MONITORING REPORT

OF

THE TECHNICAL ASSISTANCE COMMITTEE

IN THE CASE OF

BRIAN A. V. HASLAM

July 31, 2015
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INTRODUCTION

This report was prepared by the Technical Assistance Committee (TAC) pursuant to the Modified Settlement Agreement and Exit Plan entered on October 24, 2012 in Brian A. v. Haslam, Civ. Act. No. 3:00-0445 (Fed. Dist. Ct., M.D. Tenn.), a civil rights class action brought on behalf of children in the custody of the Tennessee Department of Children’s Services (DCS). The “Brian A. class” includes all children placed in state custody either:

(a) because they were abused or neglected; or

(b) because they engaged in non-criminal misbehavior (truancy, running away from home, parental disobedience, violation of a “valid court order,” or other “unruly child” offenses).

The Modified Settlement Agreement and Exit Plan (hereinafter referred to as the Settlement Agreement) requires improvements in the operations of the Department of Children’s Services, establishes the outcomes to be achieved by the State of Tennessee on behalf of children in custody and their families, and provides for termination of court jurisdiction after the Department meets and maintains compliance with the provisions of the Settlement Agreement for a 12-month period.

The Role of the Technical Assistance Committee

The TAC has three functions under the Settlement Agreement: first, it serves as a resource to the Department in the development, implementation, and on-going evaluation of its reform effort (XIV); second, it monitors and reports on the Department’s progress in meeting the requirements of the Settlement Agreement (XV); and third, it serves a mediation/dispute resolution function (XVIII).

This is the thirteenth monitoring report issued by the TAC.¹

In addition to these monitoring reports, the TAC has filed three reports related specifically to concerns raised about TFACTS, the Department’s automated information system. The Report of the Brian A. Technical Assistance Committee on its Evaluation of TFACTS was filed on April 2, 2013; an Update on Developments Related to the TFACTS Evaluation Findings and Recommendations was filed on September 17, 2013 and an additional Update was filed on June 11, 2014.²

¹ For a number of those monitoring reports, the TAC, at the request of the parties, filed supplemental reports providing additional information and clarification.
² Previous monitoring reports, as well as supplements to those reports, are available online at http://www.tn.gov/dcs/topic/brian-a.-settlement-agreement. The TFACTS Evaluation and Updates are also available at this link.
The Focus and Organization of this Monitoring Report

This report is designed to provide information to assist the parties and the Court in determining: (a) for those provisions not previously designated as “maintenance,” whether the Department’s present level of performance warrants a “maintenance” designation; and (b) for those provisions previously designated as “maintenance,” whether the Department has maintained a sufficient level of performance to retain that designation.3

The reporting period covered by this monitoring report is calendar year 2014. However, the report also includes data and information from the first several months of 2015 when the TAC deemed that data to be relevant to the discussion.

The Structure of this Monitoring Report

This report retains the structure of previous monitoring reports: Section One presents data related to the specific outcome and performance measures of Section XVI of the Settlement Agreement; the remaining sections of the report correspond to the numbered substantive sections of the Settlement Agreement.

The references to the Settlement Agreement provisions are indicated in parentheses using the Roman numeral and, where appropriate, the letter and/or number that correspond to the particular provision referred to. The monitoring report is divided into the following sections:

Introduction
Executive Summary
Key Outcome and Performance Measures at a Glance
Section One: Data and Outcome Measures Overview (XVI)
Section Two: Structure of the Agency (II)
Section Three: Reporting Abuse and Neglect (III)
Section Four: Regional Services (IV)
Section Five: Staff Qualifications, Training, Caseloads, and Supervision (V)
Section Six: Placement and Supervision of Children (VI)
Section Seven: Planning for Children (VII)
Section Eight: Freeing a Child for Adoption (VIII)
Section Nine: Resource Parent Recruitment, Retention, and Approval (IX)
Section Ten: Statewide Information System (X)
Section Eleven: Quality Assurance (XI)
Section Twelve: Supervision of Contract Agencies (XII)
Section Thirteen: Financial Development (XIII)

3 Following the issuance of each monitoring report, the Settlement Agreement is updated to include the word “maintenance” following each provision of the Settlement Agreement for which the parties agreed (or for which, in the absence of agreement, the TAC determined) that the Department was in compliance as of the at date.
EXECUTIVE SUMMARY

The Tennessee Department of Children’s Services (DCS) continues to devote the energy, attention and resources needed both to maintain the significant progress that it has already made and to bring performance to the levels required to meet the remaining provisions of the Settlement Agreement.

Among the most significant achievements reflected in this monitoring report is the improvement in the quality of the Department’s core case practice, as measured by the annual Quality Services Review (QSR). The Department’s multi-year investment in the QSR process, including the concerted efforts made by regional leadership teams, with support from the Central Office QSR Continuous Quality Improvement (CQI) staff, to develop strategic plans to address practice deficits identified by the QSR process, appears to have paid off. As reflected in the Key Outcome and Performance Measures at a Glance of this monitoring report, for the third year in a row, QSR scores have improved. This year’s QSR scores have reached levels that are generally viewed as reflective of a reasonably well-functioning child welfare system.

This is not to say that there is no room for improvement—even in the best functioning systems, practice in some percentage of cases will inevitably fall short; and the Department acknowledges that for a number of provisions of the Settlement Agreement not yet in maintenance, additional work remains to be done over the coming months. However, the Department’s strategic emphasis at this stage in the reform is appropriately shifting to sustaining the consistency and quality of practice.

Much of the progress that has been made to date has depended on improvements in leadership and organizational structure, adoption of new approaches to practice, revisions of policies, implementation of new processes, investment in infrastructure and infusions of additional resources; and these will remain important levers for system improvement. However, at this point, both for purposes of achieving exit and ensuring sustainability, the focus should increasingly be on using the Quality Assurance (QA) and CQI processes to identify, understand, learn from and respond to situations in which practice is falling short of expectations.

For this reason the TAC has been working with the Department to ensure that the QSR process continues to be supported and strengthened (as it has been recently with the three additional QSR positions funded in the 2015-16 DCS budget); and the TAC will continue to work with the Department’s QA and CQI staff to ensure that, as contemplated by the parties, the data and analysis required to evaluate DCS performance (including that necessary to monitor compliance with the Settlement Agreement) is increasingly generated by the Department’s QA and CQI processes.

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4 The Quality Service Review is the annual review (required by Section XI.D of the Settlement Agreement) that measures the quality and appropriateness of professional decision making concerning the care, protection, supervision, planning, provision of services, and permanency for children in the plaintiff class. As discussed in Section Eleven of this report, the QSR provides an independent assessment of client outcomes and system performance in multiple domains related to DCS’s case practice model and expectations.
This monitoring report is being issued at the time when the Department is experiencing a change of leadership. As experience with some changes in leadership over the course of this litigation has taught us, while it takes a long time and a lot of work to improve a child welfare system, it only takes a little bit of inattentiveness and loss of focus for a short time to compromise hard fought gains. The Governor, in selecting Deputy Commissioner Hommrich to succeed Commissioner Henry, has ensured that there will be no loss of momentum or diminution of focus or support accompanying this transition. The TAC is completely confident that the new commissioner will continue to provide the Department with the leadership needed to bring this litigation-supported reform to a successful conclusion.
KEY OUTCOME AND PERFORMANCE MEASURES AT A GLANCE

The following tables present DCS statewide performance on key outcome and performance measures.5

Table 1 presents the Settlement Agreement Section XVI outcome and performance measure requirements and the Department’s level of achievement for those requirements for the following three periods: January 1, 2014 through January 1, 2015 (the monitoring period covered by this report); January 1, 2013 through January 1, 2014; and January 1, 2012 through January 1, 2013 (data presented in previous monitoring reports). When available, breakouts of data by race are included in brackets after the statewide performance percentage, with the percentage for White children listed first and the percentage for African-American children listed second.

Table 2 compares performance for recent entry cohorts on first placement rates, initial placements in family settings, and initial placement in kinship homes. Table 3 presents caseloads for DCS case managers and supervisors who were responsible for Brian A. children. Table 4 presents the percentages of critical Child and Family Team Meetings held. Table 5 presents first investigation rates and first substantiation rates.

Finally, Table 6 presents the statewide Quality Service Review (QSR) results for each of the past four years.6

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5 Definitions of terms and explanations of the outcomes and measures (including the method for calculation) are presented in the discussion in the relevant sections of this report. In addition, Appendix A provides an explanation of the time period used for each of the Settlement Agreement outcome and performance measures and also presents a regional breakdown of these data.

6 Quality Service Review (QSR) results for the past five review years, for each region, are included as Appendix B.
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<tbody>
<tr>
<td><strong>XVI.A.1 Time to Reunification</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Reunification within 12 months of custody</td>
<td>80%</td>
<td>67% [65%/62%]</td>
<td>69% [69%/65%]</td>
<td>58% [59%/51%]</td>
</tr>
<tr>
<td>• Reunification within 24 months of custody (remainder)</td>
<td>75%</td>
<td>78% [78%/73%]</td>
<td>80% [82%/77%]</td>
<td>78% [82%/71%]</td>
</tr>
<tr>
<td>• Reunification within 24 months of custody (cumulative—logical corollary of the Settlement Agreement provision)</td>
<td>95%</td>
<td>93% [92%/90%]</td>
<td>94% [95%/92%]</td>
<td>91% [93%/86%]</td>
</tr>
<tr>
<td><strong>XVI.A.2 Time to Adoption</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Finalization within 12 months of guardianship</td>
<td>75%</td>
<td>74% [73%/76%]</td>
<td>80% [81%/73%]</td>
<td>79% [80%/73%]</td>
</tr>
<tr>
<td><strong>XVI.A.3 Number of Placements</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>• 2 or fewer placements within past 12 months</td>
<td>90%</td>
<td>93% [92%/91%]</td>
<td>93% [93%/92%]</td>
<td>92% [92%/90%]</td>
</tr>
<tr>
<td>• 2 or fewer placements within past 24 months</td>
<td>85%</td>
<td>83% [82%/78%]</td>
<td>82% [82%/80%]</td>
<td>80% [81%/76%]</td>
</tr>
<tr>
<td><strong>XVI.A.4 Length of Time in Placement</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• 2 years or less</td>
<td>75%</td>
<td>83% [81%/80%]</td>
<td>82% [83%/81%]</td>
<td>78% [80%/75%]</td>
</tr>
<tr>
<td>• Between 2 and 3 years</td>
<td>No more than 17%</td>
<td>10% [11%/12%]</td>
<td>11% [10%/11%]</td>
<td>13% [13%/15%]</td>
</tr>
<tr>
<td>• More than 3 years</td>
<td>No more than 8%</td>
<td>7% [8%/9%]</td>
<td>7% [7%/9%]</td>
<td>8% [7%/11%]</td>
</tr>
<tr>
<td><strong>XVI.A.5 Reentry</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Reentry within 12 months of most recent discharge</td>
<td>No more than 5%</td>
<td>6% [6%/7%]</td>
<td>6% [6%/8%]</td>
<td>5% [5%/6%]</td>
</tr>
</tbody>
</table>

The “cumulative performance standard” reflects the total performance that the Department would achieve if it were to meet, but not exceed, each of the separate Settlement Agreement requirements related to the specific outcome or indicator. For example, the Settlement Agreement requires that 80% of children exit to reunification within 12 months and that an additional 15% (75% of the remaining 20%) exit to reunification within 24 months, for a total of 95% of children exiting to reunification within 24 months. The “cumulative performance percentage” for each reporting period is calculated by adding the number of cases meeting the first requirement (reunification within 12 months) and the number of cases meeting the second requirement (reunification within 24 months) and then dividing by the total number of relevant cases (all children reunified).
### Table 1 (continued): Settlement Agreement Outcomes

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>• Youth exiting to non-permanency who met at least one achievement measure</td>
<td>90%</td>
<td>80% [79% / 77%]</td>
<td>Unavailable</td>
<td>89% [89% / 88%]</td>
</tr>
<tr>
<td>XVI.B.1 Parent-Child Visits</td>
<td>(December 2012)</td>
<td>(December 2013)</td>
<td>Targeted Review: 75% - 80%</td>
<td></td>
</tr>
<tr>
<td>• Visits at least twice per month</td>
<td>50%</td>
<td>27%</td>
<td>34%</td>
<td></td>
</tr>
<tr>
<td>• Visits once per month (of those not visiting twice per month)</td>
<td>60%</td>
<td>30%</td>
<td>32%</td>
<td></td>
</tr>
<tr>
<td>• Visits at least once per month (cumulative—logical corollary of the Settlement Agreement provision)</td>
<td>80%</td>
<td>49%</td>
<td>55%</td>
<td></td>
</tr>
<tr>
<td>XVI.B.2 Sibling Placement</td>
<td>(December 2012)</td>
<td>(December 2013)</td>
<td>(April 2015)</td>
<td></td>
</tr>
<tr>
<td>• Sibling groups placed together (point-in-time)</td>
<td>85%</td>
<td>82%</td>
<td>79%</td>
<td>75%</td>
</tr>
<tr>
<td>• Sibling groups placed together (entry cohorts)</td>
<td>85%</td>
<td>(FY11-12 entry cohort) 82% [84% / 79%]</td>
<td>(FY12-13 entry cohort) 82% [84% / 73%]</td>
<td>(FY13-14 entry cohort) 84% [85% / 81%]</td>
</tr>
</tbody>
</table>

---

8 In its aggregate reporting of employment, the Department began reporting only full-time employment for this measure in September 2011. For previous reporting periods, the Department had not distinguished between full-time and part-time employment.

9 Achievement measures upon discharge data were unavailable for the January 1, 2013 through January 1, 2014 reporting period.

10 Because the TAC has found TFACTS aggregate reporting to significantly under-report parent-child visits, the results of the targeted review of parent-child visits for the three-month period from January to March 2014 are included in this section of the table.
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>XVI.B.3 Sibling Visits</td>
<td></td>
<td>(December 2012)</td>
<td>(December 2013)</td>
<td></td>
</tr>
<tr>
<td>• Visits at least once per month</td>
<td>90%</td>
<td>46%</td>
<td>70%-79%</td>
<td>Targeted Review: 86%-95%</td>
</tr>
<tr>
<td>XVI.B.4 Timeliness of TPR Filing</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• TPR filed within 3 months of sole adoption goal</td>
<td>70%</td>
<td>85%</td>
<td>93%</td>
<td>93%</td>
</tr>
<tr>
<td>• TPR filed within 6 months of sole adoption goal</td>
<td>85%</td>
<td>91%</td>
<td>96%</td>
<td>94% [94%/87%]</td>
</tr>
<tr>
<td>XVI.B.5 PPLA Goals</td>
<td></td>
<td>(December 30, 2012)</td>
<td>(December 26, 2013)</td>
<td>(December 29, 2014)</td>
</tr>
<tr>
<td>• Class members with sole PPLA Goals</td>
<td>No more than 5%</td>
<td>0.2%</td>
<td>0.2%</td>
<td>0.6%</td>
</tr>
<tr>
<td></td>
<td>[0.3%/0.3%]</td>
<td>[0.2%/0.1%]</td>
<td>[0.7/0.8]</td>
<td></td>
</tr>
<tr>
<td>XVI.B.6 Placement within Region or 75 Miles</td>
<td></td>
<td>(April 2013)</td>
<td>(January through March 2014)</td>
<td>(October through December 2014)</td>
</tr>
<tr>
<td>• Class members placed within Region or 75 miles</td>
<td>85%</td>
<td>87%/85%</td>
<td>90%13</td>
<td>87%</td>
</tr>
</tbody>
</table>

---

11 Because the TAC has found TFACTS aggregate reporting to under-report sibling visits, the results of the targeted reviews of sibling visits are provided for the reporting periods covering calendar years 2013 and 2014.

12 The two percentages in this table represent the two approaches that the TAC took to reporting on this requirement. See Section One of the June 2013 Monitoring Report beginning at page 36 for explanation of the two approaches. The racial breakdown for placement within region or 75 mile is as follows: for White children—81% within region or 75 miles, 13% outside of region or 75 miles, 6% unable to calculate mileage distance; for African-American children—79% within region or 75 miles, 10% outside of region or 75 miles, 11% unable to calculate mileage distance.

13 As discussed in Section One, the Department’s 75-mile measure now uses the address of the committing court as the “home address.” The TAC has determined that using this address for purposes of aggregate reporting, especially given the relatively small size of Tennessee’s 95 counties, is a sensible and appropriate approach that ensures more accurate and complete data for this measure than any other alternative considered by the TAC. Race breakdown of this data will be available beginning with 2015 reporting.
Table 2: Placements

<table>
<thead>
<tr>
<th></th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Number of Brian A. children in custody at end of year</strong></td>
<td>(January 6) 5,659&lt;sup&gt;15&lt;/sup&gt;</td>
<td>(December 26) 6,537</td>
<td>(December 30) 6,703</td>
<td>(December 26) 6,874</td>
<td>(December 29) 6,591</td>
</tr>
<tr>
<td>FY09-10 entry cohort</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FY10-11 entry cohort</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FY11-12 entry cohort</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FY12-13 entry cohort</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FY13-14 entry cohort</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Number of ALL Brian A. entries into custody during each fiscal year</strong></td>
<td>5,291</td>
<td>5,475</td>
<td>5,778</td>
<td>5,784</td>
<td>5,021</td>
</tr>
<tr>
<td><strong>First placement rate (per 1,000) (Number of first placements in parentheses)</strong></td>
<td>2.9 (4,361) [2.6/3.8]</td>
<td>3.1 (4,561) [2.7/3.0]</td>
<td>3.3 (4,827) [2.8/3.0]</td>
<td>3.2 (4,733) [3.0/3.1]</td>
<td>2.8 (4,136) [2.8/2.4]</td>
</tr>
<tr>
<td><strong>Initial placements in family settings</strong></td>
<td>88.0%</td>
<td>86.0%</td>
<td>86.2%</td>
<td>85.2%</td>
<td>83.8%</td>
</tr>
<tr>
<td><strong>Initial placements in kinship homes</strong></td>
<td>18.7%</td>
<td>26.2%</td>
<td>22.9%</td>
<td>20.4%</td>
<td>20.5%</td>
</tr>
<tr>
<td><strong>Predominant placements in family settings</strong></td>
<td>93%</td>
<td>91%</td>
<td>91%</td>
<td>90%</td>
<td>87%</td>
</tr>
<tr>
<td><strong>Predominant placements in kinship settings</strong></td>
<td>19%</td>
<td>28%</td>
<td>25%</td>
<td>23%</td>
<td>22%</td>
</tr>
</tbody>
</table>

<sup>14</sup> Data for earlier cohorts presented in this table may differ slightly from that reported in previous monitoring reports because of updates and cleanings of TFACTS data occurring over time.

<sup>15</sup> This is the number of Brian A. children in custody on January 6, 2011 according to the TFACTS report that lists the children in custody. This number may not be exact because the Department was still working on correcting some problems with the report, with the conversion from TNKids to TFACTS, and with data entry into TFACTS, which impacted the accuracy of the data.
### Table 3: DCS Case Manager and Supervisor Caseloads

<table>
<thead>
<tr>
<th></th>
<th>Average from May 1, 2010 through December 31, 2011</th>
<th>Average from June 2012 through March 2013</th>
<th>2013</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Case Manager Caseload (% within Settlement Agreement limits)</td>
<td>Unavailable</td>
<td>87%</td>
<td>(Jan. 2013/Jan. 2014) 90%/95%</td>
<td>(Average from July 2014 through December 2014) 98%</td>
</tr>
<tr>
<td>Supervisory Caseload (% within Settlement Agreement limits)</td>
<td>Unavailable</td>
<td>Unavailable</td>
<td>(Jan. 2014) 90%</td>
<td>(September 2014) 96%</td>
</tr>
</tbody>
</table>

### Table 4: Child and Family Team Meetings (CFTMs)

<table>
<thead>
<tr>
<th></th>
<th>1Q 2013 (1/1/13-3/31/13)</th>
<th>2Q 2013 (4/1/13-6/30/13)</th>
<th>3Q 2013 (7/1/13-9/30/13)</th>
<th>4Q 2013 (10/1/13-12/31/13)</th>
<th>1Q 2014 (1/1/14-3/31/14)</th>
<th>2Q 2014 (4/1/14-6/30/14)</th>
<th>3Q 2014 (7/1/14-9/30/14)</th>
<th>4Q 2014 (10/1/14-12/31/14)</th>
<th>2014 CFT Process Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>Children entering custody who had at least one Initial CFTM</td>
<td>90%</td>
<td>86%</td>
<td>88%</td>
<td>91%</td>
<td>94%</td>
<td>93%</td>
<td>92%</td>
<td>92%</td>
<td>97%</td>
</tr>
<tr>
<td>Children entering custody who had at least one Initial Perm Plan CFTM</td>
<td>83%</td>
<td>82%</td>
<td>79%</td>
<td>87%</td>
<td>89%</td>
<td>82%</td>
<td>83%</td>
<td>83%</td>
<td>100%</td>
</tr>
<tr>
<td>Children w/ placement disruptions who had at least one Placement Stability CFTM</td>
<td>66%</td>
<td>67%</td>
<td>70%</td>
<td>74%</td>
<td>80%</td>
<td>79%</td>
<td>76%</td>
<td>81%</td>
<td>81%</td>
</tr>
<tr>
<td>Children beginning “trial home visit” (THV) or released from custody who had at least one Discharge CFTM</td>
<td>47%</td>
<td>48%</td>
<td>49%</td>
<td>52%</td>
<td>55%</td>
<td>50%</td>
<td>56%</td>
<td>53%</td>
<td>76%</td>
</tr>
</tbody>
</table>

### Table 5: Child Protective Services (CPS)

<table>
<thead>
<tr>
<th></th>
<th>FY09-10</th>
<th>FY10-11</th>
<th>FY11-12</th>
<th>FY12-13</th>
<th>FY13-14</th>
</tr>
</thead>
<tbody>
<tr>
<td>First investigation rate (per 1,000)</td>
<td>11.1</td>
<td>11.2</td>
<td>9.9</td>
<td>10.7</td>
<td>13.4</td>
</tr>
<tr>
<td>First substantiation rate (per 1,000)</td>
<td>3.3</td>
<td>3.2</td>
<td>3.2</td>
<td>3.4</td>
<td>3.6</td>
</tr>
</tbody>
</table>

16 The Child and Family Team (CFT) Process Review sample of 92 cases was drawn from the 2,008 children who entered out-of-home placement between January 1, 2014 and June 30, 2014 and remained in custody for at least 60 days. Reviewers reviewed case notes and other case file information through April 30, 2015.
<table>
<thead>
<tr>
<th>Table 6: QSR Indicator (% acceptable)</th>
<th>2011-2012</th>
<th>2012-13</th>
<th>2013-14</th>
<th>2014-15</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Child and Family Indicators</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Safety</td>
<td>98%</td>
<td>96%</td>
<td>99%</td>
<td>97%</td>
</tr>
<tr>
<td>Stability</td>
<td>75%</td>
<td>74%</td>
<td>80%</td>
<td>89%</td>
</tr>
<tr>
<td>Appropriateness of Placement</td>
<td>94%</td>
<td>91%</td>
<td>97%</td>
<td>99%</td>
</tr>
<tr>
<td>Health/Physical Well-being</td>
<td>100%</td>
<td>97%</td>
<td>98%</td>
<td>100%</td>
</tr>
<tr>
<td>Emotional/Behavioral Well-being</td>
<td>87%</td>
<td>84%</td>
<td>92%</td>
<td>92%</td>
</tr>
<tr>
<td>Learning and Development</td>
<td>89%</td>
<td>86%</td>
<td>90%</td>
<td>91%</td>
</tr>
<tr>
<td>Caregiver Functioning</td>
<td>98%</td>
<td>95%</td>
<td>98%</td>
<td>98%</td>
</tr>
<tr>
<td>Prospects for Permanence</td>
<td>30%</td>
<td>38%</td>
<td>47%</td>
<td>55%</td>
</tr>
<tr>
<td>Family Functioning &amp; Resourcefulness</td>
<td>39%</td>
<td>32%</td>
<td>48%</td>
<td>46%</td>
</tr>
<tr>
<td>Family Connections</td>
<td>54%</td>
<td>46%</td>
<td>64%</td>
<td>78%</td>
</tr>
<tr>
<td>Voice and Choice of the Child and Family(^\text{17})</td>
<td>NA</td>
<td>NA</td>
<td>72%</td>
<td>79%</td>
</tr>
<tr>
<td><strong>System Performance Indicators</strong>(^\text{18})</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Engagement (VII.B-F, I, N)(^\text{19})</td>
<td>54%</td>
<td>54%</td>
<td>78%</td>
<td>86%</td>
</tr>
<tr>
<td>Teamwork and Coordination (VII.B-F, I, N)</td>
<td>58%</td>
<td>53%</td>
<td>73%</td>
<td>82%</td>
</tr>
<tr>
<td>Ongoing Assessment Process (V1.B)</td>
<td>56%</td>
<td>51%</td>
<td>60%</td>
<td>74%</td>
</tr>
<tr>
<td>Long-Term View</td>
<td>39%</td>
<td>43%</td>
<td>45%</td>
<td>53%</td>
</tr>
<tr>
<td>Child and Family Planning Process (V1LD)</td>
<td>56%</td>
<td>49%</td>
<td>65%</td>
<td>75%</td>
</tr>
<tr>
<td>Plan Implementation (V1LD, K)</td>
<td>55%</td>
<td>53%</td>
<td>63%</td>
<td>78%</td>
</tr>
<tr>
<td>Tracking and Adjustment (V1LD, K)</td>
<td>57%</td>
<td>54%</td>
<td>70%</td>
<td>83%</td>
</tr>
<tr>
<td>Informal and Community Supports</td>
<td>59%</td>
<td>58%</td>
<td>63%</td>
<td>76%</td>
</tr>
<tr>
<td>Caregiver Supports</td>
<td>94%</td>
<td>93%</td>
<td>95%</td>
<td>96%</td>
</tr>
<tr>
<td>Successful Transitions</td>
<td>49%</td>
<td>55%</td>
<td>68%</td>
<td>74%</td>
</tr>
</tbody>
</table>

\(^{17}\) The new Voice and Choice indicator (much as the prior version of the Engagement indicator has in past QSRs) measures the extent to which the child and family are active and committed participants in the “change process.” See Appendix C for a more detailed description of this new indicator.

\(^{18}\) The references in parentheses in Table 6 are to those sections of the Settlement Agreement for which the parties and the TAC have used the QSR as a relevant, and in some cases primary, measure of practice performance.

\(^{19}\) The revised Engagement indicator now (beginning with the 2013-14 QSR) focuses on “the diligence of professionals in locating, reaching out to, building relationships with, and overcoming barriers of the child and family in order to ensure that the child and family are participating in the process of change.” See footnote 17 above for a brief description of what the Engagement indicator measured in past years. See Appendix C for a more detailed description of the new meaning.
SECTION ONE: DATA AND OUTCOME MEASURES OVERVIEW

Introduction:

This section presents data related to three broad questions about the performance of Tennessee’s child welfare system that reflect the core concerns of the Settlement Agreement.

- How successful is the Department in providing children in foster care with stable, supportive home-like settings that preserve healthy contacts with family, friends, and community?

- How successful is the Department in meeting the safety, health, developmental, emotional, and educational needs of children in foster care?

- How successful is the Department in helping children achieve timely permanency, either through safe return to their parents or other family members or through adoption?

For a number of areas addressed by these questions, the Settlement Agreement establishes specific outcome and performance measures and specifies numerical standards that the Department is to achieve. This section reports on the Department’s level of achievement on these specific measures through December 31, 2014. The discussion is supplemented by additional data and measures relevant to the particular area of focus.

The primary data sources for this section are reports from TFACTS (some produced by Chapin Hall at the University of Chicago, others produced internally by the Department), and the results of the Quality Service Reviews (in-depth qualitative case reviews). A more detailed description of each of the data sources relied on in this section is presented in Appendix D, and a brief orientation to the aggregate data explaining the three types of data presented (point-in-time, entry cohort, and exit cohort) is presented in Appendix E.

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20 Appendix A includes individual tables with both statewide and regional data for each Section XVI Outcome and Performance Measure.
21 In November 2008 Chapin Hall began producing data for the Department’s semi-annual Regional Outcomes Reports by state fiscal year (July 1 through June 30) rather than by calendar year (January 1 through December 31) as it had done previously. However, Chapin Hall continued to produce some data for purposes of this monitoring report by calendar year. Throughout this section, the data in the figures and tables are presented by calendar year or state fiscal year (or sometimes a combination of calendar year and state fiscal year) depending on the particular Chapin Hall reports used as the source for creation of the figure or table.
22 Throughout this monitoring report, the source used to create each figure or table is noted immediately below the figure or table. When the source is a report produced by the Department, its “official” name is used. In instances in which the data included in the figure or table are a subset of the data included in the report, the title of the figure or table indicates the focus of that figure or table, and the title of the source report may appear to have little connection to the focus of that figure or table.
A. Foster Care Caseload in Tennessee: Basic Dynamics of Placement

Before addressing the three core system performance questions, it is important to have some basic information about the children coming into foster care: how many there are, where they come from, and why they are placed in foster care. This subsection provides information related to the number of children in state custody, the adjudication that resulted in their placement, the placement dynamics (placement rates and discharge rates), and their age distribution. Appendix F presents data related to key outcome and performance measures by race and ethnicity.

Key findings:

- Brian A. class members account for approximately 85% of the DCS placement population.

- The number of children in placement, which had been declining each year for many years, began to increase during 2010. In 2009, admissions began increasing while exits began decreasing, resulting in a significant increase in the placement population. The number of admissions continued to exceed the number of exits during 2010 and 2011, and consequently, the number of children in placement continued to climb. During 2012 and 2013, admissions remained relatively stable and exits increased, slowing the rate of growth in the placement population. Nevertheless, the placement population increased during 2012 and 2013, because admissions still exceeded discharges. In 2014, discharges surpassed admissions for the first time since 2009, resulting in a decrease in the placement population.

- Over the past decade, the statewide placement rate has ranged between 2.4 and 3.6. In fiscal year 2013-14, the statewide placement rate was 2.8.

1. Placement Population

Figure 1.1 below provides some basic information about the composition of the DCS custodial population in out-of-home placement during the 15-year period beginning January 1, 2000.

Between 2000 and 2004, the daily population of all children in DCS placement ranged from approximately 8,500 to 9,000. The daily population began to decrease in the second half of

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23 The term “placement rate” as used here refers to the number of children entering out-of-home placement for the first time per 1,000 children in the general population. It does not include children who reenter foster care. See discussion in Subsection A.2 below.

24 Throughout this section, unless otherwise noted, “fiscal year” refers to the state fiscal year which runs from July 1 through June 30.

25 There are some children who are in DCS legal custody but are physically living in their own homes, either awaiting out-of-home placement or on a trial home visit. The “custodial population” (children in DCS legal custody) on any given day will therefore be higher than the “placement population” (children in out-of-home placement). For example, on January 1, 2015, there were 7,874 children in DCS legal custody, of whom 6,919 were “in placement.”
2005, and by January 2010, had decreased to a low of 6,156. Between January 2010 and July 2013, the daily population generally increased, reaching a high of 7,583 as of July 1, 2013. The population then began to decline again, reaching 6,919 by January 1, 2015.

As Figure 1.1 reflects, the majority of children enter placement because of findings that they were abused or neglected. On January 1, 2015, for example, 5,809 (84%) of the children were in placement because of abuse or neglect, 95 (1%) were unruly (were truant from school, had run away from home, or engaged in other non-criminal misbehavior), and 1,015 (15%) were delinquent (had committed a criminal offense).\textsuperscript{26}

![Figure 1.1: Placement Population by Adjudication
Six-Month Intervals from January 1, 2000 through January 1, 2015](image)

Fluctuations in the number of children in placement reflect trends in both admissions and discharges. As indicated in Figure 1.2, between 2010 and 2013, admissions consistently exceeded discharges, resulting in an increase in the placement population. In 2014, discharges surpassed admissions by 202, resulting in a decrease in the placement population for the first time since 2009.

\textsuperscript{26} Although DCS is responsible for and cares about the experiences of all children in its custody, for purposes of this report, the data reported in the remainder of this section (unless otherwise indicated) include only members of the \textit{Brian A.} class: children who are in state custody based on findings that they are abused, neglected, or unruly.
As shown in Figure 1.3, according to the Department’s point-in-time tracking of the number of children in custody each month (the Mega Report), the number of Brian A. children in legal custody, after reaching a high point of 7,337 in September 2013, has been decreased through the remainder of 2013 and during the first half of 2014. During the second half of 2014 and the first four months of 2015, the number of children in custody appears to have leveled off, fluctuating between approximately 6,600 and 6,750.

Figure 1.2: Brian A. Admissions, Discharges, and Placement Populations, Year Intervals: 2000-2014

Source: Longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2015.

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27 The Mega Report is an Excel spreadsheet generated each week from TFACTS that contains a standardized “menu” of information for each child who either (a) is in DCS custody as of the date of the Mega Report or (b) has exited DCS custody at any time between the first day of the preceding month and the date of the Mega Report (a period of between one and two months depending on the date of the Mega Report). When the Mega Report is used to identify the custodial population on a given date, the children who exited during the month are removed.

28 A handful of youth (generally less than 10) who were 18 or older and therefore no longer technically Brian A. class members were inadvertently counted in the data for months prior to January 2014. The number of Brian A. children in legal custody in those months is therefore very slightly lower than shown in the figure.
2. Placement Rates

One of the goals of a child welfare system is to improve its ability to effectively intervene on behalf of abused and neglected children without the necessity of removing them from their families and bringing them into state custody. By better identifying children who can safely remain with their families or with relatives with support services and by providing those families and children the support services they need, child welfare agencies can avoid the unnecessary placement of children away from their birth families and therefore more effectively use the scarce out-of-home placement resources for those children who cannot safely remain at home.

One of the factors that influence the number of children coming into out-of-home placement is the number of children in the general population. The larger the number of children in the general population, the larger the number of children who may be subject to abuse or neglect, or who may have conflicts at home or at school leading to truancy and runaway behaviors. It is therefore important to look at the “placement rates” of class members (number placed per 1,000 children in the general population) and not just the raw number of placements.  

When comparing Tennessee’s foster care population with that of other states or when comparing placements from Tennessee’s separate regions to each other, placement rates identify important differences in the use of placement. All other things being equal, regions with the largest child population would be expected to have a greater number of children committed than regions with smaller populations.
Figure 1.4 shows the patterns in statewide first placement rates and in the number of first placements in Tennessee since 2000. As reported in previous monitoring reports, first placement rates in Tennessee increased significantly between 2000 and 2004, reaching a high of 3.6 in fiscal years 2003-04 and 2004-05. Since that time, placement rates have generally ranged between 2.9 (in fiscal year 2009-10) and 3.3 (in fiscal year 2010-11), with the exception of fiscal year 2008-09, when the placement rate dropped to 2.4. In fiscal year 2013-14, the first placement rate dropped to 2.8 from 3.2 in fiscal year 2012-13.

![Figure 1.4: Number and Rate per 1,000 by Year of First Admissions, Brian A. Class](image)

Source: 2000, 2001, 2002, 2003, and 2004 from longitudinal analytic files developed by Chapin Hall from TNKids data transmitted in March 2007. FY0405 from longitudinal analytic files developed by Chapin Hall from TNKids data transmitted in February 2010. FY0506 from longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in August 2011. FY0607 from longitudinal analytic files developed by Chapin Hall from TNKids data transmitted in February 2012. FY0708 from longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2013. FY0809 from longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2014. FY0910 through FY1314 from longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2015. Placement rates were calculated using the Census Estimates produced by Claritas.

30 The term “first placement” is used to distinguish a child who enters care for the first time (a new case for the placement system) from a child who reenters care (a further involvement of the placement system after a failure of permanent discharge). In addition, the “first placement” is distinct from “placement in DCS custody.” “First placement” means the actual first physical placement of a child and excludes children who are placed in DCS legal custody but who physically remain with their families. This distinction recognizes that children who are removed from their homes (or placed “out-of-home”) have a much different experience in the child welfare system than do children who are “placed in DCS legal custody” but remain physically with their families.

31 The Department began reporting placement rates by fiscal year during 2005. In order to show historical trends, data for calendar years 2002, 2003, and 2004 are also presented. There is a six-month overlap in the data for the calendar year 2004 entry cohort and the fiscal year 2004-05 entry cohort.
Figure 1.5 below displays regional placement rates for fiscal years 2011-12 through 2013-14, and Figure 1.6 compares the number of admissions by region for the same period. In both figures, the regions are ordered according to their placement rates for 2013-14, with the region with the highest placement rate listed first and the lowest listed last. 

At the beginning of 2014, four counties moved from the Mid-Cumberland region to the Northwest region. These counties are reflected in the Northwest region for all data in this report in which Chapin Hall data is the source and they are reflected in the Mid-Cumberland region through the end of 2013 for all data in this report in which other reporting (TFACTS reports or manual tracking) is the source.

As discussed in the May 2014 Monitoring Report, Shelby region’s placement rate had consistently been among the lowest in the state prior to 2008-09 and significantly below the statewide placement rate; however, Shelby’s placement rate increased in 2008-09 to 2.3 and remained close to the statewide rate for two years: 3.1 in 2009-10 (when the statewide rate was 3.0) and 2.8 in 2010-11 (when the statewide rate was 3.1). Since 2010-11, Shelby’s placement rate has been decreasing again, to 2.6 for 2011-12, 2.4 for 2012-13, and finally 1.5 for 2013-14.
3. Placement by Age Group

Whether for planning for the services and placements for the foster care population or for setting goals for improved outcomes for children coming into care, one of the most significant factors to consider is the age of the foster care population. Finding foster and adoptive homes for infants is different than finding foster and adoptive homes for teenagers, and the supports that foster and adoptive parents need vary significantly between the infant and the teen. In addition, the challenges to achieving permanency are different for those very different age groups, and the likely permanency options are different.

Figure 1.7 below shows the age of children in the Brian A. class served by Tennessee’s child welfare system, using both entry cohort data organized by the age of the child when the child
first entered out-of-home placement (the red line) and point-in-time data showing the age distribution of those children in out-of-home placement on December 31, 2014 (the blue line). Because the age distribution of class members entering out-of-home placement over the last several years has remained relatively constant, data from cohort years 2004 to 2014 are combined.

![Figure 1.7: Single Year Age Distributions: First Entrants 2004-2014 by Age at Entry and Age of Children/Youth In Care on December 31, 2014](image)

Source: Longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2015.

The largest age group by far entering out-of-home placement is infants; the next largest age group is 16-year-olds, followed by 1-year-olds and 15-year-olds. While infants are the largest age group in any given entry cohort, the point-in-time data reflect that on any given day there are more 17-year-olds in out-of-home placement than any other age group, with the next largest groups being 16-year-olds, 1-year-olds, and infants.

**B. How successful is the Department in providing children in foster care with stable, supportive, home like settings that preserve healthy contacts with family, friends, and community?**

It is traumatic for children to move from their homes to a completely new environment, even when they have been abused or neglected or are at risk of being abused or neglected in their home environment. A child’s home community is the source of a child’s identity, culture, sense of belonging, and connection with things that give meaning and purpose to life. For this reason, both the *Tennessee Department of Children’s Services Standards of Professional Practice for Serving Children and Families: A Model of Practice* (hereafter referred to as the DCS “Practice Model”) and the Settlement Agreement emphasize placing children with siblings, close to their home and community, and in the least restrictive placement possible, utilizing resource families.
drawn from a child’s kinship network whenever possible rather than placing a child with strangers.

Family members, relatives, friends, and members of a child’s community who already have a connection with and commitment to the child are critical potential resources. They can serve as a support network for the child and the family, including serving as possible kinship placements for a child coming into care. For this reason, the Department in its Practice Model and implementation efforts emphasizes identifying, at the earliest stages of DCS involvement with a family, relatives and others with connections and commitment to the child, and aggressively exploring this natural kinship and community support system for potential resource home placements as an alternative to placing children with strangers or in congregate care facilities. By utilizing kinship resource homes, not only can the trauma of removal be minimized for the child, but available resource homes can be saved for children who do not have those kinship options.

In cases in which children coming into custody cannot be placed with kin, children should in most circumstances be placed in a non-relative resource family setting. When siblings come into state custody, they should normally be placed together in the same resource home.

Congregate care placements should only be used when a child’s needs cannot be safely met in a resource family setting.

**Key findings**

- For each year from 2008 to 2010, 88% to 89% of the children entering foster care for the first time in Tennessee were placed in family settings, a significant improvement compared to 2002 (when 81% of first placements were in family settings) and a significant achievement compared to many other child welfare systems. Since 2010 there has been a decline in the percentage of children entering foster care who were placed in family settings, to 86% in 2011 and 2012, 85% in 2013, and 84% in 2014.

- Between 2004 and 2010, kinship resource homes accounted for between 15% and 20% of all first placements. This percentage rose to 26% of all first placements in 2011, but then declined to 23% in 2012 and to 20% in 2013 and 2014.

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34 The Department generally uses the term “kinship resource home” to refer to both resource homes headed by relatives (persons with whom a child has a blood relationship) and resource homes headed by “fictive kin” (persons who are not related by blood to a child but with whom the child has a significant pre-existing relationship, such as a teacher, a church member, or a family friend).

35 See the June 2012 Monitoring Report for information dating back to 2002.

36 Historically, aggregate data related to kinship resource homes only included kinship resource homes headed by blood relatives. The Department released an enhancement during 2008 that permitted the identification of “fictive kin” in the system. As a result of this expanded reporting capacity and subsequent transition to TFACTS, the kinship resource home data for 2012, 2011, 2010, 2009, 2008, 2007, 2006, and at least some of 2005 include “fictive kin” homes.
In 2014, between 87% and 90% of children were placed within 75 miles of home.37

Some children in foster care continue to experience a significant number of placement moves; however, placement stability has improved significantly since 2002. For children entering care during fiscal year 2012-13, 77% of children experienced two or fewer placements during a two-year window of observation,38 compared to 69% of children entering care during calendar year 2002.39

The TAC’s most recent review of parent-child visits during the first quarter of 2014 found that in each month of the review period, the vast majority of children had at least one visit or an acceptable reason not to visit, including exceptions allowed by the Settlement Agreement (93% in January, 90% in February, and 96% in March), and a significant percentage of children had at least two visits or an acceptable reason not to visit, including exceptions allowed by the Settlement Agreement (75% in January, 76% in February, 80% in March).

For siblings placed in foster care, the Department has historically experienced significant success in keeping sibling groups together. During the past nine fiscal years, between 82% and 87% of sibling groups entering out-of-home placement together for the first time were initially placed together, with 84% of sibling groups entering during fiscal year 2013-14 being placed together.

The TAC’s most recent review of sibling visits during August, September, and October 2014 found that the majority of siblings had at least one visit with at least one other sibling, a Settlement Agreement exception to sibling visits, or a therapeutic concern impacting sibling visits during each month of the review period (89% in August, 86% in September, and 95% in October).

1. Serving Class Members in Resource Family Settings rather than Congregate Care Settings

The DCS Practice Model and the Brian A. Settlement Agreement emphasize the value of serving children in family settings and therefore the importance of reducing the number of children served in congregate care settings whose needs could be appropriately met in family settings.

Figure 1.8 below shows first placements by placement setting for children entering care during each of the past 11 years. The bottom two blue segments of the bar reflect family placements, broken out into non-kinship resource homes (segment shaded dark blue) and kinship resource homes40 (segment shaded light blue). The top segment of the bar (shaded red) reflects non-

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37 As discussed in Subsection B.2 below, the Department’s 75-mile measure now uses the address of the committing court as the “home address.” The TAC has determined that using this address for purposes of aggregate reporting, especially given the relatively small size of Tennessee’s 95 counties, is a sensible and appropriate approach that ensures more accurate and complete data for this measure than any other alternative considered by the TAC.

38 The term “two-year window of observation” is defined and discussed in footnote 59.

39 See the December 2008 Monitoring Report at page 38.

40 “Fictive kin” are included in the data for years 2006 through 2012 and at least parts of 2005 but are not reflected in the data for earlier years. See footnote 34.
family settings. (The terms “non-family settings” and “congregate care settings” are used interchangeably throughout this report). In 2004, 85% of children entering out-of-home placement for the first time were initially placed in family settings. This percentage increased over time, remaining stable at 88% to 89% from 2006 to 2010. Beginning in 2011, this percentage began to decline and return toward previous performance, with 84% of children entering out-of-home placement for the first time being initially placed in family settings in 2014. Notwithstanding the recent decrease in initial family setting placements (and the corresponding increase in non-family setting placements), Tennessee continues to be able to successfully serve a significant number of children with higher levels of need in resource homes.41

Figure 1.8: Initial Placement Setting for Children First Placed in Care, 2004 through 2014

Source: Longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2015.

Figure 1.9 below shows, for children entering care during each of the past 11 years, the placement setting where they have spent more than 50% of their time in care (predominant

41 The Department produces a weekly report (the Mega Report) that provides information about the “level of care” of Brian A. class members in their current placements. (The “level of care” ranges from Level I to Level IV, with the higher level of care reflecting a higher level of service need and a higher per diem rate.) Family settings make up the largest proportion of Level II and Level III placements. For example, as of December 29, 2014, 1,179 (83%) of the 1,424 Level II placements were in resource homes, 85 (6%) were on trial home visits (THVs), and 160 (11%) were in group settings. Of the 900 Level III placements on this date, 477 (53%) were in resource homes, 46 (5%) were on THVs, and 377 (42%) were in group settings. There were 122 Level IV placements on this date; all of these placements were in psychiatric facilities. The fact that one child is of a different level than another child does not preclude them from being placed in the same facility or resource home. For example, many congregate care facilities serve both Level II and Level III children, and as of December 29, 2014, 24 Level III children were being served by particular psychiatric facilities that were otherwise serving Level IV children. Level II and Level III children may require residential treatment (such as Level II Alcohol and Drug treatment) and being one level or the other does not prescribe the setting that would be most appropriate for the youth.
placement) observed through December 31, 2014. The bottom two blue segments of the bar reflect family placements, broken out into non-kinship resource homes (segment shaded dark blue) and kinship resource homes\textsuperscript{42} (segment shaded light blue). The top segment of the bar (shaded red) reflects congregate care settings. This figure shows that a somewhat larger percentage of children (87\% for the most recent entry cohort) spend the majority of their time in family settings than are initially placed in family settings (84\% for the most recent entry cohort).\textsuperscript{43}

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{figure19.png}
\caption{Predominant Placement Setting for Children First Placed in Care 2004 through 2014, Observed through December 31, 2014}
\end{figure}

\textbf{Source:} Longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2015.

The Department also produces a weekly “point-in-time” report that looks at the placement setting for all children in custody, regardless of whether they are in a “first placement” or a subsequent placement. The Mega Report for December 29, 2014 indicates that 88\% of the 6,591 Brian A. class members in custody on that date were placed in family settings.\textsuperscript{44} This is consistent with historical performance.

\textbf{a. Special Focus on Kinship Resource Homes}

As discussed in previous monitoring reports, the Department made a concerted effort to increase the utilization of kin as placement options for children in custody. The two “pilot” regions for

\textsuperscript{42}“Fictive kin” are included in the data for years 2006 through 2012, and at least parts of 2005 but are not reflected in the data for earlier years. See footnote 34.

\textsuperscript{43}Because the entry cohorts in this figure are only observed through December 31, 2014, the predominant placement setting for the most recent entry cohorts may still be unfolding and is subject to change.

\textsuperscript{44}See footnote 41 for setting by level of care.
this effort (Northeast and Davidson) succeeded in increasing kinship placements and had the highest percentage of initial kinship placements in the state following their pilot year. The lessons learned by these regions were shared with the other regions. During 2010 and the beginning of 2011, the remaining regions, following the model of the pilot regions, created Kinship Coordinator positions and began providing special training for staff and implementing protocols focused on improving identification and engagement of kinship resources.

The Department’s efforts to increase utilization of kinship resource homes appeared to have an impact. Over the period from 2003 to 2009, on average 17% of children were initially placed in kinship homes. Following that, on average 22% of children were initially placed in kinship homes. Statewide in 2011 initial kinship resource home placements accounted for 26% of initial placements and in 2012 accounted for 23%, compared to 15% in 2009. In 2013 and 2014, these placements accounted for 20% of all first placements.

Figure 1.10 below shows initial placements in kinship resource homes as a percentage of all first placements for each region and for the state. As reflected in the figure, some regions have been particularly successful in identifying and utilizing kin resources and have been among the top performing regions for several years. Some of the poorer performing regions report that they are placing children with kin, but that those kin families are opting for taking legal custody of the children, rather than becoming kinship resource parents. It is also possible that data for years prior to 2013 for some regions has been affected by data entry errors and coding defects that occurred during the course of the transition to TFACTS, but that were fixed in 2013.

45 As suggested by the TAC in previous monitoring reports, the Department may want to follow up with these regions, both to ascertain whether this is in fact the case and, if so, what accounts for the significant difference in those regions compared to others.
46 Those defects, which made it difficult for staff to correctly enter kinship placements in TFACTS, resulted in some underreporting of kinship placements. Both defects were addressed in the spring of 2013. See the June 2012 Monitoring Report for descriptions of the defects.
b. Congregate care placements

Figures 1.11 and 1.12 below show the different types of congregate care placements for the initial and predominant placements shown in Figures 1.8 and 1.9 above for the years 2004 through 2014. The percentage of children initially placed in group homes/residential treatment centers decreased from 6.5% in 2004 to fewer than 4% from 2007 to 2013, but increased to 5.2% in 2014. Hospital placements have increased from below 5% from 2004 to 2007 to 5% or more since then, making up 5.7% of initial placements in 2014.

47 The figure also reflects 35 unspecified initial placements in 2010, 58 in 2011, 80 in 2012, 88 in 2013, and 55 in 2014. “Unspecified” indicates a data entry error (including failure to enter type of placement).
While the majority of first placements in congregate care settings are hospital placements, this is not the case for predominant placements, as shown in Figure 1.12 below. The majority of predominant placements in congregate care settings are in group homes/residential treatment centers. The percentage of predominant placements in group homes/residential treatment centers decreased from 6.4% for the 2004 entry cohort, to between 5% and 6% for the 2005 through 2010 entry cohorts. In 2011 the percentage began rising to 8.1% for the 2013 entry cohort and 10% for the 2014 entry cohort as of December 31, 2014.

48 Children who have not spent more than 50% of their custody stay in one type are referred to as “Mixed.” There were 20 children in 2014 with a “Mixed” placement type who are not included in this figure.

49 The predominant placement percentages are subject to change since not all of the children in the entry cohorts have exited care yet.
c. Placement Setting by Age Group

The Department also tracks first admissions initially placed in family settings by age group. Figure 1.13 below shows the percentage of *Brian A.* youth age 14 and older initially placed in a family setting for each of the most recent nine fiscal years.\(^{50}\) For fiscal years 2006-07 through 2009-10, the percentage remained stable above 80%. In fiscal year 2010-11, the percentage decreased to 74%, but improved in 2011-12 and 2012-13, rising to 77% and 75%, respectively. For fiscal year 2013-14, the percentage fell to 72%.

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\(^{50}\) Children who were first placed in a congregate care setting for fewer than five days and were subsequently moved to a family setting are counted as initial family setting placements for purposes of the Department’s reporting on this measure.
2. Serving Class Members In or Near Their Home Communities

The DCS Practice Model and the Brian A. Settlement Agreement emphasize the importance of placing children in their home neighborhoods and communities. Such placement, among other things, makes maintaining positive community and family ties easier and can reduce the trauma that children experience when removed from their families.

The Settlement Agreement requires that “at least 85% of children in the class shall be placed within the region from which they entered placement or within a 75 mile radius of the home from which the child entered custody.”

As reflected in previous monitoring reports, the Department has consistently placed more than 85% of class members within a 75-mile radius of their homes. In April 2010, the last month for which TNKids reporting was available, 89% of children in custody were placed within a 75-mile radius of the home from which they entered custody.

As discussed in the May 2014 Monitoring report, beginning in January 2014, reporting for this measure uses the address of the court that committed the child into custody as a proxy address for “the home from which [the child] entered custody.” Distance in mileage is calculated between the courthouse address and the child’s placement address. The following table shows the percentage of children placed within 75 miles for each of the four quarters in 2014.

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51 The TAC has interpreted this to mean that on any given day at least 85% of the children in the class should be placed within the 75-mile limit.
For its own internal management purposes, the Department utilizes “percent of children placed within their home county”—a more exacting measure than that of the Settlement Agreement—to evaluate the extent to which children are placed in close proximity to their home communities. The Department is committed to increasing the percentage of children placed within their home counties.\(^52\)

The Department’s regional goals for in-county placement take into account the differences between large, single-county urban areas and the other primarily rural multi-county regions. Those differences are reflected in Figure 1.14, which displays in-county first placement rates for the three most populous urban counties (Shelby, Davidson, and Knox, each of which also constitutes a single county DCS region) separately from in-county first placement rates for the remaining multi-county non-urban regions.\(^53\) For children first entering out-of-home placement during 2014, 75% of children from urban counties were initially placed in their home counties (compared to 83% during 2013), while 41% of children from multi-county rural regions were initially placed in their home counties (compared to 37% in 2013). As discussed in previous monitoring reports, these data may reflect some need for additional resource family recruitment to ensure that children can be placed in or close to their home communities.

\(^52\) It certainly makes sense to focus on increasing in-county placements generally and the Department’s adoption of a goal that is more stringent than the Settlement measure is admirable. However, the in-county measure is an imperfect measure of the extent to which children are being placed in or near their home communities. On the one hand, for children from large counties, a placement within the county, but in a much different neighborhood, and/or geographically distant from the neighborhood that the child lives in, shares many characteristics with an out-of-county placement. On the other hand, for children whose home community is near a county border, an out-of-county placement may be closer to the child’s home community than an in-county placement. In addition, a child may prefer to stay with a relative out-of-county than to live with strangers in his or her home county.

The Settlement Agreement recognizes that a child can appropriately be placed outside of a 75-mile radius of the home if “(a) the child’s needs are so exceptional that they cannot be met by a family or facility within the region, (b) the child needs re-placement and the child’s permanency goal is to be returned to his parents who at that time reside out of the region; or (c) the child is to be placed with a relative out of the region.” (VI.A.1.a)

\(^53\) In the past Hamilton County was also a single county DCS region and was included in the urban regions analysis. The Department combined Hamilton with its surrounding rural counties (formerly the Southeast region) to form one region, Tennessee Valley. This is the second Monitoring Report for which that change is reflected in this analysis.
Figures 1.15 and 1.16 in combination present the performance of each of the regions with respect to in-county placement rates from 2009 through 2014.
Continuity in caring relationships and consistency of settings and routines are essential for a child’s sense of identity, security, attachment, trust, and optimal social development. The stability of a child’s out-of-home placement impacts the child’s ability to build trusting relationships and form attachments.

One of the most damaging experiences for children in foster care is changing placements multiple times while in foster care. Well-functioning child welfare systems find the right first placement whenever possible, and regularly ensure that a child moves no more than once. The goal is to match each child with the right resource family and wrap services around that child and resource family to make that placement work for the child.

The Settlement Agreement establishes the following requirements related to placement stability:

- “At least 90% of children in care shall have had two or fewer placements within the previous 12 months in custody, not including temporary breaks in placement for children who run away or require emergency hospitalization and return to the same placement;”

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54 Improving the placement process requires a focus on better assessment of the child’s strengths and needs and a sufficient range of resource homes (and knowledge of those resource homes) to make a good match and ensure services necessary to support the match.
- “At least 85% of children in care shall have had two or fewer placements within the previous 24 months in custody, not including temporary breaks in placement for children who run away or require emergency hospitalization and return to the same placement.” (XVI.A.3)

Of the 10,981 children in custody at any time between January 1, 2014 and January 1, 2015, 92% (10,120) had two or fewer placements within the previous 12 months in custody, and 80% (8,808) of those children had two or fewer placements within the previous 24 months in custody. This represents similar performance on both stability measures as the 2013 calendar year. (Of the 11,835 children in custody at any time between January 1, 2013 and January 1, 2014, 93% (11,003) had two or fewer placements within the previous 12 months in custody, and 82% (9,683) of those children had two or fewer placements within the previous 24 months in custody.)

While the Department reports regularly on placement stability using the Settlement Agreement measure, the Department uses other placement stability measures as well to track and evaluate its performance.

Figure 1.17 below presents the number of placement moves experienced by children first entering custody in 2013, observing placement stability through December 31, 2014, a “window” for observing placement stability that is a minimum of 12 months (for children entering care during December 2013) and a maximum of 24 months (for children entering in January 2013).

Forty-eight percent of the children entering care during 2013 experienced no placement moves, and 28% moved only once during this window. This is similar to performance for the 2011 and 2012 entry cohorts. 55

![Figure 1.17: Placement Moves Observed through December 31, 2014, First Placements in 2013](source)

Source: Longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2015.

55 See Appendix G for a further breakdown of placement moves by number and region.
Figure 1.18 provides a regional breakdown of these data. The figure organizes the regions by performance, with those regions with the lowest percentage of children moving more than once at the top.

The data presented in Figure 1.19 below reflect placement stability for recent entry cohorts across three different windows of observation.

The blue line shows the percentage of children entering out-of-home care during each fiscal year who experienced two or fewer placements over a six-month window of observation. For

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56 Unlike other cohort data presented in this report, this placement stability measure includes all children entering out-of-home placement, regardless of whether the children are entering care for the first time or are reentering care.
example, 87% of children entering care during the first six months of the 2003-04 fiscal year experienced two or fewer placements as of December 31, 2003. This percentage reached 94% (as of December 31, 2010) for children entering care during 2010-11 and has decreased to 89% for the most recent entry cohort.

The red line, showing placement stability over a one-year window of observation,\(^{58}\) shows improvement over time. Eighty-three percent of children entering care during 2003-04 experienced two or fewer placements as of June 30, 2004, while 84% of children entering care during 2013-14 experienced two or fewer placements as of June 30, 2014.

The green line shows performance over a two-year window.\(^{59}\) Seventy-four percent of children entering care during 2003-04 experienced two or fewer placements as of June 30, 2005, while 77% of children entering care during 2012-13 experienced two or fewer placements as of June 30, 2014.\(^{60}\)

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\(^{57}\) This “six-month window” for each cohort year observes placement stability from a minimum of one day for children entering care on December 31st of the fiscal year to a maximum of six months for children entering care at the beginning of the fiscal year (on July 1st).

\(^{58}\) This “one-year window” for each cohort year observes placement stability from a minimum of one day for children entering care at the end of the fiscal year (on June 30th) to a maximum of 12 months for children entering care at the beginning of the fiscal year (on July 1st).

\(^{59}\) This “two-year window” for each cohort year observes placement stability from a minimum of 12 months for children entering care at the end of the first fiscal year (during June) to a maximum of 24 months for children entering care at the beginning of the first fiscal year (during July).

\(^{60}\) The Department also produces a similar measure of placement stability for the children who were already in care at the beginning of each fiscal year (the “in-care population”). The measure observes placement moves for children in care at the beginning of each fiscal year over a two-year window. For example, placement moves for children in care on July 1, 2005 are observed from July 1, 2005 through June 30, 2007. The percentage of children who experienced two or fewer placements during the two-year window applicable to each in-care cohort ranged between 83% and 86% for eight years: 83% of the children in care on January 1, 2005, 85% of the children in care on January 1, 2006, 84% of the children in care on January 1, 2007, 84% of the children in care on January 1, 2008, 84% of children in care on January 1, 2009, 85% of the children in care on January 1, 2010, 86% of the children in care on January 1, 2011, and 86% of the children in care on January 1, 2012.
As discussed in previous monitoring reports, the Department, utilizing placement stability data regularly provided by Chapin Hall, has previously identified two specific strategies for improving placement stability.  

First, for those children who experience placement moves while in care, most of the placement moves occur in the first six months in care, suggesting the value of a special focus on understanding and addressing the factors that contribute to placement moves in the first six months in care.  

Second, children who are placed in kinship resource homes appear to enjoy greater placement stability than children placed in non-kinship resource homes. This is consistent with trends nationally. As of December 31, 2014, 69% (660) of the 955 children entering out-of-home placement for the first time in 2013 who were initially placed in kinship resource homes did not experience a placement move, compared to 49% (1,494) of the 3,037 children entering out-of-home placement for the first time in 2013 who were initially placed in non-relative resource homes. The Department has recognized that increased identification and utilization of relatives and fictive kin as resource parents for children might reasonably be expected to improve...
placement stability. As previously discussed, the Department continues to place special emphasis on improving regional kinship resource home recruitment and retention efforts.

A more detailed presentation of this additional stability data, including an analysis of placement moves by region, is contained in Appendix G.63

4. Maintaining Family Connections for Children in Care: Contact with Parents and Siblings

The DCS Practice Model and the Settlement Agreement highlight the importance of preserving non-detrimental family relationships and attachments through meaningful visits between parents and children, by placing sibling groups together in the same resource home, and, when siblings are separated, by ensuring regular and frequent sibling visits.

As discussed in this subsection, the percentage of sibling groups placed together continues to be a significant strength for Tennessee’s child welfare system. In addition, TAC reviews of parent-child visits and sibling visits have found that visits are occurring according to the Settlement Agreement requirements in many cases, and in the majority of cases in which they are not, case circumstances either fall into one of the categories of allowable exceptions to the visit requirements under the Settlement Agreement or reflect “other good reasons” that visits have not occurred.

a. Contact with Parents

The Settlement Agreement provides that “for children in the plaintiff class with a goal of reunification, parent-child visiting shall mean a face-to-face visit with one or both parents and the child which shall take place for no less than one hour each time (unless the visit is shortened to protect the safety or well-being of the child as documented in the child’s case record). The visit shall take place in the child’s home if possible or in as homelike a setting as possible, or for longer as otherwise required by the child’s permanency plan and reasonable professional standards.”

The Settlement Agreement provides two exceptions:

- “This standard does not apply to situations in which there is a court order prohibiting visitation or limiting visitation to less frequently than once every month;” and

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63 Stability is also measured by the Quality Service Review (QSR). The focus of the QSR is not just on placement stability but also on stability of school settings and stability of relationships. Generally, a case cannot receive an acceptable score for Stability if the child has experienced more than two placements in the 12-month period prior to the review. However, a case in which the child had experienced two or fewer placements might nevertheless be scored unacceptable for Stability if the child experienced disruption in school settings or disruption of important personal, therapeutic, or professional relationships. For the past three annual QSRs, the statewide scores for Stability have increased from 74% (158/213) in 2012-13 to 80% (169/210) in 2013-14 and to 89% (184/206) in 2014-15. Appendix G also presents the percentage of Brian A. cases receiving acceptable scores for Stability by region in the past three annual QSRs.
• “The child’s case manager may consider the wishes of a child (generally older adolescents) and document in the case file any deviation from usual visitation requirements.”

The Settlement Agreement states that “at least 50% of all class members with a goal of reunification shall be visited face-to-face by one or both parents at least twice per month for at least one hour in as home-like a setting a possible, unless there is a court order to the contrary or the case manager has considered and documented the wishes of a child to deviate from this requirement.

For the remaining class members with a goal of reunification who are not visited twice per month, at least 60% shall be visited once a month in keeping with the standards of the preceding paragraph.” (XVI.B.1)

The Department has been producing aggregate reporting on parent-child visits; however, because the exceptions to the visit requirements require a qualitative analysis of the individual circumstances of each case, aggregate reporting is not able to identify children whose visits with their parents would be subject to permissible exceptions to the visit requirement. The Department’s aggregate reports have therefore applied the standard to all class members with a goal of reunification who are placed away from their parents, excluding only the small number of children who either have run away from care or have a reunification goal but are in full guardianship.64 For this reason, the aggregate data understate the level of DCS compliance with the Settlement Agreement parent-child visit requirement. In addition, TAC reviews of parent-child visits have consistently found that the aggregate data fail to capture a significant percentage of parent-child visits as a result of ongoing data entry issues with TFACTS.65 The TAC therefore relies on the results of targeted reviews of parent-child visits to understand the Department’s performance on parent-child visits.

As reported in detail in the January 2015 Monitoring Report and Supplement to that report, TAC monitoring staff, in collaboration with staff from the Department’s Continuous Quality Improvement (CQI) Division, conducted a targeted case review of parent-child visits during the first quarter of 2014. That review found that in each month of the review period, the vast majority of children had at least one visit or an acceptable reason not to visit, including...

64 Under DCS policy, until parental rights are terminated, parents and children retain their right to visits and contact with each other. As with any other situation in which the interests of the child require a deviation from the visiting standard, if there is a reason to restrict visits prior to the ruling on a termination petition, that can be accomplished by seeking a court order to that effect. However, because the Settlement Agreement only applies this measure to children with reunification goals, the Department reports on only those children.

65 For discussion of the findings of the TAC’s previous reviews of parent-child visits, including discussion of the factors contributing to under-reporting of the frequency of visits in aggregate data, see Appendix H of the June 2012 Monitoring Report, and Appendix D of the April 2011 Monitoring Report. The parent-child visit reviews involve a thorough examination of every possible reference in case recordings and other TFACTS documentation to ascertain the extent to which visits are taking place and to understand any factors contributing to missed visits. As discussed in previous monitoring reports and appendices, some of the under-reporting in the aggregate data is attributable to the difficulty of accurately documenting visits that the resource or birth family facilitates and for which the DCS case manager is not present. Also, because aggregate reporting draws only from checkbox fields, if visits are documented in case recordings but the boxes are not checked, the visits will only be identifiable from a case file review.
exceptions allowed by the Settlement Agreement (93% in January, 90% in February, and 96% in March), and a significant percentage of children had at least two visits or an acceptable reason not to visit, including exceptions allowed by the Settlement Agreement (75% in January, 76% in February, 80% in March). 66

b. Placement with Siblings

The Settlement Agreement requires that “at least 85% of all siblings who entered placement during the reporting period shall be placed together, unless doing so is harmful to at least one of the siblings; a sibling has exceptional needs requiring placement in a specialized program or facility; or the size of a sibling group makes such placement impracticable despite diligent efforts to place the group together, in which event the case manager shall document immediate efforts to locate a suitable home in which to reunite the siblings.” (XVI.B.2)

The Department has been producing aggregate reporting from TFACTS on separated siblings; however, aggregate reporting is unable to identify children whose separation from their siblings fell within one of the exceptions to the general requirement that siblings be placed together. The Department’s aggregate reporting in effect presumes that all sibling groups who entered custody within 30 days of one another should be placed together, resulting in some degree of understating of the Department’s performance in this area.

During fiscal year 2013-14, 84% of sibling groups entering out-of-home placement together for the first time were placed together. 67 Figure 1.20 displays performance on this measure for entry cohorts in 2003-04 through 2013-14. Performance has remained between 82% and 87% since 2003-04.

66 In comparison, performance according to aggregate reports for that period is as follows:
• For January, 29% of children visiting with a parent at least twice and an additional 23% visiting at least once during the month;
• For February, 36% of children visiting with a parent at least twice and an additional 20% visiting at least once during the month; and
• For March, 41% of children visiting with a parent at least twice and an additional 18% visiting at least once during the month.

67 In order to be counted as “placed together” in the data presented in this monitoring report, all siblings entering within 30 days of each other had to be placed together; if only one sibling was placed separately, the entire sibling group (or each individual sibling within the group, depending on the measure used) would be counted as “not placed together.”
Figure 1.20: Percentage of Sibling Groups Entering Together Who Are Placed Together, First Placements in Fiscal Years 2003-04 through 2013-14

Source: FY0304 from longitudinal analytic files developed by Chapin Hall from TNKids data transmitted in August, 2009. FY0405 from longitudinal analytic files developed by Chapin Hall from TNKids data transmitted in February 2010. FY0506 from longitudinal analytic files developed by Chapin Hall from TNKids data transmitted in August 2011. FY0607 from longitudinal analytic files developed by Chapin Hall from TNKids data transmitted in February 2012. FY0708 from longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2013. FY0809 from longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2014. FY0910 through FY1314 from longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2015.

