MONITORING REPORT

OF

THE TECHNICAL ASSISTANCE COMMITTEE

IN THE CASE OF

BRIAN A. V. BREDESEN

November 6, 2010

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INTRODUCTION

This report was prepared by the Technical Assistance Committee (TAC) pursuant to the orders entered in *Brian A. v. Bredesen, 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).[1]

The *Brian A.* Settlement Agreement (Settlement Agreement), entered on July 27, 2001 and modified by agreed orders entered on December 29, 2003, February 28, 2006, May 8, 2007, October 1, 2008 and January 13, 2009, requires improvements in the operations of the Department of Children's Services and establishes the outcomes to be achieved by the State of Tennessee on behalf of children in custody and their families.

The Role of the Technical Assistance Committee

The Settlement Agreement established the TAC, which originally consisted of five experts in the child welfare field selected by agreement of the parties, to serve as a resource to the Department in the development and implementation of its reform effort.

The TAC was envisioned as a way of making available to DCS the range of expertise and assistance that was perceived by the parties as necessary to ensure that the reform would be successful. The primary function of the TAC was and continues to be to advise and assist DCS in its efforts to design, implement and evaluate improvements required by the Settlement Agreement. In addition, there are certain areas in which the Settlement Agreement gives the TAC responsibility for making recommendations, which the Department is then required to implement.

Under the terms of the Stipulation of Settlement of Contempt Motion entered by the Federal District Court on December 29, 2003, the TAC also assumed responsibility for assisting the State in developing an implementation plan and monitoring and reporting on the State's performance both under that plan and under the original agreement for a 26-month period beginning January

[1] While the class definition excludes children who are or will be placed in DCS custody "upon an allegation or adjudication of a delinquent or criminal act," if the allegation of delinquency or criminal conduct "is subsequently dropped or fails to result in an adjudication of a delinquent or criminal act" and the child remains in the legal custody of DCS, the child is included in the class. Settlement Agreement I.B.

1, 2004.[2] A Stipulation Extending Monitoring was entered on February 28, 2006, extending the TAC's monitoring role and responsibilities through August 31, 2007.[3] Further stipulations extending monitoring were entered on May 8, 2007, extending the TAC's monitoring role and responsibilities through September 30, 2008, on October 1, 2008, extending the TAC's role through June 30, 2010, and on June 29, 2010, extending the TAC's role through December 31, 2010.

This is the seventh monitoring report issued by the TAC. The previous monitoring reports are available on-line at http://www.state.tn.us/youth/dcsguide/fedinitiatives.htm.

The Focus and Structure of this Monitoring Report

This monitoring report is specifically designed to provide information to assist the parties and the Court in determining the extent to which the Department has met or is meeting the specific provisions of the Settlement Agreement. Section One of the report is a presentation and discussion of data related to the specific outcome and performance measures of Section XVI of the Settlement Agreement. The remainder of the report is structured to correspond to the sections of the Settlement Agreement which contain substantive process, performance, or outcome requirements: Settlement Agreement Sections II, III, IV, V, VI, VII, VIII, IX, X, XI, XII, and XIII.

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

Executive Summary
Key Outcome and Performance Measures at a Glance
Section One: Data and Outcome Measures Overview
Section Two: Structure of the Agency (II)
Section Three: Reporting Abuse and Neglect (III)
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[2] The *Path to Excellence*, the implementation plan developed by DCS in accordance with the Stipulation, was approved by the Court on August 19, 2004.
[3] In addition, pursuant to that stipulation, the TAC became a four person committee with its current membership.

EXECUTIVE SUMMARY

Significant Accomplishments

The Tennessee Department of Children's Services has undertaken a broad and ambitious reform effort, committed to improving the functioning of all parts of the organization and embracing best practice standards for every aspect of child welfare policy and practice. This seventh Monitoring Report issued by the Technical Assistance Committee provides a comprehensive assessment of the Department's progress through December 31, 2009. Nine years after the entry of the *Brian A.* Settlement Agreement, the Department has much to show for its work.

- Children coming into foster care are much more likely to be placed with families than in congregate care facilities and emergency shelters, much less likely to be separated from their siblings, and much more likely to be able to attend public schools with their peers.

- The Department has achieved a high level of success in placing children unable to return to family in adoptive homes; it was nationally recognized in 2006 for impressive annual increases in the number of children for whom it has successfully found adoptive homes and the Department continues solid performance in this area.

- The Department now seeks to find a permanent and stable family for all children in its care, no longer excluding the many adolescents who used to have "goals" of "long-term foster care" or "other planned permanent living arrangement," which essentially meant that they were likely to leave foster care at age 18 without adult supports.

- Those children who achieve permanency are achieving it more quickly in recent years than they have in the past, and the emphasis on permanency for older youth in care has reduced the number and percentage of children "aging out" of care without a permanent family.

The Department's efforts are reflected in the measurable progress it has made and sustained in key areas covered by the *Brian A.* Settlement Agreement.

The Department has made significant progress in each of the six current "Child Welfare Outcome" categories established by the Settlement Agreement.[4] As reflected in Table 1 (Data at a Glance), of those six current categories in Section XVI.A of the Settlement Agreement (Reunification, Adoption Finalization, Number of Placements, Length of Time in Placement, Reentry, and Achievement Upon Discharge), involving 11 separate measures (three categories have more than one measure each), the Department has met or exceeded the required percentage for five of those measures (all three Reunification measures and two of the Length of Time in Placement measures) and is within between one and four percentage points of the required percentage for the remaining six measures.

[4] The parties previously agreed to discontinue monitoring of Section XVI.A.6 for reasons discussed in footnote 24 at page 18.

Of the six current "Performance Indicator" categories listed in Section XVI.B of the Settlement Agreement[5], the Department has met or is within a percentage point of meeting the measures for three of those categories (Placing Siblings Together, Planned Permanent Living Arrangements, and In-Region Placements) and has met one of the two measures for one other category (Filing of Termination of Parental Rights Petitions).[6]

There remain two categories in which the Department's performance, as measured by aggregate data from the state's automated information system, remain well below the performance levels required by the Settlement Agreement: Parent-Child Visiting and Sibling Visiting. However, a recent targeted review by the TAC has found that the performance gap is much smaller than the aggregate data suggests. A significant portion of that gap is attributable to a combination of (1) a failure to document visits that are in fact occurring; (2) an inability of the present aggregate reporting to exclude from the calculation situations in which restrictions on visits are permitted by the Settlement Agreement[7]; and (3) circumstances beyond the Department's control.[8]

As the TAC has observed in previous monitoring reports, many of the Department's achievements are attributable to improvements the Department has made, consistent with the Settlement Agreement, in the "infrastructure" necessary to support good child welfare practice:

- Tennessee now has a "practice model"—a set of underlying values and an approach to working with families and children that emphasizes engagement of the family, depends on a thorough assessment of a family's strengths and needs, and involves families and youth in the case planning and decision making process—and a corresponding set of policies and procedures. Both the outcomes the Department is trying to achieve and the core strategies for achieving them are broadly understood by both DCS staff and the private providers that the Department contracts with, something that was not the case several years ago.

[5] The parties previously agreed to discontinue monitoring of Section XVI.B.5 for reasons discussed in footnote 24 at page 18.

[6] The Department's recent performance far exceeds the first measure for this category, the required percentage of TPR petitions filed within three months of the establishment of adoption as the sole permanency goal. TPR is filed within three months in 90% of the cases, while the requirement is only 65%. However, the performance on the second measure, percentage of the remaining cases for which TPR is filed within six months, falls far short of the requirement (31% instead of 75%). If one were to look at the total percentage of children for whom TPR is filed within six months of establishment of the sole goal of adoption, it appears that the Department's actual performance on that cumulative measure would be the same as would have been achieved had it met, but not exceeded, each of the separate requirements.

[7] Section XVI.B.1.a of the Settlement Agreement provides that the standard for parent-child visits "does not apply to situations in which there is a court order prohibiting visitation or limiting visitation to less frequently than once every month. The child's case manager may consider the wishes of a child (generally older adolescents) and document in the case file any deviation from the usual visitation requirements." Section XVI.B.2.a provides that the standard for sibling visits "does not apply to situations in which there is a court order prohibiting visitation or limiting visitation to less frequently than once every two months."

[8] These circumstances, which include such things as a parent's unwillingness to visit or an inability to locate a parent despite diligent efforts, are explained in greater detail on page 54.

- The Department has recognized that no reform effort can succeed without a substantial investment in recruitment, training, and retention of competent, caring, and committed staff. It has collaborated with a consortium of colleges and universities to develop a child welfare focused Bachelor of Social Work (BSW) stipend program that is designed to be a "pipeline" for hiring new employees who already have classroom training and relevant field experience in child welfare practice; and the Department has implemented a separate hiring register that ensures that it is able to give a hiring preference to stipend program graduates.

- The Department's training curricula have been thoroughly revised to support and promote the knowledge and skills envisioned by the *Practice Model*; and evaluation of both DCS performance and that of private providers is focused on the extent to which the desired outcomes for children and families are being achieved. Tennessee has developed a Training Consortium of 14 colleges and universities across the state to expand the breadth and depth of resources available to support training and professional development. Through the same university collaboration, the Department has greatly expanded its overall training capacity. The Training Consortium now provides the vast majority of pre-service and in-service training for DCS staff and for resource parents.[9]

- The Department has addressed two critical challenges to maintaining a well-qualified workforce: the historically low pay of DCS case managers relative to comparable positions in the public and private sector and the historically high caseloads that precluded case managers from being able to provide the level of attention that children and families need and deserve. Tennessee has substantially increased its starting salaries for every class of case manager position[10] and has dramatically decreased foster care case manager caseloads. Caseloads that prior to the entry of the Settlement Agreement routinely exceeded 40 cases are now limited to no more than 20. For the past three years, around 90% of DCS case managers at any given time have had caseloads that are within the caseload limits set by the Settlement Agreement and when those caseloads exceed the limits they tend to do so by only a few cases and for only a short period of time.

