



Department for Children  
and Families

*Strong Families Make a Strong Kansas*

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## Special Committee on Foster Care Adequacy

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# LPA Response: Licensing Perspective

Presented by:

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**Testimony of:**

Kasey Rogg, Deputy General Counsel  
Kansas Department for Children and Families

**Testimony on:**

Licensing Perspective

**Chairman Knox, Vice Chair O'Brien, and Members of the Committee:**

Thank you for the opportunity to present today, regarding the ongoing Legislative Post Audit review (LPA) of foster care in Kansas, as it relates to family foster home licensing. As Deputy General Counsel of the Kansas Department for Children and Families (DCF), I supervise the Foster Care and Residential Facility Licensing Division. The Division is the licensing authority for all facilities which provide residential care to children from birth to 16 years of age.<sup>1</sup>

My testimony today concerns issues raised in the LPA Audit that are relevant to the Licensing Division and the measures we have taken in response. The Licensing Division was brought to DCF from the Kansas Department of Health and Environment (KDHE) as a result of Executive Reorganization Order (ERO) No. 43 in July 2015, for the express purpose of implementation of improvements in process and enhancement of child safety. My role with the agency began at that time, as I was charged by the Secretary to make whatever changes were necessary for that purpose. That process was already well underway when the LPA Audit began, and we embraced the audit as an opportunity to gain outside expertise in our efforts to identify areas of improvement. The Licensing Division worked closely with the auditors in making sure we examined the program closely. The findings have supported the agency's efforts to make significant improvements in many areas, which have directly impacted child safety.

**Background Checks**

Background checks for foster parents and others in foster homes is a critical function for the Licensing Division. The LPA Audit made recommendations that background checks should be run on an annual basis. Many misunderstood this recommendation as indicating that there was a legal requirement upon DCF to run annual background checks. There is no such duty. Nevertheless, it is a good policy to run background checks more frequently than they were completed prior to ERO 43. Therefore, requirements were implemented in August 2016 for annual background checks to be conducted on every person 10 years of age and older, who is affiliated with a foster home at the time of the home's annual renewal (and at the time of application for new homes).

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<sup>1</sup> Licensed facilities regulated by the Foster Care and Residential Facility Licensing Division of DCF include Family Foster Homes, Group Boarding Homes, Residential Centers, Attendant Care Facilities, Detention Centers, Secure Care Centers, Secure Residential Treatment Facilities, and Staff Secure Facilities.

However, conducting annual background checks is only a stopgap measure. DCF is implementing a much-improved system that will eliminate the need for running background checks on an annual basis altogether.

This new system is being implemented in connection with recommendations made by LPA regarding fingerprint background checks, which are now required not only for foster parents, but also for any household members 10 years of age and older (who are not children in foster care). DCF is working cooperatively with the Kansas Bureau of Investigation (KBI) to enroll every person 10 and older in our foster homes in an effective monitoring service that will immediately alert the agency anytime someone in the home is arrested or convicted of a crime. Although all foster parents have already been fingerprinted, enrollment in this service requires that their fingerprints be retaken. We are working with KBI to make this happen. By partnering with KBI, we have been asking foster parents across the state to make appointments at their local DCF service centers to have their fingerprints taken as well as those of all members of their household 10 and older. Our foster parents are dedicated to the protection of children, and their response has been overwhelmingly positive. We are thankful for their commitment to helping us improve the safety and well-being of children in foster care.

This new system significantly exceeds LPA's earlier recommendation of annual background checks. The partnership with KBI for ongoing monitoring for criminal activity eliminates any wait involved in running background checks on a periodic basis—for instance, annually. Now, instant notice of arrests and convictions will be provided. This will greatly enhance the safety of children in foster care. We anticipate that we will have full enrollment in this new system by January 2017.

### **Financial Resources**

Another issue identified by LPA was that the Licensing Division was not adequately verifying that foster families' financial resources were sufficient to meet their basic needs apart from foster care reimbursement payments. LPA recommended that DCF develop policies and a process to require detailed financial information with verification. As a result, effective Sept. 1, 2016, DCF implemented Policy Advisory 2016-2, requiring foster parent applicants to undergo a financial assessment by a Licensing Division Surveyor at the initial licensing survey. Annually thereafter, foster parents' financial status will be reassessed. The purpose of this assessment is to ensure that all foster parents are financially independent prior to receiving any foster care reimbursement payments. As we work with foster homes and Child Placing Agencies (CPAs) around the state, we will continue to evaluate the details of the policy and their potential impact on foster home recruitment and retention.

We received some feedback from foster parents who were concerned that we would require extensive documentation of family expenses. We heard these concerns and have been responsive. Recently, the Director of the Licensing Division wrote to every

foster parent to assure them that we will NOT be asking for copies of monthly bills. Only minimal (but sufficient) documentation of income will be requested on a routine basis as well as completion of a relatively simple monthly budget form. We appreciate the dedication our foster parents have to Kansas children and families and want to minimize any inconvenience to them while, at the same time, being responsive to the concerns raised by the LPA audit and, most of all, ensuring child safety and well-being.