Figure 1.21 below presents both the total number of sibling groups entering together for the first time in fiscal year 2013-14 and the number of those sibling groups who were placed together initially. The regions are ordered in the figure by the percentage of sibling groups initially placed together, with the region with the highest percentage of sibling groups initially placed together at the top.
The Department also tracks the placement of all sibling groups in custody each month. As of April 30, 2015, 75% (3,036) of the 4,042 siblings in custody were placed together.

Figure 1.22 displays regional performance on this measure as of April 30, 2015. As shown in the figure, the placement of sibling groups in custody on April 30, 2015 differs significantly from the initial placement of sibling groups entering out-of-home care during fiscal year 2013-14. There are differences between the two measures for every region, though the differences are more pronounced for some regions than for others.

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For purposes of producing this particular measure on sibling placement, the Department defines a “sibling group” as siblings who entered custody within 30 days of one another and excludes any child from the sibling group who is on runaway status on the last day of the reporting period. The Department has recently revised the TFACTS Siblings report to correct the error noted in previous monitoring reports that resulted in a slight under-reporting of the number of separated siblings in custody and to count separations both by sibling group and by child.

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c. Contact with Siblings

The Settlement Agreement states that “For children who are not placed in the same home or facility as their siblings there shall be face to face visits between the child and any of his or her sibling(s) who are in the plaintiff class in the most home-like setting available. The visits shall take place in the parent’s home, the foster home in which one of the siblings is living, the home of a relative, or the most home-like setting otherwise available and shall occur as frequently as is necessary and appropriate to facilitate sibling relationships but no less frequently than once each month. The visiting shall take place for no less than one hour each time (unless the visit is shortened to protect the safety or well-being of the child as documented in the child’s case record), or more as otherwise required by the child’s permanency plan and reasonable professional standards.”

The Settlement Agreement allows “reasonable exceptions to the frequency requirement” for...
cases in which: “(1) there is a court order prohibiting visitation or limiting visitation to less frequently than once every month; (2) visits are not in the best interest of one or more of the siblings and the facts supporting that determination are documented in the case file; (3) the case manager for at least one of the siblings has considered the wishes of the sibling (generally older adolescents) and deviates from this standard based on the child’s wishes; or (4) a sibling is placed out of state in compliance with the Interstate Compact on the Placement of Children and there is documentation of reasonable efforts by DCS to maintain sibling contact between in-state and out of state siblings, including consideration of placement near border states and efforts to arrange visits and for contact by telephone or other means. All exceptions, and all reasonable steps to be taken to assure that visits take place and contact is maintained, are to be documented in the case file.”

The Settlement Agreement requires that “at least 90% of all children in the class in placement who have siblings with whom they are not living shall visit with those siblings at least once a month during the reporting period at issue.” (XVI.B.3)

As is the case with reporting on parent-child visits, TFACTS is not able to produce a report on sibling visits that identifies and excludes children for whom there is a permissible exception to the sibling visit requirement. The Department in its reporting applies this standard to all sibling groups who entered custody within 30 days of one another and are in different placement locations during the reporting period, and current reporting therefore understates performance on the Settlement Agreement requirement to some degree. The TAC therefore relies on the results of targeted reviews of sibling visits to understand the Department’s performance on sibling visits.

Consistent with the TAC’s previous sibling visit reviews, the TAC’s 2014 Sibling Visit Review (discussed below) found that tracking data fail to capture a significant percentage of sibling visits. TAC monitoring staff, in collaboration with staff from the Department’s Continuous Quality Improvement (CQI) Division and from Central Office, conducted a targeted review of sibling visits occurring between August 1, 2014 and October 31, 2014 in a sample of 73 siblings placed in different placement locations as of the last day of the reporting month. The report counts the number of visits involving at least two of the separated siblings during that month. It excludes any child from the sibling group who is on runaway status as of the last day of the reporting month.

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69 This measure includes all siblings in custody who originally entered custody within 30 days of other siblings, regardless of the type of entry (first placement or reentry) or placement type (with family or out-of-home). For all siblings placed in different placement locations as of the last day of the reporting month, the report counts the number of visits involving at least two of the separated siblings during that month. It excludes any child from the sibling group who is on runaway status as of the last day of the reporting month.

70 For discussion of the findings of those reviews, including discussion of the factors contributing to under-reporting of the frequency of visits in aggregate data, see the May 2014 Monitoring Report at pages 59-63, Appendix I of the June 2012 Monitoring Report, and Appendix H of the November 2010 Monitoring Report. The sibling visit reviews involve a thorough examination of every possible reference in case recordings and other TFACTS documentation to ascertain the extent to which visits are taking place and to understand any factors contributing to missed visits.

71 As discussed in previous monitoring reports and appendices, some of the under-reporting in the aggregate data is attributable to the difficulty of accurately documenting visits that the resource or birth family facilitates and for which the DCS case manager is not present. Also, because aggregate reporting draws only from checkbox fields, if visits are documented in case recordings but the boxes are not checked, the visits will only be identifiable from a case file review.
separated sibling groups (made up of a total of 224 siblings). After reviewing TFACTS documentation for all children in the sibling group for the entire review period, TAC monitoring staff conducted follow-up interviews with the team leaders for the cases to get any needed clarification and any additional documentation of or information about visits that was not available in TFACTS.

Figure 1.23 below shows, for the siblings in the sample for whom visits were applicable, the frequency at which the child visited with at least one other sibling during each month of the review period. The figure accounts for those cases in which the failure to visit was attributable to a specific exception to required sibling visiting listed in the Settlement Agreement.

In addition, the figure includes “therapeutic concerns” as a category to account for cases in which there were no sibling visits during the month but one of the following two situations existed:

1. There were clear therapeutic concerns regarding visits between the siblings that warranted further discussion before visits should occur. (For example, in one case, the middle sister’s emotional and behavioral issues had been very disruptive for the siblings (an older brother and a younger sister), necessitating her separation from her siblings and placement in congregate care facilities some distance away. The brother was adamant about not wishing to see the middle sister, but the youngest sister continued to express a desire to see her. However, the youngest sister would become very upset during phone calls with the middle sister, so the team was working to determine whether or not visits between the sisters would be detrimental to the youngest sister).

2. The treatment needs of one or more siblings presented significant barriers to regular visits. (For example, in one case, the sister was hospitalized twice during the review period for suicidal ideations and her mental health was unstable, resulting in the cancellation of at least one scheduled visit and contributing to logistical barriers to visits, since the brother’s resource parents and the siblings’ relatives did not feel comfortable with the safety planning required for the sister’s visit. The team was working diligently to arrange visits, and one three-day visit occurred during the review period.)

The cases in this category had explanations related to therapeutic concerns for the failure to visit in one or more months that, while not one of the specific Settlement Agreement exceptions, appeared to the TAC to be reasonable.

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72 This random sample of 73 sibling groups was pulled from the 305 sibling groups who were separated at the end of October 2014 according to the Department’s October 2014 Sibling Report. The sample was stratified by region and represents a 95% confidence level and a plus/minus 10 confidence interval.

73 Because the review sample was pulled from the population of sibling groups separated at the end of October 2014, sibling visits in August and September were not applicable for some number of sibling groups because the siblings either were not yet in custody or were not yet separated. There was also one sibling group for whom visits were not applicable during October because the siblings remaining in custody in October were all together on trial home visit, although a mistake in the placement record for one sibling caused them to appear as separated on the report. Those children are subtracted from the denominator for the percentages for the appropriate month.

74 Appendix I contains slightly modified versions of the figures in this section that exclude from the analysis the cases with an exclusion allowed by the Settlement Agreement.
As shown in the figure, in each month, the majority of siblings had at least one visit with at least one other sibling, a Settlement Agreement exception to sibling visits, or a therapeutic concern impacting sibling visits (89% in August, 86% in September, and 95% in October).

Figure 1.24 below shows, for the siblings in the sample for whom visits were applicable, the frequency at which the child visited with all other siblings during each month of the review period (the analysis is otherwise the same as described for Figure 1.23 above).

The TAC has modified its analysis of sibling visits in order to respond to parties’ requests that the TAC report on each sibling’s experience of visits. This improved analysis measures visits for each individual sibling instead of the sibling group as a whole, so that an instance in which two siblings visited but the third sibling did not would be counted as “at least one visit with one other sibling” for the two siblings who visited and as “no visits” for the sibling who did not visit. Because of the change in methodology, the findings from this review do not provide an apples-to-apples comparison with data from the TAC’s previous reviews.

The Sibling Visit Review data presented throughout this section includes only those visits that appeared to be consistent with the definition of a visit in DCS policy 16.43, Section D: “1. Siblings who are not placed in the same resource home or agency will be allowed to visit face-to-face in the parents’ home or the resource home in which one of the siblings is living, a relative home, or the most home-like setting otherwise available. 2. Visits will take place as frequently as is necessary and appropriate to facilitate sibling relationships but no less frequently than once each month for no less than one hour in duration (unless the visit is shortened to protect the safety or well-being of the child). Visits will be of such duration as to support the on-going relationship and connection of the siblings and may include overnight or weekend visits.” Additional contacts between siblings occurring in courtroom lobbies, waiting rooms, etc. were not included in the data analysis. A version of this figure that includes such “additional contacts” in the visit count is included in Appendix I.
In each month, the majority of siblings had at least one visit with *all other siblings*, a Settlement Agreement exception to sibling visits, or a therapeutic concern impacting sibling visits (88% in August, 86% in September, and 95% in October).

Fourteen (6%) of the 224 siblings in the sample did not have a documented visit with at least one other sibling for at least two consecutive months (and there was no applicable Settlement Agreement exception or therapeutic concern about visits).

- For two of these siblings, there was information indicating that there were more sibling visits during the review period than reviewers were able to confirm, and it is therefore possible that these two siblings did not miss two consecutive months of visits.
- For two other siblings, there is documentation that they went to the same school for part of the review period and that they saw each other during counseling, but these were counted as “additional contacts” because there was no documentation of the quality of

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77 Some of these siblings had additional contacts at court or in waiting rooms that were not counted as visits for purposes of this review because they did not appear to meet the definition of a sibling visit according to DCS policy. See footnote 76 above.
those visits, and the siblings repeatedly asked for the opportunity to “just hang out” together.\textsuperscript{78}

- For the remaining 10 siblings (three total sibling groups), it appears that they in fact did not see each other for at least two months. Factors contributing to the failure to visit for these 10 siblings included significant distance between the siblings’ placements, placement moves disrupting regular visit schedules, and breakdowns in communication between DCS and the placement provider regarding who is responsible for visits.

A missed visit did not necessarily indicate inattentiveness to the need for sibling visits. For example, for two sibling groups (a total of seven children) who missed visits during at least one month of the review period and had neither an allowable exception under the Settlement Agreement nor therapeutic concerns contributing to the missed visit(s), the file documentation nevertheless reflected the team’s very thoughtful attention to overcoming the barriers to visits for these siblings.

Conversely, the fact that legitimate therapeutic concerns were a reasonable basis for missed visits, does not necessarily mean that appropriate attention is being paid to the importance of sibling contact. There were some cases in which there was insufficient attentiveness to the need for sibling contact, even though the failure to visit was permissible under the Settlement Agreement. For example, for four siblings (two sibling groups of two), there were therapeutic concerns about visits that warranted further discussion before visits occurred (and the siblings are therefore counted in the “therapeutic concerns” category in the preceding figures); however, reviewers noted missed opportunities for both sibling groups: for one sibling group, there was a significant, unexplained delay in establishing phone contact for the brothers who clearly missed each other; for the other, it appears that there was a delay of several months in setting up counseling for one sibling to help determine the appropriateness of sibling visits.

d. Family Connections

The Quality Service Review (QSR) also provides data related to both parent-child and sibling visits. The Family Connections indicator requires that the reviewer examine the degree to which relationships between the child and family members from whom the child is separated (including extended family and “fictive kin”) are maintained through appropriate visits and other means. Unless there are compelling reasons for keeping them apart, the reviewer must, among other things, look at the frequency of visits between the child and the child’s parents and siblings. To receive a minimally acceptable score on this indicator, the reviewer must find that “the child has periodic (biweekly) visits with all appropriate family members.” If visits occur less frequently than bi-weekly, the case generally would not receive an acceptable score for Family Connections. Because the QSR indicator considers connections with all appropriate family members simultaneously, it is a more rigorous standard than that contained in the Settlement Agreement.

\textsuperscript{78} The siblings had these “additional contacts” during two of the three months in the review period, but it does not appear that there was any type of face-to-face contact between them during the third month. Documentation in the TFACTS file reflects that the siblings had their first “hang out” visit about two months after the review period.
Figure 1.25 presents the percentage of *Brian A.* cases receiving acceptable scores for Family Connections by region in the past three annual QSRs. The Family Connections indicator is only scored for cases in which the child was placed in out-of-home care and was living apart from his/her parents or siblings. This indicator is not scored if the child has no family or TPR has occurred and the child and family team has appropriately determined that it is not in the child’s best interest to maintain contact with extended family or siblings. The statewide scores for Family Connections have increased from 46% (71/156) in 2012-13 to 64% (101/158) in 2013-14 and to 78% (118/152) in 2014-15.

![Figure 1.25: Percentage of Acceptable QSR Cases, Family Connections](image)

Source: QSR Databases.
C. How successful is the Department in meeting the safety, health, developmental, educational, and emotional needs of children in care?

The Department is responsible for ensuring the well-being of children in its custody. The DCS Practice Model and the Settlement Agreement therefore emphasize the importance of providing children in care with timely access to high-quality services to meet their safety, health, developmental, educational, and emotional needs.

Key Findings:

- While there is some regional variation, for the large majority of children in foster care, the Department appears to be doing reasonably well in ensuring that their physical health needs are being met. Children in foster care either appear to be in reasonably good health or, if they suffer from chronic health problems, generally appear to be having documented health needs addressed responsibly.

- For the large majority of children with identified mental health needs, the Department appears to be providing some mental health services in an effort to respond to those needs. However, children in foster care appear to fare significantly less well with respect to their emotional and behavioral well-being than they do with respect to their physical health.

- While a majority of children in foster care appear to be progressing developmentally and educationally, a significant number of children continue to face developmental and educational challenges.

I. Ensuring the Safety of Children in Foster Care

The decision whether to take a child into state custody is, in the first instance, a decision about child safety. Both the Department and the Juvenile Court are charged with the responsibility of ensuring that children are not removed from their families and communities when a less drastic approach can safely address their needs and the needs of their family, but DCS and the Juvenile Court also have the responsibility of ensuring that children are removed when their safety (or the safety of others) requires it.

The Settlement Agreement requires that the Department’s Child Protective Services (CPS) system be adequately staffed to ensure receipt, screening, and investigation of alleged abuse and neglect of children in DCS custody within the time frames and in the manner required by law, and the Settlement Agreement has specific provisions related to addressing allegations of children being abused and neglected while in care.

Once a child is brought into state custody, the state takes on a special obligation as the legal custodian to ensure that the child is in a safe placement and protected from harm. The Settlement Agreement has a number of provisions that address processes that the Department...
must have in place in order to identify and respond to reports of abuse and neglect of children in foster care. However, it does not contain particular numerical goals related to substantiated incidents of abuse or neglect. Nevertheless, there are a number of measures and sources of information that the Department utilizes for purposes of assessing and reporting on child safety for children in foster care. These sources of information include: the Child and Family Service Review (CFSR) Abuse in Care Measure, the Quality Service Review, the Special Investigations Unit (SIU) reports, and the Incident Reporting (IR) system.

a. Child and Family Service Review (CFSR) Abuse in Care Measure

For the second round of the Child and Family Service Review (CFSR2), the U.S. Department of Health and Human Services (HHS) required that no more than 0.32% of all children in care be victims of substantiated maltreatment by a resource parent or congregate care facility staff member. For the third round of the Child and Family Service Review (CFSR3), HHS requires that there be no more than 8.5 victimizations by any perpetrator per 1,000 days in care. Under these standards, the term “all children in care” applies to both Brian A. class members (children adjudicated dependent and neglected or unruly) and children adjudicated delinquent.

According to HHS’ analysis of National Child Abuse and Neglect Data System (NCANDS) data for CFSR2, for the 12-month period ending September 30, 2014, 0.14% of Brian A. class members who were in out-of-home placement during the year had been the victims of substantiated abuse or neglect by resource parents or congregate care facility staff.

Because HHS does not calculate a state’s performance on CFSR measures on an annual basis, (but rather only according to the less frequent CFSR review schedules), the TAC has included in previous monitoring reports data produced at least annually by Chapin Hall that is derived from the CFSR2 measure. Chapin Hall uses a methodology that is more targeted to the Brian A. population in out-of-home care than that used by HHS. According to the Chapin Hall calculation, for the 12-month period ending December 31, 2014, 0.54% of Brian A. class members who were in out-of-home placement during the year had been the victims of substantiated abuse or neglect by resource parents or congregate care facility staff.

According to HHS’ analysis of NCANDS data for CFSR3, for the 12-month period ending September 30, 2013, Tennessee’s observed performance was 6.91 victimizations per 100,000 days in foster care, but Tennessee’s confidence interval was between 8.74 and 11.53 victimizations per 100,000 days in foster care. Because the 8.5 standard fell below the confidence interval, Tennessee was required to complete a Performance Improvement Plan. The TAC is working with the Department and Chapin Hall to better understand performance under the new measure.

79 A comparison of the definitions of the CFSR2 and CFSR3 measures is included as Attachment B to the Final Notice of Statewide Data Indicators and National Standards for Child and Family Services Reviews, available at: https://www.federalregister.gov/articles/2014/10/10/2014-24204/statewide-data-indicators-and-national-standards-for-child-and-family-services-reviews

See the May 2014 Monitoring Report, footnote 112, for a description of Chapin Hall’s methodology for calculating the CFSR2 measure.
b. Quality Service Review Results

The Quality Service Review assesses whether, at the time of the review, the child is safe from manageable risks of harm from self or others, as well as whether others are safe from manageable risks of harm from the child’s behaviors.

Figure 1.26 presents the percentage of Brian A. cases receiving acceptable scores for Safety by region in the past three annual QSRs. The statewide scores for Safety have been above 95% acceptable, ranging from 96% (204/213) in 2012-13 to 99% (207/210) in 2013-14 and to 97% (199/206) in 2014-15.

Source: QSR Databases.
TAC monitoring staff reviewed the seven cases involving Brian A. class members which were scored unacceptable for Safety during the 2014-15 QSR to determine both the reason for the unacceptable score and whether TFACTS documentation subsequent to the review reflects actions to address the safety concerns.

The circumstances for each of the seven cases are as follows:

- A youth (age 17) expressed to reviewers that he did not feel safe in his residential treatment program because other children put their hands on him and staff allowed it. The youth was stepped down into a resource home on the day of the QSR review after making progress with his aggressive behaviors and demonstrating coping skills.

- A youth (age 14) was reported to have set fire to toilet paper in the bathroom and had displayed some aggressive behaviors in the school setting. Reviewers were concerned that the behavior could be a risk to himself and others, and that there was not any evidence of planning or implementing services to address the behaviors. Case documentation does not reflect how the concerns raised by the QSR reviewers were addressed, but the youth continued in ongoing counseling services. The youth started a trial home visit (THV) shortly after the QSR review.

- Case documentation reflects that the child (age 5) was aggressive towards his younger sister (age 3) and classmates at school and was designated as high risk for danger to others. The siblings are placed in a kinship home with an aunt and uncle who want to adopt the children. (TPR was granted but the case is currently on appeal). The child had a 504 plan in school, received medication management, attended counseling, and was referred for a Center of Excellence evaluation which is scheduled to occur in July.

- The case story narrative reflected that the youth (age 17) had violated his safety plan by not attending school (during which time his whereabouts were unknown) and smoking. There was an expectation that as a result of his behaviors he would be readjudicated delinquent at an upcoming juvenile court hearing and would be placed in a residential treatment program, and the youth had threatened to run away if that were to happen. According to subsequent case documentation, the GAL and the youth’s therapist were of the opinion that the youth should be given another chance, because otherwise he would give up and things would get worse. The resource parent agreed to allow the youth to remain in the home, and the youth turned his behavior around. The judge did not readjudicate the child as delinquent and did not order that the child be placed in a residential treatment setting.

- A youth (age 17) expressed suicidal ideations and reported feeling unsafe in his placement within the past 30 days because of the presence of another child. (That other child had already been removed from the home by the date of the QSR review). Follow-up case documentation reflects that the youth received help with his suicidal ideations and they decreased in frequency. Case documentation reflects that neither the review child nor the child that was removed were high risk.
• A youth (age 13) shared with QSR reviewers that she was “a cutter” and had a recent episode. Reviewers suggested that a safety plan be created. Case documentation reflects that the child was referred to individual counseling to develop better coping skills. The youth was placed on THV with her parent shortly after the review.

• The child (age 13) expressed threats to blow up his school and hurt others in the school setting. Case documentation reflects that the child was placed in a school that is designed to help children with special needs. The child’s behavior continued to spiral downward after the QSR review and he was reassessed as high risk. His placement was disrupted after he threatened to harm the birth children of the resource parents. He was the only foster child in the home that he was disrupted from and the only foster child in the home that he was moved to.

c. Special Investigations Unit and Child Protective Services Investigations of Reports of Abuse or Neglect of Children while in State Custody

The Special Investigations Unit (SIU) investigates all reports of abuse or neglect of children while in DCS custody in which the alleged perpetrator is another foster child, a resource parent or resource parent’s family member, a facility staff member, a DCS or private provider employee, a teacher, a therapist, or another professional. Child Protective Services (CPS) investigates all reports of abuse or neglect of children while in DCS custody in which the alleged perpetrator is a member of the child’s birth family or family friend.

The Department produces a daily report of children who have an open Brian A. custody case and a CPS or SIU investigation.\textsuperscript{80}

As discussed in more detail in Section Three of this monitoring report, TAC monitoring staff and staff from the Office of Child Safety Internal Quality Control Unit collaboratively conducted a targeted review of the August 15, 2014 report to isolate investigations and assessments of abuse or neglect of \textit{Brian A.} children alleged to have occurred while in custody, including during home visits or while on runaway status.

The review found that of the 242 open investigations involving a \textit{Brian A.} child on August 15, 2014, 129 (53%) were SIU investigations and 16 (7%) were CPS investigations or assessments concerning incidents of abuse or neglect by birth family alleged to have occurred after the child had entered custody. The remaining 97 (or 40%) were CPS investigations and assessments concerning incidents of abuse or neglect alleged to have occurred prior to custody.

\textsuperscript{80} All SIU investigations included in this report represent an alleged incident of abuse or neglect while in custody and are easily identified by the assignment to the Special Investigations Unit. It is much more complicated to identify the investigations and assessments conducted by regional CPS of abuse or neglect that occur during home visits or while on runaway status. This is because a significant number of the CPS investigations involving \textit{Brian A.} children concern allegations of abuse or neglect occurring prior to a child’s custody episode that were reported after the child entered custody, and there is no mechanism to separate these investigations from investigations of abuse or neglect alleged to have occurred while the child was in custody and on a home visit or on runaway status. At the request of the TAC, in order to identify investigations and assessments concerning incidents that occurred while the child was in custody, investigations and assessments that were opened within the first two days of custody are excluded because these are very likely to be the investigations that brought the children into custody.
Of the 129 open SIU investigations, 116 (90%) had been open 60 or fewer days, 12 (9%) had been open between 61 and 90 days, and one (1%) had been open more than 90 days as of August 15, 2014.

Of the 16 CPS investigations and assessments concerning alleged incidents of abuse or neglect by birth families that occurred during custody, 11 (69%) had been open 60 or fewer days, and five (31%) had been open more than 60 days as of August 15, 2014.

Reviewers checked the status of these 16 cases as of November 5, 2014, and found that 15 cases had been closed as of that date:

- six cases (four investigations and two assessments) had closed within the required time frame (60 days for investigations and 120 days for assessments);
- two investigations were overdue but had been classified within 30 days (one was closed as of November 5th and the other remained open);\(^{81}\)
- four cases (two investigations and two assessments) had closed within 15 days after the required time frame;
- three investigations had closed more than 15 days after the required time frame (more than 75 days), but collaboration with external agencies (such as law enforcement and Child Protective Investigation Team (CPIT)) was the reason for the late closure;\(^{82}\) and
- one case was closed after 75 days because of the investigator’s high caseload (resulting from vacancies and a co-worker on medical leave).

### d. Incident Reports

The term “Incident Reports” (IRs) refers to a variety of types of potentially health endangering events that the Department requires those caring for children in DCS custody to report to the Department. Reporting is required both for incidents involving improper conduct, such as reports of abuse and neglect or inappropriate use of restraint or seclusion, and for incidents involving proper conduct, such as taking a child to an emergency room for appropriate medical treatment, or using restraint or seclusion appropriately.

As discussed in detail in the June 2013 Monitoring Report, the Department designed a significant TFACTS enhancement related to Incident Reporting. In the fall of 2014 the Department fully implemented the TFACTS IR enhancement. For this reason, 2014 was a transition year for IR reporting. The Department is currently working to produce enhanced, accurate and reliable reporting from TFACTS for use in monitoring IRs.

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\(^{81}\) This case remained open because of a delay in documentation. Office of Child Safety staff indicated that this particular Investigator is very good and attribute the lack of documentation to the Lead Investigator’s assigning too many cases to this Investigator. They indicate that this issue is being addressed through performance briefing with the Lead Investigator.

\(^{82}\) Investigator performance was noted as an additional factor contributing to the delayed closure in one of these investigations.
2. Meeting the Health Needs of Children in Care

The Settlement Agreement requires that children entering foster care receive a health screening within 30 days. Appropriate services are then to be provided to meet any health needs identified. (VI.B)

There are a number of data sources that the Department uses to track and report on the extent to which it is identifying and responding to health care needs of children in its custody, including the Quality Service Review (QSR) and Early Periodic Screening, Diagnosis, and Treatment (EPSDT)\(^8^3\) data reports.

a. Quality Service Review Results

The QSR indicator for Health and Physical Well-being requires the reviewer to determine both whether the child is in good health and the degree to which the child’s health care and health maintenance needs are being met.

The reviewer must determine whether the child at the time of the review is receiving proper medical and dental care (including appropriate screening, regular preventive care, and immunizations) and whether the child is receiving appropriate treatment for any medical conditions that require treatment.

To receive a minimally acceptable score for this indicator, the child’s health status must be good (unless the child has a serious chronic condition, in which case the child must be receiving at least the minimally appropriate treatment and support relative to that condition). The child must have received routine health and dental care and immunizations must be current. Acute or chronic health care must be generally adequate and timely.\(^8^4\)

Figure 1.27 presents the percentage of Brian A. cases receiving acceptable scores for Health and Physical Well-being by region in the past three annual QSRs. The statewide scores for Health and Physical Well-being have increased from 97% (207/213) in 2012-13 to 98% (206/210) in 2013-14 and to 100% (205/206) in 2014-15.

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\(^8^3\) The federally funded EPSDT program requires that Medicaid eligible children receive regular screening services at specified intervals (periodic screenings) and whenever a problem is suspected, and that children receive the treatment needed to correct any physical or mental illnesses or conditions identified through the screenings. The screenings must include a comprehensive health and developmental history; an unclothed physical exam; appropriate immunizations; laboratory tests; health education; and vision, dental, and hearing screenings.

\(^8^4\) A case can be scored minimally acceptable even if the care or immunizations received were not received on schedule, if some immunizations did not occur, and even if some follow-ups or required treatments had been missed or delayed.
b. EPSDT Assessments

The Department regularly produces three separate TFACTS reports related to EPSDT and dental assessments. Two reports, originally designed to meet the reporting requirements of *John B. v. Goetz* (a class action lawsuit which has been concluded but had focused on Tennessee’s implementation of EPSDT, which included as a subclass children in DCS custody), are run weekly and provide data on the extent to which children in DCS custody are receiving annual
EPSDT health assessments and semi-annual dental assessments. The third report is run monthly and provides data on the extent to which Brian A. class members entering foster care are receiving an EPSDT health screening within 30 days.

Figure 1.28 below presents data from the Initial EPSDT Report for each month of 2014. As reflected in the figure, the percentage of initial EPSDT assessments completed within 30 days of entering custody during 2014 ranged from 76% to 83%.

![Figure 1.28: Percentage of EPSDT Assessments Completed Within 30 Days of Entering Custody, January through December 2014](image)

Source: TFACTS New Custody EPSDT Medical Visit Completion Rates Summary reports for the months of January through December 2014.

In order to understand the extent of the delays in obtaining EPSDT screens for those children who do not receive their EPSDT within 30 days of entering custody, TAC monitoring staff analyzed a 2014 entry cohort TFACTS extract from which the time from date of entry into care to time of initial EPSDT screening can be calculated and aggregated. As Figure 1.29 reflects, of the 4,179 class members who entered custody in 2014 and had custodial stays of 30 or more days, 85% (3,564) had an EPSDT screening within 30 days, and an additional 11% (448) had an EPSDT within 31 and 60 days.

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85 Because the John B. subclass included all children in DCS custody except those placed in the five youth development centers, detention, or jail, these two reports include both Brian A. class members and some children with delinquent adjudications. The annual EPSDT report excludes children on runaway from DCS custody, children in custody for fewer than 30 days, and children with a documented “good cause” exception. The semi-annual dental assessment report also excludes children under 12 months old and children in custody for fewer than 30 days. Because insurance will not cover dental assessments until after six months from the date of the previous dental assessment, the report checks for dental assessments within the past seven months.

86 Because this report is intended to measure performance on the Brian A. Settlement Agreement that each class member receive an initial health assessment within 30 days of entering custody, the initial EPSDT report includes all Brian A. class children entering custody during the reporting month who remained in custody for at least 30 days.

87 The 2014 entry cohort for this extract included every class member who entered DCS custody in 2014.
As discussed in previous monitoring reports, the Department has generally done a good job of ensuring that children in its custody receive their annual EPSDT medical assessment and their semi-annual dental check-ups. That continued to be the case in 2014. As reflected in Figure 1.30, during any given month of 2014, between 95% and 96% of the children for whom an annual EPSDT was required had received one, and between 84% and 89% of the children for whom a semi-annual dental check-up was required received one.
Figure 1.31 below, using the Initial EPSDT, Annual EPSDT, and Semi-Annual Dental Screening reports for December 2014, presents regional performance on each of the required health screens. (The regions are arranged in descending order based on the percentage of initial EPSDT assessments completed within 30 days of entering custody.\textsuperscript{88})

Source: New Custody EPSDT Medical Visit Completion Rates Summary, DCS Medical Visit Completion Rates Summary, and DCS Dental Visit Completion Rates Summary reports for the month of December 2014.

3. Meeting the Mental Health and Emotional Needs of Children in Care

In addition to the medical evaluation required by the Settlement Agreement, the health screening is to include a psychological evaluation “if indicated.” Appropriate services are then to be provided to meet any identified mental health needs. (VI.B)

\textsuperscript{88} Omitted from the figure are children from each report whose region was designated as “undefined”: 2 children on the December 2014 New Custody EPSDT Medical Report were omitted, one of whom had an initial EPSDT assessment within 30 days of entering custody; 65 children on the DCS Medical Visits Completion Summary were omitted, 53 of whom had an annual medical visit in the previous year; and 61 children on the DCS Dental Visit Completion Summary were omitted, 40 of whom had a dental screening in the previous seven months.
a. Quality Service Review Results

The Quality Service Review provides information about the extent to which the Department is identifying and meeting the mental health needs of children in its care.

The QSR indicator for Emotional/Behavioral Well-being requires that the reviewer examine the emotional and behavioral functioning of the child (2 years and older) in home and school settings, to determine that either:

- The child is doing well or, if not,
- The child (a) is making reasonable progress toward stable and adequate functioning and (b) has supports in place to succeed socially and academically.

In order to rate a case “acceptable” for this indicator, the reviewer must find that the child is doing at least marginally well emotionally and behaviorally for at least the past 30 days, even if the child still has problems functioning consistently and responsibly in home, school, and other daily settings. Special supports and services may be necessary and must be found to be at least minimally adequate.

Figure 1.32 presents the percentage of Brian A. cases receiving acceptable scores by region for Emotional/Behavioral Well-being in the past three annual QSRs. The statewide scores for Emotional/Behavioral Well-being have increased from 84% (155/185) in 2012-13 to 92% (168/182) in 2013-14 and to 92% (169/184) in 2014-15.
An additional data source relevant to assessing both the level of mental health treatment need of
the Brian A. class members and at least one component of the system’s response to that need is
the BlueCross BlueShield pharmacy data that the Department uses as part of its tracking and
monitoring of the administration of psychotropic medications.

Attached as Appendix J to this monitoring report are the Department’s reporting and analysis of
the BlueCross BlueShield pharmacy data for calendar year 2014, which includes a breakdown of
that data by age and race. The data in those reports are consistent with pharmacy data from prior
years, reflecting that in any given year between 25% and 30% of children in DCS custody received one or more psychotropic medications at some point during the year.
During 2014, the number of children receiving medication during a given month ranged from a low of 1,591 to a high of 1,751. A total of 3,341 (33%) of the 10,092 class members who were in DCS custody at some time during 2014 received one or more psychotropic medications at some point during that time.

4. Meeting the Developmental and Educational Needs of Children in Care

The primary source of information on the extent to which educational and developmental needs of children are being met while they are in foster care is the Quality Service Review.  

a. Quality Service Review Results

The QSR indicator for Learning and Development requires that the reviewer of a school-age child determine whether a child is regularly attending school, in a grade level consistent with the child’s age, actively engaged in instructional activities, reading at grade level or IEP expectation, meeting requirements for annual promotion and course completion, engaged in extracurricular activities, and provided opportunities to assume age-appropriate levels of responsibility and independence. If the child has exceptional education needs, the reviewer is required to determine that there is a current and appropriate IEP and that the child is receiving the exceptional education services appropriate to the child’s needs. Older youth are expected to be meeting requirements for transition to post-secondary education or to employment, independent living, and self-sufficiency. Children who are not school-age are expected to reach normal age-appropriate developmental milestones or be receiving appropriate supports or services.

To give a case an acceptable score for this indicator, the reviewer must find that in the past 30 days the child is enrolled in at least a minimally appropriate educational/vocational program, consistent with the child’s age and ability, and the child’s level of engagement in educational processes is enabling him or her to reach educational requirements or, where applicable, the child’s IEP. The child may be minimally meeting core requirements for grade-level promotion and experiencing somewhat age-appropriate physical, intellectual, emotional, and social development.

Figure 1.33 presents the percentage of Brian A. cases receiving acceptable scores for Learning and Development by region in the past three annual QSRs. The statewide scores for Learning and Development have increased from 86% (183/213) in 2012-13 to 90% (189/209) in 2013-14 and to 91% (187/206) in 2014-15.

89 See Section Six, Subsection C for additional discussion of Settlement Agreement requirements related to education.
90 IEP refers to the Individualized Education Plan required for exceptional education students.
5. **Preparing Older Youth for Adulthood**

The Settlement Agreement states that “at least 90% of the children who are discharged from foster care because they reached the age of 18 shall have at least one of the following apply at the time of discharge: earned a GED, graduated from high school, enrolled in high school, college, alternative approved educational program for special needs children, vocational training; or be employed full time.” (XVI.A.6)\(^9\)

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\(^9\) This measure excludes children on runaway status at the time they reach the age of 18. (XVI.A.6)
There were 474 young people who were in DCS custody when they reached their 18th birthday (“aged out”) in 2014. Of those, 37 were on runaway status at the time they turned eighteen. For the remaining 437 young people, the TAC monitoring staff working collaboratively with the Department’s Quality Control (QC) and other Central Office staff gathered information on the extent to which each young person met at least one of the achievement measures. The review was based on information generated by the new Transition Survey and supplemented by an examination of the youth’s TFACTS case file.92

As reflected in Table 1.2 below, 388 (89%) of the youth met one of the Settlement Agreement’s achievement measures upon aging out.93

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92 As discussed in the May 2014 Monitoring Report, a new Transition Survey was introduced in 2013 as a vehicle for gathering data (including achievement measure data) on young people who age out of custody. The new survey is much easier to complete than the survey it replaced. However, while survey completion rates have improved over those of the old survey, surveys were not completed for 17% (82) of the 474 young people who aged out during 2014. In order to obtain complete and accurate achievement data on all 474 young people who aged out—both to account for youth for whom a Transitional Survey had not been completed and to validate the information contained in those transitional surveys that were completed—case file documentation was reviewed and Education and Independent Living Specialists were consulted.

93 In a number of other cases, the young person accepted Extended Foster Care (EFC), and was technically enrolled in school after turning 18; however, in each of these cases, the young person dropped out of school and EFC so quickly after turning 18 that the TAC has not included them in Table 1.2. Examples of those cases include:

- a young person who left her EFC placement two weeks after aging out; she reentered EFC a few months later and was enrolled in a GED program (although, because she was also working a night shift, she had not been regularly attending her GED classes);
- a young person who left her resource home, stopped taking her medication, and became homeless; two months after aging out she contacted the Department, showed documentation that she was in a GED program, and was reenrolled in EFC;
- a young person who remained in EFC and was placed with his grandparents for only a matter of weeks before dropping out of school and opting out of EFC; and
- a young person who stopped sleeping at her EFC resource home and stopped attending school.

There were an additional three young people who completed the spring semester of the school year, turned 18 over the summer and entered EFC at that time with the understanding that they would return to school in the fall semester; however, each failed to do so and were subsequently dropped from EFC. In one case, the young person enrolled in school in August, but never attended. (She also failed to appear for a hearing in drug court and did not keep in contact with the Department after that). In another case, the young person went to Alabama to visit family over the summer and did not return to Tennessee. In a third case, the young person’s transition plan contemplated that she would reside with her resource parent and would go back to high school for the fall semester. By the time that the fall semester began, she had left her resource home, was not attending school, and shortly thereafter she was dropped from EFC.
Table 1.2: Number of Children who Aged Out in 2014 and Met an Achievement Measure

<table>
<thead>
<tr>
<th>Achievement Measure</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enrolled in High School or GED(^{94})</td>
<td>273 (62%)</td>
</tr>
<tr>
<td>Obtained High School Diploma or GED</td>
<td>96 (22%)</td>
</tr>
<tr>
<td>Adult Service Transition(^{95})</td>
<td>8 (2%)</td>
</tr>
<tr>
<td>Full-Time Employment or Vocational Training</td>
<td>7 (2%)</td>
</tr>
<tr>
<td>Enrolled in Post-Secondary</td>
<td>4 (1%)</td>
</tr>
</tbody>
</table>

Source: TFACTS Transitional Survey Monthly Reports, January through December 2014, and transitional survey case file review.

As discussed in recent monitoring reports, young people aging out of foster care now have available to them a range of on-going services and supports, especially those available through EFC and the Youth Villages Transitional Living Program, that were unavailable at the time that this achievement measure was included in the original Settlement Agreement. Without diminishing the relevance of these achievement measures as indicators of some level of preparation for adulthood, the availability of extended services for youth who “age out”, significantly ameliorates some of the risks associated with those young people who have not yet met one of those measures by age 18.

D. How successful is the Department in achieving timely legal permanency for children through safe return to parents or other family members or through adoption?

The ultimate goal of the child welfare system is to ensure that every child has a safe, permanent, nurturing family—preferably the family that the child was born into, but if not, then a new family through adoption or some other option that provides life-long family connections.

Efforts to improve permanency focus not only on increasing the percentage of children in foster care who ultimately achieve permanency, but on reducing the length of time those children spend in non-permanent placements.

There is no single measure that captures all aspects of efforts to improve permanency. The Settlement Agreement establishes seven outcome and performance measures that relate to one or another aspect of permanency:

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\(^{94}\) This includes one young person who had been enrolled in regular high school in the spring semester, aged out over the summer vacation period, and, because his intentions for continuing schooling in the fall were unclear at that time, was classified by DCS as not being enrolled in school. However, further follow up confirmed that he did in fact enroll in an adult high school program several months later, and therefore the TAC felt it appropriate to consider him as meeting the “enrolled in school” achievement measure.

\(^{95}\) This category includes young people with disabilities who transition from DCS custody but continue to receive adult supportive services programs. Seven of these young adults were transitioned to the Department of Intellectual and Developmental Disabilities. One young adult was not eligible for EFC because he had over $10,000 in assets from an accumulation of benefits. He transitioned to a community program where a case manager was assigned to help him manage his financial resources and obtain ongoing services to meet his needs.
time to reunification;
• time to adoption finalization;
• length of time in placement;
• time to filing for termination of parental rights;
• time to placement in an adoptive home;
• rate of reentry into care; and
• percentage of children with permanency goals of Planned Permanent Living Arrangement.

The Department has developed additional data that it uses internally to understand the system dynamics with respect to permanency.

**Key findings:**

• The large majority of children in foster care are ultimately reunited with parents or placed with relatives.

• The pattern of exits from foster care has not changed very much over the past 11 years, although children who entered care during recent cohort years are exiting more slowly at least during the first two years in custody than did children in previous cohort years. The median length of stay (the time by which 50% of the children who entered care in a given year have exited the system) had consistently been less than nine months, but it has been at or slightly above nine months for recent entry cohorts; more than 70% have exited the system within 18 months, and about 85% have exited by about 24 months.

• The median length of stay increased to 8.9 months for children entering care during 2011, 9.4 months for children entering care during 2012, and 9.2 months for children entering care during 2013, longer than it has been for any previous entry cohort.

• There continues to be significant variation in median length of stay among the regions, although the median length of stay for children in the 2011, 2012, and 2013 entry cohorts has increased in many regions when compared to recent cohort years. In 2013, the median length of stay ranged from 1.8 months in Davidson to 12.5 months in Upper Cumberland and 14.2 months in Northeast.

• The rate of exit to a permanent exit (including reunification with family, discharge to a relative, and adoption) increased for children in entry cohorts from 2004-05 through 2009-10. The rate of exit to permanency for the 2010-11 and 2011-12 entry cohorts was slower during the first year in custody than for previous cohorts; however, the rate increased so that by the time that cohort was in custody for two years, the rate was similar

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96 The “rate of exit to permanency” reflects how quickly children are exiting to permanency. An increase in the rate of exit does not necessarily mean that more children are exiting to permanency, but it does indicate that those who do exit to permanency are reaching permanency faster. As discussed in Subsection D.3.a below, the data also suggest that the overall percentage of children exiting to permanency increased slightly for children in the 2004-05 through 2006-07 entry cohorts.
to the rate in previous cohorts. The rate of exit to permanency for the 2012-13 and 2013-14 entry cohorts is also slower during the first six to 12 months than that of previous cohorts.

Subsections 1 through 3 below present measures focused on how rapidly children exit custody to a permanent placement. Subsection 4 presents measures focused on how likely children are to remain in a permanent placement rather than reentering care. Subsections 5 and 6 present data on the Settlement Agreement requirements regarding the filing of the petition to terminate parental rights (TPR) and the assignment of the goal of Planned Permanent Living Arrangement (PPLA), respectively.

1. Time to Permanency through Reunification and Adoption

For those children who exit to permanency through either reunification or adoption, the Settlement Agreement outcome and performance measures look at the time it took children in each of those groups to achieve permanency.

a. Time to Reunification

The Settlement Agreement requires that “at least 80% of children entering care who are reunified with their parents or caregivers at the time of discharge from custody shall be reunified within 12 months of the latest removal date.” The Settlement Agreement further requires that “of the remaining children, 75% shall be reunified within 24 months of the latest removal date.” (XVI.A.1)

Of the 3,064 children reunified with their parents or caretakers between January 1, 2014 and January 1, 2015, 97, 58% (1,769) were reunified within 12 months. Of the remaining 1,295 children, 78% (1,013) were reunified within 24 months. This is a decline from the previous year, when 69% of children were reunified with their parents or caretakers within 12 months and 80% of the remaining children were reunified within 24 months.

The parties have asked the TAC to address specifically in this monitoring report the extent to which this decline should be a matter of concern. In order to make this judgment, it is important to understand the limits of this particular measure and to view performance on this measure in a broader context.

At the time the original Settlement Agreement was entered in 2001, the exit cohort approach to measuring time to permanency reflected in Section XVI.A.1 was consistent with the approach to

97 The reunification data that have been regularly reported by DCS and used by the TAC in its monitoring reports include both exits to “Reunification with Parents/Caretakers” and exits to “Live with Other Relatives.” The TAC has therefore construed the term “Reunification with Parent/Caretakers” as used in Section XVI of the Settlement Agreement to include exits to “Live with Other Relatives.”

98 The Settlement Agreement requires that 80% of children exit to reunification within 12 months and that an additional 15% (75% of the remaining 20%) exit to reunification within 24 months, for a total of 95% of children exiting to reunification within 24 months. Of children reunified with their parents or caretakers between January 1, 2014 and January 1, 2015, a total of 91% were reunified within 24 months.
measuring system performance being taken by the Department of Health and Human Services (HHS) and reflected in the federal Child and Family Services Review (CFSR) reporting requirements. In the time since the original Settlement Agreement was entered, HHS has recognized that entry cohort data (for reasons discussed in Appendix K) provides a much more reliable and accurate assessment of child welfare system performance. The CFSR therefore now requires entry cohort reporting.

It is important to note that the TAC has for many years taken the position that the Settlement Agreement exit cohort measure was not a good way to understand or evaluate the extent to which the Department was achieving timely permanency for children in their care. For this reason, the TAC, in Section One of its monitoring reports, has always presented the Section XVI.A.1 data in a broader context, supplemented and informed by entry cohort data.

The Section XVI.A.1 exit cohort measure was retained in the Modified Settlement Agreement and Exit Plan that was entered in 2010. The Monitoring Report that immediately preceded the entry of the Modified Settlement Agreement reflected that the Department had met the 80% target for that reporting period and on that basis provision XVI.A.1 was included among those provisions designated “maintenance” in the Modified Settlement Agreement.

The Department continued to meet that 80% target during calendar year 2010, as reported in the April 2011 Monitoring Report. However, as reported in the June 2012 Monitoring Report, during calendar year 2011, 72% of the children reunified with their parents or caretakers were reunified within 12 months; and, as reported in the June 2013 Monitoring Report, during calendar year 2012, 67% of those children reunified during that year had been reunified within 12 months of the date that they had entered custody.

Based on this “decline in performance,” the parties agreed that the provision be moved “out of maintenance.” In the time since that provision was moved out of maintenance, the Department’s “performance” on that measure has continued to be below the percentage called for by XVI.A.1 (69% for calendar year 2013 and 58% for calendar year 2014).

In anticipation that this measure would be a subject of discussions between the parties, the TAC asked Chapin Hall to conduct a special analysis of the Department’s permanency performance using methods most likely to provide an accurate picture of how well or poorly the Department is doing in achieving timely permanency for children. The TAC was interested in understanding whether Tennessee’s performance in getting children to permanency had declined significantly over time (as suggested by the decline in performance on the XVI.A.1 measure). The TAC was also interested in how Tennessee’s performance on achieving timely permanency for children in foster care compares with the performance of other states.

The TAC asked Chapin Hall to restrict the comparison to those 18 other states participating with Tennessee in the Chapin Hall Multistate Foster Care Data Archive (FCDA). The standards that Chapin Hall applies to ensure the accuracy of data in the archive and the uniform definitions imposed on that data by Chapin Hall provided the TAC with a high level of confidence that the analysis would produce a valid “apples-to-apples” comparison. In addition, because those states participating in the FCDA represent a good mix in terms of size, urbanicity, region of the
country, and administrative structure, those states can confidently be considered representative of
the nation as a whole for purposes of this analysis.

In conducting its analysis, Chapin Hall used an approach that is consistent with the current
federal performance monitoring approach in several ways and expands upon the federal approach
in important ways. The new federal CFSR measure uses an entry cohort-based sample (i.e.,
children admitted over the course of a given time period) and follows those children for one year
to see whether children in the sample achieve permanency within one year of entry.99

The federal approach also “risk adjusts” using a statistical model that accounts for differences in
placement rates and age. Risk adjustment acknowledges the fact that children have different
placement experiences because of their prior history and how old they are when they enter care
and not simply because of system policy or case practice. Risk adjustment produces a tighter
“apples-to-apples” comparison.

The Chapin Hall analysis, at the TAC’s request, used a more extensive set of risk adjustments
that included not only rate of entry into out-of-home care and age (as the federal measure does),
but also gender, spell number (i.e., whether this is the first experience of out-of-home placement
for the child), placement type, and an index that considers socio-economic conditions (such as
poverty rates, family structure, adult education, and unemployment).

The Chapin Hall analysis considered both exits to permanency within one year (as the federal
measure does) but also exits to permanency within four years. To reduce distortion that can
come from normal or anomalous short term variations (“year-over-year noise”), Chapin Hall
combined all the years into a single model that allows for a more confident judgment as to
whether a system is improving.

Finally, from each state’s population of foster children, Chapin Hall excluded the juvenile justice
population, to ensure that the populations being compared were comparable to the Brian A. class.

Figures 1.34 and Figure 1.35 below compare the performance of each of the 19 states using the
combined data from 2007 through 2012, inclusive. Figure 1.34 considers performance during
that period on achieving permanency within one year; Figure 1.35 considers performance on
achieving permanency within four years.100

There are three types of permanent exits: XRF—exits to families; XRL—exits to relatives; and,
XCA—completed adoptions. All Perm refers to the sum of the three separate permanency exit
types.

99 Because, given the timelines associated with the process for terminating parental rights and achieving permanency
through adoption, the “permanency rate within 12 months” is largely a measure of reunification within 12 months,
and in that sense comparable to the XVI.A.1 measure, albeit based on an entry cohort rather than an exit cohort.
100 For permanency within four years, 2011 and 2012 data are “truncated”—there are some children in these two
entry cohorts who remain in custody (and have therefore not yet achieved permanency) but who are excluded from
the data because they have been in custody for less than four years.
Each line in the figure is composed of markers for each of the 19 states, with the states sorted based on the percentage of children achieving permanency (All Perm) within one year (for Figure 1.34) and within four years (Figure 1.35). The figures present the states in ascending order (from left to right) based on the percentage of children achieving permanency within the relevant time period.

The state of Tennessee is identified in these two figures by the bright red marker. As reflected in the figure, Tennessee has the third highest rate of permanency among the states considered, regardless of whether one is looking at permanency within one year or four years.

**Figure 1.34: Permanency within One Year from First Entry Spells**

Source: Multistate Foster Care Data Archive.

**Figure 1.35: Permanency within Four Years from First Entry Spells**

Source: Multistate Foster Care Data Archive.

Figures 1.36 and Figure 1.37 present trends over time by state. Each line in the figure represents a state’s performance over time. In these figures, Tennessee is the state with the black dashed line.
The data in Figure 1.36 reflect that the percentage of children coming into custody in Tennessee who reach permanency within one year of admission has declined somewhat in more recent entry cohorts; however, the figure also reflects that Tennessee is not alone in that regard\(^{101}\) and that, notwithstanding this decline, Tennessee remains among the highest performing states in the percentage of children achieving permanency within a year.

The data in Figure 1.37 reflect that, for those entry cohorts for which sufficient time has passed to be included in the figure, the chances of achieving permanency within four years have remained steady for children in Tennessee.

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\(^{101}\) Many state administrators hypothesize that as states do a better job serving children in their homes through provision of intensive family services that prevent entry into custody, a decline in the percentage of children achieving permanency within a year should be expected, because the children who enter custody will increasingly present more challenging family situations that require more time to resolve before reunification can be safely achieved.
Tennessee’s permanency performance on the new CFSR measure also compares well to that of other states. As Figure 1.38 below reflects, Tennessee ranks 16th among jurisdictions nationally, placing it in the top third in achieving permanency within 12 months.

Figure 1.38: Risk-Standardized Performance, Permanency within 12 Months for Children Entering Care During Federal Fiscal Year 2011-2012

Source: HHS’ Workbook on State Performance for CFSR3, revised May 2015, FINAL.

b. Adoption Finalization

The Settlement Agreement requires that “at least 75% of children in full guardianship shall have their adoption finalized or permanent guardianship transferred within 12 months of full guardianship.” (XVI.A.2)

Of the 1,073 children for whom parental rights were terminated or surrendered between January 1, 2013 and January 1, 2014, 79% (1,352) had their adoption finalized or permanent guardianship transferred within 12 months of entering full guardianship. This is a slight decrease from performance for the previous reporting period. Of the 1,036 children for whom parental
rights were terminated or surrendered between January 1, 2012 and January 1, 2013, 80% (826) had their adoption finalized or permanent guardianship transferred within 12 months of entering full guardianship.

As reported in the December 2008 Monitoring Report, the Department was recognized by the U.S. Department of Health and Human Services in 2006 for impressive increases in the number of children for whom it has successfully found adoptive homes. The Department continues to be a national leader in adoption finalizations. Figure 1.39 below displays the annual number of finalized adoptions during each federal fiscal year (October 1 through September 30) since 2000.

![Figure 1.39: Number of Adoptions, Federal Fiscal Years 2000-2001 through 2013-2014](source: Chapin Hall Multistate Foster Care Data Archive.)

2. Length of Time in Placement

The time to reunification and time to adoption measures discussed above are only measured for children who exit to permanency. It is also important to understand the length of stay for children in placement, irrespective of whether they exit to permanency, to some non-permanent exit, or remain in care.

The Settlement Agreement states that “at least 75% of the children in placement who entered after October 1, 1998, shall have been in placement for two years or less.” (XVI.A.4) The Department’s performance continues to surpass the Settlement Agreement standard. Of the 11,101 children in custody between January 1, 2014 and January 1, 2015, 79% (8,735) had been in custody for two years or less.
The Settlement Agreement further provides that “no more than 17% of the children in placement shall have been in placement for between 2 and 3 years.” (XVI.A.4) The Department’s performance continues to surpass this Settlement Agreement standard. Thirteen percent (1,450) of the children in custody between January 1, 2014 and January 1, 2015 had been in custody between two and three years.

Finally, the Settlement Agreement states that “no more than 8% of the children in placement shall have been placed for more than 3 years.” (XVI.A.4) The Department’s performance continues to meet this Settlement Agreement standard. Eight percent (916) of the children in custody between January 1, 2014 and January 1, 2015 had been in custody for more than three years.

In addition to reporting on length of stay as required by the Settlement Agreement, the Department tracks length of time in placement in a number of other ways, focusing on entry cohorts (all children entering during a specific year).102

Figure 1.40 shows length of stay by duration in months for 11 entry cohorts, 2004 through 2014.103 Each line shows how many children were still in placement after each monthly interval of time. For example, for the 2004 entry cohort, the figure shows that after 60 months, all but about 2% of children had been discharged from foster care. The pattern of those discharges can be seen by following the path back in time.104

The data in Figure 1.40 show that the speed of exit from foster care in Tennessee increased in 2004 and remained at that level through 2010. The paths traced by each entry cohort during those years are similar. The paths for 2011 through 2013 reflect a decrease in the speed of exit during the first 18 months, but by 24 months, the speed of all three paths had accelerated to almost match the speed of exit of prior cohort years. Children who entered during 2014 appear to be exiting more slowly, at least for the first six months in care, than children in previous entry cohorts.105

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102 For further discussion on the value of using entry cohort data to supplement the point-in-time data called for by the Settlement Agreement, see Appendix E.

103 The technical term for this is a “survival curve.”

104 This figure is useful for providing a general sense of the speed at which children from each cohort leave placement—regardless of their exit destination. Length of stay depicted in this way is useful because one can begin to see the shape of the paths or curves—and therefore the speed at which children exit—before all the children have exited from each entry cohort. Steeper curves, which can be observed within the first six months, indicate faster movement out of care. Shallower curves indicate slower exits from foster care.

105 This measure projects performance for the next three-month interval for each entry cohort based on previous performance for that cohort. Therefore, future updates of this figure may shift somewhat for the most recent three-month interval for each cohort. For example, the figure projects the percentage of children in the 2014 entry cohort who will remain in care for at least 12 months (49%), even though this percentage has not yet been observed.
Figure 1.40: Length of Time Pathways By Year of Entry and Duration (Months)
Children First Placed in Cohort Years 2004 through 2014

Source: Longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2015.
The Department tracks and reports on median lengths of stay (or median durations)—the number of months that have passed at the point at which 50% of the children entering care in a given cohort year have exited care. While median durations provide less detail than the data in Figure 1.40, they provide a useful summary statistic that can be compared over time and across subgroups in the population.

Table 1.3 shows median durations for entry cohorts in calendar years 2003 through 2014, statewide and by region. Statewide, 50% of children entering care in 2004, 2005, 2006, and 2009 spent less than 6.5 months in out-of-home placement, and 50% of children entering care in 2007 and 2008 spent 6.9 months in care. That number increased to 7.2 months for children entering care in 2010, indicating that it took almost as long for 50% of the children entering care in 2010 to exit as it did for children entering care in 2002, but not as long as it did for children entering care in 2003. The median increased to 8.9 for 2011 and then to 9.4 for 2012 and 9.3 for 2013, indicating that it took 50% of children entering care in these years longer to exit than in any previous cohort year. The regional medians illustrate that the magnitude of the change differs significantly around the state.

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Source: Longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2015.
3. Improving Exits to Permanency

While the Department tracks and reports on the two separate measures for timely exit to permanency set forth in the Settlement Agreement ("Time to Reunification" for those children who exit to reunification and "Time to Adoption" for those who exit to adoption), the Department also utilizes a different measure that focuses generally on permanent exits of all types.\(^{106}\)

\(\text{a. All Permanent Exits}\\)

Figure 1.41 shows the percentage of permanent exits\(^{107}\) for entry cohorts in fiscal years 2003-04 through 2013-14.\(^{108}\) Each line shows the percentage of children entering out-of-home placement for the first time during each year who were discharged from placement to a permanent exit after each interval of time. For example, for the 2003-04 entry cohort, the figure shows that 38% had exited to a permanent exit within six months of entering care, and 55% had exited within one year. The curve becomes less steep as the time intervals become longer, indicating that the rate of discharge to permanency slows as children remain in care longer. The curves for subsequent entry cohorts show the same pattern of decreasing exits to permanency over time.

The increasingly steeper curves for entry cohorts between 2004-05 and 2009-10 indicate that children in those cohort years exited to permanency more quickly than did children in the 2003-04 entry cohort. However, children in the 2010-11 through 2013-14 entry cohorts are exiting to permanency more slowly during the first two years than did children in previous cohort years. For example, while 59% of children entering care in 2004-05 exited to permanency within one year, only 55% of children entering care in 2010-11, 52% of children entering care in 2011-12, and 54% of children entering care in 2012-13 exited to permanency within one year months. By two years, however, exits to permanency in the 2010-11 and 2011-12 cohorts had caught up with the paths of earlier cohorts.

The data also suggest that the overall percentage of children exiting to permanency within five years of entry into custody increased slightly for children in the entry cohorts for 2004-05 through 2006-07 and 2008-09. Within five years, a total of 90% of children in these entry cohorts had exited to permanency compared to 88% of children in the 2003-04 entry cohort. (Eighty-nine percent of children in the 2007-08 entry cohort had exited to permanency within five years.) More time is needed to observe exits to determine whether this trend will be maintained for later entry cohorts.

\(^{106}\) In addition, Appendix K presents supplemental information on exits to permanency by exit type.

\(^{107}\) Reunification, discharge to a relative, and adoption are the three exit types included in this "permanent exit" category.

\(^{108}\) This measure includes all children entering out-of-home placement for the first time during the cohort year who remain in care for more than four days.
b. Permanent Exits to Relatives

Similar to Figure 1.41 above, the lines in Figure 1.42 show the percentage of children entering care during each cohort year (fiscal years 2003-04 through 2013-14) who were discharged from placement to relatives after each interval of time.
The rate of exit to relatives increased for children entering care during fiscal years subsequent to 2003-04, when 16% of children had exited to a relative within two years. For the entry cohorts for fiscal years 2004-05 through 2010-11, the percentage of children exiting to a relative within two years fluctuated between 19% and 22%. The rate of exit to relative slowed somewhat for children in the 2010-11 entry cohort, with only 15% of children having exited to a relative within one year. But by two years, exits to relatives in the 2010-11 cohort had caught up with the paths of earlier cohorts. The rate of exit to relatives for children in the 2011-12 entry cohort has been slower with only 12% of children having exited to a relative within one year and 17% of children having exited to a relative within two years, and the rate of exit to relatives in the 2012-13 entry cohort has been even slower than that for the 2011-12 entry cohort, with only 7% of children having exited to a relative within six months and 10% of children having exited to a relative within one year.

The data also suggest that the overall percentage of children exiting to a relative within five years of entry into custody increased for children in the 2004-05 through 2006-07 entry cohorts. Only 18% of children entering care during 2003-04 had exited to a relative within five years of entering care. However, 22% of children in the 2004-05 entry cohort, 24% of children in the 2005-06 entry cohort, and 23% of children in the 2006-07 entry cohort had exited to a relative within five years of entering care. The overall percentage of children exiting to a relative within five years decreased somewhat for the 2007-08 and 2008-09 entry cohorts, with 20% having exited to a relative within five years.
c. Non-Permanent Exits

The rate and percentage of discharges from care to a non-permanent exit\textsuperscript{109} has decreased for youth age 14 or older who entered care in the years since fiscal year 2003-04 (the vast majority

\begin{itemize}
\item Non-permanent exits include running away, aging out, death, and transfer to the adult correctional system.
\end{itemize}

\textsuperscript{109}
of discharges to non-permanent exits are among youth age 14 or older). As shown in Figure 1.43 below, 20% of youth age 14 or older who entered care during 2003-04 were discharged to a non-permanent exit within one year of entering care. The percentage of youth age 14 or older who were discharged to a non-permanent exit within one year was 17% for the 2004-05 through 2007-08 entry cohorts, 15% for the 2008-09, 2009-10, 2011-12, and 2012-13 entry cohorts, and 16% for the 2010-11 entry cohort. Seven percent of youth age 14 or older in the 2013-14 entry cohort were discharged to a non-permanent exit within six months of entering care.

The data also suggest that the overall percentage of youth “aging out” of care without a permanent family within five years of entry into custody decreased for children in the 2004-05 through 2008-09 entry cohorts. While 34% of youth in the 2003-04 entry cohort were discharged to a non-permanent exit within five years, only 28% of youth in the 2004-05, 2006-07, and 2007-08 entry cohorts and 29% of youth in the 2005-06 and 2008-09 entry cohorts were discharged to a non-permanent exit within five years.
**Figure 1.43: Cumulative Percentage of Children Discharged to Non-Permanent Exit, Youth Age 14 or Older, First Placements by Cohort Year**

![Cumulative Percentage of Children Discharged to Non-Permanent Exit, Youth Age 14 or Older, First Placements by Cohort Year](image)

Source: FY0304 from longitudinal analytic files developed by Chapin Hall from TNKids data transmitted in August 2009. FY0405 from longitudinal analytic files developed by Chapin Hall from TNKids data transmitted in February 2010. FY0506 from longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in August 2011. FY0405 from longitudinal analytic files developed by Chapin Hall from TNKids data transmitted in February 2010. FY0506 from longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in August 2011. FY0607 from longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2013. FY0708 from longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2014. FY0809 through FY1314 from longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2015.

**d. Children Remaining in Care**

Figure 1.44 presents data on the percentage of children in each entry cohort who remain in care at each time interval. As shown in the figure, the percentage of children from the 2004-05 through 2009-10 entry cohorts remaining in custody at each time interval has remained consistently lower than the percentage of children in the 2003-04 entry cohort. However,
children in the 2010-11 through 2013-14 entry cohorts are remaining in care longer than children in any of the previous cohorts, at least for the first six months to one year. By two years, however, the percentage of children remaining in care in the 2010-11 and 2011-12 entry cohorts had dropped close to the percentage for earlier cohorts.

Figure 1.44: Cumulative Percentage of Children Still in Care, First Placements by Cohort Year

Source: FY0304 from longitudinal analytic files developed by Chapin Hall from TNKids data transmitted in August 2009. FY0405 from longitudinal analytic files developed by Chapin Hall from TNKids data transmitted in February 2010. FY0506 from longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in August 2011. FY0405 from longitudinal analytic files developed by Chapin Hall from TNKids data transmitted in February 2010. FY0708 from longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2013. FY0809 from longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2014. FY0910 through FY1314 from longitudinal analytic files developed by Chapin Hall from TFACTS data transmitted in February 2015.
4. Reducing Reentry into Care

Child welfare systems must not only pay attention to children entering the foster care system for the first time, but also to children who had previously spent time in foster care and who, based on a subsequent finding of dependency, neglect, or abuse or an “unruly child” adjudication, have since reentered the foster care system. Reentry rates are an important indicator of the success or failure of child welfare interventions, and particularly important for presenting a complete picture of the extent to which exits to permanency (through reunification, adoption, or some other permanent exit) are in fact permanent.

The Settlement Agreement establishes a maximum reentry rate which the Department is to achieve: “No more than 5% of children who enter care shall reenter custody within 1 year after a previous discharge.” (XVI.A.5)

The statewide reentry rate for children discharged from foster care between January 1, 2013 and January 1, 2014 was 5.0%—that is, of the 5,278 children who exited care between January 1, 2013 and January 1, 2014, 262 reentered care within 12 months of their discharge date. As reported in the May 2014 Monitoring Report, the statewide reentry rate for children discharged from foster care between January 1, 2012 and January 1, 2013 was 5.5%.

5. The Termination of Parental Rights Process: Timeliness of Filing of Petitions to Terminate Parental Rights (TPR)

The Settlement Agreement includes a performance measure focused on the timelines of the filing of petitions to terminate parental rights, a key step in the process by which children are freed for adoption and placed in adoptive homes.

The Settlement Agreement provides that “at least 70% of children in the class with a sole permanency goal of adoption during the reporting period shall have a petition to terminate parental rights filed within three months of the goal change to adoption.

Regardless of whether the Department meets or exceeds the standard in the preceding paragraph, 85% of all children with a sole permanency goal of adoption during the reporting period shall have a petition to terminate parental rights filed within 6 months of when the goal was changed to adoption.” (XVI.B.4)

The TAC worked with the Office of Information and Technology to develop the TAC Sole Goal of Adoption Cohort Report, identifying all children who had a sole goal of adoption established during calendar year 2014.

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110 This measure observes reentry for children who exited custody during the reporting period to all permanent or non-permanent exits.

111 Because the measure includes children who age out of custody as part of the group examined for reentry, it is important to note the number of children falling into that category when reviewing the reentry data (since those who age out, by definition, can never reenter). Of the 5,278 children who exited during the reporting period, 436 aged out of custody.
Of the 811 children who had a sole goal of adoption established in 2014, 752 (93%) had TPR activity prior to or within three months of the sole goal establish date and 761 (94%) had TPR activity prior to or within six months of the sole goal establish date. In an additional nine cases, TPR activity occurred more than six months after the sole goal establish date. In 10 cases, TPR activity occurred, but there was a lack of clarity regarding either the type of the TPR activity or the time between the establishment of the sole goal of adoption and the TPR activity. The following is a breakdown by type of TPR activity:

- Filing of a TPR petition was the TPR activity in 629 cases. TPR petitions were filed prior to the sole goal establish date in 552 cases, within three months of the sole goal establish date in 62 cases, between three and six months in seven cases, and after six months in eight cases.

- The execution of surrenders, waivers of interest, or death certificates was the TPR activity in 141 cases. Surrenders, waivers of interest, or death certificates were executed prior to the sole goal establish date in 114 cases, within three months of the sole goal date in 24 cases, between three and six months in two cases, and after six months in one case.

In the cohort of 811 children, there were only 31 children for whom no evidence of TPR activity was found. In 21 of those 31 cases, the permanency goal had been changed and the goal was no longer solely adoption. Of the remaining 10 children:

- five children had exited custody between two and 10 months after the date that adoption was established as the sole goal (one to live with relatives and four to emancipation);

- five children (a sibling group) entered custody as a result of a severe abuse allegations; based on the severe abuse allegations, adoption was established as the initial permanency goal and the Department decided to pursue a severe abuse finding as part of the adjudication of the petition that brought the children into care; the parents have also been charged criminally and the adjudicatory hearing in juvenile court has been delayed because of the pending criminal proceeding.

