

# **PERFORMANCE AUDIT REPORT**

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

**Monitoring Report #9  
Covering January 1 to June 30, 1998**

**A Report to the Legislative Post Audit Committee  
By the Legislative Division of Post Audit  
State of Kansas  
December 1998**

# ***Legislative Post Audit Committee***

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## ***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 \$8 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.

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December 17, 1998

To: Members, Legislative Post Audit Committee

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Senator Pat Ranson  
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Representative Eugene Shore, Vice-Chair  
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Representative Dennis Wilson

This report contains the findings, conclusions, and recommendations 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 #9*.

The report includes a number of recommendations for improving the Department's 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 the Department of Social and Rehabilitation Services  
Complying with the Terms of the Foster Care  
Settlement Agreement? Monitoring Report #9**

**This 9th monitoring period generally covers requirements the Department was supposed to comply with from January 1 to June 30, 1998. During this period, 77 requirements stipulated in the settlement agreement were due for an assessment. Of these, only 31 actually were monitored. For the 31 requirements, the Department was in compliance with 21 (68%), and wasn't in compliance with 10 (32%).** ..... page 5

*Monitoring of 33 other requirements related to managing foster care cases was delayed. In addition, the parties to the settlement agreement decided to drop formal monitoring of 13 requirements related to such things as staffing levels, assessments of placement and services needs, case planning, and the like.*

*Our findings are summarized below. The matrix beginning on page 15 shows the Department's compliance over time with each requirement that's been monitored to-date.*

**This period, the Department came into compliance with 10 of the 12 requirements related to investigating reports of child abuse or neglect (Case Review 1). When a report of abuse or neglect is accepted, the Department is required to look for other reports on the same family. If there have been two or more unsubstantiated reports within two years of the current report, a supervisor must review the old reports. The Department met these requirements 83% of the time; 90% compliance was required. We'll report on these requirements again next period.** ..... page 5-6

**The Department was in compliance with 2 of 3 requirements covering adoption-related activities (Case Review 3). Beginning in July 1996, the Department was required to send information to support motions to terminate parental rights to the county or district attorney on time, for at least 90% of all applicable cases. This period, the Department met these requirements 96% and 94% of the time. However, the Department didn't establish procedures to track final orders issued at hearings where parental rights are terminated. As with last period, the Department is revising its policy manual and changing performance evaluation standards for area office attorneys to come into compliance in the future.** ..... page 6-7

**Recommendations** ..... page 7

**Monitoring of the 33 requirements covering management of foster care cases (Case Review 2) was delayed because the Department's new information system wasn't accurate enough to identify the cases applicable to these requirements. The Department worked to improve the accuracy of its information system, and the case read started in October—six months behind schedule. Because of the delay, final information about how effectively foster children's cases are being managed won't be available until April or May 1999.** ..... page 6

**The Department inappropriately screened out some of the bona fide reports of abuse and neglect it received.** ..... page 7-9  
*Beginning in July, 1995, the Department was required to properly screen 90% of all alleged abuse and neglect reports it received. This period, the Department made the proper screening decision for 88% of the 648 reports reviewed by the Internal Monitor—a slight increase since last period, but still below the required level. The Department indicated it would review all the inappropriately screened reports to identify the specific reasons for noncompliance.*

**Recommendations** ..... page 10

**This period, the Department didn't enter any of the names of foster care providers who had abused or neglected a child into its Central Registry.**  
*The Department was required to enter the names of 21 people into the Central Registry. None of those names were entered, for a compliance rate of 0%. The Department reported it would improve compliance by reviewing its data entry procedures and revising them accordingly.*

**Recommendations** ..... page 10

**The Department wasn't in compliance with important training requirements for foster parents and adoptive homes.** ..... page 10  
*All foster parents must complete annual training before a child in the Department's custody can be placed in their home, and the Department is required to track this training. The Department must also track the initial training (MAPP training) completed by foster and adoptive parents.*

*Since foster care was privatized, this training has been tracked by the Department of Health and Environment and an adoption contractor. Because these requirements weren't met last period, however, the Department decided to implement its own tracking system. That system isn't fully operational yet, so the Department conceded noncompliance this period. The Department expects the new system to be in place by July 1998; we'll monitor it next period.*

**Recommendation** ..... page 11

**The Department hasn't maintained two required computer systems to accurately track information about the children in foster care.** ..... page 11  
*The settlement agreement requires the Department to plan, develop, implement, and maintain a timely and accurate automated computer system to provide all the information it needs to manage the foster care system. The Department implemented this system—called the Family and Child Tracking System (FACTS)—in September 1997. However, until that system is determined to be timely and accurate, the Department is required to maintain two existing systems—an area office data system to track foster home resources and vacancies, and the Family Agenda Monitoring Elements (FAME) system.*

*Both systems were shut down in August 1997, and we don't know yet if the new FACTS system that replaced them is reliable (that system won't be formally assessed or verified until July 1998). As a result, we concluded the Department was not in compliance with these requirements.*

**Recommendations** ..... page 11

**This period, the parties agreed that the Department was in compliance with 9 long-outstanding requirements related to worker caseloads, the use of paraprofessional staff, and the development and implementation of needed services.** ..... page 12  
*None of these requirements will be formally monitored in the future. Children's Rights, Inc., however,*

*will directly monitor the Department's caseloads, as well as its plan to provide appropriate services and placements for children in foster care.*

**The parties agreed to drop formal monitoring for 13 other long-outstanding requirements related to staffing levels, assessments of placement and service needs, case planning, and records of visitation.** ..... page 13  
*This period, the parties agreed these requirements no longer would be formally monitored. Children's Rights, Inc., will directly monitor many of these requirements in the future.*

**APPENDIX A: Compliance and Reliability Definitions** ..... page 22

**APPENDIX B: Agency Responses** ..... page 25

This audit was conducted by Jennifer Wagner and Sonja Erickson. Barbara 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 (785) 296-3792, or contact us via the Internet at: [LPA@mail.ksleg.state.ks.us](mailto:LPA@mail.ksleg.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 the Department of Social and Rehabilitation Services' compliance with the foster care settlement agreement. Legislative Post Audit's role was to verify that the information the Department's internal monitor reported on its compliance was accurate and reliable.

This audit addresses the following question:

**Is the Department of Social and Rehabilitation Services 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 the Department's compliance, as well as the supporting documentation developed or provided by the Department. In addition, when necessary we conducted independent record checks to verify the information the Department had provided.

For the six-month period generally covered by this audit (January-June 1998), the internal monitor also reviewed hundreds of child abuse and neglect investigation and adoption case files. For the requirements subject to these two 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 5, 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 The Department 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.* originally 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 class action lawsuit contended the Department didn't comply with State and federal law, and was violating the constitutional rights of Kansas children.

### **The Department and the ACLU Ultimately Reached An Out-of-Court Settlement, Which the Court Approved in June 1993**

That settlement agreement is a 33-page document containing numerous requirements the Department had to adhere to by certain deadlines. Each requirement, or "element," was considered to be an important component of an adequate child welfare system, and was included to ensure that the needs of foster children in Kansas were being met. The areas covered by the agreement included:

- providing services to protect children from current abuse and to prevent further abuse
- providing case planning and case management for children in the Department's custody
- having guidelines for determining where a child should be placed when he or she is removed from home
- having procedures to effect adoptions as quickly as possible when a child is eligible for adoption
- maintaining sufficient financial resources to carry out Department policies and goals
- having enough adequately trained staff to meet the needs of foster children
- maintaining information systems within the Department to provide adequate and accurate information about children in the Department's custody
- establishing an internal monitoring unit within the Department to assess compliance with the agreement
- having procedures for assessing and enforcing compliance with the agreement

As of July 1995, Children's Rights, Inc., which is no longer affiliated with the ACLU, began to represent the plaintiff class in the Kansas lawsuit.

## **The Settlement Agreement Required an Independent Entity To Assess the Department's Compliance with that Agreement**

The settlement agreement required the Department to establish an internal monitoring unit to assess compliance. In addition, both parties to the lawsuit wanted Legislative Post Audit to play a role in this monitoring effort. Consequently, in May 1993 the Legislative Post Audit Committee directed Legislative Post Audit to conduct an ongoing performance audit assessing the Department's compliance with the settlement agreement, as well as the reliability of the Department's Internal Quality Assurance Monitoring Unit. The Committee agreed to this commitment on the condition that the Department would pay for Post Audit's costs associated with the project.

**The Department's Monitoring Unit serves as the front-line monitor reviewing Department-generated data and case files to assess the Department's compliance with each requirement.** This Unit prepares a report summarizing the information it reviewed and drawing conclusions about the Department's 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 testwork we perform can't ensure that all 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 six-month increments, with reports prepared at the end of each period.** For most requirements, the Department must maintain the required level of compliance for one continuous year. At that point, monitoring for a requirement can cease, although the Department still must stay in compliance. If the Department doesn't comply with a settlement element, however, that requirement "rolls over" into the next six-month period, and the monitoring clock starts over for that area.

