Rev. 12/02/24

Biennial Report

2023 - 2024

OFFICE OF THE INDEPENDENT OMBUDSMAN
for State Supported Living Centers

Executive Summary & Recommendations

Across Texas, 2,617 individuals with intellectual and developmental disabilities live in 13 state-supported living centers (SSLCs), each a unique community. Since 2010, the Office of the Independent Ombudsman for State Supported Living Centers has acted as a crucial advocate, established to safeguard residents' rights and well-being, thereby supporting the Texas Health and Human Services Commission's mission of "providing hope and healing through compassionate, innovative, individualized care." This report provides insights to guide state policy, from potential rule adjustments to the allocation of essential resources.

Our office serves as an independent and confidential resource, offering impartial information that equips Texas legislators with the tools needed to make informed decisions. Legislators hold a pivotal role in shaping the future of SSLCs as their funding and policy choices directly impact the quality of care and safety within these facilities. Through this oversight, they ensure that SSLCs are held accountable to uphold Texas's commitment to compassionate and effective services to residents.

Our authority, established by Senate Bill 643 in the 81st Legislative Session, mandates an independent audit of SSLCs in three critical areas: staffing levels, staff training, and resident rights. Enacted in response to concerns about resident safety, SB 643 aimed to prevent abuse and neglect within these facilities. Our audit findings have shown progress in some areas over the years, though certain challenges remain and require further action.

The following recommendations are based on findings from our FY2023-24 audit. They address these challenges by highlighting the important improvements necessary to fulfill the state's obligation to support SSLC residents with compassionate, individualized care.

Respectfully Submitted,

Candace Jennings, Ph.D.
Independent Ombudsman for State Supported Living Centers

Staff to Resident Ratio

- Direct SSLCs to develop staffing strategies that avoid regularly utilizing pulled or holdover staff, which can disrupt the consistency and quality of care.
- Require SSLCs to conduct a thorough analysis of staffing patterns and coverage to prevent critical services such as medical appointments and increased levels of supervision from being affected by a lack of staff.

Adequacy of Staff Training

- Direct SSLCs to implement effective training for Direct Support Professionals to understand and employ residents' behavior support programs, particularly how to respond to specifically targeted maladaptive behavior and how to teach and encourage residents to replace those with positive behavior.
- Direct SSLCs to implement effective training for Direct Support Professionals to know and accurately implement increased levels of supervision required by the needs of the residents to whom they are assigned.

Resident Rights and Due Process

- Instruct SSLCs to encourage resident participation in the Human Rights Committee by recruiting residents to serve on the committee and notifying them of their right to attend if they have proposed rights restrictions for review by the committee, as prescribed in policy.
- Require that SSLCs enhance efforts to communicate with all residents' primary correspondent, maintain updated contact information, and educate family members and guardians on the residents' rights and restrictions, including the formal complaint process.
- Instruct SSLCs to ensure that interdisciplinary team members make a concerted effort to account for the resident and guardian's perspective on restrictive positive behavioral programs.

Introduction & Overview

"The Office of Independent Ombudsman is established for the purpose of investigating, evaluating, and securing the rights of residents and clients of state supported living centers and the ICF-MR component of the Rio Grande State Center."

Senate Bill 643, Section 555.051, 81st Legislature

Background and Legislative Mandate

State Supported Living Centers (SSLCs) are large Intermediate Care Facilities for individuals with intellectual and developmental disabilities (ICF-IID), administered by the Texas Health and Human Services Commission. Individuals may be admitted to an SSLC voluntarily or committed by a court if they are determined to be eligible, based on the intensity of their medical and/or behavioral needs. There are 13 residential facilities across the state of Texas, each of which receives admissions from counties in and outside its vicinity. These facilities are in Abilene, Austin, Brenham, Corpus Christi, Denton, El Paso, Lufkin, Lubbock, Mexia, Richmond, Harlingen,[1] San Angelo, and San Antonio.

All SSLCs provide 24-hour residential services to a total of 2,617 individuals who have an intellectual and developmental disability and who may have other complex medical and behavioral needs. These centers provide comprehensive supports, including essential life skills training; occupational, physical, and speech therapies; and medical and dental services to cater to the diverse health needs of the SSLC resident population. Residents receive vocational and employment services, with many employed off-campus or involved in community volunteer activities. Residents aged 22 and younger attend local public schools.

The Office of the Independent Ombudsman for State Supported Living Centers (OIO) was established through Senate Bill 643, passed by the 81st Legislature in 2009. Its primary purpose is to ensure oversight and protection for residents in these centers. The Independent Ombudsman is appointed by the governor to lead the office and reports to the governor and state legislature. Although the OIO receives administrative support from the Texas Health and Human Services Commission, it operates independently of the agency.

[1] The SSLC located in Harlingen is referred to as the Rio Grande State Supported Living Center.

The OIO's central office is in Austin, with an Assistant Independent Ombudsman (AIO) assigned to each state supported living center (SSLC). The AIOs function independently of the SSLCs and report to the Deputy Independent Ombudsman.

Senate Bill 643, 81st Legislature, mandates that the OIO conduct audits of each SSLC, referred to as "Program Review" in this report. The legislation requires the OIO to review, report on findings, and make recommendations in the following areas:

- The ratio of direct care employees to residents.
- The provision and adequacy of training for center employees and direct care staff, including specialized training for staff working with alleged offender residents when applicable.
- The centers' policies, practices, and procedures to ensure that each resident and client is encouraged to exercise their rights, including the right to file complaints and the right to due process.

Organization of the Report

There are three sections in the 2023-24 Biennial Report, each addressing one of the legislatively mandated areas of review. Each section includes the specific legislative mandate, a description of the data collected, and findings from the data. The analysis is presented both in aggregate for the entire SSLC system and individually by facility. Policy recommendations based on these findings are provided in the Executive Summary.

Methodology

Program Review consists of both onsite visits and ongoing data collection. Data was collected between September 1, 2022, and August 31, 2024, the period corresponding to fiscal years 2023 and 2024.

Data Collection Overview and Sample

At each SSLC, an annual onsite visit was conducted by a team of AIOs and OIO central office staff. Before each onsite visit, the OIO selected a random sample of the larger of 10% of each center's population or 20 residents. In 2023, 304 residents were sampled, and in 2024, 313 residents were sampled. Over the biennial reporting period, 617 residents were sampled in total. The teams reviewed documentation, interviewed residents and staff

members, attended Human Rights Committee (HRC) meetings, and conducted home observations during each fiscal year.

AIOs also collected data at their respective SSLCs on an ongoing basis. For each of the two fiscal years during the biennial reporting period, AIOs interviewed direct care staff assigned to 12 residents at their SSLC about the individual's programs, observed 12 Human Rights Committee (HRC) meetings, and observed each residential home once.

Rights Document Reviews

AIOs reviewed over 2,500 documents related to the rights, restrictions, psychotropic medications, and behavior support plans of each resident in the onsite sample. The purpose of this review is to determine if documentation was completed in accordance with statewide SSLC policies.

Resident Interviews

AIOs interviewed residents in the sample to evaluate their understanding of their rights and their level of involvement in due process. Although an interview was attempted with each resident in the sample, not all could participate. In addition to the sampled residents, five residents not included in the sample who could complete an interview were interviewed at each SSLC. In total, 327 resident interviews were conducted during the biennial reporting period.

Direct Support Professional Interviews

AIOs interviewed direct support professionals (DSPs) who provided care to residents in the sample to assess their knowledge of residents' rights and due process, including how to file a complaint on behalf of a resident. An interview was conducted with a DSP who provided support to each resident in the sample. In total, 605 DSP interviews were conducted during the biennial reporting period.

Direct Support Professional Training Evaluations

AIOs also interviewed DSPs to evaluate their knowledge of and the adequacy of training they received on resident's plans and programming. An interview was conducted with a DSP who provided support to each resident in the sample during the onsite visits and to 12 DSPs throughout each of the two fiscal years in the reporting period. In total, 851 training evaluation interviews were conducted during the biennial reporting period.

HRC Observations

AIOs observed Human Rights Committee (HRC) meetings to evaluate the committee's adherence to due process – specifically, whether the due process elements required by policy were present in documentation reviewed by the HRC and in deliberations during the meeting. One HRC meeting was observed at each onsite visit. Twelve meetings were observed at each SSLC during each fiscal year in the reporting period. In total, 339 HRC meetings were observed during the biennial reporting period.

Staff-to-Client Ratio Observations

AIOs observed residential homes at each SSLC to assess staffing ratios and how they impacted service delivery. Efforts were made to distribute these observations across staff shifts. AIOs recorded the number of staff present, confirmed the number of staff present with the staff in charge of the home, and compared the number of staff present in the home to the number that were signed in at the time the observation was conducted. AIOs documented the minimum number of staff required for each home and shift, as determined by the SSLC, and interviewed staff about how staffing levels impacted service delivery on that specific day and shift. AIOs also made qualitative observations of the home environment and the activities of staff and residents. In total, 698 home observations were conducted during the biennial reporting period.

Questionnaires

After onsite visits, the person designated as the primary correspondent for each resident in the sample was sent a questionnaire via mail or email. These questionnaires asked whether the primary correspondent understood the residents' rights and any rights restrictions; if the primary correspondent was invited to HRC meetings, as required by policy; and if the primary correspondent knew how to make a complaint. The OIO mailed 422 surveys and received 129 responses during the reporting period – a 30% response rate.

Staff-to-Client Ratio

"The Office of the Independent Ombudsman shall conduct on-site audits at each center of the ratio of direct care employees to residents and evaluate the delivery of services to residents to ensure that residents' rights are fully observed."

Senate Bill 643, Section 555.059, 81st Legislature

Overview

Each SSLC sets requirements for the minimum number of staff needed on each residential home and shift, based on the number of residents who live in the home and the needs of those residents. These minimums must be met for adequate services to be delivered to all residents in the home in a timely manner.

To determine the sufficiency of minimum staffing requirements and service delivery, the OIO conducted observations of residential homes included in the sample at the 2023 and 2024 onsite visits. Staffing ratios were also evaluated on an ongoing basis; each home at each facility was monitored once during each of the fiscal years of the biennial reporting period. During the 2023-2024 reporting period, 698 total home observations were conducted. The following measures were evaluated to assess the sufficiency of staffing requirements and service delivery:

1.1: The number of staff working in a home compared to the number of staff assigned to the home and shift by the facility.

1.2: The frequency with which pulled and holdover staff were used.

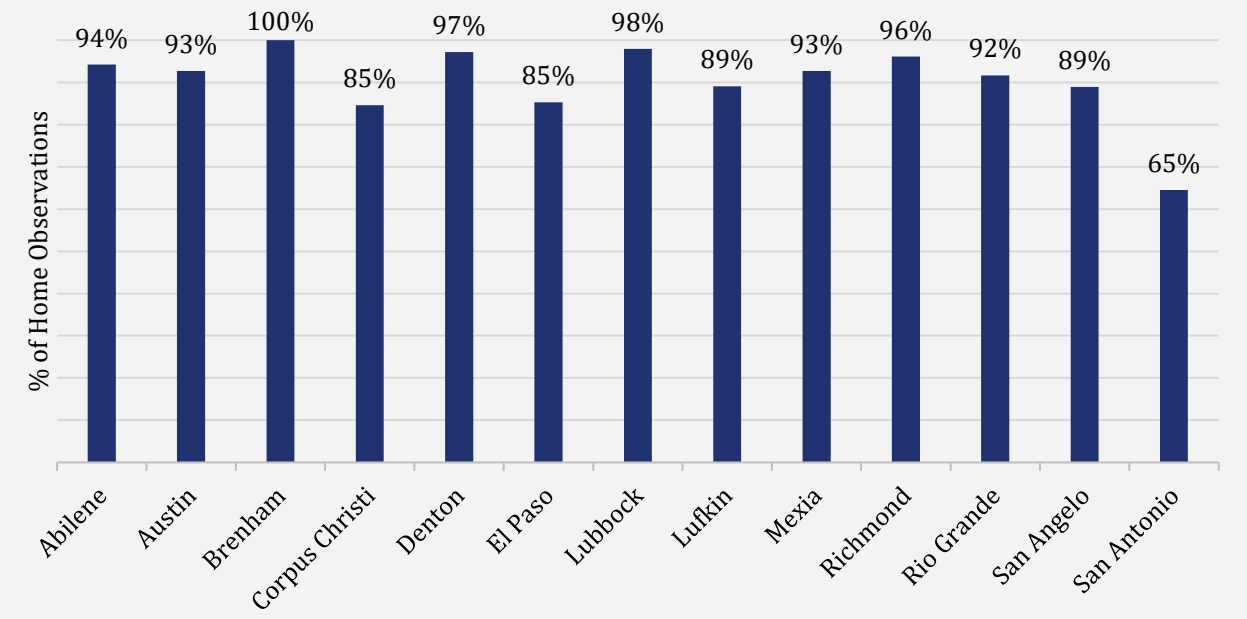
1.3: Whether residential service delivery was negatively impacted due to a lack of staff.

1.1: Minimum Number of Staff Required

Each SSLC establishes the minimum number of staff per home and shift that they determine to be sufficient to meet the needs of and ensure the delivery of services to residents.

1.1a Home Observations that Met Facility-Designated Staffing Minimum

Disaggregate

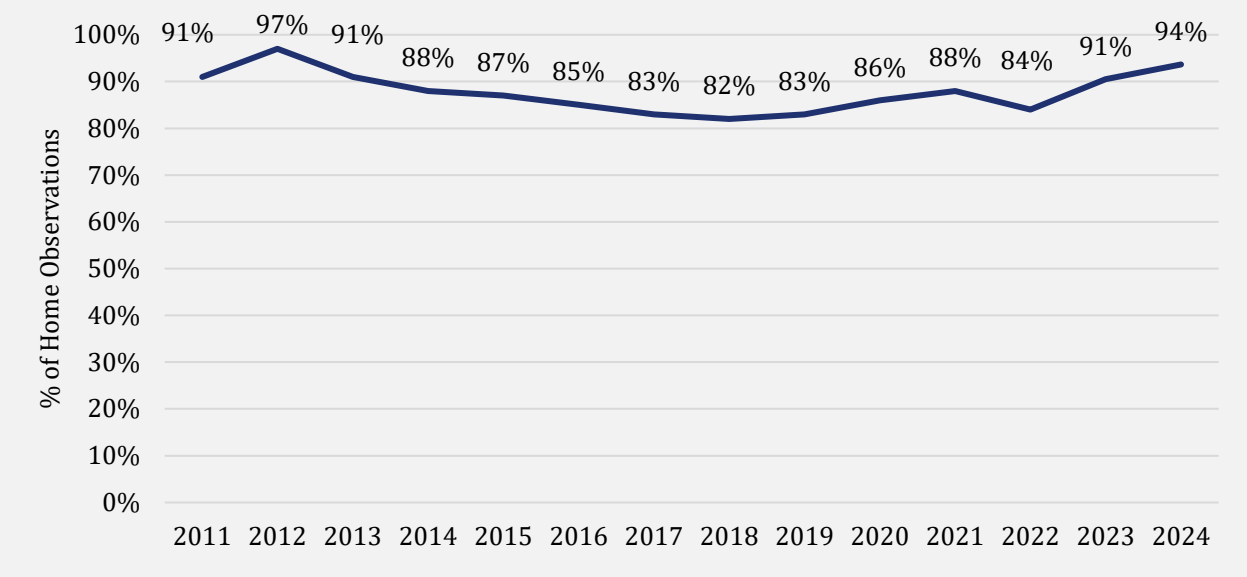


- During the 2021-2022 biennial reporting period, San Antonio, Abilene, and Lufkin met staffing minimums in less than 80% of observations. In the 2023-2024 biennial reporting period, both Abilene (94%) and Lufkin (89%) met minimum staffing ratios at higher rates. Conversely, San Antonio met staffing minimums at a lower rate (65%), 10 percentage points less than in the previous reporting period.
- Notably, Brenham met staffing minimums in 100% of observations conducted in both the previous and current biennial reporting periods.
- From the 2021-2022 biennial reporting period to the 2023-2024[2] biennial reporting period, the overall rate at which centers met minimum staffing ratios increased from 88% to 94%.

[2] The OIO reporting period was conducted annually on a calendar year basis from 2011 to 2020. Beginning in 2021, the reporting period changed to a biennial schedule aligned with the legislative session.

1.1b Home Observations that Met Facility-Designated Staffing Minimums

Aggregate, 2011-2024



- In aggregate, centers met minimum staffing ratios at the highest rate (97%) in 2012.
- From 2011 to 2024, the centers met their own staffing minimums in an average of 88% of observations, cumulatively.