6. Limiting Planned Permanent Living Arrangement as a Permanency Goal

In the vast majority of cases, the preferred permanency options are reunification with family or adoption. While federal law recognizes Planned Permanent Living Arrangement (the designation that Tennessee now uses for what was previously called “permanent foster care” or “long term foster care”) as a permissible permanency option, the parties agreed that the circumstances under which such an option would be preferable to adoption or return to family

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112 The TPR activity occurred prior to the establishment of the sole goal in two cases, within three months of the sole goal establishment in four cases, within six months in three cases, and in more than six months in one case. All 10 children have been adopted.
were so unusual and the potential misuse of this option so great that a measure limiting its use would be appropriate.\footnote{As discussed in Section Seven, Subsection G, the Department has established a protocol for regional and Central Office review and approval of any case in which PPLA is to be a permanency goal, has established strict criteria for that review and approval process to ensure that the goal is appropriate, and requires periodic review of any case with a previously approved PPLA goal to ensure that the goal continues to be appropriate. That protocol has been incorporated by reference into the Settlement Agreement. (VII.G.)}

The Settlement Agreement provides that “no more than 5% of children in the plaintiff class shall have a goal of Planned Permanent Living Arrangement.” (XVI.B.5)

As discussed in previous monitoring reports, the Department over the past several years has consistently met the requirements of this provision, with well under 5% of the plaintiff class at any given time having a goal of PPLA.

As of December 29, 2014, less than 1% of the class had a permanency goal of PPLA. The percentage of children in the plaintiff class who had a sole goal of PPLA was 0.62%, with no region exceeding 1.12%. The percentage of class members who had a concurrent PPLA goal was 0.03%, with no region exceeding 0.15%.
SECTION TWO: STRUCTURE OF THE AGENCY

The Settlement Agreement (II.A) requires the Department to establish child welfare policy and determine statewide standards and to take all reasonable steps to ensure that statewide policies, standards, and practices are implemented and maintained in each region of the state. The Settlement Agreement requires that the Department ensure that each region uses uniform forms, data collection, and reporting, although regions retain the right to develop and use forms and data instruments to address issues of local concern.

As discussed in prior monitoring reports, the “reasonable steps” that the Department has taken and continues to take consistent with the requirements of this provision include: adopting the *Tennessee Department of Children’s Services Standards of Professional Practice for Serving Children and Families: A Model of Practice (DCS Practice Model)*; reviewing and revising DCS statewide policies to conform to the *Standards*; developing, implementing, and refining a pre-service curriculum based on the *Standards*; implementing a statewide Quality Service Review process that evaluates child status and system performance using indicators that focus on the core provisions of the *Standards*; creating a system for data collection and reporting that includes standardized reports for statewide and regional reporting; and adopting a family conferencing model, the Child and Family Team Process, as the statewide approach for individual case planning and placement decision making.

The Department’s policy, practice standards, training, and evaluation process send the consistent and clear message that the expectations for quality practice with families and children are the same irrespective of which of the 95 counties a child and family happen to live in.\footnote{The parties agreed that the Department’s actions were sufficient to warrant a “maintenance” designation, notwithstanding the fact that there continues to be variation among regions in the extent to which the Department’s Practice Model has been effectively implemented.}

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\footnote{The parties agreed that the Department’s actions were sufficient to warrant a “maintenance” designation, notwithstanding the fact that there continues to be variation among regions in the extent to which the Department’s Practice Model has been effectively implemented.}
SECTION THREE: REPORTING OF CHILD ABUSE AND NEGLECT

The Settlement Agreement requires that the Department’s “system for receiving, screening and investigating reports of child abuse or neglect for foster children in state custody” be adequately staffed to ensure that all reports are investigated within the time frames and in the manner required by law. (III.A) It further requires that the Department have in place an effective quality assurance process to determine patterns of abuse or neglect by resource parents and congregate care facility staff and to take necessary individual and systemic follow-up actions to assure the safety of children in its custody. (III.B)

The vast majority of the investigations of reports of abuse or neglect involving children not in DCS custody are assigned to regional Child Protective Services (CPS). Subsection A below provides an update of the information presented in the May 2014 Monitoring Report regarding performance and staffing of the Child Abuse Hotline and regional CPS investigations and assessments.\textsuperscript{115}

Reports of abuse and neglect of children in state custody, just like any other reports of abuse and neglect, must be made to the Child Abuse Hotline. Based on the allegations and the information gathered by the Hotline, some categories of cases are assigned to the Special Investigations Unit (SIU) for investigation and other categories of cases are investigated by regional CPS case managers as part of the general CPS investigations and assessments.\textsuperscript{116}

The case is assigned to SIU to investigate if the alleged perpetrator is another foster child, a resource parent or a member of a resource parent’s household, a facility staff member, a DCS or private provider employee, a teacher, a therapist, or another professional responsible for caring for children.\textsuperscript{117}

The case is assigned to the regional CPS investigation or assessment staff if the abuse or neglect is alleged to have occurred during the course of a home visit or during a runaway episode.\textsuperscript{117}

The reports investigated by SIU make up the large majority (approximately 90%) of the investigations of allegations of children being abused or neglected while in DCS custody. In order to assess the adequacy of the Department’s handling of these reports, the TAC relies on the following indicators, discussed in Subsection B below:

- SIU data related to the timeliness of case investigation (priority response times and time to complete and close the investigation);

\textsuperscript{115} As discussed in previous monitoring reports, the CPS functions are shared by the Office of Child Safety (which handles investigations) and the Office of Child Programs (which handles assessments).

\textsuperscript{116} As discussed in Subsection B below, SIU also conducts investigations concerning children not in custody when the alleged perpetrator is a member of the broader community (e.g., daycare workers, teachers, coaches, bus drivers, or doctors). These “third-party” investigations make up a considerable portion of the SIU workload. SIU investigations are subject to all of the protocols and processes applicable to CPS cases in general.

\textsuperscript{117} In addition, if, as is not infrequent, a child after entering custody discloses additional incidents of abuse or neglect that occurred prior to the child entering custody, those cases would be assigned to regional CPS staff.
• the Department’s internal processes for ensuring quality of the SIU investigations (including both regular supervisory case reviews in which the TAC monitoring staff periodically participate and quality assurance reviews conducted by both the Office of Child Safety and the Quality Control Division); and

• SIU staffing and caseload data.\footnote{As discussed in Subsection B below, SIU caseloads include cases beyond those referenced in Section III.A.}

The investigations of reports of abuse and neglect alleged to have occurred during the course of a home visit or runaway episode, which are handled by regional CPS staff, make up a very small portion of the overall regional CPS caseload and are not separately tracked. In order to assess the adequacy of the Department’s handling of these reports, TAC monitoring staff collaborated with staff from the Office of Child Safety to conduct a targeted review focused on the timeliness of all investigations involving such reports that were open on August 16, 2014. The results of that review are discussed in Subsection C below. The TAC assesses the adequacy of staffing for these investigations based on the timeliness and quality of the investigations of the specific cases reviewed, rather than based on an analysis of general CPS caseloads or overall performance on priority response or time to case closure for CPS cases in general.

A. CPS Process Performance

1. Timeliness of CPS Process

The Department focuses on three key indicators of the timeliness of its CPS process: Child Abuse Hotline Center response time; investigation and assessment priority response time; and time to investigation/assessment completion.

a. Child Abuse Hotline Center Response

The first key indicator is the responsiveness of the Child Abuse Hotline Center staff to phone calls alleging child abuse or neglect. The Department utilizes the automated tracking and reporting capacity of the Hotline Center’s telephone system to look at “abandoned” or “dropped” calls (the number of calls that are terminated as the result of someone hanging up before they connect to a Hotline Center case manager); “wait times” (the time a person calling in to the system waits before being connected to a Hotline Center case manager who takes down the
information regarding the allegations); and “talk time” (the amount of time a Hotline Center case manager spends on the phone with the person making the report).119

As discussed in detail in the May 2014 Monitoring Report, the Department has invested considerable time and energy into improving the Hotline Center operations over the past few years, including: updating and upgrading the technology; enhancing the recruitment, training, support, supervision and coaching of Hotline Center staff; designing staffing patterns to match call volume; implementing more efficient processes; implementing a quality review process to evaluate and improve the quality of Hotline Center staff’s work; and adding a “business analyst” to the Hotline Center to increase the ability of the Hotline leadership team to use its rich data to understand and improve its performance.

Figure 3.1 below shows the percentage of answered and abandoned calls to the Hotline each month for the period between January 2013 and December 2014 and Figure 3.2 shows the number of both answered and abandoned calls making up the total call volume for each month.120 The percentage of abandoned calls has remained at or below 5% each month. Of the 11,513 calls to the Child Abuse Hotline during December 2014, 573 (5.0%) were abandoned.

119 In October 2012, the Department deployed a new phone system, Cisco, which has the capability to generate aggregate reports for the entire Child Abuse Hotline Center, for teams within the Hotline Center, and for individual Hotline Center case managers. The automated system tracks all incoming calls. Web referrals are submitted and tracked through a proxy email box in Outlook. At least one person during each shift is assigned to monitor the email box and distribute incoming web referrals to available Hotline Center case managers for entry into TFACTS, screening, and assignment to the field. In April 2015, the Department implemented a technological solution that populates the information from the web referrals directly into TFACTS.

The Hotline also receives a small number of referrals by fax, email, letter, or hand delivery. In the month of January 2015, 724 referrals were made to the Hotline by fax, email, letter, or hand delivery.

120 Data for years prior to 2013 are presented in previous monitoring reports.
The Child Abuse Hotline Center also tracks the percentage of calls that are abandoned after 20 seconds, on the supposition that calls abandoned within 20 seconds were likely misdialed. Of the 147,105 calls to the Hotline during 2014, 6,401 (4.35%) were abandoned, but only 3,531 (2.40%) were abandoned after 20 seconds.

Figure 3.3 shows the average time to answer a call during each month between January 2013 and December 2014. Data on average time to answer calls show a pattern similar to that for the data on answered and abandoned calls shown in Figures 3.1 and 3.2 above.
The average time Hotline Center case managers spent gathering information from each call has increased since the transition to the new phone system. Prior to November 2012, the average talk time had never been above 11 minutes and 54 seconds. The average talk time has been steadily increasing since that time, reaching 16 minutes and 24 seconds by the end of 2013 and 18 minutes and 44 seconds by the end of 2014. The Director of the Hotline Center attributes the longer call time to increased attentiveness of staff to gathering more complete information and staff asking important follow-up questions of the caller.

b. Investigation and Assessment Priority Response

The second key DCS indicator of the timeliness of the CPS process is the time from the assignment of a report of abuse or neglect to the investigator or assessor and the investigator’s/assessor’s first face-to-face contact with the alleged victim. The Child Abuse Hotline Center worker uses the Priority Response Decision Tree in the Structured Decision Making (SDM) Manual to determine the priority response assignment (P-1, P-2, or P-3) based on critical safety and risk factors involved.

Reports are assigned a Priority 1 Response (P-1) when the child(ren) may be in imminent danger. Investigators or assessors responding to a P-1 report must initiate the investigation through face-to-face contact with the alleged victim(s) “no later than twenty-four (24) hours” after the referral to the Child Abuse Hotline, “but immediately if the supervisor deems it necessary.”

Reports assigned a Priority 2 Response (P-2) “allege injuries or risk of injuries that are not imminent, life-threatening or do not require medical care where a two (2) business day delay will not compromise the investigative effort or reduce the chances for identifying the level of risk to the child.” Investigators or assessors responding to a P-2 report must initiate the investigation or assessment through face-to-face contact with the alleged victim(s) within two business days.

Reports assigned a Priority 3 Response (P-3) “allege situations/incidents considered to pose low risk of harm to the child where three (3) business days will not compromise the investigative effort or reduce the chances for identifying the level of risk to the child.” Investigators or assessors responding to a P-3 report must initiate the investigation or assessment through face-to-face contact with the alleged victim(s) within three business days.

TFACTS reporting on priority response requires workers to enter a case recording that documents the face-to-face response along with the date and time that the response was made. The TFACTS priority response report then checks the date and time of the “face-to-face contact” case recording to see whether it met the applicable priority response time frame. If the worker is unable to locate the child, the worker must document “good faith efforts” (defined as two attempts to contact the child).121

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121 Effective January 1, 2014, the Department revised the policy to require documentation of two good faith efforts to locate the child and family within the specified priority response time frame. The Department is currently working to correct the aggregate reporting methodology to address the undercounting that occurs in the current report, which counts as non-compliant instances in which the initial face-to-face contact with the alleged child victim was made after the priority response timeframe even though two good faith efforts had been made within the priority response timeframe and entered timely into TFACTS.
Finally, all “alleged child victims” in the case must be seen within the applicable priority response time frame in order to be counted as compliant.

Figure 3.4 below shows the statewide percentage of investigations opened each month from October 2013 through December 2014, by priority, in which there was a response meeting the applicable time frame that was timely and correctly documented in TFACTS. Figure 3.5 presents these same data for assessments.

As shown in Figure 3.4, performance on P-1 responses for investigations remained relatively steady during this period (ranging between 79% and 82% from October 2013 through August 2014 and increasing slightly to between 81% and 85% from September 2014 through December 2014). Performance on P-2 responses fluctuated a bit more, ranging from a low of 70% in June 2014 to a high of 78% in October 2014 and November 2014. Performance on P-3 responses was similar, ranging from a low of 71% in October 2013 to a high of 81% in September 2014.

Performance on priority response for assessments generally decreased during the period from October 2013 through August 2014 and then increased in September 2014. Between October 2013 and August 2014, performance ranged between 83% and 91% for P-1, between 65% and 77% for P-2, and between 67% and 78% for P-3. Between September 2014 and December 2014, performance ranged between 88% and 90% for P-1, between 78% and 82% for P-2, and between 78% and 84% for P-3.

![Figure 3.4: Percentage of CPS Investigations Meeting Response Priority Time Frames](image)


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122 The CPS data in Figure 3.4 includes all CPS investigations, including SIU investigations. The data shown in this figure are pulled from recently “refreshed” reports run several months after the reporting period to allow additional time for data entry (resulting in some improvement in performance for the months for which data had been included in the May 2014 Monitoring Report from reports that allowed less time for data entry). Data specifically focused on SIU investigations is presented in Subsection B below.
c. Time to Investigation/Assessment Completion

The third key DCS indicator of the timeliness of the CPS process is the time to completion of the investigation or assessment.

Under Tennessee law, investigations are expected to be completed within 60 days; however, the Department recognizes and good practice dictates that in some cases, a full, multi-disciplinary investigation will require additional time to complete. Based on its experience, including extensive administrative reviews of CPS cases, the Department expects that at any given time as many as 20% of investigations might require more time to complete and therefore remain “open” for more than 60 days.

Figure 3.6 below shows the percentage of “overdue” CPS investigations (investigations that take longer than 60 days to complete) as of the middle of each month for the period from January 2013 through December 2014.125

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123 Examples of P-1 assessment cases include: a child whose parents were hospitalized who is with unrelated family friends at the time of the referral, and it is uncertain whether the child could remain with those friends throughout the parents’ hospitalization; a 3-year-old in a police precinct lobby for whom a caretaker could not be found; and a mother who left three of her children with an in-home services worker to take the fourth child to the hospital for a medical condition unrelated to abuse or neglect, and the in-home services worker could not remain with the children and could not get a family member to come stay with them.

124 Tennessee Code Annotated 37-1-406(i).

125 In Figures 3.6, 3.7, and 3.8, open SIU investigations are included in the number of investigations and assessments for each month.
Of the 7,193 investigations that were open on December 11, 2014, a total of 2,318 (32%) had been open more than 60 days, 1,133 (16%) had been open between 61 and 90 days, and 1,185 (16%) had been open more than 90 days.\textsuperscript{126}

Cases assigned to the assessment track are expected to be completed within 120 days.\textsuperscript{127} Figure 3.7 shows the percentage of overdue assessment cases (cases that are open more than 120 days) during the period from January 2013 to December 2014. Of the 7,801 open assessments on December 11, 2014, 7,241 (93%) had been open 120 days or less, 556 (7%) had been open between 121 and 365 days,\textsuperscript{128} and four (0.1%) had been open more than 365 days.\textsuperscript{129}

\textsuperscript{126} For its own management purposes, the Department prefers to use the average number of overdue investigations during the month because the average adjusts for any brief fluctuations in performance during the month. The statewide average percentage of overdue investigations (including SIU) each month for the period from July 2014 through December 2014 is as follows: 27% (July), 26% (August), 26% (September), 26% (October), 28% (November), and 29% (December).

\textsuperscript{127} In some instances, the case would be closed when a tangible service, such as rent or utility payment, has been provided; in other instances, the case would be closed after a referral for services has been made, the family has connected with the service provider, and the service appears to be addressing the family’s needs. If the service does not appear to be addressing the family’s needs and it appears the family will need help beyond 120 days, the case can be transferred to a non-custody Family Support Services (FSS) worker.

\textsuperscript{128} Of the 556 cases open between 121 and 365 days, 431 (78%) had been open between 121 and 180 days, 95 (17%) had been open between 181 and 270 days, and 30 (5%) had been open between 271 and 365 days.

\textsuperscript{129} Previous monitoring reports have included data from the Closed CPS Investigations and Assessments reports, which calculated average time to closure and provided the classification of closed investigations. The Closed CPS Investigations and Assessments reports provided the data for a total of six figures presented in previous monitoring reports—two for investigations, two for assessments, and two for SIU. Because of its limited value for program management, the Department has placed a low priority on producing this report from the new data warehouse. The TAC agreed that this report was of little value for either the Department’s needs or the TAC’s monitoring.
Figure 3.8 below shows the number of open investigations and assessment cases as of the middle of each month for the period from January 2013 through December 2014. On December 11, 2014, there were a total of 14,994 open CPS investigations and assessments.

Figure 3.8 also reflects the proportion of open cases on any given day assigned to the assessment track instead of the investigative track during the period from January 2013 to December 2014. Historically, assessment cases have generally made up between 60% and 70% of open cases; however, over the past couple of years, the proportion of cases assigned to each track has been shifting toward a more even balance. On December 11, 2014, 48% of open cases were assigned to the investigation track and 52% of cases were assigned to the assessment track.
2. Adequacy of CPS Staffing

The Department also tracks staffing (at the Hotline Center and within CPS Investigations and CPS Assessments) and the number of open investigations on the caseload of each CPS worker in order to ensure that there is sufficient staffing of basic CPS functions.

As of May 22, 2015, there were 81 positions allocated to the Hotline Center (both non-supervisory and supervisory), all of which were filled.

As of April 30, 2015, there were a total of 419 positions assigned to investigations (including SIU positions). Of those, 347 were investigator positions, of which 278 (80%) were filled, and the remaining 72 were supervisor positions, of which 71 (99%) were filled.

As of January 31, 2015, there were 450 positions assigned to assessments. Of those, 409 (91%) were filled.\(^{130}\)

Every six months, the Deputy Commissioner of the Office of Child Safety and the Deputy Commissioner of the Office of Child Programs analyze staffing data (including a projection of future staffing needs based on staffing and caseload data for the previous six months) to determine whether positions need to be reallocated or additional positions should be filled/added to effectively manage the workload.

\(^{130}\) Historical staffing levels for the Hotline Center and CPS investigations and assessments are presented in the May 2014 Monitoring Report.
The Deputy Commissioners for Child Programs and Child Safety conducted a rightsizing process in the summer of 2014. The analysis of the intake for assessment and investigations did not vary significantly from prior reviews. In the second quarter of fiscal year 2015, the intake increased overall but most significantly related to investigations. The Department completed a review for any patterns related to the growth and determined that all drug exposed children reports were being tracked to investigations. A joint CPS Investigations/Assessments Committee working collaboratively refined CPS policies to clarify which allegations related to drug exposure should be tracked to investigations and which should be tracked to assessments. These policy changes were effective in April 2015. The Department anticipates assignments should now be in greater alignment with staffing allocations. To confirm this, the Department will conduct another rightsizing process during the summer of 2015.

The Department seeks to maintain staffing at a level that allows investigators to carry no more than approximately 24 cases (including newly assigned investigations) at one time and allows assessment workers to carry no more than approximately 34 cases (including newly assigned assessments) at any time.\(^{131}\)

Beginning in April 2015, the Department began to monitor investigation and assessment caseloads using the Case Manager Activity Summary report, a new TFACTS report built on the functionality provided by the December 2014 Case Assignment enhancement discussed in the April 2015 Supplement to the January 2015 Monitoring Report. Prior to April 2015, the Department monitored investigation and assessment caseloads using a manual tracking process, described in detail in previous monitoring reports.

According to the Case Manager Activity Summary reports, of the 690 case managers carrying at least one investigation or assessment on their caseload as of April 30, 2015, 197 (29%) had between one and 12 cases, 241 (35%) had between 13 and 24 cases, 158 (23%) had between 25 and 34 cases, and 94 (14%) had more than 35 cases.\(^{132}\)

Of the 689 case managers carrying at least one investigation or assessment on their caseload as of May 31, 2015, 193 (28%) had between one and 12 cases, 249 (36%) had between 13 and 24 cases, 153 (22%) had between 25 and 34 cases, and 94 (14%) had more than 35 cases.\(^{133}\)

As was true with the previous manual tracking, the new TFACTS report does not distinguish between assessment cases and investigative cases on a case manager’s caseload, and the TAC is therefore unable to say how many of those caseloads that were between 25 and 34 were acceptable (because they were assessment cases which should not exceed 34) and how many were unacceptable (because they were investigation cases which should not exceed 24). Those

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\(^{131}\) This is consistent with Council on Accreditation (COA) and Child Welfare League of America (CWLA) standards.

\(^{132}\) These caseloads are comparable to those reported in the May 2014 Monitoring Report using the manual caseload tracking. The last month for which the TAC compiled and reported aggregate CPS caseload data from the Department’s manual case tracking process was January 2014. At that time, 33% of CPS case managers had caseloads between 25 and 34 cases, and 12% had caseloads of 35 or more cases.

\(^{133}\) In each month during this period there were some number of caseloads that exceeded 60 open cases. On April 30, 2015, the highest caseload was 101 open cases; on May 31, 2015, the highest caseload was 107 cases. Both of these investigators still had high caseloads at the end of June 2015 (89 and 106, respectively).
managing CPS caseloads within the Department know the compositions of their teams and which case managers are carrying assessments and which investigations and therefore report that they are not hindered by the fact that the aggregate report does not make this distinction.

Figure 3.9 shows investigation and assessment caseloads by region as of April 30, 2015, with the region with the smallest percentage of caseloads with 35 or more cases at the top and the region with the largest percentage of caseloads with 35 or more cases at the bottom. The data show wide regional variation and that some regions struggle with high CPS caseloads more than others.\textsuperscript{134}

The Office of Child Safety reports that the regions with larger percentages of high caseloads have experienced significant turnover in investigations staff during the past year. The Department is implementing a number of strategies to address high caseloads and staff turnover, including: creating smaller investigation teams to improve supervision quality through the allocation of additional supervisor positions and the restructuring of existing teams; “over-hiring” positions in counties that are struggling the most with high caseloads and turnover; improving coordination between county teams; and creating a “Rapid Response Team” that can be deployed to assist teams with high caseloads.

\textbf{Figure 3.9: Percentage of Case Managers Assigned at Least One Investigation or Assessment Case by Total Caseload Size}

<table>
<thead>
<tr>
<th>Region</th>
<th>1-12 cases</th>
<th>13-24 cases</th>
<th>25-34 cases</th>
<th>35+ cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Smoky Mountain</td>
<td>14</td>
<td>20</td>
<td>11</td>
<td>2</td>
</tr>
<tr>
<td>Southwest</td>
<td>22</td>
<td>17</td>
<td>13</td>
<td>2</td>
</tr>
<tr>
<td>East</td>
<td>12</td>
<td>17</td>
<td>22</td>
<td>1</td>
</tr>
<tr>
<td>Northwest</td>
<td>15</td>
<td>17</td>
<td>13</td>
<td>2</td>
</tr>
<tr>
<td>Upper Cumberland</td>
<td>14</td>
<td>23</td>
<td>9</td>
<td>3</td>
</tr>
<tr>
<td>Knox</td>
<td>11</td>
<td>13</td>
<td>13</td>
<td>4</td>
</tr>
<tr>
<td>South Central</td>
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<td>13</td>
<td>13</td>
<td>6</td>
</tr>
<tr>
<td>Northeast</td>
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<td>23</td>
<td>19</td>
<td>10</td>
</tr>
<tr>
<td>Shelby</td>
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<td>15</td>
</tr>
<tr>
<td>Mid Cumberland</td>
<td>14</td>
<td>36</td>
<td>16</td>
<td>18</td>
</tr>
<tr>
<td>Davidson</td>
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<td>15</td>
<td>15</td>
<td>12</td>
</tr>
<tr>
<td>Tennessee Valley</td>
<td>15</td>
<td>16</td>
<td>23</td>
<td>18</td>
</tr>
</tbody>
</table>

Source: TFACTS Case Manager Activity Report for April 2015.

\textsuperscript{134} Subsequent to the reorganization of CPS (discussed in detail in the May 2014 Monitoring Report), there was a gap in uniform collection of caseload data for investigations and assessments in the aggregate until the development of the TFACTS reporting in April 2015. See the May 2014 Monitoring Report for historical data.
4. Absence of Repeat Maltreatment Data

The U.S. Department of Health and Human Services (HHS) has focused on “absence of repeat maltreatment” as a measure of the effectiveness of a child welfare system’s CPS process. The “repeat maltreatment” standard established by HHS for the second round of the Child and Family Service Review (CFSR2) allows for no more than 5.4% repeat maltreatment within a six-month period. The “recurrence of maltreatment” standard established by HHS for the third round of the Child and Family Service Review (CFSR3) allows for no more than 9.1% repeat maltreatment within 12 months of the initial report.135

According to HHS’ analysis of National Child Abuse and Neglect Data System (NCANDS) data for CFSR2 for the reporting period ending September 30, 2014, repeat maltreatment occurred in 2.8% of the applicable cases.

The Department of Health and Human Services did not conduct an analysis of NCANDS data for Tennessee for CFSR3 because of data quality issues.136

B. Investigations by the Special Investigation Unit

The discussion in this subsection addresses the adequacy of SIU staffing and timeliness and quality of SIU investigations. As discussed above, “third-party” investigations (concerning allegations of abuse or neglect of a child not in DCS custody for which a community member is the alleged perpetrator, for example, school or daycare center staff) make up a substantial portion of SIU’s workload, and those cases are also included in the SIU data presented in this section. While SIU also manages some number of overflow CPS investigation cases as needed,137 these cases are not included in the data presented in this section unless otherwise noted.

I. SIU Caseloads

SIU seeks to maintain staffing at a level that allows investigators to carry no more than approximately 24 cases (including newly assigned investigations) at one time.

136 The TAC believes that this may be an issue created by the Department’s recent compliance with the federal directive to encrypt NCANDs data the Department provides them. The TAC is confident that HHS and the Department will work through those issues going forward.
137 SIU was allocated six new positions in late 2013 that were strategically placed across the state to supplement the regional investigation teams. Shelby County received two positions, Davidson received two positions, and Tennessee Valley and Knoxville each received one position. These staff work in their assigned regions or “float” among the counties in rural regions when additional staffing is necessary to meet the demands of the case assignments. Although they are assigned to SIU for logistical reasons, they serve as the CPS overflow staff and generally are not assigned SIU cases.
The SIU Director and Team Coordinator monitor the investigators’ caseloads through weekly meetings, which include a review with each supervisor of the number of open cases on each investigator’s caseload, the number of overdue cases, and the tasks remaining to be completed in order to close the overdue cases.

Beginning in April 2015, the SIU Director and Team Coordinator also began to monitor investigators’ caseloads using the Case Manager Activity Report, a new TFACTS report built on the functionality provided by the Case Assignment Project (see the January 2015 Supplement to the December 2014 Monitoring Report for detailed discussion of this TFACTS enhancement, implemented in December 2014). TAC Monitoring staff validated SIU caseload data in the new Case Manager Activity Summary against the hand-counts provided by the team leaders and found them to be consistent.¹³⁸

Figure 3.10 presents SIU caseloads according to SIU’s manual compilation of caseloads from the weekly meetings as of the middle of each month from January 2014 through March 2015 and according to the TFACTS Case Manager Activity Reports for April 2015 and May 2015.¹³⁹ SIU investigators consistently had 24 or fewer cases on their caseloads through the first few months of 2014. Beginning in May 2014, for the first time in the past couple of years, caseloads for some SIU investigators exceeded 24 cases. As of April 30, 2015, 10 (37%) of the 27 SIU investigators had caseloads ranging from 25 cases to 38 cases. As of May 31, 2015, 14 (50%) of the 28 SIU investigators had caseloads ranging from 25 cases to 36 cases.

The SIU Director and Team Coordinator have been monitoring caseloads and overdue cases closely and have found that the higher caseloads and largest number of overdue cases are concentrated within two particular teams (Davidson and Shelby). They have been working with the Lead Investigators and staff on those teams to improve the timeliness of investigations and are in the process of implementing structural and staffing changes to address the issues causing the backlogs on these teams (see discussion of staffing below). They report, based on their case reviews and weekly supervisory meetings, that the overdue cases and high caseloads do not represent failure to complete investigative tasks in a timely and responsible manner but rather represent problems by workers in completing necessary documentation to close investigations.

¹³⁸ Because the dates of the Case Manager Activity Summary report and the hand-counts provided by the team leaders were a few days apart, they would not be expected to be an exact match.
¹³⁹ SIU did not produce manual counts for October because at least one team leader was unable to attend each of the weekly meetings during that month. Only investigators assigned an SIU investigation on the manual count date are included in Figure 3.12 (investigators and supervisors not assigned any SIU investigations are excluded, as are vacant positions). For this reason, caseloads of SIU investigators working CPS overflow cases are included in the data if the investigator was working a mix of SIU and CPS overflow cases (their total caseloads—both SIU and regional CPS investigations—are counted). Caseloads of SIU investigators working only CPS overflow cases are not included in the data.
As of April 30, 2015, there were a total of 35 positions allocated to SIU (24 investigator positions, six overflow positions, and five supervisor positions), all of which were filled.

The positions are currently allocated to four teams located across the state. Based on an analysis of the average number of referrals, caseload numbers, and vacancies, and based on considerations related to the travel challenges associated with responding to investigations in rural areas, the Department has continued working to utilize its staff most efficiently by reallocating staff positions and reassigning staff to geographic hubs.

Because the Shelby team has continued to struggle with higher caseloads and a greater number of overdue cases, the SIU Director is currently converting the two overflow positions on the Shelby team (see footnote 137 above) into positions fully dedicated to SIU investigations. She has also converted one of the overflow positions from the Davidson team to a new lead investigator position and is in the process of hiring for that position. Once the new lead investigator is hired, she will redistribute the investigators (particularly on the west side of the state) to create a new team. The net effect will be to increase the number of SIU teams from four to five and to decrease the supervisory workloads of the lead investigators to a level that will allow them to improve the quality of supervision they provide to their staff. It is anticipated that all of these changes will be complete by the middle of June 2015.
2. **Timeliness of SIU Investigations**

One key indicator of investigation timeliness is the time from the assignment of a report of abuse or neglect to the investigator and the investigator’s first face-to-face contact with the alleged victim. The Child Abuse Hotline Center worker uses the Priority Response Decision Tree in the Structured Decision Making (SDM) Manual to determine the priority response assignment (P-1, P-2, or P-3) based on critical safety and risk factors involved. \(^{140}\)

Figure 3.11 below shows performance on priority response for SIU (including, but not limited to, *Brian A.* class members) according to the TFACTS reporting. Since October 2013, when the Department revised the TFACTS priority response reporting, SIU performance has remained well above 80% for all three priorities (with the exception of December 2014, when performance on P-3 was 79%), and at 88% or above for P-1. \(^{141}\)

Another key indicator of investigation timeliness is the percentage of investigations not completed within the 60 days required by law (or “overdue” investigations).

\(^{140}\) The priority response time frames in DCS policy and the methodology of the TFACTS reporting are discussed in Subsection A above. The data shown in this figure are pulled from recently “refreshed” reports run several months after the reporting period to allow additional time for data entry (resulting in some improvement in performance for the months for which data had been included in the May 2014 Monitoring Report from reports that allowed less time for data entry).

\(^{141}\) The number of P-1 SIU investigations each month is sometimes very small, resulting in a significantly lower percentage if just one response is missed. For example, in June 2014, there were a total of seven P-1 investigations, and priority response was met on all but one (or 88%) of those investigations.
Figures 3.12 and 3.13 below show the number and percentage, respectively, of SIU open investigations by case age as of the middle of each month for the period January 2013 through April 2015.  

The total number of open investigations, the number of overdue SIU investigations, and the percentage of overdue investigations have generally been higher in the second part of 2014 and the first part of 2015 than in previous months.

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**Figure 3.12: Number of SIU Open Investigations by Case Age as of the Middle of Each Month**

*Source: TFACTS CPS Open Investigations by Case Age reports as of the middle of each month from January 2013 through April 2015.*

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142 For its own management purposes, the Department prefers to use the average number of overdue investigations during the month because the average adjusts for any brief fluctuations in performance during the month. The statewide average percentage of overdue SIU investigations each month for the period from July 2014 through April 2015 is as follows: 16% (July), 16% (August), 16% (September), 17% (October), 19% (November), 14% (December), 15% (January), 16% (February), 14% (March), and 18% (April).
3. Quality of SIU Investigations

The quality of SIU investigations has been a focus of the SIU Director and Team Coordinator. The Department has implemented multiple review processes to ensure the quality of SIU investigations.

Within SIU, Lead Investigators (immediate supervisors) consult with investigators at multiple points during the course of the investigation to ensure that priority response is met (and accurately documented) and to ensure that investigations are both classified by the 30-day mark and closed within 60 days except when there is an appropriate reason for delay in classification or closure. The Investigations Coordinator meets weekly with the lead investigators to provide guidance and support in addressing any barriers to case closure.

The Deputy Commissioner of the Office of Child Safety (OCS) has appropriately recognized the importance of implementing a process external to SIU that regularly examines the quality of SIU investigations and established a quality assurance unit within OCS for that purpose (the OCS Internal Quality Control Unit). This Unit has recently implemented a quality review process using a new, SIU specific review tool (beginning in the fourth quarter of 2014) to provide both quantitative and qualitative data about SIU practice that will inform quality improvement at the individual worker level, the team level, and the SIU program level.

As discussed in the January 2015 Monitoring Report, during the second and third quarters of 2014, while the new SIU specific review tool was being developed, the SIU Director, Team
Coordinator, and other members of the OCS leadership team reviewed a random 5% sample of open and closed SIU investigations using the Case Process Review tool, which is a tool for reviewing the timely completion of case documentation used by the Department in other program areas.\textsuperscript{143} These reviews revealed that a particular Lead Investigator had been approving cases for closure without completion of all investigative tasks; this issue was addressed through performance briefings with the Lead Investigator. These reviews also found that documentation quality and timeliness needed improvement, and in response to this finding, the Office of Child Safety provided documentation training to all investigators.\textsuperscript{144} All SIU investigators completed this training by the end of February 2015.

Not unexpectedly, findings from the new Quality Review process using the new SIU specific review tool (conducted by leadership in both the Office of Child Safety and SIU for random 5% samples of open and closed SIU investigations during the fourth quarter of 2014 and during the first quarter of 2015) had findings similar to those from the previous reviews—that there was a continuing need to improve the quality and timeliness of documentation and that supervisory intervention was needed to address the performance of particular SIU staff.\textsuperscript{145} The new SIU Director (whose prior experience is within regional CPS) has overall been impressed with the quality of the SIU investigations in the many investigations she has reviewed (both in her supervisory role and as a reviewer in the quality review process). While she has identified opportunities for improvement, there were no instances in her review where SIU performance did not ensure and address child safety. The TAC did a spot check assessment of approximately two dozen reviews—looking at the data documents that captured the results of the review for specific cases using the new review tool for the first quarter of 2015. The TAC found the quality of the review process to be rigorous and comprehensive.

As discussed in the May 2014 Monitoring Report, the Department’s Division of Quality Control conducted reviews of SIU cases investigated during the third and fourth quarters of 2012 and the first quarter of 2013 in which either the alleged child victim or the alleged perpetrator had a total of three or more SIU investigations. These reviews identified a number of opportunities for improving the quality of SIU investigations, including the need to improve documentation and the need for a better safety and risk assessment tool.

As discussed above, a significant amount of effort has been put into improving documentation. With respect to the safety and risk assessment, the observations and recommendations of those Quality Control reviews have informed the work that SIU is doing to develop a safety and risk

\textsuperscript{143} The Department’s Division of Quality Control has used the Case Process Review tool as part of its continuous quality improvement work around case practice and case documentation for many years. The Office of Child Safety developed and is currently implementing the new quality review process, discussed in the preceding paragraph, to more closely align with its internal management needs and also serve as a mechanism for staff development.

\textsuperscript{144} The review identified some cases in which the documentation lacked detail concerning the investigator’s observations or concerning the information on which case decisions were based.

\textsuperscript{145} The Division of Quality Control separately reviewed 22 of the cases reviewed by the Office of Child Safety using the new review tool in order to assess the accuracy, thoroughness, and objectivity of the Office of Child Safety’s reviews. The Division of Quality Control found strong inter-rater reliability and concluded that the new review tool appeared to accurately measure investigation quality.
assessment tool that will be more useful in supporting the investigative work. The SIU Director has found that SIU investigators know the current tool well enough that they are using the substance of the tool to make decisions about safety and risk when they are in the field, but then often fail to fill out the tool timely in the TFACTS system. While having a new tool and the capacity to fill it out in real time is desirable, the most important issue is that staff are in fact appropriately assessing for safety and risk. In the many cases the SIU Director has reviewed, she has not found a single instance in which she felt that the failure to fully fill out the safety and risk assessment tool resulted in a child’s safety being compromised.

The Office of Child Safety continues to evaluate improvement in other areas through the new review processes that have been implemented and through the Director’s close attention to issues of quality.

C. Investigations Involving Brian A. Class Members

This subsection presents data on the timeliness of investigations involving Brian A. class members, whether the investigations were conducted by SIU or CPS.

The Department produces a daily report of children who have an open Brian A. custody case and a CPS or SIU investigation.

All SIU investigations included in this report represent an alleged incident of abuse or neglect while a child is in custody and are easily identified by the assignment to the Special Investigations Unit. As mentioned previously, it is much more complicated to identify the investigations and assessments conducted by regional CPS of abuse or neglect that occur during home visits or while a child is on runaway status. This is because a significant number of the CPS investigations involving Brian A. children concern allegations of abuse or neglect occurring prior to a child’s custody episode that were reported after the child entered custody, and there is no mechanism to separate these investigations from investigations of abuse or neglect alleged to have occurred while the child is in custody and on a home visit or on runaway status.

As discussed in the January 2015 Monitoring Report, TAC monitoring staff and staff from the Office of Child Safety Internal Quality Control Unit collaboratively conducted a targeted review to isolate investigations and assessments of abuse or neglect of Brian A. children alleged to have

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146 SIU and Office of Child Safety are currently working with researchers at Vanderbilt to improve the current review tool. Many of the changes to the tool that are being discussed would better tailor the tool to use in SIU investigations, which, for example, usually do not involve the birth families of children, and which sometimes occur after the decision to remove the child from the resource home or congregate care facility has already been made. They are also exploring options to make the tool accessible to investigators while they are in the field conducting the investigation; because investigators do not currently have access to the tool as they are conducting their interviews, it is typically filled out after the fact, when the interviews have been completed and the investigator has returned to his or her computer.

147 At the request of the TAC, in order to identify investigations and assessments concerning incidents that occurred while the child was in custody, investigations and assessments that were opened within the first three days of custody are excluded because these are very likely to be the investigations that brought the children into custody.
occurred while in custody, including during home visits or while on runaway status. This review involved the following steps:

1. The 242 investigations on the Department’s Brian A. Investigations Report as of August 15, 2014 were sorted into two groups—those investigated by SIU (129, or 53%) and those investigated by regional CPS (113, or 47%).

2. For each of the 113 investigations handled by regional CPS, the investigator was asked to indicate whether or not the allegation in the investigation was about an incident that occurred while the child was on a home visit or on runaway status.\footnote{148}{TAC monitoring staff confirmed the information provided by regional staff through TFACTS spot checks and reviews of more than one-third of the 113 cases handled by regional CPS.}

3. TAC monitoring staff and staff from the OCS Internal Quality Control Unit reviewed those cases to determine whether priority response and case closure timelines were met.

The review found that of the 242 open investigations involving a Brian A. child on August 15, 2014, 129 (53%) were SIU investigations and 16 (7%) were CPS investigations or assessments concerning incidents of abuse or neglect by birth family alleged to have occurred after the child had entered custody. The remaining 97 (or 40%) were CPS investigations and assessments concerning incidents of abuse or neglect alleged to have occurred prior to custody.

Of the 129 open SIU investigations, 116 (90%) had been open 60 or fewer days, 12 (9%) had been open between 61 and 90 days, and one (1%) had been open more than 90 days as of August 15, 2014.

Of the 16 CPS investigations and assessments concerning alleged incidents of abuse or neglect by birth families that occurred during custody, 11 (69%) had been open 60 or fewer days, and five (31%) had been open more than 60 days as of August 15, 2014.

Reviewers checked the status of these 16 cases as of November 5, 2014, and found that 15 cases had been closed as of that date:

- six cases (four investigations and two assessments) had closed within the required time frame (60 days for investigations and 120 days for assessments);
- two investigations were overdue but had been classified within 30 days (one was closed as of November 5th and the other remained open);\footnote{149}{This case remained open because of a delay in documentation. Office of Child Safety staff indicated that this particular Investigator is very good and attribute the lack of documentation to the Lead Investigator’s assigning too many cases to this Investigator. They indicate that this issue is being addressed through performance briefing with the Lead Investigator.}
- four cases (two investigations and two assessments) had closed within 15 days after the required time frame;
- three investigations had closed more than 15 days after the required time frame (more than 75 days), but collaboration with external agencies (such as law enforcement and Child Protective Investigation Team (CPIT)) was the reason for the late closure;\footnote{150}{and

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• one case was closed after 75 days because of the investigator’s high caseload (resulting from vacancies and a co-worker on medical leave).

Reviewers also checked the priority response performance on these 16 cases and found that all responses had been made within the required time frames.

In addition, reviewers found that all of the alleged child victims in the overdue cases were safe during the investigation.

D. Review of SIU Cases by Quality Assurance and Provider Oversight Units

The Settlement Agreement (III.B) requires that all reports of abuse or neglect of foster children occurring in DCS and private provider placements (whether congregate care or resource home) must also be referred to and reviewed by the relevant DCS unit or units responsible for quality assurance and placement and provider oversight, with such referral and review completed within 90 days. These units are responsible for: (a) ensuring that appropriate corrective action is taken with respect to the placement and/or private provider (including, if appropriate, closing of the placement and/or contract termination) and (b) determining whether a pattern of abuse or neglect exists within the placement or the private provider’s array of placements that contributed to the abuse and neglect. The results of these required reviews are to be incorporated into the performance based contracting provided by DCS.

As discussed below, rather than have the quality assurance unit conduct a review that duplicates and is conducted simultaneously with the SIU investigation, the Department has established a QA review process that generally begins at the conclusion of the SIU investigation. The process reasonably relies on well-established SIU protocols and QA review of notifications that an SIU investigation has been initiated to ensure that any immediate safety concerns are addressed before the conclusion of the SIU investigation and that any matters requiring interim action by one or more of the units with responsibility for placement or provider oversight are brought to the attention of those units. The Department expects the QA review to begin promptly following the conclusion of the SIU investigation.151

The Quality Control (QC) Division maintains three tracking logs related to SIU investigations. Two logs are used to track investigations related to resource homes. The TAC monitoring staff were actively involved in the development of the resource home tracking logs and have found the logs to be conscientiously maintained and widely used for a variety of purposes, including

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150 Investigator performance was noted as an additional factor contributing to the delayed closure in one of these investigations.

151 The TAC considers the QA review as being “completed” once the SIU case closing notice has been reviewed by the appropriate QC staff person or team and a decision made by that staff person or team whether additional action or discussion of the case is warranted. If the QA review determines that further discussion and consideration of additional corrective actions beyond those resulting from the SIU investigation should occur, that further discussion and corrective action is separate from and not bound by the 90 day timeframe.
ensuring that appropriate action is being taken to “freeze” or “unfreeze” resource homes.\textsuperscript{152} The third log has been just recently implemented, and is intended to serve a similar function for SIU investigations related to congregate care facilities.

The QC Division also seeks to identify patterns of abuse or neglect in placements. As discussed in Subsection E below, the QC Division conducts regular reviews of all situations in which there are three or more reports that a particular child (whether in custody or not) has been abused or neglected by the same caregiver. The QC Division also completes a quarterly analysis of SIU investigations by classification, placement, and provider type in an effort to identify trends by provider and region, as discussed in Subsection D.4 below.

\section{Ensuring Appropriate Interim Action Pending Conclusion of SIU Review}

The SIU investigation process itself includes mechanisms for ensuring that any immediate safety concerns about the resource home or congregate care placement identified during the course of an investigation are promptly addressed. If the investigator has concerns about the child’s immediate safety or the safety of other children in the placement, such that removal of that child or others is necessary to protect their safety, the investigator works with the case manager, Team Leader, or regional management to coordinate the removal of the child from the placement while the investigation is being conducted. If the identified risks or concerns do not warrant removal, the investigator may implement a safety plan to address those risks. If the allegation concerns a staff member at a congregate care facility who poses a continuing threat to the safety of children in that facility, the SIU investigator is responsible for ensuring that the facility has taken appropriate steps to restrict contact between the staff member and the alleged child victim (or any other children deemed by the investigator to be at risk) pending the conclusion of the investigation.

Within 24 hours of initiating the investigation, the SIU investigator must send an “initial notification” containing detailed information about the allegations being investigated to multiple staff within the Department, including regional staff (the Regional Administrator, Team Leader, and case manager for the alleged child victim(s)) and staff in the Division of Quality Control’s Provider Quality unit.

If the investigation involves a child in a resource home, upon receipt of the SIU initial notification, the Resource Home Quality Team (RHQT) staff within that QC Unit make sure that the resource home is immediately placed “on freeze,” meaning that no additional placements of children can be made until the “freeze” designation is lifted. The freeze designation is generally lifted at investigation closure if the allegations are unsubstantiated; however, if the allegations are unsubstantiated but the investigator nevertheless had concerns about the placement, the freeze designation would not be lifted unless and until lifting the freeze was reviewed and approved by the Resource Home Quality Team.

\textsuperscript{152} One log is used to ensure that resource homes are placed on freeze at the beginning of the investigation and that the freeze is lifted at the appropriate time (either the end of the investigation or once the Resource Home Quality Team, discussed below, completes its review of the home). The second log is used to track the status of the Resource Home Quality Team review for those homes requiring such review.
If the investigation involves a child in a congregate care facility and if, upon initiating the investigation, SIU has broader concerns about the facility that should not wait until the end of the investigation to be addressed, SIU informs the appropriate Department staff (such as, the Provider Quality unit (discussed below), the Quality Control Division, Network Development, Licensing, and Internal Audit) of the concerns. In addition, the new Provider Quality Unit (discussed below) has begun reviewing every initial notification regarding a congregate care facility to identify any issues that need closer monitoring while the investigation is ongoing.153

2. Provider Quality Team/Provider Quality Unit

At the beginning of 2014 the Department began holding weekly PQT meetings (Provider Quality Team), bringing together people within the Department to discuss and address concerns raised about provider agencies. Representatives from divisions within Central Office with provider oversight responsibilities attend PQT meetings, such as Network Development, Licensing, Program Accountability Review, and Education. SIU also has representation at the meetings. TAC monitoring staff regularly observe these meetings. The group was convened by the Deputy Commissioner for Quality Control for most of 2014 who personally read every closing notice of any SIU investigation occurring at a congregate care facility. If a closing notice contained anything that she felt needed to be discussed by the PQT, she would bring the finding to the PQT. Reading the SIU closing notifications herself was an interim process while she worked to hire staff and create a unit with responsibility for supporting the PQT and tracking and responding to provider issues.154 The Provider Quality Unit has responsibility for gathering information, tracking and reporting, and carrying out actions steps for the PQT. As of March 2015, the staff of the Provider Quality Unit are responsible for reviewing all SIU closing notifications and maintaining a log of their review of those closures. Any concerns identified by the staff review are brought to the PQT for further discussion. The Provider Quality Unit has also assumed responsibility for supporting the Resource Home Quality Team.155

Beginning with SIU closing notifications sent in March 2015, as of May 2015, Provider Quality has reviewed 81 SIU closing notifications related to investigations at facilities. The majority of the closing notifications (84%) were reviewed by QC the same day or the following day of the receipt of the closing notification. All but one of the remaining cases were reviewed within eight days; that one case was reviewed within 15 days.

Unfortunately, there is often a delay between the closure of the investigation and the date on which the closing notification is sent to QC staff for review. If one looks at the entire time span from SIU closing the case, to sending the closing notification to QC, to completing the review,

153 For example, information shared at the beginning of an investigation could cause Provider Quality to remove a youth from a facility for safety reasons, or place a facility on heightened watch, or initiate a Program Improvement Plan with a provider.
154 A director with responsibility for accreditation and a director with responsibility for implementation of the Prison Rape Elimination Act among DCS and private providers took on the Provider Quality responsibilities. This focus has led to thorough review and tracking as well and prompt action in relation to SIU investigations.
155 Responsibility for managing the RHQT was recently moved to the Provider Quality Unit. Previously, the RHQT management functions were performed by staff in Network Development for private provider resource homes and by staff in the Foster Care and Adoption Division for DCS resource homes.
the range was from two to 116 days. Twenty-eight percent of the cases were reviewed within 20 days, 50% within 40 days; 75% within 90 days, and the remainder within 91 to 116 days.

3. Resource Home Quality Team

The Resource Home Quality Team (RHQT) maintains responsibility for reviewing the closing notification (a document that summarizes the results of the SIU investigation) for any SIU investigation involving a resource home placement in which the allegations were unsubstantiated but the investigator noted concerns. The team includes Quality Control and other Central Office staff (representatives from Network Development, Foster Care and Adoption, and Resource Parent Training), SIU staff, regional staff, and resource parent advocates. Responsibility for convening, supporting and managing the work of the RHQT is now the responsibility of the Quality Control Division.

All closing notifications involving DCS and private provider resource homes are reviewed by staff in the Provider Quality Unit. If the abuse and neglect allegations were substantiated, that resource home is closed “in bad standing” and that is documented in the tracking log. If the allegations are “unsubstantiated with concerns,” the Provider Quality Unit staff place that home on the agenda for further discussion by the RHQT and the resource home remains on “freeze” unless and until that freeze is lifted by the RHQT. In addition, even if the allegations are simply “unsubstantiated” (rather than “unsubstantiated with concerns”), if the Provider Quality Unit staff, based on their review of the closing notification or based on the history of the particular resource home, have concerns about that resource home, that resource home is placed on the RHQT agenda.

The Resource Home Quality Team makes recommendations (including recommendations to develop safety and corrective action plans) for ensuring the safety of the children involved and for addressing concerns regarding the resource homes involved. The RHQT also monitors the implementation of those recommendations. If, during the process of reviewing a case involving a private provider resource home, the RHQT identifies concerns that go beyond the individual resource home and implicate the agency more broadly, the team may address those concerns directly with the provider or refer them to the Provider Quality Team.

Staff in the Provider Quality Unit maintain a log for tracking both DCS and private provider resource homes discussed by the Resource Home Quality Team. In addition to a listing of

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156 Resource parents who have been substantiated as perpetrators of abuse or neglect cannot continue to serve as resource parents. In the past, the RHQT also reviewed SIU investigations in which the allegations involving the resource home placement were substantiated as part of the process for closing the resource home. Because of concerns about maintaining confidentiality on cases that have not been through a full administrative review, the DCS Legal Division directed the RHQT to stop reviewing substantiated SIU investigations prior to the conclusion of administrative proceedings. The Department has put safeguards in place to ensure that any resource home for which a substantiated allegation of abuse or neglect is subsequently overturned during the administrative review process is reviewed by the RHQT in the event that the resource parents wish to keep their home open or to reopen their home at a later time.

157 In these instances, the freeze on the home remains in effect until the conclusion of the RHQT review, just as it does for a home for which the allegations was unsubstantiated with concerns.
resource homes discussed by the team, the log provides information on the persons responsible for completing action steps; the status of the action steps; whether a corrective action plan or a safety plan was requested; whether the decision was made to close the resource home by the region, private provider, or the RHQT, and if so, whether the resource home was closed in TFACTS with a narrative describing the team members’ concerns; and whether the RHQT review resulted in removal of the children placed in the resource home.

Using this tracking log, staff in the Provider Quality Unit produce a monthly report on the activities of the Resource Home Quality Team. According to the report for December 2014, the RHQT conducted 43 reviews of 38 resource homes during that month (18 were private provider resource homes and 20 were DCS resource homes). Of the 38 unique resource homes reviewed, 35 had a final resolution during December. The RHQT agreed that 13 of these 35 resource homes should be closed, recommended lifting the freeze for 19 resource homes, and approved the reopening of three resource homes previously closed in bad standing. A final resolution had not yet been made for three homes.

Figure 3.14 below presents, for the period from May through December 2014, the number of unique resource homes reviewed each month and of those, the number of homes for which the decision was made to close the home during the month.

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158 For 10 of these homes, the decision was made by the private provider or the DCS region to close the home prior to review by the RHQT; for two of these homes, the decision was made to close the home because of concerns raised during RHQT review, and for one of these homes, the RHQT denied a request to reopen after a previous closure in bad standing.

159 This report was not run during the first four months of 2014. Report production resumed in May 2014.

160 The total number of resource homes is unique for each month, but not for the entire year (some resource homes were discussed in multiple months and counted for each month they were discussed). Between May and December 2014, 108 recommendations for closure of the resource home (including denials of requests to reopen homes previously closed in bad standing) were made by the region, the private provider, or the RHQT (or were upheld by the RHQT during secondary review).
4. Ongoing Aggregation and Tracking of SIU Data

As discussed in previous monitoring reports, SIU data containing the level of detail necessary for placement and provider monitoring are not available from TFACTS. For this reason, SIU manually compiles a report each month from the notifications for each SIU opened (the initial notification) or closed (the closing notification) during the month. The QC Division has been aggregating these data and providing a quarterly report, breaking down the data by facility, by agency, and by DCS region. The QC Division is currently working with the staff in the Provider Quality Unit and with SIU to explore ways in which these data might be used to enhance provider oversight.

E. Multiple Investigations Involving a Particular Caregiver for a Particular Class Member

The Settlement Agreement requires that the Department’s “quality assurance division shall ensure that a tracking and reporting process is in place to identify any case in which there have been three or more reports of neglect or abuse concerning a particular caregiver for a particular class member and that all such cases are subject to special administrative reviews.” (III.C)

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161 The manual creation of these tracking reports necessarily introduces increased opportunity for data entry error, but the Department is confident in the conscientiousness of the staff responsible for this manual tracking. While the Department recognizes that it will make sense at some point to develop more detailed TFACTS aggregate reporting regarding SIU, the Department does not currently view this as a high priority for report development.
Beginning in the second quarter of 2014, the Department’s Division of Quality Control implemented a revised case review process for SIU investigations of situations in which there are three or more reports that a particular child (whether in custody or not) has been abused or neglected by the same caregiver. Fortunately, as one would expect in a well-functioning child welfare system, these cases are rare.

As discussed in the January 2015 Monitoring Report, during the first three quarters of 2014, three children were the subject of a third investigation of abuse or neglect against a particular alleged perpetrator. For each child, the Assistant Commissioner over Quality Control read TFACTS case documentation for all investigations involving the child and the alleged perpetrator and found that:

- all three investigations for each child were thorough and well documented;
- the children were safe during each investigation;
- two children were unharmed; one suffered minor injuries;
- of the nine investigations that were the subject of this review, five were closed as unsubstantiated and four were closed as unsubstantiated but with concerns. Those closed “with concerns” included proper documentation of the concerns; and
- the Resource Home Quality Team (RHQT) reviewed all four of the investigations that were closed with concerns.

One of the reasons that it would be unusual for there to be three reports of abuse and neglect involving the same child and perpetrator is that there are already processes and activities by which the Department flags repeat allegations involving a specific alleged perpetrator, irrespective of whether it involves the same child, and those processes are likely to result in

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162 The Department’s Division of Quality Control, headed by an Assistant Commissioner, is the Division responsible for performing the quality assurance functions enumerated in the Settlement Agreement. As discussed in the May 2014 Monitoring Report, separate and apart from the Division of Quality Control, the Deputy Commissioner of the Office of Child Safety has established a quality assurance unit within that division with responsibility for using aggregate data and regular case reviews to ensure that CPS investigators meet case practice expectations, that caseloads are being managed and supervised appropriately, and that, in the case of reports of abuse and neglect of children while in custody, the SIU process is generating and providing to the Department’s separate Quality Control Division the information that Division needs to carry out its oversight responsibilities with respect to those cases.

163 This review is therefore broader than what is required by the Settlement Agreement.

164 Under the previous review process (through the end of the first quarter 2013), the Division of Quality Control reviewed a broader group of SIU investigations—all SIU cases in which either the alleged child victim or the alleged perpetrator had a total of three or more total SIU investigations. The decision to narrow the focus of this particular review was made in collaboration with the Office of Child Safety’s Internal Quality Control staff, who were developing their own quality review processes, to ensure that the reviews conducted by both groups were complementary and not redundant or duplicative.

165 There were no instances of three or more reports that a particular child (whether in custody or not) had been abused or neglected by the same caregiver during the fourth quarter of 2014 or the first quarter of 2015.

166 The resource father hit this child (his biological child, who is not a class member) on the leg and on the face, leaving no marks. This was the second of three investigations involving the resource father as the alleged perpetrator and his biological child as the alleged child victim.

167 Both the Resource Home Quality Team and the Provider Quality Team (discussed earlier in this section) are components of the Department’s provider monitoring structure.

168 The TAC reviewed and discussed these cases with the Assistant Commissioner. Her findings appeared to be reasonable and appropriate, and there were no corrective actions needed.
appropriate action being taken before a third incident involving a specific child could occur. Those processes and activities include the following:

**Child Abuse Hotline Intake Process:** The Child Abuse Hotline Center staff check prior CPS history on alleged perpetrators and victims when receiving and screening referrals of abuse or neglect.

**SIU Investigation and Internal Review Process:** SIU investigators look at both the alleged perpetrators' and the victims' prior investigation history as part of the investigative process and note the number of previous investigations on the initial and closing notifications as well as in their monthly reports. In addition, the SIU Director and Team Coordinator watch for trends in multiple investigations involving the same perpetrator or the same victim during their review of each investigation prior to closure. If SIU has concerns about the history of multiple investigations for a particular perpetrator, SIU will classify the investigation as "unsubstantiated with concerns" in order to ensure review by the Resource Home Quality Team and/or the Provider Quality Team.

**Provider Quality Unit “Freeze” Process:** Provider Quality Unit staff review all SIU initial notifications regarding resource homes in order to place the resource homes on freeze while under investigation. Provider Quality Unit staff also review all closing notifications as part of the process of lifting freezes for unsubstantiated investigations and as part of preparation for the RHQT meetings. While reviewing the notifications, they are expected to look for multiple investigations involving the same perpetrator. Any instances of multiple investigations that they feel warrant further review are added to the RHQT agenda.

**Provider Quality Unit RHQT Tracking Process:** Provider Quality Unit staff maintain and review a tracking log for homes (both DCS and private provider) discussed at the RHQT. If they identify a resource home with multiple investigations that they feel needs further review, they add the resource home to the RHQT agenda.

**Provider Quality Unit Tracking Process for Congregate Care:** Provider Quality Unit staff review and maintain a log of all initial and closing notifications for congregate care placements, focusing on the number of previous investigations, any immediate safety concerns, and any trends for referral to the Provider Quality Team.

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169 In order to ensure the safety of children, whenever an SIU investigation of alleged abuse or neglect concerning a resource home is opened, the resource home is placed “on freeze” (meaning no new placements of children are allowed into the home) for the duration of the investigation and any subsequent discussion, if required, at the Resource Home Quality Team.
F. Child Deaths and Near Deaths

1. Child Deaths and Near Deaths Included in the Child Death Review Annual Report for 2014

The recently published Child Death Review Annual Report for 2014 includes information on 141 child deaths and eight near deaths. Of these:

- 133 were non-custody deaths;
- eight were custody deaths, including six Brian A. children;
- eight were non-custody near deaths; and
- none were custody near deaths.

2. Child Deaths and Near Deaths of Children While in DCS Custody

As discussed in previous monitoring reports, because of the heightened responsibility that the state assumes for children in its custody, the Department is particularly concerned that any case involving the death or near death of a child while in DCS custody is subject to a prompt and thorough investigation, irrespective of whether there is any allegation that the death or near death was a result of abuse or neglect. The Department has therefore implemented a set of processes to ensure that the Department’s leadership is promptly made aware of such cases, and that those cases are promptly and thoroughly investigated by the Special Investigations Unit, with special oversight from the Central Office.

Those cases are also subject to the Child Death Review (CDR) process that provides an additional layer of review, although the Department expects any appropriate immediate corrective actions identified by the SIU investigation will be implemented without regard to the CDR process.

Six Brian A. children died in custody in 2014. Three of those children were medically fragile at the time they came into state care; one child died of an underlying medical condition and

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170 Beginning in January 2015, the Department streamlined the Child Death Review process and modified their protocols. This was done in consultation with the TAC and with an opportunity for input from Plaintiffs. The TAC approved the revisions to the process. The Child Death Review Protocol can be found at: https://files.dcs.tn.gov/policies/chap20/DeathProtocol.pdf

171 The Child Death Reviews conducted during 2014 do not correspond exactly to deaths that occurred during 2014—most deaths reviewed during 2014 occurred during that calendar year, but some of the deaths reviewed occurred during the previous calendar year. In addition, some of the deaths that occurred in 2014, particularly toward the end of the year, will be reviewed in 2015 and therefore will be included in the 2015 Child Death Review Annual Report.

In addition to producing an annual report that is available online at (http://www.tn.gov/assets/entities/dcs/attachments/2014ChildDeathReviewAnnualReport.pdf), the Department provides redacted individual case summaries online, kept current every quarter.
alcohol toxicity\textsuperscript{173}; one child committed suicide\textsuperscript{174}; and one child died as a result of abuse injuries sustained in his family home prior to being brought into custody. The Child Death Review Team has completed its review of four of those cases, and Child Death Reviews will be completed on the remaining two cases in 2015.

There were no near deaths of a custody child in 2014 that qualified for the Child Death Review process (the allegations of abuse were unsubstantiated and the physician review determined that they did not fall within the definition of near death).

\textsuperscript{172} There were three additional deaths of youth adjudicated delinquent during 2014; all three were suicides. The Child Death Review Team completed its review of two of these cases in 2014, and the Child Death Review will be completed on the remaining case in 2015. During the investigation of one of these suicides (which occurred at a Youth Development Center), allegations of Neglect Death and Lack of Supervision were substantiated against staff at the facility.

\textsuperscript{173} This child was “dually adjudicated” having entered custody pursuant to a finding of dependency and neglect, but having subsequently been adjudicated delinquent and committed on an indeterminate sentence.

\textsuperscript{174} This child was on a trial home visit with her grandmother when she took an overdose of medications. The Department had sought to terminate the trial home visit, but the Juvenile Court had denied the Department’s motion.
SECTION FOUR: REGIONAL SERVICES

A. Community-Based Services to Support and Preserve Families of Children in Foster Care

The Settlement Agreement requires that “Each region shall have available a full range of community-based services to support and preserve families of foster children in state custody, and to enable children to be reunified with their families safely and as quickly as possible.” (IV.A)

The focus of this provision of the Settlement Agreement is on services and supports for families (primarily parents) who have children in state custody with a goal of reunification for which services are to be available, offered and provided to address the family circumstances that are the obstacles to reunification. The range of services and supports should be those that would help the parents (or relatives if the permanency plan is discharge to relatives) accomplish what they need to accomplish under the permanency plan in order for the children to safely exit foster care.

The Department has identified six areas of core services and supports (some of which overlap) that are required to address the family problems that bring children and youth into foster care and that therefore are the most relevant to reunification:

- substance abuse treatment;
- mental health counseling;
- parenting education;
- housing assistance;
- supervised visiting; and
- services to address domestic violence.

There are, of course, important ancillary supports that may also be needed in individual cases—for example, support for transportation (e.g., gas cards, bus tickets, or bus passes to help parents get to counseling or other services and to facilitate visits with their children), access to day care, and other services to meet concrete and specialized support needs that some families may have.

The Department relies on a combination of community-based services paid for by DCS (through contracts, grants, and “flex funds”) and additional services provided by community agencies, local non-profits, and professionals supported by other funding sources (including TennCare).

In order to assess the Department’s efforts to ensure that each region has “a full range of services” available and accessible to families, the TAC has looked to several sources of

175 This requirement of the Settlement Agreement is not directed to service access and provision to families at risk of having children come into care (although the range of services for both groups may be the same), nor is it directed to services and supports for the child in custody to support a transition home (which are covered by IV.B.2).

176 These are “wraparound funds” that can be used to purchase additional services that are not otherwise readily available and to cover one-time expenses (such as car repairs, housing deposits, utility bills, house repairs, moving a trailer, etc.).
information including descriptions of services offered by community service providers and contracts for those services in each region; budget information on the amount of funds expended in each region for core services; allocation and use of “flex funds” by the regions; information provided by the State about TennCare service eligibility and service distribution; and data on the services provided to families gleaned from a special case file review of a sample of children who entered custody in June 2014 and remained in custody as of April 2015.\textsuperscript{177}

1. Community-provided Services

Many services provided to families are those that are available in local communities through faith-based groups, food banks, local service organizations, local government and other community partners. DCS Resource Linkage staff in each region maintain directories of these local organizations and work to build and sustain relationships with community partners who provide services and supports even when not directly funded by the Department. Each region and some individual counties maintain and keep a current resource directory for case managers to use as a tool when working with a family to craft and implement a service plan. The TAC monitoring staff have reviewed the resource guides and although they vary in both format and content, they appear to provide a useful compilation of information for workers.\textsuperscript{178}

2. Grant Funded Services for Families

For some services that are typically needed by families whose children are in custody, DCS awards grants to organizations that can provide those services. For example, the Department has grants to 16 organizations throughout the State to provide parenting education, and families are referred by case managers to those organizations. DCS provided the TAC with information about all active grants as of October 2014; grants offering services in the six main areas, some of which reflect multi-year commitments, totaled nearly $23.5 million.\textsuperscript{179}

To better understand annual commitments, the Department provided the TAC with expected fiscal year 2014-15 allocations for those contracts and documented expenditures for each contract through the end of May 2015.\textsuperscript{180} Total contracted amounts for services during this period were $6.6 million; through the end of May, $5.24 million was expended with expected additional expenditures for May and June 2015.

\textsuperscript{177} This targeted review used the same sample that was used for the review which was focused on the “nine-month attorney review” required by VIII.C.3. The methodology for pulling the sample is described in Section Eight of this monitoring report.

\textsuperscript{178} Some resource specialists and case managers find publicly available community resource websites to be useful resources, particularly those that are updated regularly.

\textsuperscript{179} Some grants cover multiple fiscal years.

\textsuperscript{180} Because of the time it takes to receive and process invoices, as of July 10, expenditure data was not complete for all agencies for May 2015 and did not yet include June 2015 expenditures.
In addition, family support services are also provided through the Continuum contracts, although because the payment for those services is “bundled” (that is, included in a rate established for the entire range of service provision including placement), the Department does not have fiscal data related to specific services funded through continuum contracts.

