

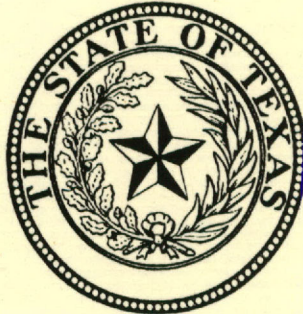
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# Office of Youth Care Investigations 1993 Annual Report

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**Texas Health and Human  
Services Commission**

**Richard C. Ladd, Commissioner  
November 1993**





# Office of Youth Care Investigations 1993 Annual Report

The Office of Youth Care Investigations of the Health and Human Services Commission submits this annual report as required by Texas Family Code §34.21(e) and §34.25(g).

## History 1984 to 1986

The protection of children from abuse and neglect has always been of critical concern in Texas. On February 6, 1984, Governor Mark White issued an executive order establishing an interagency working group to study problems in the existing system for reporting and investigating child abuse and neglect in facilities operated or regulated by state agencies. This led to the creation of the Office of Youth Care Investigations (OYCI) in Governor White's General Counsel Division.

OYCI worked with the following agencies to develop a 1985 interagency agreement: Texas Commission on Jail Standards, Texas Department of Health, Texas Department of Human Services, Texas Department of Mental Health and Mental Retardation, Texas Education Agency, Texas Juvenile Probation Commission, Texas Rehabilitation Commission, Texas School for the Blind, Texas School for the Deaf, and Texas Youth Commission.

The 1985 agreement states the purpose of OYCI: "To receive and review the investigations conducted by the state agencies named in this interagency agreement." The 1985 agreement also established procedures for agencies to report abuse and neglect allegations to OYCI, and established procedures for OYCI to receive complaints and to conduct independent investigations.

Late in 1985, OYCI was transferred to the Texas Department of Human Services, which administered OYCI through August 31, 1987.

## History 1987 to 1992

In 1987, the Legislature gave the Office of the Attorney General responsibility for administering OYCI (Texas Family code, Chapter 34, Subchapter B).



## Reorganization of Health and Human Services 1991

The statute gives OYCI a number of duties, including:

- ◆ Providing independent oversight of reports of investigations of child abuse and neglect in facilities that are operated, licensed, certified or registered by a state agency.
- ◆ Investigating complaints about state agencies' investigations of allegations of abuse and neglect, including investigations of allegations involving places not operated or regulated by the state.
- ◆ Publishing and distributing to the Governor, Legislature, state agencies and advocacy groups an annual statistical summary compiled from the reports and complaints.
- ◆ Reviewing agency rules about abuse and neglect investigations.
- ◆ Developing memoranda of understanding with concerned agencies.

The Attorney General's Office administered OYCI for five years. It created a database to analyze the information submitted to OYCI. It negotiated a Memorandum of Understanding in 1990 with the Texas Department of Human Services concerning child protective services, day care licensing and residential child care licensing, programs which then generated 90 percent of the reports and complaints OYCI received. All other agencies continued to operate under the 1985 interagency agreement.

The 72nd Texas Legislature created the Health and Human Services Commission (HHSC) in 1991 to coordinate the 12 agencies delivering services in this area. As part of the reorganization, OYCI was transferred to HHSC on September 1, 1992. HB 7 also required HHSC to review OYCI for necessary changes and to make recommendations to the 73rd Texas Legislature. At the same time, child protective services, day care licensing and residential child care licensing programs were transferred from the Texas Department of Human Services to a newly created agency, the Texas Department of Protective and Regulatory Services. In



## **Administration of OYCI 1993**

addition, the Texas Department of Mental Health and Mental Retardation's responsibility for investigating abuse and neglect was transferred to the new agency for protective and regulatory services.

After OYCI's third transfer, the Office was placed in the General Counsel's office at HHSC. It was staffed by one full-time employee. The Attorney General's staff was extremely cooperative in making a smooth transition. Their staff was generous in its assistance, training their successor in data entry and the processing of reports. The Commission continued to use the Attorney General's computer mainframe database, under contract, to collect statistical information.

The new staff examined the history and activities of the office in its various permutations in order to prepare recommendations to the 73rd Texas Legislature.

