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SUMMARY OF LEGISLATIVE POST AUDIT REPORTS RELATED TO FOSTER CARE 2000-PRESENT

There have been 15 reports published on audits performed by the Kansas Legislative Division of Post Audit (LPA) since 2000 that include topics related to the foster care system. This memorandum will briefly summarize the requests, questions examined, and key findings of each audit. Please note the contractors, subcontractors, and contracts referenced in the audits summarized below may not be the current providers or the current terms of contracts. In addition, the Department for Children and Families (DCF), formerly the Department of Social and Rehabilitation Services (SRS), has undergone agency reorganization and has implemented policy changes throughout the time span included in this memorandum that may impact the relevance of the findings or conclusions from the audits.

2000-2002 Audit Reports

There were five audit reports that included topics related to foster care published in 2000 through 2002. Four of the reports were monitoring reports required under a foster care lawsuit settlement agreement from the 1989 case, *Sheila A. v. Joan Finney*. The agreement contained 153 requirements with which SRS was to comply and to be monitored by LPA. Substantial compliance with the requirements was met, and the agreement was terminated in 2002 after a total of 15 monitoring reports.

In addition to the monitoring reports, the LPA published *The State's Adoption and Foster Care Contracts: Reviewing Selected Financial and Service Issues* in January 2001. The Executive Summary of the report can be found at <http://www.kslpa.org/assets/files/reports/01pa08.pdf>, and the full report can be found at <http://www.kslpa.org/assets/files/reports/01pa08a.pdf>. This audit was requested after the Legislature provided additional funding for foster care and adoption contractors and concerns persisted about the level of funding for foster care and adoption services. Legislators raised several questions about the privatized system. The audit answered the following questions and made the following findings and recommendation:

- How do results achieved by the privatized adoption contractor compare with results achieved by SRS before privatization?
 - The adoption program and the number of children being adopted had grown significantly since privatization, but the percent of available children adopted had decreased. However, children were being placed with adoptive families and legally adopted in a more timely manner.

- How does the portion of the total cost of providing foster care and adoption services currently paid by the State and other sources compare with the portion each paid before privatization?
 - The responsibilities of some agencies and the way they were paid changed after privatization. While individual agencies' experiences varied greatly, the State had funded a greater overall portion of agencies' foster care and adoption costs after privatization. Most agencies were spending a smaller portion of their budgets on administrative costs and saw a reduction in their cost per day of service after privatization. Because the rate structure changed completely under the contracts beginning in 2000, LPA noted it was difficult to assess the impact the new rates would have. On average, contractors' budgets projected state funding would cover 97 percent of costs.
- Are current safeguards for monitoring the finances and services of the foster care and adoption contractors adequate?
 - In general, SRS had adequate procedures to monitor the financial status of contractors. LPA also found, while SRS had a well-designed process for monitoring services, the agency had delayed implementing two of the procedures. In order to ensure the financial viability of the contractors, LPA recommended SRS develop and implement a policy requiring staff to review contractors' financial management systems on a regular basis, at least once every two years. SRS agreed to implement the recommendation.

**2004 Audit Report, Regulation of Child Care Facilities and Foster Homes:
Determining Whether KDHE is Providing Effective Oversight and Whether
KDHE and SRS Provide Duplicate Regulation of These Facilities**

The Executive Summary of the 2004 audit is located at <http://www.kslpa.org/assets/files/reports/04pa08.pdf>, and the full report is located at <http://www.kslpa.org/assets/files/reports/04pa08a.pdf>. This audit was recommended by the Senate Ways and Means Subcommittee on Health and Environment in the 2003 Session as a follow-up of a 1997 audit of the State's regulation of child care facilities and day care homes, which found serious problems with inspections, follow-ups on complaints, and violations that potentially could put many children at risk. The House Social Services Budget Committee also requested an audit to determine if having both SRS and the Kansas Department of Health and Environment (KDHE) involved in regulation of child care facilities and foster homes resulted in any duplications. (This summary will focus on the findings related to foster homes.) LPA combined the requested audits, addressed the following questions, and made the following findings and recommendations:

- Has KDHE exercised sufficient regulatory oversight of child care facilities and family day care homes to ensure the safety and well-being of children cared for in those facilities?
 - In discussing findings related to the inspection process, LPA noted, while KDHE relied on child placing agencies to conduct inspections of family foster homes, it did not adequately oversee that inspection work. The related LPA recommendations focused on child care facilities. Are there

ways KDHE could refocus its efforts and available resources to increase the efficiency of its regulation of child care facilities?