3. **TennCare services and services provided through other insurance**

Some of the core services for families served by DCS are paid for through more generally available health benefit programs—TennCare for eligible low income or disabled individuals or through private insurance (for those parents who have health insurance coverage). TennCare provides parents who are eligible with coverage for inpatient, residential and outpatient treatment for substance abuse, as well as mental health services including hospitalization, case management outpatient treatment and psychiatric rehabilitation services. Private insurance coverage may not be as expansive, but, under federal law, must provide some level of coverage for mental health services.

The Department is confident that the combination of TennCare coverage for TennCare eligible parents and private insurance for those parents who have it, reasonably assures that parents of children in state custody have access to substance abuse and mental health services. A list of relevant services provided by TennCare and data on TennCare enrollment levels across counties throughout the State is attached as Appendix L.

4. **Services provided through “Flex Funds” or Case Services**

The Department budgets for and makes available to workers the ability to authorize the purchase of individual case services for families that are not available through any of the means discussed above. Formerly called “Flex Funds,” workers can request and be authorized to pay for specific services with justification related to a child in custody or his family. The services can include anything related to reunification—from rent or utility payments to stabilize housing to drug and alcohol treatment services not covered by TennCare or for an uninsured parent. The TAC reviewed a report provided by the Department on all case services from January 2014 to September 2014 for children in custody by service type and region that could be reasonably determined to be related to one of the six core service categories. In total in the nine-month period between January 2014 and September 2014, the Department spent over $2 million to cover over 6,600 service authorizations.

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181 The continuum model was developed in order to ensure that children were placed in individualized and appropriate settings while in care and that the providers support the family and child to make a transition back home. Thus the continuum contracts allow for services in the home during a Trial Home Visit in order to support safe and timely reunification with families.

182 Different regions describe services differently so for example, while only five regions had a label for domestic violence services, the Department noted that other regions provide those services under a category shown as Family Support Services. In addition, the data do not account for payments for transportation for the family.
5. Results of Targeted Review

The information discussed above provides evidence of the general availability in each region of a wide range of community-based services, funding sources to support those services, and actual expenditures reflecting that those services are being accessed. However, the consumers of the services provided under the categories discussed above go well beyond the specific group of parents and relatives who fall within the scope of Section IV.A of the Settlement Agreement.

To provide additional information related to the availability of IV.A services and supports to parents pursuing reunification, the Department’s Division of Quality Control and the TAC monitoring staff conducted a targeted review to examine the circumstances that brought the children in the sample into care and the obstacles to reunification, and to determine whether IV.A services relevant to addressing those obstacles were available to the families in those cases.

The review sample was drawn from the 239 class members who entered custody in June 2014 and remained in custody as of the April 6, 2015 TFACTS Mega Report. A sample of 69 cases was drawn.

The review has been conducted in two phases. The first phase, led by the Department’s reviewers, involved an analysis of the core services that the Department has identified as IV.A services—services provided to families to aid reunification or to remove barriers preventing a child’s return home—that were offered or provided to the families in those 69 cases. The second phase, which is now underway, is being led by the TAC monitoring staff, and involves a specific focus on all children who, as of July 1, 2015, had neither been placed on THV nor reunified with their families, to determine whether those specific families had been offered or provided IV.A services and whether the failure of the children to be returned to their families was to any extent attributable to the failure of relevant services to be made available to the family.

a. Analysis of Availability/Applicability of IV.A Services to the Reasons the Child Came into or Remained in Care

There was documentation that families received some type of IV.A service in 97% (67 of 69) cases reviewed. The two cases in which services were not provided involved infants abandoned at birth. In one case, both parents were incarcerated, and in the other, both parents’ whereabouts were unknown. In the remaining 67 cases, there was documentation that services were provided to assist with a variety of identified needs, including substance abuse, mental health treatment needs, visitation, housing needs, parenting education, domestic violence, and other unique needs.

183 In the TAC’s view, this population was more likely to present the kinds of issues that would test the adequacy of the IV.A service array. Children who have been in care for between 10 and 13 months are likely to still have sole or concurrent goals of reunification and therefore services to their families remain relevant. And the fact that the children are still in care after 10 months increases the likelihood that the service needs of the family would be significant. This sample was also used to examine the extent to which the Department was complying with the nine-month attorney review requirement of Section VIII.C.3. See Section Eight, Subsection C.3.

184 The sample was stratified by region and represents a 95% confidence level and a plus/minus 10 confidence interval.
of the family.\textsuperscript{185} Figure 4.1 reflects the number of families receiving services in each category.\textsuperscript{186}

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{Figure4.1.png}
\caption{Services Provided to Support Reunification}
\end{figure}

Source: 2015 Section IV.A Targeted Review.

In addition, in each case the reviewers sought to determine whether the services provided were related to the circumstances that led to removal, the family needs initially identified by the Child and Family Team, and the obstacles to reunification.\textsuperscript{187} Figure 4.2 compares identified family needs to the services provided based on the case review, recognizing that not every need of a family over the life of a case is identified at removal or at an Initial CFTM.

\begin{itemize}
\item These other services to meet unique needs included: child care; transportation to court (or other unspecified transportation assistance); medication management; training for specialized medical care; unspecified continuum or in-home services; and providing a specialist to attend court and appointments with mother and child.
\item Some families received services in more than one category.
\item Parenting education was attributed to each family’s needs unless the reasons for custody were limited to the child’s unruly behavior or mental health needs or the child’s being without a caretaker for reasons other than abandonment.
\end{itemize}
Table 4.1 lists the most relevant types of services that were documented by the review within each core service category.

**Table 4.1: Types of Services Provided in Each Category**

<table>
<thead>
<tr>
<th>Substance Abuse</th>
<th>Mental Health</th>
<th>Visitation</th>
<th>Housing</th>
<th>Parenting Education</th>
<th>Domestic Violence</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alcohol &amp; Drug Assessment</td>
<td>Mental Health Assessment</td>
<td>Therapeutic/Supervised Visitation</td>
<td>Rent Payment</td>
<td>Parenting Assessment</td>
<td>Domestic Violence Counseling</td>
<td>Childcare</td>
</tr>
<tr>
<td>Inpatient Treatment</td>
<td>Individual Counseling</td>
<td>Transportation to Visits</td>
<td>Water Bill Payment</td>
<td>Parenting Classes</td>
<td>Anger Management Therapy</td>
<td>Transportation to Unique Services</td>
</tr>
<tr>
<td>Intensive Outpatient Treatment</td>
<td>Group Counseling</td>
<td></td>
<td>Electric Bill Payment</td>
<td>Intensive In-home Parenting Services</td>
<td>In-home Family Violence Intervention Services</td>
<td>Specialized Psychological Services</td>
</tr>
<tr>
<td>Drug Testing</td>
<td>In-home Therapy</td>
<td></td>
<td>Furniture, Crib/Child’s Bed</td>
<td>Bonding Assessment</td>
<td></td>
<td>Special Needs Sitter Services</td>
</tr>
<tr>
<td>Aftercare Program</td>
<td>Transportation to Appointments</td>
<td></td>
<td>Grocery Assistance</td>
<td>Non-Offending Parenting Class</td>
<td>Parenting Class with DV Focus</td>
<td>Pest Control</td>
</tr>
<tr>
<td>Community Support Group</td>
<td>Medication Management</td>
<td></td>
<td>Homemaker Services</td>
<td></td>
<td></td>
<td>Interpreter Services</td>
</tr>
</tbody>
</table>

Source: 2015 Section IV.A Targeted Review.
Figure 4.3 reflects for each service category, the number of unique family members receiving one or more services in that category. The figure captures the number of family members in which there was documented evidence of receiving services in that category, not the number of services within that category that a family member receives. For example, for a mother who received an Alcohol & Drug (A&D) Assessment, substance abuse treatment, and assistance with transportation to intensive substance abuse outpatient treatment, the figure would reflect one mother receiving Substance Abuse services.

![Figure 4.3: Family Members Receiving Services](image)

Source: 2015 Section IV.A Targeted Review.

b. Specific Follow-Up on Children in the Sample Who Remained in Custody (Not on THV)

As of July 1, 2015, 22 of the 69 children in the case review sample were either on THV or had been returned to the custody of their parents or relatives, reflecting that the obstacles that had been preventing reunification had been addressed by the parents with the support of the services that had been provided. In addition, five of the 69 children were in full guardianship as of July 1, 2015, reflecting that either reasonable efforts (including offering or providing relevant family services) had been made by the Department to support reunification or were not required because of the severity of the circumstances, and that the children could not safely be reunified with their families.

TAC monitoring staff are in the process of completing follow up on the 42 children who remained in care and were not on THV as of July 1, 2015 to identify the obstacles that were preventing the return of the child to the family and, to the extent that there were any IV.A services that were relevant to overcoming those obstacles, whether those services had been offered or provided to the family. The TAC anticipates completing the review of these cases in time for the results to inform the maintenance discussions.
B. In-Home Services for Resource, Birth and Adoptive Families

Section IV.B of the Settlement Agreement is focused on ensuring that a narrow set of intensive services are available to address three specific circumstances:

- **foster families for whom children have established a significant, beneficial emotional bond and which provide the possibility of long-term stability and permanence, but which are in danger of disrupting without intensive home-based crisis intervention services;**

- **families to whom children in foster care could be returned safely with the availability of intensive family services for a transition period;** and

- **adoptive families in danger of disrupting without intensive home-based crisis intervention services.**

1. **Intensive Home-Based Crisis Intervention Services for Certain Foster and Adoptive Families (IV.B.1, IV.B.3)**

These two Settlement Agreement provisions have a very narrow scope. First, they are limited to “intensive home-based crisis intervention services,” which is commonly understood to mean services that are available on a 24 hour, 7 day a week basis to address crisis situations in the resource home as they emerge so that, when appropriate, the situation can be stabilized without disrupting the placement (other than for a short respite placement in appropriate cases). Second, these provisions are limited to resource families “for whom children have established a significant, beneficial emotional bond and which provide the possibility of long term stability and permanence, but which are in danger of disrupting without intensive home-based crisis intervention services” and “adoptive families in danger of disrupting without intensive home-based crisis intervention services.”

At the time that these provisions were included in the original Settlement Agreement, there was a concern that all too often resource parents were not receiving the supports and services that they needed, that they had difficulty contacting case managers when problems arose, and that it was not until the situation reached a crisis that the Department would respond—and that the response would often be to just move the child to another placement.

These provisions requiring that crisis intervention services be available for resource parents with a long term commitment to children in their home were part of a package of provisions relevant to ensuring that resource parents would receive the personal attention and support they needed. That package included establishing caseload limits for case managers, requiring frequent visits to resource homes, and emphasizing placement stability performance measures.

The contrast between the circumstances of resource parents at the time the Settlement Agreement was entered and the circumstances today is well captured by the Quality Service Review (QSR), which in recent years has consistently found that the Department is doing a good overall job of
providing resource parents with the supports that they need to meet the needs of the children in their homes.\textsuperscript{188}

The Department now consistently scores well on the Caregiver Support indicator, with statewide scores over the last four QSR cycles ranging from 92\% acceptable in 2010–11 to 96\% acceptable in 2014–15. The TAC monitoring staff reviewed each of the seven cases that were scored “unacceptable” for 2014-15, and in none of those cases was the lack of crisis intervention services the reason that the case was scored unacceptable.\textsuperscript{189}

The Department’s performance on measures of placement stability (discussed at length in Subsection B.3 of Section One) is at least in part attributable to the Department’s success in providing supportive services to resource families. This placement stability data reflects the significant improvements in making thoughtful initial placements, better matching children with specific resource families and providing better training, preparation and ongoing support for the resource parents, rather than ignoring problems until there is a crisis and then relying on crisis intervention services, by which point it may be too late to salvage the situation.

The TAC interprets the provisions of IV.B.1 and IV.B.3 to require, at a minimum, that the resource family and the child can contact an appropriate DCS staff person (for DCS resource homes) or an appropriate private provider staff person (for private provider resource homes) when a crisis arises, and that the DCS or private provider staff person contacted will be able to respond to the situation, either themselves or with additional supports that they are able to access promptly, to address the immediate needs of the child and family and de-escalate the situation, and to do so, if feasible and appropriate, without disrupting the placement (other than a short respite placement in appropriate cases).

In situations involving children with particularly challenging behaviors, it is likely that the child and resource family are already receiving intensive family services to support the child in the placement. Typically, both private providers with whom DCS contracts for placements and other agencies that provide ongoing, intensive child and family therapy and supports to resource

\textsuperscript{188} In scoring the “Caregiver Supports” indicator, the reviewers are required to determine for each child served in a resource home whether resource parents caring for a child have been provided “the training, assistance, and supports necessary for them to perform essential parenting or caregiving functions reliably for this child” and whether the “array of services provided” is “adequate in variety, intensity, and dependability… to enable caregivers to meet the needs of the child while maintaining the stability of the home.”

\textsuperscript{189} As discussed in the August 2014 Supplement to the May 2014 Monitoring Report, the TAC monitoring staff are occasionally contacted by a resource parent who believes that the resource parent’s advocacy on behalf of a child (whether for services or for specific actions to be taken) has resulted in some adverse action by the Department toward the resource parent; or by a resource parent who expresses reluctance to speak up about something that concerns the resource parent for fear of adverse consequences. However, these are now relatively infrequent complaints and none of the complaints in recent years has related to the lack of crisis intervention services, to a reluctance of a resource parent to seek crisis intervention services in a crisis situation, or to the failure of the appropriate DCS or provider agency staff to respond promptly in a crisis situation. In recent exit surveys conducted by telephone of former resource parents, less than 3\% of those completing the survey cited problems with DCS support as the reason they stopped fostering, and when asked to indicate their level of agreement with the statement “I knew how to reach a supervisor when I needed to,” 7\% “disagreed” or “strongly disagreed.” See the January 2015 Monitoring Report at pages 83-85 and accompanying Appendix IX.B.3.
families and the children they serve, include crisis intervention services as a component of their service package.

As discussed in the August 2014 Supplement to the May 2014 Monitoring Report, private providers are contractually required to provide necessary supports, including crisis intervention services, for their own resource homes. For DCS resource homes, there is always an “on call” number that a resource parent can contact in a crisis if the resource parent is unable to contact the child’s case manager or the resource home support staff person. In situations in which a child in a resource home expresses or exhibits suicidal or homicidal thoughts or behaviors, is suffering severe depression, exhibits bizarre behavior, disorientation, confusion or hallucinations, or acts in a destructive manner or is otherwise out of control, Department and provider staff have access to a service known as “Mobile Crisis” to provide prompt “face-to-face” assessment and evaluation and help determine whether the situation can be safely and responsibly managed without psychiatric hospitalization.

Services can also be accessed through TennCare funded Comprehensive Child and Family Therapy (CCFT) (available to TennCare eligible children in DCS custody through a network of TennCare approved providers) and through a special contract with the Youth Villages Intercept Program (for CCFT not paid for by TennCare), both of which include crisis intervention services as a component of their service. Finally, families that have signed an “Intent to Adopt” are provided a variety of services and supports through Adoption Support and Preservation (ASAP).

In assessing the Department’s performance related to provisions IV.B.1 and IV.B.3, the focus is not on supports for resource parents generally, but on those resource parents who are prospective permanent families for the children they are caring for. As the data presented in Subsection D of Section One of this Report reflects, the large majority of children in any given entry cohort in foster care exit to permanency through return to parents or relatives; and while it is important to provide good support to resource parents serving those children, those resource parents are not, by and large, the resource families that are the focus of IV.B.1 and IV.B.3.

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190 Because rewards and penalties under performance based contracting are based in large part on the extent to which children served by a provider exit to permanency, private providers have a strong incentive to support any resource family “for whom children have established a significant, beneficial emotional bond and which provide the possibility of long-term stability and permanency.”

191 Up until fiscal year 2014-15, a special Mobile Crisis program for children and youth under the age of 18 has been operated by Youth Villages under a statewide contract. Beginning with the 2014–15 fiscal year, the Mobile Crisis services are being provided by contracts with several providers: For 2014-15, Youth Villages has continued to be the provider in 81 counties; Frontier Health is the provider for the eight counties comprising the Northeast region; Helen Ross McNabb is the provider for the Knox region and four counties south of the Knox region; and Mental Health Cooperative is the provider in the Davidson region.

192 The TAC has reviewed the regular monthly reports on families served by ASAP and families on the referral list (called the “waiting list”) of families yet to be seen—which includes both new referrals and families that have been contacted but are still deciding whether they want ASAP services. That review, combined with the contract liability limits, confirm that the capacity of ASAP is sufficient to meet the demand created by the Department’s successful efforts at identifying adoptive families. Moreover, if at the time a referral is made to ASAP, it appears that it is important to the stability of the family that ASAP respond right away, ASAP is able to prioritize that family and make contact within 24 hours.
The resource families that are most clearly the focus of these provisions are those whose initial designation in FOCUS was “family identified” or “anticipated family identified.” These two FOCUS categories consist of “foster families for whom children have established a significant, beneficial emotional bond and which provide the possibility of long term stability and permanence” and “adoptive families” whose adoptions have not yet been finalized.

As discussed in both the May 2014 Monitoring Report and the August 2014 Supplement, and as reflected in the data presented in Section Eight, Subsection D of this monitoring report, the vast majority of children who enter the FOCUS process with designations of “family identified” or “anticipated family identified” exit custody to adoption, reflecting that the Department is doing a good job of placing children with resource parents who are open to adoption and generally providing those families with the support they need to adopt those children. This has been further confirmed by the TAC’s reviews of children in full guardianship who experienced disruptions.\(^{193}\)

The overall adequacy of support for resource parents reflected by the QSR results, the general stability of resource home placements, the large percentages of children who at the time that they come into full guardianship are already with resource parents who are prospective permanent placements (and the large percentage of children who are ultimately adopted by their resource parents), constitute persuasive evidence for the TAC to conclude that the structures and services (including crisis intervention services) are sufficient for supporting both adoptive families and other resource families “for whom children have established a significant, beneficial emotional bond and which provide the possibility of long term stability and permanence.”

2. **Intensive Family Based Services to Support Transition Home (IV.B.2)**

Section IV.B.2 of the Settlement Agreement requires that each region have available “community based family services” for “families to whom children in foster care could be returned safely with the availability of intensive family services for a transition period.” The services envisioned by this provision are short term, intensive therapeutic in-home counseling and support to facilitate the transition home for children with behavioral health needs that pose special parenting challenges.\(^{194}\)

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\(^{193}\) See, for example, the August 2014 Supplement at pages 13-14.

\(^{194}\) While Section IV.B.2 is narrowly focused on a specific set of in-home therapeutic services, there are, of course, other services and supports that may be important for successful reunification. This broader range of services is referenced in Section IV.A as the “full range of community-based services to support and preserve families of foster children in state custody, and to enable children to be reunified with their families safely and as quickly as possible.”
For children served through continuum contracts (approximately 25% of children on Trial Home Visits (THV) at any given time), the continuum contract requires that the continuum agency provide services, including intensive family services when needed, for at least three months after the date the child returns home. For children served through some non-continuum Level II or Level III contracts, the contract provider is also required to provide these services.

For children in DCS placements or children in contract placements for which these transition services are not required by the contract, the Department has four options for providing these services:

1. The Department’s preference is to access Comprehensive Child and Family Therapy (CCFT) for TennCare eligible children (the vast majority of the Brian A. population) through TennCare Select, the Behavioral Health Organization (BHO) for all children in DCS custody.

2. The Department has a special contract with Youth Villages to provide these intensive family based services through their Intercept program for instances in which CCFT cannot be immediately provided through TennCare (when a child is not TennCare eligible, when a child does not otherwise qualify for CCFT through TennCare, when there is for some reason a delay in getting TennCare approval for CCFT, or when there is a delay in getting an approved CCFT service started). And because Youth Villages is an approved CCFT provider, a subsequent TennCare approval for CCFT allows Youth Villages to continue to serve the family, while opening up a contract slot to another family.

3. The Department is also able to access intensive family based services through regional contracts for family preservation services.

4. Finally, in cases in which a child requires a particularly idiosyncratic therapeutic service during the transition period or the right match for therapeutic in-home services cannot be readily accessed through the available CCFT, Intercept, or regional contract, wraparound funds (formerly referred to as “flex funds”) can be accessed to cover the costs of those services.

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195 While approximately one-third of children in custody are served through continuum contracts at any given time (31% as of January 5, 2015) and are therefore eligible for continuum services, those children make up a smaller percentage of the children on THV at any given time. Because Section IV.B.2 of the Settlement Agreement is focused on the availability of intensive family services to support reunification for a transition period, the discussion in this section is focused on the group of children for whom that transition home is imminent—those who are on trial home visits.

196 CCFT is designed both to prevent out-of-home placement for high-risk youth and to support successful reunification for youth returning from out-of-home placement. Children and adolescents receiving CCFT exhibit high-risk behaviors and their families have a high level of instability. CCFT assessments and interventions are highly individualized and they include around-the-clock crisis intervention as needed.

197 Between January 1, 2013 and July 31, 2014, 14 different agencies provided CCFT services to children in custody through TennCare.

198 There were 102 contract Youth Villages slots available to be apportioned among the regions, and as of December 30, 2014, the Department was using 90 of those slots.
The January 2015 Monitoring Report and the April 2015 Supplement provided a detailed discussion of: the role of the DCS Health Advocacy Representatives in ensuring that children who need intensive family based services to support their transition home get those services; the TAC’s review of the TennCare tracking data, reflecting that CCFT is readily available, that denials or delays in access to CCFT for children in DCS custody are rare, and that to the extent that CCFT is terminated at the conclusion of the transition period, that such termination is consistent with what Section IV.B.2 envisions; and the additional confirmation provided by the TAC’s review of the QSR results for Successful Transitions and Emotional/Behavioral Well-being (including the follow-up on cases which scored unacceptable for either indicator).
Effective intervention with children and families in the child welfare system requires a committed, well-trained, and supportively supervised workforce with manageable caseloads.

Section V of the Settlement Agreement is focused on the recruitment, training, and retention of a well-qualified workforce. It includes a range of provisions related to qualifications for hiring and promotion, pre-service and in-service training, salary ranges, caseload limits, and supervision of case managers and others working directly with children and families.

The Section V requirements have been both incorporated into DCS personnel policies and procedures and included as private provider contract requirements through contract language and specific provisions in the *Private Provider Manual* (PPM).

Most of the Section V requirements apply not only to DCS case managers, supervisors, and direct care staff, but also to private provider staff with comparable responsibilities.

This section of the monitoring report is presented in two parts. Part one addresses the Section V workforce requirements related to DCS staff. Part two addresses those Section V requirements related to private provider staff.

**Part One: DCS Staff Workforce Related Requirements**

**A. Requirement of Background Checks for DCS Staff**

Section V.A of the Settlement Agreement requires all persons applying for positions with DCS or a private provider agency, which involve any contact with children, to submit to a criminal records check and a DCS abuse and neglect records screening (hereafter referred to as “background checks”) before beginning training or employment, and DCS administrative policy 4.1 Employee Background Checks, sets out the specific checks required and offenses that disqualify a person from employment.\(^{199}\)

Department policy is consistent with this requirement, and the Department has implemented procedures designed to ensure that the terms for hiring and retention related to this requirement are being met.\(^{200}\)

As discussed in previous monitoring reports, the Department has established clear protocols

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\(^{199}\) The Settlement Agreement also provides that DCS staff are subject to DCS administrative policy on employee disciplinary actions related to allegations or convictions of criminal acts.

\(^{200}\) Tennessee Code Annotated 37-5-511 (2) also requires that all persons working with children supply fingerprint samples and submit to a criminal history records check to be conducted by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation.
designed to ensure that required background checks are completed on DCS employees and appropriate documentation placed in the employee personnel file. The Department’s revised annual personnel file audit process has been effective at clarifying expectations and ensuring that background checks are being completed according to policy and documented in the personnel file as required.

The most recent round of annual personnel file audits conducted under this revised audit process between March 2014 and October 2014 has been completed for all 12 regions. Each regional review included an audit of the personnel file of all newly hired employees and a randomized review of 25% of all other current employees. The reviewers examined each file for the broad range of documentation required by law and policy, including documentation of required background checks (both initial and annual).

In the most recent round of personnel file audits, nine of the 12 regions had 100% compliance with criminal background check requirements. In the remaining three regions, personnel files for a total of 12 employees (nine existing employees and three new employees), or 1.5% of the 787 personnel files reviewed, were missing documentation of one or more of the required background checks. The missing background checks were done immediately after the file review for 11 of the 12 employees and documentation of the results of the completed check was placed in the personnel file. The remaining employee (a newly hired employee) was on extended leave at the time of the audit, but her missing background checks were completed immediately upon her return to work in August 2014. No concerns were identified in the background checks for any of these employees.

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201 A detailed description of the current process is provided in Appendix M.
202 TAC Monitoring staff have participated in these reviews and the DCS staff person leading this review is extremely thorough and conscientious in her approach to this review.
203 TAC Monitoring staff participated in this review.
204 The term “newly hired employees” refers to those employees hired since the region’s last personnel file audit, which concluded in September 2013.
205 The Department believes that, for some of the existing employees, the background checks had likely been completed even though documentation was not found in the file. Over the past couple of years, there had been some confusion among the regional Human Resources staff about exactly what documentation of the fingerprint checks was required to be maintained in the file and for how long, and as a result, documentation of some fingerprint checks was mistakenly discarded. In addition, the audit used a strict standard when assessing whether CPS checks had been completed. The Department has transitioned to a new integrated system that checks for CPS history in both the TFACTS system and the legacy SSMS system. Prior to the transition, each system had to be checked separately. For CPS checks conducted prior to the transition, if there was documentation of a CPS check in the personnel file that did not specify that both of the systems had been checked, the documentation was considered to be missing from the file.

The Department acknowledges that there are still likely some existing employees who were hired prior to the time when the Department began auditing for completion of background checks and for whom the required background checks were not completed. The Department is using the annual personnel file audits as a vehicle for identifying these employees and ensuring the missing background checks are completed. Also, the Department continues to face an obstacle to obtaining local criminal records checks in one region because the local law enforcement agency requires the Department’s Human Resources staff to drive all the way out to their location (for some staff, this is more than an hour one way) to spend less than five minutes completing a form on their computer. This contributes to delays in completing the local criminal records check in that region.
B. Education and Experience Requirements for Case Managers and Case Manager Supervisors (V.B)

The Settlement Agreement establishes the following education requirements for persons employed as DCS case managers and case manager supervisors with responsibilities for class members:

- for case managers 1 and 2, a bachelor’s degree, with preference for a bachelor’s degree in social work or related behavioral science;

- for a case manager 3, a bachelor’s degree, with preference for a bachelor’s degree in social work or related behavioral science and two years’ experience in providing child welfare services (with a master’s degree in social work or a related behavioral science permitted to substitute for one year of experience); and

- for all case manager supervisors (including team leaders and team coordinators) a minimum of a master’s degree in social work or a related behavioral field with a child and family focus (excluding criminal justice) and at least three years’ experience as a child welfare case manager (with an additional two years of providing child welfare services permitted to substitute for a master’s degree).

As discussed in previous monitoring reports, the Tennessee Department of Human Resources job specifications for each of the case manager positions reflect all of the education and experience requirements set forth in the Settlement Agreement.

The paperwork required for the Department’s Office of Human Resource Development to process the hiring of a new employee or the promotion of an existing employee ensures that Department staff meet these educational and experience requirements. In addition, the Department’s annual personnel file audit process includes a review of documentation of educational and experience requirements. The most recent round of annual personnel file audits discussed in Subsection A. above identified instances of documentation of educational and experience requirements that did not meet the technical requirements of DCS policy (e.g., copies of transcripts rather than “official” transcripts); however, the review did not uncover any instances in which the staff person did not meet the educational and experience requirements.

C. Requirements for Retention, Promotion, and Assumption of Case Responsibilities

The Settlement Agreement (V.C) provides that:

- no case manager assume any responsibility for a case, except as part of a training caseload, until after completing pre-service training and passing a skills-based competency test;
• no case manager be promoted until completing a job performance evaluation that includes evaluation of performance of the case management requirements of the Settlement Agreement;\textsuperscript{206} and

• each case manager supervisor complete basic supervisor training and pass a skills-based competency assessment geared specifically to child welfare supervision.\textsuperscript{207}

1. Competency Evaluation of New DCS Case Managers Prior to Assuming Caseload

The Department requires that new case managers, other than those who graduated from the Bachelor of Social Work Child Welfare Certification Program (BSW Certification Program), complete pre-service training and receive a competency evaluation that includes both knowledge and skills assessments prior to assuming regular caseload responsibilities. The BSW Certification Program requires successful completion of coursework and performance requirements that far exceed what is required for successful completion of the pre-service training.

As discussed in more detail in the May 2014 Monitoring Report, pre-service training currently consists of four weeks of a combination of computer and classroom-based training, followed by four weeks of on-the-job training (OJT). Prior to participating in OJT, new case managers must successfully complete a panel assessment designed around case scenarios that simulate case experiences. As part of the OJT training component, each new case manager is assigned a training caseload of up to five cases. Each case manager has an individual learning plan that identifies the activities that they are to engage in and skills that they are expected to practice/demonstrate during the OJT weeks. The final competency evaluation and certification rely heavily on the evaluation of the new case manager’s performance handling the training caseload, and the final panel assessment includes discussion of and reflection on the training caseload experience.\textsuperscript{208}

The Program Director for Pre-Service Training issues a letter of certification following submission of the certification summary document and Professional Development Plan. The

\textsuperscript{206} Failure to receive a satisfactory job performance evaluation is to result in “progressive disciplinary action, up to termination if necessary.” (V.C.2) This “progressive disciplinary action” requirement is specific to DCS positions which are governed by civil service rules.

\textsuperscript{207} Such training is to begin within two weeks of the supervisor assuming supervisory responsibility and be completed within six months.

\textsuperscript{208} The Program Director for Pre-Service Training creates a yearly statewide pre-service calendar with scheduled pre-service groups offered in the grand regions. Each group requires new hire nominations from the training coordinators and Office of Safety. This nomination process generates a pre-service roster for each pre-service group. During delivery of the training, each new hire is required to document their attendance on a pre-service sign-in sheet which is later utilized to enter training credit hours into Edison. During specialty week, during which training is focused on specific practice areas (permanency, CPS, juvenile justice, etc.), a certificate of attendance is issued.
Office of Learning and Development maintains a database that records information from each assessment as well as the date of certification.  

The structure of the pre-service training certification process and the inclusion of training caseloads in both the new TFACTS caseload reporting and the previous manual caseload tracking and reporting process help ensure that no case manager is assigned more than a “training caseload” prior to certification.

Between January 1, 2014 and December 31, 2014, 270 new case manager trainees began the pre-service training. Of those 270, 235 have been certified. As of April 30, 2015, of the 35 who have not been certified, 29 were terminated or resigned, and the remaining six have certification pending.

There were 26 cycles of pre-service training delivered during fiscal year 2013-14. As of April 30, 2015, 21 cycles had been completed or initiated in fiscal year 2014-15.

2. Requirement of Job Performance Evaluation Prior to DCS Case Manager Promotion

Under DCS policy, in order to be promoted, a case manager must have received an acceptable score on a recent performance evaluation. Documentation of a recent performance evaluation must be submitted to the DCS Office of Human Resource Development in order for a promotion of a case manager to be processed. The Department requires that copies of the front page and signature page of the recent performance evaluation (to verify that the performance evaluation was properly reviewed by the reviewer, supervisor, and employee) be placed in the personnel file.

The TAC periodically conducts reviews and spot checks to verify compliance with policy. For the calendar year 2014 monitoring period, TAC monitoring staff conducted a review of performance evaluations for 31 case managers promoted in the first quarter of 2014 (discussed in more detail in the May 2014 Monitoring Report, the Department does not require a performance evaluation for newly hired employees who have completed their probationary year as a “case manager 1.” Technically, there is no case manager 1 job classification; instead there is a “training” designation that remains with these employees until they have successfully completed one year of service as a case manager, at which time that designation is automatically removed. During their probationary year, newly hired employees participate in the same performance management process as other employees (which requires a job plan, two interim reviews, an annual performance evaluation, and monthly performance briefings—see discussion in Subsection G below). The probationary status automatically terminates at the end of the first year and is not technically viewed as a promotion.

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209 Regional administrators receive a monthly report notifying them of overdue or missing information needed for certification. This information is extracted from the pre-service database and includes the name of the new case manager, the OJT coach’s name, the assigned pre-service group number, the beginning date of pre-service training, the case manager’s identified specialty area, the initial panel assessment score, and the final certification assessment date of completion. The report also indicates which employees are “overdue” for certification based on the start of their pre-service training. This report is separated regionally and distributed via email. The Pre-Service Program Director also maintains a copy of the report.

210 TAC Monitoring staff compared a list of Brian A. case managers who were enrolled in pre-service and had not yet been certified as of July 9, 2015 with the TFACTS Caseload Summary Report for July 5, 2015. None of the Brian A. case managers on the list of pre-service participants carried more than five cases.

211 As discussed in more detail in the May 2014 Monitoring Report, the Department does not require a performance evaluation for newly hired employees who have completed their probationary year as a “case manager 1.” Technically, there is no case manager 1 job classification; instead there is a “training” designation that remains with these employees until they have successfully completed one year of service as a case manager, at which time that designation is automatically removed. During their probationary year, newly hired employees participate in the same performance management process as other employees (which requires a job plan, two interim reviews, an annual performance evaluation, and monthly performance briefings—see discussion in Subsection G below). The probationary status automatically terminates at the end of the first year and is not technically viewed as a promotion.
the May 2014 Monitoring Report) and a spot check of performance evaluations for five Brian A. case managers promoted between April 1, 2014 and March 31, 2015.\textsuperscript{212} The review of case managers promoted during the first quarter of 2014 found that performance evaluations were completed prior to promotion for 30 (97\%) of the 31 case managers, and the spot-check of Brian A. case managers promoted between April 1, 2014 and March 31, 2015 found that the performance evaluation was completed prior to the promotion for each of the five case managers.

The SMART Goal performance evaluation process,\textsuperscript{213} discussed in Subsection G below, ensures both that the IPPs have goals that are tied to the Department’s strategic priorities, including compliance with Brian A. requirements, and that performance evaluations are structured to measure performance on those goals.

3. \textit{Requirement of Supervisory Training and Competency Assessment for DCS Case Manager Supervisors}

This particular provision was discussed in detail in both the January 2015 Monitoring Report and in the April 2015 Supplement to that report. The updated data presented in those documents reflects that the Department is meeting the requirements related to supervisory training and competency assessment.

D. \textit{Training Requirements for DCS Case Managers (V.D)}

The Settlement Agreement includes specific requirements for pre-service and in-service training of case managers and supervisors. The Settlement Agreement (V.D.1, 2) requires that case managers receive:

- 160 hours pre-service, including instructional training and supervised field training; and
- 40 hours in-service annually.

For case managers with supervisory responsibility, the Settlement Agreement (V.D.3, 4) requires:

- 40 hours of training specific to supervision of child welfare caseworkers; and
- 24 hours of in-service annually.

The Department has implemented processes to ensure that DCS case managers and supervisors are in fact receiving this required training.

\textsuperscript{212} There were 388 case managers and supervisors, both Brian A. and non-Brian A., promoted during this period.

\textsuperscript{213} The evaluation process requires that performance plans include work outcomes or goals that are “SMART”: specific, measurable, achievable, relevant and time-sensitive.
1. Pre-service Training for New DCS Case Managers

The current pre-service training, discussed in Subsection C.1 above, continues to meet the requirements of the Settlement Agreement.214

The BSW Certification Program has not changed and continues to require successful completion of coursework and performance requirements that far exceed the requirements for pre-service certification.

2. In-service Training for DCS Case Managers

The Department continues to provide a wide range of in-service training opportunities for case managers. The Enterprise Learning Management System (ELM) component of Edison (the state’s personnel data management system) provides automated tracking and reporting of annual in-service training requirements.

Annual in-service training hour requirements are based on the fiscal year.215 According to a final report on in-service training hours completed by non-supervisory case managers for the fiscal year 2013-14, 90% completed all of their required training hours for the fiscal year. Another 6% completed at least 35 of the required 40 hours, 3% completed at least 30 of the required 40 hours, and 1% completed less than 30 hours of training.216 Quarterly reports on training completion are distributed to the regions following the end of the quarter.217 Each regional team is responsible for disseminating the report and tracking training information for regional staff. Supervisors who have staff that are not on target to complete the mandatory training hours develop a plan to

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214 As discussed in previous monitoring reports, a Continuous Quality Improvement (CQI) Professional Development Team was established to review and make recommendations about the current pre-service curriculum. A Central Office Training CQI group was also established, among other things, to revise pre-service training policy. Training staff also participate in the statewide Policy & Practice Workgroup, which is a CQI process designed to address all areas of practice, policy, and training, as needed.

215 The regional training coordinators (RTCs), using regular aggregate reporting on training hours, monitor progress on completion of in-service training hours and assist those case managers who are falling behind in their in-service training hours to complete the required 40 hours within the fiscal year. The Department runs a report quarterly to identify any case managers who are deficient in their required in-service hours and to ensure that appropriate steps are being taken by the case manager and his or her supervisor to address any shortfall in training hours.

216 The TAC monitoring staff are familiar with the manner in which completion of in-service training is captured in Edison and reported out of Edison, not only because of their work with Human Resources staff as part of their monitoring responsibilities, but also because they themselves are required to meet in-service training requirements and therefore have a familiarity with the system.

217 Quarterly reports include only staff who are active at the time of the report. They do not include staff who have separated from the Department. Staff who are hired in the last quarter of the year are exempt from the hourly requirement for that year.

Newly hired case managers are not included in the in-service training hours summary above because their training requirements differ from those who have been with the Department for more than one year. New hires will complete well over the 160 pre-service training hours required in the first year. Similarly, graduates of the Department’s BSW Tuition Assistance Program will have well more than the required 40 hours of in-service training and are therefore excluded from the quarterly summary.

The third quarterly training report, which captures training completed between July 1, 2014 and March 31, 2015, was released on May 6, 2015.
complete those hours by the end of the fiscal year. Disciplinary action may be taken when staff do not complete required training hours.

3. In-Service Training for DCS Supervisors

As discussed in the May 2014 Monitoring Report, the Department provides ample in-service training opportunities for DCS supervisors and has a well-functioning personnel data tracking system that produces reports on the number of supervisor-specific training hours that supervisors have accumulated. In fiscal year 2013-14, every supervisor completed at least 24 hours of in-service training.

E. Requirements for Training Infrastructure (V.E)

The Settlement Agreement requires the Department to have a full-time qualified director of training and maintain sufficient staffing, budget funds, and other resources to provide comprehensive child welfare training. As discussed in great detail in the May 2014 Monitoring Report, the Department’s current training division, the Office of Learning and Development, is led by a well-qualified Executive Director. The Executive Director directly supervises the Director of Resource Parent Development, the Director of Curriculum Development and Training, and the Master Trainers from each regional cluster. The regional trainers are divided into seven clusters: Shelby, Southwest/Northwest, Davidson/South Central, Mid-Cumberland, Upper Cumberland/Tennessee Valley, Knox/East and Smoky Mountain/Northeast. Each cluster includes a Master Trainer and two regional trainers.

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218 According to an interim report on in-service training hours for the first three quarters of fiscal year 2014-15, 35% of the case manager 2s and non-supervising case manager 3s (CM3s) had completed 40 hours of training. Another 18% were within 10 hours of completing their mandatory 40 hours, and the remaining 47% had more than 10 hours to complete by the end of the fiscal year.

219 In addition to improving reporting for the number of supervisory hours completed, the Department has also improved the ability to distinguish between case managers (1-4) who carry Brian A. cases from those who do not. The Department can also now differentiate between supervising CM3s and non-supervising CM3s. These significant improvements in reporting provide increased ability to track and ensure compliance with training requirements.

220 During the first three quarters of fiscal year 2014-15, 79% of supervisors who supervise Brian A. cases, including supervising CM3s, case manager 4s, and team coordinators, had completed 24 or more hours of training. Another 10% had less than six hours to complete before the end of the fiscal year, and the remaining 11% of Brian A. supervisors had more than six hours to complete.

221 The child welfare training is “to ensure that all persons responsible for children in the plaintiff class will have sufficient training to permit them to comply with the relevant mandates of this agreement, DCS policy, and reasonable professional standards.” (V.E)

222 The previous structure placed the supervision of regional trainers under a Director of Workforce Development, with the support of three regional human resources directors. This design created some barriers to the communication between Central Office training directors, responsible for the delivery and quality of training, and the regional trainers, supervised by the Master Trainers. The Director of Training has assumed direct supervision of the Master Trainers. This reporting structure facilitates a stronger partnership with Central Office directors and enables the Director to assess the skills and capacity of the regional training clusters.
In addition to the Executive Director, there are currently 18 staff positions housed in the Central Office and 30 staff positions in the field currently assigned significant training functions.  

As discussed in detail in the May 2014 Monitoring Report, the Department’s internal training capacity is supplemented by a number of contracts for training or training related services.  

The DCS training budget for the current fiscal year is $6,756,000. It includes funding for staff training and coaching functions, training and oversight of resource parent training, and $1,883,000 million to support contracts for the delivery of resource parent training in each region. Actual expenditures as of March 31, 2015 for the current fiscal year for training are $5,196,200.  

F. Additional Requirements for Improving Workforce Quality (V.G)

The Settlement Agreement requires that the Department provide stipends and other incentives to support graduate work to enable the state to hire and retain case managers with undergraduate and graduate degrees in social work and related fields. The Settlement Agreement also requires the Department to “periodically assess whether salary increases are necessary to ensure that Tennessee is competitive with neighboring states in its compensation for case managers and case manager supervisors.” (V.G)

As discussed in previous monitoring reports, the Department has established stipend and incentive programs for both undergraduate and graduate work and, in response to findings of a salary study, raised case manager salaries substantially over a three-year period ending in 2006; and a recent salary study, conducted by the Tennessee Department of Human Resources (TDOHR) during 2012 and 2013, discussed in the May 2014 Monitoring Report, found that case manager salaries remain competitive with comparable positions in the public and private sector.

I. Bachelor of Social Work (BSW) Tuition Assistance Program

The Bachelor of Social Work (BSW) Tuition Assistance Program (formerly referred to as the BSW Stipend Program) provides financial support for selected social work majors who commit to working with children and families immediately after graduation. In this program, the student

223 For a detailed description of the units and staff responsible for ensuring delivery and completion of comprehensive child welfare training, see the May 2014 Monitoring Report at pages 167-169.
225 While the Department does what it reasonably can to reduce training costs, if actual costs exceed the budgeted amount, the Department draws on other budget lines for covering those costs.
agrees to work for the Department after graduation for six months for each semester of financial support they receive.\footnote{Those who withdraw from school without fulfilling their commitment, or choose not to come to work after graduating, or are hired by the Department but fail to complete their employment commitment period, are required to repay the Department. The process for enforcing the repayment obligation was discussed in detail in the November 2010 Monitoring Report. The process for enforcing the repayment obligation was revised in 2013 to ensure that reimbursement was being pursued in a timely manner. A backlog in these reimbursement cases that had built up during the time that the BSW program had been supervised by the Tennessee Center for Child Welfare has been eliminated.}

The BSW Tuition Assistance Program began in 2004, and the first students graduated in May 2005. As discussed in more detail below, until June 2012, the BSW Tuition Assistance Program was administered by the Tennessee Center for Child Welfare (TCCW) with services provided by as many as 12 colleges and universities. The program is now being administered directly by the Department.

As of April 2015, there have been 581 participants in the BSW Program. Of those, 464 have graduated, 80 are enrolled in classes, and 37 have withdrawn from the program before graduating.

Of the 464 graduates, 425 were employed by the Department, 32 graduates were never hired, and six students recently graduated and are currently being interviewed for positions. The following table shows the breakdown of graduates from this program.
Table 5.1: Bachelor of Social Work (BSW) Tuition Assistance Program, Status of Students who Graduated between May 2005 and April 2015

<table>
<thead>
<tr>
<th>Graduate Status</th>
<th>Number of Graduates</th>
<th>Percentage of Graduates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recent graduates who are actively seeking employment</td>
<td>6</td>
<td>1%</td>
</tr>
<tr>
<td>Current employees who are working toward meeting their contract obligations</td>
<td>81</td>
<td>17%</td>
</tr>
<tr>
<td>Current employees who are still working for the Department and have completed their contract obligations</td>
<td>206</td>
<td>44%</td>
</tr>
<tr>
<td>Former employees who completed their contracts but separated from the Department</td>
<td>71</td>
<td>15%</td>
</tr>
<tr>
<td>Former employees who did not complete their contract</td>
<td>68</td>
<td>15%</td>
</tr>
<tr>
<td>Graduates who were never hired</td>
<td>32</td>
<td>7%</td>
</tr>
<tr>
<td><strong>Total number of BSW/BSSW graduates</strong></td>
<td><strong>464</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

Source: The Department’s Tuition Assistance Database.

2. **Master of Social Work (MSW) Tuition Assistance Program**

The Master of Social Work (MSW) Tuition Assistance Program allows qualified DCS employees to receive financial support to pursue an advanced degree in Social Work in exchange for a commitment to continue to work for the Department upon graduation. As is the case for the BSW Tuition Assistance Program, the employee agrees to continue to work for the Department for six months for each semester of financial support they receive, up to 24 months.

As of April 2015, there are a total of 236 DCS employees that have graduated or are actively in the MSW program. Of those, 192 have graduated with an advanced social work degree and 44 employees are currently enrolled for the 2014-15 academic year.

The MSW Tuition Assistance Program is used by DCS staff to advance professionally within the Department and to support Council On Accreditation (COA) standards on recruiting and retaining a workforce with advanced degrees.
3. BSW and MSW Tuition Assistance Program Funding

Combined funding for the BSW and MSW Tuition Assistance Programs for fiscal year 2014-15 was $1.8 million. Combined actual expenditures through June 9, 2015 of the 2014-15 fiscal year were $1.49 million.\(^{227}\)

4. Graduate Reimbursement Program

In addition to the MSW Tuition Assistance Program, the Department offers financial incentives for DCS staff who wish to obtain an advanced degree in a Human Services field such as Psychology, Sociology, Counseling, Criminal Justice or Public Service Management. The Graduate Reimbursement Program (overseen by the DCS Division of Training) reimburses DCS staff for their tuition and up to $200.00 for books. The program as presently operated requires staff to agree to work for the Department after graduation for six months for every semester of financial support they receive. Five DCS employees are currently participating in this program.\(^{228}\)

5. Master’s Degree Salary Increase Program

As an incentive for DCS employees who provide direct services to the children and families served by the Department to obtain an advanced degree, the Department has established and recently finalized guidelines for the Master’s Degree Salary Increase Program. This program offers staff who work in the Case Manager series (CM1, CM2, CM3, CM4, and Team Coordinators) a 5% pay increase for obtaining a master’s degree in a Human Services field. Included under this program are Master’s degrees in the fields of social work, psychology, counseling, sociology, criminal justice, or public service. Other Master’s level degrees may be considered and approved by the DCS Master’s Degree Increase Panel. Since December 2008, 442 DCS employees have received the pay increase through this program.\(^{229}\)

G. Performance Evaluations to Ensure Case Manager and Supervisor Competency (V.H, I)

Section V.H. of the Settlement Agreement requires that the Department develop and implement a performance evaluation process which includes an annual assessment of the extent to which case

\(^{227}\) The $1.8 million budget line for the BSW and MSW Tuition Assistance Programs includes funding for the Graduate Reimbursement Program (see Subsection F.4 below), but the $1.49 million figure for actual expenditures is for the BSW and MSW Tuition Assistance Programs only.

\(^{228}\) This program preceded the Tuition Assistance Program and was in existence at the time the original Settlement Agreement was entered.

\(^{229}\) Since 2013, the Department has also applied the guidelines applicable to the salary increase program to salary negotiations at the time of hire, agreeing to set the starting salary of a new employee at a higher level, rather than providing a pay increase after the new employee starts work. Because these are not technically pay increases, they would not be included in the data.
managers and case manager supervisors are handling their case responsibilities consistently with the Settlement Agreement provisions, DCS policy, and reasonable professional standards.

As discussed in previous monitoring reports, the Department had initially been developing and implementing its own performance evaluation process in the context of the general evaluation requirements of the state Department of Human Resources and the civil service rules and regulations. During the 2012 session, the Legislature adopted legislation that revamped the civil service rules and, among other things, mandated a new approach to performance evaluation. Fortunately that approach, which requires not only an annual performance evaluation, but two interim evaluations at specified intervals, emphasizes job performance focused on core elements and expectations of the job that are linked to the key outcomes that the agency is trying to achieve. The evaluation process requires that performance plans include work outcomes or goals that are “SMART”: specific, measurable, achievable, relevant and time-sensitive.

The SMART Goal performance evaluation process that the Department has implemented for case managers and supervisors has been led by the Deputy Commissioner for Child Programs and the Regional Administrators (RAs) she supervises. The Deputy Commissioner and the RAs have developed a menu of SMART Goals that reflect the case practice priorities of the Department and those case practice priorities, which are derived from and consistent with the Settlement Agreement practice priorities, have been the focus of the SMART Goal evaluation process that is now in its second year.

The TAC has reviewed the menu of goals developed by the Deputy Commissioner and the Regional Administrators and has reviewed examples of both job performance plans (referred to as Individual Performance Plans (IPPs)) and documentation of annual evaluations and interim reviews. The TAC has also reviewed the process by which the Department’s Human Resources Division tracks and reviews the completion of IPPs, annual evaluations, and interim evaluations to ensure that the performance evaluation process is being implemented conscientiously.

The most recently completed annual performance evaluation cycle ran from November 1, 2013 and ended on September 30, 2014. The current cycle runs from October 2014 through September 2015. The Office of Human Resource Development tracks the completion of the steps in the performance evaluation cycle.

According to the Office of Human Resource Development’s tracking of the 2013-14 performance management cycle, the IPP was completed timely for 79% of the 1,964 regional employees requiring an IPP. For an additional 15%, the IPP was completed after the deadline, and no IPP was completed for 6%. For the 1,835 regional employees requiring an annual performance evaluation (PE), the PE was completed timely for 57%. For an additional 34%, the PE was completed after the deadline, and no PE was completed for 9%.230

The SMART goal performance evaluation process represents a substantial change from the traditional approach to performance evaluation; and the process for developing IPPs that are

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230 These data include all regional employees because the Department does not separate Brian A. case managers from other employees in the regions in its tracking of the performance management cycle. These data exclude all regional employees who were on leave of absence during the cycle.
consistent with the SMART Goal process is more demanding, as is the process for review and approval of both IPPs and performance evaluations.\textsuperscript{231} The Department recognizes that supervisors are still getting accustomed to the new process. To ensure compliance with the requirements of the process, the DCS Office of Human Resource Development has been relying primarily on sending periodic reminders to supervisors about due dates for IPPs and deadlines for completing interim and final evaluations. The Office of Human Resource Development will continue to send periodic reminders to supervisors; however, the Department is also considering pay-related consequences for supervisors who fail to complete IPPs and performance evaluations as required by the SMART Goal process.

The SMART Goal performance evaluation process conforms to the requirements of Section V.H.

### H. Provisions Related To Caseloads and Case Coverage (V.J, V.K, V.L, V.M, V.N)

The Settlement Agreement requires that a DCS case manager be assigned to each case and that the case manager have full responsibility for that case, including working with the child and family; visiting with both for the purposes of assessing and meeting their needs; determining and implementing the permanency plan; supervising, supporting, and assuring the stability of the child’s placement; and assuring a safe, adequate and well-planned exit from foster care. If a private provider is engaged in the case, the DCS and private provider case managers are to “collaborate” to ensure compliance with this agreement.\textsuperscript{232}

The Settlement Agreement establishes caseload limits and case coverage requirements and includes specific provisions related to turnover rates, transfers of cases, and maintenance of up-to-date and complete case files.

\textsuperscript{231} The Office of Human Resource Development has to review and approve IPPs and PEs. It is not infrequent that the Office will have to send the IPP or PE back to be reworked by the supervisor and this has contributed to delays and missed timelines for completion.

\textsuperscript{232} As part of this collaboration (and consistent with the other requirements of the Settlement Agreement) the private provider case manager in private provider case managed cases assumes many of the day-to-day responsibilities for case management that DCS case managers assume in DCS case managed cases, (including visiting the child’s placement, ensuring parent-child and sibling visits, and making face-to-face contacts with children). The DCS case manager in private provider case managed cases, while relieved of some of the day-to-day responsibilities, remains actively involved in the case and retains the overall responsibility described in this Settlement Agreement provision.
1. Caseload and Supervisory Workload Limits (V.J, V.K)

The Settlement Agreement (V.J) provides that any DCS case manager responsible for the case of at least one class member have case responsibility for no more than:  

- 15 individual children in DCS custody if the case manager is a case manager 1;  
- 20 individual children in DCS custody if the case manager is a case manager 2 or 3 without any supervisory responsibility; and  
- 10 individual children in DCS custody if the case manager 3 supervises one or two lower-level case managers.

The Settlement Agreement provides that, should the Department propose the use of workers carrying a mix of custodial and non-custodial cases, “a weighted equivalent caseload standard will be developed in consultation with the TAC.” The Department has not yet made such a proposal and, in the absence of a weighted equivalent caseload, the TAC has considered those case managers who have a mix of custodial and non-custodial cases to be subject to the “individual child” limits that are applicable to custodial caseloads.

With the transition to TFACTS and in keeping with the family focus of the Department’s Practice Model, the Department has moved from a “child case” data system to a “family case” data system and toward conceptualizing staff workloads in terms of the number of families that a case manager is working with, and not just the number of individual children.

After having moved over the previous few years toward increased use of "mixed caseloads"—caseloads that included both non-custodial and custodial cases—the Department last year reconsidered that approach and decided to avoid including non-custodial cases on the caseloads of those workers handling Brian A. class members. The shift back from mixed caseloads to separate caseloads for Brian A. class members has progressed significantly since that decision.

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233 There are four case manager positions, two of which (case manager 1 and case manager 2) are non-supervisory positions and two of which (case manager 3 and case manager 4) are supervisory. Case manager 1 is a trainee/entry level class for a person with no previous case management experience; after successful completion of a mandatory one-year training period, a case manager 1 will be reclassified as a case manager 2. A case manager 2 is responsible for providing case management services to children and their families, and requires at least one year of case management experience. A case manager 3 can have supervisory responsibility for leading and training case manager 1s and case manager 2s in the performance of case management work. A case manager 4 is typically responsible for the supervision of staff (including case manager 3s) in a regional office who are providing case management services for children and their families. The terms case manager 4 and team leader are used interchangeably. A team coordinator supervises the case manager 4s/team leaders.

234 For more detailed discussion of the issues related to mixed caseloads, see pages 177-182 of the May 2014 Monitoring Report. As of April 30, 2015, 46 (9%) of the 515 case managers carrying a Brian A. case also had at least one non-custody family case (excluding extension of foster care cases, which are always counted by child) on their caseloads.
a. DCS Case Manager Caseloads

One of the most significant accomplishments of the Department’s reform effort has been the reduction of caseloads to manageable limits. Analysis of aggregate reports from TNKids and targeted reviews and the results of spot checks of individual case manager caseloads, reported in previous monitoring reports, reflected that the Department was generally keeping caseloads within the limits established by the Settlement Agreement. For those few case managers during any given month whose caseloads exceeded the limits, steps had been taken to reduce their caseloads back to within the limits within a relatively short time. In light of this performance, Section V.J. was among the provisions originally designated as in “maintenance” when that status was first incorporated into the Modified Settlement Agreement and Exit Plan entered by the Court on November 10, 2010.

However, during the eight-month period from July 2012 through February 2013, as reported in the June 2013 Monitoring Report, more than one-fifth of case managers in three regions consistently had caseloads above the limits established by the Settlement Agreement, and in two additional regions, more than 10% of case managers consistently had caseloads above the Settlement Agreement limits. Statewide, the percentage of case managers whose caseloads were within the Settlement Agreement limits did not go above 90% during this period. In light of this decline in performance, the parties agreed that the relevant provision of the Settlement, which had been previously designated in maintenance, should be moved out of maintenance.\(^\text{235}\)

As discussed in the May 2014 Monitoring Report, the Department implemented a number of strategies to address the rise in caseloads. The caseload data indicate that these strategies have succeeded. Caseload compliance levels are now comparable to those that supported the original “maintenance” designation.

Table 5.2 below presents the percentage of case managers carrying at least one Brian A. case whose total caseload (based on the caseload tracking spreadsheets\(^\text{236}\) for the period from July 2014 through March 2015 and the new TFACTS caseload reporting\(^\text{237}\) for April 2015) were

\(^{235}\) The performance during 2012 and the first half of 2013 stood in sharp contrast to caseload data for the most recent prior period (May 2009 through May 2010) for which aggregate caseload data were available. That data, discussed in the April 2011 Monitoring Report, reflected that on average 96% of case manager caseloads fell within established caseload limits, and in no month were fewer than 94% of caseloads within those limits. There was relatively little regional variation: eight regions had caseload compliance rates at or above the statewide 13-month average and another three regions had rates just under the statewide average (two at 95% and one at 93.8%). The remaining region had a compliance rate of 86.8%, substantially below the statewide 13-month average.

\(^{236}\) As discussed in detail in previous monitoring reports, the TAC relied on the Department’s manual caseload tracking documents after the transition to TFACTS, because the “family case” structure within TFACTS created significant challenges to the production of accurate caseload and supervisory workload reporting. For a detailed description of the manual caseload tracking process, see Appendix K to the May 2014 Monitoring Report.

\(^{237}\) See the April 2015 Supplement to the January 2015 Monitoring Report for a detailed discussion of the development and validation of the new TFACTS caseload reporting.
within the caseload limits established by the Settlement Agreement (counted by child), statewide and by region, as of the end of each month. Between July 2014 and April 2015, statewide caseload compliance ranged between 97% and 99%, with no region falling below 89% compliance.

As discussed in the May 2014 Monitoring Report and the September 2014 Supplement to that report, in May 2014, the Department modified the caseload tracking process to include, in addition to a count of any non-custody cases on a mixed caseload, a count of individual children involved in those non-custody cases. As discussed in detail in the April 2015 Supplement to the January 2015 Monitoring Report, the new TFACTS reporting also counts non-custody cases on mixed caseloads; however, because the number of mixed caseloads is small, TAC monitoring staff modify the data to count the non-custody children on mixed caseloads. Therefore, the data shown in the table for all months are based on a count of custody children plus non-custody children.

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238 As discussed in the May 2014 Monitoring Report and the September 2014 Supplement to that report, in May 2014, the Department modified the caseload tracking process to include, in addition to a count of any non-custody cases on a mixed caseload, a count of individual children involved in those non-custody cases. As discussed in detail in the April 2015 Supplement to the January 2015 Monitoring Report, the new TFACTS reporting also counts non-custody cases on mixed caseloads; however, because the number of mixed caseloads is small, TAC monitoring staff modify the data to count the non-custody children on mixed caseloads. Therefore, the data shown in the table for all months are based on a count of custody children plus non-custody children.
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<tbody>
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<td><strong>Statewide</strong></td>
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<td></td>
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<td>(n=514)</td>
<td>(n=496)</td>
<td>(n=515)</td>
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</table>

It is important not only to know the percentage of caseloads that exceed caseload limits during a particular month, but also to know by how many cases those caseloads exceed the limits. A caseload that is temporarily one or two cases over the limit creates a much less concerning problem than one that exceeds the limit by 10 cases. It is therefore important to look at the number of cases carried by those workers whose caseloads are over the limit in any given month.

Figure 5.1 below presents, for case managers who had at least one Brian A. case on their caseloads (without regard for case manager job classification) on April 30, 2015, the percentage of case managers whose total caseload size fell within each category (0-15 cases, 16-20 cases, 21-25 cases, and more than 25 cases).²³⁹

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**Figure 5.1: Percentage of Case Managers Carrying at Least One Brian A. Case by Caseload Size as of April 30, 2015, by Region**

- Davidson: 20% 1-15 cases, 40% 16-20 cases, 0% 21-25 cases, 0% More than 25 cases
- East Tennessee: 31% 1-15 cases, 28% 16-20 cases, 21% 21-25 cases, 0% More than 25 cases
- Knox: 17% 1-15 cases, 28% 16-20 cases, 21% 21-25 cases, 0% More than 25 cases
- Mid-Cumberland: 18% 1-15 cases, 29% 16-20 cases, 21% 21-25 cases, 0% More than 25 cases
- Northeast: 27% 1-15 cases, 29% 16-20 cases, 21% 21-25 cases, 0% More than 25 cases
- Northwest: 18% 1-15 cases, 12% 16-20 cases, 21% 21-25 cases, 0% More than 25 cases
- Shelby: 59% 1-15 cases, 9% 16-20 cases, 12% 21-25 cases, 0% More than 25 cases
- Smoky Mountain: 26% 1-15 cases, 22% 16-20 cases, 1% 21-25 cases, 0% More than 25 cases
- South Central: 29% 1-15 cases, 4% 16-20 cases, 0% 21-25 cases, 0% More than 25 cases
- Southwest: 14% 1-15 cases, 8% 16-20 cases, 1% 21-25 cases, 0% More than 25 cases
- Tennessee Valley: 40% 1-15 cases, 11% 16-20 cases, 0% 21-25 cases, 0% More than 25 cases
- Upper Cumberland: 29% 1-15 cases, 4% 16-20 cases, 0% 21-25 cases, 0% More than 25 cases

Source: TFACTS Caseload Summary Reports for April 2015.

As of April 30, 2015, the breakdown of compliance with the Brian A. caseload standards by case manager position is as follows:

- Case Manager 1: 100% (68/68);
- Case Manager 2: 98% (399/407);
- Case Manager 3: 100% (38/38); and

²³⁹ For reasons having to do with the nature of the analysis, the data in Figure 5.1 do not account for the different caseload caps of case manager 1s, case manager 2s, and case managers 3s in the way that Table 5.2 above does.
• Program Specialist: 0% (0/2)—these are typically non-caseload-carrying CFTM facilitators who are carrying a small number of Brian A. cases to assist teams with vacancies (total caseloads of one Brian A. child and four Brian A. children).

The following is a description of each non-compliant of the 10 non-compliant caseloads by region:

• Mid-Cumberland: one CM2 with 21 Brian A. children; two Program Specialists (CFTM facilitators) with total caseloads of one Brian A. child and four Brian A. children;
• Northeast: one typically non-caseload-carrying CM2 (a permanency specialist) with case management assignments to three Brian A. children—assigned to a total of 28 children;240
• Smoky Mountain: one CM2 with 21 Brian A. children;
• Southwest: one CM2 with 21 Brian A. children;
• Upper Cumberland: two CM2s with 21 Brian A. children; one CM2 with 19 Brian A. children and three non-custody children—a total of 22 children; one typically non-caseload-carrying CM2 (a permanency specialist) with case management assignment to one Brian A. child—assigned to a total of 22 children.

TAC monitoring staff followed up on the eight case managers (each of whom was a CM2) who had more than 20 children on their caseloads as of April 30, 2015. As of June 23, 2015, five were back down to 20 or fewer children. Two of the remaining three case managers were permanency specialists who were assigned as the case manager for a small number of Brian A. cases to help teams with vacancies; those two permanency specialists continued to be responsible for case management on those cases. The third case manager’s caseload had dropped from 22 to 21 cases.

b. DCS Supervisor Workloads

As discussed in the May 2014 Monitoring Report and the September 2014 Supplement to that report, data compiled periodically by the TAC from the manual caseload spreadsheets supplemented by information gathered from interviews with a sample of team leaders during 2014 indicated that the Department has generally kept supervisory workloads within the limits established by the Settlement Agreement and responded appropriately to relatively infrequent instances when a particular supervisor’s workload exceeds the limit.

Table 5.3 below shows the percentage of teams in each region that were in compliance with the supervisory workloads (based on manual caseload spreadsheets from July 2013, January 2014 and September 2014, and from the new TFACTS TAC Supervisor-Employee reports for April 2015), using a compliance standard that considers a supervisory workload to include both caseload carrying and non-caseload carrying supervisees. In reviewing the data for some of the months presented, TAC monitoring staff found teams that were counted as non-compliant solely

240 As is the case with other specialists (for example, Independent Living Specialists and Education Specialists), Permanency Specialists’ involvement in cases is typically not as the case manager for those cases. They are assigned to the cases in TFACTS as the Permanency Specialist, not as the case manager as that term is used in the Settlement Agreement.
because a team leader had supervisory responsibility for a non-caseload carrying staff person—for example, when a team leader supervised five lower-level case-carrying case managers and one additional non case-carrying case manager (such as a permanency specialist, a court liaison, or a secretary).

<p>| Table 5.3: Percentage of Supervisory Workloads Meeting Settlement Agreement Requirements for All Teams with at Least One Brian A. Case |</p>
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<th>July 2013</th>
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<th>September 2014</th>
<th>April 2015</th>
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<td>Northwest</td>
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<td>Shelby</td>
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<tr>
<td>Upper Cumberland</td>
<td>60%</td>
<td>55%</td>
<td>82%</td>
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<td>Statewide</td>
<td>90% (n=125)</td>
<td>90% (n=124)</td>
<td>96% (n=116)</td>
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</table>


c. Caseloads and Supervisory Workloads for Case Manager 3s

The Settlement Agreement includes special provisions related to caseloads and supervisory workloads for case manager 3s. Provision V.J provides that a case manager 3 with no supervisory responsibilities may have a caseload of no more than 20 children and that a case manager 3 supervising one or two lower level case managers may have a caseload of no more than 20 children. Provision V.J contains the requirement concerning CM3 caseloads. All other CM3 caseloads are accounted for in the V.J analysis in the previous subsection. The following subsection presents an analysis of all CM3 caseloads without distinguishing between those carrying Brian A. cases and those carrying only non-Brian A. cases.

Beginning in April 2015 and moving forward, the TAC is no longer counting teams as non-compliant when a secretary is the sixth person supervised by a team leader.

241 Teams in which a CM3 supervised one or two lower-level case managers and had more than 10 non-Brian A. cases on their caseloads are accounted for in this analysis (as non-compliant) because it made the most sense logically, although technically Provision V.J contains the requirement concerning CM3 caseloads. All other CM3 caseloads are accounted for in the V.J analysis in the previous subsection. The following subsection presents an analysis of all CM3 caseloads without distinguishing between those carrying Brian A. cases and those carrying only non-Brian A. cases.
than 10. Provision V.K provides that (a) case manager 3s only be given supervisory responsibility in circumstances in which an additional case manager 4 would have less than a full supervisory workload and (b) that no case manager 3 supervising more than two case managers have a caseload.

Case manager 3 workloads and caseloads are included in the overall caseload and workload compliance data presented in Subsections H.1.a and H.1.b above. Any case manager 3 carrying more cases (of which at least one is Brian A.) than permitted based on the number of case managers supervised is counted in the data presented for V.J, and any case manager 3 supervising more than four case managers or carrying more non-Brian A. cases than allowed based on the number of supervisees is counted in the data presented for V.K.

In April 2015, there were 13 case manager 3s who were subject to the requirements of V.K. None supervised more than four case managers. Ten of the 13 supervised three or four case managers, and none of those 10 carried any cases. The remaining three supervised one or two Brian A. case managers but carried only non-Brian A. cases (and are therefore counted under V.K instead of V.J). Two of those three carried more than 10 non-Brian A. children on their caseloads (one had 12 non-custody children and the other had 24 extension of foster care cases).

2. Special Requirements for Regions with High Staff Turnover (V.M)

The Settlement Agreement requires that for any region with an annual case manager turnover that exceeds 10%, in which cases are either uncovered or being assigned to workers at the caseload cap, the Department is to maintain a regional “pool of trained workers to assume the caseloads of departing workers.” (V.M)

The underlying concern behind this provision is the timelines associated with the routine civil service hiring process combined with the requirement that new workers complete pre-service training before assuming a full caseload. Without some reserve or emergency capacity to respond to caseload pressures with additional staff (whether those caseload pressures result from turnover or from an influx of cases into the system), the delay inherent in filling vacant positions or creating and filling new positions can easily result in cases quickly exceeding caseload limits.