## **Kansas' Foster Care System Now Is Administered by Both the Department's Division of Children and Family Services And by Private Contractors**

When the settlement agreement was signed in 1993, the Department administered the foster care system. In March 1997, it contracted with three non-profit agencies to manage foster care cases. The foster care system remains relatively unchanged, however. Children the court has placed in the Department's 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 home or facility 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 other entities the Department has contracted with.

The Department continues to be responsible for investigating allegations of child abuse or neglect, and for managing the cases of children placed in 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 the Department still is responsible for compliance with the terms of the agreement, even though daily case-management activities 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 the Department 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 helps mediate disagreements between the Department 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 the Department Complying with the Requirements of the Settlement Agreement?**

The requirements being assessed this monitoring period generally were for actions the Department was required to take during January-June 1998. A total of 77 requirements were originally due for assessment. However, for the following reasons only 31 of those requirements actually were monitored this period:

- monitoring of the 33 requirements related to Case Review 2 (covering management of foster care cases) was delayed because the Department's new information system wasn't accurate enough to identify the cases needed to review these requirements
- the parties agreed that 13 requirements no longer would be formally monitored

For the 31 requirements monitored this period, the Department was in compliance with 21 requirements (68%), and wasn't in compliance with 10 (32%).

The remainder of this report is divided into two sections. The section below describes our findings in more detail, as well as any corrective actions the Department reported it planned to take to come into compliance. The second section (shown in the matrix beginning on page 15) summarizes the Department's compliance over time with each requirement that's been monitored to-date. Finally, Appendix A contains the definitions of compliance and reliability we use in our monitoring work.

### **The Department Was in Compliance with Most Requirements Related to Investigating Reports of Abuse and Neglect and Handling Adoption-Related Activities, but an Assessment of Compliance with Case-Management Activities Had to be Delayed**

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

**This period, the Department came into compliance with 10 of the 12 requirements associated with Case Review 1 that are related to investigating the safety and status of children who may have been abused or neglected.** Beginning in July 1995, the Department was required to consistently and thoroughly investigate 90% of the bona fide reports of child abuse or neglect it received. The settlement agreement included the following requirements for the investigation process:

- assessing the risk of the child(ren) involved
- taking action to obtain medical services for the child, if necessary
- investigating the complaint by the assigned deadline, including interviewing all the appropriate parties, and completing the investigation within 25 days of accepting the original report of abuse
- assessing the needs and strengths of the child's family and developing a plan to improve conditions within that family
- having an uninvolved supervisor review any prior reports of abuse or neglect involving the same family or children to determine if there is any pattern of

- unsubstantiated reports of abuse
- requesting that the child be removed from the home only if the child is in imminent danger of serious injury, the alleged abuser has access to that child, and the non-abusing parent can't protect them.

The Department was in compliance with all but two requirements related to abuse and neglect investigations this period. If there have been two or more unsubstantiated reports (previously called unconfirmed reports) within two years of the current report, a supervisor must review the old reports. The Department met these requirements 83% of the time. Last period, the compliance rate was only 22%, so the Department has made significant improvement in this area.

We'll report on the Department's compliance with all these requirements next period.

**Monitoring of the 33 requirements related to Case Review 2 (covering management of foster care cases), was delayed because the Department's new information system wasn't accurate enough to identify the cases needed to review these requirements.** The settlement agreement included many requirements for managing a child's case properly. These requirements were designed to ensure that staff closely monitor each child's case to determine the best course of action in a timely manner, provide whatever services are needed to help the family reunite, or move the child on to an adoptive home as quickly as possible.

Beginning in January 1996, Department staff have been required to comply with these requirements 90% of the time. The Department conceded noncompliance with these requirements through December 1997, however, so they've never been monitored. This period, monitoring was scheduled to begin April 1998, but was delayed because the Department's new information system couldn't identify the cases needed to review these requirements.

The Department worked to improve the accuracy of its information system, and the case read started in October 1998. Because of the delay, final information about how effectively foster children's cases are being managed won't be available until April or May 1999.

**The Department was in compliance with both requirements assessed in Case Review 3, which covers adoption-related activities.** Adoption services also have been privatized. But, as with other requirements now being carried out by private contractors, the Department still is responsible for ensuring that the settlement requirements are met.

Beginning in July 1996, the Department was required to send information to support motions to terminate parental rights to the county or district attorney, and to send that information within the required time frame, for at least 90% of all applicable cases. This period, the Department met these requirements 96% and 94% of the time. We'll review these requirements again next period.

**The Department acknowledged it wasn't in compliance with one additional requirement related to adoptions.** The settlement agreement requires the Department to establish procedures to track final orders issued at hearings where

parental rights are terminated. This requirement was designed to ensure that the Department can act quickly to find adoptive homes once a child is legally free for adoption. The Department's tracking procedures involve two steps:

- When the court has a hearing to terminate parental rights, staff assigned to the case notify the Department's legal division. The area office attorney then enters that hearing date into a tracking log.
- Within six weeks, the attorney contacts the court to see if a final order terminating parental rights has been filed. After this initial contact, monthly contact is required until the final order is received. All contacts must be recorded in the tracking log.

This period, area office attorneys recorded these termination hearings only 85% of the time, and made the required court contacts only 53% of the time.

As with last period, the Department reported it was revising its policy manual and changing performance evaluation standards for area office attorneys in an effort to meet compliance with these requirements.

**Recommendations for Moving Children Through the  
Adoption Process More Quickly**

The Department should provide training to staff in the area offices that didn't send in all the information needed to file motions to terminate parental rights, or that didn't track final orders related to those motions, to ensure that those staff understand and comply with what's required of them in the future. If needed, the Department could identify and provide training in the procedures used successfully by the other area offices that were in compliance with these requirements.

**The Department Wasn't in Compliance with Two Requirements  
Related to Ensuring the Safety of Children**

These requirements relate to deciding which reports of child abuse and neglect should be investigated, and entering the names of foster care providers who are substantiated or validated child abusers (previously called confirmed abusers) into the Central Registry database.

**The Department inappropriately screened out some of the bona fide reports of abuse and neglect it received.** When the Department receives an allegation of child abuse or neglect, the staff person who receives the report must make a determination, based on the reporter's allegations, of whether the reporter is alleging abuse. If so, the staff person must "screen in" the case for further investigation. If not, the report may be "screened out."

Beginning in July 1995, the Department was required to properly screen 90% of all alleged abuse and neglect reports it received. The Department hasn't met this standard in any of the past monitoring periods we've reviewed. This period, the

Department made the proper screening decision for 88% of the 648 reports reviewed by the Internal Monitor—a slight increase since last period, but still below the required level. Some examples of reports that were screened out when they shouldn't have been are provided in the box below.

**The Department Inappropriately Screened Out Many Bona Fide Reports of Abuse or Neglect**

The following are some typical examples of reports of abuse and neglect that were screened out:

**Abuse or Neglect Alleged**

A reporter alleged that an 11-month-old child was left alone, and that he saw the child's mother pick the baby up by its arm and shake it.

A report alleged that three children under the age of seven were unsupervised while their mother slept, and that the house is filthy. Reporter also states that a mouse and a roach came out of the six-year-old's bookbag at school.

A mother admitted to punching and slapping her 14-year-old son. When the child was admitted to a shelter, staff observed scratches, red marks, and a bump on his head.

A reporter alleged that three children were abandoned by their mother and left with a mentally handicapped adult.

Report alleged that the parents of three-year-old and nine-year-old children used all their money on drugs, and that the children went without food.

A 13-year-old child allegedly had bloody sores all over his buttocks.

**Reason Why Not in Compliance**

Staff stated this report was screened out because they weren't able to locate the child. However, there were two addresses listed in the report, and there's no evidence that staff attempted to locate the child at either address.

A report that only alleges a dirty house may be screened out, but this report also alleged the children were unsupervised. Given the age of the children and the likelihood of illness from mice and roach infestation, this report should have been accepted for an investigation.

This report was screened out because a police report made at the time of the incident didn't note any injuries. The shelter worker who made the report, however, observed injuries.

Staff screened out this report, because they couldn't locate the children. Not only did the reporter give the name and address of the individual the children were left with, but he also provided staff with the names and phone numbers of several other people who may have been able to provide information. There's no evidence that staff followed up on this information.

A report of drug use can be screened out if no harm to the children is alleged. This report, however, alleged that the children have gone without food. Given the children's ages, it's likely that not having food in the house could cause them harm.

This report was screened out because staff saw the child three days earlier, and he didn't have any injuries then.

Generally, noncompliance seemed to result from staff's failure to follow the assessment and screening standards required by the Department's policy manual. Those policies require staff to assess all reports of suspected child abuse and neglect unless the report falls under one of 14 policy exceptions. In many cases, these exclusions were misapplied. For example, a report by a non-custodial parent alleging that the ex-spouse hit their child was screened out as a "custody dispute." Although the policy manual allows custody disputes to be screened out, this report contains an allegation of abuse ("hitting"), and must be investigated unless there's substantial evidence the report wasn't made in good faith.

