



PERFORMANCE AUDIT REPORT

**Verifying Information Provided by the
Department of Social and Rehabilitation Services On
Its Compliance with the Terms of the
Foster Care Lawsuit Settlement Agreement**

**Monitoring Report #14
Covering July 1 to December 31, 2000**

**A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
November 2001**

Legislative Post Audit Committee

Legislative Division of Post Audit

THE LEGISLATIVE POST Audit Committee and its audit agency, the Legislative Division of Post Audit, are the audit arm of Kansas government. The programs and activities of State government now cost about \$9 billion a year. As legislators and administrators try increasingly to allocate tax dollars effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by Legislative Post Audit helps provide that information.

We conduct our audit work in accordance with applicable government auditing standards set forth by the U.S. General Accounting Office. These standards pertain to the auditor's professional qualifications, the quality of the audit work, and the characteristics of professional and meaningful reports. The standards also have been endorsed by the American Institute of Certified Public Accountants and adopted by the Legislative Post Audit Committee.

The Legislative Post Audit Committee is a bipartisan committee comprising five senators and five representatives. Of the Senate members, three are appointed by the President of the Senate and two are appointed by the Senate Minority Leader. Of the Representatives, three are appointed by the Speaker of the House and two are appointed by the Minority Leader.

Audits are performed at the direction of the Legislative Post Audit Committee. Legisla-

tors or committees should make their requests for performance audits through the Chairman or any other member of the Committee. Copies of all completed performance audits are available from the Division's office.

LEGISLATIVE POST AUDIT COMMITTEE

Representative Lisa Benlon, Chair
Representative Richard Alldritt
Representative John Ballou
Representative Dean Newton
Representative Dan Thimesch

Senator Lynn Jenkins, Vice-Chair
Senator Anthony Hensley
Senator Dave Kerr
Senator Derek Schmidt
Senator Chris Steineger

LEGISLATIVE DIVISION OF POST AUDIT

800 SW Jackson
Suite 1200
Topeka, Kansas 66612-2212
Telephone (785) 296-3792
FAX (785) 296-4482
E-mail: LPA@lpa.state.ks.us
Website:
<http://skyways.lib.ks.us/ksleg/PAUD/homepage.html>
Barbara J. Hinton, Legislative Post Auditor

The Legislative Division of Post Audit supports full access to the services of State government for all citizens. Upon request, Legislative Post Audit can provide its audit reports in large print, audio, or other appropriate alternative format to accommodate persons with visual impairments. Persons with hearing or speech disabilities may reach us through the Kansas Relay Center at 1-800-766-3777. Our office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday.



LEGISLATURE OF KANSAS
LEGISLATIVE DIVISION OF POST AUDIT

800 SOUTHWEST JACKSON STREET, SUITE 1200
TOPEKA, KANSAS 66612-2212
TELEPHONE (785) 296-3792
FAX (785) 296-4482
E-MAIL: lpa@lpa.state.ks.us

October 29, 2001

To: Members, Legislative Post Audit Committee

Representative Lisa Benlon, Chair
Representative Richard Alldritt
Representative John Ballou
Representative Dean Newton
Representative Dan Thimesch

Senator Lynn Jenkins, Vice-Chair
Senator Anthony Hensley
Senator Dave Kerr
Senator Derek Schmidt
Senator Chris Steineger

This report contains the findings and conclusions from our completed performance audit, *Verifying Information Provided by the Department of Social and Rehabilitation Services On Its Compliance with the Terms of the Foster Care Lawsuit Settlement Agreement: Monitoring Report #14*.

The report also includes a number of corrective actions SRS plans to take to come into compliance in future monitoring periods.

We would be happy to discuss the findings presented in this report with any legislative committees, individual legislators, or other State officials.

Barbara J. Hinton
Legislative Post Auditor

EXECUTIVE SUMMARY

LEGISLATIVE DIVISION OF POST AUDIT

Is SRS Complying with the Requirements of the Settlement Agreement?

For the 6-month period generally covered by this audit (July-December 2000), only 25 requirements were monitored. SRS was in compliance with 6 (24%) and wasn't in compliance with 19 (76%).

Our findings are summarized below. The matrix beginning on page 12 of the report summarizes SRS' compliance this period.

SRS didn't meet compliance with any of the 5 remaining requirements related to investigating reports of child abuse or neglect. page 4
These requirements covered actions such as obtaining needed medical services and reviewing prior reports involving the same child or family.

SRS was in compliance with 6 of the 14 remaining case-management requirements we assessed. page 4
The family case plans we reviewed this period were complete, placements were appropriate, and children were placed only in foster homes that completed the required training. In addition, SRS regularly updated the courts about the progress of children in its custody. SRS didn't come into full compliance with the other 8 requirements, however. These covered such things as scheduling conferences to maximize participation and considering adoption for children that have been out of the home for a full year.