As part of a broad strategy to ensure that regions have sufficient case managers to keep caseloads within caseload limits (a strategy that has included adding case manager positions in recent DCS budgets), the Department has utilized “over-hiring,” maintaining positions under the control of the Deputy Commissioner for Child Programs that can be reassigned to regions in response to caseload pressures, including those resulting from case manager turnover or case managers going out on leave, and has entered into contracts with private providers for case management services that can be utilized to respond immediately to an unanticipated spike in caseloads. The combined effect of these strategies has been to bring the number of caseloads that exceed Brian A. limits, which had increased significantly in certain regions during 2012 and 2013, back down to historical compliance levels by January 2014. This combination of available case management resources satisfies the requirement that there be a sufficient pool of trained workers.
available to keep Brian A. caseloads within caseload limits in regions where there is high turnover.

Tables 5.4 and 5.5 below present two views of the annualized turnover rates\textsuperscript{242} for January 2014 through December 2014. Table 5.4 presents turnover for all regional case manager positions; Table 5.5 presents turnover for non-CPS regional case manager positions.

\textsuperscript{242} Only separations from the Department are calculated in this turnover rate. Promotions, including the reclassification of case manager 1 positions to case manager 2 positions after completion of the probationary year, are not included in the data. However, the “turnover” in case managers that children and families experience results not just from case managers leaving the Department, but from case managers transferring or being promoted into new positions. It is critical that the Department examine and respond to the impact of this kind of “turnover.” (While the Edison system is able to capture transfers of DCS staff to and from other Departments, it does not have the capacity to produce aggregate reports on promotions or lateral moves.)

DCS calculates and presents turnover as an annualized turnover figure for each month. For example, the turnover rate report for June 2014 would be an annualized rate for the 12-month period beginning July 1, 2013 and ending June 30, 2014; the turnover rate report for July 2014 would be for the 12-month period beginning August 1, 2013 and ending July 31, 2014. To determine the annualized regional turnover for the applicable 12-month period for a certain job classification (for example, case manager 1), the Department takes the total number of people who have worked as a case manager 1 in the region at any time during the previous 12-month period and divides by 12 months to get an average number of employees per month for that region. The separations in that region over that same 12-month period are then divided by the average number of employees per month to calculate the turnover percentage rate for that region.
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<thead>
<tr>
<th>REGION</th>
<th>Case Manager 1</th>
<th>Case Manager 2</th>
<th>Case Manager 3</th>
<th>Team Leader</th>
<th>Team Coordinator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Davidson</td>
<td>36%</td>
<td>16%</td>
<td>26%</td>
<td>10%</td>
<td>0%</td>
</tr>
<tr>
<td>East</td>
<td>46%</td>
<td>17%</td>
<td>11%</td>
<td>4%</td>
<td>0%</td>
</tr>
<tr>
<td>Knox</td>
<td>43%</td>
<td>5%</td>
<td>0%</td>
<td>6%</td>
<td>0%</td>
</tr>
<tr>
<td>Mid-Cumberland</td>
<td>29%</td>
<td>14%</td>
<td>9%</td>
<td>15%</td>
<td>0%</td>
</tr>
<tr>
<td>Northeast</td>
<td>8%</td>
<td>9%</td>
<td>9%</td>
<td>3%</td>
<td>0%</td>
</tr>
<tr>
<td>Northwest</td>
<td>33%</td>
<td>7%</td>
<td>10%</td>
<td>9%</td>
<td>33%</td>
</tr>
<tr>
<td>Shelby</td>
<td>24%</td>
<td>11%</td>
<td>7%</td>
<td>2%</td>
<td>0%</td>
</tr>
<tr>
<td>Smoky Mountain</td>
<td>30%</td>
<td>13%</td>
<td>5%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>South Central</td>
<td>26%</td>
<td>14%</td>
<td>12%</td>
<td>11%</td>
<td>0%</td>
</tr>
<tr>
<td>Southwest</td>
<td>33%</td>
<td>11%</td>
<td>13%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Tennessee Valley</td>
<td>29%</td>
<td>5%</td>
<td>7%</td>
<td>3%</td>
<td>0%</td>
</tr>
<tr>
<td>Upper Cumberland</td>
<td>7%</td>
<td>4%</td>
<td>4%</td>
<td>4%</td>
<td>17%</td>
</tr>
<tr>
<td>Statewide</td>
<td>30%</td>
<td>11%</td>
<td>10%</td>
<td>6%</td>
<td>3%</td>
</tr>
</tbody>
</table>

Table 5.5: Annualized Percentage of Case Manager Turnover, by Region, for Non-CPS Regional Case Manager Positions, January 2014 through December 2014

<table>
<thead>
<tr>
<th>REGION</th>
<th>Case Manager 1</th>
<th>Case Manager 2</th>
<th>Case Manager 3</th>
<th>Team Leader</th>
<th>Team Coordinator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Davidson</td>
<td>36%</td>
<td>14%</td>
<td>13%</td>
<td>12%</td>
<td>0%</td>
</tr>
<tr>
<td>East</td>
<td>46%</td>
<td>16%</td>
<td>20%</td>
<td>5%</td>
<td>0%</td>
</tr>
<tr>
<td>Knox</td>
<td>43%</td>
<td>5%</td>
<td>0%</td>
<td>6%</td>
<td>0%</td>
</tr>
<tr>
<td>Mid-Cumberland</td>
<td>32%</td>
<td>13%</td>
<td>0%</td>
<td>18%</td>
<td>0%</td>
</tr>
<tr>
<td>Northeast</td>
<td>9%</td>
<td>9%</td>
<td>13%</td>
<td>4%</td>
<td>0%</td>
</tr>
<tr>
<td>Northwest</td>
<td>33%</td>
<td>8%</td>
<td>9%</td>
<td>11%</td>
<td>33%</td>
</tr>
<tr>
<td>Shelby</td>
<td>24%</td>
<td>10%</td>
<td>4%</td>
<td>3%</td>
<td>0%</td>
</tr>
<tr>
<td>Smoky Mountain</td>
<td>30%</td>
<td>14%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>South Central</td>
<td>26%</td>
<td>15%</td>
<td>0%</td>
<td>13%</td>
<td>0%</td>
</tr>
<tr>
<td>Southwest</td>
<td>33%</td>
<td>12%</td>
<td>8%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Tennessee Valley</td>
<td>24%</td>
<td>5%</td>
<td>12%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Upper Cumberland</td>
<td>7%</td>
<td>4%</td>
<td>8%</td>
<td>4%</td>
<td>25%</td>
</tr>
<tr>
<td>Statewide</td>
<td>29%</td>
<td>10%</td>
<td>7%</td>
<td>6%</td>
<td>4%</td>
</tr>
</tbody>
</table>


a. Statewide turnover rates for regional case manager positions

The TAC has been tracking statewide annualized turnover rates over time for case manager positions assigned to the regions (including both the CPS and non-CPS positions reflected in Table 5.4).

Figure 5.2 below shows the statewide annualized turnover rates for calendar years 2010 through 2014 for case manager 1, case manager 2, case manager 3, team leader, and team coordinator positions assigned to the regions.\[243\]

\[243\] For reasons discussed in previous monitoring reports, not surprisingly, the highest turnover rates are those associated with the case manager 1 (CM1) entry level position. If the pre-service training and competency evaluation process is working well, it should help those who are not well-suited to be case managers to recognize that fact.
b. Reasons for Turnover

The Department’s Attrition Report includes information on the reasons for the turnover. Figure 5.3 below presents the breakdown between the broad categories of voluntary termination (resignation, retirement) and involuntary dismissal that account for case manager 2 turnover for the period from January 2014 through December 2014.

As the figure reflects, 75% of case manager 2 turnover was the result of resignation, 9% was the result of retirement, and 16% resulted from dismissal.²⁴⁴

²⁴⁴ For all case manager positions statewide, 73% of turnover was the result of resignation, 10% was the result of retirement, and 17% resulted from dismissal.
3. Requirements for Case Reassignment (V.L)

The Settlement Agreement establishes requirements related to the process for reassigning cases from one worker to another. (V.L) These requirements include the following:

- no cases are to be uncovered at any time;
- cases of any worker leaving the agency are to be reassigned within one business day of the worker’s departure;
- there is to be a face-to-face meeting between the departing worker and the receiving worker for each case, unless there is a “documented emergency” or the case manager leaves without notice; and
- every effort is to be made to have the departing worker introduce the receiving case manager to the child and family.

The Department has promulgated policies and standards in accordance with these provisions of the Settlement Agreement.

In order to improve practice in the area of case transfer, the Department has implemented a manual regional tracking system, used in coordination with TFACTS documentation, to ensure that case transfer occurs according to policy and in compliance with the requirements of the Settlement Agreement. Each region is expected to maintain a spreadsheet tracking the...
reassignment of cases belonging to case managers that separate from the agency. Each case assigned to a separated worker is expected to be documented, including the date of separation; the new worker; the date of the in-person transfer of the case between case managers; the date of the in-person introduction of the new case manager to the child and family, if completed; verification of review by a supervisor; and any other relevant information.

TAC monitoring staff have analyzed the spreadsheets for the months of March and April 2015 using a list of separations provided by the Department’s Human Resources Division to ensure that all separations were captured on the spreadsheets.

**a. Orientation of New Case Manager to Transferred Cases**

Table 5.6 below presents information on the extent to which the new case manager (or that case manager’s supervisor) in a transferred case was provided an in-person orientation to the case by the departing case manager (or that case manager’s supervisor). Because transfer of cases to case managers within the departing case manager’s team ensures some level of familiarity and continuity of case management supervision, the table distinguishes cases transferred to other case managers on the departing case manager’s team from cases transferred to a different team. In addition, the table distinguishes those transfer meetings that included the departing worker from those meetings in which the departing case manager did not participate (but the departing case manager’s supervisor did participate).
<table>
<thead>
<tr>
<th>Departing Case Manager</th>
<th>TOTAL Cases Transferred</th>
<th>Cases Transferred within Team</th>
<th>Cases Transferred to New Team</th>
<th>Departing Case Manager Left Unexpectedly</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number Transferred</td>
<td>Number with Transfer Meeting Including the Departing CM's Supervisor</td>
<td>Number with Transfer Meeting Including the Departing CM</td>
<td>Number with Transfer Meeting Including the Departing CM</td>
</tr>
<tr>
<td>1</td>
<td>8</td>
<td>7</td>
<td>7</td>
<td>1</td>
</tr>
<tr>
<td>2</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>3</td>
<td>9</td>
<td>8</td>
<td>8</td>
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</tr>
<tr>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>0</td>
</tr>
<tr>
<td>5</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>6</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>7</td>
<td>7</td>
<td>6</td>
<td>6</td>
<td>1</td>
</tr>
<tr>
<td>8</td>
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<td>9</td>
<td>13</td>
<td>13</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>10</td>
<td>5</td>
<td>5</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>11</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>12</td>
<td>5</td>
<td>5</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>13</td>
<td>7</td>
<td>7</td>
<td>7</td>
<td>1</td>
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<tr>
<td>14</td>
<td>3</td>
<td>3</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>TOTALS</td>
<td>82</td>
<td>79</td>
<td>47</td>
<td>75</td>
</tr>
<tr>
<td>TOTALS (%)</td>
<td>100%</td>
<td>96%</td>
<td>57%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Source: TAC’s analysis of case transfers during March and April 2015.

There was no case transfer meeting for one case, but the departing case manager sent a summary of the case via email to the new case manager.

245 There was no case transfer meeting for one case, but the departing case manager sent a summary of the case via email to the new case manager.
b. Introduction of New Case Manager to the Child and Family

Table 5.7 presents information on the extent to which the departing case manager introduced the new case manager to the child and/or parent(s) (or if that was not possible, someone who already knew the family, such as the departing case manager’s supervisor or the provider case manager, made the introduction).\(^{246}\)

<table>
<thead>
<tr>
<th>Departing Case Manager</th>
<th>TOTAL Cases Transferred</th>
<th>Cases Transferred within Team</th>
<th>Cases Transferred to New Team</th>
<th>Departing Case Manager Left Unexpectedly</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number Transferred</td>
<td>Number with Introduction to the Child and/or Parent(s)</td>
<td>Number Transferred to the Child and/or Parent(s)</td>
<td>Number with Introduction to the Child and/or Parent(s)</td>
</tr>
<tr>
<td>1</td>
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<td>7</td>
<td>4</td>
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<tr>
<td>2</td>
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<td>6</td>
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<td>6</td>
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<tr>
<td>10</td>
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<tr>
<td>11</td>
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<td>14</td>
<td>3</td>
<td>0</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td>TOTALS</td>
<td>82</td>
<td>47</td>
<td>75</td>
<td>46</td>
</tr>
<tr>
<td>TOTALS (%)</td>
<td>100%</td>
<td>57%</td>
<td>100%</td>
<td>61%</td>
</tr>
</tbody>
</table>

Source: TAC’s analysis of case transfers during March and April 2015.

I. Requirements for File Maintenance and Documentation

The Settlement Agreement requires that all documentation of contacts or developments in a child’s case be added to the file within 30 days and that the case files of class members contain adequate documentation of the services provided, progress, placement changes, and authorizations of approval for placements, treatment, and services. The Department’s policies

\(^{246}\) For purposes of this review, TAC monitoring staff counted an introduction to the child or to at least one parent as compliant.
require that all child case files be kept in an organized manner, and contain all pertinent information required to effectively manage the case.

The Department has developed (and the TAC has validated) the TFACTS Brian A. Timeliness of Case Recordings report which lists all case recordings documenting case activity entered into the family case that took place in a given time period and calculates the number of days between the date of the activity (referred to as the “occurred date” in the report) and the date that the case recording was completed in TFACTS. For activities that took place from January through December 2014, 85% of case recordings were completed within 30 days of the contact date, and 94% of case recordings were completed within 40 days. In the region with the poorest performance on timeliness of case recording, 80% of case recordings were completed within 30 days and 88% were completed within 40 days. In the region with the best performance, 91% of case recordings were completed within 30 days and 96% within 40 days.

Part Two: Private Provider Staff Qualifications and Training

As discussed in previous monitoring reports, the DCS Program Accountability Review (PAR) Unit is responsible for ensuring that private providers are complying with specific DCS policies and contract requirements, including those reflecting the personnel requirements of the Settlement Agreement discussed in this Section. The PAR Unit reviews include an examination of a sample of private provider personnel files for compliance with contract requirements and requirements outlined in the Private Provider Manual. PAR, in collaboration with the Vanderbilt Center of Excellence, issues an annual report, presenting a compilation of private provider performance on monitored items, including the personnel requirements of Section Five of the Settlement Agreement. Rather than present the specific PAR Unit findings in the text of the relevant subsections below, reference is made to the PAR Annual Report for Fiscal Year 2013-14 and the PAR Monitoring Guides (attached as Appendix N) which contain

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247 All case recordings made by Brian A. case managers and case manager supervisors related to a child on their caseload or supervisory workload are entered into the “family case.” However, case recordings made by CPS workers or CPS supervisors as part of their investigations are entered into the CPS case file, not the family case. If a child in DCS custody is the subject of an open CPS investigation, the Brian A. Timeliness of Case Recordings Report does not include information on the timeliness of case recordings made by CPS workers of CPS investigation activities related to that child. At the request of the TAC, the Department ran a special report that did include time between relevant CPS activity related to a Brian A. child and the CPS case file recording of that activity. For activities that took place from January through September 2014, 82% of case recordings were completed within 30 days of the contact date, and 89% of case recordings were completed within 40 days.

248 The “occurred date” is drawn from the “contact date” field in TFACTS.

249 In 2013, the poorest performing region had 73% of case recordings entered within 30 days.

250 PAR reviews Performance Based Contracting (PBC) providers (the providers referenced in Section V of the Settlement Agreement) annually, unless the provider is going through accreditation, in which case the provider may be exempted from the PAR review during that accreditation year. Subcontracted providers of PBC providers are reviewed every other year, but primary contractors are expected to be monitored continuously and PAR checks for documentation of subcontractor monitoring during reviews of PBC providers.

251 In addition, PAR findings for individual providers, related to compliance with personnel and other requirements, are compiled and shared individually with each provider through the exit conference process. Through PAR’s corrective action process, providers are required to submit any missing documentation to PAR reviewers as well as submit plans to address any broader policy, practice, or quality assurance issues.
the specific items monitored by PAR during site visits.\textsuperscript{252}

\textbf{A. Requirement of Background Checks for Private Provider Staff}

Section V.A of the Settlement Agreement requires that all persons applying for positions with a private provider agency, which involve any contact with children, submit to the same “background checks” required of comparable DCS staff, before beginning training or employment, and makes applicable to private provider staff the provisions of DCS administrative policy 4.1 Employee Background Checks, which sets out the specific checks required and offenses that disqualify a person from employment.\textsuperscript{253}

Department policy and private provider contract provisions are consistent with this requirement.\textsuperscript{254}

As reflected in the PAR Annual Report for Fiscal Year 2013-14 and discussed in previous monitoring reports, reviews of private providers have generally found agencies to be meeting background check requirements, but have identified instances of non-compliance that required corrective action. In addition, in carrying out its responsibilities related to documentation of Title IV-E eligibility, the Resource Home Eligibility Team (RHET) has implemented a background check review process for ensuring that appropriate and timely pre-employment background checks have been conducted for private provider residential facility direct care staff (including group home staff).

The Department’s oversight processes appear to be effective in identifying instances of non-compliance with background check requirements and ensuring appropriate corrective action.\textsuperscript{255}

\textsuperscript{252} Bar graphs are used in the annual report to display PAR findings. Listed above each graph are the items from the monitoring guides that are included in the graph. The graphs include all relevant items monitored by PAR, where applicable, and therefore often contain more standards than the requirements of the Settlement Agreement. For example, the graph on caseloads includes, in addition to case manager and supervisory caseloads, staffing ratios for direct care staff in facilities where applicable. Similarly, the training graph includes 13 distinct elements for training of direct care staff, a separate 10 distinct elements related to case manager training, and three elements related to supervisor training. See the Personnel PAR Monitoring Guide attached as Appendix N for the specific items monitored.

\textsuperscript{253} The Settlement Agreement also provides that DCS staff are subject to DCS administrative policy on employee disciplinary actions related to allegations or convictions of criminal acts. Tennessee Code Annotated 37-5-511 (2) also requires that all persons working with children supply fingerprint samples and submit to a criminal history records check to be conducted by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation.

\textsuperscript{254} TAC monitoring staff examined the individual PAR reports for the six private provider agencies that did not receive 100% compliance, as shown in the Background Checks graph in Appendix N, and found only one personnel file was cited for missing pre-service checks. The remaining findings were related to annual checks, including missing annual driving records checks.
B. Education and Experience Requirements for Private Provider Case Managers and Case Manager Supervisors (V.B) and for Child Care Workers (V.O)

The Settlement Agreement establishes that private provider case managers, supervisors, and child care workers with responsibilities for class members meet the same education requirements and preferences as their DCS counterparts.

As discussed in previous monitoring reports, private providers are required by contract provision to ensure that their staff meet these requirements.

The Settlement Agreement also requires that child care workers employed in any child care facility or program providing placements and services to children in foster care and their families have at least a high school diploma.\(^{256}\) (V.O) As previously reported, the vast majority of child care workers are employed by private providers and these minimum educational requirements are required by contract provision.\(^{257}\) For fiscal year 2013-14, each of the 100 files reviewed for “direct care staff” contained documentation that they met their job requirements through verification of education prior to hire.

As reflected in the PAR Annual Report for Fiscal Year 2013-14 and as discussed in previous monitoring reports, overall private provider compliance with the education and experience requirements has been very high and the DCS oversight process is sufficient to ensure ongoing compliance.

C. Requirements for Private Provider Case Manager Retention, Promotion, and Assumption of Case Responsibilities (V.C)

The provisions of Section V.C of the Settlement Agreement, requiring case managers to complete pre-service training and pass a skills based competency test before assuming a caseload, requiring a job performance evaluation as a prerequisite to promotion, and requiring supervisors to complete supervisor training and pass a skills based competency assessment, apply to private provider case managers and supervisors handling the cases of class members.

Contract provisions require that private providers meet DCS requirements for staff with comparable responsibilities.

The training graph in the PAR Annual Report for Fiscal Year 2013-14 represents a much broader picture of training at provider agencies, including training topics covered for direct care and case management staff. PAR monitors completion of a competency assessment for both case management staff and supervisory staff. Eighty-eight percent of applicable case managers monitored had documentation of a competency assessment, and 58% of supervisors had such

\(^{256}\) The Department considers a General Equivalency Diploma (GED) to be equivalent to a high school diploma for purposes of this requirement.

\(^{257}\) There are no facilities run by the Department to which this provision would apply.
D. Training and Performance Evaluation Requirements for Private Provider Case Managers (V.D, F, I)

The Settlement agreement requires comparable hours of pre-service and in-service training for private provider staff with comparable responsibilities to DCS case managers and case manager supervisors (V.D). In addition, the Settlement Agreement requires the Department, prior to contracting with any agency, to review, approve, and monitor curriculum for private provider pre-service and in-service training for case managers to ensure that general content areas are appropriate to the work being performed by the agency (V.F). The Settlement Agreement also requires that, prior to contracting or renewing a contract with any private provider, the Department ensures that each private provider agency has implemented an appropriate performance evaluation process to ensure the competency of those staff with responsibilities comparable to DCS case managers. (V.I)

As reflected in the PAR Annual Report for Fiscal Year 2013-14 and in previous monitoring reports, reviews of private providers have generally found agencies to be meeting training requirements regarding the specific training items monitored by PAR. The training graph in the PAR Annual Report for Fiscal Year 2013-14 represents a much broader picture of training at provider agencies, including training topics covered for direct care and case management staff. As shown in the PAR Monitoring Guides, PAR does specifically monitor for completion of required pre-service and in-service training hours for both case management staff and supervisory staff. Approximately 90% of applicable case managers and 83% of applicable supervisors monitored had documentation of required pre-service training hours. For in-service training hours, 91% of applicable case managers monitored had documentation of required hours, and 100% of supervisors had such documentation.

As discussed in detail in the January 2015 Monitoring Report, the Department has implemented a uniform approach to reviewing and approving training curricula. The curricula for each agency with which the Department currently contracts have been reviewed, approved and monitored consistent with this process.

E. Private Provider Caseload and Supervisory Workloads (V.J, K)

The Settlement Agreement provides that the caseload and supervisory workload limits that apply to DCS case managers and supervisors handling the cases of class members also apply to the caseloads and workloads of private provider staff with comparable responsibilities.

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258 A review of PAR’s non-compliance findings concerning the competency assessment found that these findings related primarily to the smaller agencies. For a variety of reasons, PAR reviews a disproportionately larger percentage of personnel files of smaller agencies. Therefore, the overall percentage of personnel files reviewed by PAR that were found lacking documentation of competency assessments is not representative of private provider case managers as whole. In addition, because the number of new supervisor files that are reviewed will be small, percentages often reflect the “tyranny of small numbers.”
By contract provision, private provider case managers and supervisors with comparable responsibilities to the DCS case manager are, at a minimum, required to comply with the caseload limits applicable to DCS case managers and supervisors. In addition, the Private Provider Manual (PPM) sets more restrictive caseload limits for private provider case managers whose caseloads include medically fragile children or children served through a contract with a continuum of services. A caseload composed entirely of such children can be no greater than 10 and for a mixed caseload, the caseload limit is 20, with each medically fragile child or continuum child counting as two cases. Because these children make up about 65% of the children served by private providers, private provider case manager caseloads are generally subject to much lower limits than those established by the Settlement Agreement.

As reflected in the PAR Annual Report for Fiscal Year 2013-14, reviews of private providers have generally found agencies to be meeting caseload requirements regarding specific case manager and supervisor caseload items monitored by PAR, and findings from the most recent full fiscal year continue to show this.259

F. Requirements for Private Provider Case Reassignment (V.L)

It is the Department’s expectation that all private providers have policies regarding case reassignment and the Private Provider Manual includes specific language regarding the case reassignment requirements of the Settlement Agreement.

As shown in Appendix N of this report, PAR reviewers check to make sure that all cases reviewed have an identified case manager and that if a case manager resigns or is transferred, that the case is reassigned within 24 hours. As reflected in the PAR Annual Report for Fiscal Year 2013-14, reviews of private providers have generally found agencies to be meeting transfer requirements regarding specific items monitored by PAR, and findings from the most recent full fiscal year continue to show this.260 For all 27 private provider agencies reviewed by PAR during fiscal year 2013-14, all cases had an identified case manager at the time of the PAR review and all cases were found to be transferred within 24 hours if applicable.

G. Private Provider Responsibility for Case File Maintenance and Documentation (V.N)

In addition to the general contract language requiring the private providers to meet the applicable requirements of the Settlement Agreement, the Provider Policy Manual requires private providers to submit monthly summaries of case activity for each child. The Department has clarified expectations for monthly summary content and these summaries, together with face-to-face contact data that private providers are required to enter directly into TFACTS, serve as the

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259 Two provider agencies had a finding in this category involving 19 case managers. While all 19 were violating Department Policy of weighted caseloads for providers, only two of 19 were over the limits of the Settlement Agreement with both having caseloads of 28. Monitored items regarding caseload are in the “Agency Level Questions” monitoring guide rather than the “Personnel” monitoring guide referenced in most of this section.

260 Monitored items regarding case transfer are in the “Agency Level Questions” monitoring guide rather than the “Personnel” monitoring guide referenced in most of this section.
Department’s measures of adequate case file maintenance and documentation for private providers.

During 2014, between 75% and 82% of provider monthly summaries were recorded within 30 days. This data is compiled by Central Office staff and shared with private providers through the monthly sharing of the Provider scorecard, discussed further in Section Twelve of this report.

PAR and Licensing reviews also serve as a measure of adequacy of file maintenance and documentation. Case file reviews are at the center of PAR monitoring of a wide range of service planning and delivery contract requirements and other aspects of policy compliance. Licensing consultants also review files for documentation of compliance with licensing standards. Rather than create an additional measure of adequacy of file maintenance or documentation, reviewers address any problems with adequacy of file maintenance or documentation by making findings in the particular policy or practice area for which documentation was lacking.261 See Appendix N of this report for results of PAR monitoring done during the 2013-14 fiscal year period.

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261 PAR findings for individual providers, related to compliance with personnel and other requirements, are compiled and shared individually with each provider through the exit conference process. Through PAR’s corrective action process, providers are required to submit any missing documentation to PAR reviewers as well as submit plans to address any broader policy, practice or quality assurance issues.
SECTION SIX: PLACEMENT AND SUPERVISION OF CHILDREN

A. Placement Standards and Exceptions

The Settlement Agreement establishes standards governing specific placement situations that include general limitations, permissible exceptions to those limitations, and, for some situations, a process for review and approval of the placement by the Regional Administrator. In addition, the Settlement Agreement establishes a specific responsibility for the Department’s quality assurance division (Quality Control Division) to provide some level of oversight to ensure both that the Placement Exception Review (PER) process is operating as intended and that the regions and the Central Office are responding appropriately to placements that are inconsistent with the placement standards.

As discussed in detail in the May 2014 Monitoring Report, the Department has implemented a revised Placement Exception Request process and developed a new PER form to better support the process. The form is well-designed to collect the information necessary for documenting compliance with the Settlement Agreement, and more importantly, to gain valuable data about placement resources and about barriers to achieving optimal placements for children.

Under the revised process, staff are required to first seek verbal or email approval from the Regional Administrator (RA) when considering a placement in any exception category. If RA approval is granted, Placement Services Division (PSD) staff are expected to fill out the Placement Exception Request form and submit the form to the RA for the RA to review the documentation and approve the placement and sign the form. The RA is required to ensure that the signed form is uploaded into TFACTS and manually entered into a tracking spreadsheet that is submitted to the QC Division monthly.

Attached as Appendix H to this report is data compiled by Quality Control (QC), containing

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262 The PER form is used for the Settlement Agreement categories listed in Section VI.A.2. In addition to the categories listed in the Settlement, there are two other exceptional placements that are covered by the PER process: more than two therapeutic children in a resource home and separation of minor parent and children (if both are in custody). The PER form is also used for notification to an RA for a Brian A. child in detention.

263 If the RA does not give her approval, the placement cannot be made and no form is needed. If, notwithstanding the pre-approval requirement, a placement occurs without RA approval, a form will need to be filled out and the circumstances for lack of RA approval documented on the form. Quality Control and the RAs intend to use this information to understand and work to eliminate any instance of placement without RA approval.

264 Policy requires that the RA sign the form within 72 hours of placement, but RA approval must be granted prior to placement. The date, time, and type (verbal or email) of RA approval is documented on the form.

265 The QC Division in collaboration with TAC monitoring staff have validated the current process by comparing the manual tracking spreadsheets submitted by each region with placement data from TFACTS (for most of the categories of placement) to make sure that for each exceptional placement identified in TFACTS there is a corresponding PER form for every child placed (or affected by another placement as in the case of resource home capacity exceptions) during the month. TFACTS spreadsheets are currently available that allow the QC Division to identify children who should have had a PER filed for the following categories: VI.A.1.b, d (sub-part a only), e, f, and g. Once the Department is satisfied that the new process is working as designed and is meeting the Department’s needs, the Department intends to integrate the PER process into TFACTS so that data from the PERs can be aggregated and reported from TFACTS. Information about the percentage of missing PERs by month is presented in Subsection A.2 below.
tables showing PER data for each category for the three most recent quarters (July through September 2014, October through December 2014, and January through March 2015).

1. Placement Limitations and Exceptions to Those Limitations

a. Limits on placement of children out of their home region unless the out of region placement is within 75 miles of their home (VI.A.1.a.)

The Settlement Agreement requires that all children be placed within their own region or within a 75-mile radius of the home from which the child entered custody, unless (a) the child’s needs are so exceptional that they cannot be met by a family or facility within the region, (b) the child needs re-placement and the child’s permanency goal is to be returned to his parents who at that time reside out of the region, or (c) the child is to be placed with a relative out of the region.266

As reflected in previous monitoring reports, the Department has generally done a good job of placing children within their home region or within 75 miles of their home. As discussed in Section One of this report, the Department continues to place at least 85% of children within 75 miles of home or within region.267

b. Limits on placement of children in emergency and temporary facilities in excess of 30 days or more than once within a 12-month period (VI.A.1.b)

The Settlement Agreement limits the placement of children in emergency or temporary facilities268 to one placement within a 12-month period not to exceed 30 days. Two exceptions to this limit are allowed. For children who are either returning from runaway or who require immediate removal from their current placement because they face a direct threat to their safety or pose a threat to the safety of others, an additional placement in an emergency or temporary facility within a 12-month period is allowed for a maximum of five days. An additional placement in an emergency or temporary facility within a 12-month period is allowed for a maximum of 15 days for children whose behavior has changed so significantly that placement for the purposes of assessment is critical for the determination of an appropriate placement; and in such a case, the Regional Administrator must certify in writing that the assessment is essential for determining an appropriate placement.269

Previous monitoring reports have discussed the dramatic reduction in the use of emergency and temporary placements compared to the use at the time that the original Settlement Agreement

266 Any out-of-region placement of a child more than 75 miles from home must be reviewed by the Regional Administrator as discussed in Subsection A.2 below.
267 As discussed in Section One, the Department’s 75-mile measure now uses the address of the committing court as the “home address.” The TAC has determined that using this address for purposes of aggregate reporting, especially given the relatively small size of Tennessee’s 95 counties, is a sensible and appropriate approach that ensures more accurate and complete data for this measure than any other alternative considered by the TAC.
268 These facilities are commonly referred to as Primary Treatment Centers (PTCs).
269 Any placement of a child in more than one shelter or emergency or temporary facility within any 12-month period must be reviewed by the Regional Administrator as discussed in Subsection A.2 below.
was entered and the relatively few placements that exceed the limits set forth in the Settlement Agreement.

As discussed in the May 2014 Monitoring Report, the Network Development Division monitors the cases of youth placed in emergency or temporary placements approaching or over 30 days. Network Development utilizes the Mega Report and manual spreadsheets maintained by the regions as their sources for monitoring these placements. TAC monitoring staff have reviewed the information generated by Network Development, as well as observed their tracking processes, and have found the process to be well designed to ensure that all children in PTC placements for more than 30 days or children with repeat PTC placements are promptly identified and appropriate actions taken.

According to Network Development’s tracking, for the period from July 1 to December 31, 2014, 138 Brian A. class members entered Primary Treatment Center (PTC) placements. Three of those 138 youth had experienced another PTC placement in the preceding 12 months. Of those 138 youth, 96 (70%) completed their PTC stay in 30 days. An additional 25 (18%) completed it within 45 days; 10 (7%) more completed it within 60 days, and the remaining seven (5%) youth stayed longer than 60 days. For additional discussion of PTC placements, see Section Eleven E.2 below.

c. Limits on sibling separation (VI.A.1.c.)

The Settlement Agreement generally requires that siblings who enter placement at or near the same time be placed together. The Settlement Agreement allows siblings to be separated: (1) if placing the siblings together would be harmful to one or more of the siblings; (2) if one of the siblings has such exceptional needs that those needs can only be met in a specialized program or facility; or (3) if the size of the sibling group makes such placement impractical notwithstanding diligent efforts to place the group together.270

As discussed in previous monitoring reports, keeping siblings together has been a relative strength of DCS practice. As reported in Section One, 84% of Brian A. sibling groups entering out-of-home placement during the period from July 1, 2013 through June 30, 2014 were initially placed together, and as of April 30, 2015, 75% (3,036) of the 4,042 siblings in custody were placed together, according to reporting from TFACTS.271 The aggregate report does not presently distinguish between separations that fall within one of the permissible exceptions and those that constitute Brian A. violations.272

270 The Settlement Agreement requires that these efforts “be documented and maintained in the case file.” Any separation of siblings who enter placement at or near the same time must be reviewed by the Regional Administrator as discussed in Subsection A.2 below.
271 Previous TNKids reporting showed approximately 84% of sibling groups placed together at any given time.
272 See the May 2014 Monitoring Report for discussion of the most recent results of a targeted separated siblings review that collected information on the reason for separation.
d. Resource home capacity limits (VI.A.1.d)

The Settlement Agreement limits the placement of a child in a resource home if that placement will result in: (1) more than three foster children in that resource home; (2) more than a total of six children, including the resource family’s natural and adopted children in that resource home; or (3) more than three children under the age of 3 residing in that resource home. The Settlement Agreement permits an exception if either (a) such placement is in the best interest of all the foster children in the home or (b) the child is part of a sibling group and there are no other children in the home.273

As discussed in previous monitoring reports, both data generated by the Department and the findings of targeted reviews conducted by TAC monitoring staff have confirmed that a significant percentage of placements of children in resource homes with more than three children in them are not consistent with the capacity limitations (and permissible exceptions) established by the Settlement Agreement.

TAC monitoring staff and Department staff jointly completed a review of placements made during the last quarter of 2014 that resulted in more than three foster children, more than six total children, or more than three children under age three in a resource home, excluding cases in which the Placement Exception Request (PER) form documented that the reason for placement was that the foster children in the home were part of a sibling group and there were no other foster children in the home. There were a total of 71 resource homes experiencing one or more

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273 Any placement resulting in more than three foster children, more than six total children, or more than three children under the age of 3 must be reviewed by the Regional Administrator as discussed in Subsection A.2 below.
of these placement exceptions during that period. From this group of 71 resource homes a random sample of 40 resource homes, involving 163 class members, was selected for review.\textsuperscript{274}

The review consisted of phone interviews with:
- DCS staff from the Placement Services Division;
- resource parent support staff for DCS resource homes;
- private provider staff for provider homes;
- case managers for each child in the home during the period of overcrowding; and
- the resource parent.

For each child in the overcrowded resource home, reviewers were asked to score the case for appropriateness of placement, caregiver functioning, and caregiver supports, using the Quality Services Review indicators as a reference.\textsuperscript{275} Of the 163 class members, 93\% (151) received an acceptable rating for appropriateness of placement, 98\% (159) received an acceptable rating for caregiver functioning, and 97\% (158) received an acceptable rating for caregiver supports. Resource parents were also asked to rate the level of support that they felt they received during the period of overcrowding on a scale of 1 to 6 (a scale that mirrors the quality service review ratings). Of 40 resource parents interviewed, 93\% (37) rated their level of support as 4 or higher.

\textsuperscript{274} The sample was pulled from placements identified using spreadsheets of PERs filled out by the regions that were checked against TFACTS reporting.

There were eight resource homes selected initially for review that were subsequently replaced when it was determined that each of the homes was on freeze because of a pending SIU investigation. The review protocol required interviewing the resource parent and the TAC felt it was prudent to avoid imposing upon the resource parent while the SIU investigation was pending. However, the TAC monitoring staff conducted some limited follow-up on these eight resource homes to determine the extent to which excluding the homes would have affected the review findings. The TAC monitoring staff interviewed the DCS or private provider staff responsible for oversight of the resource home (and who were therefore knowledgeable about the overcrowding of the resource home). The staff also reviewed information from TFACTS related to the SIU investigation and spoke with the SIU Team Coordinator about investigations that had not concluded at the time of follow-up.

For four of the resource homes, the decision to make the placement that created the overcrowding appeared to be thoughtful, and the strengths of the resource parents appeared to be well matched to the needs of the children. For example, one new resource parent had done really well with the children placed in her home thus far, and the Department felt that she would be able to handle three siblings who needed placement together in addition to the teenager currently in her home, allowing the siblings to be placed together. Another resource home technically had two sibling groups of three placed at the same time. However, at the time the second sibling group was placed, the first sibling group was not physically present in the home because the children were on extended pass with their birth mother leading up to a trial home visit. The resource home was chosen for the second sibling group because the birth family was difficult to engage, and this resource parent is particularly skilled at engaging and mentoring birth parents.

For one additional home, the TAC was not able to conclude from this limited review that there was a special strength of the resource home that made it a good match beyond the fact that the resource parent was one who is willing to care for large numbers of children at one time.

For all five of these homes, the nature of the SIU investigation did not raise concerns about the appropriateness of the placement for the children in the home. The TAC is not yet in a position to say that this is the case for the remaining three homes; however, for at least one of those homes, the overcrowding is clearly unrelated to the concerns raised by the SIU investigation. The TAC is following up on those remaining cases.

\textsuperscript{275} To help ensure inter-rater reliability, each reviewer had at least one of their cases scored by the reviewer group as a whole, with technical assistance from a QSR coach who was not involved in the review but had previously done a similar review. TAC monitoring staff reviewed all protocols including interview notes, summaries, and scores for every case.
In addition, for each home, reviewers rated the appropriateness of the decision-making process that led to the overcrowding. For 40 homes, 95% (38) received an acceptable rating for the decision-making process. Reviewers were asked to consider the circumstances surrounding the placement that resulted in the overcrowding of the home, and the reasons for making that decision. Reviewers were asked to look at any other placement options considered at the time of placement, and whether there were other policy goals advanced by the placement (e.g., keeping sibling groups together, keeping children in their home communities and close to their birth parents when possible, not using temporary emergency shelters). Reviewers took into account the resources that the placement workers described as being available to them and the decisions made in that context.

In many cases reviewed, the resource parent had provided respite previously for the child being placed or had a previous relationship with the child. For example, one resource parent reported: “[The children whose placement caused the overcrowding], we had had for almost a year. After only being with their mom for about 6 weeks, they reentered. We asked for them to come back—they were young and they were bonded to us.”

In some cases, the location of the home was a driving factor for the placement, particularly in rural counties. One worker reported: “In placing [the children whose placement caused the overcrowding], DCS wanted to keep the girls in the same county. This is the only resource home in [this] county. [The youth] was in the running for valedictorian. If she had to change schools, she wouldn’t get that honor and might not even have enough credits to graduate.”

For some homes, staff members specifically stated that resource parents were chosen based on a particular strength of the resource parent that made them a good candidate for the placement. One placement worker said: “she has the ability to work with kids that other foster parents do not. She can take on tougher kids and do well with them. And [the child whose placement caused the overcrowding] is a primary example. He is a very difficult kid.”

For other homes, interviewees reported that the resource parents do well with large numbers. For example, a case manager said: “Let me tell you, if anybody can handle the children in multiples, it is [this resource parent]…when [the child whose placement caused the overcrowding] came in, I suggested her. We’re a small rural county—we wanted to keep this baby in his county where his parents are and his ties are.”

In some cases, workers reported calling all of their homes and/or all of their agencies, particularly for children who needed placement in the middle of the night or during the Christmas holidays, and that the resource parents chosen were the ones who accepted the children.

For the two homes in which the decision-making process was not considered appropriate, the rating had more to do with the placement of the children who caused the overcrowding than the overcrowding itself. In one case, two sisters needed a higher level of care than was available. DCS sought a therapeutic resource home, and when they were unable to secure one, the team decided to place the children in a DCS resource home with in-home services. However the

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276 This a small, rural county which has this one DCS home, a private provider home, and one expedited home.
services were never implemented. The sisters are no longer in the home. However, the resource parent was described by a resource parent support worker as “amazing”. In the other case, the placement only lasted for two days and was described as a “pre-placement visit” to see if the placement could be successful. As some staff had expected, the children’s behavior was very disruptive in this resource home, as they reportedly believed if they disrupted the home they could be placed with family.

*e. Limits on placement of children under age 6 in group care (VI.A.1.e)*

The Settlement Agreement prohibits the placement of any child under 6 years of age in a placement other than a resource home unless the child has exceptional needs which cannot be met in a resource home, but can be met by the congregate care facility in which the child is placed.277

As part of its quality assurance oversight activities, the Network Development Division conducts weekly placement data reviews and follows up on every case involving the placement of a young child (including but not limited to any child under the age of 6) in a congregate care facility. These reviews (as well as periodic reviews conducted by the TAC) have consistently found that placements of children under age 6 in a congregate care setting are both rare and made in accordance with the provisions of the Settlement Agreement.278

Utilizing a TFACTS Mega Report from each month of 2014, TAC monitoring staff found one child under age 6 in a congregate care placement.279

*f. Limits on placement of children in group care with excess of eight beds (VI.A.1.f)*

The Settlement Agreement prohibits placement of children in a residential treatment center or any other group care setting with a capacity in excess of eight children unless (a) the child’s needs can be met in that specific facility, and (b) that facility is the least restrictive placement that could meet the child’s needs.280

277 Any placement of a child under 6 years of age in a congregate care facility must be reviewed by the Regional Administrator as discussed in Subsection A.2 below.

278 Some children under the age of 6 are “placed” in medical centers. For example, if an infant born to a drug addicted mother comes into care at the time of the birth and remains in the hospital for necessary medical care associated with the birth, that child would appear as “placed” in the medical center caring for him. These are not regarded as “congregate care placements” for purposes of monitoring and reporting on this Settlement Agreement provision.

279 For that child, who exhibited extremely challenging and dangerous behaviors that could not be managed safely in a family setting, placement in a psychiatric facility was deemed necessary to meet the child’s therapeutic needs.

280 Any placement of a child in a residential treatment center or other group care setting with a capacity in excess of eight children must be reviewed by the Regional Administrator as discussed in Subsection A.2 below. It is not clear whether the Settlement Agreement contemplates that an exception request would have to be filed for a child in a resource home who required short-term hospitalization for an appendectomy or a short-term psychiatric hospitalization to stabilize the child in crisis and return her to the resource home.
As the data presented in the January 2015 Monitoring Report reflects, the Department has been largely successful in limiting the use of congregate care placements to those situations in which congregate care is the least restrictive placement and in ensuring that the children in those congregate care settings are receiving services that are appropriate to their specific treatment needs.

**g. Prohibition against placement of children in jail, correction facility, or detention center (VI.A.1.g)**

The Settlement Agreement prohibits the placement of a Brian A. class member, by DCS or with knowledge of DCS, in a jail, correctional, or detention facility unless the child is charged with a delinquent act or is otherwise placed in such a facility by court order. The Settlement Agreement also requires that DCS notify law enforcement and judicial officials across Tennessee of this policy and work to ensure that DCS is immediately notified of any child in its legal custody who has been placed in a jail, correctional, or detention facility.

As discussed in previous monitoring reports, based on a combination of aggregate reporting, internal DCS monitoring of children in detention, and targeted reviews and spot checks conducted by TAC monitoring staff, Department practice has previously been found to be consistent with this provision of the Settlement Agreement.

To provide updated reporting on this provision, TAC monitoring staff reviewed detention placements for the last quarter of 2014, using the weekly mega reports for that period to identify class members in detention placements. For each class member identified as having been in a detention placement, the TAC monitoring staff reviewed the TFACTS file to determine whether in fact the child was correctly identified as a class member, and if so, the reason for the detention. The results of this review are consistent with the findings of previous monitoring reports.

Thirty-nine children who had been in detention at some point during that three-month period were identified by the Mega Report as Brian A. class members. Two of these children came into DCS custody after having been initially placed in detention on a delinquency charge. One child was released to DCS for placement after two days and the other child remains in detention on the original delinquency charge.

The remaining thirty-seven children were already in custody as dependent and neglected children at the time of their placement in detention:

- Twenty-eight had been charged with delinquent offenses while in DCS custody and were held in detention on those charges. Of those 28, 15 had been charged with a delinquent offense and were subsequently recommitted to the Department’s custody as delinquent,

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281 This data includes the aggregate data on rates of congregate care placement, the QSR scores related to the appropriateness of placement, and the data generated by the recently revamped Placement Exception Review process.

282 The Department’s Network Development Division conducts weekly reviews of all children in detention and immediately contacts the region to find out the circumstances requiring detention center placement.
two youth were transferred to the adult system, and 11 children were released to the Department for placement after the detention stay.  

- Six children were held in detention on runaway charges pursuant to court orders. Two of those children were held for one day, two were held for three days, one child was held for four days, and the remaining child was held in detention for 10 days.  

- One child was initially held on runaway charges, and then held in contempt for her behavior in the courtroom and ordered detained until her next court hearing, which was 12 days later. She was released to the Department and placed in a resource home.  

- One child who had had a recent runaway episode and expressed an intention to run away again prior to a scheduled hearing and was held in detention for five days pending that hearing at the direction of the Juvenile Court Judge, pursuant to a previously suspended 10 day sentence to detention for theft.  

- One child, a seventeen year old who had run away from a Tennessee resource home to live with a sister in South Carolina, was held in detention in South Carolina on runaway charges from Tennessee; based on discussions with South Carolina authorities and with the child’s guardian ad litem, and a determination that the sister’s home was appropriate, the runaway petition was withdrawn and the child was released from detention after 10 days to live with his sister in South Carolina.

**h. Prohibition of placing child assessed at high risk for perpetrating violence or sexual assault with foster children not so determined (VI.A.1.h)**

The Settlement Agreement requires that DCS “not place any child determined by a DCS assessment to be at high risk for perpetrating violence or sexual assault in any foster care placement with foster children not so determined.”

The Department has continued to refine and strengthen the various policies and processes intended to ensure that children who pose a high risk to the safety of other children are identified and those children are not commingled with non-aggressive children to whom they would pose a safety risk.  

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283 One child had two detention stays during the review period. In both instances, the child was held on delinquent charges and released back to DCS for placement.  

284 The child who was placed in detention for 10 days was “dually adjudicated,” having previously been found both delinquent and dependent neglected, was apprehended after being on runaway status for two months and was then held in detention until an appropriate alcohol and drug treatment placement could be obtained.  

285 As discussed later in this subsection, the fact that a child has a high risk Child and Adolescent Needs and Strengths (CANS) score for aggressive behavior does not preclude placing that child with children to whom the child would pose no risk. For example, a young child who has exhibited aggressive behaviors towards younger children but gets along well with older children would not be precluded from placement in a home with a teenager. While the Department relies on the CANS to “flag” children who have exhibited aggressive behaviors and might pose a danger to other children, the Department appropriately considers the nature of a child’s aggressiveness and the specific characteristics of the resource home and the other children in that home in determining whether this child, in the context of that specific placement, poses a danger to other children in the home.
i. **Identifying Children who are High Risk when they enter DCS custody**

The Child and Adolescent Needs and Strengths (CANS) is the key formal assessment tool that the Department uses to identify children who pose a risk to the safety of other children. However, the Department recognizes that when a child first enters DCS custody, consideration should be given to whether a child poses a safety risk to himself or others, even in advance of the CANS completion, based on the information from a variety of sources (family members, the juvenile court, providers that have worked with the child and family, as well as any prior contact with DCS) and from the circumstances surrounding the child’s entry into care. The “placement packet” that is shared with prospective providers when a child comes into care as well as the “placement checklist” shared with DCS resource parents at the time of placement are expected to include information about the child’s behaviors, including those that might pose a risk to others.\(^{286}\)

The case manager is expected to complete the CANS assessment within seven business days of a child entering custody and route the CANS to the supervisor for approval. Pending approval, any child that has scored a 2 or 3 on the standard “high risk” items is to be considered a “high risk” child for purposes of initial case planning and placement.

The case manager’s supervisor is expected to review the CANS and submit the CANS to the regional Assessment Consultant (formerly the CANS Consultant). The Assessment Consultant is expected to review and approve the CANS (or send it back to the case manager and supervisor if it needs additional work). Once the Assessment Consultant approves the CANS, the service intensity levels and scores for all items (including those related to the high risk determination) are finalized.

ii. **Formal Notification of Regional and Network Development Staff**

Once the CANS is finalized, if a child is determined to be “high risk” based on the CANS assessment, the Assessment Consultant sends a formal notification to the appropriate regional staff (the case manager, the supervisor, and the regional high risk review team) and the Central Office (Network Development). This notification includes information about the child and an explanation for the high risk designation.

The Assessment Consultant is also responsible for adding the youth to the high risk spreadsheet for their region’s next high risk review meeting.

iii. **The Role of the Regional High Risk Review Teams**

Regional High risk teams are made up primarily of regional staff and the regional Assessment Consultant. The teams are expected to promptly review newly identified high risk children and children who have been reassessed and determined to still be at high risk and to make appropriate recommendations regarding placement, including recommendations related to any proposed or current commingling of the child with non-high risk children. If commingling has

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\(^{286}\) The relevant behaviors specifically set forth in the check list form include sexual acting out, sexual aggression, physical aggression, and assault.
occurred, the team is expected to review the appropriateness of the commingling, to determine what, if any, efforts have been made through a safety plan or otherwise to mitigate any risks, and to make recommendations as to whether any further actions should be taken.

High risk teams keep a tracking log of all cases that are reviewed. These tracking logs help the teams ensure cases are reviewed and keep track of any cases that were identified as requiring follow-up.

Regions are expected to review newly identified high risk children within no more than a month of the completion of the CANS (initial or reassessment) on which the high risk determination was based. Many regions review new cases weekly; some meet twice a week; and some regions’ high risk teams convene on an emergency basis as necessary.

Regions previously documented each month’s reviews on a separate spreadsheet. Regions are being encouraged to move to a “rolling tracking log” so that children remain on the spreadsheet until they are no longer high risk (as determined by a subsequent CANS). Regions are now expected to conduct regular quarterly reviews of any child that continues to be on the high risk list to ensure ongoing oversight and monitoring of these cases by the high risk team. 287

iv. The Role of Network Development

Network Development uses the information received from the Assessment Consultant to generate an additional formal notification, which Network Development sends in turn to providers, RPS staff, the child’s case manager, and other staff designated by the regions to receive this notification. The formal notification provided by Network Development includes a reminder that if the high risk child is in a resource home, a safety plan must be developed immediately (if one has not already been done) and that safety plan must be shared with regional staff within five days of completion. 289 The notification also states that if the child is in a residential placement, a safety plan must be completed prior to or at the time of step down into a resource home. 290 All notifications sent out by Central Office are tracked by Network Development.

287 While each region has a high risk protocol already, the Department will soon rollout a statewide policy around high risk. This policy will standardize and clarify expectations for regions and providers. It was developed by drawing on well-functioning processes that had already been implemented in a number of regions. The Department is also in the process of updating the Private Provider Manual to include specific language about high risk children and safety planning. These updates will provide additional guidance for providers around these areas.

288 This notification goes out to all providers, for all placement types, except temporary hospital settings (non-contract placements).

289 While safety plans have been part of our DCS practice for many years, the Department has recently begun training staff on the use of a newly developed statewide safety planning tool that will ensure uniformity and consistency in safety plan practice across the state. Private provider agency staff will also be trained on the new safety planning tool and will be expected to incorporate the required elements of the DCS tool into their own safety plan tools or to adopt the Department’s tool.

290 The Department currently requires safety plans only for high risk youth in resource homes.
Twice a month, a report is generated from TFACTS that identifies every child in custody who is currently high risk based on the most recent CANS. Network Development adds highlighting and additional columns to the “High Risk Report” to help regions and providers better understand and manage their high risk population. A column and highlighting is added to identify any new child added during the report period, whose cases would therefore require a review. Another column is added to identify children whose cases have previously been reviewed but who remain high risk and are therefore due for a quarterly high risk review.

The modified report is sent out twice monthly to regions and private provider agencies. Each provider agency receives a separate spreadsheet listing the high risk children who are placed with their agency at the time the high risk report is generated. Both private provider and regional staff use the reports to manage their high risk population and to ensure that high risk reviews are occurring as required.

v. The Role of the Child and Family Team and Resource Parent Support Staff

The high risk reviews conducted by the regional teams provide important administrative oversight of high risk placements and serve an important quality assurance function; and Network Development staff play an important role in both assuring that every high risk child is subject to a regional review and helping private providers keep focus on high risk children in private provider placements. However, these processes are not intended to relieve the Child and Family Team of its responsibility of ensuring that individual children are in safe and appropriate placements.

The Department expects that in making any placement decision, the Child and Family Team will specifically determine whether the child is at high risk for aggressive behavior, and if the child is, that the Child and Family Team will consider whether the current placement or any proposed placement for the child is serving children who are not aggressive. Conversely, the Department expects that in making any placement decision of a child who is not aggressive, the

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291 This report, which has been validated by the TAC, lists all high risk youth, regardless of placement location or the length of time the youth has been high risk. If the most current CANS deemed a youth high risk, the youth will continue to appear on this report until a subsequent CANS indicates that they are no longer high risk. Each time this report is generated, Network Development adds a column that provides information about whether or not the youth is new to the high risk spreadsheet for the report period and whether the youth is due for a quarterly review. This information is shared twice a month with regional staff. In addition, each private provider receives twice a month a list of high risk children currently placed with that provider.

292 Network Development also compares the information available from this report to the list of notifications received from assessment consultants over the previous two-week period to ensure that the list generated from those notifications is complete. If a high risk child is missing from the list generated from the consultant, Network Development contacts the consultant and his or her supervisor to make sure that the required notification from the consultant is submitted.

293 Columns and highlighting are also added to indicate that a child needs a CANS updated soon or is overdue for a CANS.

294 The spreadsheet includes children placed in all placement settings and of all adjudications. The spreadsheet also shows the most current placement date for the youth so it can be used to identify youth who moved during the report period.

295 The Settlement Agreement does not speak specifically to the commingling of aggressive children with each other; however, the parties certainly did not mean to suggest that safety concerns should not be considered in those cases as well.
Child and Family Team will specifically determine whether any proposed placement is presently serving a child at high risk for aggressive behavior.296

Case managers are expected on an ongoing basis to identify and address any concerns about child safety in face-to-face contacts with children (including specific discussions outside the presence of the caregiver) and visits to the resource home or congregate care facility. Other members of the Child and Family Team who, based on interactions with the child or other sources of information, are concerned about a child’s safety or a threat that a child poses to others is expected to raise those concerns.

In addition, resource parent support staff are expected to visit resource parents and be available to field questions and concerns from those resource parents, and they are expected to identify and address any safety concerns that arise from their contacts or conversations with resource parents. Especially in cases in which the high risk was not apparent or readily identified after the high risk child’s placement has been made, it is the ongoing day-to-day casework supported by the Child and Family Team process, combined with the work of the resource parent support staff, that is the “first line of defense” to ensure any emerging safety issues are identified and addressed appropriately.

vi. Application of High Risk Commingling Provision in the Congregate Care Context

As discussed in previous monitoring reports, the CANS High Risk Review process has been focused on the commingling of high risk children with other children in resource homes. The Department has taken a different approach to oversight of commingling of aggressive children with non-aggressive children in congregate care settings.

It is the Department’s expectation that congregate care facilities, because they are intended to serve children with higher levels of need, including those who exhibit aggressive behaviors, have the capacity to safely serve the children in their program, including the capacity to separate children who cannot safely be in the same living unit together. However, the Department interprets the provision of the Settlement Agreement as permitting a level of commingling of high risk children with other children in congregate care settings that would not be permissible in a resource family setting.

The TAC will be reporting in the next monitoring report on the policies and practices of private provider agencies with respect to the commingling of aggressive children with non-aggressive children in congregate care settings.

vii. Relevant QSR Data

The TAC, as part of its monitoring of this provision, has examined each year any Quality Service Review (QSR) case that received an “unacceptable” rating for Safety to determine whether that case involved commingling of a high risk child with a child not designated as high risk. Of a total of 18 cases that received unacceptable scores for safety in the 2010-11, 2011-12, 2012-13,
and 2013-14 QSR reviews combined, four involved a safety issue related to this kind of commingling. In three cases, according to the QSR case stories, the child was placed in a residential facility and either the child posed a safety risk to others or the behavior of another child (or other children) posed a safety risk to the child; in the fourth case, the safety issue related to this kind of commingling in a resource home.297 As discussed in Section One of this report, there were seven cases reviewed in the 2014-15 QSR that received unacceptable scores for Safety. None of those cases involved a safety issue related to commingling.

i. Children for Whom Permanency Goal is Adoption (VI.A.1.i)

The Settlement Agreement provides that children for whom the permanency goal is adoption should, whenever possible, be placed with a family in which adoption is a possibility. As discussed in previous monitoring reports, the Department has implemented “dual licensing” so that all resource parents are potential adoptive parents from the standpoint of training and approval requirements. The fact that the vast majority of adoptions have historically been by families who had already been fostering the child they adopted reflects that Departmental practice is generally consistent with this admonition.

j. Requirement that Placement Contracts Be With Licensed Providers (VI.A.1.j)

The Settlement Agreement requires that DCS only contract for placements or services with licensed contractors or subcontractors. This provision is included in DCS policy and contract provisions. As discussed in Section Twelve of this report, DCS oversight mechanisms are in place to ensure that private provider contractors and subcontractors meet licensing requirements.

2. Requirement for Regional Administrator Review (VI.A.2)

The Settlement Agreement provides that for those placement standards that include a requirement for regional administrator review (VI.A.1.a-f), if the regional administrator permits the placement, the regional administrator must indicate either:

- that the placement meets one of the permissible exceptions under the standards, and if so, ensure that the facts supporting that exception are documented in the case file; or

- that the placement does not meet one of the permissible exceptions, document the reasons that the placement was nevertheless approved, and indicate any further action to be taken with respect to that placement.

As discussed in the May 2014 Monitoring Report, the Department worked during 2013 to revise the Placement Exception Request (PER) process. The new process is designed to ensure both that Regional Administrator (RA) approval is granted before placement and that there is documentation of that approval for every applicable placement. TAC monitoring staff have participated in numerous conversations with each of the RAs and with Placement Services Division staff in every region about both the prior process and the new process. It is clear that

297 See the May 2014 Monitoring Report at page 69 for a more detailed description of these cases.
many regions already have a tight process for RA approval for DCS placements and have working relationships with providers to ensure RA approval is granted when children move within provider networks.

Regions are expected to track PERs that are granted throughout the month on monthly spreadsheets accessible to staff in the Division of Quality Control (QC) through a shared drive. To help the regions ensure that a PER is approved prior to any placement for which a PER is required, the QC staff, beginning in June 2014, started comparing regional spreadsheets against placement information pulled from TFACTS at the end of each month. Placements identified through TFACTS as requiring a PER but missing from regional spreadsheets were shared with each region.

Through follow up conversations with regional supervisors about those missing cases the Department has been able to identify and address factors that contribute to placements being made without the required PERs documentation. In some cases, the RA had in fact approved the placement exception request, but the case had not been entered onto the spreadsheet. In other cases, misunderstandings about the PER requirements were identified and addressed. In some instances involving cross-regional or multi-regional placements, lack of communication between the regions resulted in a failure to realize that a PER was required.

The QC Division is still working with the regions to tighten up the process for ensuring both that PER approval is being obtained before any exceptional placement is made and that those approvals are being documented on the regional spreadsheets. The results of the QC Division reviews of the regional spreadsheets reflect significant progress in that regard. In the three-month period of March, April and May of 2014, QC staff found that 76% (997 out of 1304) of children requiring a PER were listed on the regional spreadsheets, with four regions having over 90%. For the three-month period of October, November and December of 2014, QC staff found that 85% (1113 out of 1305) of children requiring a PER were listed on the regional spreadsheets, with six regions having over 90%. For the three-month period of January, February and March of 2015, QC staff found that 91% (1284 out of 1404) of children requiring a PER were listed on the regional spreadsheets, with seven regions each having 98% or more listed, and three other regions having 93%, 92%, and 88% respectively.

3. Requirement of Quality Assurance Review of Non-Compliant Placements (VI.A.3)

The Settlement Agreement provides that the quality assurance division, using aggregate data and case reviews, is responsible for tracking, reporting, and ensuring that appropriate action is taken with respect to placements that do not comply with the placement standards in Section VI.A.1.

298 Central Office was able to compare PERs for the following categories: b) PTC placements, d) foster children in overcrowded homes, e) child under age 6 in congregate care, f) congregate care over 8, and g) detention placements. Most of the spreadsheets from TFACTS used by QC are point-in-time reports, and therefore placements that began and ended between reports would not be captured in those end of month reports.

299 For example, some staff were under the mistaken impression that a placement exception would not have to be filed if the placement was in a kinship resource home. In another case, staff were unaware that a particular congregate care facility had a capacity greater than eight beds, and therefore did not realize that the placement required a PER.
The Division of Quality Control (QC) compiles PER data quarterly. QC puts together an Excel workbook containing tables, charts, and detailed information by PER category, region, and reason selected. This information is shared with regional leadership, regional placement supervisors, as well as Central Office staff. A PER review team made up of representatives from QC, the Network Development Division, the Foster Care and Adoption Division, TAC monitoring staff, and the Office of Child Welfare Reform, meets quarterly to review and discuss the data.

B. Initial Assessment within 30 Days

The Settlement Agreement requires that all children in DCS custody receive an assessment, including a medical evaluation and, if indicated, a psychological evaluation, using a standardized assessment protocol. The assessment may take place prior to custody, but no later than 30 days after the child comes into custody. As soon as the assessment is completed, the child’s placement is to be reevaluated to ensure that it meets the child’s needs.

As discussed in previous monitoring reports, the Department has adopted as the “standardized assessment protocol” required by the Settlement Agreement a combination of the initial Early Periodic Screening, Diagnosis, and Treatment (EPSDT) exam (for all children) and the initial Child and Adolescent Needs and Strengths (CANS) assessment (designed to assess children age 5 and older).  

1. Initial CANS Assessment

The Department’s Office of Information Technology produces a report (Timeliness of the Initial CANS Report) that identifies all children age five or older who entered custody during the relevant reporting period and indicates whether those children had an initial CANS. TAC monitoring staff analyzed this entry cohort report for children who entered custody at any time during 2014 to determine the time between the date each child entered custody and the date of the initial CANS. As Figure 6.1 below reflects, of the 2,695 class members age 5 and older who entered custody in 2014 and had custodial stays of 30 or more days, 84% (2,256) had an initial CANS completed either within 30 days prior to the start of the custodial episode or within 30 days after the start of the custodial episode, and an additional 8% (204) had a CANS within 31 and 60 days.

The Department has also embraced an ongoing functional assessment process to support planning, service provision, and placement decisions. The family functional assessment draws from “formal assessments” such as psychological and medical evaluations, including the EPSDT exam, and from formal assessment tools and activities, including the CANS. The family functional assessment also draws heavily from the insights and perspectives of Child and Family Team members (including the family), based on the team members’ own observations, interactions, and experiences with the child and family. The TAC recognizes that plaintiffs may have a broader view of the language of Section VI.B, interpreting that provision of the Settlement as including QSR performance on the “On Going Assessment” indicator (the indicator that focuses on the ongoing family functional assessment).

The CANS is used to help identify strengths and needs for both custodial and non-custodial children.
2. Initial EPSDT Screening

For purposes of its monitoring and reporting, the TAC utilizes the *New Custody EPSDT Cohort Report*, a TFACTS extract that includes all children who entered custody during a 12-month period and contains the information from which the time from date of entry into care to time of initial EPSDT screening can be calculated and aggregated. TAC monitoring staff analyzed the *New Custody EPSDT Cohort Report* for all children who entered custody at any time during 2014. As Figure 6.2 reflects, of the 4,179 class members who entered custody in calendar year 2014 and had custodial stays of 30 or more days, 85% (3,564) had an EPSDT screening within 30 days, and an additional 11% (448) had an EPSDT screening within 31 and 60 days.
3. **CANS and EPSDT Screening Combined for Children Age 5 and Older**

Using a combination of the *Timeliness of the Initial CANS Report* and the *New Custody EPSDT Cohort Report*, TAC monitoring staff were able to determine the extent to which children age 5 and older who entered custody between July and December 2014 received both components of the initial assessment—the CANS and the EPSDT—within 30 days of entering custody.

As Figure 6.3 below reflects, 73% (944) of children had both the initial CANS and EPSDT completed within 30 days of entering custody, and another 20% (259) of children had one of the assessments completed timely.

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303 This includes eight children who did not have an EPSDT within 30 days but for whom there was a “good cause” exception for the delay in receiving the EPSDT screen (four of which had an EPSDT subsequently completed, two children remain on runaway, one child was on runaway and then re-adjudicated delinquent, one child was on runaway and subsequently aged out). “Good cause exceptions” would include, for example, a delay resulting from a child being on runaway status during the first 30 days of custody and therefore unavailable; or a child who was hospitalized for treatment for a specific acute condition during the first 30 days, warranting a delay in obtaining the EPSDT screening until after the acute conditions have been addressed; or a child placed in detention within the first 30 days.

304 This includes one child who did not have an EPSDT within 30 days but for whom there was a “good cause,” and for whom an EPSDT was subsequently completed.

305 The “Other” category in the figure includes: eight children who did not have a CANS completed and for whom the EPSDT was completed more than 30 days after the children entered custody; two children who did not have an EPSDT completed and for whom the CANS was completed more than 30 days after the child entered custody; and one child who had neither assessment completed.
TAC monitoring staff conducted a similar analysis using a 60-day rather than a 30-day time frame.\textsuperscript{306} As Figure 6.4 below reflects, 91\% (997) of children had both the initial CANS and EPSDT screening completed within 60 days of entering custody.

\textsuperscript{306} This analysis includes all children who entered custody during this six-month period and remained in custody for at least 60 days.
4. Strategies for Improving Timeliness of EPSDT and CANS and Identify and Respond to Delays

The Department has recently implemented a number of strategies that should both improve timeliness of the initial EPSDT and CANS assessments and ensure that where there are delays in completion, that those cases are identified and subject to follow-up.

a. **EPSDT**

For many years, the Department has been providing case managers with weekly spreadsheets identifying all children with overdue and upcoming EPSDT screenings. The Department has recently implemented twice-monthly notifications to both DCS staff and private providers that not only identifies those appointments that are overdue or upcoming, but that also highlights any case that has remained overdue for more than two weeks. If a child with an overdue EPSDT remains on the list for more than two reports, the Regional Administrator or identified agency staff member is notified. This process is maintained jointly by Network Development staff for children placed with private providers and Office of Child Permanency staff for children placed in DCS homes.

b. **CANS**

The Department has worked with the Vanderbilt Center of Excellence to develop monthly reporting to track timeliness of each step of the CANS process. The report includes data on the time from entry into custody to the CANS start date; the time from the CANS start date to the submission of the CANS by the case manager for supervisor approval; the time from
submission of the CANS to the supervisor to the approval of the CANS and the submission of
the approved CANS to the Assessment Consultant; and the time from submission of the CANS
to the Assessment Consultant to the approval of the CANS by the Assessment Consultant.
This reporting is designed to allow the Department to identify any bottlenecks in the CANS
process, statewide, by region, and by county; and to identify case managers, supervisors, or
Assessment Consultants who may be struggling to complete their CANS related
responsibilities in a timely manner.