- The Department has addressed a number of critical concerns identified in the lawsuit about the lack of clear and effective policies and procedures governing the use of psychotropic drugs for children in DCS custody and about the improper use of restraints and seclusion. The Department has implemented best practice policies and procedures governing use of psychotropics, restraints, and seclusion, and established credible oversight mechanisms for ensuring compliance.

- As the Department has moved forward with its outcome-focused reform efforts, it has moved from an organization that had been largely unable to produce basic data about the children in its custody to one that is increasingly data-driven. The Department has done

[9] The term "resource parent" is used by the Department to refer to both foster parents and adoptive parents. Similarly, the term "resource home" is used by the Department to refer to both foster homes and adoptive homes.

[10] The increases were instituted over a three year period ending in 2006 and salaries have not been increased since that time. The Department recognizes that it will be important to monitor salary levels for comparable positions in the public and private sector to ensure that DCS case manager salaries remain competitive.

an impressive job in building the capacity of TNKids (its data system until just recently) to provide a wealth of data that it had not originally been designed to produce, while at the same time investing in the development of a its new SACWIS[11] system, the Tennessee Family and Child Tracking System (TFACTS), which utilizes the advances in web-based technology that have occurred since the development of TNKids, and which is designed to support Tennessee's new practice model.

- The Department has used its increased data capacity to understand its performance, to develop improvement strategies and set goals, and then to track progress toward achieving those goals, both the specific outcome goals and performance measures set forth in the Settlement Agreement and others that the Department has established for its own management purposes. In order to do this, the Department has created a quality improvement structure, both at the state level and within each of its regional offices, led by an Office of Performance Quality Improvement[12] and supported by regional staff with responsibilities to support and facilitate continuous quality improvement (CQI) efforts in the regions. The Department has adopted a well designed Quality Service Review (QSR) process as an ongoing method for gathering information on the quality of service delivery for children and families and data on both child and family outcomes and system performance.

Remaining Challenges

There remain five interrelated areas of additional work necessary to complete the implementation of the Department's reform effort and meet the remaining requirements of the Settlement Agreement. The Department recognizes these as priority areas and is already making progress in addressing each area.

1. Improving the Quality of Case Practice

The Department has identified as its major challenge improving the quality of front-line casework—the critical day-to-day interactions between children, families, case managers, helping professionals, and the community that are needed to make sure that children are safe, healthy, and able to develop and succeed. Notwithstanding its significant accomplishments in infrastructure and policy development, the Department recognizes that unless these accomplishments are matched by substantial improvements in routine front-line practice, all of this work will not consistently achieve good outcomes for many of the children in the Department's care. Despite the impressive progress that the Department has continued to make over the past several years, the gains in improving performance in critical areas of case practice

[11] SACWIS is an acronym for State Automated Child Welfare Information System.

[12] Under the current central administration organizational nomenclature, an "Office" is headed by an Executive Director who reports to one of three Deputy Commissioners. Offices are made up of "Divisions," and the Divisions are made up of "Units." The most current Departmental organizational chart (as of October 2010) is included as Appendix A.

have not followed. Substantially fewer than half of the cases evaluated in the 2009-2010 Quality Service Review scored "acceptable" for any of the core practice performance indicators: Engagement of Child and Family (44%), Teaming and Coordination (45%), Ongoing Functional Assessment (40%), Child and Family Planning Process (34%), Plan Implementation (39%), and Tracking and Adjustment (41%).

In attempting to improve the quality of case practice, the Department has some important strengths to build upon: a well designed Child and Family Team model; a high quality training curriculum to support that model; and a core group of Child and Family Team Meeting facilitators who have skills to facilitate Child and Family Team Meetings (CFTMs) and to coach and mentor others in the Child and Family Team process. However, as the TAC observed in its previous monitoring report and as the results of the 2009-2010 Quality Service Reviews reflect, this progress has not yet been matched by equal skills on the part of front-line case managers or, even more critically, by many of the team leaders (supervisors) and team coordinators (senior supervisors) who are responsible for overseeing their work.

The Department is now able to generate aggregate reports on Child and Family Team Meetings and is using this capacity to track statewide and regional performance on the extent to which the required Child and Family Team Meetings are being held, the timeliness of those meetings, and team composition and team member presence.

The data reflect considerable room for improvement, most significantly in the extent to which the Department is succeeding in involving fathers, relatives, members of the family's informal support network, and resource parents, and creating teams with the breadth of participation envisioned by the Department's *Practice Model*.

The Department has established the following core practice elements of the Child and Family Team Process as improvement priorities:

- engaging children and families;
- forming strong Child and Family Teams that include not only professionals, but relatives and others who are part of the family's informal support network;
- assisting those teams in assessing the strengths and needs of the family;
- having the team develop and track the implementation of individualized case plans that build on those strengths and address those needs; and
- utilizing the team and the team meeting process for problem-solving and key decision making throughout the life of the case.

The Department recognizes that improvement depends on strong regional leadership and on supervisors themselves having both the skills relevant to the core practice elements and the coaching and mentoring ability to develop these skills in the case managers they supervise.

The Department has therefore committed to redesigning its performance evaluation process to assess critical areas of supervisory skills related to case practice supervision, create job performance plans that build on the supervisors strengths and address any areas of deficit, and provide a structure for regular conversations and interim evaluations of supervisor performance

that supplement and help inform the annual performance evaluation. The Department is also creating a set of expectations for regular supervisor-case manager interaction focused specifically on the quality of the core skills of engagement, teaming, assessment, case planning, and plan implementation, and intends to implement a performance evaluation process for case managers that parallels the one developed for supervisors.

Most importantly, the Department is committed to taking statewide and regional data related to core performance measures and outcomes, breaking it down by supervisory units, and using this data to inform judgments about supervisory effectiveness. Providing feedback to supervisors on how well the teams they supervise are doing in key system performance and outcome measures relative to other teams (and relative to their own teams' past performance), and holding supervisors accountable for improving the performance of their teams in areas of weak practice is key to transforming the performance evaluation process into an effective system improvement vehicle.

This creation of what the Department refers to as its Performance Management System is an important and ambitious undertaking and one that will be implemented over time, beginning with supervisors—first with team coordinators and then team leaders. For this reason, the Department is creating a detailed "roll out" plan, identifying tasks and timelines for completion, including timelines within each region for sequencing the evaluations of the Team Coordinators and Team Leaders. It is not realistic to expect improvements everywhere, with everyone, all at once. But proceeding cluster by cluster, each region should be able to demonstrate progress.

As the Department moves forward, it will be important, much as it was with its roll out of performance based contracting, to establish baseline data against which to measure improvement. This baseline data will permit the Department to assess the capacities and performance of supervisors initially, but ultimately of all case managers, with respect to the key practice wheel activities. It will be important to know the number and percentage of those with advanced skills, those with adequate skills, and those whose skills are not yet adequate. As the new performance evaluation process unfolds, the Department will need to assess the number and percentage of those supervisors and case managers who are "developing adequately" and those who are "not yet developing adequately."

The Department's implementation plan will also have to include some provision for differential resources and activities being made available to those regions, clusters, or units that have a disproportionate concentration of supervisors and/or case managers who are not yet performing at the "adequate" level. The Department's Performance Management Plan contemplates active involvement of the Tennessee Consortium for Child Welfare staff and the Department's own training division in responding to training needs identified in the performance evaluation process. However, especially if the training needs include intensive coaching and mentoring, identifying the resources to respond to those needs could be challenging.

If the Performance Management System is effective, the Department should be able to relatively quickly see improved QSR scores in some of the core system performance indicators including

Engagement of Child and Family, Teaming and Coordination, Ongoing Functional Assessment, Child and Family Planning Process. [13]

2. Improving Resource Family Recruitment and Retention

The Department has recognized that the trauma and disruption that a child experiences when removed from his or her family can be greatly reduced, and services and supports most effectively delivered, when that child is placed in a family setting, within the child's home community, and whenever possible, with a family with whom the child already has a connection. Well trained and actively involved resource parents play a vital role in supporting the safe reunification of children with their families when reunification is possible. And for those children who cannot safely return home, the resource families with whom they have been placed in temporary foster care often become their permanent families.

The Department has done a good job of increasing the percentage of children served in family settings; however, the Department's progress is threatened by a reduction in its resource home capacity: the total number of resource homes serving DCS children has been steadily declining over the past several years; and although the number of children in care has also decreased over that same period, that reduction (23%) has been outpaced by the 33% reduction in the number of resource homes.

The Department recognizes that it does not have the range and number of resource homes that it needs in each region to serve the children coming into care from that region. When the supply of resource homes is so tight, the prospects that the resource homes available will afford the right match for a particular child are diminished. This increases the likelihood of placement of children far from their home communities, increasing the trauma associated with separation from family and friends, and diminishing their prospects for permanency.

The Department has identified two areas warranting special focus if Tennessee is to succeed in its effort to provide a good resource home match for every child who requires placement.

(a) Increasing Retention Through Better Engagement with Resource Parents:

The first area of focus is the Department's ability to support and retain its current resource families. At least some of the attrition and some of the challenges to successful recruitment result from the gap between the level of day-to-day involvement and support that both the *Practice Model* and DCS policy envision for its resource parents, and the actual day-to-day experience of a significant number of resource parents.