SRS staff entered into its Central Registry database on a timely basis only 4 of the 14 foster care providers whose abuse or neglect of a child had been validated. page 7
SRS' compliance rate this period was only 29%. Since our review, however, the Department has either entered the remaining providers or offered them a corrective action plan.

Proposed Corrective Action for Entering Names in the Central Registry. page 7
To improve compliance, SRS reported that it continues to track the status of abuse and neglect reports and remind area offices to update information about these reports in its foster care information system—FACTS. SRS also reported it will consider delegating the tracking system to the area offices.

SRS wasn't in compliance with 3 training requirements for foster parents and adoptive homes. page 8
All foster parents must complete annual training before a child in SRS' custody can be placed in their home, and SRS is required to track this training. SRS also must track the initial "MAPP" training completed by foster and adoptive parents.

SRS acknowledged that only 43% of the foster parents due for annual training this period had documentation that showed they completed it. In addition, it reported that none of the systems it uses to track annual and MAPP training met the requirements for being accurate and up-to-date.

Proposed Corrective Action for Annual Foster Parent Training and Training Databases. *In the past, KDHE--the agency that licenses foster homes--sent SRS the information it needed to track training on a monthly basis. On January 25, 2001, SRS installed a link to KDHE's database so it could have direct access to that information.* page 8

SRS wasn't in compliance with 2 foster care information system requirements. *This period, SRS was required to maintain timely and accurate information about prior abuse and neglect allegations, screening decisions, risk assessments, and investigations in its new computer system (FACTS). SRS acknowledged that none of these requirements were met.* page 8

Proposed Corrective Action for the Foster Care Information System. *SRS will continue to notify area offices about problem cases. In addition, the newly created FACTS advisory group will meet quarterly to review the problem cases and to develop corrective actions plans for them.* page 9

Appendix A: Compliance Summary for Monitoring Period #14 page 12

Appendix B: Agency Responses page 15

This audit was conducted by Jennifer Wagner. Barb Hinton was the audit manager. If you need any additional information about the audit's findings, please contact Ms. Wagner at the Division's offices. Our address is: Legislative Division of Post Audit, 800 SW Jackson Street, Suite 1200, Topeka, Kansas 66612. You also may call us at (785) 296-3792, or contact us via the Internet at LPA@lpa.state.ks.us.

Verifying Information Provided by the Department of Social and Rehabilitation Services on Its Compliance With the Terms of the Foster Care Lawsuit Settlement Agreement

In May 1993, the Legislative Post Audit Committee directed the Legislative Division of Post Audit to conduct an ongoing performance audit assessing SRS' compliance with the settlement agreement. Legislative Post Audit's role was to verify that the information SRS' internal monitor reported on its compliance was accurate and reliable.

This performance audit answers the following question:

Is SRS accurately reporting its compliance with the terms of the foster care settlement agreement?

To answer this question, we reviewed reports prepared by the internal monitor regarding SRS' compliance, as well as the supporting documentation developed or provided by SRS. In addition, when necessary we conducted independent record checks to verify the information SRS had provided.

For the 6-month period generally covered by this audit (July-December 2000), the internal monitor also reviewed hundreds of child abuse and neglect investigation and foster care case files. For the requirements subject to these 2 case reviews, we reviewed small samples of cases to verify that the case readers accurately recorded, analyzed, and drew conclusions about the information in the case files.

In conducting this audit, we followed all applicable government auditing standards set forth by the U.S. General Accounting Office.

Our findings begin on page 4, after a brief overview discussing the settlement agreement and the State's foster care system.

Overview of the Settlement Agreement and the Foster Care System in Kansas

In 1990, a Lawsuit Was Filed Charging that SRS Wasn't Adequately Caring for Children Placed in Its Care or At-Risk of Abuse or Neglect

Sheila A., et. al. v. Joan Finney, et. al. was filed in January 1989 in Shawnee County District Court by Rene Netherton, a local attorney seeking additional foster care beds for Shawnee County children. In February 1990, the Children's Rights Project of the American Civil Liberties Union filed an amended petition and joined Ms. Netherton in a class action lawsuit. The lawsuit contended SRS didn't comply with State and federal law, and was violating Kansas children's constitutional rights.

SRS and the ACLU Ultimately Reached An Out-of-Court Settlement, Which the Court Approved in June 1993

That 33-page settlement agreement contains 153 requirements SRS had to adhere to by certain deadlines. Each requirement, or "element," was considered to be an important component of an adequate foster care system, and was included to ensure that the needs of foster children in Kansas were being met. As of July 1995, Children's Rights, Inc., which is no longer affiliated with the ACLU, began to represent the plaintiff class in the lawsuit.

The Settlement Agreement Required an Independent Entity To Assess SRS' Compliance With That Agreement

The settlement agreement required SRS to establish an internal monitoring unit to assess compliance. In addition, at the request of both parties, in May 1993 the Legislative Post Audit Committee directed Legislative Post Audit to conduct an ongoing performance audit assessing SRS' compliance with the settlement agreement, as well as the reliability of SRS' internal monitors.