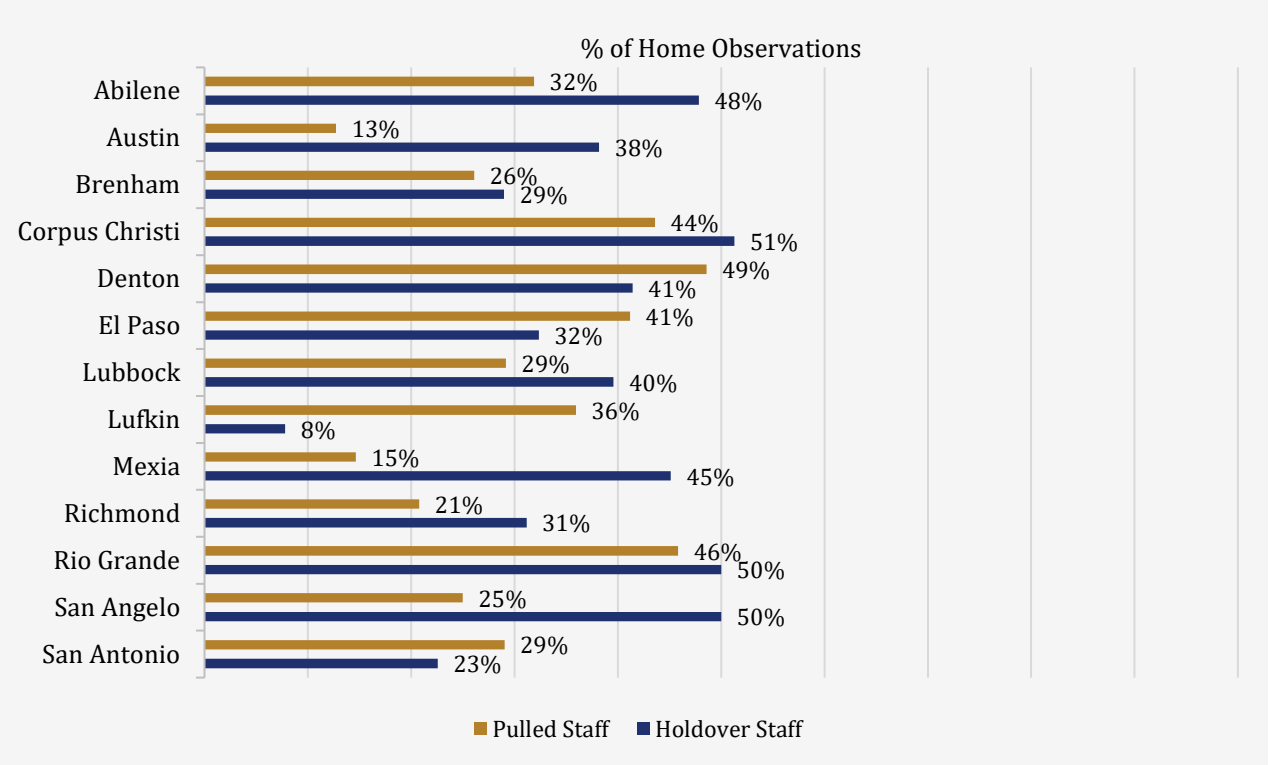
1.2: Use of Pulled and Holdover Staff

The use of pulled and holdover staff was recorded to gain a better understanding of staffing ratios and staff deployment. Staff who are moved from their assigned home to another home or area to provide coverage on a temporary basis are termed "pulled staff." Staff who are required to work beyond their assigned work shift are termed "holdover staff."

While all staff have a specific work schedule and assigned work location, centers move staff to work in another location and require staff to work hours beyond their assigned schedule or shift. However, overuse of pulled staff means that residents are likely to be provided services by staff who are unfamiliar with their specific programs, supports, and personal preferences. Overuse of holdover staff increases the potential for staff burnout; abuse, neglect and exploitation of residents; and diminished quality of residential services and supports.

1.2 Home Observations with Use of Pulled and Holdover Staff

Disaggregate



- In aggregate, pulled staff were used in 30% of observations, while holdover staff were used in 37% of observations.
    - Denton had the highest percentage of observations where pulled staff were used (49%), followed by Rio Grande (46%).
    - Austin used pulled staff in the lowest percentage of observations (13%). Austin also met facility-determined staffing minimums in 93% of observations.
    - Like last biennial reporting period, Lufkin had the lowest percentage of observations where holdover staff were used (8%).
    - Brenham met minimum staffing requirements in 100% of observations and used pulled staff and holdover staff in 26% and 29% of observations, respectively.

- There were observations at Abilene, Corpus Christi, Denton, El Paso, Lufkin, Mexia, Richmond and San Antonio where pulled staff were deployed and minimum staffing ratios were still not met.

- There was at least one observation at all SSLCs except Brenham, Lubbock, and Rio Grande where holdover staff were used and minimum staffing ratios were still not met.

1.3: Services Negatively Affected Due to Lack of Staff

The home staff in charge at the time of the observation were asked a series of questions regarding whether ordinary residential service delivery was negatively affected due to a lack of staff during that shift and day. Negatively affected means that residents may have experienced reduced service quality and/or delays in service delivery, been unable to engage in planned activities, or had personal needs go unmet due to insufficient staffing. This data shows how residents may be impacted by staff shortages as reported by the home staff in charge and whether minimum staffing ratios established by the SSLCs are adequate.

- In aggregate, staff report medical appointments and levels of supervision were affected in 6% of observations, the most of any service category. Skill acquisition was affected in 2% of observations, the least of any service category.

- In aggregate, staff report dining and behavioral support plans were affected in 5% and 4% of observations, respectively.

    - At San Antonio, dining was affected in 13% of observations and behavioral support plans in 14%.

    - Behavior support plans were negatively affected in 16% of observations at Abilene, the highest proportion of any SSLC.

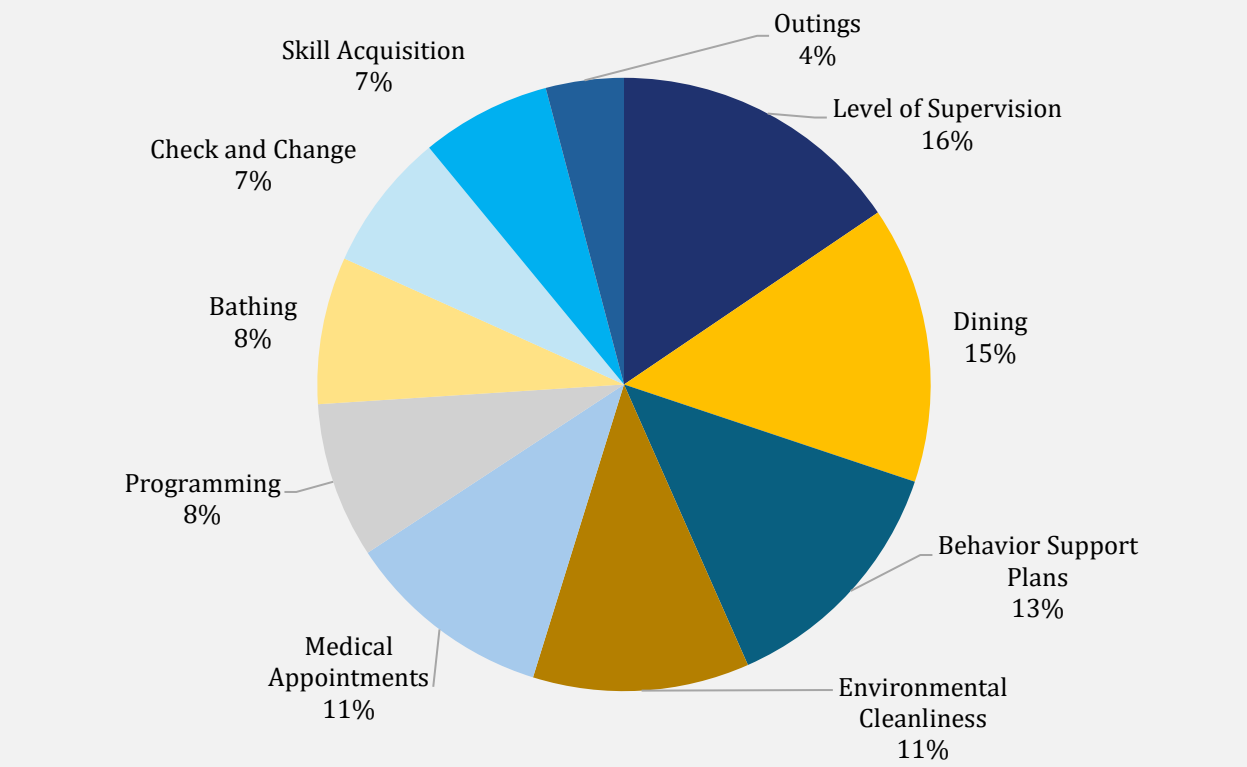
- Increased LOS were most negatively affected at Lufkin (15%), followed by Abilene (14%) and San Antonio (10%).

- Resident outings were most negatively affected at San Antonio (12%) and Rio Grande (11%).

- Basic health needs and supports were most negatively affected at Abilene (12%) and Brenham (10%).

- Observation data from Abilene and San Antonio show that residential services were affected by staffing shortages across the board.

1.3 Services Negatively Affected Due to Lack of Staffing
Aggregate



- There were 219 services observed to have been negatively affected due to lack of staffing during this biennial reporting period. All categories of service delivery were impacted.
    - Level of supervision was the most affected category (16%), followed by dining services (15%) and behavior support plans (13%).

Adequacy of Staff Training

"The Office of the Independent Ombudsman shall conduct on-site audits at each center of the provision and adequacy of training to direct care employees and, if the center serves alleged offender residents, the provision of specialized training to direct care employees."

Senate Bill 643, Section 555.059, 81st Legislature

Overview

Direct care employees are responsible for implementing a variety of plans and programs. These plans and programs are developed specifically to meet the needs of each resident, whether those be basic needs, such as eating and bathing, or more complex habilitative, medical, or behavioral needs. For these needs to be met, direct care employees must be knowledgeable about and trained in how to implement the plans and programs of the residents they support.

During the 2023-2024 biennial reporting period, the OIO conducted 851 DSPs interviews to evaluate the adequacy of training provided to direct care staff. Additionally, the OIO reviewed 322 admission records, as well as resident demographic data and locally developed training, to determine how many residents at each SSLC had unique needs that may require specialized training and whether such training was provided. The following measures were evaluated to assess the adequacy of staff training:

2.1: The percentage of DSPs who were knowledgeable about residents' individualized plans and programs.

2.2: The percentage of residents who have been involved in the justice and mental health systems and whether the SSLCs provided specialized training to DSPs to support these residents

2.1: Direct Support Professional Training Evaluation Interview

AIOs interviewed DSPs about a resident they were assigned to work with to assess their knowledge of the resident's plans and programs. Interviews were conducted during onsite reviews for each resident in the sample and throughout the year.

Prior to the interview, the AIO documented whether the resident had a positive behavior support plan (PBSP), crisis intervention plan (CIP), physical and nutritional management plan (PNMP), or an increased level of supervision (LOS). The AIO documented specific aspects of each plan that the DSP needed to know to effectively implement the plan.

AIOs asked DSPs which of these five plans and programs the resident had. For each one that the DSP correctly identified the resident as having, the AIO would then ask a series of questions about specific aspects of the plan. The DSP's responses were then compared to the resident's plan or program to evaluate if staff responded correctly.

DSP Training on Residents' Positive Behavior Support Plans (PBSPs)

A PBSP outlines interventions to encourage positive behavior and reduce or prevent the occurrence of behaviors that are harmful to the resident.

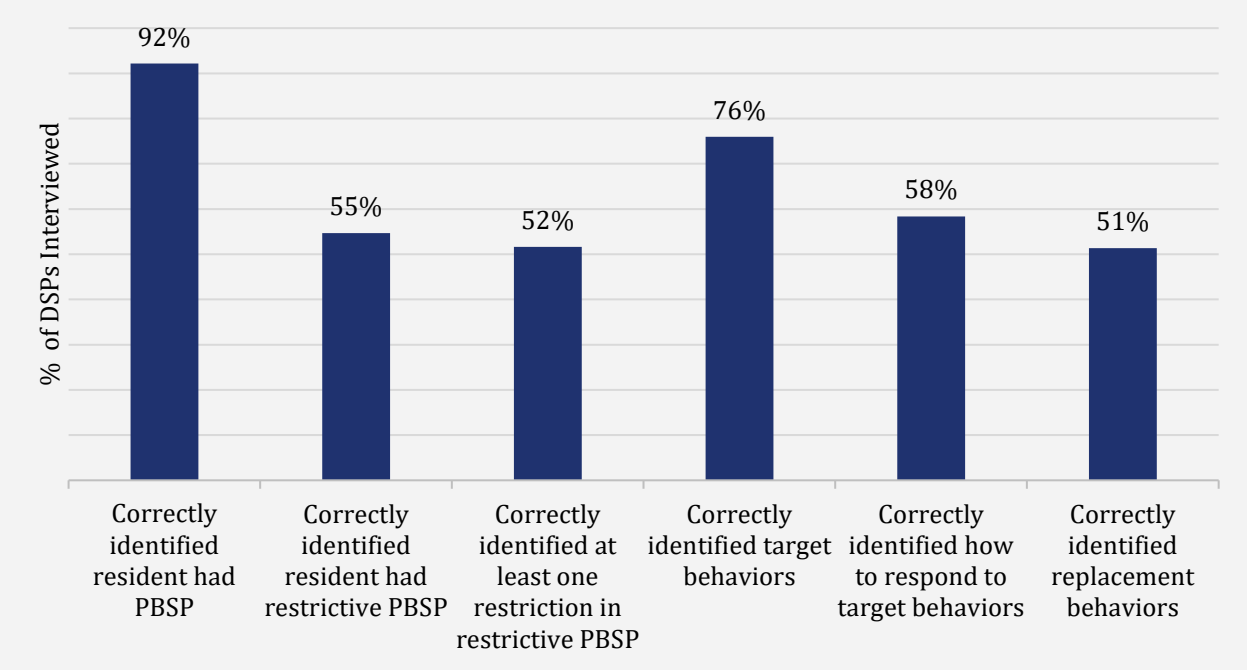
PBSPs may be restrictive, meaning that a resident's rights may be modified as part of the resident's PBSP to prevent harmful behavior. As enforcing restrictions on a resident's rights is the responsibility of direct care staff, it is important that DSPs be trained to recognize which residents have a restrictive PBSP, which specific restrictions to implement, and how.

DSPs were asked to identify essential components of the PBSP. These included the resident's target behaviors, replacement behaviors, and restrictive practices in the PBSP if the PBSP was restrictive. Target behaviors can cause harm to the resident, the resident's peers, and other individuals on campus and in the community, while replacement behaviors help the resident engage with their environment and with others in a positive, appropriate way. DSPs must be trained to identify and respond to harmful behaviors appropriately and help the resident adopt positive behaviors.

- Of the DSPs interviewed who provided support to a resident with a PBSP, in aggregate, 92% knew the resident required a restrictive or non-restrictive PBSP. This is a four-percentage point increase over the last biennial period.
    - Brenham, Denton, San Angelo, and San Antonio were the only four centers where less than 90% of DSPs knew the resident they supported had a PBSP. San Antonio had the lowest percentage (81%) of DSPs interviewed who could identify that the resident required a PBSP.

2.1a DSP Knowledge of PBSPs

Aggregate



- Of the DSPs interviewed who provided support to a resident with a restrictive PBSP, 55% knew the resident had a restrictive PBSP, in aggregate.
    - Only two of 10 DSPs interviewed at Abilene knew that the resident they supported had a restrictive PBSP.
    - All DSPs interviewed at Rio Grande and Corpus Christi knew that the resident they supported had a restrictive PBSP.
    - Of the DSPs that correctly identified residents with a restrictive PBSP, only 52% could identify at least one restriction.
        - ◊ It is a concern that nearly half of DSPs could not correctly identify residents with a restrictive PBSP, and of the DSPs that could, nearly half could not identify at least one specific restriction.
- DSPs were able to identify key elements of residents' PBSPs at higher rates than last biennial period. The greatest improvement was in the identification of target behaviors: 76% of DSPs were able to do so correctly, 10 percentage points more than last biennial period.

- Just over half (58%) of DSPs interviewed correctly identified how to respond to target behaviors. Fewer (51%) correctly identified replacement behaviors.
    - Less than half of DSPs interviewed at Mexia (48%), Richmond (45%), San Antonio (43%), and Abilene (19%) correctly identified how to respond to target behaviors.
    - Only eight of 43 DSPs interviewed at Abilene correctly identified how to respond to target behaviors.
    - Less than half of DSPs interviewed at Corpus Christi (48%), Richmond (43%), San Antonio (36%), and Abilene (21%) correctly identified replacement behaviors.
    - Only nine of the 43 DSPs interviewed at Abilene correctly identified the resident's replacement behaviors.

DSP Training on Residents' Crisis Intervention Plans (CIPs)

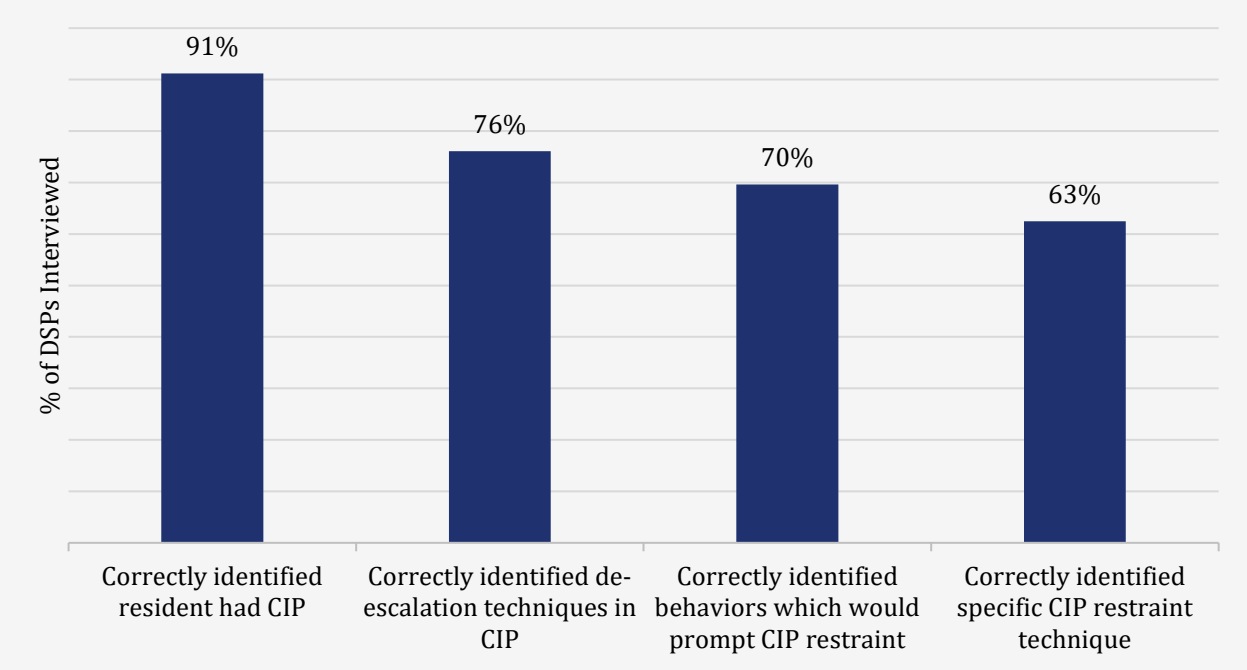
A CIP provides instructions for staff on how to use restraint procedures when less restrictive prevention or de-escalation procedures have failed, and the resident's dangerous behavior continues to present an imminent risk of physical injury to the resident or others.