The Department has also developed a report that is distributed twice a week to all assessment
consultants and regional administrators that identifies all children in care who do not have a
CANS assessment started (including children who will turn 5 years old within the next three
months); those whose CANS assessments are in some stage of completion but not fully
approved; and those children who have a completed CANS assessment. The report is
designed to help assessment consultants manage the CANS assessment completion process and
to assist field staff in identifying children for whom an initial CANS or a CANS reassessment
is required.

5. The Reevaluation of Placement Following the Initial Assessment

The Settlement Agreement provides that “as soon as the assessment is completed, the child’s
placement shall be re-evaluated to ensure that it meets the child’s needs.”

As discussed in the January 2015 Monitoring Report, this language dates back to the entry of the
original Settlement Agreement in 2001, when initial placement was too often focused primarily
on finding an available “bed” for the child, even if only as an interim placement, rather than on
an effort to match the child to an appropriate placement. At that time, significant use was made
of temporary placements, emergency shelters, and “observation and assessment” centers. Many
children were placed initially in congregate care settings not because that was the least restrictive
setting capable of meeting the child’s therapeutic needs, but because of a lack of available
resource families and the administrative ease of accessing a congregate care bed. Because initial
placement was not primarily focused on doing an assessment and finding the right match based
on that assessment, language was included in the Settlement Agreement to require an initial
assessment within 30 days and to compel a reexamination of a placement once there was a more
formal assessment of the child’s needs. The assumption of this provision of the original
Settlement Agreement was that, at least until placement practices changed, significant numbers
of children placed under the then existing process would need to be moved to meet treatment
needs as those needs were identified.

The current placement process is significantly different. It is designed to reduce the need to
unnecessarily move children from placement to placement, a traumatic event for most children.
The Department’s preferred approach is to place children in a resource family and then to
respond to the child’s therapeutic needs by wrapping appropriate services around that child and
that resource family.

307 The third category of information allows staff to identify children requiring a CANS reassessment.
Temporary and emergency placements are now rare rather than common. As discussed in more detail in Section Six.A.1.f of this monitoring report, placement of a child in a congregate care placement larger than eight beds requires an assessment of appropriateness and review and approval by the Regional Administrator, and for any Level III or Level IV placement, a review by both the Regional Administrator and the Regional Mental Health Clinician.

The Department expects the initial placement decisions to be based on assessment information that is available at the time, including the information that is generated as the CANS is being completed. Notwithstanding the 30-day assessment period contemplated by the Settlement Agreement, the custodial assessment process begins as soon as a child comes into custody, building on any information generated from DCS involvement prior to a child coming into custody and from any previous custodial episodes. Case managers are expected to complete the CANS and submit it to their supervisor for review within seven business days of a child entering into custody, and the target time frame for completion of the initial EPSDT screening is now 72 hours.

The Child and Family Team process ensures that the appropriateness of an initial placement is reviewed based on assessment information that comes to light during the 30-day assessment period contemplated by the Settlement Agreement. As discussed in the May 2014 Monitoring Report, the initial Child and Family Team Meeting is expected to occur within seven days of a child coming into custody and the Initial Permanency Planning CFTM is expected to occur within 30 days of the child coming into custody. At each of these meetings, the appropriateness of the child’s placement is reviewed based on the assessment information available to the team, including CANS and EPSDT related information, and, perhaps most importantly, on how the child is functioning in the current placement. And because of the Department’s commitment (supported by the Settlement Agreement) to serving children in resource family settings, if a particular therapeutic need is not being addressed in the resource home, the expectation is to arrange to provide the child and resource home caregiver with additional services and supports to meet that need, not to move the child to a new placement.

Section VI.B is narrowly focused on ensuring that there is a standardized assessment of each child conducted within 30 days of a child coming into care to identify health and mental health needs and that the child’s placement is appropriate to meet the needs identified through the formal assessments. As discussed in Sections Six A.1.f and Six G of this report, the Quality Service Review includes a specific indicator, “Appropriate Placement,” which includes an

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308 Because accomplishing this is dependent on the responsiveness of the health care providers, the Department is working with health care providers in the regions to make EPSDT screenings readily available on short notice.

309 There were 988 children entering care during the third quarter of 2014 (July through September) who had at least one initial CFTM within 30 days before or after their custody date; for 892 (90%) of those children, that CFTM (or at least one of the CFTMs) occurred within seven days before or after their custody date. There were 837 children who reached their 30th day in custody during the third quarter of 2014 and who had at least one Initial Permanency Planning CFTM; for 781 (93%) of those children, that CFTM occurred within 30 days of the child’s custody date.

310 The requirement (discussed in Section Six A.1.f above) of Regional Administrator review and approval for any congregate care placement greater than eight beds and the additional requirement of a Mental Health Clinician review and approval of any Level III or Level IV congregate care placement means that it is unlikely that a child would initially be placed in higher levels of care than indicated necessary by the initial CANS assessment. In that unlikely event, the utilization review process would provide an additional layer of reassessment of the appropriateness of the congregate care placement.
examination of whether the placement the child is in at the time of the review meets the child’s needs. In the TAC’s view, the fact that the Department consistently scores well on this indicator reflects that the processes for assessing and reassessing the appropriateness of placement based on the health and mental health needs of the child are meeting the requirements of VI.B.

C. Ensuring Access to Reasonable and Appropriate Education

The Settlement Agreement (VI.C) requires the Department to ensure that children in foster care receive timely access to reasonable and appropriate education (including special/exceptional education) and are placed in community schools whenever possible. The Department is required to assign full-time education specialists in each region and 12 regional lawyers with special expertise in educational issues, responsible for ensuring that individual children in DCS custody receive timely access to appropriate educational placements and services.

1. Hiring of Education Specialists and Education Attorneys

As discussed in previous monitoring reports, case managers and school staff have found education specialists to be valuable resources for ensuring that children’s educational issues and needs are addressed.

The Department presently has 15 education specialist positions (all of which are presently filled). Each region has one specialist, and the Shelby, Mid-Cumberland, and Tennessee Valley regions having two specialists.

In each region, at least one attorney is designated as the “education attorney” and is expected to have special expertise and training related to education issues. These attorneys presently handle regular caseloads and devote the bulk of their time to general staff attorney duties; however, they remain available as a resource and support to the education specialists, should the education specialist determine that attorney advocacy is needed. The education specialists generally do not rely on DCS attorneys for consultation related to education issues related to children in DCS custody, but rather address their questions and concerns to legal and other staff at the State Department of Education with whom they enjoy a good working relationship.

2. Indicators of Timely and Appropriate Education Services

As discussed in detail in the January 2015 Monitoring Report, the QSR results, as well as the results of a targeted review of the educational placement for a recent cohort of school-age youth entering DCS custody, continue to reflect that the Department is ensuring that the vast majority of school-age children receive timely access to reasonable and appropriate education (including special/exceptional education) and are placed in community schools whenever possible.

311 There are also three education consultants who function much like team coordinators, serving as advisors to the education specialists and working with the Department of Education, the Department’s own school system, and the in-house schools operated by private providers.
The QSR indicator for Learning and Development requires the reviewer to consider whether the child, at the time of the review, is receiving appropriate educational services consistent with the child’s age and ability. For the case to score “acceptable,” the reviewer must find that the child is receiving such services.

Figure 6.5 presents the percentage of Brian A. cases receiving acceptable scores for Learning and Development in the past three annual QSRs. The statewide scores for Learning and Development have increased from 86% (183/213) in 2012-13 to 90% (189/209) in 2013-14 and to 91% (187/206) in 2014-15.

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312 In previous years, the TAC monitoring staff have reviewed each case that scored unacceptable for Learning and Development to understand whether that score was attributable in whole or in part to a failure to provide appropriate education services. In very few cases, was the score attributable to failure to provide such services. Based on this and on the fact that more than 90% of cases reviewed statewide scored acceptable, the TAC no longer finds it productive to review and report on the cases that score unacceptable.
D. Requirements Related to the Administration of Psychotropic Medications

1. Prohibition against use of psychotropic medication as discipline

Department policy, consistent with the Settlement Agreement (VI.D), prohibits the use of psychotropic medication as a method of discipline or control of a child. The combined policies and procedures of the Department and TennCare related to the administration of psychotropic medications are well-designed to ensure compliance with this prohibition.

TennCare requires that any prescription for any psychotropic medications must be supported by
an appropriate Diagnostic and Statistical Manual of Mental Disorders (DSM) diagnosis and a treatment plan with measurable outcomes. In addition, prescriptions for two medications in the same class or for doses outside of recommended ranges cannot be filled without prior approval.

Department policy further requires review by a regional nurse and approval from the Deputy Commissioner for Child Health or the Medical Director of any prescription requests for:

- children 5 years old and under;
- two medications in the same class;
- four or more medications; and
- any dose outside of recommended ranges.

Children in Level III and IV residential facilities are reviewed monthly by a Utilization Review (UR) team that includes regional psychologists. Issues of medication use are reviewed in the context of the overall treatment plan. Any uses of medication that do not conform to DCS policy or that are otherwise concerning are expected to be brought to the attention of the Deputy Commissioner for Child Health or the Medical Director.

2. Requirement of Informed Consent

The Settlement Agreement requires informed consent for the administration of psychotropic medications. When possible, parental consent is to be obtained. If a parent is unavailable to provide consent, the regional health unit nurse is to review and consent to any medically necessary psychotropic medication and ensure appropriate documentation of that consent regarding psychotropic medications.

The Department’s informed consent policies (applicable to children in DCS custody irrespective of their placement) are well-designed to meet this requirement.\(^\text{313}\)

In order to gather data on the extent to which informed consent is being obtained and documented in accordance with current policies, the Department, in consultation with the TAC, conducted a targeted case review of a random sample of 120 Brian A. children (10 from each region) who were in custody during February 2015 and had a current prescription for at least one psychotropic medication as of February 2015. Using the BlueCross BlueShield pharmacy claims data, the review identified every medication that had been prescribed for that child for any time that the child was in custody during the 15-month period from January 2014 through March 2015, and then sought to determine for each psychotropic medication:

- whether the specific consent form required by Department policy was completed;
- who signed/provided the consent;

\(^{313}\) Separate and apart from the requirements of the Settlement Agreement and DCS policy, every prescribing provider is under an independent obligation, established by professional standards governing the practice of medicine, to obtain informed consent before prescribing psychotropic medications for a child. The Department’s informed consent policies are intended to clarify and supplement, rather than supplant, the medical profession’s informed consent process.
• whether parents were present for the appointment at which the medication was prescribed;
• what efforts were made to include parents in appointments or provide them an opportunity to provide consent for the medication; and
• the reasons for any failure to engage parents around the medical consent issue.

Special attention was made to the documentation of informed consent for older children, age 16 and older.

Among the 120 children randomly selected for the review, there were a total of 388 prescriptions for medications for which there should have been documentation of informed consent. The required documentation was found for 346 (87%) of the 396 prescriptions. The Department is conducting follow up with respect to those prescriptions for which documentation was absent or incomplete.

3. Medical Director Oversight

The Settlement Agreement requires that the Medical Director oversee and ensure compliance with the Department’s policies related to the administration of psychotropic medications. This oversight is currently the joint responsibility of the Deputy Commissioner for Child Health and the Medical Director, a board certified Child and Adolescent Psychiatrist with the University of Tennessee Memphis Center of Excellence (COE). The Department’s network of Centers of Excellence provides the Department with access to six board certified child adolescent psychiatrists that are located grand-regionally and affiliated with academic medical centers. Regional nurses consult these resources for child-specific recommendations on psychotropic medication use and related treatment planning issues.

Previous monitoring reports have described in detail the variety of actions that the previous Medical Director had taken, and that remain important to ensuring compliance with the medication policies, including:

314 Of the 120 children whose prescriptions were the subject of this review, 89 children had informed consent documentation for each of the medications prescribed.
315 The follow up has already identified a number of cases in which documentation of informed consent was lacking because the child had been prescribed the medication prior to entering custody and no new consent was obtained when the prescription was continued following the child’s entry into custody. In some other cases, it appears that there had been a breakdown in the process for notifying the health nurse at the time that the medication was prescribed. The Department expects to complete its follow-up in time for the results to inform the maintenance discussions.
316 The current Deputy Commissioner for Child Health holds a PhD in Public Administration and is a Board Certified Family Psychiatric/Mental Health Nurse Practitioner.
317 The Department’s Medical Director, who serves through a contract with the Center of Excellence, is a Professor of Psychiatry in the University of Tennessee’s School of Medicine and is a Board Certified Child and Adolescent Psychiatrist.
• development and delivery of training relevant to psychotropic medication, informed consent, and behavior management to DCS and private provider staff and resource parents;

• development and distribution of clear and detailed medication guidelines for those who prescribe psychotropic medications for children in state custody;

• development and implementation of additional “site visit” protocols to be used by those conducting announced and unannounced Licensing and Program Accountability Reviews;

• creation of a process to track, report, and analyze the use of medications; and

• implementation of a review process to ensure that policies and procedures are being complied with and that problematic practices and incidents of non-compliance are identified and addressed appropriately.

E. Requirements Related to Use of Restraint and Seclusion

The Settlement Agreement (VI.E) requires that an appropriately qualified Medical Director be responsible for revising, updating, and monitoring the implementation of policies and procedures surrounding all forms and uses of physical restraint and isolation/seclusion of class members, and that the Medical Director be authorized to impose corrective actions. The Settlement Agreement also requires that all uses of restraint in any placement, and all uses of seclusion in group, residential, or institutional placements, be reported to and reviewed by the quality assurance division and made available to the Licensing Unit and the Medical Director for appropriate action.

The Department’s present policies and procedures related to restraint and seclusion are the result of an extensive review and revision process conducted under the auspices of the Department’s previous Medical Director. The policies only permit physical restraint and seclusion in congregate care settings and any use of physical restraint or seclusion is subject to clear limitations and mandatory reporting requirements. The Department has clearly communicated these policies both within the Department and to private providers.¹³¹⁸

¹³¹⁸ There has been some confusion at times about how to characterize and report instances in group homes or resource homes (which are forbidden by policy to use physical restraint) in which a staff person or resource parent has to intervene physically in order to keep a child or youth safe (e.g., to separate two youths who are fighting). Although policy requires the reporting of these instances of physical intervention by group home staff or resource parents, these are not considered “physical restraint” under the DCS policy, although group homes have at times reported them as such. The Department has also found that treatment facilities that are authorized by policy to use physical restraint at times report as a “physical restraint” a brief physical contact that technically is not a physical restraint. The Department expects providers, when in doubt, to err on the side of filing an incident report. For this reason, the Department is not overly concerned that some providers may have a more expansive view of what constitutes physical restraint.
The Department’s policies require that an “Incident Report” (IR) must be filed and entered into the TFACTS system for any incident involving the use of restraint or seclusion. The regional mental health clinicians (MHCs), under the supervision of the Psychology Director, are responsible for the initial review and investigation of incidents involving the use of restraints that last 15 minutes or more and seclusions that last 30 minutes or more. The responsible regional MHC is notified of the incidents that need his or her review, both by a TFACTS generated email initiated automatically when an IR relating to seclusion or restraint is filed and through a screen in TFACTS that lists all currently pending incidents for review by that MHC. As part of that review, the regional MHCs are not only expected to examine the circumstances of the specific incident, but, if a particular child is the subject of multiple incident reports, the regional MHCs are expected to conduct appropriate follow up. If the MHC is concerned that the incident reflects a broader problem with the child’s treatment plan or the therapeutic milieu of the facility, he or she refers the issue to the Provider Quality Team (PQT).

In addition to the front-end review and response conducted by MHCs of restraints lasting 15 minutes or longer and seclusions lasting 30 minutes or longer, any restraint or seclusion, regardless of duration, that results in an injury requires review and response by the health unit nurses.

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319 Through a TFACTS enhancement, rolled out in a series of releases (the first of which occurred in September 2014), the Department has successfully implemented the redesigned Incident Reporting process discussed in the May 2014 Monitoring Report. This enhancement significantly improved the processes for entering, reviewing, and responding to IRs, and addressed the problems that had undermined the efficiency and reliability of those processes.

320 The position of “Regional Mental Health Clinician” has replaced the “Regional Psychologist” position, expanding the pool of eligible licensed clinicians beyond licensed psychologists. In 10 regions, the MHC positions are currently filled by licensed psychologists. In the remaining two regions, MHC positions are currently filled by licensed mental health clinicians.

321 The Psychology Director is a newly created Central Office position that provides direct supervision of the Regional Mental Health Professionals and leadership around the DCS population’s behavioral health needs and services. The current Psychology Director is a licensed clinical psychologist with 17 years of clinical experience working with vulnerable populations.

322 When determining whether a child has been the subject of multiple incident reports, the MHC is expected to include all prior incident reports, without regard to the severity level of those previous IRs.

323 In addition, responders, as part of the process of documenting their response in TFACTS, can select an option in TFACTS that refers the IR directly to Central Office. TFACTS automatically generates and sends an email to the Quality Control staff person responsible for IR and she logs the referrals, discusses them with the Psychology Director, and they can also bring any cases to the PQT.

324 The incident report form includes a field that captures whether the youth was injured during a restraint or seclusion.
The Psychology Director, through regular participation in the Provider Quality Team, is able to ensure that a corrective action plan is imposed and corrective action taken if she feels that is necessary to address improper use of restraint or seclusion. The Psychology Director is also responsible for approving corrective actions for any Program Accountability Review (PAR) findings related to restraint or seclusion.

QC Division staff will begin reviewing all incidents of restraint and seclusion not subject to review by the MHCs in the second half of 2015. The QC staff will continue to rely on the reviews of the MHCs and the communication and coordination between the MHCs and QC staff regarding any specific concerns raised by those reviews.

In an effort to identify concerns related to particular providers or facilities, the Program Accountability Review (PAR) site visit protocols include inquiries into the use of restraint and seclusion (focused on compliance with both the substantive limits and the reporting requirements).

PAR monitors for evidence that IRs are always entered into TFACTS when appropriate. Any findings on this monitoring item would result in corrective action through the PAR process. In addition, when an agency is under increased scrutiny for any reason, PAR or others with provider oversight responsibility may conduct “spot checks” to make sure incidents are being reported. For example, when the PQT was conducting a review of Special Investigations in facilities for purposes unrelated to the Incident Reporting process, the team also checked to ensure that corresponding incident reports were filed when the subject matter of those SIU investigations or other circumstances relating to those cases should have resulted in the filing of incident reports.

As discussed in previous monitoring reports, the authority to impose a corrective action plan on a facility appropriately resides with the Provider Quality Team, rather than with any individual; however, on issues related to restraints and seclusion, the Provider Quality Team, has in practice, deferred to the Medical Director’s judgment. According to the person who served for more than eight years as Medical Director until her departure at the end of 2014, there has never been an instance of the PQT failing to impose a corrective action plan that she had determined appropriate in response to an issue related to use of restraint or seclusion. The TAC anticipates that this will continue to be the case with the new Medical Director and the new Psychology Director.

See Appendix N to view the Seclusion and Restraint PAR Monitoring Guides. The monitoring guide shows the items monitored by PAR that reflect the key requirements for the appropriate use of physical restraint set forth in DCS Policy 27.3–Physical Restraint, and use of seclusion set out in DCS Policy 27.2–Use of Seclusion. Under the current process, PAR draws restraint samples based on the total IRs submitted by the provider over the three months immediately preceding the review. PAR normally samples and scores five recent restraints (if applicable) involving different staff and clients when possible. Results are shared in the provider specific report, which includes any corrective actions that the provider plans to take in response to any findings related to physical restraint (e.g., training, increased supervision, and quality assurance review). See also the Agency Level Questions guide for a monitoring item related to entering IRs into TFACTS. If, in the course of the review of client files, PAR finds a use of physical restraint that was not reported through the TFACTS IR system, PAR notifies the relevant DCS staff (generally the Medical Director and MHCs who are the designated IR responders) of the unreported use of restraint and includes that finding in the PAR report. PAR also instructs the provider to enter the restraint detail into the IR system and to institute a plan to catch and eliminate misses in reporting. PAR follows a similar process with respect to review of any incidents of seclusion.

The Department is also exploring ways to use aggregate IR reporting data to help ensure that all incidents of the use of restraint and seclusion are, in fact, being reported.
The individual incident reports in TFACTS are available to the Licensing Unit, the Medical Director, and the Psychology Director, as are the PAR results.

**F. Providing the Full Range of Independent Living Services for All Children who Qualify for Them**

The Settlement Agreement (VI.F) requires that the Department provide “a full range of independent living services” and that the Department ensure that there are “sufficient resources to provide independent living services to all children in the plaintiff class who qualify for them.”

As discussed in detail in the January 2015 Monitoring Report and the April 2015 Supplement, there are currently sufficient resources to provide a full range of independent living services to all class members who qualify for them.

**G. Maintaining a Central Office Child Placement and Private Provider Division**

The Settlement Agreement (VI.G) requires DCS to maintain a child placement and private provider division within its Central Office. This division is to provide consultation and technical assistance to regional staff on placement issues so that regional placement support units are able to carefully and appropriately match the child’s individual needs to a placement facility or resource family. The Department is also required to maintain regional placement units with sufficient staff, automated information and tracking capabilities, and other resources to ensure that all children requiring placement are placed promptly, appropriately, and in accordance with their needs.

The Central Office Division responsible for the functions required by this provision of the Settlement Agreement is the Network Development Division. As described in detail in the May 2014 Monitoring Report, within that division, the Placement and Provider Services (PPS) staff are responsible for providing technical assistance to regional Placement Services Division (PSD) staff primarily focused on but not limited to: assisting with placement of children, especially those with intense clinical needs; being a liaison between DCS and the private provider network; disseminating information regarding providers and performance; and resolving disputes with providers. Each region has a single placement unit with designated placement specialists for each county or group of rural counties. These specialists are knowledgeable of the DCS and private provider placements and available to share this information with the Child and Family Team in order to help the team find the best placement match for the child.

Placement specialists rely on a variety of regularly maintained information about both the child to be placed and available placement resources when selecting a placement. They use “logs” or spreadsheets stored on regional shared drives or emailed daily (e.g., lists of DCS resource homes or lists of children awaiting placement or re-placement), information sheets (e.g., regularly

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328 As of July 2015, there were a total of 64 regional placement specialist positions distributed among the 12 regions and 23 supervising positions, including both team leaders and team coordinators. Each region has a single placement unit with designated placement specialists for each county or group of rural counties.
updated information sheets about DCS resource homes or facilities or forms filled out by other staff about new custody children), information from TFACTS, and assessment information.

As discussed in the January 2015 Monitoring Report, the QSR scores, especially when viewed in light of both the Department’s strong performance on placement stability measures and the dramatic reduction in the use of temporary and emergency placements achieved over the course of the Department’s reform efforts, support the conclusion that the regional placement units are succeeding in placing children “promptly, appropriately, and in accordance with their needs.”

H. Case Manager Contacts with Children

1. Required Case Manager Visits for Children in DCS Resource Homes

For a child in a DCS resource home, the Settlement Agreement (VI.H.1) requires the DCS case manager assigned to the case to visit with the child as frequently as necessary to ensure the child’s adjustment to the placement, to ensure the child is receiving appropriate treatment and services, and to determine that the child’s needs are being met and service goals are being implemented. The Settlement Agreement also requires that the case manager have a minimum of six visits with the child in the first two months after a child’s entrance into custody (at least three of which must take place at the child’s placement) and two visits per month thereafter (at least one of which must take place at the child’s placement). During every required visit the case manager is required to spend some private time speaking with each child (with the exception of infants).

2. Required Case Manager Visits for Children in Private Provider Resource Homes or Facilities

For a child in a private provider resource home or facility, the Settlement Agreement (VI.H.2) requires both the private provider case manager assigned to the case and the DCS case manager assigned to the case to visit with the child as frequently as necessary to ensure the child’s adjustment to the placement, to ensure the child is receiving appropriate treatment and services, and to determine that the child is in “the least restrictive, most appropriate placement necessary to meet most of the child’s needs” and that the placement is “a fair match for the child.” An acceptable score also requires that the child “maintains connections to his home community” and that the placement is minimally acceptable for the child’s age, ability, peer group, culture, language, and religious practice. For the past three annual Quality Services Reviews, the percentage of Brian A. cases receiving acceptable scores for the Appropriateness of Placement indicator was increased from 91% in 2012-13 to 97% in 2013-14 and to 99% in 2014-15.

329 See the April 2015 Supplement for a more detailed discussion of the relevant information available to placement specialists from the Mega Report, Resource Home Mega Report, and from the individual resource parent files in TFACTS.

330 The Director of Network Services has completed a program evaluation of the clinical services and processes employed by private providers, down to the facility level, and has developed and distributed written program descriptions for the field that provide clinical information about the therapeutic approaches of each program and the types of children that each program is well-suited to serve.

331 In order to score “acceptable” for “Appropriateness of Placement” the QSR reviewer must find that the child is in “the least restrictive, most appropriate placement necessary to meet most of the child’s needs” and that the placement is “a fair match for the child.” (An acceptable score also requires that the child “maintains connections to his home community” and that the placement is minimally acceptable for the child’s age, ability, peer group, culture, language, and religious practice.) For the past three annual Quality Services Reviews, the percentage of Brian A. cases receiving acceptable scores for the Appropriateness of Placement indicator was increased from 91% in 2012-13 to 97% in 2013-14 and to 99% in 2014-15.
and to determine that the child’s needs are being met and service goals are being implemented. The Settlement Agreement also requires that the private provider case manager have a minimum of six visits with the child in the first two months after a child’s entrance into custody (at least three of which must take place at the child’s placement) and two visits per month thereafter (at least one of which must take place at the child’s placement), and the DCS case manager is to visit the child at least once a month. During every required visit the case manager (DCS or private provider) is required to spend some private time speaking with each child (with the exception of infants).

In addition, the Settlement Agreement requires that the private provider case manager and the DCS case manager in these cases meet face-to-face with each other at least once every three months in order to have substantial discussions with each other, the resource parents or other caretaker, and the child (if age appropriate). 332

3. TFACTS Reporting Capacity Related to Face-to-Face Contacts

The Department has been producing aggregate reporting on case manager face-to-face contacts, first from TNKids and now from TFACTS. The Department is appropriately confident in the TFACTS reporting related to DCS case manager face-to-face contacts, because documentation of face-to-face contacts is such an important job performance requirement. The Department continues to work with private provider agencies to ensure that they are properly documenting their face-to-face visits in TFACTS. 333

Private providers (through designated private provider staff) are expected to enter a case recording for every face-to-face contact by one of their case managers directly into TFACTS documenting the date of the contact (which would ensure that these contacts can be included in aggregate reporting of face-to-face contacts). However, unlike DCS case managers, private providers are not required to enter a contemporaneous narrative describing the visit. Instead, private providers are expected to include details of significant case activity, including face-to-face visits, in the “monthly summary”—the special monthly case recording that private providers are required to enter in the TFACTS case file of each child with whom they are working.

As discussed in previous monitoring reports, there has been a data entry “learning curve” for private provider agency staff, and it was not unusual, even after the early 2012 TFACTS build, for provider agency staff to neglect to enter a face-to-face visit case recording for a face-to-face contact that was documented in the monthly summary. Documentation from private agencies has been improving, but it is still likely that the face-to-face reports generated from TFACTS are underreporting face-to-face contacts for those children who are served by private provider case managers.

The TAC has interpreted the Settlement Agreement as requiring that a child have a face-to-face contact on at least two different days during a given month (or on at least six different days

332 The Child and Family Team Meeting would ordinarily provide the opportunity for those face-to-face discussions.
333 As noted in Section Twelve of this report, during 2014, almost half of the children in care were placed with private providers.
during the first two months in care). The TFACTS face-to-face data presented in this subsection of the monitoring report is therefore drawn from reports specially developed for the TAC by the DCS Office of Information Technology that count the number of days on which visits occurred rather than simply counting the number of visits that are documented in TFACTS. These reports also capture data on the location of the child when a face-to-face contact by any case manager (DCS or private provider) occurred, providing data that address the requirement that children have a monthly face-to-face visit in the child’s placement.

a. Face-to-Face Contacts by Any Case Manager

Figure 6.6 below presents for each month during 2014 the percentage of children in the plaintiff class who received no face-to-face contact by a case manager, one day of face-to-face contact by a case manager, or two or more days of face-to-face contact by a case manager. This figure counts any contact by any case manager (private provider or DCS) irrespective of whether the case was a DCS or private provider case managed case.

![Figure 6.6: Percentage of Children Receiving No, One, or Two or More Days of Contact, by Any Case Manager, January through December 2014](image)

Source: TFACTS DCS and Private Provider Face-to-Face Report Based on Contact Dates, January 2014 through December 2014.

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334 Under the design of the face-to-face reports that the Department uses for a range of internal management purposes, a single face-to-face visit that was documented twice would be counted twice in the reports (for example, when both the provider case manager and DCS case manager document the same visit). In addition, if multiple face-to-face contacts occur on a single day (for example, when a case manager sees a child at a Child and Family Team Meeting and then later in the day visits with the child in another context), each of those contacts will be counted as a separate contact in the Department’s report.
b. **Face-to-Face Contacts by DCS Case Managers with Children in DCS Placements**

Figure 6.7 below presents for each month during 2014 the percentage of children in the plaintiff class placed in DCS placements who received no face-to-face contact by a DCS case manager, one day of face-to-face contact by a DCS case manager, or two or more days of face-to-face contact by a DCS case manager.

![Figure 6.7: Percentage of Children Placed in a DCS Placement Receiving No, One, or Two or More Days of Contact by a DCS Case Manager, January through December 2014](image)

Source: TFACTS DCS and Private Provider Face-to-Face Report Based on Contact Dates, January 2014 through December 2014.

c. **Face-to-Face Contacts by Private Provider Case Managers with Children in Private Provider Placements**

Figure 6.8 below presents for each month during 2014 the percentage of children in the plaintiff class placed in private provider placements who received no face-to-face contact by a private provider case manager, one day of face-to-face contact by a private provider case manager, or two or more days of face-to-face contact by a private provider case manager.
d. Contact by DCS Case Managers with Children in Private Provider Placements

The Settlement Agreement requires that “all children in the plaintiff class shall receive visits from the DCS case manager responsible for their case, whether the child is placed through a program directly run by DCS or through a private provider.”

Figure 6.9 below presents for each month during 2014 the percentage of children in the plaintiff class placed in private provider placements who received one or more days of face-to-face contact by a DCS case manager. As the figure reflects, the percentages during 2014 ranged from 97% to 99%.
e. **Percentage of children receiving at least one monthly face-to-face visit in the child’s placement**

Figure 6.10 below reflects the percentage of children who received a monthly face-to-face contact by a private provider case manager or a DCS case manager in the child’s placement.
f. Percentage of children receiving six face-to-face contacts during the first two months in DCS custody

The TAC worked with the DCS Office of Information Technology to produce one report for calendar year 2014 that captures face-to-face case manager contact for any child who entered care during 2014 and who remained in care for at least 60 days. The report counts the number of face-to-face contact days by any case manager in the first 60 days of the custodial episode. The report presents the number of case manager face-to-face contacts for each child, organized according to the following categories: children who received face-to-face contacts on six or more days; children who received contacts on four or five days; and children who received contacts on three or fewer days.335

As reflected in Table 6.1 below, of the children who entered custody in calendar year 2014, 70% received face-to-face contacts on six or more days during their first 60 days in care; another 24% received such contacts on four or five days, and 6% received such contacts on three or fewer days.

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335 The report makes no distinction between children who were in a single placement for the entire period or were in multiple placements during that time. It pulls face-to-face contacts by any case manager regardless of whether it was a DCS or private provider case manager. If a child was in a DCS placement for the first 30 days and then moved to a private provider placement for the next 30 days, the contacts by the DCS case manager would be counted for the first 30 days and the contacts by the private provider case manager would be counted for the next 30 days.
Table 6.1: Children Receiving Six or More, Four to Five, or Three or Fewer Days of Face-to-Face Contacts Within the First 60 Days of Custody, January through December 2014

<table>
<thead>
<tr>
<th>Region</th>
<th>Number of Children Requiring a Visit</th>
<th>6+ Contacts</th>
<th>6+ Contacts %</th>
<th>4-5 Contacts</th>
<th>4-5 Contacts %</th>
<th>3 or Fewer Contacts</th>
<th>3 or Fewer Contacts %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Davidson</td>
<td>212</td>
<td>165</td>
<td>78%</td>
<td>38</td>
<td>18%</td>
<td>9</td>
<td>4%</td>
</tr>
<tr>
<td>East</td>
<td>280</td>
<td>183</td>
<td>65%</td>
<td>84</td>
<td>30%</td>
<td>13</td>
<td>5%</td>
</tr>
<tr>
<td>Knox</td>
<td>461</td>
<td>395</td>
<td>86%</td>
<td>49</td>
<td>10%</td>
<td>17</td>
<td>4%</td>
</tr>
<tr>
<td>Mid-Cumberland</td>
<td>395</td>
<td>288</td>
<td>73%</td>
<td>95</td>
<td>24%</td>
<td>12</td>
<td>3%</td>
</tr>
<tr>
<td>Northeast</td>
<td>397</td>
<td>254</td>
<td>64%</td>
<td>108</td>
<td>27%</td>
<td>35</td>
<td>9%</td>
</tr>
<tr>
<td>Northwest</td>
<td>221</td>
<td>150</td>
<td>68%</td>
<td>51</td>
<td>23%</td>
<td>20</td>
<td>9%</td>
</tr>
<tr>
<td>Shelby</td>
<td>307</td>
<td>196</td>
<td>64%</td>
<td>84</td>
<td>27%</td>
<td>27</td>
<td>9%</td>
</tr>
<tr>
<td>Smoky Mountain</td>
<td>376</td>
<td>241</td>
<td>64%</td>
<td>104</td>
<td>28%</td>
<td>31</td>
<td>8%</td>
</tr>
<tr>
<td>South Central</td>
<td>210</td>
<td>137</td>
<td>65%</td>
<td>65</td>
<td>31%</td>
<td>8</td>
<td>4%</td>
</tr>
<tr>
<td>Southwest</td>
<td>195</td>
<td>138</td>
<td>71%</td>
<td>53</td>
<td>27%</td>
<td>4</td>
<td>2%</td>
</tr>
<tr>
<td>Tennessee Valley</td>
<td>341</td>
<td>263</td>
<td>77%</td>
<td>60</td>
<td>18%</td>
<td>18</td>
<td>5%</td>
</tr>
<tr>
<td>Upper Cumberland</td>
<td>483</td>
<td>280</td>
<td>58%</td>
<td>152</td>
<td>31%</td>
<td>51</td>
<td>11%</td>
</tr>
<tr>
<td>Unassigned</td>
<td>142</td>
<td>116</td>
<td>82%</td>
<td>18</td>
<td>13%</td>
<td>8</td>
<td>5%</td>
</tr>
<tr>
<td>Statewide</td>
<td>4,020</td>
<td>2,806</td>
<td>70%</td>
<td>961</td>
<td>24%</td>
<td>253</td>
<td>6%</td>
</tr>
</tbody>
</table>

Source: TFACTS 6 in 60 Face-to-Face Based on Contacts Dates, January through December 2014.

g. Other requirements

The Department does not currently generate aggregate reports related to two Settlement Agreement requirements: (1) that the case manager spend private time with the child during each required face-to-face contact; and (2) that there be joint DCS/private provider case manager face-to-face contact once every three months in private agency managed cases. However, aggregate reporting is not necessarily the only or the best way to monitor compliance with these requirements. The TAC is exploring available data gathering options and anticipates reporting in the next monitoring report on the extent to which the Department is meeting these requirements.
SECTION SEVEN: PLANNING FOR CHILDREN

A. Introduction

Previous monitoring reports have relied primarily on QSR data and Child and Family Team Meeting (CFTM) aggregate reporting to provide some understanding of the extent to which the Department’s permanency planning practices meet the requirements of the Settlement Agreement. For this monitoring report, those data are supplemented by the results of a targeted case review focused on the Child and Family Team (CFT) process.

The CFT Process Review provides important information that the CFTM aggregate reporting is not designed to capture, including: team members who are not physically present, but participate in CFTMs by telephone or video conference;336 efforts made by DCS staff to encourage, facilitate, or ensure parent participation; and reasons for non-attendance of older children and parents at CFTMs.337

The CFT Process Review sample of 92 cases was drawn from the 2,008 children who entered out-of-home placement between January 1, 2014 and June 30, 2014 and remained in custody for at least 60 days.338 Reviewers, who included both DCS staff and TAC monitoring staff, reviewed each child’s TFACTS case file to find information about the CFTMs held, including information about who attended those meetings.339 If team members were not in attendance, reviewers sought to identify factors that contributed to non-attendance and to determine, what, if any, efforts were made to address those factors, and whether any steps were taken to engage those team members and provide them opportunities for input into decision making, notwithstanding their absence from the CFTM.340

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336 Participation by telephone or video conference is an appropriate alternative to being physically present at a CFTM. The decision to capture physical presence in TFACTS CFTM reporting, but not participation by telephone and video conference, reflects an appropriate reporting “trade off,” with the Department opting for the simplicity and efficiency of using common data entry screens that case managers are accustomed to using for multiple reporting purposes rather than creating a new screen solely for purposes of providing more nuanced aggregate CFTM reporting.

337 In addition, the CFTM aggregate data on the rate of participation by resource parents and private provider agency staff was not designed to distinguish between situations in which the child is in a resource home or is in a private provider placement from those situations in which the child is not (and therefore one might not expect the presence of a resource parent or private provider staff person). The sample was stratified by region and represents a 95% confidence level and a plus/minus 10 confidence interval. The sample was pulled from the Chapin Hall Foster Care Data Archive, which includes children in physical custody of the Department only. There were three children in the original sample whose entry during the first six months of 2014 was a reentry from runaway or from a disrupted trial home visit; these three cases were replaced with cases from the oversample.

338 The sample was stratified by region and represents a 95% confidence level and a plus/minus 10 confidence interval. The sample was pulled from the Chapin Hall Foster Care Data Archive, which includes children in physical custody of the Department only. There were three children in the original sample whose entry during the first six months of 2014 was a reentry from runaway or from a disrupted trial home visit; these three cases were replaced with cases from the oversample.

339 While the CFTM aggregate reporting is designed to draw from specific TFACTS check box fields to determine presence at a CFTM, reviewers were able to look beyond the check box fields to case recordings and CFTM signature pages to identify participants.

340 The CFT Process reviewers also noted whether the child was in a DCS resource home, a private provider resource home or a congregate care placement at the time of the CFTM.
The discussion below emphasizes the CFT Process Review data, which the TAC believes provides a more accurate representation of the true level of performance, but also includes references to the CFTM aggregate data for purposes of comparison.\textsuperscript{341}

The QSR data presented in this section includes data from the past three annual QSRs for most measures, and for the past two years for new or modified indicators that have only been in use for the past two annual reviews; however, additional historical QSR data is contained in the Key Outcome and Performance Measures at a Glance section of this monitoring report and in previous monitoring reports.

\textbf{B. General Requirement Related to Case Planning Policies and Practices}

The Settlement Agreement (VII.A) requires that DCS maintain and update policies and procedures that establish a “best practices” planning process, as set forth in the Principles of the agreement, for all foster children in DCS custody.

The Department’s practice standards, policies, and procedures articulate a planning process that is in accordance with this requirement. At the core of the planning process are the Child and Family Team (CFT) and the Child and Family Team Meeting (CFTM).

\textbf{C. Participation in Child and Family Team Meetings}

The Settlement Agreement (VII.B) requires that any child 12 years old and older participate in CFTMs, unless extraordinary circumstances exist, and are documented in the case record, as to why the child’s participation would be contrary to his or her best interests.

The Settlement Agreement further specifies that the Child and Family Team Meeting include the following members, as appropriate:

1. the private provider agency worker;
2. the guardian \textit{ad litem} (GAL);
3. the court appointed special advocate (CASA);
4. the resource parents; and
5. the child’s parents, other relatives, or fictive kin.

In addition, the Settlement Agreement requires that a trained, full-time or back-up facilitator participate in every Initial CFTM and Placement Stability CFTM.

\textsuperscript{341} The CFT Process Review confirms the TAC’s previous finding that CFTM aggregate reporting generally understates performance. Not only does CFTM aggregate reporting understate participation by team members, but as discussed in previous monitoring reports, it has tended to understate the frequency of CFTMs. TAC monitoring staff have frequently found that in following up on cases, which according to aggregate reporting lacked a required meeting (an Initial CFTM or an Initial Permanency Planning CFTM), the required CFTM had in fact been held, but the appropriate box in TFACTS had not been checked (and therefore the CFTM had not been captured by the aggregate reporting). Figures reflecting CFTM aggregate reporting over time are provided in Appendix O to this report.
DCS is also required to provide reasonable advance notice of CFTMs to the GAL and CASA worker in order to facilitate their participation.

1. Participation by Children and Families in the CFTM Process

The table below reflects the frequency with which older children (youth age 12 and older), parents, and family and fictive kin attended Child and Family Team Meetings convened in their cases. For each CFTM type, the table presents two percentages.

The first percentage, presented in bold type, is the percentage reflected by the results of the CFT Process Review. The percentages of older youth participating in CFTMs reflect the experiences of the 40 youth in the review sample who were 12 years of age or older during the review period. For purposes of calculating the percentage of parents participating in CFTMs for the 92 children in the sample, parents whose parental rights had been terminated prior to the CFTM and parents who were deceased were excluded. In the sample, there were four mothers (two at the time of the Initial and Initial Permanency Planning CFTMs, and two additional at Placement Stability CFTMs) and one father (at the time of the Placement Stability CFTM) whose parental rights had been terminated, and there were three mothers and three fathers who were deceased.

The second percentage (italicized and indicated in parentheses below the CFT Process Review data) is the percentage reflected by the aggregate CFTM reporting for 2014. For reasons discussed above, the CFT Process Review data would be expected to show higher levels of CFTM member participation than the CFTM aggregate reporting, and that is in fact reflected in Table 7.1 below.

342 The language “mothers who would have been expected to have participated” and “fathers who would have been expected to have participated” reflects this exclusion.

343 In addition, there was one mother who was alleged to have committed severe abuse; and there was one case in which children had been adopted from Haiti and there was no mention of them having had an adoptive father.

344 For all CFTMs other than the Discharge CFTM, the percentage is based on four quarterly CFTM reports for calendar year 2014. Because of an oversight, the Office of Information Technology did not produce a Discharge CFTM aggregate participant attendance report for the first quarter of 2014. For this reason, the CFTM aggregate reporting percentages for Discharge CFTM participation is based on three quarterly reports rather than four.
A parent or a present or former relative caregiver was present at 82 (92%) of the 89 Initial CFTMs and at 82 (89%) of the 92 Initial Permanency Plan CFTMs. In 88 (96%) of the cases, a parent or a present or former relative caregiver was present for at least one of those CFTMs.
2. Non Attendance of Older Children at CFTMs

The mantra “nothing about us without us” captures the importance that older youth in foster care place on having the right to actively participate in the case planning process. The Settlement Agreement embraces that right to active participation by requiring that older children attend their CFTMs unless “extraordinary circumstances” make such attendance “contrary to his or her best interests.”

Active participation of youth age 12 or older in the CFT process is a core element of the Department’s Practice Model and the Department takes an appropriately narrow view of what would constitute “extraordinary circumstances” that would justify excluding older youth from participating in a CFTM. An acute psychiatric crisis or a debilitating health condition might warrant proceeding with a scheduled CFTM without the child being present as it would if a young person had run away. In such cases, it might be important to proceed with the CFTM, while at the same time planning to reconvene the Child and Family Team at a point when the youth is able to participate.

However, there are often circumstances that make it inconvenient or difficult for a young person to attend a CFTM, but that are not “extraordinary.” The fact that a youth is in a residential treatment center and that transporting the youth to the CFTM would be impractical may be a reason for arranging for the youth to participate by phone, but would not be a basis for excluding the youth. It might also be a reason for considering holding the CFTM at the congregate care facility. If the subject matter to be discussed at a CFTM is likely to be upsetting to the young person, it may be important to spend time helping him or her prepare for that discussion in advance of the CFTM and to have a skilled facilitator facilitate the CFTM, but those difficult discussions are often the most important for the young person to participate in, and rather than avoiding those discussions, the focus should instead be on how to have them. Even in situations in which there is a “no contact” order against a parent or other CFTM participant, there are ways to bifurcate the CFTM to allow the young person to participate without violating the order.

The CFT Process Review data presented in Table 7.1 above represents a total of 134 CFTMs held in cases of children 12 and older. Those youth participated in the vast majority, 118 (88%) of those CFTMs; however, according to TFACTS documentation, youth were absent from 16 (12%) of those CFTMs. For each instance of non-attendance the CFT Process Review sought to determine from documentation in the case file and through follow-up with the region why the young person did not attend.

There were six youth who did not participate in their Initial CFTM.

- In one case, the young person had been involuntarily committed to a psychiatric hospital and the Initial CFTM was held during that acute hospitalization, but prior to the young person coming into custody, because the parent indicated she was not willing for him to return to her home.

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358 It might also be a reason for considering holding the CFTM at the congregate care facility.
359 The determination was made based on a combination of case file documentation and follow-up with regional staff.
• In the second, the young person came into care based on allegations of sexual abuse by a parent, and for a variety of reasons having to do with the ongoing investigation, including the desire not to interfere with the protocol for completing the forensic interview, it was appropriate to proceed with the Initial CFTM without the young person being present.

• In the third case, involving a young person with truancy issues, the choice was between scheduling the Initial CFTM during school hours to accommodate the grandparent and having the young person either miss school to attend the CFTM or miss the CFTM to attend school or scheduling the CFTM after school, which would have prevented the grandmother from participating. The decision was made to accommodate the grandmother but have the young person miss the CFTM rather than school.

• In the fourth case, while there was some reference to the child having threatened to run away around the time of the Initial CFTM and to a sibling being very upset at being placed in a residential facility, there was nothing to suggest that those challenges would have prevented the young person from being able to participate in the CFTM.

• In the fifth case, there was a no contact order against a parent; however, as discussed above, the Department expects accommodations to be made in those cases to allow the young person to participate without violating the no contact order.

• In the sixth case, the young person was at a congregate care facility which was a two and a half hour drive from her home county, and “scheduling issues” with the facility prevented her from participating by telephone.

In all six of these cases, the young person subsequently participated in the Initial Permanency Planning CFTM.

There were eight instances of youth who did not participate in a Placement Stability CFTM.

• In two instances, involving the same young person, the CFTM in each case was held prior to a move in which the young person was in an especially unstable state, moving into or out of a Level IV psychiatric facility. The young person participated in other CFTMs when she was more emotionally stable.

• In two instances, involving another young person, the young person had been requesting that she not be compelled to attend the CFTM because she did not want to see her mother. The young person’s therapist supported the young person’s decision not to attend these two CFTMs.

• In the fifth instance, the CFTM was convened to consider the request of the resource parent for additional assistance in order to maintain the placement; the resource parent was not seeking to have the young person moved and there was some concern that participating in the CFTM might unnecessarily upset the young person. There had been two Placement Stability CFTMs held during the prior month and one Placement Stability CFTM held two months later, and the child was present for each of those CFTMs.
• In the sixth instance, the young person was on runaway status at the time of the CFTM.

• In the seventh instance, what was labeled as a Placement Stability CFTM for a young person at a residential facility appeared to be more of a private provider staffing in advance of a CFTM to discuss discharging that young person from the facility. The CEO of the placement, multiple therapists, the DCS psychologist, the worker, and the mother were documented as being present. On follow-up, the DCS case manager indicated that she thought that the young person may have actually participated by telephone, but that it was not noted in the documentation. There was a reference to the young person having been asked to describe what he wants in a placement and to tell them what he wanted to include about himself in the placement packet. There was a subsequent CFTM held closer to his discharge at which the young person was present.

• In the eighth instance, the young person was present, but the young person went with a DCS staff member to the play room after the meeting started. The Department was attempting to salvage the placement for this young person and her siblings after an incident involving a youngest sibling hitting the resource parent with a belt and the children doing some damage to a wall of the house. The case manager felt that the discussion of the problematic behavior and the potential move would be better to have without the children present.

There was one instance in which reviewers were unable to find documentation of a young person’s attendance at a Discharge Planning CFTM. However, in that case, the case manager distinctly remembers that the CFTM was held at the DCS regional office, that the young person attended, and that the trial home visit was specifically discussed with her. He believes that he simply neglected to document the young person’s presence at the CFTM.

3. Non Attendance by Parents

For any instance of non-attendance of parents, the reviewers sought to understand the circumstances surrounding the non-attendance. For non-attendance at the Initial CFTM, the reviewers looked for documentation of efforts to ensure parental participation, including providing transportation or child care, or providing a brief rescheduling. For non-attendance at the Initial Permanency Planning CFTM, the reviewers looked for documentation of efforts to locate the parents, meet with the parents, and ensure parental participation in the CFTM.

For non-attendance at other CFTMs, the reviewers examined the circumstances surrounding the convening of the CFTM, including whether the parents were provided reasonable notice of the meeting and an opportunity to attend.

The CFT Process Review data presented in Table 7.1 above represents a total of 293 Initial, Initial Permanency Planning, Placement Stability, and Discharge CFTMs. For 24 of those CFTMs, the mother’s parental rights had been previously terminated or the mother had been charged with severe abuse (12 CFTMs) or the mother was deceased (12 CFTMs). Of the
remaining 269, mothers participated in 202 (75%) meetings; mothers were absent from 67 (25%) of the CFTMs, including 16 Initial CFTMs and 15 Initial Permanency Planning CFTMs.

For each of those Initial CFTMs and Initial Permanency Planning CFTMs the CFT Process Review sought to determine from documentation in the case file, and from further follow-up if documentation was lacking, why the mother did not attend.

For the 16 Initial CFTMs which mothers did not attend the circumstances were as follows:

- In nine cases, the mother was not the primary caretaker from whom the child had been removed, and in all but one of the cases, it is clear that the child’s primary caretaker at the time of entrance into care was at the meeting.

- In two cases, the child’s mother had been incarcerated. In one case the mother was incarcerated the night prior to the CFTM, and in the other case, the jail informed the Department that the mother was unable to participate in the meeting. Her attorney did attend.

- In two cases, there was a no contact order between the mother and the children at the time of the Initial CFTM. In both cases, the father was present for the Initial meeting, and the mothers were present at the Initial Permanency Planning meeting.

- In the fourteenth case, the mother’s whereabouts were unknown (“the parents had absconded/left the state with the children”), and the Department was diligently searching for them.

- In the fifteenth case, the mother was not present, but her attorney and kin were, and she was present for the Initial Permanency Planning meeting.

- In the sixteenth case, the mother never arrived at the Initial CFTM after calling to say that she was on her way.

For the 15 Initial Permanency Planning CFTMs which mothers did not attend, the circumstances were as follows:

- In nine cases (eight of the same mothers who were absent from the Initial meeting, and one additional mother who had been present at the Initial meeting), the mother was not the primary caretaker from whom the child had been removed, and in all but one of the cases, it is clear that the child’s primary caretaker at the time of entrance into care was at the meeting.

- In two cases, the child’s mother was incarcerated; one had just been incarcerated at the beginning of the case, and the other, who was incarcerated after the Initial meeting (for

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360 Mothers missed 67 CFTMs for 57 unique children. Five children had more than one Placement Stability CFTM.
which she had been in attendance), was able to discuss the plan with the case manager after the meeting. In both cases, the child’s father was present for the CFTM.

- In the twelfth case, the mother’s whereabouts were unknown (“the parents had absconded/left the state with the children”) and the Department was diligently searching for them.

- In the thirteenth case, the child “did not wish to visit with her parents anymore.”

- In the fourteenth case, the meeting had been planned in accordance with the parents’ schedule, but they did not show up for the meeting.

- In the fifteenth case, the mother had attended the Initial CFTM, and was also present for other meetings later in the case, but despite numerous attempts to reach her before and during the meeting, she did not attend the Initial Permanency Planning meeting.

Six of the mothers who did not attend the Initial CFTMs as detailed above were present for the Initial Permanency Planning CFTM.

With respect to the presence of fathers, for 15 of the 293 CFTMs reflected in Table 7.1 above, the father’s parental rights had been previously terminated (six CFTMs) or the father was deceased (nine CFTMs). Of the remaining 276 CFTMs, fathers participated in 95 (34%) meetings; and fathers were absent from 181 (66%), including 54 Initial CFTMs and 55 Initial Permanency Planning CFTMs. For each of those Initial CFTMs and Initial Permanency Planning CFTMs, the CFT Process Review sought to determine from documentation in the case file why the father did not attend.

For the 54 Initial CFTMs which fathers did not attend, the circumstances were as follows:

- In 15 cases, the father’s whereabouts were unknown;
- in 11 cases, the father was incarcerated;
- in eight cases, the father had not been involved in the child’s life at the time of removal;
- in four cases, the Department had attempted to contact the father or had invited him to the meeting;
- in two cases, the father’s rights were believed to have been terminated;
- in one case, the father was at work; and
- in 13 cases, the reason for the father’s absence was not documented.

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361 This includes one case in which the children had been adopted from Haiti and a father had not been identified.
362 Fathers missed 181 CFTMs for 150 unique children. Fourteen children had more than one Placement Stability CFTM.
Fathers were missing from 55 Initial Permanency Planning CFTMs:

- In 15 cases, the father’s whereabouts were unknown;
- in 14 cases, the father was incarcerated;
- in six cases, the father had not been involved in the child’s life at the time of removal;
- in five cases, the Department had attempted to contact the father or had invited him to the meeting;
- in one case, the father’s rights were believed to have been terminated;
- in two cases, the father was at work; and
- in 12 cases, the reason for the father’s absence was not documented.

4. Participation of Resource Parents in CFTMs

The Department’s policy is to encourage, but not require, resource parents to attend Child and Family Team Meetings. The CFT Process Review found that for children placed in resource homes at the time of their CFTM, resource parents participated in 68% (42 of 62) of Initial CFTMs, 72% (56 of 78) of Initial Permanency Planning CFTMs, 89% (57 of 64) of Placement Stability CFTMs, and 84% (16 of 19) of Discharge CFTMs.  

5. Participation of Guardians Ad Litem (GAL)

In the cases subject to the CFT Process Review, guardian ad litem (GAL) participation was 37% for Initial CFTMs, 50% for Initial Permanency Planning CFTMs, 17% for Placement Stability CFTMs, and 42% for Discharge Planning CFTMs. According to the CFTM aggregate reporting, in 2014 GALs participated in 23% of Initial CFTMs, 43% of Initial Permanency Planning CFTMs, 33% of Placement Stability CFTMs, and 23% of the Discharge Planning CFTMs.

6. Participation of Private Provider Staff

When children are placed with private provider agencies, the Department expects agency staff to be active members of the Child and Family Team and to participate in Child and Family Team Meetings. The CFT Process Review gathered information about the child’s placement at the time of the CFTM to determine whether the child was in a private provider placement, and if so, whether a private provider staff person participated in the CFTM.

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363 Because one would not necessarily expect a resource parent to be on a Child and Family Team for a child who, for example, was initially placed in congregate care, data on resource parent participation is more meaningful when it is focused on those children who were in resource homes at the time of the CFTM.

364 These percentages are based on the total number of CFTMs held in each category, irrespective of whether a guardian ad litem had been appointed or was actively representing the child. The review was not designed to determine whether a guardian ad litem had in fact been appointed prior to the CFTM, nor was it designed to determine whether those guardians ad litem who had been appointed viewed Tennessee Supreme Court Rule 40 as requiring his or her participation in Child and Family Team meetings.
There were 21 Initial CFTMs held for children in private provider placements, and private provider staff participated in 11 (52%) of those CFTMs.

There were 36 Initial Permanency Plan CFTMs held for children in private provider placements, and private provider staff participated in 24 (67%) of those CFTMs.

There were 54 Placement Stability CFTMs held for children in private provider placements, and private provider staff participated in 47 (87%) of those CFTMs.

There were 15 Discharge CFTMs held for children in private provider placements, and private provider staff participated in 10 (67%) of those CFTMs.

7. Full-time or Back-Up Facilitators

As of June 17, 2015, the Department has a core of 64 full-time CFTM facilitators and six staff who facilitate part-time.365

Since January 2014 the Department has provided four cycles of quarterly Advanced Skilled Facilitator training.

A trained, skilled facilitator is required to facilitate Initial CFTMs and Placement Stability CFTMs. The CFT Process Review found that 94% of the Initial CFTMs and 78% of the Placement Stability CFTMs were facilitated by trained facilitators.366 According to the CFTM aggregate reporting for 2014, 90% of the Initial CFTMs and 74% of the Placement Stability CFTMs were facilitated by trained facilitators.

8. Participation by DCS Supervisors in CFTMs

The Settlement Agreement (VII.F) requires that the DCS supervisor assigned to a case participate in the Initial CFTM, the Initial Permanency Planning CFTM, and the Discharge Planning CFTM.

The CFT Process Review found the following levels of supervisor participation: 91% of Initial CFTMs, 88% of Initial Permanency Planning CFTMs, and 80% of Discharge Planning CFTMs were supervised by DCS supervisors.

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365 CFTM facilitators are expected to have the following skills: demonstrates preparation for meeting with the child and family; uses interpersonal helping skills to effectively engage the child and family; establishes a professional helping relationship by demonstrating empathy, genuineness, respect, and cultural sensitivity; uses a strengths-based approach to gather needed information; utilizes information gathered during the assessment process; draws conclusions about family strengths/needs and makes decisions around desired outcomes; facilitates the planning process by working collaboratively with family and team members; uses family strengths and needs to develop a plan that addresses safety, permanency, and well-being; prepares thorough and clear case recordings/written meeting summaries that follow proper format protocol; and creates case recordings/written meeting summaries that reflect the practice of family-centered casework.

366 While trained facilitators are not required to be at other CFTMs, according to the CFTM aggregate reporting for 2014, 39% of the Initial Permanency Plan CFTMs and 48% of the Discharge Planning CFTMs were facilitated by trained facilitators.
CFTMs, 82% of Permanency Planning CFTMs, and 71% of Discharge CFTMs. According to the CFTM aggregate reporting for 2014, supervisors were present for 86% of the Initial CFTMs, 66% of the Initial Permanency Planning CFTMs, and 59% of the Discharge Planning CFTMs.

The Settlement Agreement provides that for all other CFTMs, the supervisor is to make a decision about his or her participation based on the complexity of the case; the availability of other supports, such as a full-time or skilled facilitator; and the case manager’s experience. As one might expect, supervisors frequently decide to attend CFTMs when circumstances threaten or result in placement disruption. According to 2014 CFTM aggregate reports, supervisors attended 74% of the Placement Stability CFTMs held during 2014.

At a minimum, the supervisor is to participate in one CFTM every six months for each child on his or her supervisory caseload. For purposes of monitoring and reporting on this provision, the TAC provided a reasonable one-month “cushion” or “grace period” to account for CFTM scheduling challenges. The CFT Process Review found that in 70% (64 of 92) of the cases, a supervisor had participated in one CFTM every seven months for each child.

The Department is also required to develop a process for supervisors to review, monitor, and validate the results of CFTMs to ensure supervisors remain engaged and responsible for quality casework. The CFT Process Review found that for 98% (87 of 89) of Initial CFTMs, 97% (89 of 92) of Initial Permanency Planning CFTMs, 95% (77 of 81) of Placement Stability CFTMs, and 90% (28 of 31) of Discharge Planning CFTMs, a supervisor indicated that they had reviewed the CFTM in TFACTS.

9. Quality Service Review (QSR) Results Related to Team Composition and Participation in Team Meetings

The Department utilizes three QSR indicators, Voice and Choice for the Child and Family, Engagement, and Teamwork and Coordination, as the primary measures of both the extent to which teams are being formed with the right membership and the extent to which those members are actively involved in the Child and Family Team process, including participation in CFTMs.

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367 Generally when a supervisor is not present for the Initial CFTM in a case, the supervisor is present at the Initial Permanency Planning CFTM and vice versa. In the CFT Process Review there was only one case in which a supervisor was absent from both the Initial CFTM and the Initial Permanency Planning CFTM.

368 According to the CFTM aggregate reporting for 2013, supervisors were present for 81% of the Initial CFTMs, 52% of the Initial Permanency Planning CFTMs, and 55% of the Discharge Planning CFTMs. According to the CFTM aggregate reporting for 2012, supervisors were present for 80% of the Initial CFTMs, 51% of the Initial Permanency Planning CFTMs, and 51% of the Discharge Planning CFTMs.

369 TFACTS provides a specific field to allow recording of the supervisor review of the CFTM summary. A designation of supervisor review is entered in that field when the supervisor either participated in the CFTM, or if he or she was unable to attend, reviewed and approved the content of the CFTM summary.

370 As discussed in the May 2011 Monitoring Report, this was a new indicator which has been included in the protocol since the 2013-14 QSR.

371 The Engagement Indicator was revised in 2013-14 in response to (and to avoid overlap with) the new Voice and Choice Indicator.
The Voice and Choice indicator measures the extent to which the child and family are active and committed participants in the “change process.” The revised Engagement indicator now focuses on “the diligence of professionals in locating, reaching out to, building relationships with, and overcoming barriers of the child and family in order to ensure that the child and family are participating in the process of change.” The Teamwork and Coordination indicator “focuses on the structure and performance of the family team in collaborative problem solving, providing effective services, identifying the family’s needs, and achieving positive results for the child and family.”

Figure 7.1 below presents the percentage of Brian A. cases receiving acceptable scores for Voice and Choice for the Child and Family, for the child, mother, father and “overall” in 2014-15. The “overall” statewide score increased from 72% (150/208) in 2013-14 to 79% (161/204) in the 2014-15 QSR.

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372 See Appendix C for a more detailed description of the Voice and Choice of the Child and Family indicator.
373 See Appendix C for a more detailed description of the revised Engagement indicator.
374 In coming to an overall score, reviewers are to consider each person’s level of “voice and choice,” which is the active and committed participation in the change process, and weighs the child and most impactful person(s) to that child and case more heavily.
375 The statewide Voice and Choice of the Child and Family scores for the child (87% in 2013-14 to 88% in 2014-15) and other caregiver (88% in 2013-14 to 89% in 2014-15) increased slightly. The scores for the mother (52% in 2013-14 and 51% in 2014-15) and father (52% in 2013-14 to 39% in 2014-15) both decreased.
Figure 7.1: Percentage of Acceptable QSR Cases, Voice and Choice of the Child and Family, 2014-15

Source: QSR Databases
Figure 7.2 below presents the percentage of Brian A. cases receiving acceptable scores for Engagement for the 2014-15 QSR. The statewide scores for the “overall” Engagement indicator were 85% (163/209) in 2013-14 and 86% (177/206) in 2014-15.\textsuperscript{376}

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{Figure72.png}
\caption{Percentage of Acceptable QSR Cases, Engagement, 2014-15}
\end{figure}

Source: QSR Databases.

In coming to an overall score, reviewers are to consider each person’s level of engagement in the change process, and weigh the child and most impactful person(s) to that child and case more heavily.\textsuperscript{377}

The statewide Engagement scores for the child (85% in 2013-14 to 93% in 2014-15), mother (65% in 2013-14 to 74% in 2014-15), and other caregiver (85% in 2013-14 to 88% in 2014-15) have all increased. The Engagement scores for the father remained 58% in both 2013-14 and 2014-15.

\textsuperscript{376} In coming to an overall score, reviewers are to consider each person’s level of engagement in the change process, and weigh the child and most impactful person(s) to that child and case more heavily.

\textsuperscript{377} The statewide Engagement scores for the child (85% in 2013-14 to 93% in 2014-15), mother (65% in 2013-14 to 74% in 2014-15), and other caregiver (85% in 2013-14 to 88% in 2014-15) have all increased. The Engagement scores for the father remained 58% in both 2013-14 and 2014-15.
Figure 7.3 presents the percentage of Brian A. cases receiving acceptable scores for Teamwork and Coordination in the past three annual QSRs. The statewide scores for Teamwork and Coordination have increased from 53% (113/213) in 2012-13 to 73% (154/210) in 2013-14 and to 82% (169/206) in 2014-15.

Source: QSR Databases.

D. The Initial CFTM

The Settlement Agreement (VII.C) requires that the Department begin the process of building a team, assessing, and convening a formal meeting prior to children entering state custody, except when an emergency removal is warranted. In the case of an emergency removal, an Initial
CFTM is to be convened no later than seven days after a child enters state custody.\textsuperscript{378} The Settlement Agreement also requires that DCS make efforts to ensure the parents’ participation at the Initial CFTM (including providing transportation and/or child care and/or a brief rescheduling) and that such efforts be documented in the child’s case file.

The CFT Process Review found that an Initial CFTM was held for 97\% (89 of 92) of children included in the review. The failure to hold an Initial CFTM in three of the cases reviewed was understandable in light of the circumstances of each case, including the fact that a prompt Initial Permanency Planning CFTM was held in each:

- In one case, the Department filed a petition seeking custody in order to place the child in kinship foster care with his uncle; after a number of delays in the adjudicatory hearing, the child ultimately came into custody; however, the child had been living with the uncle well in advance of the child coming into custody and the custody order did not change the placement; there was some confusion created by rescheduling of the court date for the hearing at which the custody order was entered; rather than hold an Initial CFTM, the Department held an Initial Permanency Planning CFTM 13 days after the child entered custody. The child ultimately exited custody to subsidized permanent guardianship with the uncle.

- In the second case, the mother was in jail and would not have been able to attend the Initial CFTM and the Department was waiting to hear back from a potential relative placement; the Initial Permanency Planning CFTM was held 20 days after the children came into custody.

- In the third case, the children were “bench ordered” into custody by the Juvenile Court Judge, and because everyone was present in court, the Department staff worked with the family to accomplish much of what an Initial CFTM is intended to accomplish. As a result of the “de facto” CFTM, the Department was able to locate an uncle who was willing to serve as a kinship placement. The Initial Permanency Planning CFTM was held 20 days later.

According to the aggregate reporting for 2014, Initial CFTMs were held for 93\% of the children entering custody.\textsuperscript{379} (As discussed in footnote 341, CFTM aggregate reporting related to the frequency of CFTMs has previously been found to understate performance.)

\textsuperscript{378} According to the Department’s aggregate CFTM reporting, for those children who had an Initial CFTM, 82\% of their meetings occurred within seven days before or after their custody begin date in the first quarter of 2014, 85\% in the second quarter of 2014, 90\% in the third quarter of 2014, and 86\% in the fourth quarter of 2014.

\textsuperscript{379} CFTM reporting captures children who had at least one CFTM of that type (Initial, Placement Stability, etc.). The child and family’s circumstances may bring the team together several times in an effort to support the family or make a decision. For example, the family may have a CFTM a few days before coming into care in an effort to find an alternative placement for the child and then another “initial” meeting when the decision is made to bring the child into care. Similarly, if the child and resource family are struggling and the team is trying to stabilize the placement, they may have more than one Placement Stability CFTM.
E. The Initial Permanency Planning CFTM

The Settlement Agreement (VII.D) requires that the Initial Permanency Planning CFTM occur within 30 calendar days of a child entering custody.\footnote{According to the Department’s aggregate CFTM reporting, for those children who had an Initial Permanency Planning CFTM, 86\% of their meetings occurred within 30 days before or after their custody begin date in the first quarter of 2014, 91\% in the second quarter of 2014, 93\% in the third quarter of 2014, and 91\% in the fourth quarter of 2014.} If the parents cannot be located or refuse to meet with the worker, the DCS case manager is to document all efforts made to locate the parents and to ensure that the meeting takes place.

The Settlement Agreement further provides that all services documented in the record as necessary for the achievement of the permanency goal be provided within the time period in which they are needed. (See Subsection J below for discussion of this provision.)