SRS' Monitoring Unit serves as the frontline monitor reviewing SRS-generated data and case files to assess SRS' compliance with each requirement. This Unit prepares a report summarizing the information it reviewed and drawing conclusions about SRS' compliance. Post Audit staff verify the accuracy and reliability of those conclusions by testing a sample of the compliance results generated by the Unit, and by conducting other independent reviews or tests as needed.

The Monitoring Unit's reviews and the verification test work we perform can't ensure that all the problems with the foster care system will be alleviated. However, the parties have agreed that the required activities, if effectively carried out, should benefit children and improve the foster care system in Kansas.

In general, the schedule for monitoring adherence to the settlement agreement is set up in 6-month increments, with reports prepared at the end of each period. For most requirements, SRS must meet either 80% compliance for 3 consecutive monitoring periods, or 90% compliance for 2. At that point, monitoring for a requirement can stop, although SRS still must stay in compliance. If SRS doesn't comply with a settlement element, that requirement "rolls over" into the next 6-month period, and the monitoring clock starts over for that area.

Kansas' Foster Care System Now Is Administered by Both SRS' Division of Children And Family Policy and by Private Contractors

When the settlement agreement was signed in 1993, SRS administered the foster care system. In February 1997 it contracted with 3 non-profit agencies to manage foster care cases. The foster care system remains relatively unchanged, however.

Children the court has placed in SRS custody who need out-of-home placements are referred to the contractor in their region of the State. The contractor is required to place that child in a placement appropriate to his or her needs. A major goal of the program is to provide services that will help reunite children with their families. If that isn't possible, then adoption or other options are considered. Those adoptions are handled by a statewide adoption contractor.

SRS continues to be responsible for investigating allegations of child abuse or neglect, and for managing the cases of children in its custody who remain at home. It also continues to have ultimate responsibility for all children placed in its custody. In addition, the parties have agreed that SRS still is responsible for compliance with the terms of the agreement even though some of its duties have been passed on to the contractors.

In April 1997, a Special Task Force Was Created To Help Resolve Foster Care Issues in Kansas

This Task Force was formed by Judge James Buchele, the Shawnee County District Court judge originally assigned to the foster care lawsuit. The Task Force's goal was to bring SRS into substantial compliance with the settlement agreement, and to meet the needs of Kansas foster children, within a reasonable period of time. To reach this goal, the Task Force helped mediate disagreements between SRS and Children's Rights, Inc. In addition, the Task Force has examined monitoring procedures in several areas and has made suggestions for streamlining the monitoring process.

Is SRS Complying With the Requirements of the Settlement Agreement?

In all, 118 of the 153 requirements SRS was required to complete are no longer being monitored: 100 have been found in compliance, 10 were removed by party agreement, and 8 are being monitored directly by Children's Rights, Inc. That means only 35 requirements (23%) still are being monitored.

For the 6-month period generally covered by this audit (July-December 2000), only 25 requirements were monitored. That's because the parties agreed to delay monitoring of the 10 other requirements while they negotiate issues related to them.

For the 25 requirements monitored this period, SRS was in compliance with 6 (24%), and wasn't in compliance with 19 (76%). Monitoring of 4 requirements will stop because SRS has met the required compliance level for them.

The remainder of this report is divided into 2 sections. The section below describes our findings in more detail, as well as any corrective actions SRS reported it planned to take to come into compliance. The second section (shown in the matrix beginning on page 12) summarizes SRS' compliance with each requirement that was monitored this period.

SRS Was in Compliance With 6 of the 19 Requirements Related to Investigating Reports of Abuse and Neglect and Managing Foster Care Cases

As described below, these requirements generally are assessed during the Internal Monitor's review of case files.

SRS didn't meet compliance with any of the 5 remaining requirements related to investigating the safety and status of children who may have been abused or neglected. SRS staff didn't take appropriate actions as often as required, as shown in the table at right. (To be in compliance, every question associated with a requirement has to be at 80% or above.)

SRS was in compliance with 6 of the 14 remaining case-management requirements we assessed. This period, case plans had adequate services and included independent living plans, placements were appropriate, and children were only placed in

foster homes that completed the required training. SRS staff also notified all the appropriate parties about case planning conferences and gave the courts regular updates about the progress of children in their custody. As the table beginning on page 6 shows, however, SRS didn't come into full compliance for the other 8 requirements.