## **Reports of Investigations of Abuse and Neglect**

OYCI received reports of alleged child abuse and neglect in state-regulated facilities from these agencies that license, certify, register or operate facilities for children: Texas Department of Protective and Regulatory Services, Texas Youth Commission, Texas Department of Health, Texas School for the Blind and Visually Impaired, Texas School for the Deaf and Hearing Impaired and Texas Commission on Alcohol and Drug Abuse. Although the Texas Commission on Jail Standards, the Texas Juvenile Probation Commission, and the Texas Education Agency signed the 1985 interagency agreement, they made no investigations of abuse and neglect that generated complaints or statistical information. OYCI staff reviewed these reports, updated the OYCI database and compiled this report.

## **Complaint Investigations**

OYCI had broad authority to look into complaints from persons dissatisfied with investigations of abuse and neglect allegations conducted by other agencies. These complaints could involve



## Report to the 73rd Texas Legislature

incidents that occurred both in state-regulated facilities and in other settings. No independent investigations were conducted in 1993, although several investigations were reviewed.

During its nine-year history, the Office of Youth Care Investigations was an empty promise. It had never been funded or staffed sufficiently to conduct thorough independent investigations. It never had authority to compel any remedy. It could only issue findings and recommendations. In their 1992 report, the Attorney General's staff pointed out that OYCI "has lacked resources and authority to properly accomplish its mission. The importance of child abuse and neglect and the controversy that frequently accompanies these investigations demands an effective oversight process." The report also noted that "If the OYCI is to be a true oversight agency, it should have the expertise and authority to effect change." The report expressed a hope that the transfer to HHSC would be accompanied by an effective review process.

Regrettably, this was not the case. The Office was not adequately funded. No money was transferred from the Attorney General's Office. The statute was not amended to give it additional authority. Given the lack of resources, the newly-created Commission was faced with a dilemma--divert staff from other tasks mandated by the Legislature or attempt to continue the operation as the Attorney General's Office had been forced to do, with minimal resources. With the help of Attorney General's staff, the Commission was able to comply with the law, to review all reports and to ensure that all investigations were conducted according to the policy of the agency concerned. In its restructuring report to the Legislature, "Health and Human Services Commission Reorganization Recommendations," published in January, 1993, HHSC recommended that "as of September 1, 1993, the duties of the Office of Youth Care Investigations should be assumed by appropriate staff at the relevant agencies... and the office should be abolished. In addition, HHSC should be given statutory authority to review abuse and neglect investigation rules of the Texas School for the Deaf and the Texas School for the Blind."



The reasons were:

- ◆ HHSC has authority to review all agency rules, which include those on child abuse investigations. OYCI's authority to do this was duplicative.
- ◆ About 90 percent of the reports come from the Department of Protective and Regulatory Services, since that department makes nearly all the investigations, including those in facilities for persons who are mentally ill or mentally retarded. That department is better able to track and analyze its own data and to receive data from other agencies to determine trends.
- ◆ Two agencies, the Department of Protective and Regulatory Services and the Texas Youth Commission, already have a double check on their investigations through administrative review. OYCI's limited ability to review duplicated this function. In addition, the Department of Protective and Regulatory Services has created an Ombudsman's Office with authority to review complaints about investigations in facilities operated by other agencies and investigations that take place out of state-regulated facilities, and report to the executive director. Agencies which do not have independent review are encouraged to establish their own administrative review processes. Also, all agencies have internal auditors who should examine the agencies' investigative procedures.

The 73rd Legislature adopted this recommendation as part of HB 1510, which made other program adjustments. It became effective September 1, 1993. The Commission continues to monitor these areas because of the critical importance of a prompt, objective investigation into any report of abuse and neglect to any Texan. Further recommendations will be made if agencies are unable to minimize documented instances of abuse and neglect.

## Transition 1993

In phasing down the office, OYCI conducted a study to identify for each agency how its responsibilities would differ after the new law took effect. Agencies that operate facilities were affected more than agencies that license, certify or register facilities. Commissioner Richard Ladd delineated the changes in August, 1993, letters to each agency commissioner or executive director. At the Department of Protective and Regulatory Services, where the Ombudsman's Office



was to assume certain OYCI duties, OYCI provided assistance to ensure a smooth transition. Under the new statute, each state agency notifies the Department of Protective and Regulatory Services of each report of abuse and neglect in a facility operated by that agency. The department will adopt rules governing that process which will be reviewed and approved by HHSC. The department will also collect and make available statistics on the incidence of abuse and neglect in state-operated facilities. This will allow independent oversight of agency investigations of allegations against their employees.