Also, for many cases in the current monitoring period, Department staff apparently still weren't aware that changes to an applicable Kansas Administrative Regulation had lowered the threshold of abuse and neglect from an "imminent" or immediate risk of harm standard, to a "likelihood" of harm standard. These changes occurred in January 1996, nearly two years ago.

Finally, it appears as though some staff may be substituting "bruising" for "likelihood of harm" as the standard when deciding if a report alleges abuse. The absence of marks or bruises doesn't mean there wasn't abuse, and it's not an allowable reason to screen out a report. Slapping, hitting, or punching a child without leaving bruises still presents a "likelihood of harm," and all reports that contain these allegations must be investigated.

The Department concurred with this finding of noncompliance. As with last period, the Department reported it would improve compliance by reviewing the cases found to be in noncompliance and developing information packets for each area office.

**During this period, Department staff hadn't entered any of the names of foster care providers whose abuse or neglect of a child had been substantiated or validated into its Central Registry database.** Having these names in the database is a critical step in ensuring that foster children are safe. For example, the Department of Health and Environment checks this database before issuing licenses to foster parents, workers in foster care facilities, day care providers, and the like.

The Department hasn't met this standard in any of the past monitoring periods we've reviewed. This period, the Department was required to enter the names of 21 people into the Central Registry. None of those names were entered, for a compliance rate of 0%.

As with last period, the Department reported it would improve compliance by reviewing its data entry procedures to determine why the system isn't accurate or timely. Once it has identified the source of the problem, it said it planned to change its procedures accordingly.

### **Recommendations Related to Ensuring the Safety of Children**

1. The Department should provide Statewide training on assessment and screening decisions for reports of alleged child abuse and neglect. In addition, the Department should revise the applicable sections of its Policies and Procedures Manual to conform with the new "likelihood" of harm standard mandated by Kansas Administrative Regulation 30-46-10.
2. The Department should identify the specific reasons why foster care providers whose abuse or neglect of a child has been substantiated or validated haven't had their names entered into the Central Registry database. It then should develop appropriate procedures and provide training to ensure that staff understand what they are supposed to do, and by when. The Department also should make someone responsible on an ongoing basis for ensuring that these names are entered into the Central Registry when they are supposed to be.

### **The Department Wasn't in Compliance with Important 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 the Department's custody can be placed in their home. This training provides continuing education to help keep their parenting skills up-to-date.
- To track this training, the Department is required to maintain an accurate and up-to-date computer system.
- In addition, the Department must maintain an accurate and up-to-date computer system to record the initial training (MAPP training) parents must complete before being licensed as a foster parent or approved as an adoptive home.

Having an accurate system to track training is important. Without one, there's an increased risk that foster or adoptive parents won't get the training they're required to have, and won't have the skills and information they need to best meet the child's needs.

Since privatization, the MAPP training system has been maintained by Kansas Families for Kids, an adoption contractor, and the foster parent training system has been maintained by the Department of Health and Environment, the agency that licenses foster care providers. Because these requirements weren't in compliance last period, however, the Department decided to implement its own recordkeeping system. That system isn't fully operational yet, so the Department conceded noncompliance with these requirements and they weren't monitored this period. The Department expects the system to be in place by the next monitoring period.

### **Recommendation for Improving Training**

The Department of Social and Rehabilitation Services should continue to work to ensure that its system to record training for adoptive homes and foster parents is implemented by the new July 1 deadline.

### **The Department Hasn't Maintained Two Required Computer Systems to Accurately Track Information About the Children in Foster Care**

The settlement agreement requires the Department to plan, develop, implement, and maintain an automated computer system to provide all the information it needs to manage the foster care system. Because the deadline for implementing this system isn't until July 1998 (monitoring period #10), the Department is required in the meantime to maintain two existing systems. One is an area office data system to track foster home resources and vacancies. The other system--FAME (the Family Agenda Monitoring Elements system)--is supposed to track the following information:

- whether staff have assessed the strengths and needs of the child's family before the child is taken into the Department's custody
- what services have been provided for each child, and how long the child has been receiving those services
- how long the child has been in Department custody, and where she or he has been placed
- case-specific outcomes
- each child's individual placement history

In August 1997, the Department shut down the FAME and area office data systems and began implementing a new system called FACTS (the Family and Child Tracking System). This new system's reliability won't be formally assessed or verified until the next monitoring period. Because the old systems were shut down before the new system had been tested and determined to be reliable, the Department is out of compliance with the requirements in this area.

### **Recommendations for Improving the Accuracy of the Department's Foster Care Information System**

The Department should continue working to validate its new information system—the Family and Child Tracking System—in order to meet the settlement agreement's July 1998 monitoring date. If the system can't be validated by that date, the Department should develop a plan for gathering the required management information in the interim.

**The Department Came Into Compliance with Nine Long-Outstanding Requirements Related to Worker Caseloads, the Use of Paraprofessional Staff, and the Development and Implementation of Needed Services**

For these areas, monitoring had been suspended since July 1996 to give the parties time to develop mutually acceptable compliance criteria. This period they reached agreements for all nine requirements. Our findings are summarized below.

**Requirements related to worker caseloads.** The settlement agreement required the Department to establish caseload guidelines for determining the appropriate number of cases each worker can handle effectively, and to measure actual worker caseloads every year until an information system was in place that accurately tracked these caseloads.

This period the parties agreed on caseloads of 12.4 to 18.6 weighted cases for Department staff, and a maximum of 25 cases for contract agency workers. The parties agreed the Department had demonstrated compliance with this requirement, so neither Post Audit nor the Monitoring Unit assessed compliance with it. Monitoring for this requirement was a one-time event, so formal monitoring will stop.

The parties also agreed the Department was in compliance with the annual caseload study requirement, and that it will no longer be monitored by Post Audit or the Monitoring Unit. Instead, it will be directly monitored by Children's Rights, Inc. The Department now is required to submit quarterly caseload reports for both its staff and for contract workers that include:

- the number of weighted cases in each office
- the number of workers in each area
- the average number of cases per worker in each area

**Requirements related to the use of paraprofessional staff.** The Department was required to evaluate whether its paraprofessionals are being used effectively. This period, the parties agreed the Department had complied with this requirement, so neither Post Audit nor the Monitoring Unit assessed compliance with it. Formal monitoring for this requirement also will stop.

**Requirements related to the development and implementation of services.** The settlement agreement required the Department to develop and implement a plan for providing appropriate services and placements for children in foster care at least 90% of the time.

The parties also agreed the Department was in compliance with these requirements, so neither Post Audit nor the Monitoring Unit assessed compliance with them. Again, monitoring of these requirements was a one-time event, and formal monitoring will stop. However, Children's Rights, Inc., will continue to monitor compliance with these requirements separately in the future.

**The Parties Agreed To Drop Formal Monitoring for 13 Other Long-Outstanding Requirements Related to Staffing Levels, Assessments of Placement and Service Needs, Case Planning, And Records of Visitation**

For some of these requirements, monitoring had been suspended for years while the parties tried to develop mutually acceptable compliance criteria. For example:

- The settlement agreement required the Department to maintain staffing levels that were sufficient to achieve an equitable workload distribution, and to comply with caseload guidelines. Monitoring of these requirements has been suspended for six consecutive monitoring periods.
- Beginning in January 1996, the Department was required to ensure that children actually received the types of services and placements that are appropriate for them at least 90% of the time. In addition, the Department has been required to conduct annual assessments of placement and service needs since January 1997.

This period, the parties agreed these requirements no longer would be formally monitored by Post Audit or the Internal Monitor. No assessment of compliance was made; however, Children's Rights, Inc., has indicated it will begin directly monitoring these requirements.

The parties also agreed to drop six of the requirements relating to Case Review 2 (management of foster care cases). Those requirements were:

- providing a case planning brochure to parents and other participants in the case planning process
- ensuring that third parties and all other participants in the case planning process get case planning training
- specifying the time, location, and duration of parent/child, worker/child, and worker/parent visits

Children's Rights, Inc., doesn't plan to monitor these requirements in the future.