A resident who has experienced crises that have resulted in a restraint three or more times within a 30-day period should have a CIP. A CIP includes de-escalation techniques and approved physical and/or chemical restraints. Because CIPs are implemented in crises, it is important that DSPs not only know that a resident has a CIP but are prepared to implement the plan correctly.

- Of DSPs interviewed who provided support to a resident with a CIP, 91% correctly identified that the resident had a CIP, in aggregate. This is a 38-percentage point improvement over last biennial period.

2.1b DSP Knowledge of CIPs

Aggregate



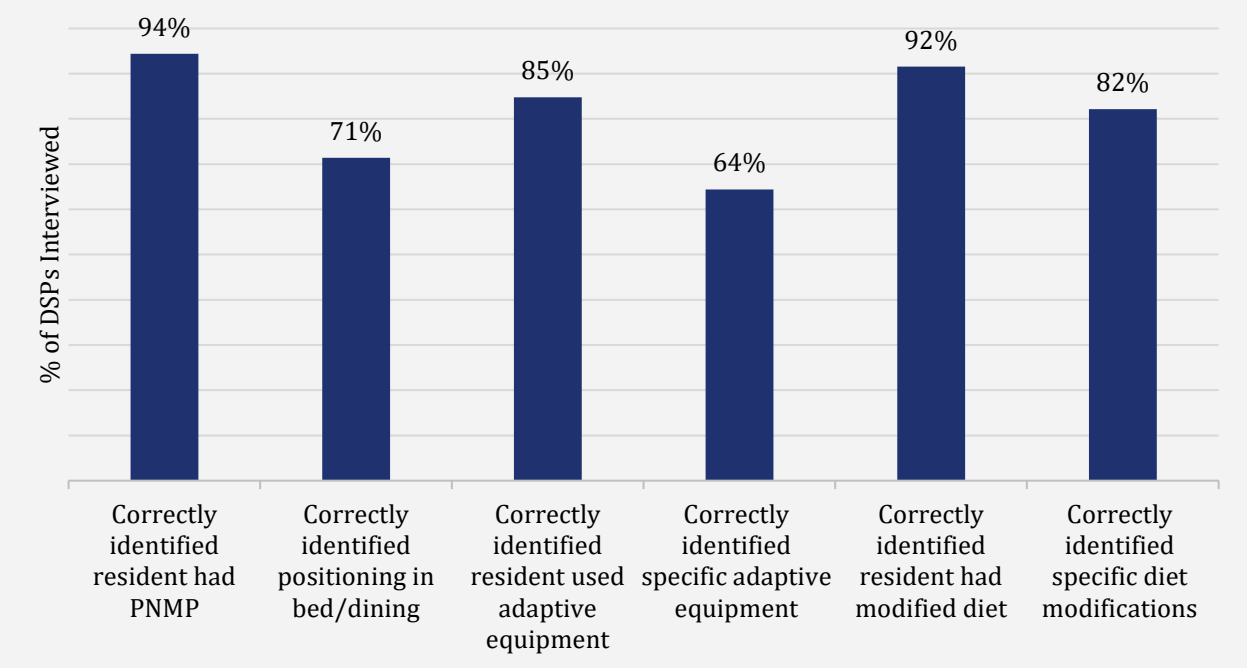
- Of DSPs that correctly identified that the resident required a CIP, fewer were able to correctly identify specific details of the plan. In aggregate:
    - 76% correctly identified de-escalation techniques used to prevent behaviors that would prompt a CIP restraint.
    - 70% correctly identified behaviors that would prompt a CIP restraint.
    - 63% correctly identified the specific restraint techniques used in the event a CIP restraint is necessary.
    - Of 10 DSPs interviewed at Abilene who provided support to a resident with a CIP, only two could correctly identify specific CIP restraint techniques.
- Training DSPs to recognize behavioral crises and identify the appropriate restraint techniques is critical to ensure staff implement CIPs effectively and ensure resident safety.

DSP Training on Residents' Physical Nutrition Management Plans (PNMPs)

A PNMP provides instructions to staff on how to meet a resident's physical and nutritional needs. These needs may include special positioning while in bed or dining; the use of equipment to perform daily tasks such as eating, bathing, and ambulating; and changes to the texture or ingredients used in the resident's meals. DSPs were only asked about needs for which the resident required assistance, as documented in the PNMP.

2.1c DSP Knowledge of PNMPs

Aggregate



- Of the DSPs interviewed who provided services to a resident with a PNMP, almost all (94%) correctly identified that the resident had a PNMP. This is unchanged from the last biennial period.
    - Mexia was the only SSLC where less than 80% of DSPs interviewed correctly identified that the resident required a PNMP (71%).
    - All DSPs interviewed at Rio Grande correctly identified that the resident required a PNMP.
- DSPs correctly identified residents who required positioning in bed and/or dining and residents who required adaptive equipment at higher rates than the previous

biennial period. Conversely, DSPs correctly identified whether the resident had a modified diet at a lower rate than the previous biennial period.

- DSPs were less knowledgeable about positioning in bed and/or dining than they were about adaptive equipment and diet modifications.
    - Of nine DSPs interviewed at Mexia who provided support to a resident with bed and/or dining positioning needs, only four correctly identified the specific positioning the resident required.
- While DSPs were generally able to identify residents who used adaptive equipment (85%) and had a modified diet (92%), they had more difficulty correctly identifying specific adaptive equipment and diet modifications. In aggregate:
    - Of DSPs who provided services to a resident who used adaptive equipment, only 64% correctly identified the specific adaptive equipment the resident used.
    - Of DSPs who provided services to a resident with a modified diet, 82% correctly identified the specific diet modifications.

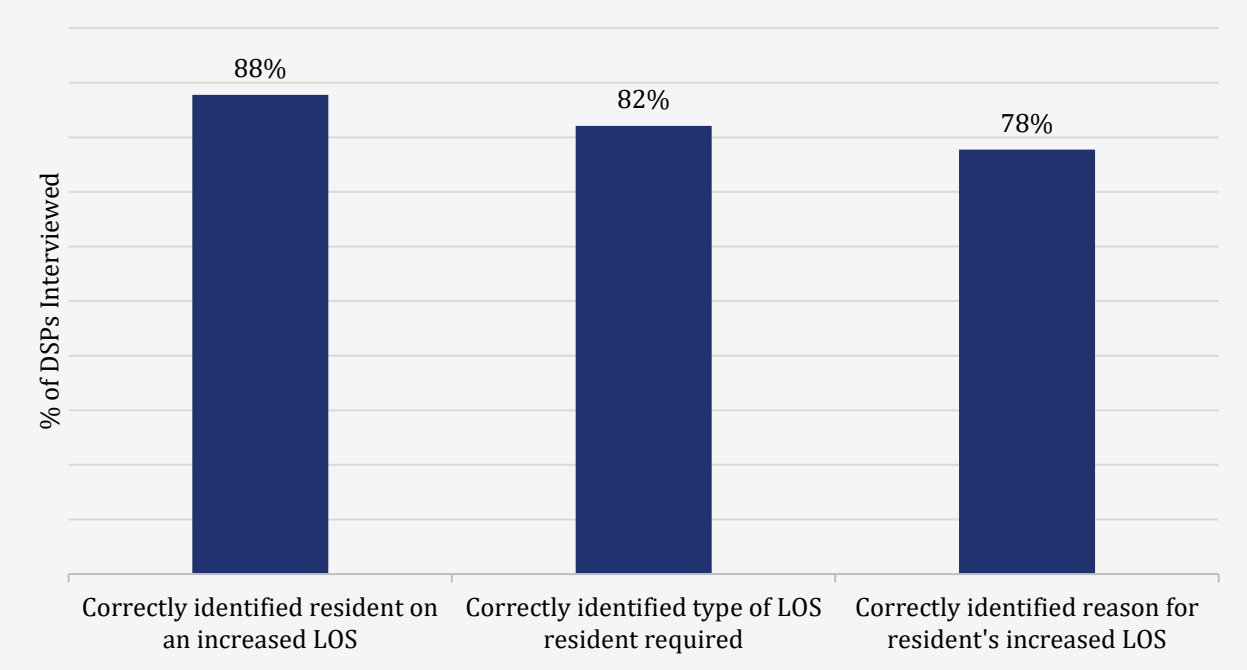
DSP Training on Residents' Level of Supervision (LOS)

A resident's LOS is based on the supervision needs of the resident as determined by the resident's interdisciplinary team (IDT). The LOS instructions describe how closely the resident is to be supervised by staff daily, at certain times of day, or in specific instances, as well as the reason the resident has been placed on an increased LOS.

An increased LOS is implemented to provide an appropriate level of staff oversight, as defined by the resident's IDT, when the resident's wellbeing or the wellbeing of another individual may be at risk. Direct care staff are responsible for implementing a resident's LOS and so must be trained to understand the specific LOS of the residents they are assigned to.

2.1d DSP Knowledge of LOS

Aggregate



- Of the DSPs interviewed who provided services to a resident with an increased LOS, most (88%) correctly identified that the resident required an increased LOS, in aggregate. This is an improvement of 10 percentage points over the previous biennial period.
    - Abilene was the only SSLC where less than 80% of DSPs interviewed correctly identified that the resident required an increased LOS (64%).
    - All DSPs interviewed at Corpus Christi correctly identified that the resident required an increased LOS.
- Of DSPs that correctly identified that the resident they supported required an increased LOS, 82% correctly identified the type of LOS the resident was on, in aggregate.
    - Twelve of 22 DSPs interviewed at Abilene correctly identified the type of LOS the resident required.
    - All DSPs interviewed at Corpus Christi correctly identified the type of LOS the resident required.

- DSPs had the most difficulty identifying the reason for a resident's increased LOS, with 78% able to correctly identify the reason for the resident's increased LOS.
    - Ten of 22 DSPs interviewed at Abilene correctly identified the reason for the resident's LOS.
- It is a concern that 18% of DSPs who provided support to a resident with an increased LOS could not identify the type of LOS, and 22% could not state why the resident required an increased LOS.

2.2: Training to Meet the Special Needs of Residents Involved in Justice and Mental Health Systems

HHSC policy mandates that the SSLC "establish training requirements, above and beyond the minimum training requirements, in order to ensure the competence of employees to meet the special needs of the individuals or groups served at the facility." The OIO obtained data from the SSLCs on two such groups: alleged offenders[3] and individuals who have spent time in a jail or psychiatric hospital.

Alleged Offender Residents

Alleged offenders make up a growing proportion of the SSLC population. Two SSLCs, Mexia and San Angelo, are forensic facilities, meaning that they have been specially designated for the court-ordered admission of alleged offenders. Six other non-forensic facilities also have at least one alleged offender resident. Individuals who have been involved in the justice system tend to have more complex and unique needs as compared to other SSLC residents. To ensure alleged offenders receive adequate support services, centers were asked to provide any locally developed specialized training to staff to support these residents prior to the onsite visit.

- Seven percent of SSLC residents are alleged offenders, in aggregate. This is a decrease of four percentage points as compared to the previous biennial period.
    - Of those, 72% reside at the forensic facilities, Mexia and San Angelo.
- No SSLCs provided the OIO with any specialized training on how to serve alleged offender residents.

[3] Alleged offenders are individuals who have been charged with a crime, have been diagnosed with an intellectual disability, and have been deemed not competent to stand trial.

- Alleged offenders constitute a significant proportion of the resident population at the forensic facilities. They also constitute between one and five percent of the resident population at six of the 11 non-forensic SSLCs.
- These residents require an intensity and variety of services that other SSLC residents may not. Without specialized training, DSPs may be unprepared to effectively meet their needs.

Table 2.2: Alleged Offender Residents in the SSLC Population

Disaggregate

SSLC	Census	Alleged Offenders	Alleged Offenders (% Census)	Center Provides Specialized Training?
Abilene	244	0	0%	No
Austin	165	3	2%	No
Brenham	229	0	0%	No
Corpus Christi	164	8	5%	No
Denton	369	3	1%	No
El Paso	102	0	0%	No
Lubbock	193	5	3%	No
Lufkin	223	0	0%	No
Mexia	247	114	46%	No
Richmond	298	3	1%	No
Rio Grande	70	0	0%	No
San Angelo	126	33	26%	No
San Antonio	187	3	2%	No
Aggregate	**2617**	**172**	**7%**	**--**

Source: The Health and Specialty Care System division of Texas Health and Human Services, October 1, 2024

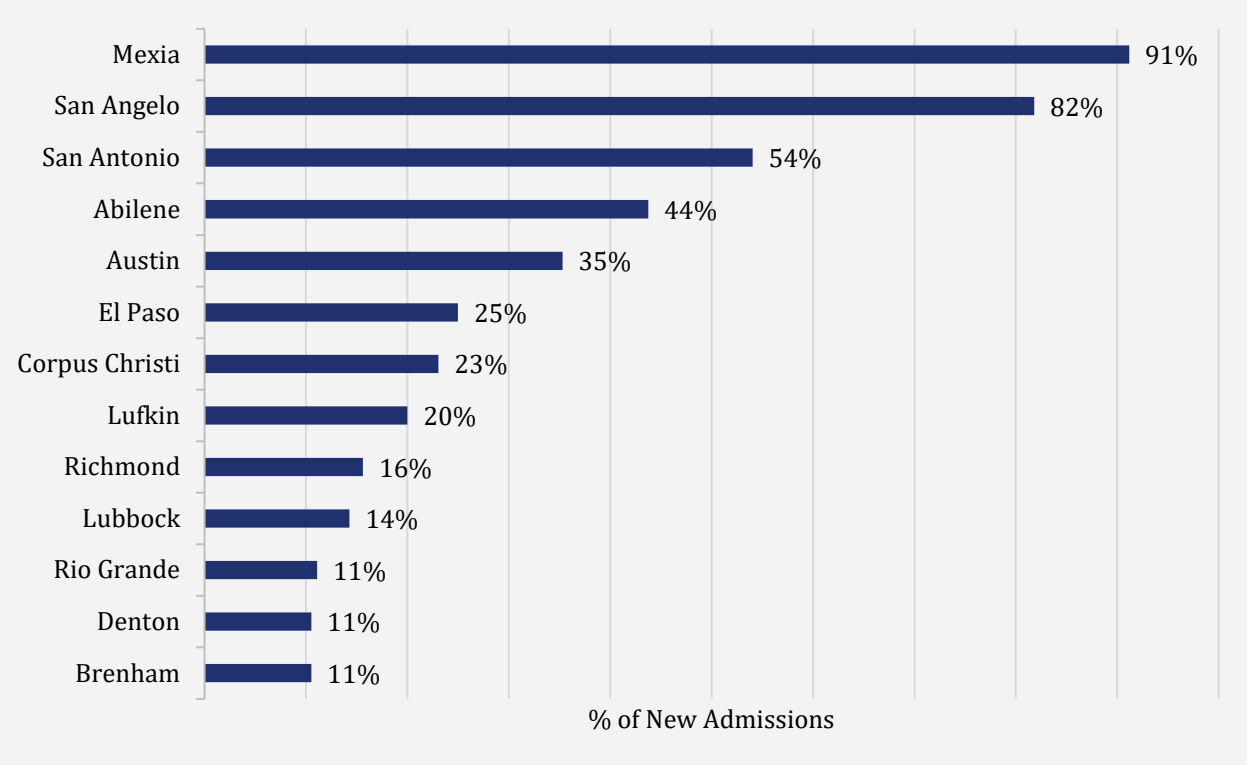
Newly Admitted Residents Who Have Spent Time in a Jail or Psychiatric Hospital

In recent years, a significant proportion of new SSLC admissions are individuals who have spent time in jail or a psychiatric hospital within the year prior to admission but were not admitted to the facility through a criminal commitment. These residents require similar supports as alleged offenders due to the similarity of their needs, challenges, and experiences.

AIOs reviewed data on a total of 321 admissions to their respective centers during the biennial reporting period to identify residents who had experience with the criminal justice and/or mental health systems within one year prior to their admission to the SSLC. This data may underestimate the number of new admissions who fit this description because information regarding some residents' prior involvement with these institutions may not be available when a resident is admitted. This data includes residents who were admitted under criminal court order and those who transferred from another SSLC, including the two forensic centers, Mexia and San Angelo.

2.2 New Admissions who Spent Time in a Jail or Psychiatric Hospital within One Year Prior to Admission

Disaggregate



- All SSLCs had at least one admission since September 2022 that fit this criterion.
    - Of the SSLCs that are not designated forensic facilities, San Antonio (54%) and Abilene (44%) had the highest proportion of new admissions who had spent time in a jail or psychiatric hospital within one year of admission. There were 37 new admissions at San Antonio during the biennial reporting

period, of whom 20 had spent time in a jail or psychiatric hospital. There were 31 new admissions at Abilene, of whom 13 spent time in a jail or psychiatric hospital.