Under the new law, agencies that license, certify or register facilities must assume the OYCI functions of compiling and making public statistics on the incidence of abuse in their facilities. In this category also, about 90 percent of the incidents come from facilities regulated by the Texas Department of Protective and Regulatory Services. The department also investigates allegations of abuse and neglect in facilities operated or regulated by the Texas Department of Mental Health and Mental Retardation.

## **Complaint Investigations**

The Commission is very concerned that public complaints are heard and investigated. Because of this, HB 1510 required that complaints about abuse and neglect in state-operated facilities go to the boards of the agencies that operate those facilities. Because the main responsibility for investigation and the bulk of complaints go to the Department of Protective and Regulatory Services, the Texas Family Code requires the department to review an investigation if its findings are disputed by the person whom the department alleges committed abuse or neglect. If independent investigations are required, the agencies can use interagency contracts to perform this function for each other. The Department of Protective and Regulatory Services is encouraged to use personnel from other regions. Dissatisfied citizens have an additional forum for action in the Governor's Ombudsman Office who receives complaints about all state agencies.

## **Rule Review**

A key factor in the decision to eliminate OYCI was HHSC's authority to review agency rules. HHSC is charged with reviewing rules of its component agencies for compliance with the coordinated strategic plan, existing statutory authority, rules of other health and human services agencies and for budgetary implications. HB 1510



strengthened HHSC's authority in the area of child abuse and neglect rules by directing that HHSC review and approve rules "to ensure that all agencies implement appropriate standards for the conduct of investigations and that uniformity exists among agencies in the investigation and resolution of reports."

HHSC began the review by surveying existing agency policies for abuse and neglect investigations. HHSC and the affected agencies are working jointly to lay out a timeline and strategy for the full review to ensure sound coordination and minimum duplication of effort. This will ensure that all agencies implement appropriate standards for the conduct of investigations, including administrative review. The Commission can ensure uniformity among agencies in the investigation and resolution of complaints. It will require that agencies that operate facilities for children meet the requirement in law that all complaints about them be referred to the agency board. It will require that procedures for investigating abuse and neglect allegations in the agencies' facilities be periodically reviewed under the agencies' internal audit programs required by the Texas Internal Auditing Act.

## Data

The data are presented in three sections. The first section presents OYCI FY 93 activity in complaints. The second section presents OYCI FY 93 activity in reports. Section three compares data from FY 93 to FY 92. Reports are divided into two categories: number of all abuse and neglect reports and number of sexual abuse reports.

### I.

#### Complaints

OYCI reviewed 24 investigations as a result of written complaints by persons dissatisfied with the agency investigation into an allegation of abuse or neglect. Investigations were reviewed to determine whether the investigation was conducted according to applicable rules and standards. Table 1 presents complaints by agency.

Findings were reported to the policy making body of the agency that conducted the original investigation. Table 2 presents OYCI findings after review of the investigation.



**Table 1  
Complaints to OYCI by Agency  
FY 93**

Agency	Total	Percent
<sup>1</sup> Department of Protective and Regulatory Services	21	87.5%
Department of Health	1	4.17%
School for the Blind and Visually Impaired	1	4.17%
School for the Deaf and Hearing Impaired	0	0.00%
Texas Commission on Alcohol and Drug Abuse	0	4.16%
Texas Youth Commission	1	4.16%
<b>TOTAL</b>	<b>24</b>	<b>100.0%</b>

<sup>1</sup>DPRS programs include: Child Protective Services, Day Care Licensing, Residential Child Care Licensing, and Adult Protective Services (which investigates child abuse and neglect allegations in MHMR facilities).

**Table 2  
OYCI Results After Review  
of Agency Investigations**

Findings Sustained	21 cases	87.5%
Findings Changed	3 cases	12.5%

## II.

### Reports

OYCI received a total of 873 reports of alleged child abuse and neglect and the subsequent investigation report into each of these allegations from the reporting agencies. All reports of alleged child abuse and neglect were entered into the OYCI database. The investigation reports were reviewed to determine whether the investigations were conducted according to applicable rules and standards.



Table 3 presents total reports for all types of abuse and neglect reported by agencies. Table 4 presents reports for sexual abuse only.