## **Summary of Compliance for Monitoring Periods #1 - #9**

The following pages summarize the Department's compliance over time for each requirement that's been monitored to-date. 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 or reporting has been suspended or delayed by agreement of the parties (i.e., the parties have agreed to delay reporting or have agreed to monitor this requirement at a future date)
- N = Not in compliance (we reported compliance percentages, when available)
- NA = Not assessed (i.e., the requirement isn't due for an assessment this period)
- P = The parties are negotiating issues related to this requirement (i.e., the parties are defining settlement language or the parties haven't yet agreed to a methodology to measure compliance)
- R = This requirement has been removed from the Settlement, by agreement of the parties
- Y = The Department has demonstrated continuous compliance and formal monitoring of this requirement will stop
- /CRI = The parties have agreed that formal monitoring of this requirement will stop, but Children's Rights, Inc. will monitor it in the future

	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		
<b>Actions First Required During 1st Monitoring Period</b>											
1	Maintain the Family Agenda Monitoring Elements (FAME) system until the new information system (FACTS) is implemented.	D	32% N	83% N	86% N	87% N	N	75% N	N	N	
2	Develop caseload guidelines, using reasonable professional standards, which identify a workload workers can handle effectively.	D	N	N	N	N	D	D	D	C	Y
3	Maintain the required level of Flex Funds (\$ for services that help children remain home or return home, rather than enter custody).	N	P	P	C						Y
4	Implement the revised Family Emergency Assistance Plan (provides emergency assistance to needy families with kids under 21).	C		P	C						Y
5	Review current placements and plans for plaintiffs Brooks and Darrell B.	N									Y
6	Maintain funding for emergency shelter grants.	N		C							Y
7	Maintain funding for services at \$6.5 million.	N	C								Y
8	Contract for an assessment of Statewide and regional preventive service needs.	C									Y
9	Same as above, for placement needs.	C									Y
10	Same as above, for service needs for children in custody.	C									Y
11	Maintain the staffing and caseload levels of the Family Preservation Unit.	92% C	93% C								Y
12	Maintain the maximum payment to foster parents caring for children requiring extraordinary care.	C	C								Y
13	Maintain at least 146 therapeutic foster home beds.	C		C							Y
14	Maintain Community Resource Development Unit.	C	C								Y
15	Assign attorneys to every area office.	C	C								Y
16	Complete an assessment of adoption-matching policies and practices.	C									Y
17	Review certain case-handling requirements for the named plaintiffs Sheila and Thomas A., and Brooks and Darrell B.	C									Y
18	Assess current capabilities, future needs, and planned modifications of the Child Abuse/ Neglect Information System (CANIS).	C									Y
19	Continue KU Client Outcomes Project	C									Y
20	Maintain the Program Analysis Unit to provide ongoing management information about Youth and Adult Services programs.	C		C							Y
21	Provide Family Agenda training to social workers, paraprofessionals, and attorneys.	D	93% C								Y
22	Design a new strategy for recruiting prospective adoptive parents.	D	C		C						Y

	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														
23	Maintain Training Development Committee to develop a competency-based training system.										D	C											Y
24	Provide Family Agenda Policy Manual training to social workers, paraprofessionals, and attorneys.										83% C	91% C											Y
25	Use good-faith efforts to obtain State and federal funding at the required levels.										D	N	C										Y
26	Complete the Manhattan pilot project which uses current resources to contract for adoptive-home assessments.										D	C											Y
27	Maintain an accurate and up-to-date personnel training record keeping system.										D	C	C										Y

Actions First Required During 2nd Monitoring Period																						
28	Conduct annual studies to determine the actual caseloads of each Youth Services social worker and supervisor.										P	C	C	NA	C	NA	D	C/CR		Y		
29	Evaluate the effectiveness of paraprofessional staff (are social workers doing non-social-work activities that paraprofessionals could do?)										N	N	N	N	D	D	D	C		Y		
30	Maintain up-to-date and accurate Handbook of Services that includes information about placements and services, and make it available to appropriate staff.										93% C	54% N	63% N	64% N	86% N	93% C	100% C				Y	
31	Assess Statewide and regional preventive service needs, evaluate effectiveness of Family Preservation Unit staffing, and identify strategies to help area offices develop resources.										N	N	N	N	D	C					Y	
32	Same as above, for placement needs.										N	N	N	N	D	C					Y	
33	Same as above, for service needs for children in custody.										N	N	N	N	D	C					Y	
34	Provide basic core curriculum training to staff within first six months of employment.										80% C	88% N	93% C	94% C							Y	
35	Provide training to supervisors within six months of becoming a supervisor.										100% C	71% N	100% C	100% C							Y	
36	Don't discourage establishment of Citizen Review Boards or CASAs.										C		C									Y
37	Maintain an internal quality assurance system.										C	C										Y
38	Provide an After Hours Consultation Directory to law enforcement agencies.										C	C										Y
39	Develop written long-term foster care and independent living policies.										C											Y
40	Develop a brochure on the case planning process for parents and other participants.										C											Y

		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	
<b>Actions First Required During 3rd Monitoring Period</b>											
41	Properly assess and screen reports of alleged abuse and neglect.			71% N	66% N	D	83% N	85% N	86% N	88% N	
42	Implement an area office data system for family foster homes.			N	INC	46% N	44% N	N	N	N	
43	Enter confirmed reports of abuse/neglect by foster parents or other providers in CANIS.			64% N	11% N	38% N	N	N	38% N	0% N	
44	CR1. Conduct a preliminary risk assessment as part of protective services investigation.			77% N	64% N	67% N	N	N	N	C	
45	CR1. Initiate a protective services investigation by the assigned deadline.			73% N	72% N	75% N	N	N	N	C	
46	CR1. Complete an assessment of the family's strengths and needs.			73% N	83% N	81% N	N	N	N	C	
47	CR1. Complete a family-based assessment within the required timeframe.			75% N	80% N	82% N	N	N	N	C	
48	CR1. Complete a family service plan, if required.			65% N	73% N	81% N	N	N	N	C	
49	CR1. Complete a family service plan within the required timeframe.			68% N	72% N	77% N	N	N	N	C	
50	CR1. Interview all the appropriate parties during a protective services investigation.			61% N	60% N	70% N	N	N	N	C	
51	CR1. Complete protective service investigations within the required timeframe.			46% N	51% N	60% N	N	N	N	C	
52	CR1. Take reasonable action to obtain medical services if they're necessary.			P	P	P	N	N	N	C	
53	CR1. Review previous unconfirmed reports when there are 3 unconfirmed reports on the same family or child within a 2-year period.			22% N	19% N	22% N	N	N	N	NC	
54	CR1. Document the results of the review of 3 unconfirmed reports on the same family or child within a 2-year period.			22% N	19% N	22% N	N	N	N	NC	
55	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	N	C	
56	CR1. Review reports from law enforcement to determine if further SRS investigation is necessary.			97% C	100% C						Y
57	CR1. Document whether further investigation of these reports is necessary.			97% C	100% C						Y
58	Provide advanced, client-centered management training to eligible staff.			97% C	98% C						Y
59	Develop a plan for preventive services that considers existing and potential resources, lists steps to develop them, sets goals to address needs, lists steps to achieve goals, and gives a timetable to implement the plan.			N	N	N	D	D	D	C	Y
60	Same as above, for placement needs.			N	N	N	D	D	D	C	Y

		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	
61	Same as above, for services for children in custody.			N	N	N	D	D	D	C	Y
62	Monitor workers' caseloads and take steps to achieve an equitable distribution of cases among social work staff.			P	P	P	P	P	D	R/CRI	Y
63	Maintain sufficient staff to comply with caseload guidelines and the settlement agreement.			P	P	P	D	D	D	R/CRI	Y
64	Complete a study of the feasibility of decentralizing the adoption program.			C							Y
65	Contact all County/District attorneys and request that they pass on reports of abuse and neglect.			C							Y
66	Establish a minimum number of hours of competency-based pre-service training.			C							Y
67	Establish a minimum number of hours of competency-based annual training.			C							Y
68	Develop a competency-based training system.			C							Y

Actions First Required During 4th Monitoring Period											
69	CR2. Develop a written case plan for children in Dept. custody.				N	N	N	N	N	D	
70	CR2. Develop a written case plan for families of children in Dept. custody.				N	N	N	N	N	D	
71	CR2. Complete a written case plan within the required timeframe.				N	N	N	N	N	D	
72	CR2. Update case plans for children in Dept. custody within the required timeframe.				N	N	N	N	N	D	
73	CR2. Include services to prevent out-of-home placement in the initial case plan.				N	N	N	N	N	D	
74	CR2. Describe the reason for agency involvement in the initial case plan.				N	N	N	N	N	D	
75	CR2. Identify a planning goal in the case plan for children in Dept. custody.				N	N	N	N	N	D	
76	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	N	D	
77	CR2. Include steps to meet the objectives of the case plan.				N	N	N	N	N	D	
78	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	N	D	
79	CR2. Include a discussion of compliance with the previous case plan in the administrative review.				N	N	N	N	N	D	
80	CR2. Specify in the case plan the projected date for achieving the case planning goal.				N	N	N	N	N	D	
81	CR2. Include in the administrative review a discussion of the continuing need for placement and services.				N	N	N	N	N	D	