[13] A significant number of those cases which were rated unacceptable in the 2009-2010 QSR for one or more of these four indicators were rated "minimally unacceptable" (a rating of "3"). Had performance in these cases been a little bit stronger so that those cases warranted a rating of "4" ("minimally acceptable") rather than "3", the Department would have almost doubled its acceptable scores and practice would be acceptable in these four areas in at least 75% of the cases. See Appendix B.

Improved communication between assigned case managers and resource parents and improved responsiveness when resource parents encounter difficulties in getting services or supports for children in their home or with the quality or effectiveness of the services, would reasonably be expected to improve retention rates and make recruitment of new families easier. One of the most effective ways of improving responsiveness and communication with resource parents is to make sure that they are involved members of an active Child and Family Team. (The CFTM data reflecting resource family presence at about 40% of team meetings reflects considerable opportunity for improvement in that regard.)

The Department has acknowledged the importance of actively soliciting feedback from resource parents and creating mechanisms for resource parents to help shape policy and improve practice and bring to their attention those situations in which practice is not consistent with policy. The Department has strengthened the Foster Parent Advocacy Program and is implementing, in response to legislation (supported by the Department), a grievance process for resource parents that provides a clear structure for resource parents to raise and resolve concerns at the regional level and, if that is not possible, to obtain further review from the Central Office. The Department has encouraged inclusion of resource parents on work groups, CQI teams, cross functional teams and the like. It is reasonable to expect that the more actively involved resource parents are with the Department, the more inviting the Department is of resource parent input, and the more responsive the Department is to legitimate concerns and grievances, the easier it will be to retain good resource parents.

(b) Increasing Kinship Homes Through Improved Engagement with Relatives:

In addition to increasing capacity by improving retention, there is considerable opportunity for Tennessee to increase its resource home capacity through child-specific recruitment focused on the child's natural circle of support. The best match for a child is often a person with whom the child already has a positive relationship.

The Department's own data, as well as studies in other jurisdictions, suggest that children placed in kinship resource homes[14] experience fewer placement moves and shorter lengths of stay than other children in foster care.

The Department is aware that it has relatively few kinship resource homes compared to many other child welfare systems and is particularly concerned that after several years of increasing the percentage of children initially placed in kinship homes, that percentage has declined to 14.3% in 2009.

The Department is nevertheless encouraged by the results of kinship home initiatives, which were designed in two regions to help identify and address the barriers to more effective identification, training, approval, and support of kinship resource families. For those two regions in 2009, kinship homes accounted for more than a quarter of the first placements—for one region

[14] 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).

double what it had been the previous year. Drawing on the strategies used successfully by these regions (particularly the designation of a full-time kinship care coordinator responsible for designing regional kinship protocols, training staff on those protocols, and tracking compliance with those protocols), other regions have developed their own recruitment and retention plans focused on increasing use of kinship homes.

The Department believes that a significant factor contributing to its underutilization of kinship homes is the failure to place a priority on identifying and effectively engaging relatives and fictive kin at the earliest stages of a case. The failure to do so is reflected in the Child and Family Team Meeting (CFTM) data, showing only a small percentage of CFTMs that have relatives, particularly paternal relatives, and other informal support persons, as participants.

Additionally, the Department has revised its "diligent search" policies, done significant training around those policies, and is emphasizing diligent search documentation as an area warranting priority attention from case managers and supervisors.

3. Improving Outcomes for Children and Youth who Remain in Foster Care ("Longstayers")

While the Department is placing significant emphasis on the diligent search process at the "front end" of the case process (both to increase kinship resource homes and to create child and family teams that include relatives and other informal supports), it is emphasizing a similar strategy on the "back end" to improve outcomes for "longstayers"—children who have been in foster care for over two years.

The Department has developed *The Initiative to Reduce Long Term Foster Care*, for which they are seeking additional outside funding[15], the goal of which is to reduce the length of stay for children who remain in custody for more than two years, increase their likelihood of achieving permanency, increase their placement stability and reduce the reentry and post-permanency recurrence rates for these children.

A core strategy of this initiative is the expansion to all "longstayers" of the Department's FOCUS[16] process (described in Section Eight of this report). The FOCUS process is presently designed to address cases in which children in "full guardianship"—whose birth parents' rights have been terminated and who are legally free for adoption—appear to be "stuck" in the system, without a viable permanent family identified. The process, led by a FOCUS specialist who is assigned to work with the Child and Family Team, includes three core elements:

- Conducting a thorough "archaeological dig"—a full, up-to-date diligent search for relatives, fictive kin, former resource parents, coaches, ministers and Sunday school teachers, and others with whom the child has had some positive connection in the past, and an effort to engage those people as part of the child's circle of support;

[15] A recent federal grant proposal was not funded; however, the Department is exploring other opportunities for funding.
[16] FOCUS is an acronym for Finding Our Children Unconditional Supports.

- Developing a well constituted, well functioning team, expanded to include members of the child's informal circle of support (including those identified as resources during the archaeological dig); and, in the case of older children, a team that actively engages those children in the planning process; and

- Developing, by the team but facilitated by the FOCUS specialist, a high quality Individualized Recruitment Plan for finding a permanent home for the child.

The results of the FOCUS process are encouraging. In a significant number of cases, FOCUS specialists have been able to identify relative resources and others with whom the child had past connections, engage them in the Child and Family Team process, in some cases resulting in placement with one of those persons and other cases resulting in other types of support for the child.

If the FOCUS specialists do their job well, they are modeling the engagement, teaming, assessment, and case planning called for by the practice model and there is anecdotal evidence that this modeling has had an impact on the case managers that they have worked with on these "stuck cases."

If the Department is successful in receiving outside funding for *The Initiative to Reduce Long Term Foster Care*, it will be able to devote additional resources not only to expand FOCUS, but to provide additional supports to regions in their efforts to increase utilization of kinship resource homes.[17]

The work proposed to be undertaken reflects sound policy and practice. The Department has begun some of the work in a small scale way, and while outside funding could accelerate this work, most of the components of the initiative are important to implement, irrespective of whether the additional outside funding is secured.

4. Youth Transitioning to Adulthood

The TAC and the Department continue to be concerned that case planning and service provision for older youth too often falls short of the Department's expectations. In 2007, in response to findings of a needs assessment, the Department developed a strategic plan for improving case planning and service provision for older youth focused around goals in five areas:

- educational attainment;
- housing;
- establishment of permanent connections;
- community engagement; and

[17] Outside funding for this initiative would also be used to bring nationally recognized, evidence based resource parent support program, "Keep Resource and Kin Parents Supported" (KEEP) and a related program (KEEP Safe) to Tennessee. This program has been successful in helping resource parents effectively manage children, decreasing problematic behaviors, increasing emotional well-being and improving placement stability.

- establishment of comprehensive mental health services for transitioning youth.

In accordance with that plan, the Department has revised its Independent Living (IL) related policies (incorporating a number of improvements recommended by older youth themselves), has switched to the Ansell Casey Life Skills Assessment (ACLSA) (which is web based, in multiple languages, and provides individualized feedback that can more easily inform case planning); and has integrated the InTERdependent Living Plan (ILP) into the Permanency Plan.[18]

Most significantly, the Department has made the focus for case planning for older youth "permanency **and** successful transition to adulthood" not "permanency **or** successful transition to adulthood." While in the past, Independent Living services had been viewed as an "alternative to permanency"—a kind of consolation prize for those older youth for whom the Department had failed to find permanent families—now preparation for adulthood and provision of IL services to support that preparation is to be considered in the context of the major emphasis on "fostering permanent connections," through either "legal permanency" or "relational permanency." The Department has embraced in its policy a philosophy that a youth is never too old to find permanency, and that there is no more important contributor to successful preparation for/transition to adulthood than having those personal family or family like connections that will last into adulthood.

However, a targeted review of the case planning and service provision for a sample of 16 and 17 year olds conducted by the TAC during the summer of 2009 (the results of which are discussed in Section Six and Appendix N) found significant variation in the quality of case work, with 30% of the cases falling far short of the expectations of Department policy and only 21% clearly meeting those expectations.

On the positive side, the targeted review has confirmed the wisdom of the Department's emphasis on permanency for older youth: those youth who have strong, positive, family or family-like connections as they transition to adulthood appear to be significantly better prepared for and more successful in making the transition to adulthood than are other older youth.

The Department also appears to be doing better with planning and service provision for older youth with certain special needs. Over the past several years, the Department has significantly improved transition planning and service coordination for those youth whose intellectual disabilities and/or mental health diagnoses make them eligible for adult services provided by two other state agencies (the Division of Intellectual Disabilities or the Department of Mental Health and Developmental Disabilities).

Transition planning and service provision appears to be weakest for those youth who do not yet have those strong relational connections to family or other adult supports, and who do not have a disability that qualifies them for adult services. These youth made up 61% of the 16 and 17 year olds who were the subject of the targeted review.

[18]The Department renamed what had formerly been referred to as Independent Living, because the term "InTERdependent Living" was considered more consistent with the Department's vision for older youth transitioning to adulthood. The "TER" is an acronym for Teaming to Engage Resources.

Because older children are disproportionately represented among the group of "longstayers," some of the older youth for whom permanency has been elusive and case planning has been weak will no doubt benefit from the efforts discussed above to improve practice with respect to "longstayers". (Forty percent of the "longstayers" are 15 years of age or older). However, the Department recognizes that beyond that effort, special attention to case planning and service provision for older youth is warranted.