- At SSLCs not designated as forensic facilities, the percentage of admissions involved with the justice and/or mental health systems increased at Abilene, Austin, Lufkin, Mexia, and San Antonio relative to the last biennial period. The percentage of admissions involved with the justice and/or mental health systems decreased at Brenham, Corpus Christi, Denton, El Paso, Lubbock, Rio Grande, and San Angelo. There was no change in the percentage of admissions involved with the justice and/or mental health system at Richmond.

Rights and Due Process

"The Office of the Independent Ombudsman shall conduct on-site audits to ensure residents are encouraged to exercise their rights, including the right to file a complaint and the right to due process."

Senate Bill 643, Section 555.059, 81st Legislature

Overview

Texas law extends special rights to residents of SSLCs. Special rights include, but are not limited to, the right to keep and use personal possessions, the right to communicate with persons outside the SSLC, and the right to freedom of movement. These rights may be restricted if necessary to protect or support a resident's wellbeing.

SSLCs are required to follow due process protocols, as established in policy, to restrict a resident's rights. Due process is meant to ensure that the resident and the resident's guardian can participate in making decisions about the resident's rights and that a restriction is not inappropriately or unnecessarily implemented.

To evaluate the rights and due process practices of the SSLCs, the OIO reviewed behavior support plans, psychotropic medications, and documentation related to residents' rights; observed Human Rights Committee (HRC) meetings; and sent questionnaires to residents in the sample with a primary contact person on file.

During the 2023-2024 biennial reporting period:

- 2,000+ rights-related documents were reviewed.
- 339 HRC meetings were observed.
- 129 questionnaires were completed.

The following documentation and observations were used to evaluate due process measures:

3.1: Whether the SSLC documented the resident's decision-making capacity and whether the resident and guardian acknowledged understanding of rights and restrictions.

3.2: The extent to which guardians and family members were informed and educated on resident rights and rights restrictions.

3.3: Whether due process was followed according to established policy for annual Rights Restriction Determinations (RRD), restrictive Behavioral Support Plans (BSP), and psychotropic medication documentation.

3.4: Whether residents were informed of their rights and were invited to participate in due process.

3.5: DSPs' knowledge of the residents' rights and restrictions.

3.6: Resident's, DSP's, and family/guardians' knowledge of how to file a complaint.

3.7: The extent to which the elements of due process were included in documentation and discussed during HRC meetings.

3.1: Review of Individual Decision-Making Assessment (IDMA) and Individual Rights Acknowledgement (IRA) Forms

The SSLC Rights Policy requires an Individual Decision-Making Assessment (IDMA) and an Individual Rights Acknowledgement (IRA) to be completed for a resident upon admission, annually, and as needed.

An IDMA is an assessment of the resident's ability to make decisions and provide input in areas such as medical care, finances, living arrangements, programming, living options, and the release of personal information. The IDMA also provides information about the support or training the resident may need to enable them to make decisions or provide input about their planning. IDMAs are reviewed and approved by the resident's interdisciplinary team at the Individualized Support Plan (ISP) meeting, which must occur annually. HRC must acknowledge the IDMA once completed.

IDMAs should be used by HRC to help gauge if, and to what extent, an individual can provide insight about a proposed rights restriction. For that determination to be made accurately, IDMAs must reflect a resident's current capacity to make decisions and provide consent.

An IRA documents that the residents' rights, the circumstances in which they may be limited or restricted, and the procedures that must be followed to do so have been explained to both the individual and their guardian. The individual and guardian must sign the IRA.

Table 3.1: Individual Decision-Making Assessment as Current and Acknowledged by HRC

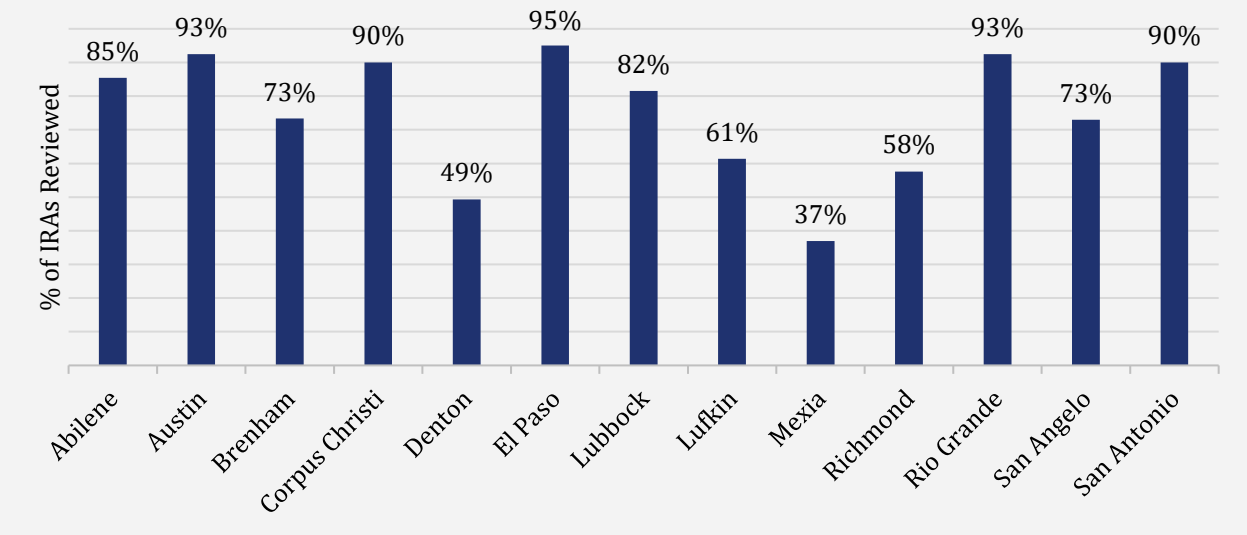
Disaggregate

SSLC	IDMA on File is Current	IDMA Acknowledged by HRC
Abilene	98%	85%
Austin	100%	83%
Brenham	100%	89%
Corpus Christi	95%	82%
Denton	99%	97%
El Paso	98%	95%
Lubbock	100%	100%
Lufkin	100%	91%
Mexia	94%	93%
Richmond	100%	98%
Rio Grande	98%	97%
San Angelo	100%	98%
San Antonio	100%	100%
Aggregate	**99%**	**93%**

- Nearly all IDMAs reviewed (99%) were current, in aggregate. This is an improvement of two percentage points over the previous biennial period.
    - The percentage of IDMAs that were current increased, relative to the previous biennial period, at Abilene, Lubbock, Denton, and San Angelo.
    - The percentage of IDMAs that were current decreased, relative to the previous biennial period, at Corpus Christi, El Paso, Mexia, and Rio Grande.
- Nearly all current IDMAs reviewed (93%) were acknowledged by HRC, in aggregate. This is an improvement of one percentage point over the previous biennial period.
- At only two centers – Lubbock and San Antonio – were all current IDMAs acknowledged by HRC.

3.1 Current IRAs

Disaggregate



- In aggregate, 73% of residents had a current IRA. This is an improvement of two percentage points over the previous biennial period.
    - El Paso (95%), Austin (93%), Rio Grande (93%), Corpus Christi (90%), and San Antonio (90%) were the only centers where 90 percent or more of IRAs were current.
    - Thirty-six of 73 IRAs reviewed at Denton were current. Seventeen of 46 IRAs reviewed at Mexia were current.
    - The percentage of IRAs that were current decreased at Austin, Brenham, Denton, Lubbock, Lufkin, Mexia, Rio Grande, and San Angelo relative to the previous biennial period.
    - Lufkin and San Angelo saw the biggest decreases. The percentage of IRAs that were current at Lufkin fell from 92% during the 2021-2022 biennial reporting period to 61% during the 2023-2024 biennial reporting period. The percentage of IRAs that were current at San Angelo fell from 85% to 73%.
    - The percentage of IRAs that were current increased at Abilene, Corpus Christi, El Paso, and Richmond relative to the previous biennial period.
    - Corpus Christi and El Paso saw the biggest increases. The percentage of IRAs that were current at Corpus Christi rose from 55% during the 2021-2022

biennial reporting period to 90% during the 2023-2024 biennial reporting period. The percentage of IRAs that were current at El Paso rose from 76% to 95%.

- This data shows that, at many SSLCs, IRAs are not consistently being reviewed annually, indicating that centers are not regularly educating and informing residents and guardians of residents' rights, as required in policy.

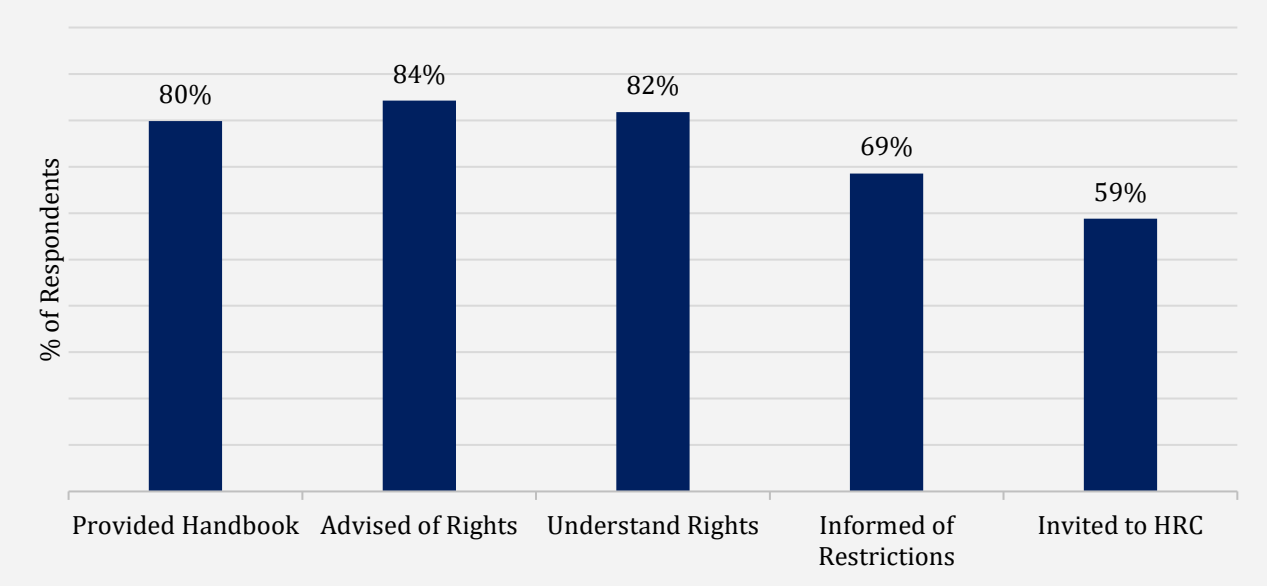
3.2: Guardian or Family Member Knowledge of Resident Rights and Restrictions

The SSLC statewide Rights Policy requires that SSLCs educate guardians and family members about a resident's rights, provide a "Rights Handbook" upon admission and annually, and obtain and document guardian or family member input on any proposed rights restrictions.

A questionnaire was sent to the primary correspondent of residents in the sample, most commonly a guardian or family member, whose contact information the SSLC had on file. The questionnaire assessed if the primary correspondent was provided a Rights Handbook and was knowledgeable about resident rights, informed of proposed rights restrictions, and invited to HRC meetings. Out of the 422 questionnaires mailed or sent electronically via email, 129 responses were received. This is a 31% response rate.

3.2a Primary Correspondent Questionnaire Results

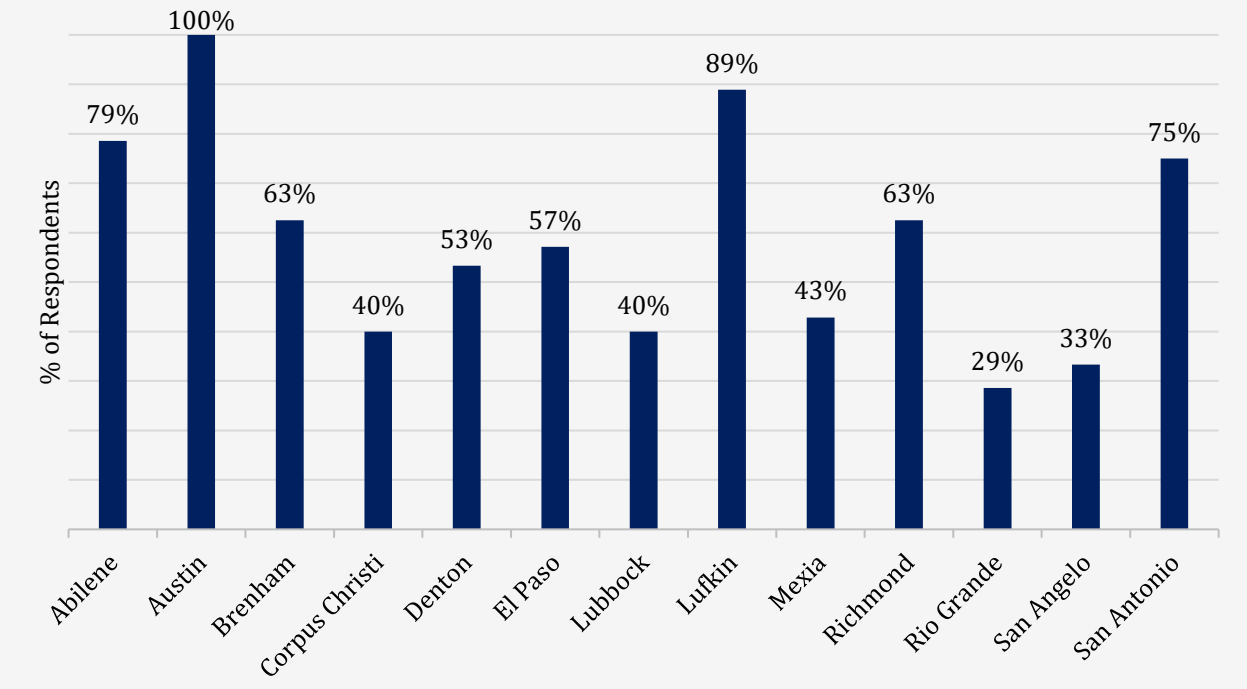
Aggregate



- In aggregate, most respondents reported that they were advised of residents' rights (84%).
- Although guardian or family member input is required by statewide policy, only 69% of respondents reported that they were informed of proposed rights restrictions and only 59% reported being invited to HRC meetings.
- All respondents who were the primary correspondent of a resident at Austin, Lufkin, and San Angelo reported understanding residents' rights.
    - All respondents who were the primary correspondent of a resident at Austin and Lufkin reported they were informed of the resident's rights restrictions.
- Less than half of respondents who were the primary correspondent of a resident at El Paso reported receiving a rights handbook (43%).
- Respondents who were the primary correspondent of a resident at Corpus Christi (58%), El Paso (57%), Brenham (56%), Richmond (50%), and Rio Grande (29%) reported the lowest rates of being informed of proposed rights restrictions.

3.2b Primary Correspondents Who Reported Being Invited to HRC Meetings

Disaggregate



3.3: Review of Due Process Indicators of Annual Rights Restrictions, Behavior Plans and Psychotropic Medication

SSLCs must ensure due process when proposing and implementing annual rights restrictions in Rights Restriction Determinations (RRDs), Behavior Support Plans (BSPs), and psychotropic medications (PMs). AIOs reviewed the documentation for RRDs, BSPs, and PMs of residents in the onsite sample for evidence of due process, as described in the Rights Policy. Evidence of due process includes:

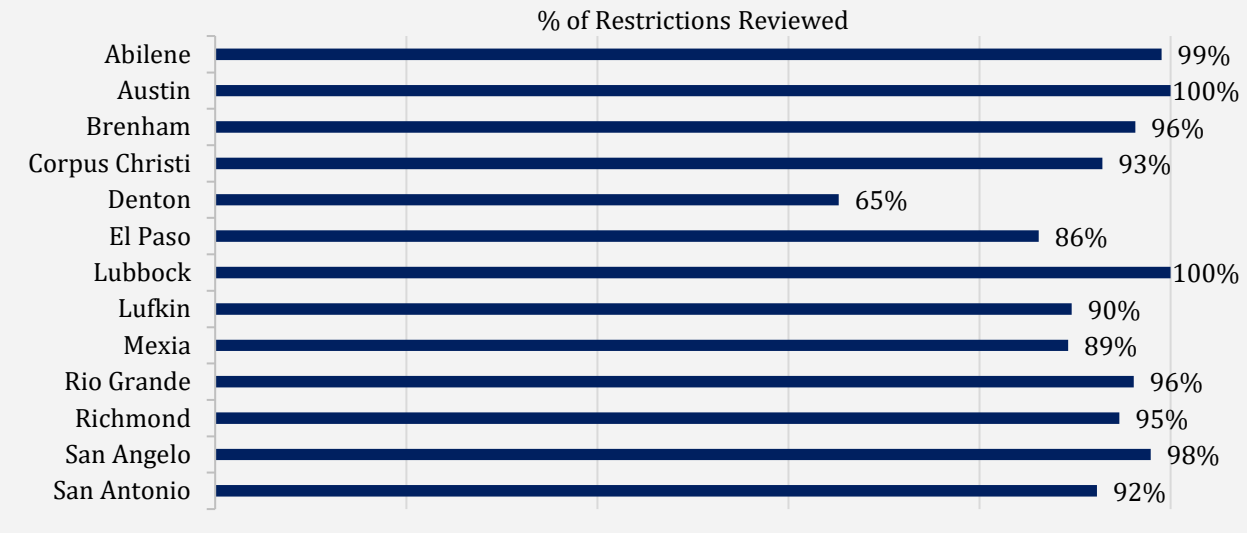
- Consent[4] for all restrictions prior to HRC review.
- Plans to remove or reduce the restriction.
- Review of all restrictions, including those in behavior plans and psychotropic medications, by HRC.