Investigating Reports of Abuse or Neglect	Compliance Question(s)	Compliance %	Compliance/ Noncompliance
1. Complete a family service plan, if required.	Was and initial service plan developed?	78%	N
2. Take reasonable action to obtain medical services if they're necessary.	Did SRS determine the child(ren) was in need of medical services?	97%	N
	If SRS determined medical services were necessary, did it take reasonable action to obtain those services?	47%	
3. Review previous unconfirmed reports when there have been three made on the same family or child within a two-year period.	Did an "uninvolved" supervisor review all the unconfirmed reports?	64%	N
4. Document the results of that review.	Was the result of the review documented?	62%	N
5. Request emergency court or law enforcement removal only if certain criteria are met.	Was the child(ren) in imminent danger of serious injury, or abandoned?	57%	N
	Did the perpetrator have access, or was the child abandoned?	57%	
	Was the non-abusing parent unable to provide protection, or was the child abandoned?	50%	

Managing Foster Care Cases	Compliance Question(s)	Compliance %	Compliance/ Noncompliance
1. Describe the services considered to prevent out-of-home placement.	Does the case plan list services to prevent placement?	69%	N
2. Provide services to meet the needs of the child.	Are services listed to reunite the family?	93%	C
	Are services listed to meet medical needs?	86%	
	Are services listed to meet educational needs?	84%	
	Are services listed to meet mental health needs?	90%	
3. Identify the current placement and whether it's appropriate.	Does the case plan list the child's current placement?	93%	C
	Is there a discussion about the appropriateness of the placement?	93%	
4. Follow Department's independent living policies.	If the child is 16 or older, is there an independent living plan?	82%	C
5. Notify the appropriate parties about the case planning conference.	Did the appropriate parties get 10 days advance notice of the conference?	82%	C
6. Schedule conferences to ensure the appropriate parties can attend.	If the child's parents had a conflict, was the meeting re-scheduled?	57%	N
7. Give the court regular updates about the child's placement and progress.	If parental rights are intact, was a progress report sent to the court?	97%	C
	If parental rights are terminated, was a progress report sent to the court?	94%	
8. Update the court within the required time frame.	Was a progress report sent within 30 days of out-of-home placement or 6 months of the prior plan?	89%	N
	Was a progress report sent within 60 days of termination or 6 months of the prior plan?	76%	
9. Schedule the required number of child/sibling visits.	Is there a child/sibling visitation plan in the file?	79%	N
	Are visits scheduled at the required frequency?	77%	
10. Consider adoption when the child has been out of the home for one continuous year.	Was adoption considered after one year in out-of-home placement?	76%	N

Managing Foster Care Cases	Compliance Question(s)	Compliance %	Compliance/ Noncompliance
11. If applicable, document the reason why adoption wasn't the case plan goal.	Is the reason why adoption wasn't established documented in the case plan?	68%	N
12. Consider relinquishment if adoption is the case plan goal.	Does the case plan document that relinquishment was considered?	34%	N
13. Discuss relinquishment with the parents, if appropriate.	Does the case plan document that relinquishment was discussed with the parents?	36%	N
14. Only place children in foster homes that have been MAPP trained.	Was the foster home MAPP trained?	92%	C

SRS Wasn't in Compliance With 1 Remaining Requirement Related to Ensuring the Safety of Children

SRS staff timely entered into its Central Registry database only 4 of the 14 names of foster care providers (foster parents or facility workers) whose abuse or neglect of a child had been validated. Having these names in the database is a critical step in ensuring that foster children are safe. For example, KDHE checks this database before issuing licenses to foster parents, workers in foster care facilities, day care providers, and the like.

This period, the Internal Monitor reviewed 254 reports against a total of 355 foster parents and providers. In all, 341 of the providers weren't required to be entered into the database because SRS determined there was no abuse (256), the provider had successfully completed a corrective action plan or was in the process of doing so (46), or the provider had successfully appealed or was currently appealing a finding of abuse (16).

This left only 14 providers subject to this requirement. Only 4 of those names were entered timely, however, so SRS' compliance rate this period was 29%.

Proposed Corrective Action for Entering Names in the Central Registry

SRS acknowledged it wasn't in compliance with this requirement. Central Office staff will continue to track the substantiated findings that are appealed in each area office and remind the areas to update these appeals in its Family and Child Tracking System-FACTS. SRS also will consider delegating the responsibility for tracking appeals to the area offices.

SRS Wasn't in Compliance With 3 Training Requirements For Foster Parents and Adoptive Homes

These requirements are summarized below:

- All foster parents must complete 16 hours of annual training before a child in SRS' custody can be placed in their home.
- To track this training, SRS is required to maintain an accurate and up-to-date computer system.
- SRS also must maintain an accurate and up-to-date system to record the initial training (MAPP training) parents must complete before being licensed as a foster parent or as an adoptive home.

SRS acknowledged that only 108 of the 254 (43%) foster parents who were supposed to receive annual training this period had documentation that showed they completed it. In addition, SRS reported that none of the systems it uses to track annual and MAPP training met the requirements for being accurate and up-to-date.

Proposed Corrective Action for Annual Foster Parent Training and Training Databases

In the past, KDHE--the agency that licenses foster homes--sent SRS the information it needed to track training on a monthly basis. On January 25, 2001 SRS installed a link to KDHE's licensing database so it can have direct access to that information. In addition, SRS continues to remind contractors when foster homes are due for annual training.