The Department intends to convene a work group that includes private providers with demonstrated expertise in providing transitional services to older youth in an effort to develop a set of strategies for improving case planning and service provision. The Department is also examining how its own staff resources, including the Independent Living Specialists, might be redeployed to respond to the findings of both the TAC's targeted review and subsequent follow-up reviews presently being led by the Central Office IL staff.

5. Implementing TFACTS

The Department is now in the process of transitioning from its antiquated TNKids data system to its new system, the Tennessee Family and Child Tracking System (TFACTS). TFACTS not only takes advantage of significant advances in information systems technology, but, unlike TNKids, TFACTS has been designed from the beginning to support the Department's present practice model and performance needs.

TFACTS is organized around the Department's case process flow, incorporating the forms and tools that case managers use. It captures information more efficiently, eliminating much of the duplicate data entry that TNKids required. It provides enhanced access to resource information, and provides prompts and alerts to encourage good practice. The system is engineered to limit opportunities for inaccurate or incomplete data entry and to provide for improved auditing and data clean-up. TFACTS, when fully implemented, will be a much more easily accessed, functional, user-friendly information system than TNKids and will provide a vastly improved and more robust reporting capacity.

That is not to say that the transition to TFACTS will be easy and problem free. No matter how well designed a new information system of this size and complexity is, and no matter how conscientious the preparation and planning for the "roll out," there will be challenges to overcome, glitches to respond to, and a learning curve and period of adjustment for staff for whom the TNKids system, while inefficient and often frustrating, is second nature.

The Department recognizes this and appropriately anticipates that some amount of rework and redesign will be inevitable. It will be important that sufficient resources are available to support the rollout and promptly respond to problems as they are identified.

Conclusion:

The body of this report provides a detailed discussion of the Department's performance with respect to each of the provisions of the Settlement Agreement. As that discussion reflects, the Department has met and maintained many of the important improvement requirements of the Settlement Agreement and is close to meeting many others. The Department has, in the TAC's view, correctly identified the areas of deficiency that remain to be addressed and has chosen a set of strategies that if conscientiously pursued and appropriately resourced can be reasonably expected to achieve success.

The Department's leadership has been impressive in its commitment to this work and in the steps taken to create a management/leadership structure that is focused on what it takes to achieve high quality outcomes for children, youth and families. However, it is also important to acknowledge that the Department's positive results to date have depended in no small measure on the resources that the Tennessee Legislature has allocated to support the Department's work, even in the face of statewide budgetary problems resulting from state revenue shortfalls.

Tennessee's impressive record of success in implementing an ambitious child welfare system reform effort—a reform initiated under Governor Sundquist and carried forward under Governor Bredesen—ought to give the Court, the parties, and the public confidence that with a continued high level of attention and skilled leadership, the next administration should be able to address the remaining problems and bring the *Brian A.* lawsuit 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.[19]

Table 1 presents the Settlement Agreement Section XVI outcome and performance measure requirements and the Department's level of achievement of those requirements for Reporting Period IV (July 1, 2008 through December 31, 2009), the Supplemental Reporting Period (July 1, 2008 through March 31, 2009), Reporting Period III (January 1, 2007 through June 30, 2008), and Interim Reporting Period III (January 1, 2006 through December 31, 2006).[20] Where available, breakouts of data by race for Reporting Period IV 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.[21] Table 3 presents average caseloads for DCS case managers and supervisors who were responsible for *Brian A.* children over the period from July 2007 to December 2009, and Table 4 presents the percentages of critical Child and Family Team Meetings held during the third and fourth quarters of 2008 and all four quarters of 2009. Table 5 presents first investigation rates and first substantiation rates for 2006 and 2007 and fiscal years 2008 and 2009. Finally, Table 6 and the corresponding figures present DCS statewide performance for the past five Quality Service Reviews (QSRs).

[19] 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 C 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 this data.

[20] Although Period III began on December 1, 2005, unless otherwise indicated, the TAC reports Period III performance based on the 18-month period from January 1, 2007 through June 30, 2008 (referred to as Reporting Period III) and reports separately the earlier part of Period III under the designation "Interim Reporting Period III" (January 1, 2006 through December 31, 2006). The TAC did not feel that separate reporting for the first month of Period III (December 2005) was necessary.

[21] Data for earlier cohorts presented in this table may differ slightly from that reported in previous monitoring reports because of updates and cleanings of TNKids data occurring over time.

Table 1: Settlement Agreement Outcomes	Settlement Agreement Standard	Interim Reporting Period III (1/1/06-12/31/06)	Reporting Period III (1/1/07-6/30/08)	Supplemental Reporting Period (7/1/08-3/31/09)	Reporting Period IV (7/1/08-12/31/09)
XVI.A.1 Time to Reunification					
○ Reunification within 12 months of custody	80%	72%	79%	76%	80% [79%/82%][22]
○ Reunification within 24 months of custody	75%	73%	75%	78%	77%
○ Reunification within 24 months of custody (cumulative - logical corollary of the Settlement Agreement provision)[23]	95%	92%	95%	95%	95%
XVI.A.2 Time to Adoption					
○ Finalization within 12 months of guardianship	75%	74%	74%	74%	74% [76%/66%]
XVI.A.3 Number of Placements					
○ 2 or fewer placements within past 12 months	90%	84%	88%	93%	88% [88%/88%]
○ 2 or fewer placements within past 24 months	85%	76%	80%	86%	84%
XVI.A.4 Length of Time in Placement					
○ 2 years or less	75%	77%	80%	80%	81% [80%/79%]
○ Between 2 and 3 years	No more than 20%	13%	10%	11%	11%
○ More than 3 years	No more than 5%	10%	10%	9%	8%

[22] Percentages in brackets denote performance by race, with performance for White children listed first and performance for African-American children listed second.

[23] 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	Settlement Agreement Standard	Interim Reporting Period III (1/1/06-12/31/06)	Reporting Period III (1/1/07-6/30/08)	Supplemental Reporting Period (7/1/08-3/31/09)	Reporting Period IV (7/1/08-12/31/09)
XVI.A.5 Reentry					
○ Reentry within 12 months of most recent discharge	No more than 5%	7%	6%	7%	6% [6%/7%]
XVI.A.6 Adoptive Placement Disruption[24]					
○ Adoptive placements that disrupted prior to finalization	No more than 5%	NA	2.2%	1.9%	NA
XVI.A.7 Achievement measures					
○ Youth exiting to non-permanency who met at least one achievement measure[25]	90%	84%	84%	87%	86% [87%/86%]
XVI.B.1 Parent-Child Visits					(December 2009)
○ Visits at least twice per month	50%	27%	22%	26%	32%
○ Visits once per month (of those not visiting twice per month)	60%	40%	23%	25%	29%
○ Visits at least once per month (cumulative - logical corollary of the Settlement Agreement provision)	80%	56%	39%	45%	52%
XVI.B.2 Sibling Visits					(Nov-Dec 2009)
○ Visits at least once per month	90%	49%	37%	36%	43%
○ Visits once every two months (of those not visiting at least once per month)	90%	35%	39%	34%	45%
○ Visits at least once every two months (cumulative - logical corollary of the Settlement Agreement provision)	99%	67%	61%	58%	69%

[24] The use of the "intent to adopt" in measuring performance for both Adoptive Placement Disruption (XVI.A.6) and Timeliness of Adoptive Placement (XVI.B.5) for Reporting Period III and the Supplemental Reporting Period was problematic. See the December 2008 Monitoring Report, footnotes 109 and 111, for a detailed discussion of the limited utility of measures based on the signing of the "intent to adopt." For this reason, the parties agreed to dispense with reporting on these measures for Period IV. ("Intent to adopt" data was not available for Interim Period III.)

[25] In its aggregate reporting of employment, the Department does not capture separately or distinguish between full-time and part-time. The TAC anticipates conducting an appropriate review to be able to make that distinction, should that be necessary to determine compliance.

Table 1 (continued): Settlement Agreement Outcomes	Settlement Agreement Standard	Interim Reporting Period III (1/1/06-12/31/06)	Reporting Period III (1/1/07-6/30/08)	Supplemental Reporting Period (7/1/08-3/31/09)	Reporting Period IV (7/1/08-12/31/09)
XVI.B.3 Sibling Placement					
○ Sibling groups placed together (point-in-time)	85%	81%	83%	81%	84%
○ Sibling groups placed together (entry cohorts)	85%	(2006 entry cohort) 85%	(2007 entry cohort) 85%	(FY07-08 entry cohort) 86%	(FY08-09 entry cohort) 84% [87%/79%]
XVI.B.4 Timeliness of TPR Filing					
○ TPR filed within 3 months of sole adoption goal	65%	82%	85%	90%	87%
○ TPR filed within 6 months of sole adoption goal[26] (of those with no TPR filed within 3 months)	75%	40%	32%	31%	33%
XVI.B.5 Timeliness of Adoptive Placement[27]					
○ Intent to adopt form signed within 6 months of guardianship	65%	NA	63%	61%	NA
XVI.B.6 PPLA Goals					
○ Class members with sole PPLA Goals on March 31, 2009	No more than 5%	0.9%	0.4%	0.3%	0.2% [0.2%/0.4%]
XVI.B.7 Placement within 75 Miles					
○ Class members placed within 75 miles on March 31, 2009	85%	89%	90%	90%	90% [89%/90%]

[26] This is not a cumulative measure. The denominator for calculating this percentage is the number of children who did not have TPR petitions filed within three months and who had a sole adoption goal for at least six months.
[27] See footnote 24 above for an explanation of the limited utility of measures based on the "intent to adopt".