		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	
82	CR2. Adhere to Department policies on long-term foster care and independent living plans.				N	N	N	N	N	D	
83	CR2. Notify parents and appropriate parties of the time, date, and place of the administrative review within the required timeframe.				N	N	N	N	N	D	
84	CR2. Schedule administrative reviews to maximize participation.				N	N	N	N	N	D	
85	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	N	D	
86	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	N	D	
87	CR2. Ensure that children are placed only in licensed homes, or homes meeting certain exceptions.				N	N	N	N	N	D	
88	CR2. Develop a written parent/child visitation plan, when appropriate, with visits scheduled at the required frequency.				N	N	N	N	N	D	
89	CR2. Schedule unsupervised visits unless court ordered or for reasonable cause.				N	N	N	N	N	D	
90	CR2. Schedule supervised visits in the most home-like setting possible.				N	N	N	N	N	D	
91	CR2. Develop a written visitation plan for siblings and schedule visits at the required frequency.				N	N	N	N	N	D	
92	CR2. Develop a written visitation plan for worker/parent and schedule visits at the required frequency.				N	N	N	N	N	D	
93	CR2. Develop a written worker/child visitation plan and schedule visits at the required frequency.				N	N	N	N	N	D	
94	CR2. Designate the worker who will be the primary contact for worker/child contacts.				N	N	N	N	N	D	
95	CR2. When a child has been in out-of-home placement for one year, consider a plan of adoption.				N	N	N	N	N	D	
96	CR2. If a plan of adoption is not established, document the basis for the decision.				N	N	N	N	N	D	
97	CR2. Determine if relinquishment is appropriate when adoption is established as the permanency plan.				N	N	N	N	N	D	
98	CR2. Discuss relinquishment with parents, if appropriate.				N	N	N	N	N	D	
99	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	D	
100	CR2. Only place children in satellite homes where foster parents have completed the required number of hours of child-welfare training prior to placement.				N	N	N	N	N	D	

	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	
101				N	N	N	N	N	D	
102				N	N	N	N	N	R	Y
103				N	N	N	N	N	R	Y
104				N	N	N	N	N	R	Y
105				N	N	N	N	N	R	Y
106				N	N	N	N	N	R	Y
107				N	N	N	N	N	R	Y
108				P	P	P	P	D	R/CRI	Y
109				P	P	P	P	D	R/CRI	Y
110				P	P	P	P	D	R/CRI	Y
111				87% C	94% C					Y
112				81% C	96% C					Y
113				91% C	95% C					Y
114				C						Y
115				C						Y
116				C						Y
117				C						Y

Actions First Required During 5th Monitoring Period											
118	Maintain accurate and up-to-date MAPP training record system.					INC	N	N	N	N	
119	Implement and maintain accurate and up-to-date annual foster parent training record system.					INC	N	N	N	N	
120	Provide annual child welfare training to all foster parents.					INC	N	N	N	N	
121	Make diligent efforts to learn promptly of filing of journal entries terminating parental rights.					N	N	N	N	N	
122	CR3. Send information for motion to terminate parental rights to County/District attorney.					83% C	86% N	93% C	87% N	96% C	
123	CR3. Send information for motion to terminate parental rights, within the required timeframe.					73% N	79% N	91% C	85% N	94% C	

	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	
124					N	D	D	D	C	Y
125					P	D	D	D	C	Y
126					N	D	D	D	C	Y
127					88% C	87% N	100% C	100% C		Y
128					56% N	71% N	100% C	97% C		Y
129					100% C	100% C				Y
130					100% C	100% C				Y
131					100% C	100% C				Y
132					100% C	100% C				Y
133					96% C	98% C				Y
134					100% C	100% C				Y
135					91% C	95% C				Y
136					83% C	97% C				Y
137					97% C					Y

Actions First Required During 8th Monitoring Period										
138						N	N	C		Y

Actions First Required During 7th Monitoring Period										
139							D	D	R/CRI	Y
140							D	D	R/CRI	Y
141							C			Y

## **APPENDIX A**

### **Compliance and Reliability Definitions**

This appendix provides the definitions of compliance and reliability that we used in our assessments.

• Foster Care Settlement Agreement •

Rating System for SRS' Compliance with  
the Settlement Agreement

COMPLIANCE DEFINITIONS

IN  
COMPLIANCE

**In compliance**--For an element to be "In Compliance," all criteria must be met:

- SRS' source documents were accessible
- SRS met the required specifications in the settlement agreement completely

FACTORS  
PREVENTED  
VERIFICATION  
OF COMPLIANCE

**Factors Prevented Verification of Compliance**--An element is categorized as "Factors Prevented Verification of Compliance" if either of the following conditions existed:

- the parties haven't agreed on the criteria necessary for compliance and no monitoring has taken place. (i.e., the parties are defining settlement language)
- the Internal Monitoring Unit hasn't yet completed its review, and LPA lacks the resources to engage in full, direct monitoring of an element

NOT IN  
COMPLIANCE

**Not in Compliance**--Any of the following problems causes an element to be "Not in Compliance":

- SRS didn't meet the required specifications in the settlement agreement
- SRS provided the documentation/analysis spelled out in the Monitoring Plan which it said showed it had complied with the Settlement Agreement; however, in our opinion, that documentation, or additional testwork we performed, didn't provide evidence that the Department had complied with the Settlement Agreement
- SRS failed to provide the Internal Monitoring Unit with the documentation necessary to complete its review, or otherwise prevented an assessment
- SRS source documents weren't available for review
- source of SRS data was unreliable
- SRS has acknowledged noncompliance (SRS has prepared a corrective action plan for coming into compliance together with a new remonitoring date)

• Foster Care Settlement Agreement •

**Rating System for the Reliability of  
the IQAMU's Monitoring Work**

**RELIABILITY DEFINITIONS**

---

**RELIABLE**

**Reliable**--For an element to be "Reliable," all criteria must be met:

- all IQAMU documentation required was completed for review
  - IQAMU accurately reflects SRS' performance for the items we verified within sampling constraints
  - IQAMU's analyses and/or calculations we verified were performed correctly
  - IQAMU's conclusions reasonably related to the information in the SRS files
- 

**FACTORS  
PREVENTED  
DETERMINATION  
OF RELIABILITY**

**Factors Prevented Determination of Reliability**--An element is categorized as "Factors Prevented Determination of Reliability" if either of the following conditions existed:

- IQAMU, or other contracted entity, had not performed review work required
  - IQAMU source documents were not available for review
- 

**NOT  
RELIABLE**

**Not Reliable**--Any of the following problems causes an element to be "Not Reliable":

- facts/data reported by the IQAMU were not substantiated by source documents or by Legislative Post Audit's reasonable interpretation of the facts in the source documents
- Conclusions of the IQAMU regarding compliance were not supported

**If interpretation discrepancies arise after the IQAMU has completed its work and the IQAMU changes its conclusions because of the parties' decisions, our assessment of the IQAMU's reliability will not be affected.**

## **APPENDIX B**

### **Agency Response**

On November 25, we provided copies of the draft audit report to the Department of Social and Rehabilitation Services and to 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 or conclusions.

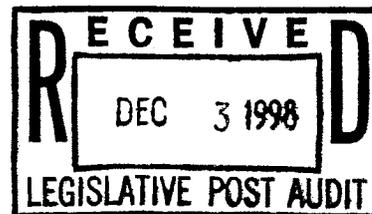


KANSAS DEPARTMENT OF SOCIAL  
AND REHABILITATION SERVICES

915 SW HARRISON STREET, TOPEKA, KANSAS 66612

ROCHELLE CHRONISTER, SECRETARY

December 4, 1998



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

**RE: Comments to the Draft copy of 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 #9, covering the period of January-June 1998.**

Dear Ms. Hinton:

The Department is in receipt of the draft report completed by Legislative Post Audit and distributed for comments. Comments are attached to this letter.

Overall we are pleased with the progress demonstrated during this reporting period. Through the efforts of the Task Force established by Judge Buchele, the parties have reached agreement on many issues that have been outstanding for quite some time. In addition, reading has begun for Case Review 2, Case Planning for Children in Custody and the first results since 1996 are available for Case Review 1, Protective Services.

It is these results which are most gratifying as they relate to a critical part of the child welfare system and speak specifically to the protection of children. There are 26 requirements and the Department was successful in demonstrating compliance in 24 areas. As the report does not provide detail on these requirements, we have attached the actual questions and compliance percentages for the January - June 1998 review period. This will allow the reader to have a better understanding of the actions taken to protect children in Kansas. It is through the dedication of the Task Force, the parties and most of all, the staff of SRS that has led to success in these areas, and I congratulate them on work well done.

Regrettably, there are still some areas of noncompliance. Action has been taken which is believed will result in findings of compliance in the future. One such area is entering the names of validated providers into the Central Registry. Unfortunately, the report does not clearly explain that compliance is not simply based on entering a name in a database. There are multiple decision points in this process and noncompliance can be found at any one of those points. We have attached a flow chart to illustrate this complex process and are closely reviewing each step to ensure that names are entered as timely as due process allows.

Thank you for the opportunity to review and comment on this draft report. Please contact us if you have any questions regarding the attached comments.

Sincerely,

A handwritten signature in cursive script that reads "Rochelle Chronister".

Rochelle Chronister  
Secretary

**General:** The Draft report references the findings of "unconfirmed" and "confirmed". The Department requests the report use the correct terminology of "unsubstantiated", "substantiated" and "validated".

