessment of personnel files, on a sample basis, that would verify facility employees' specific job qualifications. Nor does OCFS' report of findings from its August 1999 review of Pius' operations indicate that OCFS had assessed the qualifications of Holy Cross and/or Chester facility personnel.

OCFS has 55 placement agreements with voluntary agencies to provide residential care for youth, presenting a significant risk that voluntary agency personnel – specifically those working directly with children – might not meet minimum job qualifications if OCFS relies only on the agency's authorized signature assuring that an employee is qualified.

CONTRACT BILLINGS

The contract between OCFS and Pius was not for a specific dollar amount; nor did it set a ceiling for payments. Instead, it was a fee-for-service contract under which Pius was paid a per diem rate for care days provided to OCFS residents, including reimbursement for certain days that residents were absent from the facility. Such absences may have included weekend visits, vacations, and hospitalizations.

The local social service district (LSSD) in which the resident had lived before placement is responsible for reimbursing Pius an amount that does not exceed the maximum State aid rate. Accordingly, Pius officials had calculated resident billings by multiplying the number of care days they had provided to an OCFS-placed resident by the appropriate per diem rate. They forwarded the bills to the appropriate LSSD, - in this case the New York City Administration for Children Services (ACS), - which prepared the checks and sent them to Pius.

We attempted to obtain contractual payment data so we could determine the total amount paid to Pius for services provided to OCFS residents. However, Pius, OCFS, and ACS did not track the total number of dollars spent on the contract. Since this data was not available, we calculated estimates for fiscal years 1998, 1999, and 2000, based on the average occupancy rates at the Chester and Holy Cross facilities and the prevailing "aggregate daily rates." As illustrated in the following table, we estimate that total payments to Pius for OCFS residents for New York City during fiscal years 1998, 1999, and 2000 were \$20.2 million.

	1997-1998	1998-1999	1999-2000*	Total**
Chester Facility*				
Average Occupancy/Day	112.6	106	84	
Daily Rate	\$115.98	\$122.08	\$120.81	
Estimated Amount For Fiscal Year	\$4,766,662	\$4,723,276	\$3,632,998	\$13,122,936
Holy Cross Facility*				
Average Occupancy/Day	95.5	93	66.6	
Daily Rate	\$122.93	\$132.64	\$129.20	
Estimated Amount For Fiscal Year	\$4,285,032	\$4,502,465	\$2,641,649	\$11,429,146
Total.....				\$24,552,082
OCFS Portion***				\$20,216,184

* Holy Cross Facility closed May 3, 2000; Chester Facility closed June 23, 2000.

** Calculation is for a 365-day year, except for FY 2000, which is 305 days.

*** Not all the billings were OCFS contract-related. When we examined one month's billing in detail, we found that the proportion of OCFS care days billed to ACS care days was 4,412 to 5,358, or 82.34 percent. Therefore, the total amount of estimated contract billing is 82.34 percent of \$24,552,082 or \$20,216,184.

Neither ACS nor OCFS had performed audits or other substantive testing to ensure the propriety of Pius' billings. OCFS personnel stated that they did not verify the authenticity of the billings because the LSSDs were responsible for contract payments.

ACS personnel explained that they base their payments to voluntary agencies for services provided to OCFS residents on an estimated number of care days. Subsequent to payment, they said they perform a comparison of actual care days reported by the agencies with the original estimates. They pointed out that, if any differences are noted, they adjust future payments accordingly. However, ACS does not audit care day billings from voluntary agencies to ensure the accuracy of the days reported.

To determine whether Pius had billed appropriately for OCFS resident placements when they were away from the facilities, we reviewed a random sample of 17 Pius residents (out of 501) and identified periods during which they were not present at the facility for any part of the sample period. Our tests showed that, in all instances, the billings were appropriate.

However, OCFS officials do not know how much they have paid out on the Pius contract; nor do they have an adequate level of assurance that voluntary agency billing for care days is accurate. They told us they do not consider themselves responsible for ensuring the accuracy of voluntary agency payments, and pointed out that they do not track payment data for these contracts. Without a system for monitoring the authenticity of contract payments, New York State has no way of knowing whether it is overpaying voluntary agencies for services provided. In addition, since OCFS does not have a tracking system that can accumulate payment data on voluntary agency contracts, it does not know the costs of program services to its clients. Without this data, OCFS personnel cannot perform detailed analyses of programmatic service costs.