Table 2: Placements	2006	2007	2008	2009
Number of children in custody on December 31st	6,873	6,375	5,443	5,298
	FY05-06 entry cohort	**FY06-07 entry cohort**	**FY07-08 entry cohort**	**FY08-09 entry cohort**
First placement rate (per 1,000) (Number of first placements in parentheses)	3.2 (4,452)[28]	3.2 (4,403)	3.0 (4,242)	2.5 (3,634) [2.2/2.9]
Initial placements in family settings	90% (4,009/4,452)[29]	92% (4,036/4,403)	92% (3,915/4,242)	92% (3,338/3,634) [92%/91%]
Initial placements in kinship homes (as % of initial family setting placements)	21% (829/4,009)	22% (893/4,036)	22% (871/3,915)	18%(604/3,338) [21%/11%]
	Calendar year 2006 entry cohort	**Calendar year 2007 entry cohort**	**Calendar year 2008 entry cohort**	**Calendar year 2009 entry cohort**
Initial placements in kinship homes (as % of all initial placements)	16.8%	19.9%	16.4%	14.3%

Table 3: DCS Case Manager and Supervisor Caseloads	Period III (average from July 2007 through June 2008)	Supplemental Reporting Period (average from July 2008 through March 2009)	Reporting Period IV (average from July 2008 through December 2009)
Case Manager Caseload (% within Settlement Agreement limits)	90%	97%	97%
Supervisory Caseload (% within Settlement Agreement limits)	93%	95%	96%

[28] A single number in parentheses indicates the number of children in a cohort group.
[29] A fraction in parentheses indicates the relevant numbers used for calculating the percentage or rate.

Table 4: Child and Family Team Meetings (CFTM)	Third Q 2008 (7/1/08-9/30/08)	Fourth Q 2008 (10/1/08-12/31/08)	First Q 2009 (1/1/09-3/31/09)	Second Q 2009 (4/1/09-6/30/09)	Third Q 2009 (7/1/09-9/30/09)	Fourth Q 2009 (10/1/09-12/31/09)
Children entering custody who had at least one Initial CFTM	77%	79%	83%	82%	79%	78%
Children entering custody who had at least one Initial Perm Plan CFTM	86%	88%	88%	91%	84%	82%
Children w/ placement disruptions who had at least one Placement Stability CFTM	58%	60%	64%	62%	58%	64%
Children beginning "trial home visit" (THV) or released from custody who had at least one Discharge CFTM	26%	29%	29%	36%	38%	38%
Children with at least one CFTM during reporting period	54%	56%	59%	62%	61%	58%

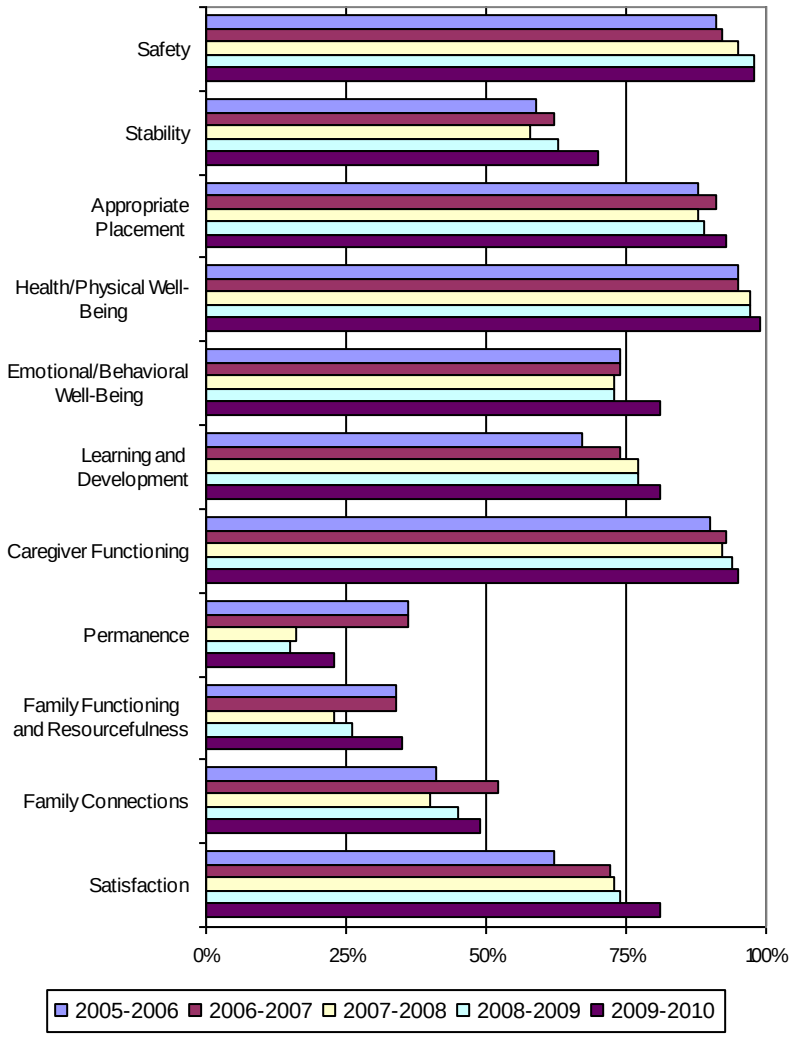
Table 5: Child Protective Services (CPS)	2006	2007	FY07-08	FY08-09
First investigation rate (per 1,000)	38.5	30.0	23.3	14.5
First substantiation rate (per 1,000)	6.0	4.7	4.0	3.4

Table 6: QSR Indicator (% acceptable)	**2005-2006**	**2006-2007**	**2007-2008**	**2008-2009**[30]	**2009-2010**
Child and Family Indicators					
Safety	91%	92%	95%	98%	98%
Stability	59%	62%	58%	63%	70%
Appropriate Placement	88%	91%	88%	89%	93%
Health/Physical Well-Being	95%	95%	97%	97%	99%
Emotional/Behavioral Well-Being	74%	74%	73%	73%	81%
Learning and Development	67%	74%	77%	77%	81%
Caregiver Functioning	90%	93%	92%	94%	95%
Permanence	36%	36%	16%	15%	23%
Family Functioning & Resourcefulness	34%	34%	23%	26%	35%
Family Connections	41%	52%	40%	45%	49%
Satisfaction	62%	72%	73%	74%	81%
System Performance Indicators					
Engagement (VII.B-F, L, N)[31]	42%	47%	38%	47%	44%
Teamwork and Coordination (VII.B-F, L, N)	26%	39%	31%	40%	45%
Ongoing Functional Assessment (VI.D)	30%	38%	30%	36%	40%
Long-Term View	30%	28%	28%	29%	31%
Child and Family Permanency Planning Process (VII.D)	25%	41%	28%	36%	34%
Plan Implementation (VII.D, K)	37%	38%	31%	36%	39%
Tracking and Adjustment (VII.D, K)	31%	41%	36%	38%	41%
Resource Availability and Use	55%	58%	59%	61%	66%
Informal Support and Community Involvement	52%	60%	49%	54%	47%
Resource Family Supports/ Support for Congregate Care Providers	80%	81%	83%	89%	89%
Transitioning for Child and Family	28%	37%	30%	33%	34%

[30] The 2008-2009 QSR results include data for all 13 regions (Smoky Mountain is included as a separate region in 2008-2009), but the seven counties that make up the Smoky Mountain region were included in the previous years' data as a part of East. The 2008-2009 East region is composed of the eight counties that did not become the Smoky Mountain region. The 2009-2010 QSR results also reflect this split.

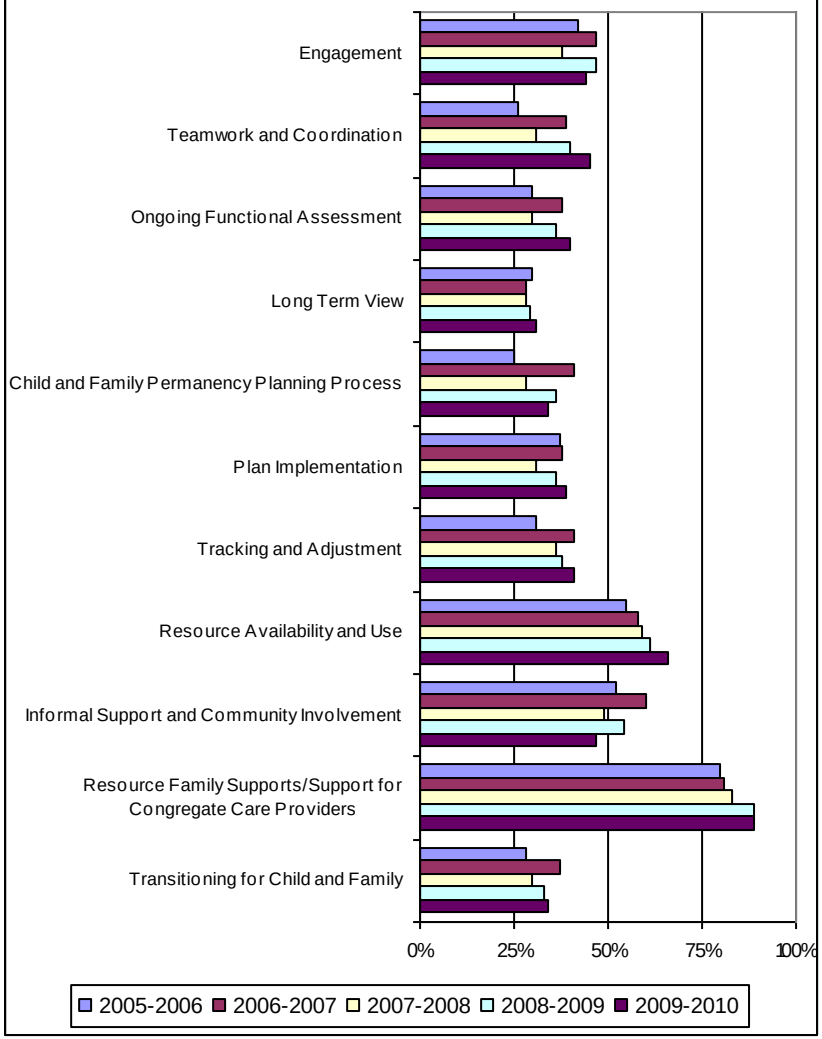
[31] The references in parentheses in Table 6 are to those sections of the Settlement Agreement for which the Department is using the QSR as a primary measure of practice/performance for its own internal monitoring and which the TAC has similarly utilized in its previous monitoring reports.