**Page 2, The Department and the ACLU Ultimately Reached...:** The Department requests the second sentence read "**Each requirement, or "element", was considered to be an important component of an adequate child welfare system**". The activities in the Settlement Agreement describe adequate protection responses for all the children in Kansas.

**Page 5, The Department was in Compliance With..., 1<sup>st</sup> Sentence:** This sentence reads in part, "...these requirements generally are assessed during the Internal Monitor's review of foster children's case files." The Department requests the sentence read "**...these requirements generally are assessed during the Internal Monitor's review of case files.**" The case reviews include a review of files where children are not in the custody of the state or are not placed out of home if in custody.

**Page 6, Bullet, "Requesting that the child...":** This bullet reads "requesting that the child be removed from the home if the child is in imminent danger of serious injury and the alleged abuser has access to that child". The Department requests this bullet read "**requesting that the child be removed ONLY when the child is in imminent danger of serious injury and they cannot be protected due to the perpetrator's access and the non-abusing parent cannot protect them.**" The Department agreed in the Settlement to only request removal when all three conditions are present.

**Page 6, 7 unconfirmed/confirmed:** The Department requests the report reflect the correct terminology of findings: unsubstantiated, substantiated or validated.

**Page 7, The Department inappropriately screened out..., 1<sup>st</sup> Sentence:** The first sentence reads in part "...person who receives the report must make a determination, based on the reporter's allegations, of whether the reporter is alleging abuse." The Department request the sentence read, "**...person who receives the report must make a determination, based on the reporter's allegations, of whether the reporter is alleging abuse that meets the definitions established in the Children in Need of Care statute**".

**Page 7, The Department inappropriately screened out...Last Paragraph:** The Department requests the last sentence read, "**This period, the internal monitors reviewed a sample (648) of the reports screened out and found that 88% of those sampled were appropriately screened out**".

**Page 8, The Department inappropriately screened out...Box:** The Department continues to request the removal of the anecdotal examples used to illustrate noncompliance of the screened out reports. Inclusion of these examples are not consistent with the reporting methodology of the Department's compliance with the Settlement Agreement.

**Page 9, 3<sup>rd</sup> Paragraph & Box, 1<sup>st</sup> Recommendation:** This paragraph does not reflect the action the Department has taken to demonstrate compliance in future reviews. 1) In July 1998, the Commission of Children and Family Services issued a draft manual clarifying screening procedures and included a definition of "likelihood"; 2) In August 1998, the Department conducted statewide training on receipt of information and supervisory screening process, and 3) In August 1998, staff met with the internal monitors to clarify application of policies. Due to the monitoring schedule of this requirement, the full impact of these actions will not be reflected until the October 1998-April 1999 review period.

**Page 10, 1<sup>st</sup> Bullet:** The first sentence of this bullet indicates that "all foster parents must complete 16 hours of annual training before they can be relicensed". This is incorrect. The Kansas Department of Health and Environment (KDHE) criteria for relicensure of foster parents includes completing six hours of training. The Department agreed in the Settlement to require 16 hours of annual child-welfare training before a child in SRS custody can be placed in the foster home. Therefore, the Department requests this sentence read "**All foster parents must complete 16 hours of annual training before a child in the custody of SRS can be placed in the home**".

**Page 10, 2<sup>nd</sup> and 3<sup>rd</sup> Bullets:** The draft report references the requirement to maintain a computer system to record training of foster parents. The Department agreed in the Settlement to "maintain an accurate and up-to-date *standardized* system".

**Page 11, The Department Hasn't Maintained Two Required Computer Systems:** As in the last report, the Department requests the final report clarify this discussion. The draft reports states that since the "deadline" for implementing the new system isn't until July 1998, "the Department is required in the meantime to maintain two existing systems". This is incorrect. In the Settlement Agreement, the Department agreed to maintain the two systems mentioned *until* the implementation of the new system. While the new system will not be reviewed for compliance until after July 1, 1998, the Department implemented the system in September 1997. As such, the two systems in question are no longer maintained.

**CASE REVIEW #1 - INVESTIGATION AND ASSESSMENT  
PRELIMINARY RESULTS JANUARY-JUNE 1998**

OVERVIEW			
Number of Questions	Questions No Longer Monitored Due to Successful Compliance	Remaining Questions to be Monitored	Number of Questions Compliant Jan-Jun 98
28	2	26	24
			Number of Questions Noncompliant Jan-Jun 98
			2

Below please find a listing of those questions still being monitored and the preliminary results for the January-June 1998 review period:

<p><b><u>SRS Obligation:</u></b> When an alleged abuse/neglect report is received, SRS will conduct a Preliminary Risk Assessment.</p> <p>Does the record show the required factors were considered in setting the response time?</p> <p>Was the established response time supported by documentation in the record?</p> <p>Were all reports of serious physical injury or serious deterioration or sexual abuse referred to Law Enforcement?</p>	<p>State Total Jan-Jun 98 Standard: 90%</p> <p>99%</p> <p>100%</p> <p>98%</p>
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<p><b><u>SRS Obligation:</u></b> After conducting a Preliminary Risk Assessment, SRS will initiate a protective services investigation. A protective services investigation is initiated when SRS has responded and ascertained the safety of the child(ren).</p> <p>Did the worker ascertain the safety of the child(ren) within the response time set?</p> <p>If the child(ren) was in need of protective action, did the worker take the necessary protective action by the deadline?</p>	<p>State Total Jan-Jun 98 Standard: 90%</p> <p>98%</p> <p>100%</p>
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<p><b><u>SRS Obligations:</u></b> When a CINC report is accepted, SRS will complete a Family Based Assessment (FBA). SRS will complete an FBA within 45 working days of date accepted.</p> <p>If the FBA was terminated before it was completed, what was the reason?</p> <p>Is there a clearly labeled "Family Based Assessment Report" that summarizes the Family Based Assessment?</p> <p>Was the FBA completed within 45 working days of the date this report was accepted for further assessment?</p>	<p>State Total Jan-Jun 98 Standard: 90%</p> <p>99%</p> <p>97%</p> <p>97%</p>
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<b><u>SRS Obligations:</u></b> When the need for a family service plan is indicated, SRS will complete a family service plan. SRS will complete a family service plan within 45 working days of accepting a report.	State Total Jan-Jun 98 Standard: 90%
Was an initial service plan developed?	95%
Was the FBA completed within 45 working days of the date this report was accepted for further assessment?	97%

<b><u>SRS Obligation:</u></b> SRS will interview all appropriate persons during the investigation process.	State Total Jan-Jun 98 Standard: 90%
Was the caretaker(s) interviewed in conjunction with the Protective Services investigation for this case?	94%
Was the alleged victim(s) interviewed in conjunction with the Protective Services investigation for this case?	99%
Was the alleged perpetrator(s) offered an opportunity to be interviewed in conjunction with the Protective Services investigation for this case?	99%
Were all other parties identified by the social worker as relevant interviewed?	100%

<b><u>SRS Obligation:</u></b> When conducting an investigation, SRS will take reasonable action when it has determined medical services are necessary.	State Total Jan-Jun 98 Standard: 90%
Was a determination made by SRS that the child(ren) was in need of immediate medical services?	100%
If SRS determined that the child(ren) was in need of immediate medical care, did SRS take all reasonable action to obtain those medical services?	100%

<b><u>SRS Obligation:</u></b> SRS will complete a protective services investigation within 25 working days of the date mandated for initiation. An investigation is completed with a written finding entered in the record.	State Total Jan-Jun 98 Standard: 90%
Was the case finding made within 25 working days from the date this report was accepted for assessment?	95%
Was a finding made for each alleged victim?	98%
Does the documentation reasonably support the conclusion that abuse or neglect more likely than not occurred in this particular situation? Does the documentation reasonably support the conclusion that abuse or neglect could not be substantiated (or more likely than not did not occur) in this particular situation?	98%
Did the supervisor or his or her designee sign off on the finding?	99%