<b>Table 3</b> <b>Abuse/Neglect Reports to OYCI</b> <b>by Agency</b> <b>FY 93</b>		
Agency	Total	Percent
<sup>2</sup> Department of Protective and Regulatory Services	762	87.3%
Department of Health	63	7.22%
School for the Blind and Visually Impaired	1	0.11%
School for the Deaf and Hearing Impaired	22	2.52%
Texas Commission on Alcohol and Drug Abuse	25	2.86%
Texas Youth Commission	0	0.00%
<b>TOTAL</b>	<b>873</b>	<b>100.00%</b>

<sup>2</sup>DPRS programs include: Day Care Licensing, Residential Child Care Licensing and Adult Protective Services (which investigates allegations of child abuse and neglect in MHMR facilities).

<b>Table 4</b> <b>Sexual Abuse Reports to OYCI</b> <b>by Agency</b> <b>FY 93</b>		
Agency	Total	Percent
<sup>3</sup> Department of Protective and Regulatory Services	232	89.23%
Department of Health	9	3.46%
School for the Blind and Visually Impaired	1	0.38%
School for the Deaf and Hearing Impaired	10	3.85%

Table 4 continued on next page...



**III.**

<b>Table 4 (continued)</b> <b>Sexual Abuse Reports to OYCI</b> <b>by Agency</b> <b>FY 93</b>		
Agency	Total	Percent
Texas Commission on Alcohol and Drug Abuse	8	3.08%
Texas Youth Commission	0	0.00%
Total	260	100.00%

<sup>3</sup>DPRS programs include: Day Care Licensing, Residential Child Care Licensing, and Adult Protective Services (which investigates allegations of child abuse and neglect in MHMR facilities).

**Comparison of OYCI FY 93 and FY 92 Reports**

Table 5 compares total number of reports to OYCI from FY 93 to FY 92. There was a decrease in total number of reports to OYCI. Table 6 also shows a decrease in total number of sexual abuse reports to OYCI. A comparison to previous years cannot be made as statistical tables were not generated. Tables 5 and 6 are also presented in bar graphs on pp. 12-13, reflecting the majority of reports from programs within TDPRS.

<b>Table 5</b> <b>Abuse/Neglect Reports to OYCI</b> <b>by Agency</b> <b>FY 93 and FY 92</b>				
Agency	FY 93	FY 92	FY 93	FY 92
	NUMBER		PERCENT	
<sup>4</sup> Department of Protective and Regulatory Services	762	942	87.29%	95.73%
Department of Health	63	0	7.22%	0.00%
School for the Blind and Visually Impaired	1	4	.11%	0.41%
School for the Deaf and Hearing Impaired	22	11	2.52%	1.12%

Table 5 continued on next page...



Table 5 (continued)				
Abuse/Neglect Reports to OYCI				
by Agency				
FY 93 and FY 92				
Agency	FY 93	FY 92	FY 93	FY 92
	NUMBER		PERCENT	
Texas Commission on Alcohol and Drug Abuse	25	12	2.86%	1.22%
Texas Youth Commission	0	15	0.00%	1.52%
TOTAL	873	984	100%	100%