OCFS OVERSIGHT

The Social Service Law authorizes OCFS to inspect and supervise voluntary agencies in the interest of protecting the life, health, safety, and comfort of the children who are receiving services. It also requires OCFS to investigate all reported child abuse allegations at the facilities, guided by a manual that outlines the procedures to be used for the investigation and handling of institutional abuse an/or neglect allegations. OCFS employs institutional abuse investigators at all regional offices who are responsible for responding to such reports. With the exception of child abuse allegations, all critical incident reports do not necessarily require an investigation; OCFS makes that decision based on the nature of the incident.

On-Site Monitoring

OCFS' contract with Pius allowed on-site inspections of Pius facilities that would determine whether the residents were being cared for in compliance with the contract. OCFS developed an Agency Review Protocol (Protocol) that required its regional offices to perform on-site reviews every 18 to 36 months. OCFS officials told us they based the review period on the number of staff available to oversee the agencies. However, they stressed that the time frame is only a guideline; if OCFS has problems with a specific agency, or receives complaints about it, inspections can be performed before the 18-month to 36-month period. The on-site review includes a walk-through of the physical plant; observations of children and staff, as well as interviews with them; and reviews of case records and logs. In addition, OCFS personnel perform fire/safety inspections at voluntary agencies once or twice a year. During calendar year 1999, OCFS did three fire/safety inspections at both the Chester and Holy Cross facilities.

In June 1999, the Rockland County District Attorney's Office notified OCFS about allegations of gang-related activity at Pius facilities. As a result, OCFS made site visits to both the Holy Cross and Chester facilities and

determined that in-depth monitoring of Pius was necessary. In August 1999, OCFS conducted a comprehensive on-site review that fulfilled the 18-month to 36-month requirement mandated by the Protocol. OCFS representatives determined that both Holy Cross and Chester had many of the same regulatory violations, which included unsanitary physical plant conditions, insufficient staffing levels, un-implemented recreation programs, underutilized recreation amenities, and high levels of vandalism.

In October 1999, OCFS provided Pius with a report based on the August review, which had identified deficiencies and required the preparation of a Corrective Action Plan (CAP) for each facility. OCFS had concerns about several issues at the Holy Cross facility and initiated corrective action, including closing intake, reducing the population, establishing an on-site presence, communicating with the State Police, and meeting with the Board of Directors of Pius. Pius then began to implement provisions of the CAP. In January 2000, OCFS instructed Pius to take immediate steps to improve safety. Later that month, OCFS officials temporarily closed intake at the Holy Cross facility and transferred 20 children out of the facility to help relieve the stress on Pius' staff. In spite of these efforts, the number of resident allegations of abuse and neglect surged during Pius' implementation of the corrective action plan. Incidents at Holy Cross included the firing of a staff member for bringing a gun to work, the arrest of a counselor for possession of marijuana, and the arrest and conviction of another counselor for sexual abuse.

Consequently, OCFS sent a letter to Pius in March 2000, warning that the facility could be closed within 60 days. In addition, OCFS officials decided to move another 20 children from the facility. By May 2000, OCFS had determined that Pius was not making adequate improvements in its operating environment; and it closed the Holy Cross facility by suspending its operating certificate. In the following month, without OCFS intervention, Pius decided to close the Chester facility as well.

Despite the intervention of OCFS, multiple incidents of abuse and neglect continued to occur from the time that

OCFS established an on-site presence in September 1999 to the subsequent closing of the Holy Cross facility. OCFS officials believe that the increase in reports was due to the efforts of OCFS to bring such allegations to light. Further substantiating the unsafe environment at Pius, the State Police advised us that troopers had responded to approximately 300 calls and had investigated 97 criminal incidents since 1998. Pius officials maintained that many of the complaints were exaggerated or unfounded. The following table summarizes the nature of the incidents, all of which resulted in formal investigations. In some cases, the investigations led to arrests.

NUMBER OF INCIDENTS TO WHICH THE STATE POLICE RESPONDED AT THE PIUS XII HOLY CROSS FACILITY BETWEEN 1/1/98 – 5/31/00								
Period	Drugs	Sexual Abuse	Staff-to-Student Violence	Assault	Escape	Robbery	Misc.	Total
1/1/98 – 8/31/99	2	0	13	12	8	3	9	47
9/1/99 – 5/31/00 (OCFS on-site)	21	5	11	2	8	2	1	50
TOTAL	23	5	24	14	16	5	10	97
Notes:								
<ul style="list-style-type: none"> • Sexual Abuse includes sex between youths as well as sexual charges that resulted in arrests. • Staff-to-Student violence includes violent acts by staff that involve endangerment of a child, assault of a child, and neglect of a child. • Assault includes both physical assaults and resisting arrest. • Miscellaneous include theft, public lewdness, menacing, harassment, court-ordered violations, and disorderly conduct. 								