Figure 1: QSR Child and Family Indicators 2005-2010



Source: Annual QSR finalized databases.

Figure 2: QSR System Performance Indicators 2005-2010



Source: Annual QSR finalized databases.

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 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 for Period IV, which ended on December 31, 2009.[32] This section reports on the Department's level of achievement on these specific measures for Reporting Period IV (July 1, 2008 through December 31, 2009), and, for comparison, provides relevant data from Reporting Period III (January 1, 2005 through June 30, 2008).[33] 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 TNKids (some produced by the University of Chicago Chapin Hall Center for Children,[34] others produced internally by the

[32] Section XVI of the Settlement Agreement specifies performance percentages to be achieved during each of three reporting periods. Subsequent modifications of the Settlement Agreement (in December 2003, May 2007, and January 2009) extended the original Period II by 15 months, redefined Period III to be the 31-month period beginning December 1, 2005 and ending June 30, 2008, and added Period IV beginning July 1, 2008 and ending December 31, 2009. The Department's performance for Period I was the subject of a monitoring report by the original monitor, and performance for Period II was the subject of the March 2006 Monitoring Report issued by the TAC. In order to provide an interim measure of performance between periods, the TAC included data for calendar year 2006, referred to as "Interim Reporting Period III," in its September 2007 Monitoring Report. The Department's performance for Period III was the subject of the December 2008 Monitoring Report issued by the TAC. All previous TAC Monitoring Reports are available online at: http://www.state.tn.us/youth/dcsguide/fedinitiatives.htm.

[33] Appendix C includes individual tables for each Section XVI Outcome and Performance Measure. Each table includes: the Department's level of achievement for Reporting Period IV and Reporting Period III, both statewide and by region, and the Settlement Agreement's standard for Period IV.

[34] Beginning 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) instead of by calendar year (January 1 through December 31) as it had done previously. 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 particular figure or table.

Department),[35] and the results of the Quality Service Reviews (in-depth case reviews conducted jointly by the Department, the Tennessee Commission on Children and Youth, and the TAC and TAC monitoring staff).[36] A more detailed description of each of the data sources relied on in this section is presented in Appendix D,[37] 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.

A. Foster Care Caseload in Tennessee: Basic Dynamics of Placement

Before addressing the three core questions regarding system performance, it is important to have some basic information about the children coming into foster care: how many they are, where they come from, and why they are placed in foster care. This subsection provides information related to the numbers 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 continue to account for about 80% of the DCS placement population.

- The number of children in placement has been decreasing since 2004. This is the result of the combination of a decrease in admissions and a consistently greater number of discharges than admissions between 2004 and 2008. In 2009, the number of admissions increased for the first time since 2004, but the number of discharges still slightly exceeded the number of admissions. There were fewer children in placement in 2009

[35] In 2008, what had been the East region was divided into two regions, East and Smoky Mountain. The Department now reports performance for these two new regions separately, with the exception of automated reports run directly from TNKids. Therefore, the data presented for East throughout this report generally reflect the two new regions of East and Smoky Mountain. Whenever data for the original East region are presented, this is noted either in the text or in a footnote. Additionally, in 2009, the Department consolidated the Southeast and Hamilton regions into one new region, the Tennessee Valley region. The Department has continued to report performance for the original Southeast and Hamilton regions separately. In order to facilitate comparison with previous years' performance, data presented throughout this report present performance for the original Southeast and Hamilton regions separately.

[36] The Department believes that some of the reviewers who participated in the 2006-2007 review applied a less stringent approach to scoring and that as a result, at least some of the 2006-2007 scores were inflated. Because of these significant concerns about inter-rater reliability, the Department is not using the 2006-2007 scores for its own management purposes. The TAC nevertheless felt it appropriate to include the 2006-2007 results in this monitoring report.

[37] 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 is 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.

than there were during any other year since the entry of the Settlement Agreement in September 2001.

- The statewide placement rate[38] has also decreased from 3.6 in state fiscal year 2004-2005 to 2.5 in state fiscal year 2008-2009—the same placement rate observed at the time of the entry of the Settlement Agreement. On the regional level, placement rates decreased considerably between state fiscal years 2007-2008 and 2008-2009 for seven regions (East, Smoky Mountain, Knox, South Central, Northeast, Mid-Cumberland, and Hamilton). Placement rates did not increase significantly in any region between state fiscal years 2007-2008 and 2008-2009.

1. Placement Population

Figure 3 below provides some basic information about the composition of the DCS custodial population in out-of-home placement during the 10-year period beginning January 1, 2000.[39]

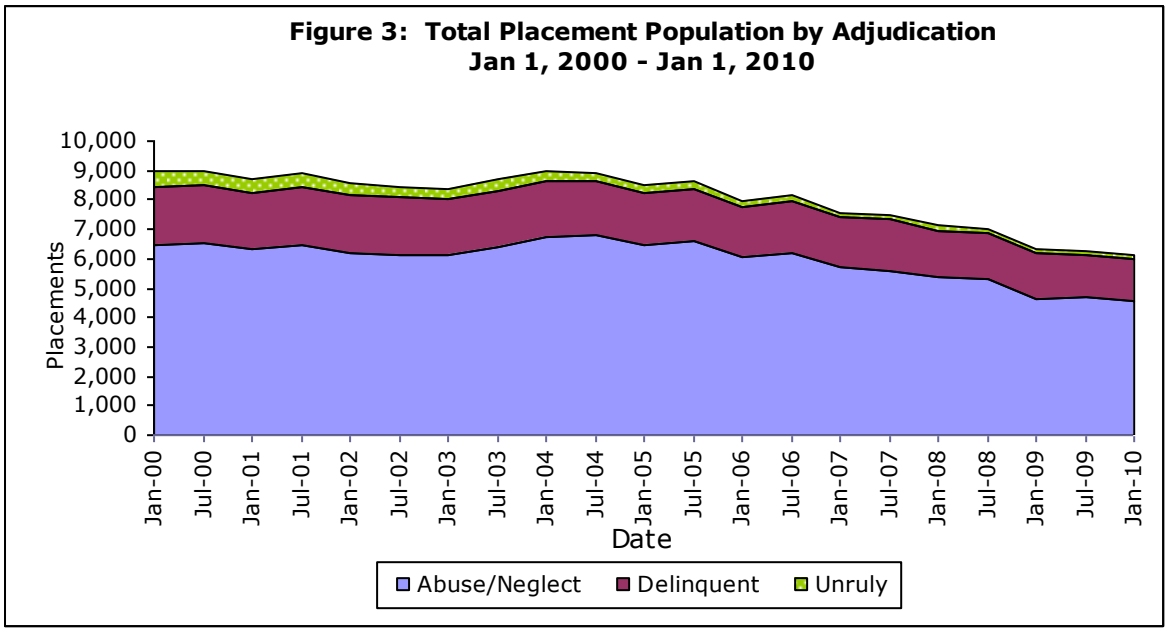
Between 2000 and 2004, the daily population of all children in DCS placement ranged from approximately 8,500 to 9,000. The daily population began to decrease in the second half of 2005, and by January 2010 had decreased to a low of 6,092—a decrease of 28% from the 8,505 children in DCS placement on January 1, 2005.

As Figure 3 reflects, the majority of children enter placement because of findings that they were neglected or abused. On January 1, 2010, for example, 4,570 (75%) of the children in placement were neglected or abused, 103 (2%) were unruly (were truant from school, had run away from home, or engaged in other non-criminal misbehavior) and 1,419 (23%) were delinquent (had committed a criminal offense). Over the last several years, the Department has experienced some fluctuations in its daily placement population, but there has been an overall decrease in the number of children in placement in each category of adjudication.[40]

[38] 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 on pages 28-31.

