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SUMMARY OF LEGISLATIVE POST AUDIT REPORTS RELATED TO FOSTER CARE 2001- 2015

There are 11 reports published on audits performed by the Kansas Legislative Division of Post Audit (LPA) between 2001 and 2015 that include topics related to the foster care system. This memorandum will briefly summarize the request, 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.

2001 - 2002 Audit Reports

There were four audit reports including topics related to foster care published in 2001 and 2002. Three 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:

- 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:

- 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.
- 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.

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:

- 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.

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 finding:

- 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 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:

- 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 there were concerns about The Farm's financial viability. LPA noted SRS needed to 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 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:

- 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.
- 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.

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 as noted below:

- 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 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.

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.

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