SRS Wasn't In Compliance With 2 Requirements Related to Information Systems That Track Foster Care Data

SRS wasn't in compliance with 2 requirements related to its new information system--FACTS. The settlement agreement requires SRS to develop and maintain an automated computer system to provide all the information it needs to manage the foster care system. SRS began implementing the FACTS system in August 1997, but only 2 requirements have been tested so far. To be in compliance with these requirements, the information in FACTS about prior allegations of abuse and neglect, screening decisions, risk assessments, and investigations has to be timely and accurate 80% of the time.

SRS reported that only 145 of the 268 (54%) prior allegations the internal monitor reviewed were entered into FACTS on a timely and accurate basis. SRS also reported it wasn't in compliance with the other information requirements. When this information doesn't get entered on time or isn't accurate, it increases the likelihood that at-risk families and children won't be identified.

***Proposed Corrective
Action for the Foster
Care Information
System***

SRS will continue to notify area offices about problem cases. In addition, the newly created FACTS advisory group will meet quarterly to review the problem cases and develop corrective action plans to improve compliance.

Appendix A

Compliance Summary for Monitoring Period #14

The following pages summarize SRS' compliance with the requirements that were due for assessment this period. The legend below provides explanations for the symbols we used in the chart.

- C = In compliance
- CR = The requirement was monitored in a case review
- D = Monitoring of the requirement was delayed while the parties negotiate issues related to it
- N = Not in compliance

ACTIONS REQUIRED BY SRS:	MONITORING PERIOD														Monitoring Stops?
	1 Jan- June 1994	2 July- Dec 1994	3 Jan- June 1995	4 July- Dec 1995	5 Jan- June 1996	6 July- Dec 1996	7 Jan- June 1997	8 July- Dec 1997	9 Jan- June 1998	10 July- Dec 1998	(1)11 Jan- June 1999	12 July- Dec 1999	13 Jan- June 2000	14 July- Dec 2000	
1 Enter confirmed reports of abuse/neglect by foster parents or other providers in Central Registry.			64% N	11% N	38% N	N	N	36% N	0% N	0% N	50% N	29% N	38% N	29% N	
2 CR1. Complete a family service plan, if required.		N	N	N	N	N	N	C	N	C	N	N	N	N	
3 CR1. Take reasonable action to obtain medical services if they're necessary.			D	D	D	N	N	C	N	N	N	N	N	N	
4 CR1. Review previous unconfirmed reports when there are 3 unconfirmed reports on the same family or child within a 2-year period.			N	N	N	N	N	N	N	N	N	N	N	N	
5 CR1. Document the results of the review of 3 unconfirmed reports on the same family or child within a 2-year period.			N	19% N	22% N	N	N	N	N	N	N	N	N	N	
6 CR1. Request ex parte order or law enforcement removal only if children are in imminent danger of serious injury, the perpetrator has access to them, and they can't be protected by the non-abusing parent.			100% C	89% N	100% C	N	N	C	N	N	N	N	N	N	
7 CR2. Include services to prevent out-of-home placement in the initial case plan.				N	N	N	N	D	C	D	N	C	N	N	
8 CR2. Include services in the case plan to meet the child's needs, to reinforce family strengths and, where applicable, to reunify the family.				N	N	N	N	D	C	D	N	C	C	C	
9 CR2. Identify in the case plan the type of placement, its appropriateness and, if applicable, how recommendations of the court were considered.				N	N	N	N	D	N	D		C	C	C	
10 CR2. Adhere to SRS policies on long-term foster care and independent living plans.				N	N	N	N	D	N	D		C	C	C	
11 CR2. Notify parents and appropriate parties of the time, date, and place of the administrative review within the required timeframe.				N	N	N	N	D	N	D		C	C	C	
12 CR2. Schedule administrative reviews to maximize participation.				N	N	N	N	D	N	D		C	C	C	
13 CR2. Provide reports to the court on the child's progress and current placement and, if applicable, progress toward adoption or long-term placement.				N	N	N	N	D	N	D		C	C	C	
14 CR2. Provide reports to the court when the child is removed from the home or parental rights are terminated, within the required timeframe.				N	N	N	N	D	N	D		C	C	C	
15 CR2. Develop a written visitation plan for siblings and schedule visits at the required frequency.				N	N	N	N	D	N	D		C	C	C	
16 CR2. When a child has been in out-of-home placement for one year, consider a plan of adoption.				N	N	N	N	D	N	D		C	C	C	
17 CR2. If a plan of adoption is not established, document the basis for the decision.				N	N	N	N	D	N	D		C	C	C	

⁽¹⁾The compliance standard changed in Monitoring Period 11 from 90% for 2 consecutive periods to 80% for 3.