In addition to the incidents identified in the table, a counselor who had worked at the facility for a short time was investigated and arrested for a sodomy attack on a resident. The 50 critical incidents that occurred from September 1999 through the closing of the facility in May 2000 included three involving sexual abuse of residents that resulted in arrests.

Institutional Abuse/Neglect Allegations

Social Service Law requires OCFS to investigate all reported child abuse/neglect allegations at voluntary agency facilities. The Law further states that OCFS must conduct the investigation and determine the nature,

extent, and cause of the report within 24 hours of the allegation. To guide regional office representatives during an abuse/neglect investigation, OCFS utilizes a program manual on institutional abuse and neglect, known as the "IAB [Institutional Abuse and Neglect] Manual" (Manual), that was developed by DSS in 1996. Responsibility for investigating the allegation lies with the regional office for the facility where an institutional abuse/neglect allegation has reportedly taken place. Once the regional office receives the SCR report, the investigation must begin immediately.

We used the Manual and interviews with OCFS personnel to gain an understanding of the process by which institutional abuse/neglect allegations are investigated and to develop a checklist of documentation (checklist) that should be contained in the case file folder related to an institutional abuse/neglect investigation.

We reviewed all ten of the institutional abuse/neglect allegation case files on record pertaining to OCFS placements at Holy Cross for the period January 1, 1999 to February 9, 2000 to determine whether OCFS had performed the investigations in accordance with the manual's requirements. We found that OCFS personnel had not met time requirements in a majority of the cases. For instance, an investigation determination had been made within the 60 days required by the Manual for just 1 of the 10 cases. Moreover, it took an average of 183 days for OCFS personnel to complete investigations, exceeding the requirement by more than 4 months. The following table shows the results of our case review:

Attribute	Yes	No	Compliance Rate (%)	Average Elapsed Time	Average Number of Days Late
Report transmitted immediately from SCR.	10	0	100	0 days	
Child safety assessed within 24 hours of receipt of report.	10	0	100	less than 24 hours	
Initial notification letters mailed within 7 days of receipt of report.	2	8	20	31 days	24 days late on average
Documentation to substantiate investigation of allegation(s).	10	0	100		
Investigation determination made within 60 days of receipt of report.	1	9	10	183 days	123 days late on average
Final notification letters mailed within 7 days of determination.	3	7	30	66 days	59 days late on average
Number of exceptions		24			
Overall compliance rate			60%		

When we commenced our testing, OCFS personnel had noted that timeliness of abuse/neglect investigation determinations was going to be a problem. Personnel in the Yonkers Regional Office stated that, during our sample period, they had been trying to balance their time between on-site monitoring of the Holy Cross facility and their investigation of the numerous abuse and neglect allegations, which had increased drastically. OCFS representatives said that the timely investigation of abuse/neglect allegations is no longer an issue. They advised us that OCFS requested ten additional institutional abuse investigators, which was approved in the State Budget for fiscal year 2001-2002.

Recommendation

Examine the events that led up to the closing of the Pius facilities and identify needed improvements in overall monitoring procedures. Such improvements should be applied to all entities under contract with OCFS to provide residential services.

(OCFS officials indicated that they agree with this recommendation and have, and will to continue to, take steps to implement it.)

MAJOR CONTRIBUTORS TO THIS REPORT

William Challice
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New York State
Office of
Children & Family
Services

February 25, 2003

George E. Pataki
Governor

John A. Johnson
Commissioner

Mr. William P. Challice, Audit Director
Office of the State Comptroller
Division of Management Audit
and State Financial Services
123 William Street-21st Floor
New York, New York 10038

Subject: Draft Audit 2001-R-5

Dear Mr. Challice:

Capital View Office Park
52 Washington Street
Rensselaer, NY 12144-2796

The Office of Children and Family Services has reviewed the Draft Audit of Contract #C-500158 of Pius XII Youth and Family Services, Inc., issued December 12, 2002. Enclosed is our response for your consideration.