Document Review of Rights Restriction Determinations (RRD)

A Rights Restriction Determination outlines any rights restrictions the resident's IDT has identified as being necessary to support the individual. An RRD is completed upon admission and annually by each resident's IDT.

3.3a Restrictions in RRDs with Consent

Disaggregate



[4] The SSLC Rights policy requires "informed consent that is specific, separate, and in writing. Each center must obtain written and/or electronic, informed consent from an individual or the individual's LAR or written/electronic authorization from the center director" (director authorization is per Texas Health and Safety Code §592.054).

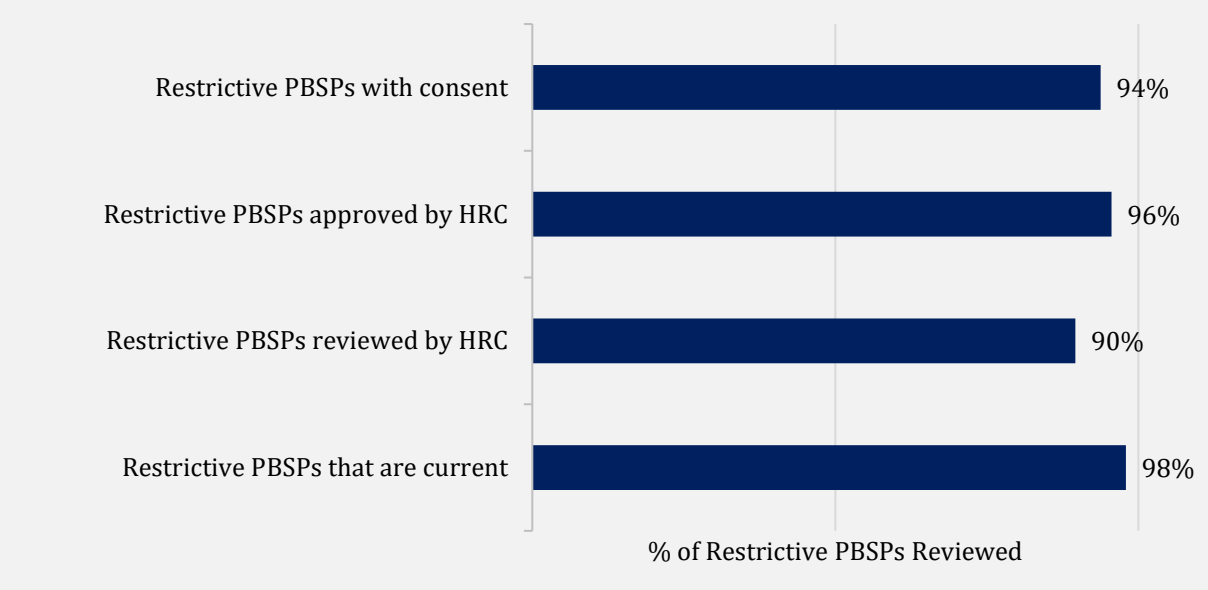
- The majority of RRD restrictions had consent prior to HRC review (87%) as required by policy, in aggregate. Additionally, 82% of RRD restrictions had a documented plan to remove, in aggregate.
- Denton had the lowest rate of consent obtained prior to HRC (65%), documentation of a plan to remove (59%) and measurable and individualized criteria to remove (17%) for RRD restrictions.
    - Nearly all RRD restrictions at Denton (97%) were approved, despite evidence of due process being absent for many RRD restrictions.

Document Review of Positive Behavioral Support Plans (PBSP)

A Positive Behavior Support Plan is "a comprehensive, individualized plan that contains intervention strategies designed to modify the environment, teach or increase adaptive skills, and reduce or prevent the occurrence of target behaviors through interventions that build on an individuals' strengths and preferences."[5] PBSPs may contain rights restrictions; these restrictive PBSPs must be reviewed and approved by HRC prior to implementation. PBSPs should be current to ensure that restrictive interventions are aligned with the individual's current needs, strengths, and preferences; protect the individual's rights; and promote positive outcomes.

3.3b Due Process for Restrictive PBSPs

Aggregate



[5] SSLC Operational Policy Definitions, Revised 1/26/21, page 40.

In aggregate, 12% of residents in the sample had a restrictive PBSP, although not every center had a resident in the sample with a restrictive PBSP.

- Six percent of residents in the El Paso onsite sample had a restrictive PBSP; however, none of them were current.
- There was one PBSP in the Corpus Christi sample which was current and had consent but had not been reviewed or approved by HRC.
- Lubbock had the highest percentage of residents in the sample with PBSPs (93%) and 16% were restrictive. Of the restrictive PBSPs in the sample at Lubbock, all had consent.
- In the sample at Austin, Mexia, and Richmond, no residents had restrictive PBSPs.
- At Denton SSLC, all restrictive PBSPs were approved despite only 75% being reviewed by HRC.

Document Review of Crisis Intervention Plans (CIP)

A Crisis Intervention Plan instructs staff on how to use restraints when de-escalation methods fail and a resident's behavior poses an immediate risk of harm to themselves or others. Residents who have been restrained three or more times within a 30 day period should have a CIP, which includes approved physical or chemical restraints and requires due process to be implemented. Sixteen residents in the onsite sample required a CIP during the 2023-2024 biennial reporting period. CIPs were found in the sample at 11 out of 13 SSLCs.

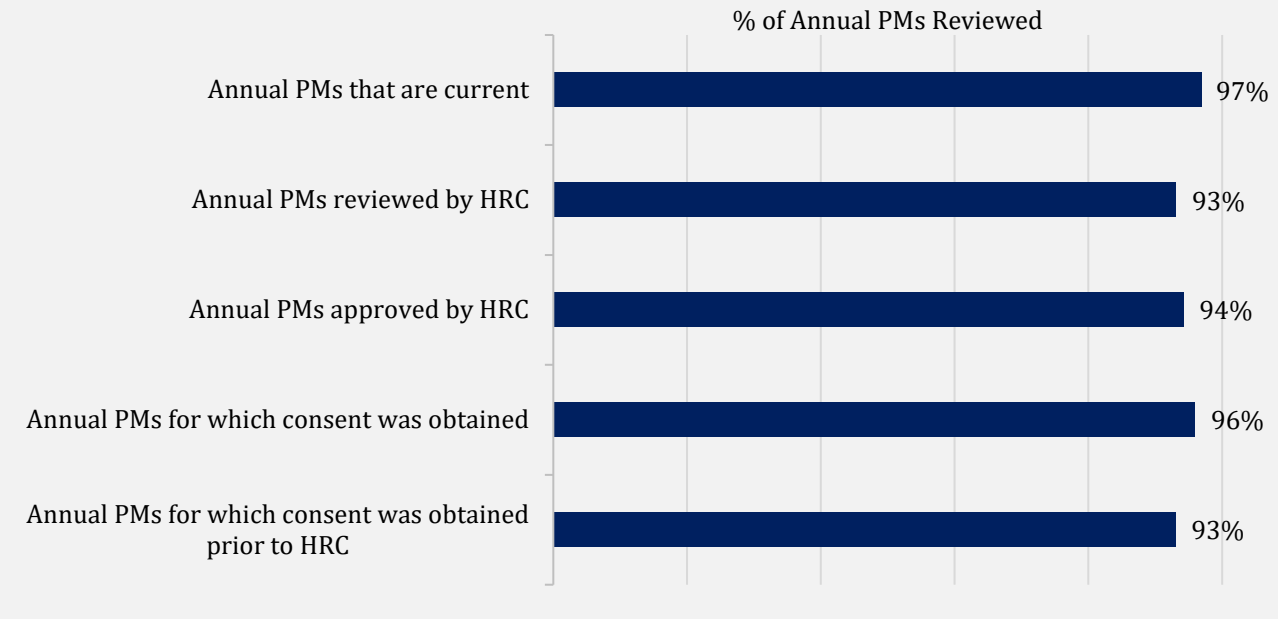
- In aggregate, 98% of CIPs on file were current.
    - Denton was the only SSLC where not all CIPs reviewed were current (80%).
- In aggregate, 96% of CIPs reviewed had consent obtained prior to HRC review, up from 62% in the previous reporting period.
- All CIPs in the sample from Corpus Christi, El Paso, and San Antonio were current but not all had been reviewed or approved by HRC.

Document Review of Psychotropic Medications (PM)

Psychotropic medications also require due process, the only exceptions being when PMs are administered during a behavioral crisis or are court mandated. Sixty-nine percent of residents in the sample were prescribed at least one psychotropic medication.

3.3c Due Process Elements in Annual Psychotropic Medications

Aggregate



- The onsite sample at nine of 13 SSLCs contained a resident with an annual PM that had not been reviewed by HRC.
    - This indicates that PMs may be administered to residents without due process, or that individuals may not be receiving needed medication.
- All PMs for residents in the Richmond onsite sample were current, had consent prior to HRC review, and were approved by HRC.
- The rate at which consent was obtained prior to HRC review for PMs was lowest at El Paso (78%).

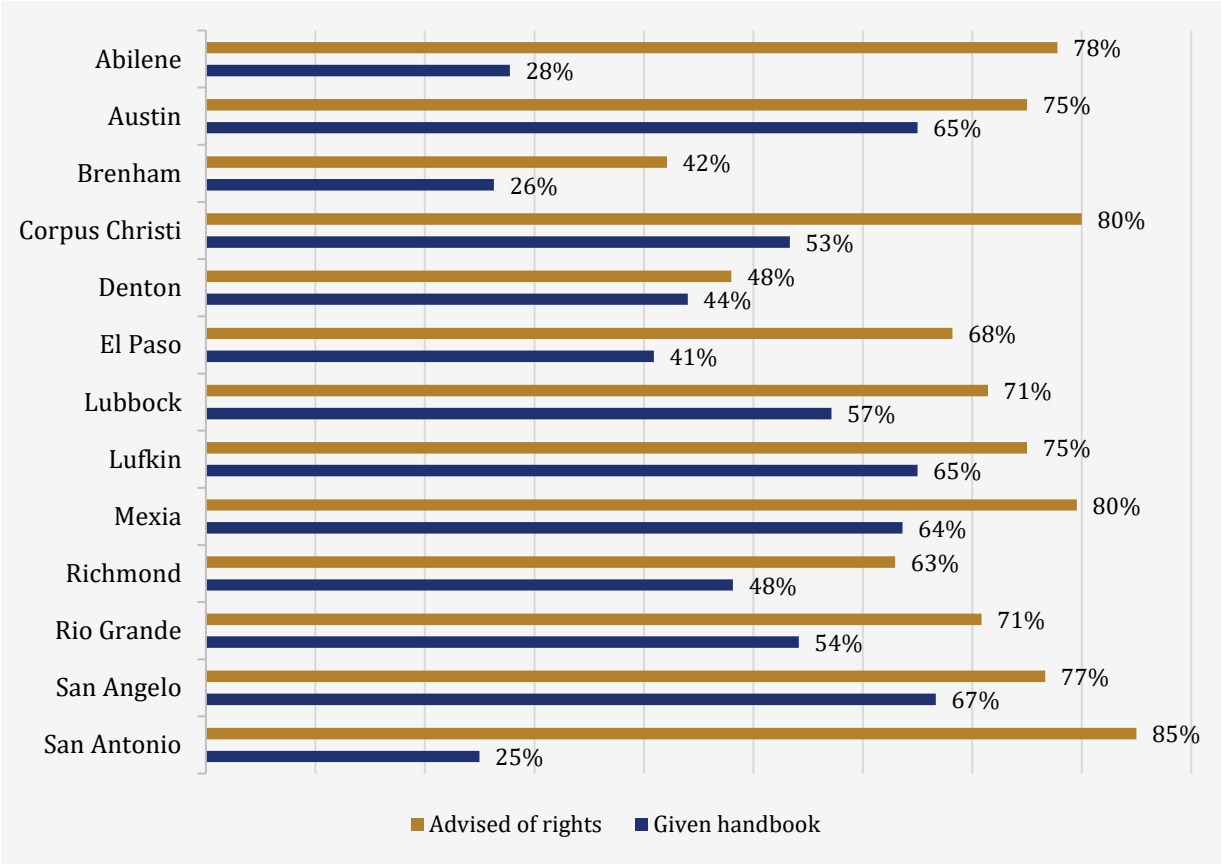
3.4: Resident Rights Interview

During the onsite visits, residents from the sample were interviewed about their rights and their involvement in due process procedures. These interviews were conducted to evaluate whether SSLCs are informing residents about their rights and if they are invited to HRC and IDT meetings.

AIOs attempted to interview each resident in the sample. However, only residents who were able and willing to participate were interviewed. At each onsite visit, five additional interviews were conducted with residents at the SSLC who were not included in the sample.

3.4a Resident Informed of Rights

Disaggregate



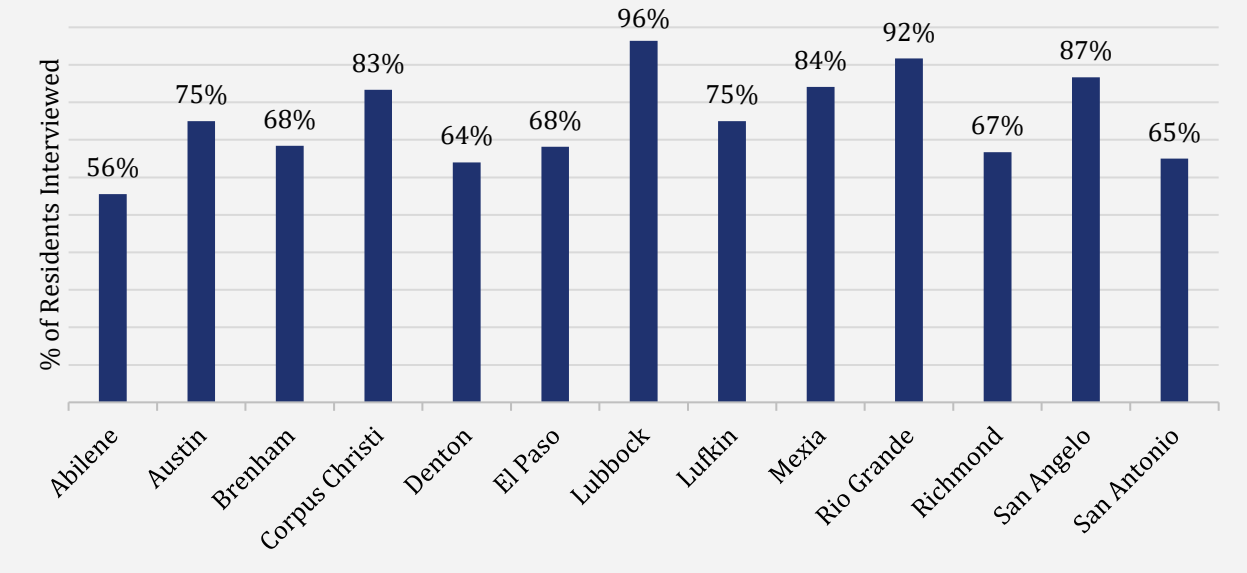
- In aggregate, 71% of residents interviewed reported that they were advised of their rights. This is an eight-percentage point increase over the previous biennial period.

- Of 19 residents interviewed at Brenham, eight stated that they had been advised of their rights. Of 25 residents interviewed at Denton, 12 stated that they had been advised of their rights.

- In aggregate, 51% of residents interviewed reported that they had received a rights handbook. This is a two-percentage point decrease from the previous biennial period.
  - At six of 13 SSLCs, less than half of residents interviewed reported that they had received a rights handbook.
  - Residents at Abilene (28%), Brenham (26%), and San Antonio (25%) reported receiving handbooks at significantly lower rates than at other SSLCs.
  - Of the 51% of residents who reported receiving a rights handbook, most (93%) stated that the handbook had been explained to them.

3.4b Resident Could Identify Rights

Disaggregate

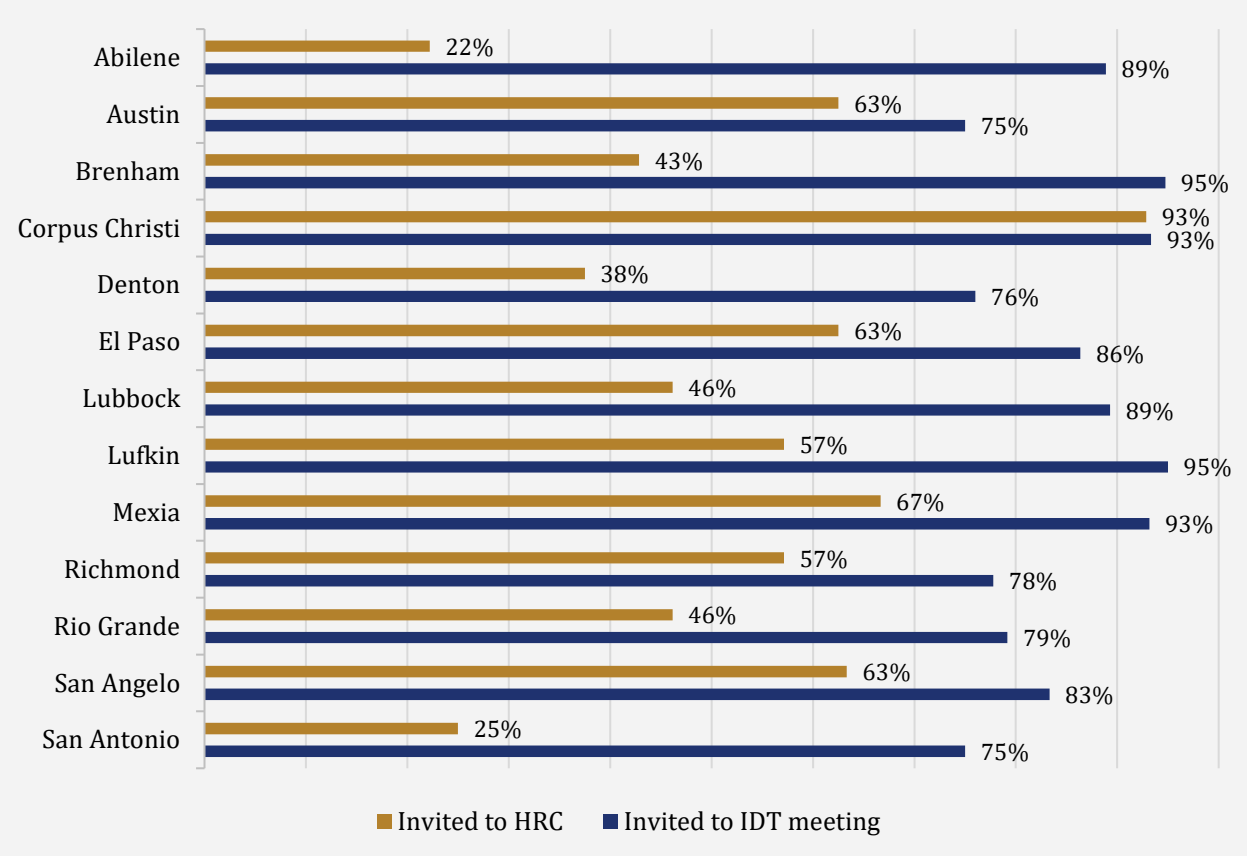


- In aggregate, 77% of residents interviewed were able to identify two of their rights. This is a 17-percentage point increase over the previous biennial period.