- The report did not present any findings related to foster homes in response to this question.
- Is there duplication in the regulatory responsibilities and activities of SRS and KDHE related to facilities, homes, and programs that provide care for children?
 - KDHE and child placing agencies both conducted initial licensing inspections of new family foster homes. While the duplication could be inefficient, allowing the child placing agencies to do them raised a conflict of interest since those agencies also recruited the foster homes. LPA recommended KDHE and SRS prepare a plan for addressing areas of duplication identified in the report and submit the plan to the 2005 Legislature.

[*Staff Note:* Effective July 1, 2015, with Executive Reorganization Order No. 43, foster care licensing duties were transferred from KDHE to DCF.]

2005 Audit Report, Foster Care:

Determining Whether Adoptions Are Being Finalized As Quickly As Possible, Once an Adoptive Family is Located

The Executive Summary of the 2005 audit can be found at <http://www.kslpa.org/assets/files/reports/05pa03.pdf>, and the full report can be found at <http://www.kslpa.org/assets/files/reports/05pa03a.pdf>. This audit was prompted after judges and other interested individuals expressed concerns to legislators that the adoption process had slowed. The audit looked at the following questions and made the following findings and recommendation:

- Have there been unreasonable or unexplained delays in finalizing adoptions of foster care children in Kansas?
 - Many actions, both reasonable and unreasonable, can delay the adoption process, and the adoption process for many children could be shortened by minimizing unreasonable delays related to paperwork.
- Are there any financial incentives in the current system that could encourage delays in issuing the final adoption decree?
 - The design of the adoption process at the time of the audit could have provided a financial incentive for both an adopting family and for Kansas Children's Service League to delay. LPA noted a new service delivery system to be implemented on July 1, 2005, should minimize financial incentives to delay the adoption process and recommended that SRS and its contractors develop and use a checklist to demonstrate documents needed to finalize an adoption are obtained in a timely manner.

2006 Audit Report, Foster Care: Reviewing Decisions to Remove Children from their Homes

The Executive Summary of the 2006 audit is located at <http://www.kslpa.org/assets/files/reports/06pa08.pdf>, and the full report is located at <http://www.kslpa.org/assets/files/reports/06pa08a.pdf>. This audit was requested after legislators received numerous complaints from families who claimed SRS did not have good justification for seeking the removal of their children from their homes or for keeping them away once they were removed. The audit identified and reviewed 12 cases involving 31 children, suggested by legislators or others, addressing the following question and making the following findings and recommendations:

- Do there appear to be any problems with decisions made in selected cases to seek removal of children from their families or to not reunite them?
 - There were several problems found within individual cases, but most of them would not have affected the major decisions made about the children. While different actions could have been taken in some of the cases, none of the actions taken appeared to be unreasonable. Additional findings and recommendations related specifically to SRS, SRS contractors, the court system, and legal representation are detailed in the full report.

2008 Audit Report, Foster Care: Reviewing Selected Issues Related to State Contracts for Foster Care and Family Preservation Services

The Executive Summary of the 2008 audit can be found at <http://www.kslpa.org/assets/files/reports/08pa04.pdf>, and the full report can be found at <http://www.kslpa.org/assets/files/reports/08pa04a.pdf>. This audit was requested after alleged irregularities with the 2005 foster care contracts were reported to legislators. The contracts awarded in 2005 to provide adoption, foster care, and family preservation services were with DCCCA, Inc.; Kansas Children's Service League, Inc.; Kaw Valley Center (KVC) Behavioral HealthCare, Inc.; St. Francis Academy, Inc.; The Farm, Inc.(The Farm); and United Methodist Youthville, Inc. The audit examined the following questions and made the following findings and recommendations:

- Were appropriate procedures followed in awarding contracts to The Farm for foster care and family preservation services in 2005?
 - During the bid process, an SRS employee appeared to have inadvertently disclosed information to The Farm related to a "risk-mitigation" plan to limit payments to the other four contractors that The Farm subsequently used to increase its bid, which ended up costing the State almost \$3 million more over two years than it would have had to pay. There was no indication in any documents reviewed that there were concerns about The Farm's financial viability. LPA recommended SRS take a number of steps to improve its bid evaluation and procurement negotiation process before the next bidding process. In addition, SRS later modified the contracts to resolve issues related to Medicaid payments to contractors in order to alleviate contractors' concerns about uncertain payments.

- Have moneys from the contracts awarded to The Farm been used only for appropriate purposes related to the contract?
 - There were no findings of spending by The Farm contrary to best practices, and the foster care and family preservation money The Farm spent generally went toward expected expenditures, with performance similar to the other contractors. LPA recommended The Farm accurately show how it calculates net revenues and revise its six month report to SRS. LPA noted a potential conflict of interest due to the marriage of a board member and the Chief Executive Officer and recommended The Farm take further steps to mitigate the potential conflict.

**2011 Audit Report, Foster Care:
Reviewing Selected Issues Related to Compensation and
Oversight of Foster Care Contractors**

The 2011 audit report highlights are located at <http://www.kslpa.org/assets/files/reports/h-11-011.pdf>, and the full report is located at <http://www.kslpa.org/assets/files/reports/r-11-011.pdf>. The audit was completed after legislators expressed concerns the monthly per-child rate paid under the 2009 contracts could create a financial incentive for contractors to keep children in the foster care system and not return them to their homes or recommend other permanent placement. Legislators also expressed concerns about whether SRS' oversight of its contractors was sufficient to ensure contractors justify their actions and recommendations regarding the children for whom they were responsible. The contracts awarded for foster care services in 2009 were KVC Behavioral Healthcare, Saint Francis Community Services, TFI Family Services, and United Methodist Youthville. The audit answered the following questions and made the following findings and recommendations:

- Does the manner in which foster care contractors are compensated cause them to keep children in the foster care system longer than needed?
 - Generally, foster care contractors' monthly costs were less than the monthly payments received; however, the payment structure did not appear to affect how long children stayed in foster care. There was not an analysis of the contractors' overall profit or loss from the contracts. LPA noted that because adoptions subsidies are so much less than foster care payments and foster families considering adoption face a financial disincentive, increasing the adoption subsidy could potentially help increase the number of children being adopted.
- Are the current safeguards for overseeing the services of foster care contractors adequate?
 - SRS established good monitoring policies and gathered performance data to monitor contractors, but staff did not always correct problems found. While hundreds of children remain in foster care many years, overall, Kansas' performance on national standards for length of stay in foster care appeared, at the time of the audit, to be average. LPA noted SRS' monitoring efforts were somewhat hampered by data inaccuracies in its tracking system. LPA recommended SRS enforce certain contract

requirements for its foster care contractors and help ensure staff have up-to-date information to help them oversee contractors.

2012 Audit Report, Foster Care Decisions: Reviewing Decisions To Remove Children From Their Homes

The 2012 audit report highlights can be found at <http://www.kslpa.org/assets/files/reports/h-12-007.pdf>, and the full report can be found at <http://www.kslpa.org/assets/files/reports/r-12-007.pdf>. This audit was requested after legislators had received numerous complaints over the years from families who thought DCF did not have sufficient justification for having children removed from their homes and not reuniting them with their families. Legislators wanted an independent review of several specific cases to determine whether it appeared officials acted appropriately, LPA reviewed 9 cases involving 23 children who were removed from their families and answered the following question:

- Did DCF have sufficient and convincing reasons to separate children from their families or to not reunite them?
 - For the cases reviewed, DCF, law enforcement, and court officials had sufficient and convincing reasons for removing children from their parents and not reuniting them. The removals decisions were reasonable because the available evidence supported serious concerns about the children's safety in each case. Out of the 23 children, 21 had not been reunited for legitimate reasons including the parent's continued drug use and failure to complete required therapy or counseling sessions. LPA indicated 36 of the 48 allegations by parents of mishandling of their cases LPA evaluated were refuted by evidence in the case file. Five allegations contained some evidence supporting the allegations, but the case outcome was not adversely affected. The effect of seven allegations on case outcome could not be evaluated due to insufficient evidence to refute or confirm the allegations. LPA noted other findings that help explain why legislators regularly receive concerns about the foster care system. LPA made no recommendations in this audit.