MONITORING PERIOD															
	1	2	3	4	5	6	7	8	9	10	(1)11	12	13	14	Monitoring Stops?
	Jan- June 1994	July- Dec 1994	Jan- June 1995	July- Dec 1995	Jan- June 1996	July- Dec 1996	Jan- June 1997	July- Dec 1997	Jan- June 1998	July- Dec 1998	Jan- June 1999	July- Dec 1999	Jan- June 2000	July- Dec 2000	
ACTIONS REQUIRED BY SRS:															
18 CR2. Determine if relinquishment is appropriate when adoption is established as the permanency plan.				N	N	N	N	N	D	N	D	N	N	N	
19 CR2. Discuss relinquishment with parents, if appropriate.				N	N	N	N	N	D	N	D	N	N	N	
20 CR2. Only place children in homes where the foster/adoptive parents have been MAPP trained, or where the parents meet Dept. exceptions.			N	N	N	N	N	N	D	N	D	N	C	C	Y
21 Maintain accurate and up-to-date MAPP training record system.						N	N	N	N	D	D	N	N	N	
22 Implement and maintain accurate and up-to-date annual foster parent training record system.						N	N	N	N	D	D	N	N	N	
23 Provide annual child welfare training to all foster parents.						N	N	N	N	25% N	39% N	35% N	32% N	43% N	
24 Maintain accurate data about needed placements and placement vacancies.										D	D	D	D	D	
25 Assess and if necessary, modify placement services for children in custody.										D	D	D	D	D	
26 Maintain accurate data about the availability of and need for services.										D	D	D	D	D	
27 Assess and if necessary, modify services program for children in custody.										D	D	D	D	D	
28 Implement and maintain an accurate and up-to-date information system that tracks prior allegations of abuse and neglect.										D	D	N	N	N	
29 Same as above for the results of screening decisions, risk assessments, and investigations.										D	D	N	N	N	
30 Same as above for referrals for services.										D	D	N	N	N	
31 Same as above for worker caseloads.										D	D	D	D	D	
32 Same as above for case planning information.										D	D	D	D	D	
33 Same as above for child specific placement information.										D	D	D	D	D	
34 Same as above for case specific service information.										D	D	D	D	D	
35 Same as above for program management and legal compliance information.										D	D	D	D	D	

⁽¹⁾The compliance standard changed in Monitoring Period 11 from 90% for 2 consecutive periods to 80% for 3.

Appendix B

Agency Response

On October 19, 2001 we provided copies of the draft audit report to SRS and Children's Rights, Inc. Their responses are included in this appendix.

We carefully reviewed both responses. While we didn't make all the changes the parties suggested, we did make a number of changes to improve the accuracy and clarity of the report. These changes didn't alter the report's findings.

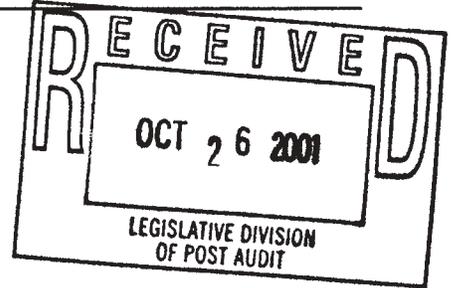


KANSAS DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

915 SW HARRISON STREET, TOPEKA, KANSAS 66612

JANET SCHALANSKY, SECRETARY

October 25, 2001



Barbara J. Hinton
Legislative Division of Post Audit
Mercantile Bank Tower
800 SW Jackson Street, Suite 1200
Topeka, KS 66612-2212

RE: Comments to the Draft copy for the Performance Audit Verifying Information Provided by the Department of Social and Rehabilitation Services on its Compliance with the Terms of the Foster Care Lawsuit Settlement Agreement Monitoring Report #14, covering the period of July-December 2000.

Dear Ms. Hinton:

The Department is in receipt of the draft report completed by Legislative Post Audit and distributed for comment.

Per this report, four additional requirements will no longer be monitored due to our meeting compliance. Including these, we note that 122 of the original 153 requirements have been found compliant, removed through party agreement, or are being monitored directly by Children's Rights, Inc.

We continue to work toward compliance through corrective plans with our area offices and modification of our forms and procedures. Recently we conducted an extensive review and analysis of noncompliant questions concerning child protection and case planning, which will be discussed in greater detail in our testimony for the upcoming LPA committee meeting.

Our specific comments to the report itself are attached. Thank you for the opportunity to review and comment on the draft report.

Sincerely,

Handwritten signature of Janet Schalansky in cursive.
Janet Schalansky
Secretary

cc: Joyce Allegrucci, Assistant Secretary
Mary Hoover, Chief Internal Auditor, SRS Audits
Deborah June Purce

Page 4, Sixth paragraph: The department wishes to clarify that SRS staff did not document if appropriate action was taken as often as required, as shown on the table on Page 5.

Page 4, Sixth paragraph: The five remaining requirements for investigation and assessment consist of eight specific questions. The department has conducted an extensive review of noncompliant cases for two monitoring periods and is working to identify the specific actions that can be made to address these requirements. This effort has included obtaining corrective plans from the area offices and clarifying procedures and forms statewide.