### **Conflict of Interest**

An additional area of concern raised by the LPA audit is the conflict of interest that exists in the Kansas child welfare system. Our contractors, KVC Kansas and Saint Francis Community Services, are paid what is called a monthly “case rate” for each child in foster care. From the case rate, the contractors must pay all of the costs associated with the child.

Any business with costs tries to cut costs. When the private contractors and CPAs in the Kansas child welfare system try to cut costs, their interests could clash with the interests of children. The situation is made worse by the current rate structure. When children are the source of a business’ costs and revenues, it creates an incentive system that can potentially create a conflict with the best interests of children against the best interests of the business.

In the Kansas system, CPAs have an important role in making sure we have high-quality foster parents. They recruit foster families, submit their applications to the Foster Care Licensing Division at DCF, assist with inspections of homes, and help with training and certifying foster parents. CPAs conduct annual regulatory inspections of foster homes on behalf of the State (Kansas statutes require annual foster home inspections). Historically, the State has allowed the CPAs to fulfill this function, rather than State inspectors. Foster homes are visited by a CPA employee on a monthly basis to check on the home, pursuant to an approved case plan. Those homes must be open for the children to be placed in them, and the case-rate compensation associated with the children continues.

The most immediate and urgent fix to the conflict of interest of CPAs inspecting their own homes is simple. CPAs should no longer inspect their own homes. The Foster Care Licensing Division is carefully considering the necessary steps we must take to assume this essential function. There are nearly 3,000 foster homes in the state, and every single one must be individually inspected every year. We must be cautious to act in a way that preserves the quantity and quality of foster homes needed in order to keep up with the number of children coming into care. This is a difficult task but an essential one if we are to keep children safe.

The ultimate solution to the conflict of interest is to make sure we always have the interests of the children and the interests of the contractors and CPAs aligned. We feel

the best way to achieve this is by transitioning away from payment based on a case-rate system where we pay based on a one-size-fits-all bundled manner, to a system where we pay based upon the actual costs of taking care of children. It will give us greater control over payments to our contractors and CPAs, and thus, improved oversight. Cost-based payment requires a deep understanding of true actual costs, and so we are working to gain that knowledge by conducting thorough audits of contractor and CPA expenses. We must proceed carefully to restructure nearly \$150 million in annual payments.

Conflict of interest is also apparent in another area. Part 1 of the LPA audit made clear too many exceptions were granted to regulations limiting the number of children in foster care in any one home. This is a warranted concern and one which we are addressing. Regulations limit the number of children in foster care to four in any particular home, but CPAs routinely ask to exceed that. Often, the justification to exceed the capacity is to keep groups of siblings together. When a child is removed from his/her parents, one of the most important sources of stability can be keeping the child in the same home as his/her brothers and sisters. This is an important goal, and if it takes exceeding the capacity regulation to achieve that goal, that may be in the best interest of that child.

What we are focusing on now, however, is to make sure that we are not allowing CPAs to exceed capacity regulations in these instances if there might be a different home available that has room. For instance, perhaps a CPA is requesting to exceed the capacity regulation in one of its own foster homes instead of referring the children to a different CPA that has a home available with enough room to accommodate them.

### **Looking Forward**

In order to improve the process, the Foster Care Licensing Division must be able to see where there is availability in the system so the request to exceed capacity can be denied, and the children can be referred to a home that can accommodate the placement need. One key for Licensing to operate effectively is for it to access DCF's data systems, in this case, the location where the children in foster care reside. When at KDHE previously, Licensing only had information related to the location of the foster homes themselves. Information about the location of the children was housed at DCF. When CPAs requested exceptions, Licensing was without the capability of accessing the location of the children and ascertaining which homes had children and how many children were in which homes. As a result, it was impossible to tell when a CPA requested an exception to capacity if there was another home in the area that might have room for the children. Licensing was not able to require the CPA to place the children with a different CPA's home that might have more room, be in a closer location or be a better fit.

When Licensing came to DCF, before LPA identified this issue as a problem, we began looking for solutions. Other states have software that analyzes the data of homes and populations of children and provides rich, layered information about the available resources. In March 2016, DCF began discussions with counterparts in Wisconsin and identified a computer system with robust capabilities in this regard. In June, prior to LPA's release of its audit findings, we went to Wisconsin to gather more information on this system to evaluate its possible application in Kansas. Wisconsin is important because the system in use in Wisconsin is built upon the same foundational geographic information system software as is utilized as the system of record for the State of Kansas. Because of that compatibility and the collaboration with our sister agency, KDHE, which remains the host of our licensing software, I am pleased to be able to inform that we are operational with this system today, plotting geographically on a map the location of foster homes, as well as the school districts the homes are located within.

Soon, the final piece of the puzzle will fall into place. This will be when we synchronize the data between KDHE and DCF. KDHE has the information about the foster homes' capacity. DCF has the information about the location of the children. Once these two pieces of information are combined, we will be able to tell which homes have the room for children. At that point, when CPAs ask Licensing to exceed the limit of the number of children in a home, we will be able to say "no" because we will be able to easily see other homes in the area that have room for the children. We will no longer place children in homes that do not have room when there are other homes that do.

Thank you for the opportunity to testify today. I am happy to take your questions.