2015 Audit Report, State of Kansas: Federal Compliance (A-133) Audit of Fiscal Year 2014

The highlights of the 2015 audit report are located at <http://www.kslpa.org/assets/files/reports/h-15-003.pdf>, and the full report is located at <http://www.kslpa.org/assets/files/reports/r-15-003.pdf>. This audit was a standard audit conducted by a Certified Public Accounting firm under contract with the LPA, completed in response to a federal requirement for organizations that receive a significant amount of federal funding to undergo such an audit. This report has been included in this memorandum due to findings related to the foster care program; only those findings related to foster care are discussed.

Auditors found material non-compliance existed within the foster care program administered by DCF. The non-compliance was related to the misclassification of two subrecipients in the program as contractors. The auditors reported that as a result DCF applied its monitoring program for contractors, but did not comply with all requirements regarding subrecipient monitoring. Additionally, auditors found DCF did not have adequate support

documentation from the subrecipient for some of their foster care claims. LPA made several recommendations to address the findings identified.

DCF disagreed with the severity of the finding related to subrecipient monitoring due to language in the report being modified after the agency prepared its response to the finding. DCF submitted an additional response to the finding, included at the end of the full report.

2016-2017 Foster Care and Adoption in Kansas: Reviewing Various Issues Related to the State's Foster Care and Adoption System, Parts 1-3

There are three parts to the most recent review of the Kansas Foster Care and Adoption system. The performance audit was initiated because legislators were interested in a comprehensive review of the foster care system.

Part I

Part I of the audit was published in July 2016 and focused on safety concerns. Highlights on Part I are located at <http://www.kslpa.org/assets/files/reports/h-16-010.pdf>, and the full report is located at <http://www.kslpa.org/assets/files/reports/r-16-010.pdf>. The test work in this part of the audit was based in part on case file reviews of almost 200 children in foster care. Auditors also surveyed all case management staff and all guardians *ad litem* across the state. While the survey response rate was not sufficient to conclude the population was statistically represented, the surveys were helpful for insight into participant's opinions and experiences and are consistent with evidence obtained through case file reviews. Part I of the audit answered the following questions and made the following findings and recommendations:

- Is DCF following adequate policies and procedures to ensure the safety of children during the removal and placement process?
 - As of publication of the report, DCF had not implemented several recommendations for its child protective services function; had not responded to all report center calls in a timely manner; did not ensure that background checks of individuals in foster homes happen as often or as thoroughly as they should; and did not always take steps to ensure that monthly in-person visits happen for children in foster care, adoptive homes, or for children reintegrated with their family. The survey of case management staff and guardians *ad litem* also indicated monthly in-person visits do not always happen and respondents expressed concern with staff turnover, morale, and training. LPA made several recommendations to address problems regarding the Kansas Protection Report Center, background checks, and in-person visits.
- Does DCF's child placement process help ensure that children are placed in foster care or adoptive homes with sufficient living space and sufficient financial resources?
 - DCF allows nearly all requests for exceptions, resulting in inadequate sleeping space for some children in foster care and does not have an adequate process to ensure that licensed foster homes have sufficient

financial resources. Despite the lack of DCF requirements related to capacity, living space, or financial resources for adoptive parents, few stakeholders had concerns. There was a possible conflict of interest noted due to child placing agencies sponsoring foster homes and regulating them. LPA recommended DCF develop and implement a system that ensures exceptions are thoroughly reviewed and only granted in the best interest of the child. LPA also recommended that regulations and policies be revised to ensure foster families had sufficient financial resources.

- Are DCF's criteria for recommendations regarding the removal and placement of children designed with a family preference?
 - Several aspects of the foster care and adoption system are designed to keep family members together and the majority of stakeholders indicated there was appropriate emphasis placed on keeping families together, although some indicated there was too much emphasis. No recommendations were given for this item.