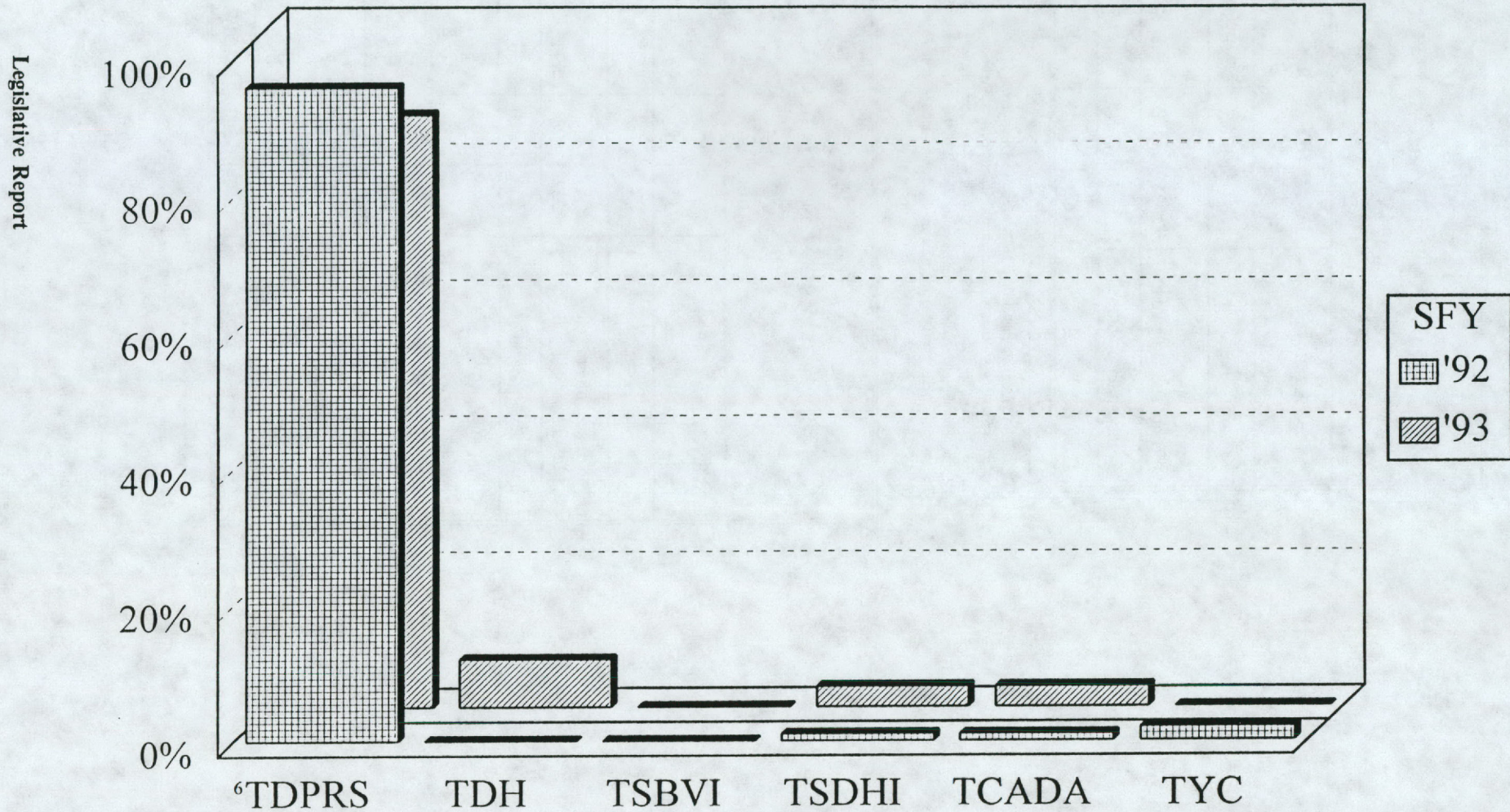
<sup>4</sup>DPRS FY 93 programs included: Day Care Licensing, Residential Child Care Licensing, Adult Protective Services (which investigates child abuse and neglect allegations in MHMR facilities). In FY 92, Day Care Licensing and Residential Child Care Licensing were in DHS. Also in FY 92, the child abuse and neglect allegations in MHMR facilities were investigated by MHMR. For comparison purposes these programs are listed under one agency in FY 92 which retains the DPRS title, even though DPRS did not begin operations until FY 93.

Table 6				
Sexual Abuse Reports to OYCI				
by Agency				
FY 93 and FY 92				
AGENCY	FY 93	FY 92	FY 93	FY 92
	NUMBER		PERCENT	
<sup>5</sup> Department of Protective and Regulatory Services	232	281	89.23%	96.90%
Department of Health	9	0	3.46%	0.00%
School for the Blind and Visually Impaired	1	2	.38%	.69%
School for the Deaf and Hearing Impaired	10	4	3.85%	1.38%
Texas Commission on Alcohol and Drug Abuse	8	1	3.08%	.34%
Texas Youth Commission	0	2	0.00%	.69%
TOTAL	260	290	100%	100%

<sup>5</sup>DPRS programs included: Day Care Licensing, Residential Child Care Licensing, Adult Protective Services (which investigates child abuse and neglect allegations in MHMR facilities). In FY 92, Day Care Licensing and Residential Child Care Licensing were in DHS. Also in FY 92, the child abuse and neglect allegations in MHMR facilities were investigated MHMR. For comparison purposes these programs are listed under on agency in FY 92 which retains the DPRS title, even though DPRS did not begin operations until FY 93.