Within 60 calendar days of a child entering custody, an individualized, completed and signed permanency plan for that child must be presented to the court. Birth parents are to have a meaningful opportunity to review and sign a completed handwritten or typewritten plan at the conclusion of the Initial Permanency Planning CFTM or before the plan is submitted to the court.

The CFT Process Review found that an Initial Permanency Plan CFTM was held for every child included in the review. According to the aggregate reporting for 2014, Initial Permanency Planning CFTMs were held for 84\% of the children entering custody during 2014.

The CFT Process Review found that in 69 out of 92 cases (75\%), at least one parent signed the permanency plan.\footnote{In the CFT Process Review, reviewers found examples of case managers reaching out to parents to talk through the permanency plan if they were unable to attend the meeting—in jail, at the office, or at their homes.} Of the remaining 23 cases, 13 children either had at least one parent at the Permanency Planning CFTM or the caretaker from whom the child was removed had signed the permanency plan (14\%). For the remaining 10 children, four had parents whose whereabouts were unknown or were not involved in the child’s life at the time of removal.

F. The Placement Stability CFTM

The Settlement Agreement requires the Department to convene a Placement Stability CFTM prior to any child or youth potentially disrupting from a placement while in state custody, or in the event of an emergency change in placement, as soon as team members can be convened, but in no event later than 15 days before or after the placement change.

According to the Department’s aggregate CFTM reporting, 79\% of children who disrupted during 2014 had a Placement Stability CFTM.\footnote{According to the Department’s aggregate reporting, for those children who had a Placement Stability CFTM, 94\% of their meetings occurred within 15 days before or after the placement disruption in the first quarter of 2014, 95\% in the second quarter of 2014, 97\% in the third quarter of 2014, and 91\% in the fourth quarter of 2014.}
There were 31 children in the CFT Process Review who experienced at least one placement disruption. In 25 of those cases, the child had a timely placement stability CFTM for every placement disruption. The circumstances of the six cases in which there was at least one placement disruption for which there was no associated placement stability CFTM were as follows:

- In the first case, there were two disruptions (each time the 16-year-old ran away from the Level II Continuum resource home where she was placed). The Initial Permanency Planning CFTM was held three days after she returned from her first runaway episode (at which placement was most likely discussed even though such discussion is not explicitly documented), but no CFTM was documented for the second disruption.

- In the second case, the 3-year-old child experienced two disruptions from DCS resource homes. He was placed in the first DCS resource home for about seven months, the second for about three weeks, and he currently remains in a third DCS resource home. There are no CFTMs documented in TFACTS for these disruptions. The placement screen indicates that both disruptions were caused by issues within the resource family and unrelated to the child.

- In the third case, the 15-year-old experienced two disruptions from her Level II Continuum resource home placements. The first disruption was discussed at the Initial CFTM, which occurred six days after the move, but there was no documentation of a CFTM to discuss the second move.

- In the fourth case, the 17-year-old experienced two disruptions from his DCS resource home placements. There are no CFTMs documented in TFACTS for these disruptions.

- In the fifth case, the 14-year-old experienced one placement disruption: a move from one residential placement to another when the first placement refused to allow him to stay after he seriously injured a peer during an assault. No CFTM is documented for this move.

- In the sixth case, the 13-year-old experienced two disruptions from DCS resource home placements. No CFTMs are documented for these moves in TFACTS.

While the TAC’s follow-up was focused on children who actually experienced disruptions, there were at least 19 cases in which the convening of a Placement Stability CFTM either prevented a disruption by successfully addressing circumstances that threatened to disrupt the placement (10 cases) or temporarily stabilized the placement long enough to allow the team to more thoroughly

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383 CFTMs for all but two of the disruptions in these cases occurred within a timeframe of 15 days prior to or after the disruption. One CFTM occurred just after the 15-day window (17 days after the move). In the other instance, two CFTMs were held for the move: the first to plan for the move (25 days prior to the move) and the second to discuss progress in the new placement (22 days after the move).

384 The CFTM at which the placement disruption was discussed did not necessarily have to be named as a Placement Stability CFTM in TFACTS, as long as documentation and timing reflected that placement stability issues were addressed.
assess the need for a new placement and plan for the transition to the next placement (nine cases).\footnote{While reviewers identified and examined all of the cases in which a disruption occurred, reviewers did not attempt to identify all the cases in which CFTMs successfully addressed stressors that could have resulted in disruption.}

For example, in one case, a CFTM was held in July 2014 because the resource parent was struggling with the child’s behavior. The team decided to increase the level of services provided in the home, and the child remained in that resource home as of the date of the CFTM Review.

In another case, three CFTMs were held to discuss the concerns about the placement. At the first CFTM, the team agreed to increase the level of services provided in the home. At the next CFTM a month later, the resource parent indicated her intention to request the child’s removal. At the final CFTM (held approximately two weeks later), the team planned for the transition to the newly identified placement.

G. Special Requirements for Establishing a Goal of Planned Permanent Living Arrangement

The Settlement Agreement provides that no child be assigned a permanency goal of Planned Permanent Living Arrangement (PPLA) unless it is consistent with the January 2008 PPLA Protocol.

PPLA as a sole or concurrent goal is approved in only a small percentage of cases. As of December 29, 2014, 43 (0.65\%) of the 6,591 Brian A. class members had a goal of PPLA. (For 41, PPLA was the sole permanency goal and for two it was a concurrent goal).

TAC monitoring staff track and review PPLA data, conduct spot checks of cases with a PPLA goal, and meet regularly with the Central Office staff person responsible for review and approval of PPLA goals. These monitoring activities continue to confirm that DCS practice with respect to establishing PPLA as a permanency goal is consistent with the January 2008 PPLA Protocol.

H. Clarification of Term “Independent Living”

The Settlement Agreement states that “independent living is no longer used, and shall not be used, as a permanency goal, but rather is used as a service array to enable older youth to transition into independent adult life.” DCS policy and practice remains consistent with this provision.

I. Clarification with Respect to Concurrent Permanency Goals

The Settlement Agreement recognizes that children with an initial goal of return home may also have another concurrently planned permanency goal and specifies that record keeping and
tracking for any child in the class with more than one concurrently planned permanency goal is to be consistent with a goal of return home until return home is no longer an option. DCS record keeping and tracking remains consistent with this provision.

J. Permanency Plan Content and Implementation

The Settlement Agreement provides that each child have an individualized permanency plan and that all services documented as necessary for the achievement of the permanency goal be provided within the time period in which they are needed. (VII.D)

The Settlement Agreement (VII.J) further provides that the child’s DCS case manager and his/her supervisor have ongoing responsibility to assure that:

- the child’s permanency goal is appropriate, or to change it if it is not;
- the child’s services and placement are appropriate and meeting the child’s specific needs;
- the parents and other appropriate family members are receiving the specific services mandated by the permanency plan;
- they are progressing toward the specific objectives identified in the plan; and
- any private service providers identified in the plan or with whom the child is in placement are delivering appropriate services.

Among the measures that the Department currently uses to evaluate its performance on these requirements are the QSR results for five indicators, which collectively include each of these bulleted elements of permanency planning set forth in the Settlement Agreement: Child and Family Planning Process, Plan Implementation, Tracking and Adjustment, Appropriate Placement, and Informal and Community Supports. 386

The Department reasonably considers cases that score “acceptable” on each of these indicators as meeting permanency planning practice expectations and similarly considers cases that receive an unacceptable score on one or more of these indicators as falling short of the Department’s expectations. 387

386 Other relevant sources of information on permanency planning performance include the Department’s case process reviews and the external reviews related to permanency planning conducted as part of the Council on Accreditation process.

387 The TAC recognizes that the QSR protocol generally encompasses a broader range of factors and embraces a more demanding standard of practice than the specific requirements of the Settlement Agreement.
The indicator for Child and Family Planning Process asks the reviewer to determine if “a working service plan, consistent with the written plan, has been developed by the child and family team and builds upon the big picture assessment of the child and family’s functioning, strengths, needs, risks and underlying issues and long-term view.”

Figure 7.4 presents the percentage of Brian A. cases receiving acceptable scores for Child and Family Planning Process in the past three annual QSRs. The statewide scores for Child and Family Planning Process have increased from 49% (105/213) in 2012-13 to 65% (137/210) in 2013-14 and to 75% (169/206) in 2014-15.

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**Figure 7.4: Percentage of Acceptable QSR Cases, Child and Family Planning Process**

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<thead>
<tr>
<th>Region</th>
<th>2012-13</th>
<th>2013-14</th>
<th>2014-15</th>
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<td>East</td>
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Source: QSR Databases.
The Plan Implementation and Tracking and Adjustment indicators are used by the Department to measure the extent to which it is meeting the Settlement Agreement requirements that the services that the child and family need be provided in a timely manner (consistent with the provisions of the permanency plan) and that appropriate progress is being made toward the objectives identified in the permanency plan.

Figure 7.5 presents the percentage of Brian A. cases receiving acceptable scores for Plan Implementation in the past three annual QSRs. The statewide scores for Plan Implementation have increased from 53% (113/213) in 2012-13 to 63% (133/210) in 2013-14 and to 78% (160/206) in 2014-15.

Figure 7.5: Percentage of Acceptable QSR Cases, Plan Implementation

Source: QSR Databases.
The indicator for Tracking and Adjustment asks the reviewer to determine if “strategies, supports, and services being provided to the child and family are highly responsive and appropriate to changing conditions.”

Figure 7.6 presents the percentage of Brian A. cases receiving acceptable scores for Tracking and Adjustment in the past three annual QSRs. The statewide scores for Tracking and Adjustment have increased from 54% (116/213) in 2012-13 to 70% (148/210) in 2013-14 and to 83% (172/206) in 2014-15.

![Figure 7.6: Percentage of Acceptable QSR Cases, Tracking and Adjustment](image-url)

Source: QSR Databases.
The QSR indicator for Appropriate Placement requires the reviewer to consider whether the child, at the time of the review, is in the “most appropriate placement” consistent with the child’s needs, age, ability, and peer group; the child’s language and culture; and the child’s goals for development or independence (as appropriate to life stage).

Figure 7.7 presents the percentage of Brian A. cases receiving acceptable scores for Appropriate Placement in the past three annual QSRs. The statewide scores for Appropriate Placement have increased from 91% (194/213) in 2012-13 to 97% (204/210) in the 2013-14 QSR and to 99% (203/206) in 2014-15.

Source: QSR Databases.
The indicator for Informal and Community Supports asks the reviewer to determine if the child and family have an array of informal supports and community resources necessary to fulfill the plan requirements, maintain safety and stability, and sustain the long-term view.

Figure 7.8 presents the percentage of Brian A. cases receiving acceptable scores for Informal and Community Supports in the past three annual QSRs. The statewide scores for Informal and Community Supports have increased from 58% (124/213) in 2012-13 to 63% (132/210) in the 2013-14 QSR and to 76% (157/206) in 2014-15.

Figure 7.8: Percentage of Acceptable QSR Cases, Informal and Community Supports

Source: QSR Databases.
K. CFTM to Review/Revise Permanency Goal (VII.K)

The Settlement Agreement requires that a CFTM be convened whenever the permanency plan goal needs to be revised. Among the 92 children who were the subject of the CFT Process Review, there were 54 for whom there was a change in the permanency goal during the review period. In each of those instances, a CFTM had been convened to revise the goal.

The Settlement Agreement also requires that the child’s permanency plan be reviewed and updated at CFTMs at least every three months.\(^\text{388}\) For purposes of monitoring and reporting on this requirement, the TAC believes it to be reasonable to allow a one-month “cushion” or “grace period” to account for CFTM scheduling challenges. Of the 92 children who were subject to the CFTM Process Review, only 40 (43%) had CFTMs at least once every four months during the review period.\(^\text{389}\)

L. Requirement that DCS Recommend Trial Home Visits Prior to Discharge

The Settlement Agreement (VII.L) requires, for all children for whom a decision is made to return them to their parents or to place them in the custody of a relative, that DCS recommend to the Juvenile Court a 90-day trial home visit (THV) before the child or youth is projected to exit state custody. An exception to this general rule is allowed if there are specific findings (and a signed certification of the case manager, supervisor, and regional administrator for the child) that a trial home visit shorter than 90 days (but of no less than 30 days) is “appropriate to ensure the specific safety and well-being issues involved in the child’s case.”

Based on the information presented in the May 2014 Monitoring Report, this provision was found to be “in maintenance.” The THV tracking data for 2014 continues to support that maintenance designation.\(^\text{390}\)

Of the 1,977 trial home visits reported for 2014, 23% (462) lasted less than 90 days. Between January and December 2014, there were an average of 165 THV exits each month and 39 THV exits that were shorter than 90 days.\(^\text{391}\)

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\(^\text{388}\) These meetings must be separate and distinct from any court hearings, foster care review board meetings, or other judicial or administrative reviews of the child’s permanency plan. The permanency plan shall be reviewed and updated if necessary at each of these CFTMs.

\(^\text{389}\) The Department produces a CFTM aggregate report that provides data on the percentage of children for whom a CFTM was held during each quarter. That report does not purport to capture the percentage of children who have had at least one CFTM every three months. According to the Department’s aggregate CFTM reporting, 69% of children in custody in the first quarter of 2014, 78% in the second, 70% in the third, and 71% in the fourth quarter of 2014 had at least one CFTM during that quarter.

\(^\text{390}\) The THV less than 90-day tracking is done on a monthly basis, to include a listing of the children who exited on THV during the previous month. The month, however, is an “approximate month” because the Mega Report is issued several days throughout the month (April 3rd, 10th, 17th, and 24th, for example) and does not cover the entire/total month. The tracking that is considered the count of children on THVs less than 90 days ending in April 2014, for example, was actually the children exiting between April 5\(^\text{th}\) and May 1st.

\(^\text{391}\) The 2014 monthly Mega Report THV tracking misidentified 101 children as having experienced THVs that lasted less than 90 days when they in fact been on trial home visits that lasted at least 90 days. Those children are not included in the number of THVs lasting less than 90 days.
continue to suggest that in the large majority of these cases, the Department was acting responsibly and in keeping with the intent of the provision.

More than half, or 63% (289 of 462), of the shortened THVs were between 80 and 89 days. The regional administrators found these cases to have sufficient indicia of stability (and to be sufficiently close to 90 days in length) that they considered these cases to be consistent with the intent of the 90-day general rule. In many of these cases (with THVs between 80 and 89 days), the child’s THV was adjusted to coincide with a previously scheduled court date that was set shortly before the 90th day; in other cases children were released to permanency as a result of a self-executing order that terminated the THV short of 90 days.

In 31% (141) of the cases, children were released prior to 90 days on the court’s own initiative or in response to a formal motion or petition. A significant number of these releases occurred as a result of requests or recommendations made by parents, their attorneys, and/or guardians ad litem. In many, but not all, of these cases, the release was contrary to the Department’s recommendation.

There were an additional 1% (6) of the cases, involving children with an adjudication of unruly, in which the juvenile courts took the position that the Juvenile Court Act provides specifically for a 30-day trial home visit and that the child was therefore entitled to be discharged after a successful 30-day THV.392

Two children (0.4%) exiting care without a THV, or a THV less than 90 days, were those exiting custody at a preliminary or adjudicatory hearing (that may or may not have occurred within the first 30 days of custody). In a number of these cases, while the child/youth’s legal status changed as a result of the court’s decision, the region opened a non-custodial Family Support Services (FSS) case and continued to provide services in an effort to ensure stability and family independence from the child welfare system.

Eighteen (4%) had been living with relatives for more than 90 days when they exited care to the custody of those relatives.

There were six children who fell into the “other” category for the reason for a THV that lasted less than 90 days. In one case, the baby was placed under a Voluntary Placement Agreement (VPA), which was “revoked” after three days. In the second case, the child’s mother had been incarcerated; and the child was living with the grandmother until the grandmother was arrested. The child came into care upon the grandmother’s arrest, and when the child’s mother was released, her attorney and a DCS attorney agreed on a 60-day THV. In the third case, the child’s father was located and custody was given to him. In the fourth case, the two children were placed back with their mother, who had been the victim of an intentional shooting and was not a

392 The process and timelines related to trial home visits are governed by the Juvenile Court Act as well as by DCS policy. In implementing the requirements of the Settlement Agreement, the Department must also comply with the statutory requirements of Tennessee Code Annotated 37-1-130 (generally requiring a 90-day trial home visit for dependent and neglected children whom DCS is returning home) and Tennessee Code Annotated 37-1-132 (generally requiring a 30-day trial home visit for unruly children whom DCS is returning home).
perpetrator. The Department was asking for dismissal of the petition filed against the mother. In the final case, the child died.

M. Discharge Planning CFTM and Case Manager Responsibility during Trial Home Visit (VII.M)

I. Discharge Planning CFTMs

The Settlement Agreement requires that:

- a Discharge Planning CFTM be convened within 30 days of a child returning home on trial home visit, exiting custody to a newly created permanent family, or aging out of the system;

- participants identify all services necessary to ensure that the conditions leading to the child’s placement have been addressed and that safety will be assured, and that participants identify necessary services to support the child and family and the trial home visit; and

- if exiting custody is determined inappropriate, DCS make the appropriate application to extend the child’s placement in DCS custody before expiration of the trial home visit.

Department policy and revised training regarding the CFT process establish expectations for a Discharge Planning CFTM.

As discussed in previous monitoring reports, it appears that because of the variation in the way Discharge CFTMs are being coded when entered into TFACTS by field staff, more Discharge CFTMs are being held than the CFTM reporting reflects. Therefore, CFTM reporting also identifies all CFTMs held within 45 days of the beginning of a trial home visit, which allows for better identification of CFTMs that are serving as a Discharge Planning CFTM, even if they are coded as a different CFTM type.

Of the 41 children in the CFT Process Review sample who were on THV or had exited custody, 31 (76%) had a Discharge Planning CFTM and an additional eight children (20%) were ordered released by intervention of the juvenile court rather than through the Department’s normal discharge planning process.

According to the CFTM aggregate reporting for 2014, 54% of the children who were in custody during 2014 had a CFTM that was solely identified as a Discharge Planning CFTM; 62% of the children who began a trial home visit or were released from custody had a CFTM (irrespective of
designation) within 45 days of the time they began their trial home visit or were released from custody.\footnote{According to the Department’s aggregate reporting, for those children who had at least one Discharge Planning CFTM, 94\% of their meetings occurred within 30 days prior to the THV or custody end date in the first quarter, 92\% in the second quarter, 94\% in the third quarter, and 95\% in the fourth quarter of 2014.}

2. Case Manager Responsibility During Trial Home Visit

During the THV, the case manager is required to:

- visit the child in person at least three times in the first month and two times a month thereafter, with each of these visits occurring outside the parent or other caretaker’s presence;\footnote{This does not preclude the case manager from spending some additional time, either immediately before or immediately after the private visit with the child, observing the child with the caretaker and/or having conversations with the caretaker and others in the household.}
- contact service providers;
- visit the school of all school-age children at least one time per month during the THV;
- interview the child’s teacher; and
- ascertain the child’s progress in school and whether the school placement is appropriate.\footnote{If, prior to or during the trial home visit, exiting custody is determined to be inappropriate, DCS is to make the appropriate application to extend the child’s placement in the custody of DCS before the expiration of the trial home visit.}
Figure 7.9 below presents data on the number of days of face-to-face contact, with a DCS or private provider case manager, during the first 30 days of a child’s trial home visit.

![Figure 7.9: Percentage of Children on THV Receiving Zero, One, Two, or Three or More Days of Contact During the First 30 Days of THV, by Any Case Manager, January 2014 through December 2014](image)


There are two reports that provide data for the THV case manager face-to-face contact presented in this monitoring report. The TAC THV 3 in 30 2014 Report (the TAC report) is the source of the data presented in Figures 7.9 and 7.11. The Brian A. THV F2F Visits Summary Two Months Back Report (the visits summary report) is the source of the data presented in Figure 7.10. These two reports differ in several ways: the TAC report counts days that children are visited, while the visits summary report counts visits, without regard for how many may have happened on the same day. The TAC report includes children who are being served by a provider continuum, and counts visits by both DCS case managers and private provider case managers. The visits summary report does not include children served by a private provider continuum and counts only visits by DCS case managers.

According to the TAC THV 3 in 30 2014 Report, of the 2,097 children on a trial home visit for at least 30 days in 2014, 723 (34%) of them were being served by a provider continuum and 1,375 (66%) were being served by the Department alone during their first 30 days on trial home visit.

Because there are a good number of children being served by a provider continuum on trial home visits, the Department believes that the visits summary reporting presented in Figure 7.10 does not account for many of the visits that children are getting while on THV and is therefore underreporting THV visit practice.
Figure 7.10 presents data on the frequency of face-to-face contact, with a DCS case manager, during each month for all children on trial home visit (excluding those served through private provider continuums) irrespective of the number of days they have been on a THV.

The CFT Process Review sought to capture the extent to which case managers were spending private time with children and spending time at each child’s school. Reviewers found documentation of private time spent with the child for nine of the 10 children who went on a trial home visit during the review period. Of the 10 children who went on a trial home visit during the review period, eight were of school age. In all eight cases, the child’s case manager had visited the child’s school at least once.

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397 There is no aggregate reporting presently available to document the extent to which case manager visits include private time with the child, nor is there aggregate reporting available to document the extent to which case managers are contacting service providers, talking with children’s teachers, and/or ascertaining their progress in school and the appropriateness of their school placement.

398 In one case, the children were on summer break, but the case manager took them to register for school. In two cases, reviewers documented one visit to the child’s school during the review period. In the remaining five cases, the child’s case manager visited the child at school on several occasions, to attend an IEP meeting, to talk with a counselor, to ascertain the child’s grades, to ask the child about how school was going, and to observe the child in the classroom.
Figure 7.11 below captures the percentage of school-age children who received at least one visit at school from a case manager during the first 30 days of a trial home visit.

![Figure 7.11: Percentage of School-Age Children Receiving at Least One Visit at School During the First 30 Days on THV, January 2014 through December 2014](image)

SECTION EIGHT: FREEING A CHILD FOR ADOPTION

A. General Requirement Related to Adoption Process

As is the case in most child welfare systems, the large majority of children who come into foster care in Tennessee achieve permanency through reunification with their parents or relatives. However, for children who cannot be safely returned to the custody of their families or extended families within a reasonable period of time, both federal law and the Settlement Agreement require that the Department act promptly to terminate parental rights and place the child with an adoptive family, unless there are exceptional circumstances that would make adoption contrary to the best interests of the child.

The Settlement Agreement (VIII.A) requires that the process for freeing a child for adoption begin:

- as soon as a child’s permanency goal becomes adoption;\(^{399}\)
- in no event later than required by federal law; and
- immediately for a child for whom a diligent search has failed to locate the whereabouts of a parent and for whom no appropriate family member is available to assume custody.

The Department’s policies are consistent with these general requirements and the processes and administrative reviews discussed in the subsections below are designed to implement the requirements.

B. Replacement of “Legal Risk Placement Process” by “Dual Licensing”

As the Settlement Agreement reflects (VIII.B), the Department has replaced its process for making legal risk placements with policies and procedures for the “dual licensing” of resource families as foster parents and adoptive parents.

C. Diligent Searches and Case Review Timelines

1. Diligent Search Requirements

The Settlement Agreement (VIII.C.1) requires that diligent searches for parents and relatives be conducted and documented:

- by the case manager;

\(^{399}\) Under provisions of the Settlement Agreement regarding children with concurrent goals, this first bulleted provision is interpreted as applying only when adoption is the sole goal. The change of a child’s permanency goal to the sole goal of adoption by definition constitutes the beginning of the adoption process.
• prior to the child entering custody or no later than 30 days after the child enters custody; and
• thereafter as needed, but at least within three months of the child entering custody and again within six months from when the child entered custody.

The primary purpose of the diligent search is to identify potential placements and sources of support from within a child’s natural “circles of support”: relatives, friends, mentors, and others with whom the child has enjoyed a family-like connection, including those with whom the child has not had recent contact.400

The Settlement Agreement requirements are set forth in Department policy,401 and the Department has created a protocol for conducting diligent searches and developed a diligent search letter, a checklist, and a genogram template to assist case managers in conducting diligent searches. These forms are to be completed by the case manager and updated throughout the life of the case until the child reaches permanency.

The Department continues to work to improve diligent search practice and case file documentation of diligent search activities. The Department continues to place special emphasis on diligent searches for absent fathers and on meeting the expectations of federal law that every grandparent of a child in foster care be promptly identified, located, and contacted.

2. Requirement of Attorney Review of Cases of Severe Abuse Within 45 Days

The Settlement Agreement (VIII.C.2) requires in cases in which parents have been indicated for severe abuse that, within 45 days of that determination, a discussion take place with a DCS attorney to decide whether to file for Termination of Parental Rights (TPR) and that the decision is to be documented in the child’s case record.

The Department produces a semi-monthly report, sorted by region, which identifies all children who fall within this category. The regional administrator or his/her designee is expected to meet with the regional general counsel (RGC) to discuss each of the recently filed cases that include a severe abuse allegation and decide whether to file TPR. That attorney review is expected to be documented in the case conference notes and/or other case recordings, and those notes and/or recordings should provide sufficient information to:

• determine that the attorney in fact participated in the review; and
• establish that there was a specific discussion of whether to file TPR.

400 An aggressive approach to diligent search for parents and relatives from the outset of the case also ensures that the legal process can proceed quickly and efficiently. The Department expects that as the diligent search policy is effectively implemented, it will be reflected in increased utilization of kinship placements, reduction in delays in the Termination of Parental Rights (TPR) process, and improvements in Child and Family Team (CFT) data and Quality Service Review (QSR) data related to the participation of relatives and other informal supports in the CFT process.

401 Both Policy 16.48 Diligent Search and the various diligent search forms and tools have been revised to match the new diligent search and family notification requirements of H.R. 6893 Fostering Connections to Success and Increasing Adoption Act.
Each region has established a review process for these cases and is currently required to submit documentation of these reviews to Central Office. A Central Office staff member is responsible for the review of documentation submitted by each region to ensure that the expectations related to both the review itself and documentation of the review are being met.

The TAC is planning to conduct a targeted review of severe abuse cases in time for the results of that review to be included in the next monitoring report.


The Settlement Agreement (VIII.C.3) requires that within nine months of a child entering state custody, the permanency plans be reviewed with the DCS attorney for the following purposes:

- if the child is to return home or be placed in the custody of a relative, a timetable for unsupervised visits, trial home visits, and hearings to be returned to the parent/relative shall be established;\(^{402}\)

- if the child is not returning home, a timetable for providing documentation and information to the DCS attorney shall be established in order to file a TPR;\(^{403}\) and

- if the decision to file a TPR has been made and the child is not in a pre-adoptive home, the case manager along with the members of the Child and Family Team shall continue to search for relatives as placement options.

While many children who remain in custody for more than nine months are successfully reunited with their families, if at nine months a return to family is not imminent, if unsupervised parent child visits are not occurring, if there is no plan for a trial home visit, if significant obstacles remain to reunification, consideration generally needs to be given to other permanency options as sole or concurrent goals. The nine-month review is in essence a requirement for a “legal consultation” about the status of the case to make sure that, from the DCS attorney’s perspective, the case is moving in a sensible direction, that the goal or goals make sense, that the barriers to permanency have been identified, and that reasonable efforts are being made to address those barriers.

Each region has established and implemented a review process for these cases, and a Central Office staff member has been reviewing documentation submitted by each region and providing feedback to the regions to ensure that the Department’s expectations related to both the review itself and documentation of the review are being met.

\(^{402}\) Because, under the Child and Family Team Process embraced in the Settlement Agreement, establishing time tables for unsupervised visits, trial home visits and hearings for children who are to be reunited with their parents, is the responsibility of the Child and Family Team, the role of the attorney in the nine-month review is not to usurp the responsibility of the Child and Family Team, but rather to ensure that the Child and Family Team has addressed or is addressing those issues responsibly.

\(^{403}\) Implicit in this provision is that a determination has been made prior to or at the nine-month review that TPR is appropriate.
In order to determine the extent to which the required nine-month attorney reviews were occurring, the TAC monitoring staff in collaboration with DCS staff conducted a targeted review of a sample drawn from the population of class members who entered custody in June 2014 and remained in custody as of the April 6, 2015 TFACTS Mega Report. From the 239 children who entered custody in June 2014 and remained in custody as of April 2015, a sample of 69 cases was drawn. 404

For those children who had a sole or concurrent goal of return to parent or relative, the reviewers read the case conference notes and looked for specific references to parent-child visits, trial home visits, and prospective release dates. If unsupervised parent-child visits were not occurring, if there was no date set for trial home visit (THV), and if return home was not imminent, the reviewers expected to see evidence of a discussion of the current state of the case, factors that were impeding progress toward permanency, and reference to reasonable action steps being taken or to be taken to address those factors and move the case forward.

For those children for whom the sole or concurrent goal was something other than return to parent, the reviewers expected to see discussion of the obstacles to permanency and action steps being taken to address those obstacles. In cases in which a decision had been made to pursue TPR, the reviewers looked for actions steps and timelines for gathering the documents and information necessary for filing. 405

Based on conversations with the Deputy Commissioner for Child Welfare Programs, the reviewers considered “nine-month reviews” to be timely if they occurred as early as seven months after a child entered custody and as late as 10 months after the child came into custody.

Nine-month attorney reviews were documented in 68 of the 69 cases reviewed. 406 The reviews for those 68 cases occurred as early as seven months (in seven cases), and as late as 10 months (in eight cases).

In 42 cases, the case conference notes provided information that conformed to the specific requirements of VIII.C.3:

- There were 22 cases in which the case conference notes reflected the intention that the child return home or be placed with relatives and that, consistent with VIII.C.3.a, set forth a clear timeline for reunification with unsupervised visitation and trial home visits either occurring or scheduled to occur. (As of the June 29, 2015 Mega Report, 10 of those children were on THV and another seven had been released to a parent or relative.)

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404 The sample was stratified by region and represents a 95% confidence level and a plus/minus 10 confidence interval.
405 If a decision to file TPR was made, reviewers sought to determine whether the child was in a pre-adoptive home. If not, the expectation was that the case manager and Child and Family Team would continue to search for relatives as placement options.
406 The one child who did not receive a nine-month attorney review was a 15-year-old who was on a THV at the time that the nine-month review would have been expected to be scheduled. As a result of discussions during the Discharge CFTM for this child, the team concluded that there were safety concerns that warranted terminating the THV and the child was placed in a Level III resource home.
• There were 20 cases in which the case notes reflected that either a decision had been made to pursue TPR or surrender; that steps were being taken or consideration was being given to filing TPR or seeking surrender (including having discussions with the regional counsel, even if a final decision to file TPR had not been made); or that TPR or surrender had already occurred. (As of June 29, 2015, one of these children had exited to a relative, four were in full guardianship, one was in partial guardianship, and three were the subject of pending TPR proceedings.)

In the remaining 26 cases, the case conference notes reflected that the goal continued to be return to parent or relative, but there were no timetables established for unsupervised visits and THVs in 20 cases, and in six cases there was a timetable for unsupervised visits, but not for a THV.

The Deputy Commissioner for Child Programs has taken the professionally sound position that there are cases in which the “forced choice” at the nine-month review suggested by the Settlement Agreement language—that either timelines are set for unsupervised visits and THV or the case proceeds to TPR—is not consistent with the best interests of the child. There are cases in which setting a timetable for reunification or initiating a THV are premature even though it makes sense to continue to work toward return to parent or relative and not file TPR. In those cases, the Deputy Commissioner expects the nine-month review conference notes to reflect the barriers to reunification and the steps to be taken to address those obstacles, and expects some consideration be given to concurrent planning.

Of the 26 cases for which the goal remained return to parent or relative but no timetable was set, there were six cases that appeared from the case conference notes to involve some exigent circumstances that arose around the time of the nine-month review that was were understandably impeding or delaying reunification and that were also preventing timelines from being established for unsupervised visits and trial home visits. In each of those cases the case conference notes reflected actions that were being taken or would be taken to address these circumstances and those actions appeared to be appropriate.

407 The circumstances of those six cases were as follows:
• A THV was planned but the mother was arrested for harboring a runaway and a family crisis intervention program (FCIP) case was opened for two of her children because of truancy. The child (age 13) remains in the group home that he was placed in upon entering custody.
• One youth (age 16) was on THV that disrupted. After returning from THV, the child ran from the resource home in which she was placed. When she returned, she was placed in a resource home for a day then placed in a congregate care facility. She went home on a trial home visit on June 22, 2015.
• One youth (age 17) disrupted his THV one month prior to the nine-month mark and was placed in a congregate care facility where he remains as of June 29.
• One youth (age 16) was on runaway at the nine-month mark. She was placed on THV when she returned from runaway but that THV disrupted. She was placed in a resource home for a couple of days and then placed in congregate care facility.
• One youth (age 16) refuses to reunify with her parent. She is placed in a resource home and the team is working with the youth to participate in family counseling.
• One child had disrupted his THV three months prior to the nine-month mark and was placed in a congregate care facility. He was stepped down to a resource home placement on June 12, 2015. Case documentation reflects that both he and his mother have made progress.
In an additional four of the 26 cases, notwithstanding the absence of an explicit timeline in the case conference notes, the child within a relatively short period began THV (three cases) or was discharged to a relative (one case). And in one additional case, the child, shortly after the review, entered full guardianship after both parents surrendered their parental rights. Given the short duration between the nine-month review and these positive developments toward permanency in these cases, the absence of an explicit timeline in the case conference notes was not a matter of concern to the TAC.

In the remaining 15 cases, the TAC could not rely solely on the case conference notes to determine whether the nine-month review met the expectations described by the Deputy Commissioner and therefore conducted some additional follow-up.

In four of those cases, the case planning expectations articulated by the Deputy Commissioner had clearly been met, one through movement toward reunification with parents and three through concurrent planning.408

In an additional 10 cases, while there was some uncertainty about immediate prospects for permanency, the case file documentation in each case provided both an understanding of the current status of the case and evidence that the case was receiving ongoing attention and was not in danger of “slipping through the cracks.”409

In the one remaining case, upon further follow-up, the mother, who as of the nine-month review had lost contact with the Department, has recently reappeared and a potential relative resource has been identified.410

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408 The circumstances of those cases are as follows:
- The parents of a 13-year-old are in the process of completing the remaining requirements of the permanency plan and the child is expected to begin THV;
- A 13-year-old is placed on ICPC with her grandmother in Florida, and she and the grandmother continue to benefit from supportive involvement of the child’s aunt in Georgia;
- A 17-year-old lives in a resource home that is committed to adopting her and there are discussions as to whether to file TPR prior to the child’s 18th birthday or wait and pursue adoption after the child turns 18; and
- A 1-year-old and his twin are placed in a pre-adoptive home. The mother had been working her permanency plan and visiting the children; however, based on a severe abuse finding against the mother, the Department has been relieved of the obligation to make reasonable efforts to reunify the children with their mother, and subsequent to the nine-month review, the Department has lost contact with the mother. The Department is continuing to work with the father.

409 In two cases, the fathers have been visiting regularly and the Department continues to actively work with them toward reunification. In three cases, there are some questions about whether the parent is a viable permanent placement, but the children are in kinship resource homes, at least one of which is clearly considered a viable permanency option. In an additional four cases, the case notes reflect doubts about the viability of return to parent and consideration of moving toward TPR, and in at least one of those cases, the current resource parent appears to be the contemplated adoptive placement. In the tenth case, the mother and uncle from whom the child was removed have intermittently been working the permanency plan and the father, who lives out of state, has filed a petition for custody with the juvenile court, and the judge is awaiting the results of the paternity test before hearing the petition.

410 The Department is following up with a great aunt as a potential placement option; however, a TPR referral has also been completed as part of the concurrent planning in this case.
The TAC will continue to follow the 15 children discussed above and provide updated information to inform maintenance discussions.

4. Requirements Regarding Children in Custody for More than 12 Months

If return home or other permanent placement out of custody (relative or guardianship) without termination of parental rights is inappropriate at both 12 and 15 months, the Settlement Agreement (VIII.C.4) requires that a TPR petition be filed no later than 15 months after the date the child was placed in DCS custody, unless there are compelling reasons for not doing so and those reasons are documented in the case file. This requirement is consistent with the Adoption and Safe Families Act (ASFA) requirement that TPR be filed for any child who has been in care for at least 15 of the past 22 months, unless there are compelling reasons for not filing.

As discussed in previous monitoring reports, periodic targeted reviews and spot checks have consistently found that the Department is routinely making appropriate compelling reasons findings for those children for whom TPR was not filed within 15 months and is moving appropriately to file TPR if at some point those findings are no longer valid.

As part of ensuring the quality of this particular element of case practice, the Deputy Commissioner of Child Programs and Deputy General Counsel continue to conduct monthly reviews with each region (discussed further in Subsection C.5.d below).

Figure 8.1 below presents the monthly custodial population with the number of children in custody for 15 months or more for whom TPR has not been filed (red) and the number who have been in custody for 25 months or more for whom TPR has not been filed (green).
Figure 8.2 below presents all children in custody for 15 months or more, broken down into three groups:

- those children in custody for *15 months or more for whom TPR has been filed*;
- those who have been in custody for *15 to 24 months for whom TPR has not been filed*; and
- those who have been in custody for *25 months or more for whom TPR has not been filed*.

Of those children in care for 15 months, the percentage for whom TPR has not been filed (represented by a combination of the red and green bars) ranged between 36% and 42% for calendar year 2014.
Figure 8.3 presents information on the extent to which children who are in custody 15 months or more have a compelling reason to not file TPR documented in the case record.
As a part of the Deputy Commissioner’s review of all children in care 15 months or more (discussed further in Subsection C.5.d below), compelling reasons designations are reviewed for appropriateness.\footnote{To further ensure that these findings are regularly reviewed, compelling reasons documented in TFACTS expire automatically six months from the date that the compelling reasons documentation is entered.}

5. Time Frames Related to the Adoption Process (VIII.C.5)

The Settlement Agreement establishes time frames related to critical activities in the adoption process.

\textit{a. Requirement That TPR Be Filed Within 90 Days of Establishment of Sole Permanency Goal of Adoption}

The Settlement Agreement provides that within 90 days of the permanency goal changing to Adoption, the DCS attorney is expected to file a TPR petition, unless there is a legal impediment, in which case the petition is to be filed as soon as possible once that legal impediment is resolved. (VIII.C.5.a)

The TAC worked with the Office of Information Technology (OIT) to develop the TAC Sole Goal of Adoption Cohort Report, identifying all children who had a sole goal of adoption established in a cohort year. As discussed in Section One, the Department’s practice is consistent with this requirement.\footnote{See Section One, Subsection D.5.}

Of the 811 children who had a sole goal of adoption established in 2014, 752 (93\%) had TPR activity prior to or within three months of the sole goal establish date and 761 (94\%) had TPR activity prior to or within six months of the sole goal establish date. In an additional nine cases, TPR activity occurred more than six months after the sole goal establish date. In 10 cases, TPR activity occurred, but there was a lack of clarity regarding either the type of the TPR activity or the time between the establishment of the sole goal of adoption and the TPR activity.\footnote{The TPR activity occurred prior to the establishment of the sole goal in two cases, within three months of the sole goal establishment in four cases, within six months in three cases, and in more than six months in one case. All 10 children have been adopted.} The following is a breakdown by type of TPR activity:

- Filing of a TPR petition was the TPR activity in 629 cases. TPR petitions were filed prior to the sole goal establish date in 552 cases, within three months of the sole goal establish date in 62 cases, between three and six months in seven cases, and after six months in eight cases.

- The execution of surrenders, waivers of interest, or death certificates was the TPR activity in 141 cases. Surrenders, waivers of interest, or death certificates were executed prior to the sole goal establish date in 114 cases, within three months of the sole goal date in 24 cases, between three and six months in two cases, and after six months in one case.
In the cohort of 811 children, there were only 31 children for whom no evidence of TPR activity was found. In 21 of those 31 cases, the permanency goal had been changed and the goal was no longer solely adoption. Of the remaining 10 children:

- five children had exited custody between two and 10 months after the date that adoption was established as the sole goal (one to live with relatives and four to emancipation);

- five children (a sibling group) entered custody as a result of severe abuse allegations; based on the severe abuse allegations, adoption was established as the initial permanency goal and the Department decided to pursue a severe abuse finding as part of the adjudication of the petition that brought the children into care; the parents have also been charged criminally and the adjudicatory hearing in juvenile court has been delayed because of the pending criminal proceeding.

b. Ensuring Order of Guardianship within Eight Months of Filing of TPR

The Settlement Agreement requires the Department to take all reasonable steps to ensure that the date of the trial court order granting full guardianship is entered within eight months of the filing of the TPR petition. (VIII.C.5.b)

The monthly reviews conducted by the Deputy Commissioner of Child Programs and Deputy General Counsel with each of the regions of every child in care for 15 months or more include a specific focus on those children for whom TPR has been filed, but not yet achieved, to identify and discuss any delays in the court process and to ensure that legal counsel and program staff are taking all reasonable steps to bring the case to trial and/or resolve any appeals expeditiously.

For purposes of reporting on this provision, the TAC worked with the Department’s OIT staff to produce a detail report (TAC TPR Activity Report) identifying all children for whom a TPR was filed during the 2013 calendar year.

Of the 1,385 children for whom a TPR was filed in 2013, the Department had obtained (as of April 22, 2015) a court order of full guardianship for 1,085 children. Of the 1,085 children, 832 (77%) had a court order obtaining guardianship in eight or fewer months, 181 (17%) in nine to 12 months, and 22 (6%) in 13 months or more.

The TAC monitoring staff are in the process of conducting a review of a statistically significant sample of 70 of the 253 cases for which the time from filing of TPR to the entry of the trial court guardianship order exceeded eight months to determine the extent to which the delay was attributable to any failure on the part of DCS to take “reasonable steps.” The TAC monitoring staff are also in the process of reviewing a statistically significant sample of those children for whom a TPR was filed in 2013, but for whom the Department had not obtained a court order of full guardianship as of April 22, 2015. The TAC anticipates completing this review in time for the results to inform the maintenance discussions.
c. Ensuring Adoption Finalization or Transfer to Permanent Guardianship within 12 Months of Guardianship Order

Once an order of guardianship is obtained, the Settlement Agreement requires the Department to move expeditiously to ensure that the child achieves permanency either through adoption or permanent guardianship. (VIII.C.5.c) The Department is expected to take “all reasonable steps to ensure that the date of the finalization of the adoption or the date the child achieves permanent guardianship will be within 12 months of full guardianship.”

As discussed in Section One, of the 1,073 children for whom parental rights were terminated or surrendered between January 1, 2013 and January 1, 2014, 79% (1,352) had their adoption finalized or permanent guardianship transferred within 12 months of entering full guardianship. The Department’s success rate in achieving adoption or subsidized permanent guardianship within 12 months of termination of parental rights is evidence that the Department is taking the “reasonable steps” required by this provision.

For the one child out of five for whom adoption or permanent guardianship is not achieved within 12 months, the Finding Our Children Unconditional Supports (FOCUS) process, discussed in Subsection D below, is designed to ensure compliance with this requirement. While the process does not guarantee that a child achieves permanency within 12 months of full guardianship, the required actions steps, frequent reviews, and ongoing tracking and reporting, if done diligently, should ensure that “all reasonable steps” are being taken in each case.

d. Special Administrative Review of Children in Custody for 15 Months or More For Whom TPR Has Not Been Filed

The Settlement Agreement requires that all children who have been in custody for 15 months or more with no TPR petition filed be reviewed by the Commissioner or the Commissioner’s designee. (VIII.C.5.d)

Regional administrators and regional supervising attorneys have been designated by the Commissioner to review and monitor all cases of children in care for 15 months or more in their respective regions to ensure that TPR has been filed (or is in the process of being filed) unless compelling reasons exist for not filing. To assist with this review process, the Department continues to produce a monthly report, by region, that identifies all children who have been in care for 15 months or more for whom no TPR petition had been filed. As discussed in previous monitoring reports, each of the regions developed a process for reviewing these cases.

In addition, these cases are included in the Central Office review conducted with the regions and led by the Deputy Commissioner of Child Programs and Deputy General Counsel. These

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414 This is a slight decrease from performance for the previous reporting period. Of the 1,036 children for whom parental rights were terminated or surrendered between January 1, 2012 and January 1, 2013, 80% (826) had their adoption finalized or permanent guardianship transferred within 12 months of entering full guardianship.

415 In addition, the monthly reviews of children in care for 15 months or more conducted by the Deputy Commissioner of Child Programs and Deputy General Counsel with the regions, while focused on children for whom guardianship has not yet been achieved, include review and discussion of those cases of children in full guardianship for whom there appear to be delays in moving to permanency.
conference calls, which are held monthly with each region, examine the status of not only those children who have been in custody for 15 months or more for whom TPR has not been filed, but also those for whom TPR has been filed but guardianship not yet achieved. The Deputy Commissioner of Child Programs and Deputy General Counsel are using these reviews to identify and address issues related to the timeliness and quality of the “compelling reasons” findings, the periodic review of those findings, and the timeliness of filing for TPR in cases in which there are no compelling reasons (or are no longer any compelling reasons) for not filing TPR.

As part of the TAC’s ongoing monitoring, TAC monitoring staff continue to periodically review the spreadsheets that are the basis for these reviews and call into the monthly conference calls in order to better understand both the review process and the quality of the discussions. Based on the observations of the review process, the TAC is satisfied that the reviews being conducted are rigorous and that the process is ensuring that either there are compelling reasons for not filing TPR or, if there are not, that the region is taking appropriate action to terminate parental rights.

6. Special Preference for Resource Parents in Adoption Process

The Settlement Agreement provides that a resource parent who has been providing foster care for a child for 12 months is entitled to a preference as an adoptive parent for that child, should the child become legally free for adoption. (VIII.C.6)

The Department has implemented a single resource parent approval process that qualifies resource parents as both foster and adoptive parents and the adoption preference for a resource parent who has been caring for a child for 12 months or more is reflected in both DCS policy and state statute.

D. “FOCUS” Team Process for Children in Full Guardianship

In an effort to ensure that children in full guardianship move more quickly towards permanency, the Department has implemented an innovative case tracking and permanency support process referred to as “FOCUS Teams” (Finding Our Children Unconditional Supports). The Modified Settlement Agreement embraces the FOCUS process.

1. Requirement of Prompt FOCUS Team Review of Each Child Entering Full Guardianship

The Settlement Agreement provides that the FOCUS Team “will ensure that all children or youth entering full guardianship each month will be reviewed to determine whether or not these children or youth have a permanent family identified and that the needed supports and services are in place to ensure timely permanency.” (VIII.D.1)

As discussed in detail in the January 2015 Monitoring Report, the FOCUS process currently serves the function of ensuring a prompt review of the cases of children coming into full
guardianship focused on determining whether the child has a permanent family identified and that appropriate action is being taken to ensure timely permanency.

2. Children with Permanent Family Identified: Assessment of and Response to Barriers to Permanency and Monthly Tracking

If there is a specific potential permanent family identified for a child, the Settlement Agreement requires that there be an assessment regarding any barriers to permanency. If there are identified barriers to permanency, appropriate referrals are to be made to the regions or private provider agency or agencies as may be needed and appropriate. Children and youth with an identified permanent family are to be reviewed monthly to assess whether the identified permanent family is still a viable permanency option.

Once a child enters the FOCUS process, the FOCUS reviews and tracking process are designed to meet this requirement. The Department has created a tracking spreadsheet that includes specific fields to record the core activities that must be undertaken, concerns that must be addressed, and services and supports that must be provided in order for the “intent to adopt” to be signed and the adoption to be finalized (or other “permanent family status” achieved).

The tracking process, including the Central Office review of the tracking spreadsheets, is intended to ensure that for each case with a potential family identified, barriers to permanency are identified, action steps for addressing those barriers are established, and either permanency achieved, or if the barriers cannot be addressed, appropriate action taken to find an alternative family.\footnote{This tracking system should also provide data that help the Department identify and respond in a more systematic way to certain kinds of obstacles that appear to affect large numbers of cases.}

TAC monitoring staff analyzed the monthly FOCUS spreadsheets and the “TAC Full Guardianship Report” for the first two quarters of 2014 to identify children who entered full guardianship during those first two quarters.

Of the 304 children who entered full guardianship in the first quarter of 2014, 143 children were initially listed as having an adoptive family identified, and 108 children were initially listed as having an anticipated family identified. Of the 143 children with a family identified, 141 (99%) have exited custody: 139 (97%) to adoption (137 exited in 12 months or less and two exited 14 months after entering full guardianship); one to permanent guardianship; and one to emancipation. Of the 108 children who had an anticipated family identified, 85 (79%) have exited custody: 80 (74%) exited to adoption (74 exited in 12 months or less and six exited between 13 and 15 months after entering full guardianship); three (3%) children exited to live with relatives; one (1%) child exited to permanent guardianship; and one (1%) child to emancipation.

Of the 391 children who entered full guardianship in the second quarter of 2014, 223 children were listed as having an adoptive family identified, 114 children were listed as having an anticipated family identified, and one child was initially listed as having an approved PPLA goal.
Of the 223 children with a family identified, 211 (95%) have exited custody: 210 (94%) to adoption (208 exited in 12 months or less and two exited 13 months after entering full guardianship), and one exited to emancipation. Of the 114 children who were listed as having an anticipated family identified, 94 (82%) have exited custody: 92 (81%) have exited to adoption (91 exited in 12 months or less and one exited 13 months after entering full guardianship); one child exited to live with a relative; and one child exited to permanent guardianship.

There were a total of 58 children from the first and second quarter cohorts combined who were designated at the initial FOCUS review as having a family identified, an anticipated family identified, or an approved PPLA goal, but who remained on the FOCUS tracking sheets as of March 2015. Of these 58 children, 12 were designated as family identified, 24 were designated as anticipated family identified, two were designated as placed in an approved PPLA placement, and 20 had been re-designated as “no family identified.”

Remaining barriers to permanency for the 36 who continued to be designated as family identified or anticipated family identified were: waiting for activities around the adoption process (home study addendum, signing of intents, and waiting for the required six months to lapse) to be completed (18 children); timelines associated with the ICPC process (four children); the negotiation of the adoption subsidy (four children); a decision to wait until all children in a sibling group were legally free or all placed in the same resource home so that the resource parent could adopt all the children at the same time (three children from three sibling groups); waiting for stabilization of the children and reunification of the sibling group with the hope that they could be adopted together (two children from one sibling group); waiting for personal circumstance of kinship resource parents to resolve before moving forward with adoption, SPG, or Approved PPLA (two children); and the resource parent and/or child changed their mind about adoption and either the team is working to stabilize the home or recruiting a new home (three children). FOCUS documentation reflected that actions were being taken in each of these cases to address the relevant barriers to permanency.

3. Children without Permanent Families Identified: Required Action Steps

For children and youth without a potential permanent family identified, the Settlement Agreement requires that the following steps be taken to ensure timely permanency:

- the Child and Family Team is to ensure the development and implementation of the child or youth’s Individualized Recruitment Plan, which is to include time frames, roles, and responsibilities;

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417 Three of those nine children had been placed in residential programs for purposes of stabilization; a sibling group of six is placed in a home together and the team anticipates that they will be adopted by September 2015 at the latest; a family member in another state is going through the ICPC process for one child, and the team is pursuing ongoing recruitment if the ICPC is denied; two children (siblings) are currently separated and the team is waiting for stabilization of the children in hopes of reunifying them so that they can be adopted together; two children recently moved into a pre-adoptive placement; one child’s plan is reunification with his mother who has been granted supervised visitation by the court; and ongoing recruitment is occurring for three children who do not yet have a pre-adoptive home identified.
- the Child and Family Team is to ensure that the child or youth is registered on AdoptUSKids to help match the child or youth with potential families; and
- the Child and Family Team is to ensure the use of archeological digs, family searches, interviews, and other options to build a team of informal and formal supports to assist in finding permanency.

As discussed in the January 2015 Monitoring Report, the FOCUS process currently ensures that these actions are being taken in cases in which a potential permanent family has not been identified.

4. Requirement of Individual Tracking and Monitoring and Outcome Data Analysis and Reporting

The Settlement Agreement requires that the FOCUS Team:

- monitor case progress;
- provide tracking and outcome data to measure the effectiveness of the FOCUS process in moving children and youth toward permanency; and
- use aggregate and qualitative data to report on trends that promote and prevent timely permanency for children.

The Settlement Agreement calls for specific reporting and analysis on those children and youth disrupting from placements while in full guardianship.

As discussed in the January 2015 Monitoring Report, the Central Office FOCUS Team is monitoring case progress, generating (in collaboration with the TAC monitoring staff) aggregate and qualitative data to measure the effectiveness of the FOCUS process, and is drawing on aggregate and qualitative data to understand impediments to both permanency and placement stability for children in full guardianship and to identify and promote strategies to overcome those impediments.

E. Post-Adoption Services

The Settlement Agreement (VIII.E) requires that DCS maintain a system of post-adoptive subsidies and services and provide notice of and facilitate access to those services at the earliest possible time to all potential adoptive families and resource families.

The Department requires all resource parents who are interested in adopting a particular child to complete an “Intent to Adopt/Application for Adoption Assistance Form” as one vehicle for ensuring that adoptive parents have knowledge of the availability of adoption assistance. The form includes the application for assistance and also serves as the file documentation required by
this provision of the Settlement Agreement. The form also provides information about access to the post-adoption services which the Department provides through the Adoption Support and Preservation (ASAP) Program.

As discussed in previous monitoring reports, the Department contracts with ASAP (Adoption Support and Preservation), a program that offers preparation training, crisis intervention and intensive in-home services, counseling, support groups, educational forums, training opportunities, and help lines for adoptive parents. These services are available to Tennessee families who have either made their intent to adopt known or who already have finalized adoptions through DCS. ASAP also provides post-permanency support to the subsidized permanent guardianship families to prevent disruption and reentry into care. ASAP provides pre-adoption counseling to adopting parents and children that includes help with parenting skills, self-awareness of triggers, and other aspects of being an adoptive parent.

ASAP provides monthly updates to the Department detailing clients served, services provided, and other information for the previous month and year-to-date. As of April 2015, the ASAP program had provided services to 480 clients during fiscal year 2014-15 and reports both pre-adopt disruption and post-adopt dissolution rates of less than 1%. As of April 2015, according to these reports, no adoptive family receiving services dissolved their adoption in fiscal year 2014-15, and only seven families receiving services experienced a post-adoptive disruption. Five pre-adoptive families receiving services experienced a disruption in the same time period.

The original contract liability limit for the contract that includes ASAP for fiscal year 2013-14 was $2.9 million. Actual expenditures for this contract for the ASAP program in 2013-14 were $1,806,756. The contract liability limit for the current fiscal year for the contract that includes ASAP is $2.9 million. Actual expenditures for the period from July 1, 2014 through April 30, 2015 were $1,325,164.

Some regions do have a waiting list for families referred for services. Currently, wait times appear to range from 2-4 weeks in each of the three grand regions.

At any given time there are approximately 5,000 Tennessee families, serving over 9,000 children, receiving an adoption assistance subsidy from the Tennessee Department of Children’s Services.
SECTION NINE: RESOURCE PARENT RECRUITMENT, RETENTION, AND APPROVAL

A. General Requirement to Maintain Resource Parent Recruitment Program

The Settlement Agreement requires DCS to establish and maintain a statewide, regional and local program of resource parent recruitment and to ensure the availability of a toll-free phone number in all regions of the state to provide information concerning the availability of adoption information, training, the approval process, and children available for adoption. (IX.A)

1. Recruitment and Retention Efforts

As discussed in previous monitoring reports, the Department’s recruitment and retention efforts in recent years have focused on the regional recruitment plans, developed by each region with support (including the provision of relevant TFACTS data) from the Central Office, with specific recruitment targets and strategies for achieving those targets set by each region. The regions continue to develop and refine regional recruitment plans that focus on utilizing data to both set goals and measure progress. The recruitment plans each include an analysis of the characteristics of the foster care population in the region and the characteristics of the present resource homes (DCS and private provider) in the region. Central Office and regional Resource Parent Support staff meet quarterly in three grand regional meetings where regions share progress, challenges and successful strategies with each other.

Most of the current regional plans include goals focused on retaining current resource parents and maintaining the total number of resource homes; placing children closer to their home of origin and targeted recruitment in specific counties or zip codes; continued focus on placement with kin; and recruitment for specific age groups such as teenagers.

Since adopting this approach to resource home recruitment planning and implementation, the Department has seen an overall increase in resource home capacity (although there has been a slight decline during 2014 compared to the last quarter of 2013), with successful recruitment of new resource parents (by both the Department and private providers) outpacing resource parent attrition for the past several years. Some of this increase in capacity can be attributed to increased utilization of kinship resource homes.

Figure 9.1 shows for the period from June 2012 through December 2014 (in quarterly intervals) the number of fully approved DCS resource homes (segment shaded blue), the number of kinship resource homes that only have an expedited approval (segment shaded red), and the number of

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418 Under Tennessee’s dual approval process, both foster and adoptive parents are considered to be resource parents.
419 TFACTS reporting on the number of resource homes became available in the summer of 2012. Under TNKids reporting, the number of resource homes showed a steady decline for years. Because TFACTS reporting is more sophisticated and accurate, while the TAC does not directly compare the two the TAC is comfortable comparing the steady decline with the recent steady increase in number of homes.
private provider resource homes (segment shaded green). There were a total of 4,747 homes as of December 23, 2014, as compared to 4,905 on December 17, 2013.

### Figure 9.1: Number of Resource Homes

<table>
<thead>
<tr>
<th>Month</th>
<th>DCS Full Approval</th>
<th>DCS Expedited Approval</th>
<th>Private Provider</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jun-12</td>
<td>2197</td>
<td>385</td>
<td>1917</td>
</tr>
<tr>
<td>Sep-12</td>
<td>2219</td>
<td>375</td>
<td>1973</td>
</tr>
<tr>
<td>Dec-12</td>
<td>2216</td>
<td>329</td>
<td>2035</td>
</tr>
<tr>
<td>Mar-13</td>
<td>2316</td>
<td>305</td>
<td>2100</td>
</tr>
<tr>
<td>Jun-13</td>
<td>2326</td>
<td>352</td>
<td>2157</td>
</tr>
<tr>
<td>Sep-13</td>
<td>2352</td>
<td>352</td>
<td>2185</td>
</tr>
<tr>
<td>Dec-13</td>
<td>2397</td>
<td>297</td>
<td>2211</td>
</tr>
<tr>
<td>Mar-14</td>
<td>2299</td>
<td>302</td>
<td>2188</td>
</tr>
<tr>
<td>Jun-14</td>
<td>2268</td>
<td>345</td>
<td>2203</td>
</tr>
<tr>
<td>Sep-14</td>
<td>2241</td>
<td>305</td>
<td>2244</td>
</tr>
<tr>
<td>Dec-14</td>
<td>2202</td>
<td>287</td>
<td>2258</td>
</tr>
</tbody>
</table>


2. Toll Free Number and Availability of Information for Prospective Resource Parents

As discussed in previous monitoring reports, prospective resource parents can inquire about becoming a resource parent by calling the Department’s 1-877 number for prospective resource parents or through contacting the regional offices directly. In addition, several websites contain information about fostering and adopting children. Information about the Department’s programs and processes related to fostering and adoption are available online at [http://www.tn.gov/dcs/topic/adoption](http://www.tn.gov/dcs/topic/adoption). The website [www.parentchild.org](http://www.parentchild.org) also contains information regarding recruitment and retention and a link to the AdoptUSKids [www.adoptuskids.org](http://www.adoptuskids.org) website, which has profiles for the children in state custody who are in need of adoptive homes.

Additionally, the State of Tennessee has centralized information about initiatives related to Tennessee children at [www.kidcentraltn.com](http://www.kidcentraltn.com), which compiles information and resources from a number of agencies.

B. Resource Parent Recruitment and Approval Process

The Settlement Agreement requires DCS to develop and maintain standards to approve only
appropriate resource families. All such approvals are to be handled within the regions or by private provider agencies, which must be adequately staffed and trained.

The Department’s policy regarding the regular approval process conforms to the requirements of the Settlement Agreement. The Department, in consultation with the TAC, has established standards and a process for approval of resource families that is consistent with nationally accepted standards and that apply equally to DCS and private provider resource parents. The Department’s resource parent approval process is handled by regional and local offices. The Department’s resource parent approval process qualifies any resource parent who successfully completes that process for both fostering and adoption. The Department requires private provider resource parents to meet the same standards, receive comparable training, and be subject to the same approval criteria as DCS resource families.

The Department has established Resource Home Eligibility Teams (DRHET for DCS homes and RHET for provider homes), through which the Department internally maintains all documents relating to the Title IV-E eligibility of resource homes. The documents required for IV-E eligibility include fingerprint results, criminal records checks, DCS background checks, several abuse and offender registry checks, and completion of Parents As Tender Healers (PATH) training.  

As of December 2014, there were 88 resource parent support workers (RPS) across the state. Responsibilities vary by region, but resource parent support staff are generally responsible for monthly home visits with resource parents, for approvals and re-approvals of resource homes including expedited approval of kinship homes, for home studies, for recruitment events, and for offering additional support to resource parents.

The Department has determined that a resource parent support worker can be reasonably expected to support between 30 and 35 resource homes. The Department continues to monitor RPS worker caseloads through monthly manual caseload tracking. The December 2014 manual caseload tracking report lists 86 workers supporting at least one resource home. Of those workers, 69 (80%) support 35 or fewer homes; 15 (18%) support between 36 and 49 homes; and 2 (2%) workers support 50 or more homes.

As discussed in previous monitoring reports, the recruitment and retention staff resources within the Department have been supplemented by contracts with four private provider agencies serving four grand regions of the Department. The goal of the contracts is to expedite the approval process by assisting with home studies and conducting individual Parents as Tender Healers

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420 While RHET maintains electronic copies of these eligibility documents, private providers remain contractually responsible for ensuring that their resource homes and their residential facilities are meeting the requirements for IV-E eligibility and that copies of the required documentation are furnished to the Department.

421 Some regions have separate staff who do resource parent support work and write home studies, and some regions choose to have all staff do both duties.

422 As result of the Case Assignment enhancement implemented in December of 2014, the Department, should they decide it is important to do so, could develop an RPS worker workload report from TFACTS. However, the current manual tracking system well meets the Department’s management needs and the TAC’s monitoring needs, and therefore there is no plan to devote resources to developing an automated TFACTS report at the present time.

423 See Subsection B.4.b below for more information about RPS workers.
(PATH) training when needed, particularly with home studies for kin resource parents. This contract for fiscal year 2011-12 was $513,060, and the contract for fiscal year 2012-13 was $497,164. The maximum liability for the contract entered into in fiscal year 2013-14, which covers a period of three fiscal years, is $7,210,640. 424

1. Time to Respond to Inquiries

The Settlement Agreement requires all inquiries from prospective resource parents to be responded to within seven days after receipt.

When calls come to the 1-877 number referenced in Section A.1 above, they are answered by Central Office Foster Care staff, and a letter containing general information is mailed from Central Office to the prospective resource parent. Information about the prospective resource parent is then emailed to the appropriate region. Regions are expected to contact the prospective resource parent and enter the home into TFACTS as an inquiry. A staff person in Central Office tracks all of the inquiries to the 1-877 number and ensures that inquiry and response information are entered into TFACTS.

Some inquiries are made to the region directly rather than through the 1-877 number. The regions are expected to process and respond to these inquiries in the same manner that they respond to inquiries they receive from Central Office: by recording these inquiries in TFACTS and responding within seven days. (Central Office staff track inquiries in TFACTS and also mail a letter to those prospective resource parents, irrespective of whether those inquiries came through the region or through the 1-877 number.)

The TFACTS Resource Home Inquiry Report provides a percentage of inquiries responded to within seven days, for all of the inquiries that are entered into TFACTS. The statewide performance for inquiries responded to within seven days for the 906 inquiries entered into TFACTS for 2014 425 was 95%, compared with 97% in 2013 and 2012, and 94% in 2011. Three regions responded to 100% of the inquiries within seven days; the lowest performing region responded to 80% within seven days.

2. Time to Complete Home Studies

The Settlement Agreement requires that home studies be completed within 90 days of the applicant’s completion of the approved training curriculum, unless the applicant defaults or refuses to cooperate.

Of 444 DCS resource homes approved from July 1 to December 31, 2014, 82% (366) were

424 Setting the high liability limit allows the Department flexibility should the regions find value in taking greater advantage of these home study contracts.
425 The period covered by this report is January 9, 2014 through January 9, 2015.
approved within 90 days of PATH Completion. An additional 52 homes (12%) were approved between 91 and 120 days, and the remaining 26 homes (6%) were approved within 150 days. This is consistent with performance for the last quarter of 2013 when 81% of homes were approved within 90 days, and an increase in performance from years preceding 2013 when generally around 65% of homes were approved within 90 days.

Of the 51 homes that were not approved within 90 days during the third quarter of 2014, there were 49 homes for which the TAC monitoring staff had an opportunity to review a “waiver form”—a form which the regions are supposed to fill out any time approval has or is expected to exceed the 90-day time frame (or the 120-day time frame for kinship resource home approval). The region is expected to provide on that form the reason(s) for the delay in the approval process. Of the 49 “waiver” forms reviewed:

- Seventeen described delays attributable to the family (such as travel, failure to complete actions steps, failure to provide needed documentation or submit references in a timely manner);
- Fourteen described delays attributable to the Department or to the contracted home study agency (for example high caseloads; prioritizing approval of kinship families, resulting in delay in non-kin cases; and extended leave by a home study writer);
- Seven described delays in receiving required documents from the providing body (divorce or birth certificates from other states that were requested in a timely manner); and
- Eleven either did not have a clear explanation or the explanation contained information that suggested a combination of factors, some attributable to the family and some attributable to the Department, that resulted in the delay.

The remaining two homes had been approved in 92 and 115 days.

3. Exit Interview Requirement

The Settlement Agreement requires that identified staff persons conduct exit interviews with all resource families who voluntarily resign as resource parents and that DCS issue annual reports on why resource families leave DCS and what steps are necessary to ensure their retention.

As discussed in the January 2015 Monitoring Report, the Department has implemented a well-designed exit interview and reporting process that meets the expectations of this Settlement Agreement provision.427

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426 Homes that were reactivated during this time period were excluded from this report because by policy, they are required to have completed PATH training within the past two years. An additional three homes were also excluded because their PATH completion information was not entered completely or accurately in TFACTS. As discussed earlier in Subsection B, the Department’s RHET process ensures that there is a PATH certificate for all homes at initial approval. TAC monitoring staff reviewed documentation of training for all three homes.

427 The last quarter of 2014 was not included in the 2014 annual report, and the Department intends to include this in the 2015 annual report.
4. Utilizing Experienced Resource Parents in Recruitment and Retention Efforts; Maintaining a Statewide and Regional Support System for Resource Parents

The Settlement Agreement provides that, to the extent possible, DCS is to use existing resource families to recruit and retain new resource families. In addition, DCS is required to maintain a statewide and regional support system for resource families.

a. Utilization of Resource Parents in Recruitment and Retention Efforts

The Department continues to make a concerted effort to include resource parents in recruitment planning and outreach. Each region is expected to have a resource parent as a part of the team creating the region’s annual recruitment and retention plan. Many regions have regularly scheduled meetings, called Quality Practice Teams or Quality Circles, on the topic of recruitment and retention that have resource parents as members. In addition, some regions have included in their recruitment and retention plans specific action steps related to involving resource parents in recruitment efforts.

b. Support System for Resource Parents

The Department engages in a variety of formal resource parent support activities including: support of and coordination with the Tennessee Foster Adoptive Care Association (TFACA) and the Foster Parent Advocate Program; provision of formal services, such as those offered through the Adoption Support and Preservation (ASAP) program; and inclusion of resource parents in regional and Central Office planning meetings and initiatives.

In addition, each DCS resource parent has a Resource Parent Support (RPS) worker whose purpose is to provide support directly to the resource parent. The RPS worker is required to meet at least monthly with each resource family on her/his caseload and is expected to respond directly to the particular needs of each resource family. They also assess the family’s individual training needs (and can provide feedback to Central Office if additional training is needed).