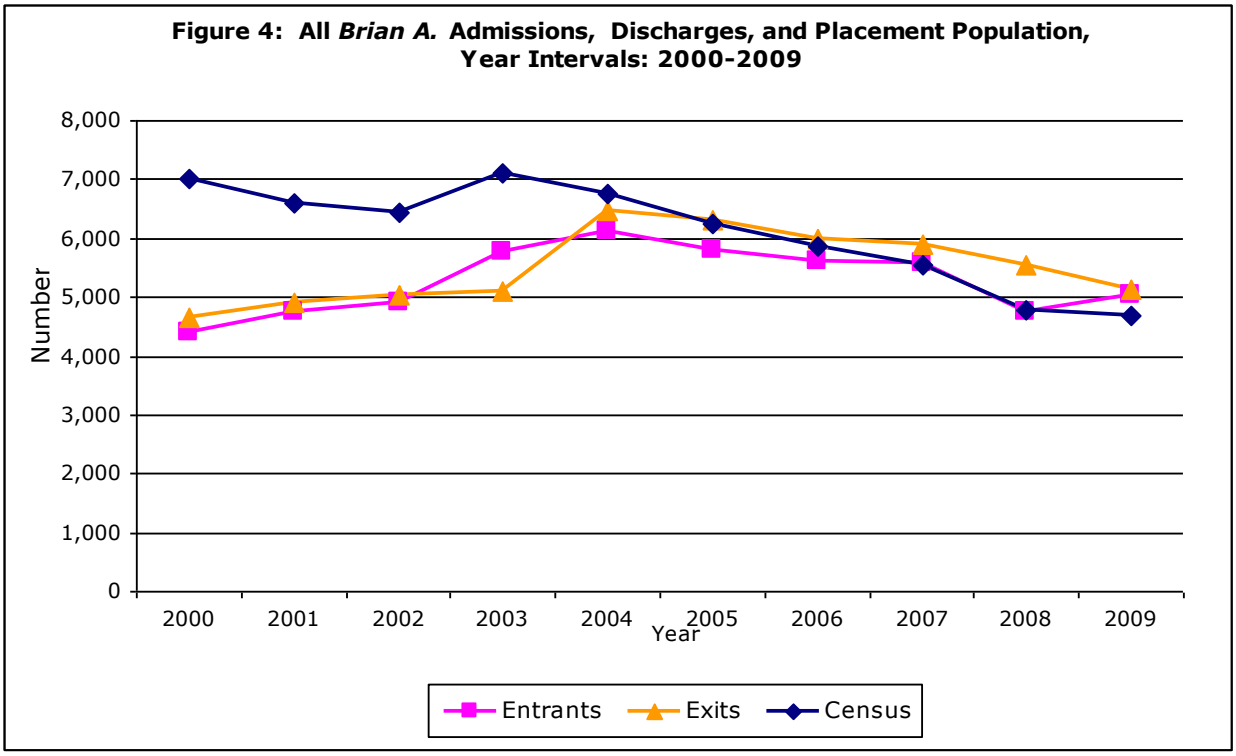
[39] There are some children who are in DCS legal custody but are physically living in their own homes, either awaiting out-of-home placement or on a trial home visit. The "custodial population" (children in DCS legal custody) on any given day will therefore be higher than the "placement population" (children in out-of-home placement). For example, at the time of the January 1, 2010 snapshot, there were 7,000 children in DCS legal custody, of whom 6,092 were "in placement."

[40] Although DCS is responsible for and cares about the experiences of all children in its custody, for the purposes of this report, the data reported in the remainder of this section (unless otherwise indicated) includes only members of the *Brian A.* class: children who are in state custody based on findings that they are abused, neglected, or unruly.



Source: Longitudinal analytic files developed by Chapin Hall from TNKids data through February 2010.

Fluctuations in the number of children in placement reflect trends in both admissions and discharges. As indicated in Figure 4, the number of *Brian A.* class members entering placement increased from 2000 through 2004. However, discharges from placement slightly exceeded admissions into placement between 2000 and 2002, resulting in a decline in the placement population. In 2003, placements rose and exceeded discharges, resulting in an increase in the placement population. Between 2004 and 2008, the number of admissions decreased slightly and discharges generally exceeded admissions, resulting in a continuing and significant decline in the placement population. In 2009, the number of discharges only slightly exceeded the number of admissions (5,139 discharges compared to 5,046 admissions), resulting in a much less significant decline in the placement population than in previous years.



Source: Longitudinal analytic files developed by Chapin Hall from TNKids data through February 2010.

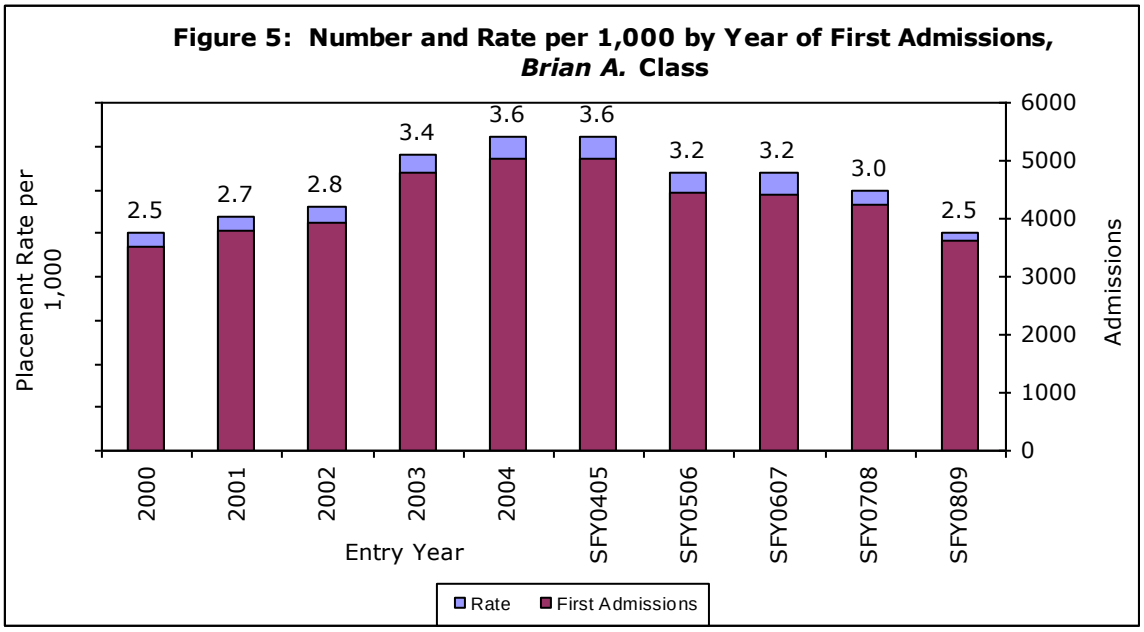
2. Placement Rates

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.[41]

[41] 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 5 shows the patterns in statewide first placement[42] rates and in the number of first placements in Tennessee since 2000.[43] As reported in previous monitoring reports, first placement rates in Tennessee increased between 2000 and 2004, with a jump of 22% from 2002 to 2003. However, first placement rates have decreased from a high of 3.6 in state fiscal years 2003-2004 and 2004-2005 to a low of 2.5 in state fiscal year 2008-2009. This is the lowest first placement rate since the Department began tracking placement rates in 2000.[44]



Source: 2000, 2001, 2002, 2003, and 2004 from longitudinal analytic files developed by Chapin Hall from TNKids data through March 2007. SFY0405 through SFY0809 from longitudinal analytic files developed by Chapin Hall from TNKids data through February 2010. Placement rates were calculated using the 2005 Census Estimate produced by Claritas.

Figure 6 below displays regional placement rates for state fiscal years 2007-2008 and 2008-2009, and Figure 7 compares the number of admissions by region for state fiscal years 2007-2008 and 2008-2009. In Figure 7, the regions are ordered according to their placement ***rates*** for state fiscal year 2008-2009, with the region with the highest placement rate listed first and the lowest listed last.

[42] 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.

[43] The Department recently began reporting placement rates by state fiscal year. In order to show historical trends, data for calendar years 2002, 2003, and 2004 are also presented. There is a 6-month overlap in the data for the calendar year 2004 entry cohort and the state fiscal year 2004-2005 entry cohort.

[44] In general, when child welfare systems become more effective, one would expect to see placement rates decrease, because more families get supportive services and are able to keep children at home.

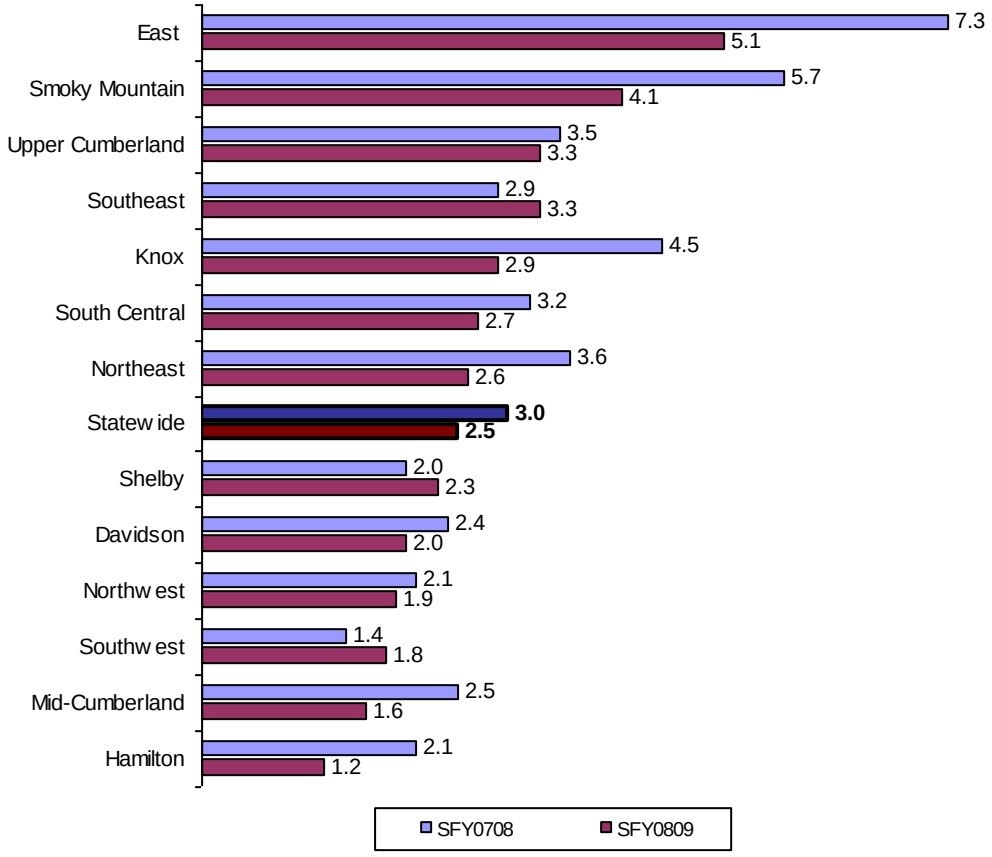
As reported in the previous monitoring reports, the original East region consistently had both the largest number of placements and the highest placement rate—one factor influencing the Department's decision to divide the region into two smaller regions, Smoky Mountain and the new East region. The two new regions continued to have the highest placement rates in state fiscal year 2008-2009, but these placement rates have decreased significantly since state fiscal year 2007-2008 (from 7.3 to 5.1 in the new East region and from 5.7 to 4.1 in Smoky Mountain). Although their placement rates remain higher than the placement rates in other regions, the two new regions no longer have the largest number of placements. In state fiscal year 2008-2009, both Shelby and Mid-Cumberland had a larger number of placements than the new East and Smoky Mountain regions.