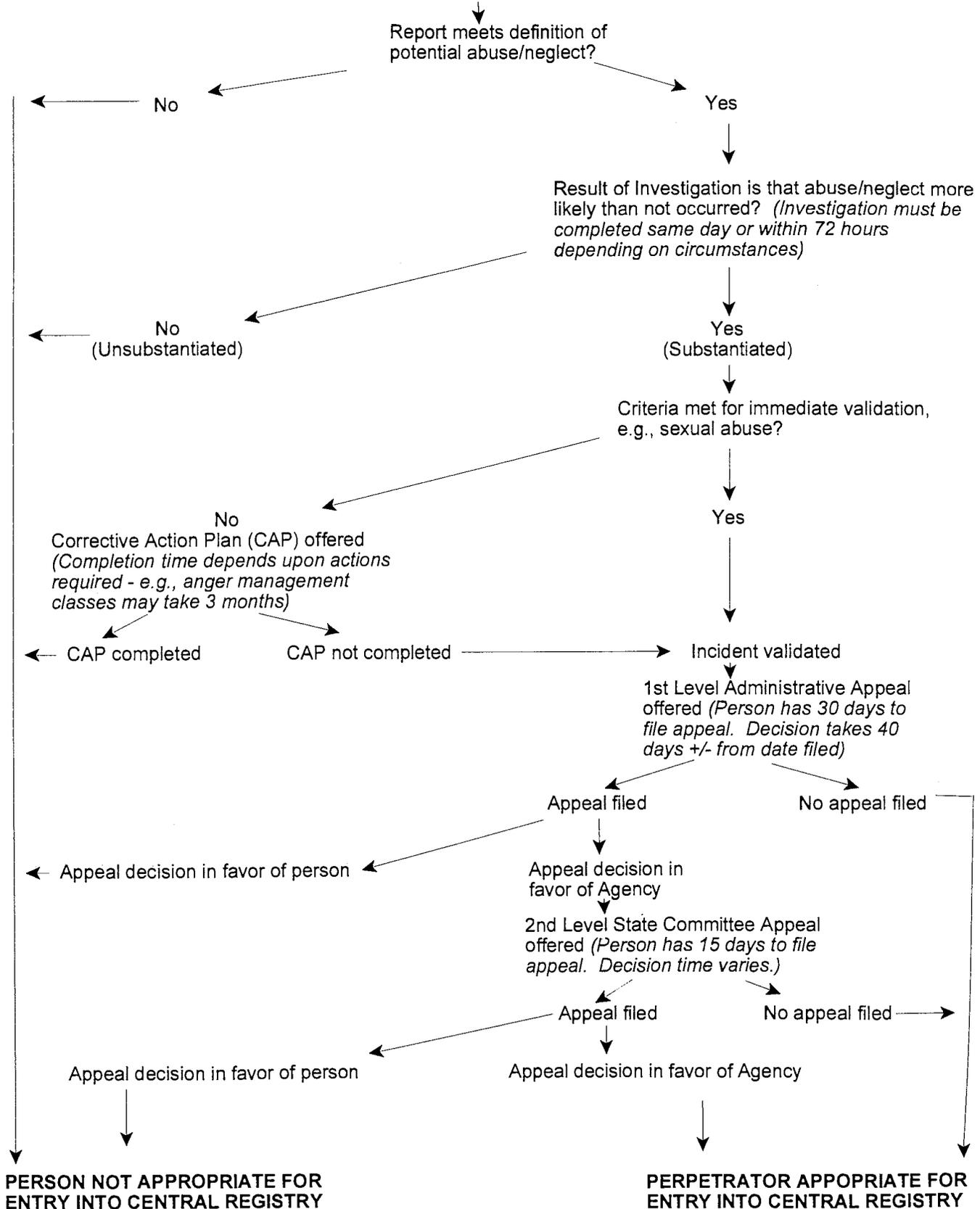
<b><u>SRS Obligation:</u></b>	<b>State Total Jan-Jun 98 Standard: 90%</b>
<b>SRS will complete a protective services investigation within 25 working days of the date mandated for initiation. An investigation is completed with a written finding entered in the record.</b>	
<i>Was the informational notice CFS-2012 sent to the family?</i>	99%

<b><u>SRS Obligations:</u></b>	<b>State Total Jan-Jun 98 Standard: 90%</b>
<b>When there have been three unconfirmed findings with no clear explanation for the pattern, on the same family or child within a two year period, SRS will have a supervisor uninvolved in the case review the cases. SRS will document the results of the review in the case record.</b>	
<i>If two or more previous unsubstantiated reports of abuse or neglect involving this child or family occurred within two years of the current report finding, did a supervisor or designee, uninvolved in the case, review all of them?</i>	83%
<i>Was the result of the review documented in the record?</i>	83%

<b><u>SRS Obligation:</u></b>	<b>State Total Jan-Jun 98 Standard: 90%</b>
<b>Only when children are in imminent danger of serious injury and they cannot be protected due to the perpetrator's access and the non-abusing parent is not able to protect them will SRS request an ex parte or removal by law enforcement.</b>	
<i>Was the child(ren) in imminent danger of serious injury, or abandoned?</i>	100%
<i>Was the child(ren) unable to be protected due to perpetrator access or abandonment?</i>	100%
<i>Was the non-abusing parent unable to protect the child(ren) or was the child(ren) abandoned?</i>	100%

## ILLUSTRATION OF THE FLOW OF AN ABUSE/NEGLECT REPORT TO EVENTUAL ENTRY INTO THE CENTRAL REGISTRY

Agency receives report that a person is alleged to have abused/neglected a child in a child care or foster care facility, or in a foster family home.



12/1/98



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212-683-2210 · FAX: 212-683-4015  
E-mail: info@childrensrights.org

December 8, 1998

**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 9<sup>th</sup> Report of the Department of Social and Rehabilitation Services' Compliance with the Settlement Agreement entered into by the Department and the class of children, currently represented by Children's Rights, Inc. and Rene Netherton, Esq.

We wish to provide some further explanation of the agreements reached by the parties during this monitoring period, which are referred to on pages 12 and 13 of LPA's report. These agreements address monitoring of the development, implementation and accessibility of services, the appropriateness of placements and the caseloads of social workers. The agreements are: (i) "Memorandum of Understanding Related to Settlement Agreement Requirements of II.A, IV.B, IV.C, V.A and V.B;" and (ii) "Agreement Regarding Monitoring Caseloads." As reported by LPA, these issues will be monitored directly by plaintiffs.

The Memorandum of Understanding provides that, on an annual basis, the Department will prepare a two-fold plan that will first attempt to identify areas of service need and then develop a plan for creating resources to meet those identified needs. The plan is referred to and defined in the Memorandum of Understanding as an Integrated Annual Plan ("IAP"). The IAP will draw upon those data sources that the Department agreed to produce to plaintiffs in September by way of an "Agreement Regarding the Production of Documents" - - such as contractor outcomes data and the James Bell Quarterly Reports - - as well as other data sources. The IAP will also be based upon information gathered from focus groups. The focus group composition is specifically defined in the Memorandum of Understanding and will consist of those directly involved in the child welfare system in Kansas. The parties' expectation is that

the focus groups will provide insight and feedback concerning the adequacy of placements adequacy of services and service coordination, obstacles to service delivery and service gaps.

The Agreement Regarding Monitoring Caseloads defines caseload guidelines for Departmental staff and contract agency staff and requires the Department to submit monthly caseload data concerning both populations of social workers. The parties agreed that Department staff will carry between 12.4 to 18.6 weighted cases, and contract agency staff carrying foster care cases will have no more than 25 cases. In referring to this agreement on page 12 of its draft report, LPA states that the parties "agreed to caseloads of . . . 25 cases for contract agency workers." However, we wish to emphasize that the 25 caseload standard for contract agency foster care workers represents the absolute maximum that is permitted under the agreement, and is not an optimal level. As we have already expressed to the Department, it is indeed our hope and expectation that the caseloads of contract agency workers will be below the agreed-to maximum. The first contract agency caseload data plaintiffs expect to receive will reflect caseloads for the month of January, 1999. All caseload data received by plaintiffs will be forwarded to LPA.

While we recognize the Department's substantial progress in the area of Case Review 1, the Department's consistent inability to reach compliance levels in other areas related to child safety is troubling. This is particularly so for Documentation Project 21, which relates to the entry of confirmed abuse and neglect reports into the Central Registry. Since applicants for employment with child care providers are checked against the names entered into the Central Registry, it is vitally important to have the Central Registry contain accurate and current information to ensure that children are not exposed to individuals with a history of abuse or neglect. However, for this period, none of the required entries were completed. While the Department has never performed well in this area since monitoring began in 1994, its performance is now at 0%. In order to address this deteriorating performance, we have asked for the Department's cooperation in evaluating the procedures involved, identifying the problem areas and developing an effective and immediate Corrective Action Plan.

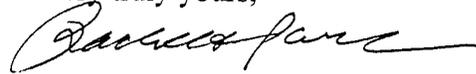
We are similarly concerned about the Department's inability to reach compliance in Documentation Project 1. Documentation Project 1, which has been monitored since July of 1995, relates to the proper screening of reports of abuse and neglect. While the Department's performance in this area is now at 88%, and we recognize the Department's gradual improvement in this area, the examples of improperly screened reports of abuse and neglect that are included in LPA's report demonstrate some of the dangerous situations that Departmental staff is failing to recognize. As we noted in our comments to Audit Report #8, the apparent inability to apply the standard of "likelihood of harm" is unacceptable. Because noncompliance in this area seemed to result from the staff's failure to follow Departmental policy and procedures, we urge the Department to address its long-standing noncompliance with training and education.