Page 4, Seventh (Last) paragraph: The 14 remaining requirements for case-management (case planning) activities involve 21 specific questions. In this six-month review period 12 questions were compliant and four more reached 75% or better. As with investigation elements, we have been conducting an extensive review to determine what corrections or clarifications can be made to assist our staff as well as our partners in improving documentation of case planning activities.

Page 7, First paragraph: The department wishes to provide an update on the ten cases referenced as noncompliant for entry in the state's child abuse registry. All of the foster homes involved in this period's review have closed. All ten perpetrators are now in the registry, although they were not entered in a timely manner.

Page 8, Second paragraph: The department wishes to clarify that the system used to track annual and MAPP training for foster parents is itself accurate and up-to-date. The continuing issue is that of receiving training documentation from the private child-placing agencies within 45 days of the end of each family's licensing renewal date. The database itself reflects the information entered, which is dependent on receipt of the documentation from other sources and timely data entry by SRS central office. SRS central office staff have been reassigned to provide timely data entry.

Page 8, Fourth paragraph: We continue to work with our staff statewide to ensure that information is entered into the FACTS system accurately and timely. While neither element monitored in this review period was found to be compliant, it is essential to note that the measurement of timeliness changed from 20 calendar days (used in the previous review period) to seven working days for this review period.

The first element monitored under this section of the settlement pertains to timeliness of data entry of previous reports on a family or child. The monitors identified sample cases from current case readings and then reviewed the system's information on each case beginning two years ago. Timeliness had not been defined at that time and has since changed, as described above. The compliance finding for timeliness in this element was 59% in the previous period (based on 20 calendar days) and 54% for this period (based on 7 working days.).

Page 8, Fourth paragraph: The second element of the FACTS information system monitored in this period pertained to data entry of screening decisions, risk assessments, and finding decisions. Both timeliness and accuracy were measured, for the first time. We wish to note that in the previous period timeliness was met in 90% of cases for screening, 91% for risk assessments, and 69 for finding decisions. These figures reflect the old 20 calendar day standard. For this period, using the new standard of 7 working days, we reached 75%, 83%, and 48% for timeliness.

We are very mindful of the importance of an accurate and timely information system and continue to provide our area staff with training, policy clarifications, and the results of monitoring reports in our work to improve the compliance of this element of the settlement.



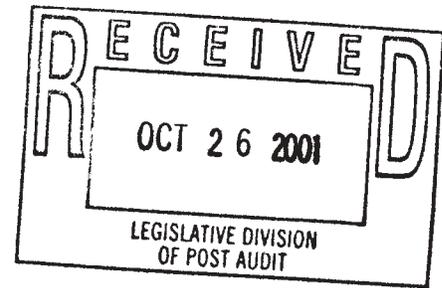
404 PARK AVENUE SOUTH, NEW YORK NY 10016
212-683-2210 · FAX: 212-683-4015
E-mail: info@childrensrights.org

MARCIA ROBINSON LOWRY
PRESIDENT & EXECUTIVE DIRECTOR

October 25, 2001

BY FAX AND OVERNIGHT MAIL

Barbara J. Hinton
Legislative Post Auditor
Legislature of Kansas
Legislative Division of Post Audit
Mercantile Bank Tower
800 Southwest Jackson Street, Suite 1200
Topeka, Kansas 66612-2212



Re: **Sheila A. v. Whiteman, Case No. 89-CV-33**

Dear Ms. Hinton:

Thank you for inviting our comments to Legislative Post Audit's 14th Report of the Department of Social and Rehabilitation Services' Compliance with the Settlement Agreement entered into by the Department and the class of children represented by Children's Rights.

While we are pleased that the number of issues that LPA monitors is steadily decreasing due to SRS compliance, we believe that those items being monitored should have made more progress than they have. Of the 25 requirements monitored by LPA, SRS was in compliance with only 6 items (24%), and was out of compliance with 19 (76%). While during the last period Children's Rights reported that the Department seemed to be on its way to reaching sustained compliance in 8 additional areas, monitoring of only four items will cease because of SRS's sustained compliance. We are disappointed that, of the requirements monitored this period compared to last, the percentage found in compliance (24%) is substantially lower than the percentage found in compliance in the last monitoring period (60%).

There are several areas of substantial noncompliance that remain of concern to us that directly affect child safety and health: the timely entry of names of foster care providers who have abused or neglected a child; taking reasonable action to obtain medical services when necessary; reviewing previous unconfirmed reports of abuse or neglect when there are 3 such reports on the same family or child within a two year period documenting the results of such reviews; requesting an ex parte or law enforcement removal only in specified circumstances; and the training of foster parents and adoptive parents. However, the parties met in June, 2001, using the assistance of an national expert child welfare group that was part of the 1997 Task Force, to

Barbara J. Hinton
October 25, 2001
page 2

attempt to determine the reasons for noncompliance and agree upon corrective actions. The meetings were fruitful, but it remains undetermined whether the agreements reached have been put into practice within SRS and, if not, why not, and if so, whether the actions will succeed in increasing compliance. The Department also continues to be out of compliance regarding an instance that is intended to keep cases moving: scheduling administrative reviews in a way that maximizes participation. While last period the requirement that the Department provide timely reports to the court when a child is removed from the home or when parental rights are terminated was out of compliance, the Department appears to have come well into compliance in this area.