- Upwards of 90% of residents interviewed at Lubbock (96%) and Rio Grande (92%) were able to identify two of their rights.
- Residents at Abilene were least knowledgeable about their rights. Of 18 residents interviewed, only 10 could identify two of their rights.
- The percentage of residents interviewed at El Paso (68%), Brenham (68%), Richmond (67%), San Antonio (65%), Denton (64%), and Abilene (56%) that could identify at least two rights indicates that those centers may not be adequately informing residents of their rights.

3.4c Resident Involvement in Due Process

Disaggregate



- In aggregate, only slightly more than half of all residents (53%) interviewed who had one or more rights restrictions reported that they were invited to HRC. This is an improvement of three percentage points over the previous biennial period.

- Of 18 residents with a current rights restriction interviewed at Abilene, only four reported that they were invited to HRC. Of 12 residents interviewed at San Antonio with a current rights restriction, only three reported that they were invited to HRC. This indicates that staff did not make a consistent effort to involve residents in HRC.

- Most residents (86%) interviewed reported that they were invited to IDT meetings. This is a 28-percentage point improvement over the previous biennial period. This indicates that IDTs generally seek resident participation in discussions about residents' plans, programming, and rights. However, fewer residents (80%) felt that their IDT listened to them.

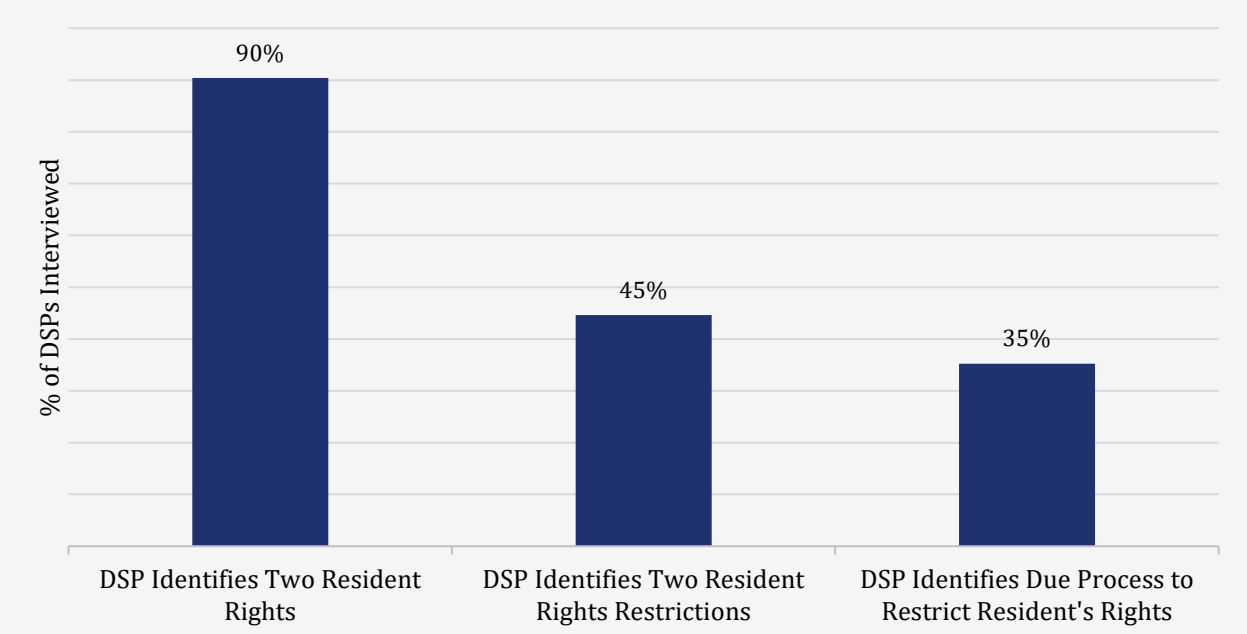
3.5: DSP Rights Interview

During the onsite visits, a DSP who provided support services to each resident in the sample was interviewed. These interviews were conducted to assess the DSP's knowledge of the resident's rights and minimum due process standards to restrict a resident's rights.

DSPs were asked to identify two examples of the resident's rights, identify two currently implemented rights restrictions (if the resident had restrictions), and identify minimum due process requirements to restrict rights.

3.5 Rights - DSP Interview Responses

Aggregate



- Only 45% of DSPs serving residents with current rights restrictions could correctly identify two of those restrictions, or one if the resident had only one restriction. This is concerning, as DSPs are responsible for implementing restrictions.
- Just 35% of DSPs could accurately explain the minimum due process steps to restrict a resident's rights. This raises concerns about potential misuse of restrictions that have not been properly vetted through due process.
- At seven of the 13 SSLCs, less than 50% of DSPs interviewed were able to identify two resident restrictions.
    - Mexia had the highest proportion of DSPs (71%) who could identify at least two resident restrictions. This is similar to the previous reporting period.
- At most SSLCs, DSPs struggled to identify the proper due process for restricting a resident's rights.
    - However, more than half of DSPs at San Antonio (63%), San Angelo (58%), and Mexia (55%) demonstrated knowledge of proper due process.
- While DSPs generally possess adequate knowledge of resident rights, the data reveals a significant gap in their understanding of rights restrictions and the due process required to impose these restrictions.

3.6: Guardian, Resident, and DSP Knowledge of Complaint Process

The statewide Rights Policy requires that SSLCs inform guardians how to make a complaint on a residents' behalf. Furthermore, the Rights Policy requires that staff educate, assist, and support residents in making complaints.

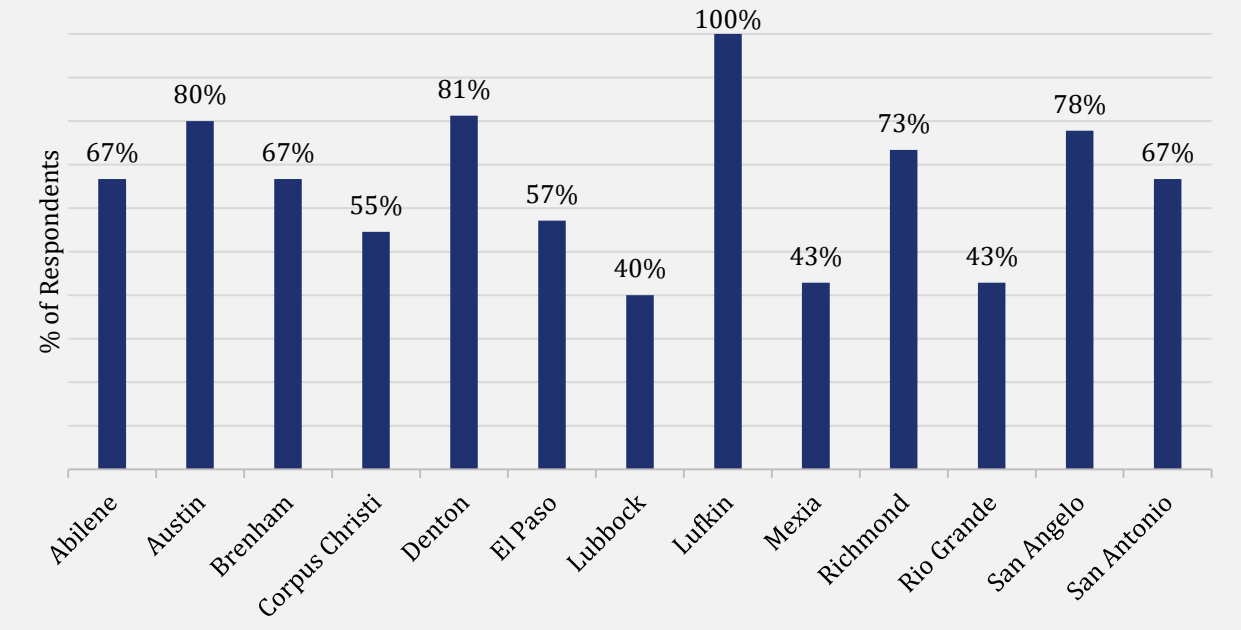
It is important that residents know how to file a complaint to effectively advocate for themselves. For the same reason, it is important that guardians/family members and staff know how to file a complaint on behalf of residents who may be unable to advocate for themselves.

Guardian or Family Member Knowledge of Complaint Process

Respondents to the survey in *3.2 Guardian or Family Member Knowledge of Resident Rights and Restrictions* were asked to indicate if they knew how to file a complaint with the SSLC.

3.6a Primary Correspondent Reported to Know How to File Complaint

Disaggregate



- In aggregate, 68% of respondents reported that they could identify a person or entity to whom they could make a complaint. This is an eight-percentage point increase as compared to the previous biennial period.
- Less than half of respondents who were the primary contact of a resident at Mexia (43%), Rio Grande (43%), and Lubbock (40%) reported they could identify who to contact to make a complaint.
    - The percentage of respondents who were the primary contact of a resident at Mexia and reported that they could identify a contact to make a complaint to fell 57 percentage points as compared to the previous biennial period.
- All respondents who were the primary contact of a resident at Lufkin reported they knew how to file a complaint.

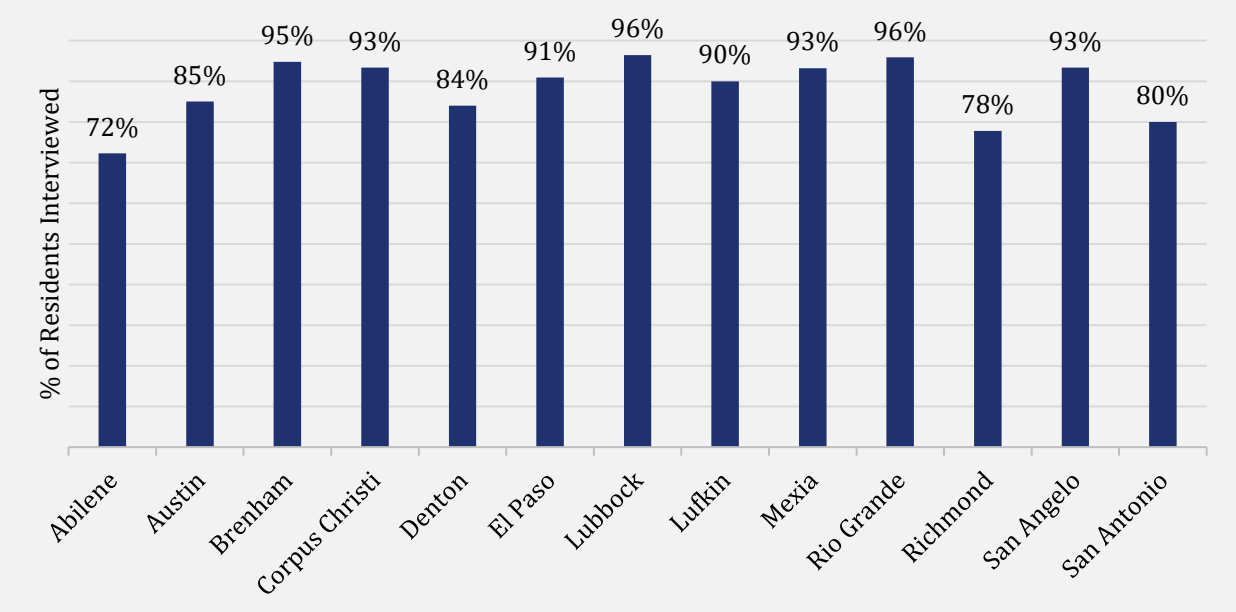
Resident Knowledge of Complaint Process

As part of the Rights Interview in *3.4 Resident Rights Interview*, residents in the onsite sample were asked which person or entity they could make a complaint to. Residents may

make a complaint to: staff assigned to their home, the HRO, Disability Rights Texas (DRTx)[6], the AIO at their SSLC, a family member or guardian, a member of their IDT, by calling the hotline for reporting abuse (1-800-647-7418), or through the SSLC's formal complaint process.[7]

3.6b Resident Identified Who to Contact for Complaint

Disaggregate



- In aggregate, 89% of residents interviewed identified an appropriate person or entity to whom they could make a complaint.
    - Of 28 residents interviewed at Lubbock, 27 identified an appropriate contact. Of 24 residents interviewed at Rio Grande, 23 identified an appropriate contact.
- In aggregate, 11% of residents interviewed could not identify an appropriate person or entity to whom they could make a complaint.
    - Of 20 residents interviewed at San Antonio, four could not identify a contact. Of 27 residents interviewed at Richmond, six could not identify an

[6] Disability Rights Texas is a non-profit organization that provides legal services to Texans with disabilities.
[7] SSLC Policy 045.4 Rights; *Your Rights in a State Supported Living Center*

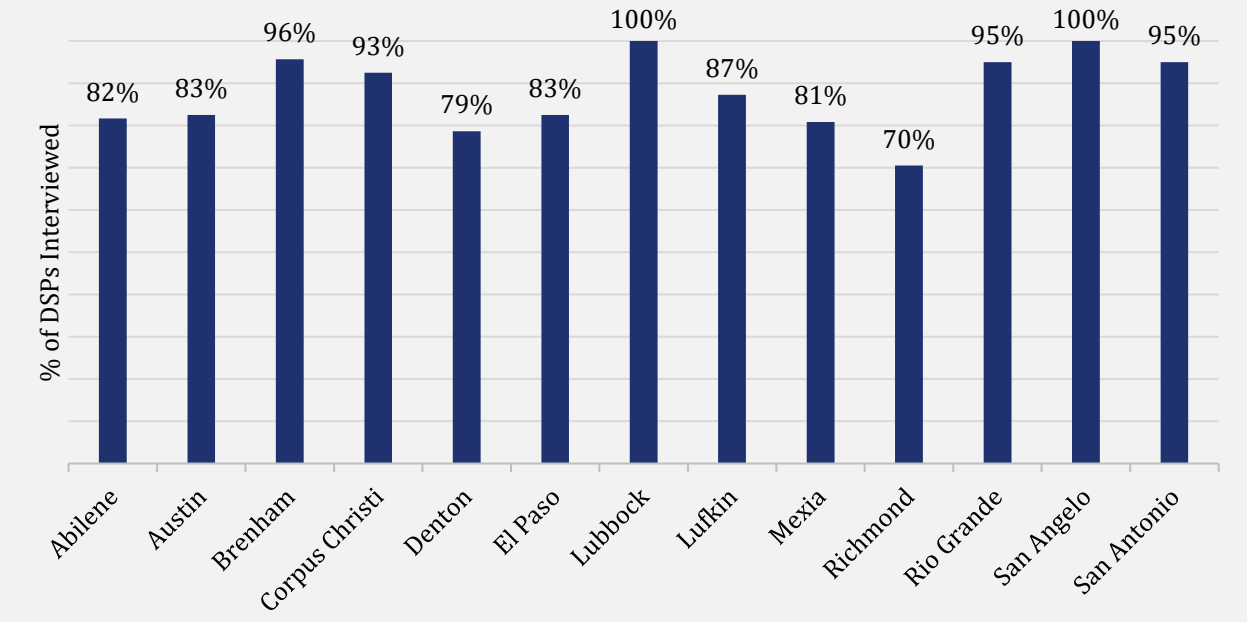
appropriate contact. Of 18 residents interviewed at Abilene, five could not identify an appropriate person to make a complaint.

DSP Knowledge of Complaint Process

As part of the DSP Interview in *3.5 DSP Interview*, DSPs who provided support to residents in the sample were asked which person or entity they could make a complaint to on the resident's behalf. Staff may make a complaint on behalf of a resident to: the HRO, DRTx, the AIO, the Qualified Intellectual Disability Professional (QIDP), Texas HHS Complaint and Incident Intake, or the resident's guardian/LAR.

3.6c DSP Identified Contact for Complaint

Disaggregate



- In aggregate, 87% of DSPs interviewed identified an appropriate person or entity they could make a complaint to on a resident's behalf.
    - Of 40 DSPs interviewed at both Lubbock and San Angelo, respectively, all identified an appropriate person or entity.
- In aggregate, 13% of DSPs interviewed could not identify an appropriate person or entity they could make a complaint to.

- Of 61 DSPs interviewed at Richmond, 18 could not identify an appropriate person or entity.