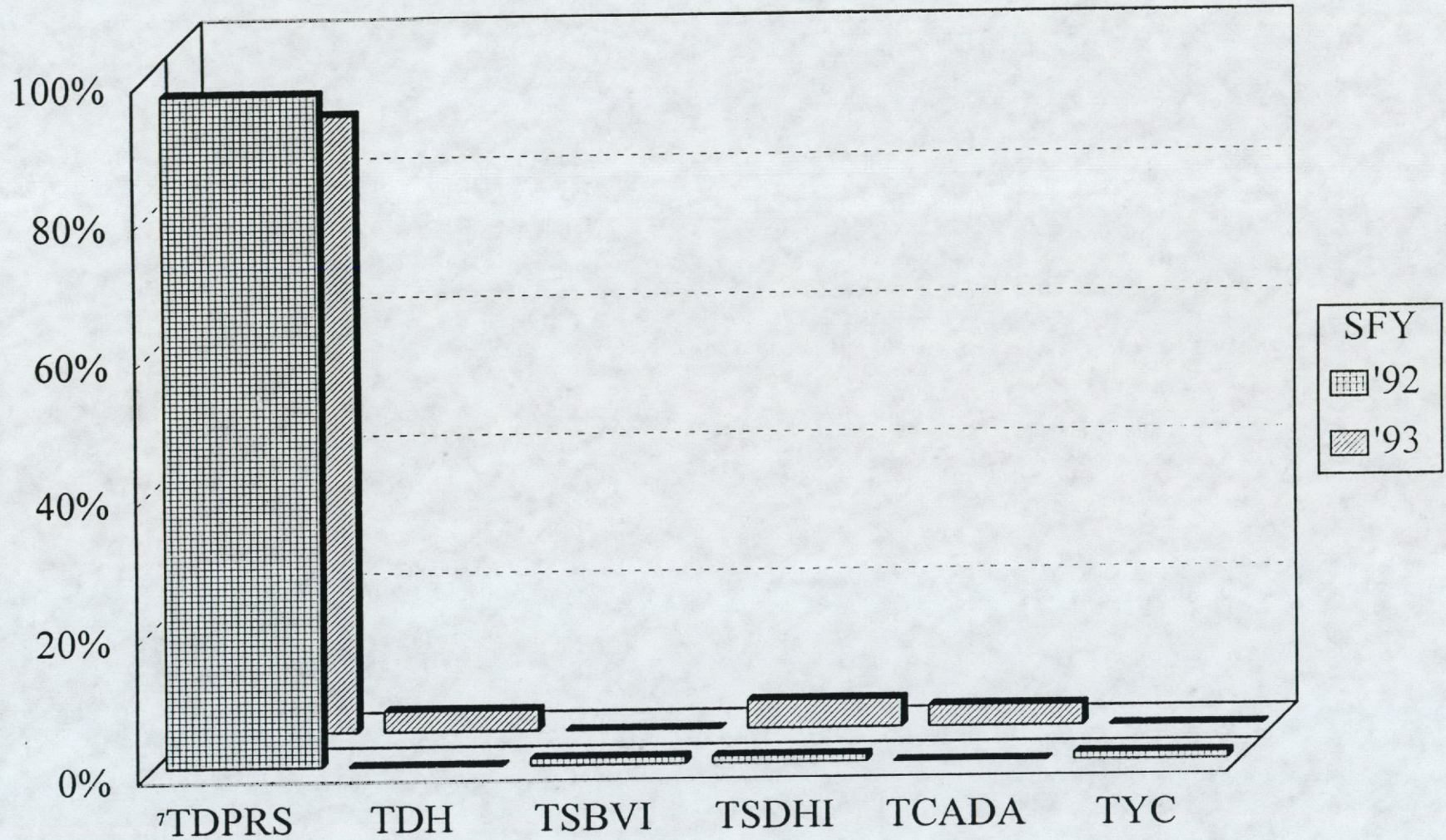
# Abuse and Neglect Reports to OYCI by agency for SFY '92 & SFY '93



6. See footnote 4.



# Sexual Abuse Reports to OYCI by agency for SFY '92 & SFY '93



7. See footnote 4.