Sincerely,

Susan A. Costello
Acting Deputy Commissioner
for Administration

Enclosure

cc: L. Dobriko



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Appendix B

**NYS Office of Children and Family Services
Response to Office of the State Comptroller (OSC)
Draft Report 2001-R-5
Pius XII Youth and Family Services, Inc.—Contract C-500158**

The New York State Office of Children and Family Services (OCFS) has reviewed Draft Report 2001-R-5 pertaining to Contract C-500158 between the OCFS and Pius XII Youth and Family Services, Inc. and offers the following response:

General Comments:

- Page 2 of the executive summary refers to the regulatory requirement to check prospective employees against the State Central Register. Such reviews are also a statutory mandate pursuant to section 424-a of the Social Services Law. The same comment holds for a similar reference on page 6 of the draft report.
- On page 12 of the report, the draft references a statutory requirement on the part of OCFS institutional abuse investigators “to report specific critical issues”. We would like the specific statutory reference for this purported requirement.
- **Uniform Case Records:** OCFS staff has been notified of their responsibility to promptly review all Uniform Case Records received from voluntary agency contractors. After review, if approved, the case manager must sign the appropriate form and provide the voluntary agency with a copy of the executed signature page retaining a copy for the case file. Written procedures reflecting this recommendation, including a tracking system and greater supervisory oversight, have been developed, distributed and implemented.
- **Institutional Abuse/Neglect Allegations:** Pages 13-14 of the draft report state that “multiple incidents of abuse and neglect continued to occur” despite OCFS’ intervention. The report should reflect that the increase in reports was attributable to the efforts of OCFS in bringing these allegations to light. Due to OCFS’ monitoring and the investigation of previously made institutional abuse and neglect reports, additional allegations from the residents were made known. The OCFS advised OSC that we were aware of the timeliness issue with respect to Institutional Abuse investigations and that the reason for the increase in abuse allegations was attributable to OCFS’ intervention and directives to Pius to report incidents in accordance with the law. OCFS’ primary concern was the safety of children in residential care. As the draft report states, 100 percent of Safety Assessments were completed by OCFS within 24 hours as required by law. OCFS again aggressively pursued its oversight role in this area. OCFS is committed to performing timely investigations of abuse/neglect of youth in our care and has requested ten additional institutional abuse investigators for Regional Offices, which were approved in the State Fiscal Year 2001-02 State Budget.

- OCFS Monitoring and Oversight:** The OSC auditors were provided with a copy of the Voluntary Agency Review Protocol in use in 1999, the time period when OCFS conducted a review of this agency. The Review protocol was updated in 2000 and is currently under revision again in 2003. OCFS established a new Regional Office located in Yonkers, which began start up in 1999. The Regional Office conducted the voluntary agency review of this agency as soon as was reasonably practical with the establishment of this new office. OCFS received a complaint about this program in June 1999 and conducted a site visit the same month. Based on that site visit, a full Voluntary Agency review was conducted at the Chester Campus August 11-13, 1999 and at Rhinecliff August 19-20, 1999. OCFS took aggressive action with Pius by closing intake, reducing the population as noted, establishing an on-site presence, communicated with the State Police and met with the Board of Directors of Pius. OSC was provided with the meeting notes from the meeting with the Board of Directors and Executive Director of Pius where the seriousness of OCFS' concerns was underscored. During this same period, OCFS required a corrective action plan from Pius officials and provided technical assistance in those areas that were deficient. However, corrective action was not implemented to OCFS' satisfaction and OCFS closed the Pius Rhinecliff program.
- It should be noted that this was the first time in almost 20 years that a voluntary agency had been closed by New York State and it was because OCFS aggressively pursued its monitoring responsibilities with Pius, which was unable to provide a safe environment for children in care. OCFS provided technical assistance and continued on-site presence at the Chester Campus as well in order to assist Pius in strengthening this program. As stated in the draft report, Pius officials chose to close the program.

Response to Recommendation

Recommendation: Examine the events that led up to the closing of the Pius facilities and identify needed improvements in overall monitoring procedures. Such improvements should be applied to all entities under contract with OCFS to provide residential service.

OCFS Response: OCFS agrees with this recommendation and had begun this process prior to the closing of Pius XII.

OCFS is committed to continuous improvement in fulfilling its mandates. With the establishment of OCFS in 1998 and the creation of an additional regional office in 1999, OCFS moved swiftly to work with the Executive Director and Board of Directors of Pius. OCFS recognized the importance of providing Pius officials with the opportunity to correct deficiencies and provided assistance to the agency through out the process. Recognizing that corrective action was not implemented as required, OCFS closed the program at Rhinecliff. OCFS also reviewed the Institutional Abuse workload and was successful in obtaining ten additional jobs to

address this important function. OCFS also revised the voluntary agency monitoring protocol in 2000 and continues its efforts to improve this process.

OCFS agrees with the spirit of the OSC recommendation to review the events, which led up to the closing of Pius facilities, and identify needed improvements in overall monitoring procedures.