Regarding adoption, SRS has been continually out of compliance in considering adoption when a child has been in care for a year, documenting the basis for not choosing a plan of adoption, and discussing relinquishment with parents when appropriate. At our June meetings, it was agreed that SRS would conduct a further analysis of the problems. Plaintiffs have not seen the analysis and do not know whether it has been completed, so it is no surprise that there is continued noncompliance in this area. We hope that the parties can continue to discuss this crucial issue and reach agreement on how SRS will increase compliance in this area. Given its importance in the lives of children who linger in foster care, as emphasized by the requirements of the Adoption and Safe Families Act, it is imperative that SRS begin to show compliance in this area.

As in the past, another area of continued concern is the Department's information system. By agreement of the parties, an independent consulting company was asked to do a fairly quick review of the FACTS computer information system to analyze where SRS is in coming into compliance with this important component of the Settlement Agreement. While the consultant's report is not yet final, it appears that most items required by the settlement agreement are in fact items that are supposed to be collected in FACTS, but some are not, and there are no plans that plaintiffs know of to incorporate those missing items. Most important is the failure to collect contractor case management data in FACTS. Plaintiffs believe the Settlement Agreement requires that this occur, and the parties need to address this issue in the near future. As well, and at least as important if not more so, it is clear to both sides that the data is not accurate or entered timely on a regular basis. This issue remains unaddressed and it must be the subject of continued negotiations.

As was the case for the last Audit, only 2 of the 8 elements from the Settlement Agreement's obligation X.A. have been monitored (the parties agreed to this in order to develop a monitoring methodology), and those 2 areas remain out of compliance. Regarding the Department's ability to enter prior allegations of abuse and neglect into FACTS, compliance is at 54%, down from an already low 59%. Additionally, while screening, risk assessment and investigation information was out of compliance at 90%, 90% and 69%, respectively, in Audit #13, this time it is merely reported that SRS reported it was out of compliance with this

requirement. We do not know, therefore, whether compliance has taken a dramatic decrease or if it remains at approximately the same level. As to the remaining elements required of the computer system by the Settlement Agreement, IQAMU has been preparing audit plans for the 6 remaining elements, but we have not yet seen most of those plans.

As a reporting matter, we are not sure why in many circumstances LPA reported simple noncompliance or compliance, rather than the percentage of compliance or noncompliance. Obviously, it makes it easier for plaintiffs to assess the report and the Department's progress when there are real numbers to compare to previous compliance figures.

Of course, we ask that the Department provide us with their corrective action plans that address all the areas that failed to meet compliance and we hope to continue our dialogue with the Department in the coming months.

Finally, we are in receipt of Ms. Hinton's September 26, 2001 letter to the parties that was also sent to the members of the Post Audit Committee concerning the committee's interest in ceasing monitoring of this Agreement. It must be noted for the record that this discussion came about at the April 24, 2001 Committee meeting when Rene Netherton asked the committee to cease its monitoring. Ms. Netherton was not speaking for the plaintiffs in making that request.¹ Indeed, Children's Rights and SRS agreed that progress was being made and that the Committee's withdrawal as a monitoring entity would be disruptive to the Settlement Agreement, since the parties would then be obligated to turn their attention away from reaching agreement on compliance issues and instead on finding a new monitoring entity. Plaintiffs reiterate their position that they wish monitoring to continue by the Legislative Post-Audit Committee. In the alternative, plaintiffs request that LPA monitor the next period, to give the parties the opportunity to find a new monitoring entity. While during this last period the parties have made much progress by engaging in fruitful discussions on substantive areas in the Settlement Agreement and on having the FACTS system analyzed by a consultant, they have not yet discussed to any great extent an exit strategy other than compliance with the Settlement Agreement, or a new monitoring entity. Plaintiffs believe that if necessary the parties could reach agreement over a new monitoring entity and, perhaps, some other exit strategy, in the next several months but do not want monitoring to be disrupted. Thus, we ask for the Committee's continued important participation at least through the next audit.

¹ Ms. Netherton had not advised Children's Rights of her intention to make such a request, and in fact told Children's Rights before the meeting, by letter, that she was intending to withdraw as counsel. Her position was not supported by Children's Rights, which alone has been actively involved in monitoring the progress of compliance with the Settlement Agreement for plaintiffs. Ms. Netherton withdrew as counsel that day.

Barbara J. Hinton
October 25, 2001
page 4

As always, thank you for the opportunity to comment.

Very truly yours,

A handwritten signature in black ink, appearing to read "Susan Lambiase". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Susan Lambiase
Children's Rights, Inc.

Attorney for Plaintiffs