3.7: Due Process in Human Rights Committee Meeting Observations

The purpose of the Human Rights Committee (HRC) is to protect residents' rights by ensuring that rights restrictions adhere to due process requirements and are not implemented inappropriately.

To evaluate whether due process was adhered to, AIOs collected the following data from documentation and HRC meeting observations throughout the 2023-2024 biennial reporting period to determine if:

- HRC meetings had the required quorum for the proceedings of the meeting to be legitimate, per the statewide Rights Policy.
- Emergency Restrictions (ER) were discussed by the resident's IDT within one day of being implemented and sufficient justification for the ER was provided, as prescribed in policy.
- Required due process elements were present in HRC documentation and discussion for restrictive Behavior Support Plans (BSP), referrals for rights restrictions, and restrictions in annual Rights Restriction Determinations (RRD).

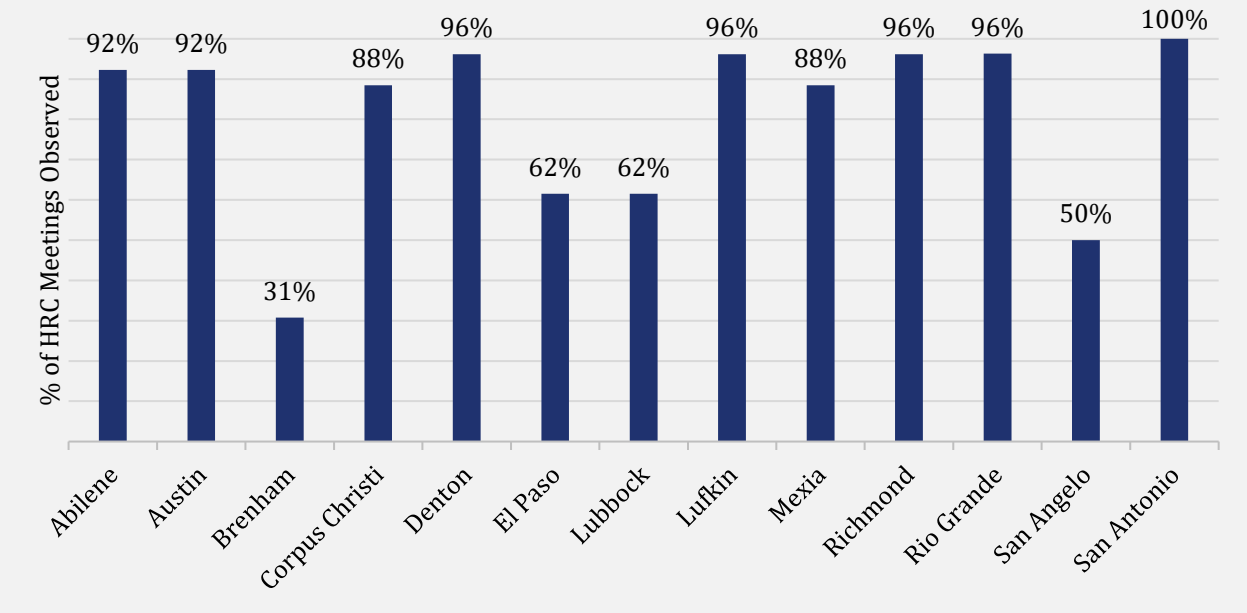
HRC Quorum

HRC meetings are required by policy to meet quorum. For quorum to be met, the following attendees must be present: the HRO or HRO's designee; a person who has received intellectual disability services (e.g., a resident of the SSLC); a person unaffiliated with the center; and another fourth person who can be a person receiving intellectual disability services, a person unaffiliated with the center, a family member or LAR of a resident, or facility staff with behavioral management experience.

AIOs observed and collected data on 339 HRC meetings during the biennial reporting period.

3.7a HRC Meetings Where Quorum Met

Disaggregate



- In aggregate, quorum was met at 81% of HRC meetings observed.
    - Quorum requirements were met in 16 of 26 observations at El Paso and Lubbock, 13 of 26 observations at San Angelo, and eight of 26 observations at Brenham.
    - At these four SSLCs, residents or any other person who had received disability services, as required by policy, were in attendance for a relatively low percentage of HRC meetings observed.
    - An individual who received services was present at nine of 26 HRC meeting observed at Brenham (31%), the lowest participation rate of any SSLC.
    - An individual who received services was present at 18 of 26 HRC meetings observed at San Angelo and 16 of 26 observed at Lubbock.
- Nonaffiliated members were present at most HRC meetings (94%) observed.
    - All HRC meetings observed at Abilene, Denton, El Paso, Lubbock, Lufkin, Richmond, Rio Grande, and San Antonio had a nonaffiliated member in attendance.

- Mexia (88%), Brenham (81%), and San Angelo (65%) were the only SSLCs where nonaffiliated members were present at less than 90% of meetings observed.

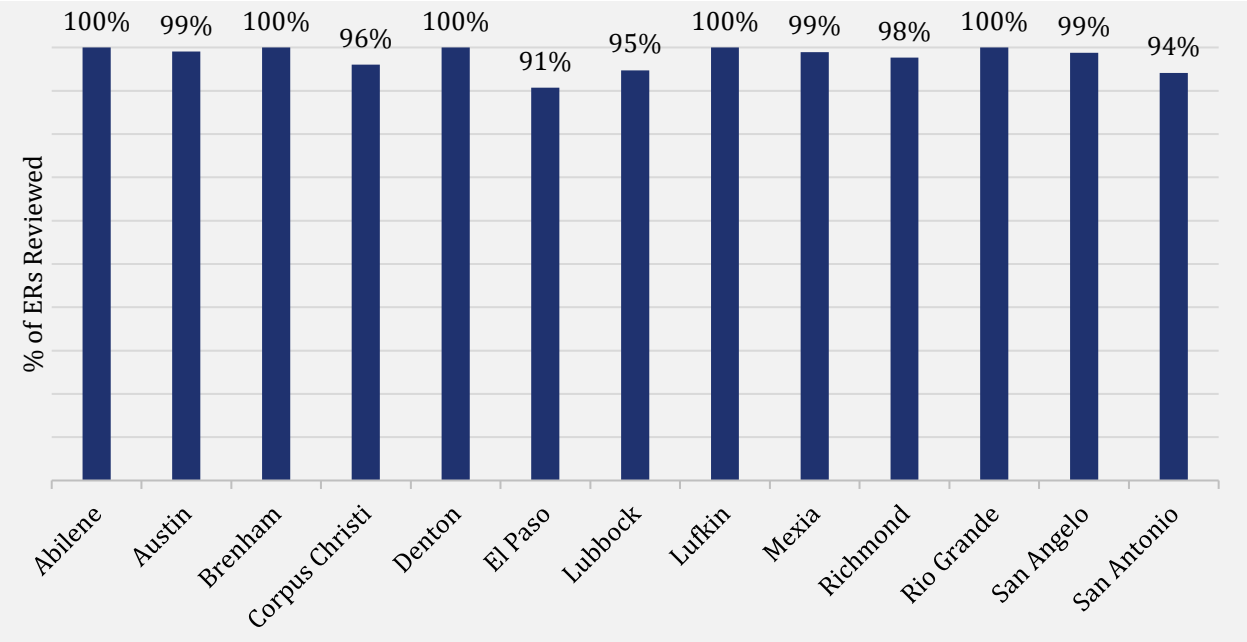
HRC Review of Emergency Restrictions (ER)

Emergency restrictions are immediate interventions implemented to protect the resident or others in response to an unanticipated behavior or event which a plan has not already been implemented to address. The statewide SSLC Rights Policy requires that ERs be discussed by the resident's IDT within one business day to determine if the restriction remains appropriate, what led to the ER, and what supports the team will implement to address possible recurrence.

AIOs reviewed 1,412 ERs presented in HRC during the biennial reporting period.

3.7b Sufficient Justification for ER Provided

Disaggregate

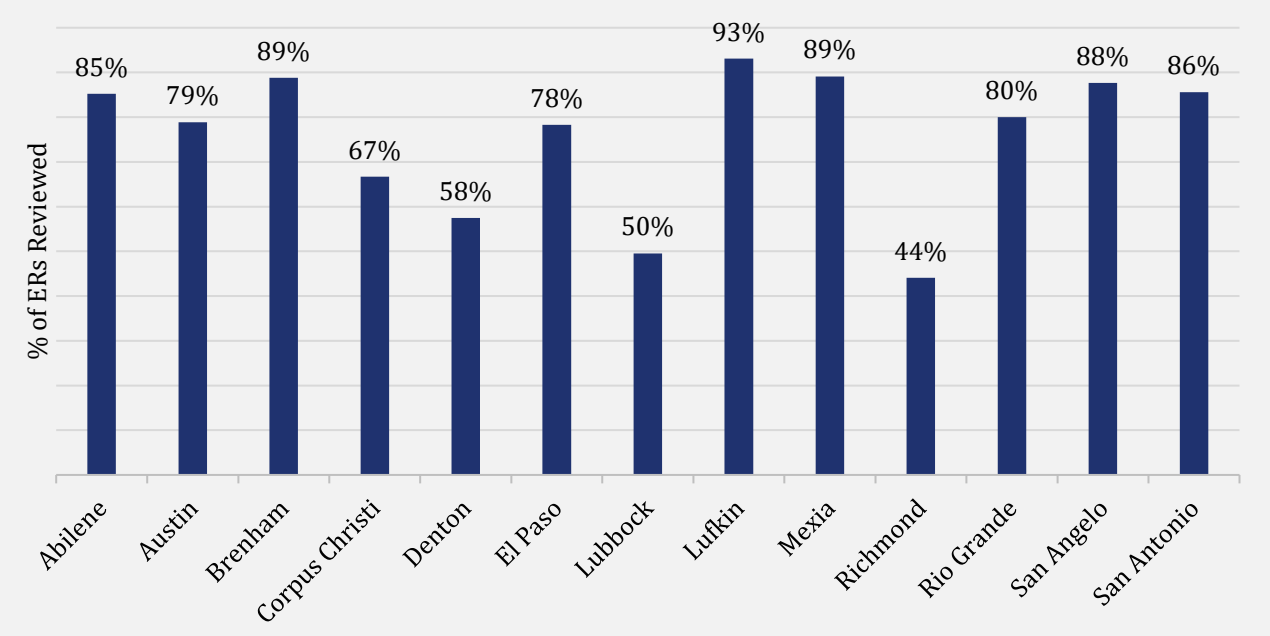


- Sufficient justification – i.e., the ER was appropriately implemented due to an immediate threat to the resident or another person, and the behavior or event that prompted the restriction was unanticipated – was provided for nearly all ERs (97%) reviewed, in aggregate. This is unchanged from the previous biennial period.

- All ERs reviewed at Abilene, Brenham, Denton, Lufkin, and Rio Grande had sufficient justification.

3.7c IDT Discussed ER within 1 Business Day of Implementation

Disaggregate



- In aggregate, 74% of ERs reviewed by the resident's IDT were discussed by the IDT within 1 business day of the ER being implemented. This is a decrease of one percentage point as compared to the last biennial period.
    - The rate at which ERs were discussed within 1 business day of implementation was lowest at Denton (58%), Lubbock (50%), and Richmond (44%), indicating that IDTs did not consistently address critical resident support needs in a timely manner to discuss what led to the ER and how to prevent the need for ERs in the future.

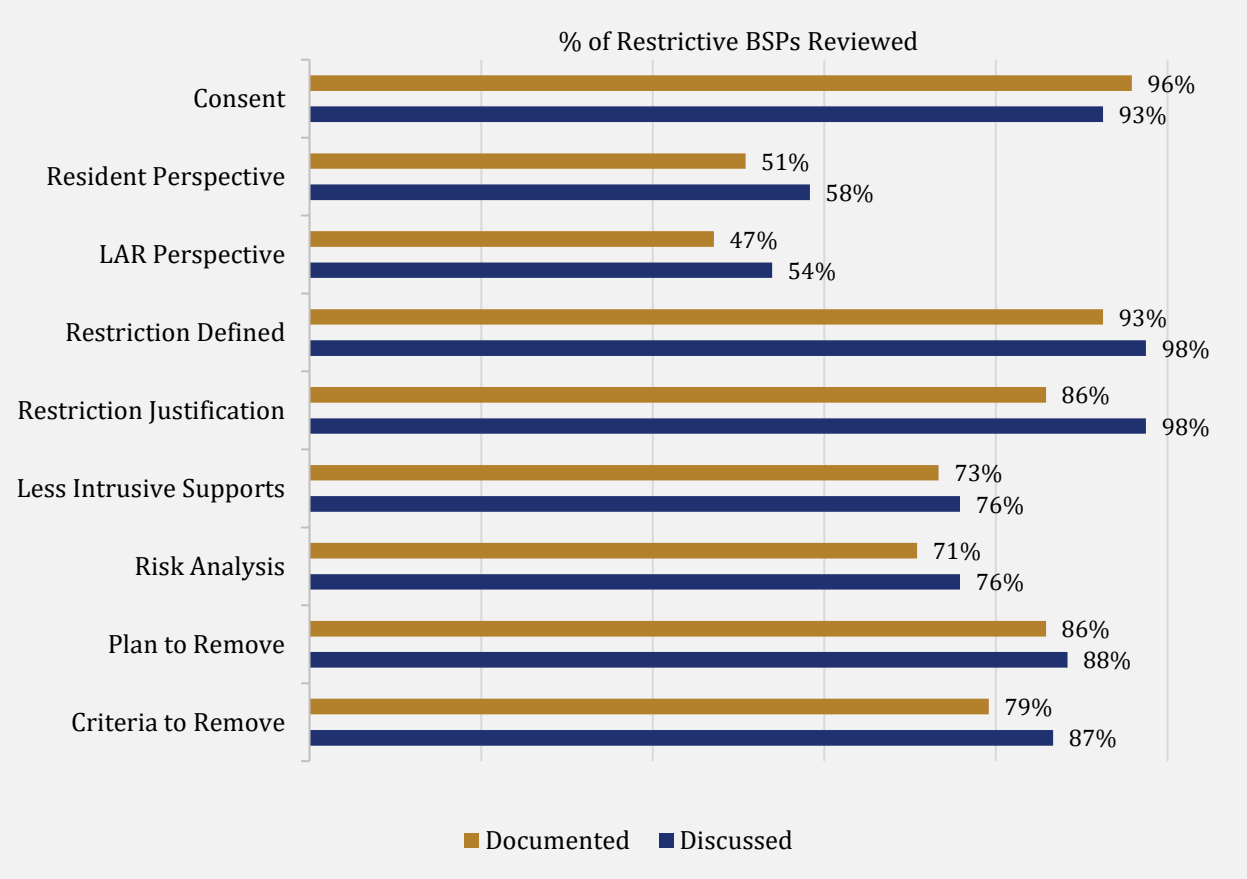
HRC Review of Restrictive Behavior Support Plans

Behavioral Support Plans (BSPs) include PBSPs and CIPs. This data represents information collected on restrictive BSPs presented in HRC. CIPs are always restrictive and require approval by HRC for implementation.

AIOs reviewed 121 restrictive BSPs presented in HRC during the biennial reporting period.

3.7d HRC Review of Restrictive BSPs: Documentation and Discussion

Aggregate



- In aggregate, consent was documented (96%) and discussed (93%) for most restrictive BSPs reviewed.
    - San Antonio (82%) and San Angelo (80%) were the only SSLCs where consent was not documented for all BSPs.
    - HRCs were less consistent in discussing consent. Consent was not discussed for all restrictive BSPs reviewed at Lubbock (97%), Lufkin (94%), Denton (94%), San Antonio (80%), and San Angelo (70%). Only one restrictive BSP was reviewed at Mexia; consent was not discussed for this BSP.

- The perspective of the resident and the resident's LAR were neither documented nor discussed by HRC for a substantial percentage of restrictive BSPs.
    - The resident's perspective was not documented for any restrictive BSPs reviewed at Brenham and for only 18% and 10% of BSPs reviewed at Austin and San Antonio, respectively. Only one restrictive BSP was reviewed at El Paso, Mexia, and Richmond; the resident's perspective was not documented for any of these BSPs.
    - While the resident's perspective was discussed by HRC for slightly more BSPs in aggregate, discussion still occurred rarely or not at all at San Antonio (30%), Austin (27%), Brenham (15%), Abilene (0%), El Paso (0%), Mexia (0%), and Richmond (0%).
    - The LAR's perspective was not documented for any restrictive BSPs reviewed at Brenham or Mexia and for only 36% at Denton, 33% at San Angelo, 14% at San Antonio, and 10% at Austin.
    - The LAR's perspective was also discussed for slightly more BSPs in aggregate. However, the LAR's perspective was only discussed for 44% of BSPs reviewed at Denton, 33% at San Antonio, 30% at Austin, and for no BSPs reviewed at Brenham or Mexia.
- The definitions of restrictions were documented (93%) and discussed by HRC (98%) for nearly all restrictive BSPs, in aggregate.
    - Denton was the only SSLC where the definitions of restrictions were documented for less than 90% of restrictive BSPs (69%).
- Justification for restrictions was documented (86%) and discussed by HRC (98%) for nearly all restrictive BSPs, in aggregate.
    - Lubbock (81%), Brenham (69%), and Denton (63%) were the only SSLCs where justification for restrictions was documented for less than 90% of restrictive BSPs.
- Less intrusive approaches were documented for 73% of restrictive BSPs and discussed by HRC for 76%, in aggregate.
    - Denton (44%) and Brenham (31%) were the only SSLCs where less intrusive approaches were documented for less than 70% of restrictive BSPs.

  - HRCs at Denton and Brenham also discussed less intrusive approaches far less than other SSLCs, with less intrusive approaches being discussed for only 44% and 31% of BSPs at Denton and Brenham, respectively.