Finally, perhaps the most important supports, from the perspective of resource parents, are those that come from the daily interactions between the resource parents and the case managers responsible for the children in their care and with the other regional staff with whom they interact. As discussed in previous monitoring reports, the TAC has identified examples of high-quality casework with resource parents in every region, where training, mentoring, day-to-day supports, and case manager responsiveness won praise from resource parents.

428 The Department’s work in this area is in line with the recommendations for federal law in When Child Welfare Works: A Working Paper released by the Annie E. Casey Foundation and Jim Casey Youth Opportunities Initiative on October 23, 2013, which recommends support for family foster homes through the use of dedicated workers (p.9).
5. **Requirement of Respite Services for Resource Parents with Special Needs Children**

The Settlement Agreement requires that DCS provide adequate and appropriate respite services on a regional basis to resource parents with special needs children. As discussed in previous monitoring reports, the Department continues to allocate an additional $600 per year (the annual cost of two days of respite care each month) for every resource family to allow those families to purchase respite services. Each resource family receives this additional payment whether they actually use respite or not. Additionally, the Department has approved a Delegated Purchase Authority (DPA) to purchase additional respite care when the needs of the child or family require it.

In the variety of activities that have involved contacts between TAC monitoring staff and resource parents about issues of concern to resource parents, lack of respite care has not been identified as an area of significant concern.\(^{429}\)

C. **Requirement that Resource Parent Room and Board Rates Meet United States Department of Agriculture (USDA) Standards**

The Settlement Agreement requires that all resource parent room and board rates (including rates for DCS resource parents, private provider resource parents, and certified relatives and kin) at a minimum meet USDA standards and are adjusted annually to be no lower than USDA standards for the cost of raising children within this region of the country. As reported in previous monitoring reports, board rates have generally met or exceeded USDA standards.\(^{430}\)

The Department is presently using the USDA daily cost of living for the "\textit{lowest income level, urban south}" as the USDA guideline that resource home board rates must meet or exceed.\(^{431}\) The minimum board rates that DCS currently pays its resource parents far exceed the “lowest income level, urban south” and for some age groups meet or exceed the USDA “middle income level, urban south” guideline for 2013.\(^{432}\) The Department raised its resource parent board rates effective July 1, 2014. The new rates are displayed in Table 9.1 below.

1. **DCS Resource Parents**

All DCS resource parents, both fully-approved kinship homes and non-relative homes, receive the same room and board rates. The present rates are reflected in Table 9.1.

\(^{429}\) The activities include: conducting phone interviews for the VI.A.1.d review, review of Exit Survey results, attendance at the annual Foster Parent conference, and referrals from resource parents made to the office.

\(^{430}\) The board rates have at least exceeded the daily rates established by USDA for the lowest income level.

\(^{431}\) Because the Department has also referenced the middle income level in discussions related to resource parent board rates, USDA rates for both the lowest and middle income levels are included in Table 9.1.

\(^{432}\) The 2013 USDA report is the most recent available report.
Table 9.1: Resource Parent Board Rates (Effective July 1, 2014)

<table>
<thead>
<tr>
<th>Age</th>
<th>Resource Parent Board Rate</th>
<th>Adoption Assistance</th>
<th>Subsidized Permanent Guardianship</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regular Board Rates</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0-11 years</td>
<td>$24.49 per day</td>
<td>$24.44 per day</td>
<td>$24.44 per day</td>
</tr>
<tr>
<td>12 years and older</td>
<td>$28.11 per day</td>
<td>$28.06 per day</td>
<td>$28.06 per day</td>
</tr>
<tr>
<td>Special Circumstances</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0-11 years</td>
<td>$26.94 per day</td>
<td>$26.89 per day</td>
<td>$26.89 per day</td>
</tr>
<tr>
<td>12 years and older</td>
<td>$30.92 per day</td>
<td>$30.87 per day</td>
<td>$30.87 per day</td>
</tr>
</tbody>
</table>

Source: DCS Intranet Website.

Regular resource home board payments are available for all children in DCS custody or guardianship who are placed in approved homes. Special circumstance rates are designed for children with unique needs. Extraordinary room and board rates (in excess of the special circumstances rate) can also be established on a case-by-case basis if the child's needs are so unique and extensive that they cannot be met at the regular or special circumstance rate.

The Table 9.2 compares the Department’s standard and special circumstance board rates (set forth in the third column) to the USDA guidelines for the daily cost of raising children for the lower and middle income levels for two USDA regional designations: “urban south” and “rural areas” (set forth in the first two columns), excluding expenditures for health care and child care.

433 According to the policy, the unique needs may be related to a diagnosed medical or mental health condition. They may also apply if a child requires a level of supervision exceeding that of his or her peers or extra care because of physical, emotional, or mental disabilities. Children with special behavioral problems or alcohol and drug issues may also be eligible.

434 DCS Policy 16.29 Resource Home Board Rates.

435 Tennessee provides health care and child care as a separate benefit and covers all costs associated with these areas. Therefore, resource parents are not financially responsible for these expenditures.
Table 9.2: Comparison of USDA Guidelines and DCS Board Rates

<table>
<thead>
<tr>
<th>Age of Child</th>
<th>Estimated Daily Expenditures for the “Urban South” Lowest/Middle</th>
<th>Estimated Daily Expenditures for “Rural Areas” Lowest/Middle</th>
<th>DCS Board Rates Regular/Special Circumstances (effective July 1, 2014)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-2</td>
<td>$16.77/$23.01</td>
<td>$14.66/$20.16</td>
<td>$24.49/$26.94</td>
</tr>
<tr>
<td>3-5</td>
<td>$17.42/$23.59</td>
<td>$15.26/$20.74</td>
<td>$24.49/$26.94</td>
</tr>
<tr>
<td>6-8</td>
<td>$19.32/$25.95</td>
<td>$17.12/$23.04</td>
<td>$24.49/$26.94</td>
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<tr>
<td>9-11</td>
<td>$20.11/$26.88</td>
<td>$17.84/$23.89</td>
<td>$24.49/$26.94</td>
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</tbody>
</table>

Source: USDA Center for Nutrition Policy and Promotion’s publication: Expenditures on Children by Families and DCS Intranet Website.

The DCS room and board rates exceed the USDA guidelines for the cost of raising children for the lowest income level designated by the guidelines in both the “urban south” and “rural areas,” and for all of the age ranges for the middle income level for “rural areas.” The rates exceed the USDA guidelines for the middle income level in the “urban south” for some of the age ranges, but are somewhat lower for other age ranges.

2. Private Provider Resource Parents

Department Policy 16.29 requires that private provider agencies must provide board payments to resource families that meet the USDA guidelines and by contract provision, private provider agencies are required to pay their resource families a daily rate that meets the Settlement Agreement provision requirements.

In the fall of 2014, the TAC conducted a survey of private providers to determine the extent to which the minimum board rate paid by those agencies to resource parents met or exceeded the USDA guidelines. The minimum board rates reported by each of the 19 agencies with whom the Department contracts for resource homes met or exceeded the USDA guidelines for the “lowest income level, rural areas” for all age groups, and the lowest board rates for nine of those agencies met or exceeded the guidelines for the “middle income level, rural areas” for all age groups. The lowest rates reported by all 19 agencies met or exceeded the “lowest income level, urban south” for all age groups, and the lowest board rates for three of those agencies met or exceeded the guidelines for the “middle income level, urban south” for all age groups.

It should also be noted that because providers were asked to submit their lowest board rate, the rates reported in this subsection are usually for Level I children. Providers were not asked to provide their minimum board rates for resource homes serving children with a higher level of need. As of November 17, 2014 (the month in which the survey was conducted), 29% of those class members placed in private provider resource homes were served through a Level I contract.
D. Special Provisions Related to Rates, Training, and Private Provider Contracts for Special Needs Children

The Settlement Agreement requires DCS to provide specialized rates for DCS and private provider resource parents providing services to special needs children. The Department is also required to supply (for DCS resource families) and ensure that private providers supply (for their resource families) any specialized training necessary for the care of special needs children placed in their homes. The Settlement Agreement requires that DCS continue to contract with private providers for medically fragile and therapeutic foster care services.

The Department continues to contract with private provider agencies for therapeutic foster care services and medically fragile foster care services. The scope of services for both medically fragile and therapeutic foster care contracts includes a requirement for specialized resource parent training. In addition to the standard training required of all resource parents, resource parents serving as medically fragile or therapeutic resource homes are required to have an additional 15 hours of specialized pre-placement training, and the Department has created a list of suggested topics for this training. The Department requires that in the case of a “medically fragile” child, resource parents receive specific training on the individual needs of that specific child. (This “specific child” training can count toward the additional 15 hours of training.)

There are currently three providers with whom the Department contracts for resource homes for medically fragile children. These agencies operate in multiple states and have extensive training capacity. They have established relationships with hospitals across the state. The experience and established practices, processes, and training modalities employed by these agencies ensure that children with special needs receive safe, appropriate care that is responsive to their unique needs. The Department has received and reviewed the training provided by all but one of these agencies and determined that it meets the Department’s expectations.

The Department recognizes that providers of therapeutic foster care generally have adopted a specific therapeutic foster care model and provide specialized training to their resource parents in that model. For those agencies, the Department accepts that training as meeting the “specialized training requirements” of the Settlement Agreement and relies on the RHET process and Program Accountability Reviews (PAR) to ensure that the training is being delivered.

The Department’s present approach appropriately addresses the special requirements of the Settlement Agreement applicable to rates, training, and contracting for resource homes serving special needs children.

E. Provision of Resource Parent Training; General Requirement to Complete Training Prior to Child Placement; Exception for Expedited Placement with Relatives/Kin

The Settlement Agreement requires that DCS schedule resource parent training classes, including individual training as needed, every 30 days in every region at times convenient to prospective resource parents.
In general, the Settlement Agreement requires resource parents to complete such training before receiving a child into their home. However, the Department may waive this requirement for relatives and kin and make an expedited placement of a child into a kinship resource home pending the completion of the training and approval process, as long as the Department completes a home visit and local criminal records check (and after doing so concludes that expedited placement is appropriate). Relatives and kin must complete all remaining approval requirements within 150 days of placement.

1. Availability of Resource Parent Training Classes

The Department uses the Parents as Tender Healers (PATH) curriculum, a nationally recognized curriculum, for pre-service training for resource parents. For PATH training, the Department has contracted with four private agencies to deliver PATH training to prospective resource parents beginning with the 2012-13 fiscal year.

The Department maintains a list of regionally offered resource parent training classes, and the training schedules are available online through the Department’s website at http://www.tn.gov/dcs/section/foster-parent-training.

According to the fiscal year 2013-14 PATH training calendars, each of the 12 regions had at least one PATH class beginning every month. The fiscal year 2014-15 calendars show PATH classes beginning in every month in all 12 regions. Convenience of PATH class offerings varies by region. It is much easier for prospective resource parents to find easily accessible PATH training when they live in geographically smaller urban regions than when they live in some of the geographically larger rural regions. The review of the online PATH class schedule did show that in the rural regions, classes were held in different counties and towns throughout the region.

2. Tracking of Compliance with the Approval Process Requirements

In order to ensure that each DCS resource family is receiving the required training as a part of the initial approval and assessment process, regional resource parent support units are required to review documentation that training has been completed. According to the Department, corrective action plans are issued and resource homes will not be re-approved without documentation of annual training. As discussed in Subsection B above, initial PATH training is verified as part of the RHET process for all DCS and private provider homes.

As discussed in previous monitoring reports, in order to ensure that each private provider resource family is receiving the required training, the DCS Licensing Unit and Program Accountability Review (PAR) Team review resource parent files during site visits.\(^{437}\)

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\(^{436}\) As reported in the June 2012 Monitoring Report, the Department previously required annual reassessments of resource homes, but began requiring reassessments every two years effective October 2011, with the approval of the Administration for Children and Families.

\(^{437}\) See Appendix N of this report to view the PAR Annual Report for Performance Based Contracting providers for fiscal year 2013-14.
3. Expedited Approval Process for Kinship Resource Homes

The Department’s present policy regarding the expedited approval process for relatives conforms to the requirements of the Settlement Agreement. As detailed in the May 2014 Monitoring Report, the Department is conducting background checks and a home visit prior to making the initial expedited placement and is completing the full approval within required timelines.438

Of the 404 homes with expedited placements from July 1 to December 31, 2014, 384 (95%) were fully approved (or closed) within 150 days. And a targeted review, conducted in the fall of 2014 by the TAC, found documentation of completion of home visits prior to the initial placement in 97% of the cases reviewed and background checks for every adult in the home in 95% of cases.

The Department has appropriately placed increased emphasis on identifying and engaging relatives and fictive kin as soon as possible, providing those members of the child’s extended family with information about the option of becoming a kinship resource family, including the supports provided to kinship families and the availability of the expedited approval process for such families.

F. Maintaining a Diverse Pool of Resource Parents

The Settlement Agreement requires the Department to implement a statewide resource parent recruitment and retention program to ensure that the pool of resource families is proportionate to the race and ethnicity of the children and families for whom DCS provides placement and services.439

As discussed in previous monitoring reports (based on data available from TNKids), the Department has been successful in developing a resource parent pool with a racial and ethnic composition that is proportionate to the racial and ethnic composition of the custodial population.

As discussed in the May 2014 Monitoring Report, data from TFACTS on the racial and ethnic composition of the current resource parent population has been available; however, entry of this data into the TFACTS resource parent files has been inconsistent, and there have been a significant number of resource parents for whom the race/ethnicity field has been left blank. For example, of the 4,747 resource parents on the December 2014 Resource Home Mega Report (see Table 9.3 below), 719 (15%) had no information entered in the race/ethnicity field in TFACTS.

The Department has now addressed this issue through a May 2015 TFACTS release that makes “race” a required field in the resource parent file. From this point forward, TFACTS will not allow a resource home to be designated as “approved” or “reapproved” if the race field is left blank.

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438 As discussed in Section Eleven, Subsection F, while board payments are not available for kinship resource homes until they have been fully approved, the Department is now able to provide expedited homes with a financial stipend pending full approval.

439 Individual children, however, are to be placed in resource families without regard to race or ethnicity.
As discussed in previous monitoring reports, targeted reviews conducted by the TAC of the race and ethnicity of those resource parents for whom the race ethnicity field had been left blank have consistently found that the inclusion of those homes in the analysis would not result in significantly different percentages than resulted from the exclusion of those “blank field” resource homes. Table 9.3 below therefore compares the race of resource parents (both DCS and private provider) with the race of the custodial population as of December 2014, excluding those with a blank race/ethnicity field in TFACTS from the percentages.

<table>
<thead>
<tr>
<th>Race</th>
<th>Custody</th>
<th>Percentage</th>
<th>Primary Caretaker</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>White</td>
<td>4,710</td>
<td>73%</td>
<td>2,835</td>
<td>70%</td>
</tr>
<tr>
<td>African American</td>
<td>1,296</td>
<td>20%</td>
<td>1,106</td>
<td>27%</td>
</tr>
<tr>
<td>Asian</td>
<td>12</td>
<td>0.2%</td>
<td>9</td>
<td>0.2%</td>
</tr>
<tr>
<td>Native Hawaiian/Other Pacific Islander</td>
<td>12</td>
<td>0.2%</td>
<td>4</td>
<td>0.1%</td>
</tr>
<tr>
<td>American Indian/Alaska Native</td>
<td>9</td>
<td>0.1%</td>
<td>10</td>
<td>0.3%</td>
</tr>
<tr>
<td>Unable to Determine</td>
<td>26</td>
<td>0.4%</td>
<td>64</td>
<td>2%</td>
</tr>
<tr>
<td>Mixed Race</td>
<td>340</td>
<td>5%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total with Blanks excluded</td>
<td>6,414</td>
<td></td>
<td>4,028</td>
<td></td>
</tr>
<tr>
<td>Blanks</td>
<td>222</td>
<td></td>
<td>719</td>
<td></td>
</tr>
</tbody>
</table>

SECTION TEN: STATEWIDE INFORMATION SYSTEM

As discussed in detail in the January 2015 Monitoring Report and the April 2015 Supplement to that report, the Department’s statewide information system, TFACTS, meets all of the requirements of Section X of the Settlement Agreement. The Department continues to build on the improvements that brought this provision into maintenance in April.

The Department is implementing software upgrades both to take advantage of improved functionality in more recent versions of current software packages and to ensure that the Department is always running versions of software that are supported. The 2015-16 budget provides funding for software upgrades, including an enhancement of the application software that will provide the Office of Information Technology (OIT) with greater ability to make changes to TFACTS without having to interrupt user access to the system, thus reducing the number of times when TFACTS “builds” require an interruption of access to install.

OIT and program staff now enjoy a very good working relationship, characterized by improved communication, coordination, and collaboration. OIT staff have continued to focus on improving the way in which TFACTS and available technology supports case managers in the field. The TFACTS releases over the past six months have included a range of improvements in user interface, including creating “short cuts” that have reduced the number of “clicks” needed to get to a particular TFACTS screen or to otherwise access frequently needed information.

OIT has implemented a weekly “triage” meeting at which any TFACTS issues raised by the field through calls to the “help desk” or with the regional TFACTS field customer care representatives (FCCRs) are reviewed and prioritized, so that those issues that are causing the broadest or most significant problems for the field are addressed first.

The introduction of tablet technology has been enthusiastically embraced by the field (in some cases a little over-enthusiastically, resulting in some “wear and tear” repairs). Over 2,200 case managers currently have tablets that they use in the field, and based on the positive experience of these case managers, the Department will continue to expand tablet use over the next year.

The Department’s Leadership Team is providing OIT with both the resources it needs to meet the Department’s IT needs and with the guidance and direction that OIT needs to know what resources to devote to which projects in what order; and OIT is providing the Leadership Team with clear information on the resource allocation required for the various projects to be prioritized so that the Leadership Team can make informed decisions. The Management Advisory Committee (MAC) now meets regularly to set OIT priorities and review progress, and in between MAC meetings, OIT provides weekly updates to the MAC on progress made on prioritized projects.
SECTION ELEVEN: QUALITY ASSURANCE

A. Required Establishment of a Quality Assurance Program

The Settlement Agreement (XI.A) requires the Department to create a quality assurance program directed by a quality assurance (QA) division. The QA division is to:

- assure external case file reviews and monitoring;
- assure an internal method for special administrative reviews;
- track, coordinate, and integrate all DCS quality assurance activities; and
- provide attention to the follow-up needed to improve services and outcomes.

The Quality Control (QC) Division, headed by an Assistant Commissioner and reporting directly to the Commissioner, is the division with the responsibility for performing the quality assurance functions enumerated in the Settlement Agreement.\(^{440}\)

B. Requirement of Regular Reporting and Specialized Reviews

Pursuant to the Settlement Agreement (XI.B), the QA division is expected to provide regular reports and also to conduct specialized case record reviews on issues relevant to the Settlement Agreement and other issues affecting the care of children.

The major review and reporting effort of the Department’s QC Division is the Quality Service Review (QSR), and the QC Division has continued to do that QSR reporting and analysis throughout 2014 and 2015.

The QC Division also conducted both case reviews and surveys as part of the Council on Accreditation (COA) re-accreditation process that was successfully concluded in 2014.

As is reflected by the references throughout this report, the QC Division not only conducts targeted reviews related to specific QA responsibilities set forth in the Settlement Agreement (including, for example, reviews of SIU investigations, reviews related to the placement exception request process, and reviews related to “Section XI.E” groups), but has been assuming increasing responsibility (in collaboration with the TAC) for other reviews that support both the Department’s quality improvement process and the TAC’s monitoring.

\(^{440}\) This division also has responsibilities related to policy development and accreditation. The Director of QSR is also responsible for activities related to the Department’s participation in the Baldrige Performance Excellence Program, a National Institute of Standards and Technology sponsored program that provides tools and resources to help organizations assess and improve their performance.
C. Staffing of the Quality Assurance Division

The Settlement Agreement (XI.C) requires that the QA division be adequately staffed and that staff receive special training to fulfill its responsibilities.

Within the Quality Control (QC) Division, the Department maintains a Policy and Continuous Quality Improvement (CQI) Unit, an Accreditation and Provider Quality Unit, and a Program Evaluation Unit.

Within the Policy and CQI Unit there is a director who supervises the 12 regional CQI coordinators and five other staff who share responsibility for: case reviews done in partnership with the TAC monitor’s office; coordination of the Child and Family Service Plan for the Administration for Children and Families (ACF); Central Office and statewide CQI functions and initiatives; and support to the IV-E waiver and the tuition assistance program. Unit staff focused on policy work provide support in the policy writing and review process, and coordinate edits to and translation of all DCS forms.

The Accreditation and Provider Quality Unit is responsible for activities related to the Council on Accreditation (COA), provider quality activities, and the Prison Rape Elimination Act (PREA). CQI staff at each of the three Youth Development Centers (YDCs) are part of this unit.

The QC Division is also responsible for Program Accountability Review (PAR) and Licensing.

The Program Evaluation, Quality Service Review (QSR), and Baldridge Journey Unit is responsible for the QSR and the In Home Tennessee fidelity review. The unit is also responsible for program evaluation; surveys of employees, youth, and resource parents (including managing the resource parent exit survey); perception of care surveys (administered, in person, twice annually for young men at YDCs); and a number of other surveys and activities related to delinquent youth at the YDCs. Unit staff are also Lean facilitators, COA reviewers, and Baldridge examiners.

There are a total of 57 positions (four of which were vacant as of April 30, 2015) under the Assistant Commissioner in the QC Division.

As discussed in the June 2013 Monitoring Report, because the CQI coordinators have served as reviewers and/or coordinators for the QSR process, the TAC and TAC monitoring staff have had an opportunity to interact with most of them and have been impressed by the depth of their experience and the quality of their work. They are all lead QSR reviewers and many serve as QSR coaches; each has received some specialized training relevant to their particular CQI role; and they have all been trained in the Lean process and have experience as Lean process facilitators. (The Lean process is used throughout the agency to improve overall service delivery and customer satisfaction. “Lean events” (or “kaizen” events as they are sometimes called) refer to a CQI approach that involves convening a cross functional team for a short term effort to quickly improve a process, primarily by identifying and eliminating waste or inefficiency in the process.

This Unit includes a recently hired Director of Provider Quality.
D. Requirement of Annual Case File Review

The Settlement Agreement (XI.D) requires that, at a minimum, the QA division, once every 12 months, review a statistically significant number of cases from each region. These case file reviews are required to include interviews and an independent assessment of the status of children in the plaintiff class. As part of this annual review, the QA division, Central Office, and other designated staff are required to develop a measure of appropriate and professional decision making concerning the care, protection, supervision, planning and provision of services and permanency for children in the class. This measure is to be utilized in conjunction with the case file reviews to measure the Department’s performance.

As discussed in previous monitoring reports, the Quality Service Review (QSR) serves as the annual review required by this provision. The Department continues to utilize a mix of DCS staff and external reviewers drawn from “stakeholder groups.”

The Department continues to struggle to recruit external lead reviewers. During the 2012-13 QSR there were no external lead reviewers and in 2013-14, there was one person from outside the Department who began training to be a lead reviewer. This year, that same person continued her lead reviewer training and the Department expects that she will be certified as a lead reviewer in the fall of 2015 (the beginning of the next QSR year). The Department has already identified a few other people from outside the Department who have expressed an interest in becoming regular lead reviewers.

The Department has been more successful in engaging members of the community and agency partners to serve as shadow reviewers. Ninety-six (35%) of the 277 cases reviewed during the 2014-2015 QSR year were reviewed by teams that included external partners. By comparison, during the 2013-14 QSR year, 45 (21%) of the 210 cases reviewed were reviewed by teams that included external partners.

Of the 248 shadow reviewers in the 2014-15 review, 91 (37%) were external partners.

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443 This includes private provider agency staff, therapists, educators, foster parents, juvenile court staff, community partners and service providers, foster care review board (FCRB) members, court appointed special advocates (CASA), partners from colleges and universities, the Governor’s office, and others who interact with the Department and the children and families it serves on a regular basis. These external reviewers bring a current, but different, perspective than that of DCS staff. By involving representatives from these groups as reviewers, the Department not only expects to get the benefit of an external perspective on their work, but hopes to be able to build a better understanding with its partners of the Department’s Practice Model and thus strengthen the quality of the work that these partners do with the children and families that the Department serves.

444 The time demands on reviewers are significant. Each QSR is a four-day regional process. There are approximately 24 cases reviewed over those four days, 12 in the first two days, and 12 in the second two days, with time built into each review for technical assistance with scoring and debriefing with regional staff. Even when the Department identifies external reviewers who are willing and able to volunteer their time, they generally must also “pay for the privilege of volunteering,” because it is so difficult under current fiscal policies to offer reimbursement for their mileage, meal, and hotel expenses.

445 The regional breakdown of external partners is as follows: one region had 13, another 12, five regions had between eight and 10, and five regions had either four or six. The Youth Development Centers will be reviewed in June 2015. (By comparison, in the 2013-14 QSR, four regions had between five and 10, another six regions had either two or three, and the remaining two regions had either zero or one. Another external reviewer participated in a QSR of a Youth Development Center.)
As discussed in the May 2014 Monitoring Report, notwithstanding the fact that almost all of the lead reviewers and many of the shadow reviewers have been Department staff, there is no indication that the reviews are any less rigorous or the scoring any more charitable. In fact, in the reviews that the TAC and TAC monitoring staff have participated in, the case feedback discussions with regional staff and technical assistance sessions appear to hold the Department to a high rating standard that is as rigorous, if not more rigorous, than it has been in past years.

Following each regional review, the Director and/or Assistant Director of QSR, the CQI coordinators, and in some cases, other Quality Control Division staff with leadership roles in the QSR process have been working with the regions to explore their QSR results and design practice improvement strategies from needs highlighted in the QSR. Each region has focused on particular practice improvement opportunities identified by the QSR, established improvement goals, and developed a set of action steps to achieve those goals. The regions identified particular system performance indicators (Engagement, Ongoing Assessment Process, and Child and Family Planning Process, for example) to focus on and, according to the Director of QSR, many have been creative with their strategies for improvement. Under the current QSR process, the QSR leadership team and regional leadership are expected to reconvene six months after the region’s QSR to review and discuss the progress the region has made on their post-QSR goals, and the Department expects to see improvement in these targeted areas reflected in the following year’s QSR scores. All of the regions recognize the importance of using the QSR results to guide and inform ongoing quality improvement work.

As discussed in the May 2014 Monitoring Report, during the first review cycle of the Department’s revised approach to QSR (2012-13) a TAC consultant with special expertise in QSR and a long history of involvement in Tennessee’s QSR process provided technical assistance to support the Department’s efforts to improve the QSR protocol and to refine the random case selection process. That consultant had the opportunity to observe one week of reviews in December 2012 and a second week of reviews in April 2013 and assisted the Department in assessing the 2013-14 QSR. He returned to Tennessee in June 2014 to provide additional training to QSR coaches. A TAC member and several TAC monitoring staff have also participated in the new QSR process, shadowing DCS reviewers, and participating in the group debriefing sessions conducted as part of those reviews.

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446 Lead and shadow reviewers in the 2014-15 QSR came from the Department’s regional staff and the following divisions: Quality Control, Safety, Training and Development, Juvenile Justice, Permanency, Customer Focused Government, Information Technology, Independent Living, Safety, and Child Health and Well-being.

447 TAC monitoring staff, during the 2014-15 QSR year, participated in: QSR reviewer training, the discussions that are a part of the reviewer certification process, the regional QSR follow-up and strategic planning sessions, and the QSR convening at the conclusion of the review year. While TAC monitoring staff did not participate as reviewers this year, they served as QA reviewers of the case stories and participated in the day-long meeting focused on improving the case stories. The TAC anticipates contributing TAC representatives to the 2015-16 QSR as additional external reviewers.

448 A member of the TAC monitoring staff recently attended, and was impressed by, a regional post-QSR improvement plan creation session in which regional staff (including the Regional Administrator, Deputy Regional Administrator, case managers and supervisors, and other staff), along with the QSR Director, reviewed their recent QSR results, identified their most pressing practice improvement needs and strategies, and brainstormed action steps for targeted improvement. In contrast to the regional debriefing sessions that were once a part of the QSR week, this session seemed to elicit more thoughtful participation and provide more meaningful reflection and improvement planning.
The Vanderbilt Center of Excellence (COE) continues to play an important supportive role for the QSR process, observing reviews and gathering and analyzing data to ensure inter-rater reliability and to provide feedback that helps the Department refine and improve the QSR process. Having an external group providing this kind of ongoing review and assessment helps ensure the integrity of the QSR.

The QC Division has continued its practice of convening at the conclusion of the QSR year a group that includes Regional Administrators, QSR reviewers and other QC staff, as well as representatives from Vanderbilt and the TAC, to review their experience with the QSR over the course of the year and to discuss opportunities to improve the process. That discussion is increasingly informed by feedback received through surveys of those who participated in the QSR, either as reviewers or as case managers whose cases were reviewed.

The most recent of these meetings was held in May 2015. Based on the discussions, the QC Division is considering: refining the protocol, based on reviewer experience and feedback throughout the year; providing technical assistance to improve inter-rater reliability on three indicators identified in Vanderbilt’s assessment of inter-rater reliability; implementing a formal feedback loop to provide each regional administrator with prompt feedback on the quality of the work done by the QSR reviewers from her region; surveying not only regional staff and developing reviewers, but also community partners and providers about the QSR process; and developing a QSR retreat for QSR reviewers.

E. Special Requirements Related to Designated Categories of Cases

The Settlement Agreement (XI.E) provides that the QA division, utilizing aggregate data and case reviews as appropriate, is responsible for tracking, reporting and ensuring that appropriate action is taken with respect to nine specific categories of cases.

The Quality Control Division has designated staff to work collaboratively with the TAC monitoring staff to develop the QC Division approach to meeting the XI.E oversight responsibilities. The following subsections reflect the current status of that work.

1. Children who have experienced three different placements, excluding a return home, within the preceding 12 months

As discussed in previous monitoring reports, the Department continues to utilize a sophisticated analysis of aggregate data compiled by Chapin Hall to both understand issues related to placement stability and to develop, implement, and track the impact of strategies to improve placement stability. To supplement that information, the Office of Quality Control, in consultation with the TAC, recently conducted a targeted review.

The QC Division pulled a random sample of class members from a list of children who experienced three or more different placements during the period from October 2013 through
The sample consisted of 90 youth (involving a total of 328 placements) from a population of 1,615 youth. Reviewers read documentation in TFACTS around each placement move including looking at information about permanency goals, Child and Adolescent Needs and Strengths (CANS) assessed levels, and notes from Child and Family Team Meetings (CFTMS) in order to understand the reasons for the changes in placement and to assess whether each placement move was reasonable and based on appropriate actions. Specific emphasis was placed on determining the reasons for the most recent placement change during the review period and whether the move reflected progress toward permanency.

As shown in Figure 11.1, the review found that the most frequent reasons that a child experienced a placement move was to address an identified treatment need. In looking at the reasons for the child’s recent placement move, DCS identified that roughly two-thirds (67%) of moves could be classified as moves that contributed to permanency. This included not only moves to relatives and kin and to permanent adoptive or guardianship homes but also moves that represented step down in treatment needs or a move to a placement that could more adequately address a child’s treatment needs with a goal of stabilizing a child’s behaviors as a step toward permanency.

Figure 11.1: Reasons for Final Move in Review Period

Source: DCS Office of Quality Control Review of Three or More Placements: October 2013 through October 2014

449 The QC Division used the TFACTS Bed Days report to identify the population from which the sample was pulled. This report was not designed to be used to identify children who experienced three or more different placements in a 12-month period, and the list from which the sample was pulled may not have captured every child within the review period who experienced three or more different placements. Nevertheless, for purposes of this first XI.E.1 review, the TAC was comfortable with the Department drawing the sample from this list. A sample of 91 youth represents a confidence level of 95% and a confidence interval of plus/minus 10. The original sample consisted of 96 cases; however, six of those children were excluded because upon further review it was determined that they had not experienced three different placements.

450 Of the 90 children reviewed, 54% (48 youth) were age 15 or older; 14% (13 youth) were between the ages of 12-14; 18% (16 children) were between the ages of 7-11; and 14% (13 children) were age 6 or younger.
The review also looked at whether the preferred Departmental process for making decisions about placement moves—by a team in a CFTM—was in fact being utilized for these youth. For the final move during the review period, a CFTM was held for 91% of the cases in which a CFTM would have been expected to occur. A QC staff person is looking into the circumstances in the nine cases in which a CFTM would have been expected but did not occur to understand why a CFTM was not held.

While this targeted review examining a year of case practice has provided valuable information to the Department, the QC Division believes that it would be more productive if the reviews of these cases occurred more frequently and closer in time to the third placement. The QC Division is therefore currently working with the Office of Information Technology (OIT) to develop a monthly report that will identify any child who moved during that month for whom that move resulted in the child’s third placement in a 12-month period. This will allow QC to review cases more promptly and thus better ensure that appropriate actions are being taken for this group of children who experience multiple placements.

2. All cases in which a child has been in more than two shelters or other emergency or temporary placements within the past 12 months, and all cases in which a child has been in a shelter or other emergency or temporary placement for more than 30 days

Information about children in primary treatment center (PTC) placements is currently available weekly using the TFACTS Mega Report. Utilizing a combination of the Mega Report and manual spreadsheets maintained by the regions, Network Development staff identify children in PTC placements approaching or over 30 days and then work with the regional staff to find placements for these children, if needed. Not only are the Network Development staff experienced in helping the regions find more appropriate placements for these children, but as a result of their experience, they have a good understanding of the factors that contribute to children exceeding the 30-day limit (and to the extent that these children are also among those experiencing multiple placements, information relevant to understanding the situations of children who experience multiple placements).

According to Network Development’s tracking, for the period from July 1 to December 31, 2014, 138 Brian A. class members entered Primary Treatment Center (PTC) placements. Three of those 138 youth had experienced another PTC placement in the preceding 12 months.

Of those 138 youth, 96 (70%) completed their PTC stay in 30 days. An additional 25 youth (18%) completed it within 45 days; 10 more youth (7%) completed it within 60 days, and the remaining seven youth (5%) stayed longer than 60 days. These data are comparable to that...

451 The Department no longer uses shelter placements; however, the Department does use Primary Treatment Center (PTC) program placements for an assessment period in order to gain information to match the child with the appropriate treatment and/or placement, such as Sexual Offender or Alcohol and Drug Treatment. A completion of a PTC stay does not always result in a move, as some children remain in the facility that they were placed at during their assessment but enter the correct contract and treatment program after the completion of the assessment.

452 See Section Six for more information about the Network Development process, as well as the revision to the Placement Exception Request (PER) process that also generates data about these placements.
reported in previous monitoring reports.\textsuperscript{453}

The combination of the aggregate data and the processes implemented by Network Development (and the information generated by those processes), supplemented by additional review conducted by QC staff, are sufficient to ensure that the Department is continuing to make very limited and appropriate use of temporary placements and that appropriate action is being taken with respect to those children covered by XI.E.2.\textsuperscript{454}

3. Children with a permanency goal of return home that has remained in effect for more than 24 months

Children in this category also fall into one of three groups discussed in Section Eight of this monitoring report: children in care for 15 months or more for whom termination of parental rights (TPR) has not been filed; children for whom TPR has been filed, but for whom full guardianship has not yet been achieved; and in a few cases, children in full guardianship who have not yet achieved permanency and for whom biological family are being considered as potential permanency options.\textsuperscript{455}

As discussed in the August 2014 Supplement to the May 2014 Monitoring Report, the QC Division appropriately relies on an administrative review process conducted by the Deputy Commissioner for Child Programs and the Deputy General Counsel to ensure that appropriate action is being taken with respect to these children.

The rigor of the monthly reviews with each region (discussed in detail in Section Eight of the May 2014 Monitoring Report at pages 274-276) convened by the Deputy Commissioner of Child Programs and Deputy General Counsel to review all cases of children who have been in care for 15 months or more (originally focused on those for whom TPR had not been filed, but now encompassing all children in care for 15 months or more) provides a reasonable assurance that appropriate action is being taken with respect to the subset of those children for whom the permanency goal of return home has remained in effect for more than 24 months.\textsuperscript{456} And with respect to those few cases in which a child in full guardianship nevertheless has a permanency goal of return to the parent whose rights had been terminated, the Finding Our Children Unconditional Supports (FOCUS) process (discussed in detail in Section Eight) provides another layer of case oversight to ensure that appropriate action is being taken.

\textsuperscript{453} As discussed in the August Supplement to the May 2014 Monitoring Report, there were 145 youth in these placements during the first six months of 2014; 35\% (50) stayed for more than 30 days.

\textsuperscript{454} Both the PERs data and the QC review reflect that virtually all of the children who stay in excess of 30 days are either awaiting placement (about two-thirds of the cases) or are still completing the assessment or awaiting the results (one-third of the cases).

\textsuperscript{455} Figures 8.1 and 8.2 include a breakdown of those children who have been in care for 15 months or more without TPR being filed, irrespective of whether they have a sole or concurrent goal of reunification.

\textsuperscript{456} According to the December 29, 2014 Mega Report, of the 6,591 children who were in custody, there were 422 children who were in care for 25 or more months and had either a sole or concurrent goal of return to parent. Of the 422, 48 had a sole goal of return to parent, and the remaining 374 had concurrent goals.
Based on the TAC’s longstanding and continuing experience with these high quality administrative reviews conducted by the Deputy Commissioner and Deputy General Counsel, the TAC is confident that this process effectively ensures that appropriate action is being taken with respect to the cases covered by XI.E.3.

4. Children who have returned home and reentered care more than twice and have a permanency goal to return to that home

Perhaps a clearer way of describing this group is children who have entered care four or more times and have return home as their sole or concurrent permanency goal. As discussed in previous monitoring reports, there are very few children who fall into this category within any given year and periodic targeted reviews of these cases provide sufficient information to ensure that appropriate action is being taken with respect to this category of cases.

As discussed in the May 2014 Monitoring Report and the August 2014 Supplement to that report, the QC Division has implemented regular reviews of recent entrants who fall into this group. The first of these reviews was completed in May 2014. Of the 5,503 children who entered custody in 2013, there were only 39 (0.7%) for whom this was the fourth (or more) custody episode and who had return home as a goal.

The second of these reviews (of all children entering custody between January 1 and June 30, 2014) was completed in September 2014. Of the 2,300 children who entered care during the first six months of 2014, there were 18 (0.8%) for whom this was the fourth (or more) custody episode and who had return home as a goal. QC’s third review (of all children entering custody between July 1 and December 31, 2014) was completed in April 2015. Of the 2,243 children who entered care during the second six months of 2014, there were 11 (0.5%) for whom this was the fourth (or more) custody episode and had return home as a goal.

The QC Division conducted a review of each of the children in this category who entered in both the first and second half of 2014, both to ensure that appropriate action has been taken with respect to those children and to identify any opportunities for system improvement.

This QA process serves the purposes of XI.E.4 by providing additional oversight for this small group of cases.  

5. Children with a sole permanency goal of adoption for more than 12 months for whom a petition to terminate parental rights has not been filed

As discussed in previous monitoring reports, there have been very few children who fall into this category, and periodic reviews of those cases confirm that the processes discussed in Section Eight of this report (with respect to children who have been in care for 15 months or more for  

457 Because the number of children in this group is so small, the TAC cautions against attempting to glean any broader lessons from this review or implementing any systemic changes solely based on themes that appear to emerge from what is a handful of “outlier” cases.
whom TPR has not been filed) are ensuring that appropriate action is being taken with respect to this category of cases.

TAC monitoring staff conducted its most recent review using the first quarter of 2014 from the 2014 TAC Sole Goal of Adoption Report. There were no children during the quarter who had a sole goal of adoption for more than 12 months for whom a petition to terminate parental rights had not been filed.

6. Children with a sole permanency goal of adoption for more than one year who have not been placed in an adoptive home

As discussed in previous monitoring reports, the large majority of children who have had a sole goal of adoption for more than one year are in full guardianship, and the QC Division can reasonably rely on the FOCUS process (and periodic review of that process) to ensure that appropriate action is being taken with respect to any of those children in full guardianship with sole goals of adoption who have not been placed in an adoptive home.

With respect to those children with a sole permanency goal of adoption for more than one year who are not in full guardianship but for whom TPR has been filed, if the child is not already in a home that has expressed an interest in adopting, once full guardianship is achieved, the FOCUS process should address that issue.

With respect to those children with a sole permanency goal of adoption for more than one year for whom TPR has not been filed, the review processes described in Section Eight and referred to in Subsection E.3 above and Subsection E.9 below with respect to children in custody for 15 months or more without TPR filed are sufficient to ensure that appropriate actions are being taken in this small subset of this category of cases.

7. Children in custody more than 60 days who do not have a permanency plan, and
8. Children for whom the permanency goal has not been updated for more than 12 months

As discussed in the January 2015 Monitoring Report, the Department, under TNKids and now TFACTS, has been utilizing a cleanup process for identifying and responding to overdue initial permanency plans and annual goal updates, and has at times relied on a CQI follow-up process to better understand and respond to delays in the development of permanency plans.

At the time that the TAC issued the May 2014 Monitoring Report, the Department was working to refine and strengthen its approach to ensuring that appropriate action was being taken with respect to overdue permanency plans. The Department began implementation of that refined and strengthened approach to the process in October 2014.

Under this approach, the Department uses the Mega Report to generate the Clients in Custody Over 60 Days with No Current Perm Plan report. This monthly report uses validated Mega
Report fields to identify both children with an overdue initial permanency plan and children with a plan that is overdue for an annual goal update.

This report is provided to each region, with information presented in an easy to use spreadsheet, identifying any child from that region who has been in custody for more than 60 days who does not have an initial plan and any child who has been in custody for more than a year and has not had an annual permanency goal update for more than 365 days.

The monthly spreadsheets are also sent to the regional CQI staff who are responsible for working with the regional administrators to ensure that case managers with overdue permanency plans are notified and take appropriate action. Regional CQI staff compare each month’s spreadsheet with that of the previous month to identify any cases that remain on the overdue list for more than a month. Those on the report for two months are highlighted yellow, and any on this list more than two months are highlighted red. Under the approach being implemented, for any cases on the list more than two months, the responsible case manager is expected to provide CQI staff with an explanation for the delay, and that explanation is to be added to the monthly report.

According to this tracking, the number of overdue permanency plans has decreased significantly since this new process was implemented. According to the Department’s Mega Reports, on November 24, 2014, of the 6,689 children in custody, 406 (6%) had overdue plans. In comparison, on May 26, 2015, of the 6,900 children in custody, 57 (1%) had overdue permanency plans.

<table>
<thead>
<tr>
<th>Table 11.1: Number and Percentage of Overdue Permanency Plans</th>
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<tbody>
<tr>
<td>Custodial Population</td>
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<tr>
<td>Total Overdue</td>
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Regional CQI staff are expected to use these spreadsheets to detail the performance of their respective regions and to provide that information to the regional administrators, Central Office Quality Control (QC) staff, the Deputy Commissioner for Child Programs, and the Assistant to the Commissioner for Child Welfare Reform.

The regional administrators are then responsible for ensuring that appropriate action is taken on individual cases. Central Office reviewers evaluate all regional reports to determine whether there are any indications that a particular region, or cluster, or team, or set of workers is struggling to complete and update permanency plans in a timely manner.
9. *Children who have been in custody for 15 months or more with no TPR petition filed*

As discussed in Subsection 3 above, the Department has resumed the rigorous monthly reviews with each region convened by the Deputy Commissioner and Deputy General Counsel to review all cases of children who have been in care for more than 15 months for whom TPR has not been filed. These reviews provide a reasonable assurance that appropriate action is being taken.

**F. Implementation of Racial Disparity Report Recommendations**

The Settlement Agreement (XI.F) requires that DCS continue its implementation of the recommendations in the Racial Disparity Report set forth in the plan approved by the Court on August 19, 2004.

The recommendations of the report focused primarily on three areas—data analysis and reporting, resource family and relative caregiver recruitment and support, and workforce development. The November 2010 Monitoring Report discussed the variety of activities undertaken by the Department in response to the recommendations. The Department has substantially implemented those recommendations and for those recommendations that contemplate ongoing activities, the Department continues to demonstrate an appropriate “maintenance of effort.”

The Department continues to include race and ethnicity in its data analysis and reporting and the Department’s Office of Information Technology has recently released an enhancement of TFACTS that makes race/ethnicity fields mandatory. This action addresses the problem discussed in the June 2013 Monitoring Report of the frequency with which the child’s race/ethnicity field in the child’s TFACTS file and the resource parent race/ethnicity field in the resource parent TFACTS file was left blank.

The Department implemented Subsidized Permanent Guardianship and continues to fund the Relative Caregiver Programs in every region. The Department continues to emphasize kinship resource home recruitment and support. Once kinship resource homes have been fully approved, they receive the same board rate as non-kinship homes; in addition, to facilitate expedited placements, the Department is now able to provide a financial stipend for kinship resource parents pending approval.

Both the Office of Child Programs (for best practice reasons) and the DCS Budget and Finance Division (because of Targeted Case Management claiming requirements) are focused on ensuring that kinship resource parents and children in their home are visited with the same minimum frequency as non-kinship resource homes.

The Deputy Commissioner of the Office of Child Programs reviews data on regional utilization of kinship homes and has engaged regions with lower regional utilization rates in discussions to

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458 The Relative Caregiver Programs received $3,260,200.242 from the Department in FY 2013-14 and served 2,186 caregivers and 3,225 children during that year.
ensure that relatives are receiving a full explanation of the range of options available to them and are not being “steered away” from becoming kinship resource homes.

The Department continues to be sensitive to the need to recruit and maintain a resource parent pool that reflects the diversity of children in need of resource families and the process for development of regional recruitment and retention plans is informed by data related to the ethnic and racial mix of the regional resource parent pool.459

The Department continues to require cultural competency training for staff. DCS policy requires that staff take at least one of the Department’s cultural competency in-service training offerings every two years.460 In addition, cultural competency content is included in many of the other substantive trainings, including the pre-service curriculum.

Data produced by the Department’s Division of Human Resources continues to reflect the racial and ethnic diversity of the Department’s workforce.461

The Department has been working over the years with Chapin Hall at the University of Chicago both to better understand the factors that might contribute to racial and ethnic disparities in Tennessee’s foster care system and to identify possible strategies to address those disparities. In December 2006, Chapin Hall completed an analysis of race and ethnicity data related to entry into and exit from foster care. The findings and recommendations from that research are summarized in their published report, Entry and Exit Disparities in the Tennessee Foster Care System, which was reproduced as Appendix A to the January 2007 Monitoring Report.462

Chapin Hall’s current work for the Department includes research and analysis focused on isolating disparities and relating variation in disparities to the underlying social context. Utilizing census data variables that are available at the census tract level—data such as child poverty rates, unemployment, education levels, single-mother households, and racial composition of the neighborhoods in which children live—the research examines whether children living in similar situations have similar interactions with the child welfare system. By understanding how the social context in which families live relates to the child welfare system disparities observed, the Department can be more strategic in targeting areas where (after controlling for social context) racial and ethnic disparities are the greatest. In addition, the information related to social context can more broadly be used to make investments and target

459 As discussed in previous monitoring reports, even before the recent TFACTS enhancement making race/ethnicity mandatory fields, TFACTS data on the racial and ethnic composition of both the child population and the resource parent population was sufficient for recruitment planning.
460 The Department’s training division currently offers nine different in-service cultural competency options.
461 The January 2014 Performance Audit issued by the Comptroller's Office includes an Appendix referencing the Department’s Title VI Implementation plan and provides a break down by race/ethnicity and gender of DCS staff by job position. See 2014 Performance Audit, Appendix 1, pp 93-97. As of October 2013, of a total of 4,025 DCS employees (3,148 of whom were female and 877 of whom were male), 2,444 were White, 1,499 were Black, and 102 were American Indian, Asian, or Hispanic.
462 The TAC has discussed with Chapin Hall whether there would be value in conducting an “update” of the 2006 study. From those discussions, it does not appear that there has been a significant change in the underlying conditions relevant to that study. Because there is no reason to believe that the results would be any different, Chapin Hall does not believe an update of the study would be a good use of the Department’s resources.
resources to communities with particular attributes that are associated with higher levels of abuse or neglect.

G. Status of Present Class Members Who Entered DCS Custody Prior to October 1, 1998

The Settlement Agreement (XI.G) requires that the TAC continue to report on the status of all foster children in DCS custody who entered DCS custody prior to October 1, 1998. There are no longer any children in DCS custody who entered custody prior to October 1, 1998.
At any given time during 2014, approximately 48% of Brian A. class members were placed with private providers. Many of the children served in private provider placements are identified as needing a higher level of support and supervision (Level II or higher) than those children served in DCS managed placements (primarily Level I). They live in the homes of resource parents who are supervised and supported by private providers or in congregate care settings run by those providers. The services they and their families receive are organized by and in many cases delivered directly by the private providers. Achieving the goals set out in the Settlement Agreement therefore requires not only high-quality work by DCS, but also high-quality work by private providers. For this reason, the Settlement Agreement includes a number of specific requirements, reviewed in this section, concerning the Department’s oversight of private providers, including the Department’s licensing, evaluation, and contracting functions.

A. Requirement of Performance Based Contracting

The Settlement Agreement requires that all DCS contracts for placements and services with private provider agencies be “pursuant to annual performance-based contracts issued by DCS.” (XII.A)

As discussed in detail in previous monitoring reports, the Department, with ongoing assistance from Chapin Hall at the University of Chicago, has implemented Performance Based Contracting (PBC) covering every private provider that contracts with DCS for placements.

Private providers are measured on performance related to three main standards: reduction in the number of care days, increase in the number of permanent exits, and reduction in reentries. Those whose performance exceeds contract expectations receive “reinvestment dollars” and those whose performance falls short of expectations are assessed penalties.

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463 The percentage of class members served as of the last Mega Report of each month in 2014 ranged from 47% to 48%.
464 In the fall of 2013, following a series of discussions involving DCS leadership, private providers, and staff from Chapin Hall, the approach to PBC was modified (as one would expect to occur as the process reached full implementation and maturation). The modifications include the following: basing provider baselines on grand regional data (rather than provider-specific past performance); evaluating the admissions population over a three-year time frame (rather than one-year); and basing incentives and baselines on a provider-specific blended rate to simplify the model.
465 For the 2009-10 contract year, 18 private providers earned $5,398,221.15 in reinvestment dollars and five private providers were assessed penalties totaling $529,589.61. An additional five private providers would have been assessed penalties, had they not been in their “no-risk” period, totaling $277,051. For the 2010-11 contract year, 27 private providers earned $5,037,847.56 in reinvestment dollars and three private providers were assessed penalties totaling $154,344.70. For the 2011-12 contract year, 19 private providers earned $3,871,650.43 in reinvestment dollars and nine private providers were assessed penalties totaling $2,703,578.06. For the 2012-13 contract year 17 private providers earned $3,715,943.06 in reinvestment dollars and 10 private providers were assessed penalties totaling $1,756,221.11. Because of the new modifications referenced in footnote 464, there were no reinvestments or penalties for the 2013-14 contract year.
B. Licensing Requirements and Professional Standards

The Settlement Agreement (XII.B) requires that the Department:

- contract only with those agencies that meet the provisions of the Settlement Agreement that specifically apply to those agencies and that meet state standards governing the operation of child care facilities;\textsuperscript{466} and
- not contract with any agency that has not been licensed by the State to provide placements for children in the plaintiff class.

The Department’s \textit{Private Provider Manual} requires that private provider agencies adhere to the applicable mandates set forth in the \textit{Brian A}. Settlement Agreement. All private providers with which the Department contracts for the placement of children in the plaintiff class are licensed by DCS, the Tennessee Department of Mental Health and Substance Abuse Services (DMHSAS), and/or the Department of Intellectual and Developmental Disabilities (DIDD).\textsuperscript{467}

As discussed in previous monitoring reports, for the past several years the Department has had residential contracts with 28 to 30 private providers.\textsuperscript{468} For fiscal year 2014-15, the Department had residential contracts with 28 private providers. Many of these private providers have multiple licenses for separate programs.\textsuperscript{469}

Of the 28 private providers with whom the Department has residential contracts, the Department licenses all 20 private providers that provide foster care services (operate resource homes) for the Department. In addition for fiscal year 2014-15, there were 16 providers that have at least one license from DCS to operate a group care facility, 12 providers that have at least one license from DMHSAS to operate a group care facility or subcontract with a facility with a license from DMHSAS, and two providers that have at least one license from DIDD to operate a group care facility. Many of these facilities are operated by private providers that have a license from both DCS and another Department.

The DCS Licensing Division is responsible for ensuring that every private provider that is licensed by the Department of Children’s Services has a current license. If the Licensing Division suspends, revokes, or fails to renew the license of a provider, the Licensing Division immediately brings this to the attention of appropriate DCS staff and to the attention of the Provider Quality Team.

\textsuperscript{466} These state standards are to reflect reasonable professional standards.
\textsuperscript{467} In addition, one facility located in Georgia that is operated by one of the largest providers in Tennessee is used primarily by regions in the eastern half of the state.
\textsuperscript{468} The term “residential contracts” refers to the contracts for placement and accompanying services. For purposes of \textit{Brian A}. reporting, residential contracts for detention are excluded from this analysis; however, it is possible that some private providers that serve only juvenile justice children are included among the 28 agencies with residential contracts. The Department also contracts for a variety of non-residential services, including contracts for in-home and family preservation services, legal services, and child abuse prevention services.
\textsuperscript{469} For example, a large private provider that provides therapeutic foster care services but also operates residential treatment facilities would obtain separate licenses for each program.
The Department of Children’s Services currently coordinates with the Licensing Division of DMHSAS pursuant to a Memorandum of Understanding outlining basic protocols for inter-departmental notification and information sharing. These protocols address such matters as the sharing of reports generated from licensing or contract monitoring functions, notifications of changes in licensing status, suspension of admissions, and termination of contracts. The Department communicates regularly with DMHSAS, and at times DCS and DMHSAS staff have conducted site visits together. The Department also communicates and coordinates regularly with the DIDD licensing unit (which had been part of the DMHSAS licensing unit, but is now a separate licensing unit).

The DCS Licensing Division coordinates internally with the DCS Contracts Management Unit to ensure that any private providers that contract or apply to contract with the Department are appropriately licensed and that their licensure is in good standing. As discussed in previous monitoring reports, the Department had been maintaining a spreadsheet tracking the licensure status of all private providers for each of their programs.

C. Non-Discrimination Requirement

The Settlement Agreement (XII.C) requires that DCS not contract with (and shall immediately cease contracting with) any program or private provider that gives placement preference by race, ethnicity, or religion. The Department has incorporated this non-discrimination requirement into its policies related to contract agencies and there are provisions in the private provider contract that prohibit private providers from giving placement preferences based on race, ethnicity, or religion.

D. Requirement to Accept Children for Placement

The Settlement Agreement (XII.D) requires that any agency or program contracting with DCS be prohibited from refusing to accept a child referred by DCS as appropriate for the particular placement or program. The Department has incorporated this requirement into its policies related to contract agencies and there are provisions in the private provider contract that prohibit private providers contracting with DCS from refusing to accept a child referred by DCS as appropriate for the particular placement or program.

The language contained in Section XII.D was included in the Settlement Agreement to address a practice commonly referred to as “creaming”—whereby providers actively seek to accept the “easiest” children (those with perceived lower levels of need) and find reasons not to accept more challenging children. At the time that the lawsuit was filed, as well as throughout the early years of the reform, while there were providers who were willing to take children with higher levels of need, there were other providers who were less willing to do so. This was especially true with agencies serving “Level I” children in congregate care.

As discussed in the August 2014 Supplement to the May 2014 Monitoring Report, the placement process has changed dramatically over the past 14 years. The Department has significantly
reduced its reliance on congregate care, eliminated private provider Level I congregate care contracts, and implemented Performance Based Contracting (PBC). The number of agencies with which the Department contracts has been vastly reduced and the Department has worked with those remaining providers to help them understand the needs of the children who require out-of-home care. This streamlining has further served to shape the current network in such a way that more appropriately and comprehensively meets the Department’s needs with respect to out-of-home placement. And the Department has made it clear that it will seek to utilize more consistently those providers willing and able to serve challenging children.

Network Development staff have positive working relationships with the current contract agencies. As a result of the consistent engagement of and interaction with those agencies within the provider network, the Department has developed an intimate understanding of which agencies can most appropriately serve hard-to-place children. This allows staff to effectively assist regional staff in making those placements.

As discussed in previous monitoring reports, the TAC has found no evidence of the kind of “creaming” that section XII.D was designed to address. Given the level of knowledge and experience that the Network Development Division has of the current group of providers, the TAC remains confident that the Department is responsibly holding providers to their contractual obligations to accept children who are appropriate for their programs.

E. Inspections and Monitoring of Contract Agency Placements

The Settlement Agreement (XII.E) requires that:

- all contract agencies providing placements for children in the plaintiff class be inspected annually by DCS oversight staff in an unannounced visit;

- DCS determine in a written report whether the agency complies with state licensing standards; and

- the DCS Licensing Unit collaborate with the DCS Quality Assurance Unit and the Central Office Resource Management Unit to determine agency compliance with the terms of this Settlement Agreement.

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470 Recent modifications to the original PBC model provide a greater financial cushion to agencies achieving positive outcomes and this has significantly diminished the risk associated with an agency taking its “fair share” of children with the most severe challenges and with limited prospects for permanency.

471 As a result of this streamlining, a number of agencies that in the past may have found ways to avoid serving such children are no longer among those with which the Department contracts for out-of-home placement.

472 The Department has recently implemented “enhanced Level III continuum” contract rates in recognition of the fact that within the Level III population there are some children who present an even higher level of challenge. This enhanced contracting level is the Department’s attempt to ensure that compensation rates allow private providers who have the capacity to serve these most challenging children receive additional financial support.

473 The Department of Children’s Services is also required by Tennessee Code Annotated 37-5-513 to conduct inspections “at regular intervals, without previous notice” of all programs licensed by DCS.
The Settlement Agreement also requires that DCS maintain sufficient staff to allow for appropriate monitoring and oversight of private providers.

1. **PAR and Licensing Unit Reviews**

The Program Accountability Review (PAR) Unit and the Licensing Unit are responsible for these oversight responsibilities.

The Licensing Unit reviews a sample of files for compliance with licensing standards, and the PAR Unit reviews a sample of files for compliance with contract requirements and requirements outlined in the *Private Provider Manual*. Each Licensing and PAR review is documented in a written report that is provided to the private provider, a member of the Network Development Division, the Quality Assurance Division, the TAC Monitoring Office, the appropriate regional administrators, identified DCS program stakeholders, and subject matter experts.

With respect to the requirement of “unannounced visits,” the Licensing Division is responsible for conducting at least one unannounced visit annually to each program licensed by DCS. These unannounced visits are in addition to annual scheduled or announced visits conducted by the Licensing Division. The PAR team is responsible for conducting at least one unannounced visit annually to those residential programs serving DCS children that are licensed by Departments other than DCS.

The TAC monitoring staff have received and reviewed the unannounced visit reports documenting each of the unannounced visits conducted by the PAR and Licensing Units for fiscal year 2014-15. Reports have been posted for each of the 81 facilities for which unannounced visits were required.

2. **Provider Scorecard**

As discussed in greater detail in previous monitoring reports, the Department, in consultation with private providers (and at times with the TAC), has developed various versions of what it refers to as the Provider Scorecard. The purpose of the Provider Scorecard, as the Department had envisioned it, is to communicate an overall assessment of the quality of each private provider’s work, consolidating various measurements related to provider performance, and emphasizing the areas of measurement that represent DCS priorities for system improvement.

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474 PAR reviews Performance Based Contracting (PBC) providers annually, unless the provider is going through accreditation, in which case the provider may be exempted from the PAR review during that accreditation year. Subcontracted providers of PBC are reviewed every other year, but primary contractors are expected to monitor them continuously and PAR does check for documentation of subcontractor monitoring during reviews of PBC providers.

475 Annual licensing visits are also conducted by DMHSAS for those agencies licensed by that Department. DMHSAS is required by Tennessee Code Annotated 33-2-413 “to make at least one unannounced…inspection of each licensed service or facility yearly.” DMHSAS coordinates with the Department regarding the private providers that it licenses through reports and correspondence.

476 The reports are posted on a shared drive accessible to all members of the Provider Quality Team.
3. Coordination of Provider Monitoring Within the Department

While the DCS Licensing and PAR Units have specific responsibilities related to monitoring and oversight of the private providers, there are a variety of other staff from other units and divisions of DCS whose responsibilities include aspects of private provider monitoring. The Network Development Division has primary responsibility for communication with private providers and manages the Performance Based Contracting initiative. The Contracts Management Unit in the Finance and Budget Division is responsible for issuing and maintaining contracts. And the Special Investigations Unit (discussed in Section Three) in the Office of Child Safety has responsibility for investigating allegations of abuse and neglect that take place in private provider operated placements. The Division of Quality Control has responsibility for tracking Incident Reports (IRs) submitted by private providers, reviewing investigations taking place in provider placements, and facilitating the Resource Home Quality Team that reviews private provider resource homes subject to investigations described in Section Three of this report.477

The Provider Quality Team (PQT) process, implemented to ensure appropriate review of and response to complaints or concerns raised about particular private providers or particular placements, has been fully operational for the past year. The Provider Quality Team, consisting of representatives from the divisions described above, as well as other relevant units, meets weekly to discuss and address concerns about private provider agencies478 and to review regularly generated reports and data sources related to providers. Depending on the circumstances, the PQT may arrange for an unannounced site visit to gather further information; require private providers to develop and implement a corrective action plan to address concerns; or set up technical assistance for the private provider.

The Department is satisfied with the way in which the PQT process identifies, receives, and responds to specific incidents or concrete conditions that clearly raise serious concerns about a resource home or a private provider facility. These concerns have ordinarily surfaced through the Incident Reporting process, the SIU process, PAR and Licensing reviews or regional reports. The Department has been able to effectively address significant concerns either through successful implementation of corrective action plans or through removing problematic agencies from the provider network. The Department is generally able to identify and address less significant concerns through its other provider oversight processes (for example PAR findings are addressed and corrected at the conclusion of a PAR review).

F. Avoiding Conflict of Interest in Placement Process

The Settlement Agreement (XII.F) prohibits the Department from contracting with any agency for which an owner or board member holds any other position that may influence placements provided to children in the plaintiff class (including judges, referees, and other court officers) and requires that all contracts and contract renewals contain this policy as a binding term of the contract.

477 The QC Division assumed responsibility for facilitating this Resource Home PQT in March 2014.
478 These concerns may be raised by DCS staff or brought to the attention of the Department from outside sources.
Department policy is consistent with these provisions and each contract signed by a private provider includes language confirming the private provider’s compliance with these provisions. Beginning with the 2009-10 contract year, the Department has required each private provider to file annually with the Department a current list of board members and owners (and to update that list during the year if new board members or owners are added) and to also file, from each such person, an individual conflict of interest statement attesting to compliance with the conflict of interest provision.

The Department has clarified its expectations with private providers, and the process in place for receiving and reviewing the required documentation is well-designed to ensure that private providers (and their owners and board members) understand and are meeting the requirements of this provision.

The Department requires that any lawyers who serve on boards provide additional information related to their practice and that any judges who serve on boards provide additional information related to the jurisdiction of their court and the cases over which they preside. The Department receives the statements prior to the beginning of the current fiscal year and resolves any issues prior to the beginning of the contract period.

For the 2014-15 contract year, the Department received completed conflict of interest forms back from every owner, officer and board member of each of the agencies with whom the Department contracted. The Department reviewed each of the conflict of interest forms received and identified one agency board member who also served as a Court Appointed Special Advocate (CASA). The Department notified the agency that this presented a conflict of interest and the individual resigned from the agency board.
SECTION THIRTEEN: FINANCIAL DEVELOPMENT

A. Maximizing of Federal Funding

The Settlement Agreement (XIII.A) requires the Department to develop and implement policies and procedures to maximize Title IV-B and Title IV-E funding.

As discussed in previous monitoring reports, the Department has approached and continues to approach revenue maximization in a conscientious and responsible manner. Staff in the Department’s Division of Finance and Budget lead quarterly regional fiscal review meetings focused on maximizing child eligibility for IV-E funding and Targeted Case Management.

DCS fiscal data, including that related to penetration rates, claiming success, and audit results, continue to reflect that the Department’s policies and procedures meet the requirements of this provision. As discussed in previous monitoring reports, TFACTS problems that had created additional burdens on DCS staff to ensure the documentation necessary to maintain IV-E funding levels have been addressed, and TFACTS enhancements have facilitated IV-E claiming for young adults in Extension of Foster Care.

B. Appropriate Utilization of Federal Funding

The Settlement Agreement (XIII.B) requires that all funds remitted for children in the plaintiff class to the state of Tennessee by the United States Department of Health and Human Services be committed exclusively to the provision of services and staff serving class members. The Settlement Agreement further provides that it is the intent of the state that dollars committed to DCS for the provision of services and resources to benefit children in the class and children at risk of entering the class not be decreased if efforts to maximize federal dollars result in additional federal funding.

As discussed in prior monitoring reports, Tennessee has faced significant budgetary challenges over the past several years, which have required all state agencies to undergo some degree of budget cuts. The Department has consistently engaged in a sound process to identify those budget cuts that would have the least negative impact on the reform effort and has managed over the past six budget cycles to avoid the kinds of budget cuts that would significantly undermine the progress that the Department has made.

Notwithstanding funding challenges, consistent with the expressed intent of the Settlement Agreement, the Department, during the time since the entry of the Settlement Agreement, has

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479 The most recent IV-E audit was completed in the summer of 2012. The findings of that audit were the subject of a February 13, 2013 letter to DCS from the Administration for Children and Families (ACF), advising the Department that its IV-E program was found to be in substantial compliance with federal requirements. The audit found claiming errors in 6% of the sample of cases reviewed for IV-E compliance, well within the 10% error rate established by ACF as the maximum allowable.

480 The Settlement Agreement further provides that “Nothing in this provision shall reduce the defendants’ financial obligations to comply with the terms of this agreement.”
succeeded in increasing both federal funding and state funding of its child welfare system. The state has supported reasonable budget improvements requested by the Department over and above the allocation of Needs Assessment dollars specified in the original Settlement Agreement, and the Department has been thoughtful and responsible in achieving the budget adjustments necessitated by the reduction in state revenue.

As discussed in the May 2014 Monitoring Report, consistent with this approach, the Department’s budget for 2014-15, while reducing funds allocated to some functions, included funding for: 40 additional Family Services Workers; 45 additional CPS investigative and assessment staff; the upgrading of the remaining 134 CPS investigative staff to CM3; the upgrading of 132 CPS assessment staff to CM3; adjusting DCS Foster Care Board Rates based on current USDA guidelines; and both maintaining the current relationship between the Foster Care rate structure and current Adoption Assistance rates and accommodating the increase in the number of children receiving Adoption Assistance.

The Department’s budget for 2015-16 includes funding for: position upgrades for Child Protective Services (CPS) assessment case managers; three additional positions for Quality Service Review; two additional training staff; two additional positions for regional attorneys; four additional positions for administrative procedures; upgrades of Tennessee Family and Child Tracking System (TFACTS) software; implementation of a Social Security Administration query system; increases in residential and foster care board rates; and increased funding for adoption assistance payments to adoptive families.

C. Financial Management System

The Settlement Agreement (XIII.C) requires DCS to maintain an appropriate financial management system capable of ensuring timely and accurate payments to family resource homes, adoptive homes, and private providers.

As discussed in the May 2014 Monitoring Report, the problems caused by the poor design of the TFACTS financial functions which resulted in delays in payments, overpayments, and duplicate payments have been successfully addressed by a series of enhancements.

The January 2014 Performance Audit of DCS conducted by the Comptroller of the Treasury found that the combination of TFACTS improvements and manual reconciliation process has satisfactorily addressed the concerns raised in prior audits related to TFACTS financial functions. The current financial management system adequately ensures the timely and accurate payments to resource families, adoptive homes, and private providers.