Another area of concern are the caseloads of Departmental staff. While the guidelines of 12.4 to 18.6 weighted cases was met statewide for the last two quarters of fiscal year 1998 and by many area offices for the first quarter of fiscal year 1999, Topeka and Chanute appear to be having difficulty maintaining caseloads within acceptable levels. The data we have received from the last two quarters of fiscal year 1998 show that Chanute's average caseload for the 4<sup>th</sup> quarter was 20.06 weighted cases and Topeka's average caseload for the 3<sup>rd</sup> and 4<sup>th</sup> quarters was 24.77 and 23.28 weighted cases, respectively. The data received from the first quarter of fiscal year 1999 show that Chanute's average caseload was 19.62 weighted cases and Topeka's average caseload was 21.31 weighted cases. See attached caseload data. While the caseloads show some improvement, the numbers remain above the acceptable guidelines agreed to by the parties. We therefore request that the Department submit Corrective Action Plans to address this noncompliance.

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While we have many concerns about the Kansas system, we are enthusiastic about the progress made to date and with the collaborative working relationship we have developed with the Department. We look forward to continuing to work together and thank you for the opportunity to comment.

Very truly yours,

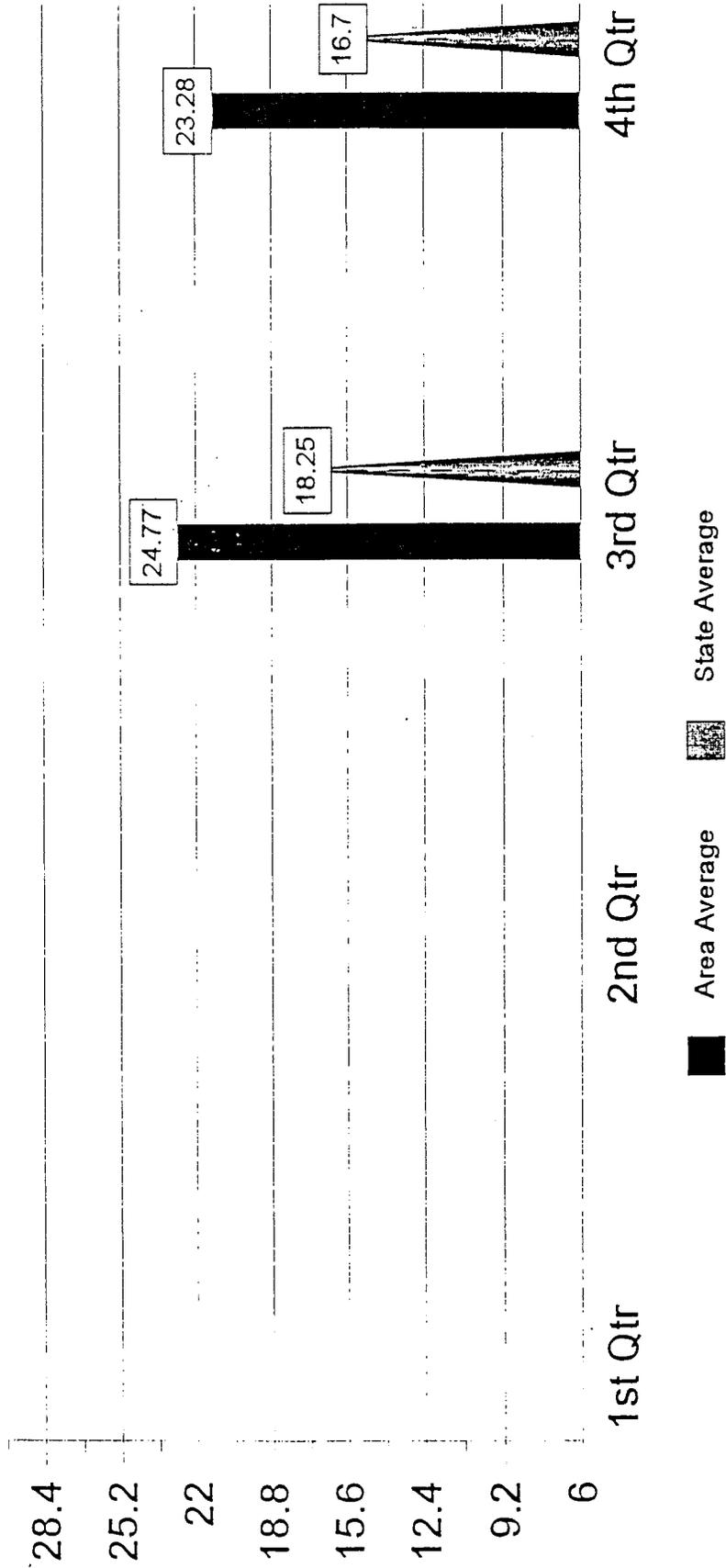


Rachel H. Park  
Children's Rights, Inc.

Attorneys for Plaintiffs

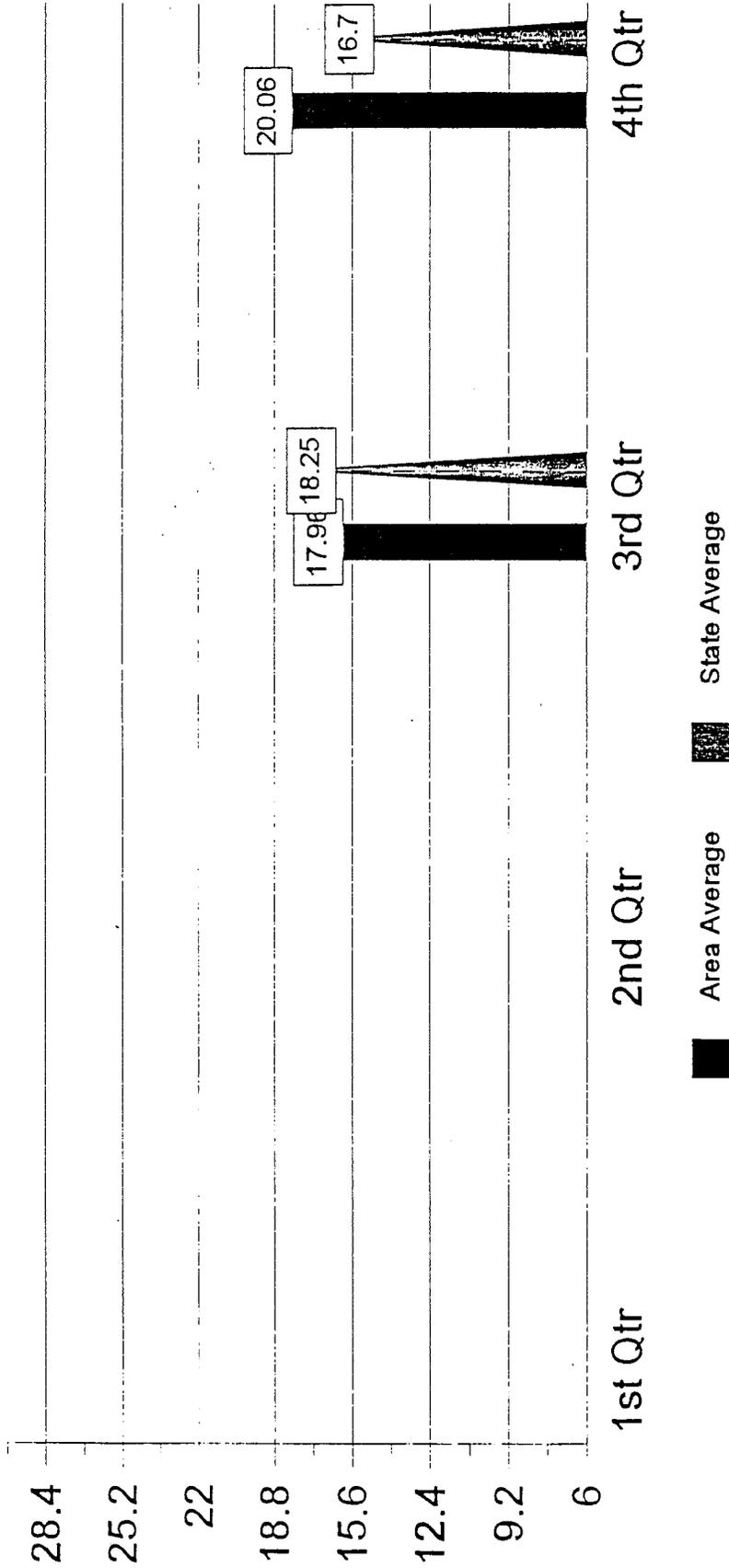
# TOPEKA FY 98 STATEWIDE COMPARISON

Average Area Social Worker Weighted Caseload  
Recommended Weighted Caseload Range: 12.4-18.6



# CHANUTE FY 98 STATEWIDE COMPARISON

Average Area Social Worker Weighted Caseload  
Recommended Weighted Caseload Range: 12.4-18.6



# CHANUTE

## Quarterly Average Area Social Worker Weighted Caseload

### FY 99 Statewide Comparison



1st Qtr      2nd Qtr      3rd Qtr      4th Qtr

Area Average      State Average      Allowable Caseload Range

# TOPEKA

## Quarterly Average Area Social Worker Weighted Caseload

### FY 99 Statewide Comparison