- Comparison of the risk of restrictions against the risk without restrictions was documented for 71% of restrictive BSPs and discussed for 76%, in aggregate.
  - Risk comparison was rarely documented or discussed at San Antonio (40% and 50%, respectively) and Brenham (23% and 8%, respectively).

- Plans to remove or reduce restrictions were documented for 86% of restrictive BSPs and discussed by HRC for 88% of RBPs, in aggregate.
  - Measurable criteria that was specific to the individual and, when met, would lead to the removal or reduction of the restriction was documented for 79% of restrictive BSPs, in aggregate. HRC discussed measurable and individualized criteria to remove or reduce a restriction for 87% of restrictive BSPs.

- Altogether, elements of restrictive BSPs were discussed at equivalent or higher rates than elements of restrictive BSPs were documented. This indicates that HRCs are considering all elements of restrictive BSPs, even if the resident's IDT did not document them.

- In aggregate, most restrictive BSPs (88%) were approved by HRC.
  - There were no restrictive BSPs reviewed for Corpus Christi or Rio Grande during the biennial reporting period.

- Except for Austin and Lubbock, HRCs approved 100% of restrictive BSPs submitted. This is despite required due process elements, such as consent, the perspective of the resident and guardian, and a plan to remove the restrictive practice neither being documented nor discussed by HRC for many restrictive BSPs.
  - It is a concern that almost all restrictive BSPs in aggregate were approved by HRC even though several due process elements had not been included in HRC documentation and/or discussion.

HRC Review of Referrals for New Rights Restriction

A referral is a proposed rights restriction outside of the annual Individual Service Plan meeting (ISP) meeting. Referrals must be reviewed and approved by HRC before

implementation and are subject to the same due process requirements as restrictive BSPs and RRDs.

AIOs reviewed 678 referrals presented in HRC during the biennial reporting period.

- In aggregate, 95% of referrals were approved by HRC. This is despite the resident' perspective rarely being documented (35%) or discussed (38%).
- Resident perspective was documented (3%) and discussed (4%) least often at Mexia.
    - There were no HRC referrals at Mexia where the perspective of the LAR/guardian was documented.
- In aggregate, consent was documented for 95% of referrals, an increase of 5% from the 2021-2022 biennial reporting period.
    - Consent was documented for all referrals reviewed in Lubbock and Richmond HRC meetings observed during the 2023-2024 biennial reporting period.
- All restrictions should have an individualized and measurable plan to remove or reduce the restriction. However, only 71% of referrals had a documented plan that met such criteria, in aggregate. Individualized and measurable criteria were discussed for 77% of referrals in HRC, in aggregate.
- The next IDT review of the restriction was documented (53%) and discussed by HRC (53%) for slightly more than half of referrals, in aggregate.
- The average number of days from the date of the referral for the restriction and the HRC meeting date was 6 days, in aggregate. Policy states HRC must review a referral within 15 business days. Corpus Christi and Rio Grande had the highest average number of days between the date of referral and HRC at 11 days. Mexia and San Angelo had the lowest average at 3 days.

HRC Review of Rights Restriction Determinations (RRD)

Rights Restriction Determination forms contain the resident's current rights restrictions, plans to reinstate the residents' rights, and other details regarding the purpose of the restrictions. RRDs are developed upon admission and updated annually at the resident's ISP meeting.

AIOs reviewed 1,088 RRD restrictions presented in HRC during the biennial reporting period.

- In aggregate, the resident's perspective about the proposed restriction was discussed for 35% of RRD restrictions. The LAR's perspective was discussed for 38% of RRD restrictions.
- At six of 13 SSLCs, all RRD restrictions reviewed were approved, even though due process elements were neither documented nor discussed by HRC for many such restrictions.
- A measurable and individualized plan to remove the restriction was documented for 63% of RRD restrictions reviewed and discussed for 65%.
- The average number of business days from the annual ISP meeting date to HRC review was 19. This exceeds the policy requirement that RRDs be reviewed by HRC within 15 business days of being completed by the IDT.[8]
    - At Corpus Christi, the average number of days between the ISP meeting and HRC review of the RRD was 54 business days.
    - The average number of days between the ISP meeting and HRC review of the RRD was within the 15-business day timeframe at Lubbock, Lufkin, Mexia, San Angelo, and San Antonio.
    - The highest recorded number of days between the ISP meeting and HRC review of the RRD was 370 at Denton, followed by Corpus Christi at 166 days and El Paso at 163 days.

HRC Review of Psychotropic Medications (PM)

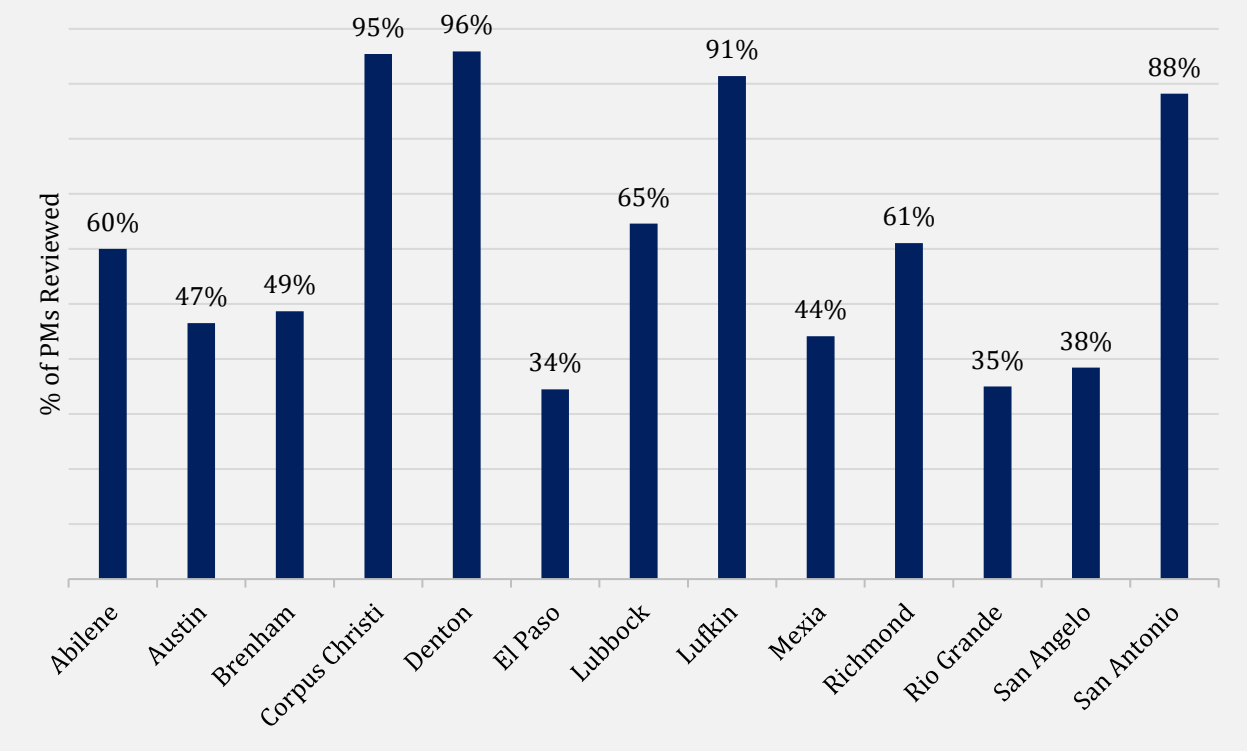
The use of psychotropic medication requires the same HRC due process as other restrictions, except when the medication is court-mandated or given in response to an emergency behavioral crisis. There were 557 PMs presented at HRC meetings observed during the 2023-2024 biennial reporting period.

- Almost all (99%) PMs presented were approved by HRC.
- In aggregate, a measurable and individualized plan to remove was documented for 64% of PMs reviewed in HRC and discussed for 57%.

[8] SSLC Policy 045.4 Rights

3.7e Measurable and Individualized Plan to Remove or Reduce Psychotropic Medications Documented

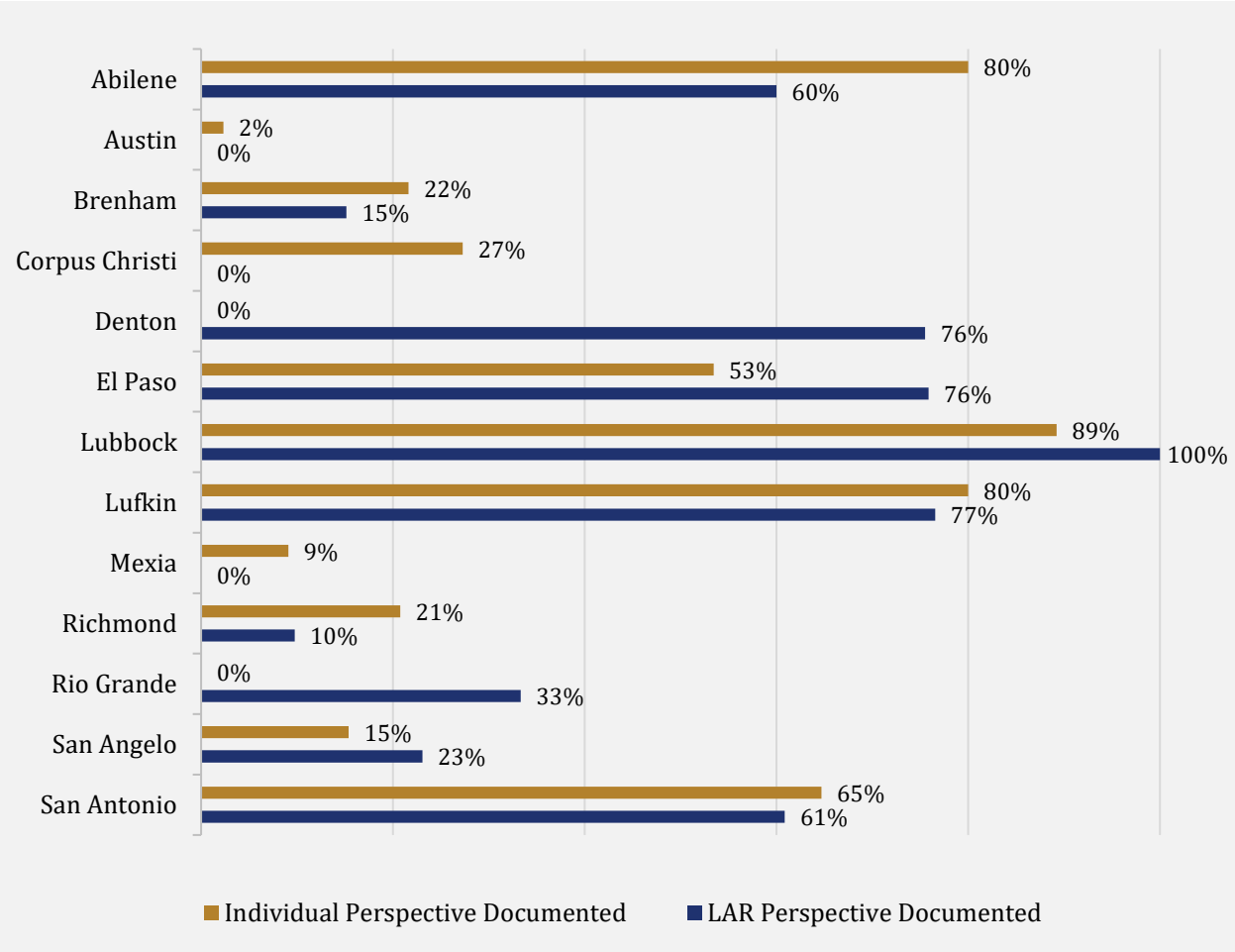
Disaggregate



- Discussion of plans to remove or reduce the PM increased from 53% of PMs presented in the 2021-2022 biennial reporting period to 76% of PMs presented in the 2023-2024 biennial reporting period.
- At 10 out of 13 SSLCs, 100% of PMs presented were approved by HRC, despite other due process elements not being completed.

3.7f Documentation of Individual and LAR Perspectives on Psychotropic Medications in HRC Meetings

Disaggregate



- In aggregate, the resident's perspective was documented and discussed for less than half of PMs presented in HRC meetings observed during the biennial reporting period.
    - At Denton, the residents' perspective was neither documented nor discussed for any PMs presented in HRC meetings observed.
- Documenting the resident and legal guardian's perspectives ensures that resident's rights, autonomy, and consent are respected. The guardian may also be able to provide valuable insight into the medication's effect on the resident, supporting safe, person-centered care and promoting adherence to treatment.

Appendix: Acronyms & Glossary

Alleged offender – an individual who has been charged with a crime, has been diagnosed with an intellectual disability and has been deemed not competent to stand trial, and has been transferred to the SSLC by a court order (Chapter 46B or 46C Code of Criminal Procedures or Chapter 55, Family Code).

(CIP) Crisis Intervention Plan – a component of the individuals' ISP that provides instructions for staff on how to use restraint procedures effectively and safely when less restrictive strategies have failed, and the individual's dangerous behavior continues to present an imminent risk of injury to the individual or others.

(DRTx) Disability Rights Texas – a nonprofit organization that provides legal services to Texans with disabilities whose rights have been or may be infringed on.

(DSP) Direct Support Professional – an SSLC staff who works directly with residents to implement various support plans, programming, and personal care.

Due process – the guaranteed opportunity to protest, to be heard, to be informed, to give consent, and to have the determination to restrict rights made by an impartial party. The concept of due process is intended to protect people from exploitation or undue restriction of rights.

(ER) Emergency Restriction – an immediate intervention required for the protection of an individual or others resulting from an unanticipated situation.

Guardian – an individual appointed and qualified as a guardian of a person under the Texas Estates Probate Code, Title 3, Chapter XII.

Holdover staff – staff that are required to work beyond their assigned work hours or asked to come in prior to their assigned shift.

(HRC) Human Rights Committee – a committee that reviews proposed rights restrictions to ensure that due process is adhered to, and residents' rights are protected.

(HRO) Human Rights Officer – an SSLC staff with the primary function of ensuring resident's rights, including the right to due process, are protected and promoted. The HRO serves as the HRC chairperson.

(IDMA) Individual Decision Making Assessment[9] – a form in which the IDT documents supports needed by the individual to make decisions and, as a last resort, the need for guardianship services.

[9] Formerly known as the Individual Capacity Assessment (ICA).

(ICF) Intermediate Care Facility – a facility that provides comprehensive and individualized health care and rehabilitation services to individuals with intellectual and developmental disabilities.

(IDT) Interdisciplinary Team – a team consisting of a resident; the resident's LAR; the qualified intellectual disability professional (QIDP); other professionals as necessary based on the individual's strengths, preferences, and needs; and staff who regularly and directly provide services and supports to the individual. The IDT is responsible for making recommendations for services based on the personal goals and preferences of the individual using a person-directed planning process.

(IRA) Individual Rights Acknowledgement – a form demonstrating that the individual and the individual's LAR, actively involved person (AIP), or guardian have been informed of the resident's rights, the circumstances in which a right may be restricted, and the procedures that must be followed to restrict rights. The IRA is completed upon admission and annually.

(ISP) Individual Support Plan – a plan developed by the IDT that outlines the protections, supports and services to be provided to the individual in an integrated manner.

(LAR) Legally Authorized Representative – a person authorized by law to act on behalf of an individual, such as a parent, guardian or managing conservator.

(LOS) Level of Supervision – supervision of residents by staff on a predetermined basis. There are four categories of level of supervision. These categories are, from least to most restrictive: routine, enhanced, one-to-one, and two-to-one. Any LOS above routine is a restrictive practice. Staff verify the location of residents on a routine LOS no more often than every hour. Residents on a routine or enhanced LOS will receive regular verification checks from staff; these checks may be up to hourly for residents on a regular LOS or more frequently for residents on an enhanced LOS. Residents on a one-to-one or two-to-one LOS are directly supervised by either one or two designated staff who must be within arm's length of the resident for the duration of the LOS.

(OIO) Office of the Independent Ombudsman for State Supported Living Centers –The state agency that provides oversight and protection for residents of SSLCs.

(PBSP) Positive Behavior Support Plan – a comprehensive, individualized plan that outlines interventions to modify the resident's environment, develop adaptive skills, and discourage target behaviors without the use of punishment.

Psychotropic medication – a medication prescribed to treat mental or emotional disorders. Psychotropic medications are a restrictive practice when prescribed to SSLC residents.

Pulled staff – staff that are moved from their assigned home to another home or area to provide coverage on a temporary basis.

(QIDP) Qualified Intellectual Disability Professional – staff responsible for integrating, coordinating, and monitoring the assigned resident's active treatment program and assisting the resident with facilitating the individual support plan (ISP) meeting. The QIDP is a member of the resident's IDT.

Quorum – the HRC members that must be present at a meeting for the proceedings of that meeting to be valid. An HRC quorum consists of the center's Human Rights Officer (HRO); a person who has received intellectual disability services; a person unaffiliated with the SSLC who has no ownership or controlling interest with the center; and a fourth member who may either be the guardian of an individual who has received services, a facility staff with behavioral management experience, another individual receiving services, or another unaffiliated person.

(RRD) Rights Restriction Determination – a document that outlines a resident's rights restrictions. The RRD is completed upon admission and annually by the IDT.

(SSLC) State Supported Living Center – intermediate care facilities operated by Texas Health and Human Services that provide 24-hour direct care to individuals with intellectual disabilities (ICF/IID).

Office of the Independent Ombudsman Staff: from left to right, bottom to top. Adam Parks, Jill Antilley, Seth Bowman, Candace Jennings, Harrison Jensen, Jessica Rosa, Lashelle Childress, Kellen Davis, Deatrice Potlow, Talya Hines, Alejandra Loya, Carrie Martin, Gevona Hicks, Susan Aguilar, Brianna Teague, James Clark, Horacio Flores, Isabel Ponce.

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