Part 2

Part 2 of the audit was published in September 2016 and focused on compliance with applicable state and federal laws governing the foster care system. The highlights are located at <http://www.kslpa.org/assets/files/reports/h-16-010.2.pdf>, and the full report is located at <http://www.kslpa.org/assets/files/reports/r-16-010.2.pdf>. Part 2 answered the following question and made the following findings:

- Does DCF ensure that all applicable state and federal laws governing the foster care system in Kansas are followed?
 - DCF had not followed some of the safety and living condition requirements addressed in Part I of the audit, but according to the 2014 and 2015 statewide single audits (external audit performed each year on major state programs), DCF materially complied with most, but not all, federal requirements. DCF self-reported data showing that Kansas met or exceeded about half the federal outcome requirements for 2016 but did not meet the others. DCF was required to submit a program improvement plan to address issues identified by a 2015 federal review called the Child and Family Service Review. LPA did not recommend further action on this item.

Part 3

Part 3 of the audit was published April 2017 and focused on foster care capacity, outcomes, and costs. The highlights are located at <http://www.kslpa.org/assets/files/reports/h-17-006.pdf>, and the full report is located at <http://www.kslpa.org/assets/files/reports/r-17-006.pdf>. Part 3, the final report in the series related to this audit, answered the following questions and made the following findings:

- Does the state's foster care system have sufficient capacity to provide necessary foster care services?

- LPA found that both case management contractors had challenges employing enough case management staff, a small portion of case managers had high caseload levels, and family support workers had sufficient education but did not always have the required experience. With some exceptions, most children in foster care received the physical and mental health services needed. LPA noted it appeared many counties and cities did not have enough licensed foster homes. Regarding DCF's management and oversight, DCF could be more proactive in monitoring and collecting management information about the foster care system and the information DCF maintained was not adequate to ensure children were placed in appropriate foster homes. LPA identified several children who were placed in foster homes that did not comply with licensing standards.
- How has the State's performance on federal outcomes for children and families changed over time?
 - Child Welfare Outcome reports have been published since 1998; LPA identified 11 measures that were methodologically consistent from 2000 to 2013 to review. Kansas' performance on the 11 federal outcome measures reviewed did not change significantly from 2000 to 2013. LPA noted that while the measures may provide useful insight into Kansas' performance, there are significant limitations.
- How would the cost of the State directly providing foster care and adoption services compare to maintaining the current privatized system?
 - LPA estimated the State would incur up to \$8.0 million more in on-going costs and significant start-up costs for DCF to provide foster care and adoption services instead of private contractors. Of the \$161.0 million in costs reported by the contractors for fiscal year 2016, most were related to child placement, salaries and benefits, operating expenses, child care, and transportation, and LPA estimated that DCF would have spent between \$164.0 million-\$169.0 million to provide the same services. LPA noted that DCF would incur significant start-up costs for the State to directly provide foster care and adoption services for vehicles, office space, and developing case-management software, and there could be other factors to consider when comparing privatization to a State-run system.

Recommendations for Part 3 were not necessarily tied to specific questions within the report. LPA made the following recommendations:

- For DCF, it was recommended the agency address its management and oversight issues by continuing to expand capacity for data-driven decision-making through the collection and dissemination of management, operations, and performance data. It was further recommended home inspection and renewal issues be addressed by implementing processes, policies, and procedures to monitor the licensure renewal process and ensure inspections are completed on time. LPA also recommended DCF ensure children in foster care receive the physical and mental health services they need by clearly establishing roles and responsibilities and implementing policies and procedures intended to

ensure information on children's needs is consistently documented and service provision problems are investigated.

- For Case Management Contractors, LPA recommended KVC and St. Francis comply with their contracts on experience requirements for family support workers, or work with DCF to determine whether the minimum requirements should be amended.
- For the Kansas Legislature, LPA recommended the appropriate committees examine and consider amending the state's case manager requirements. LPA further recommended the Legislative Coordinating Council consider directing an interim study to gather information on the availability of community-wide resources.