In six regions (the new East, Smoky Mountain, Knox, Northeast, Mid-Cumberland, and Hamilton), placement rates dropped significantly (by more than 0.5 per 1,000) between state fiscal years 2007-2008 and 2008-2009.[45] Although Shelby's placement rate has historically remained among the lowest in the state,[46] its placement rate increased slightly in state fiscal year 2008-2009. Five regions (Davidson, Northwest, Southwest, Mid-Cumberland, and Hamilton) had lower placement rates than Shelby in state fiscal year 2008-2009.

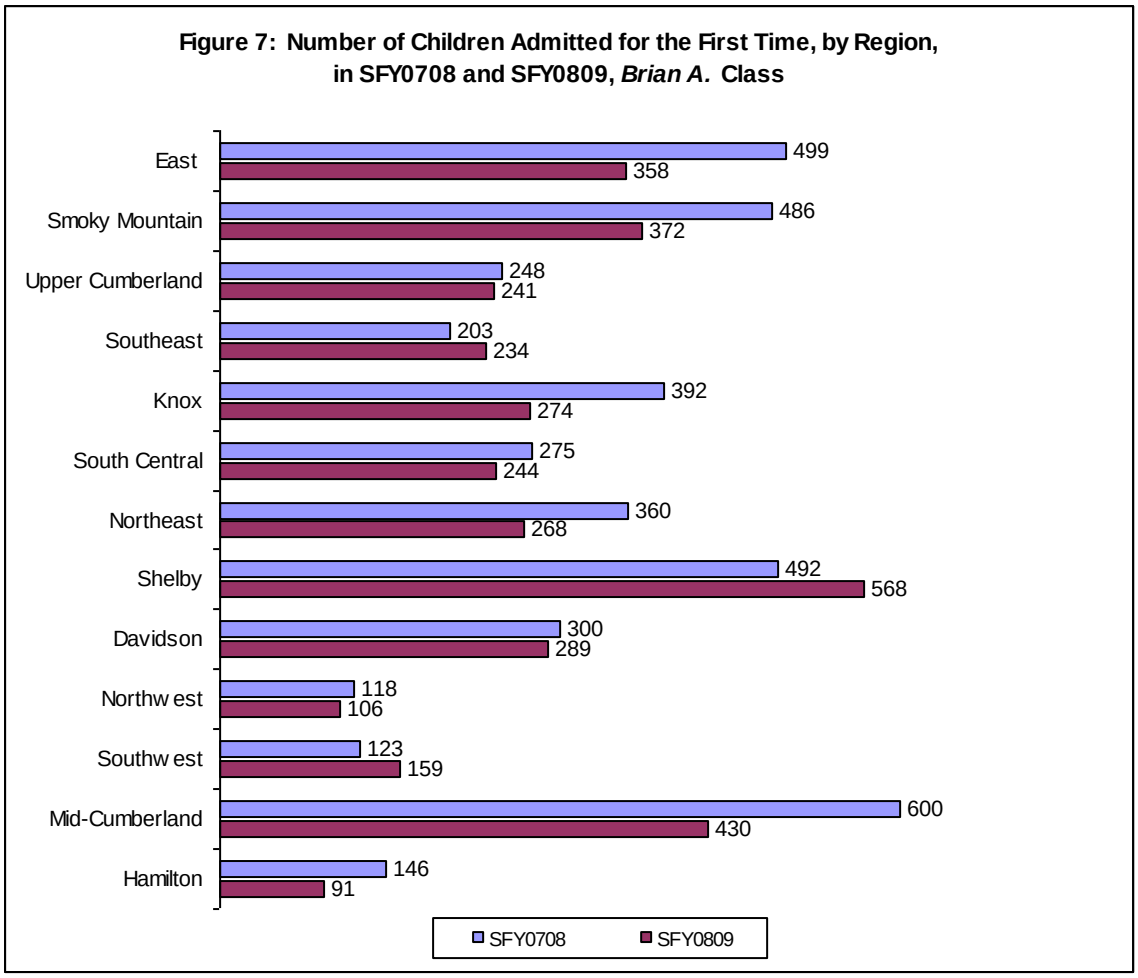
[45] For purposes of this monitoring report, placement rate percentage point changes of less than 0.5 are treated as within the range of what would be considered a "stable" placement rate.

[46] As reported in previous monitoring reports, Shelby County has long had one of the lowest first placement rates. The Department has not yet identified the factors that contribute to Shelby's unique placement dynamics. However, the remarkably low utilization of kinship resource homes in Shelby County compared to other regions (see discussion at pages 34-35) suggests that Shelby may be using relatives as alternatives to custody significantly more than other regions, which could account for some of the lower rate of custodial placement.

Figure 6: Placement Rate per 1,000 for First Placements, by Region, in SFY0708 and SFY0809, *Brian A.* Class



Source: Longitudinal analytic files developed by Chapin Hall from TNKids data through February 2010. Placement rates were calculated using the 2005 Census Estimate produced by Claritas.

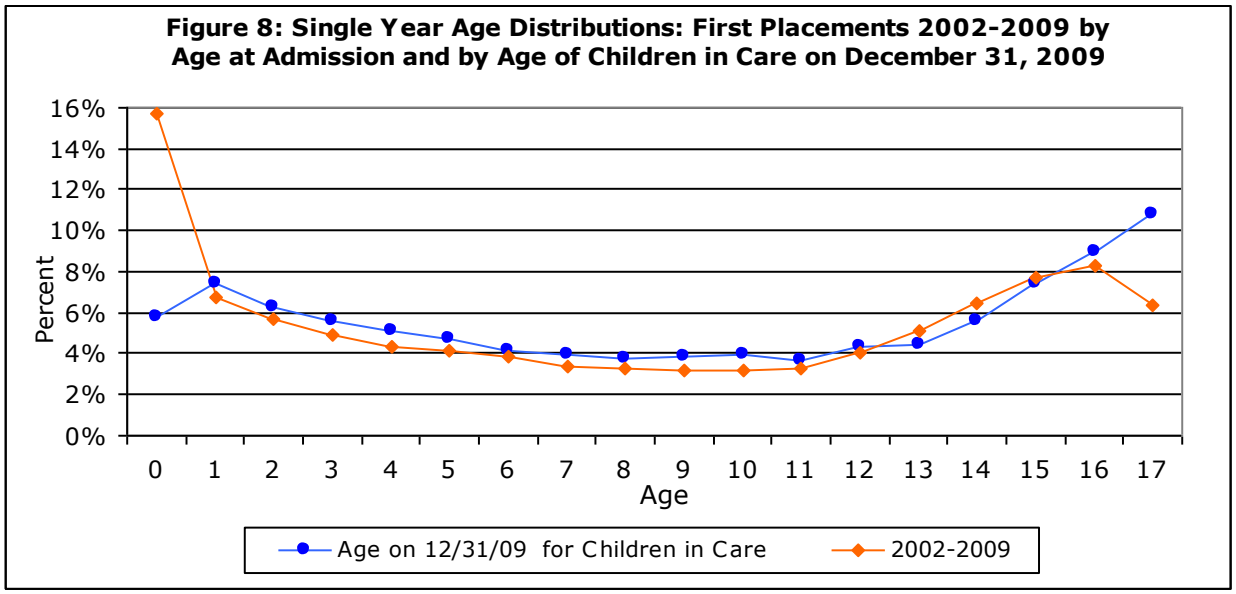


Source: Longitudinal analytic files developed by Chapin Hall from TNKids data through February 2010.

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; the supports that foster and adoptive parents need vary significantly between the infant and the teen; the challenges to achieving permanency are different for those very different age groups; and the likely permanency options are different.

Figure 8 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 orange line) and point-in-time data showing the age distribution of those children in out-of-home placement on December 31, 2009 (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 2002 to 2009 is combined.



Source: Longitudinal analytic files developed by Chapin Hall from TNKids data through February 2010.

The largest age group by far entering out-of-home placement is infants; the next largest age group is teenagers (16, 15, and 14, respectively). 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, 15-year-olds, and one-year olds.

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 maltreated or are at risk of maltreatment 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:

- Approximately 90% of children entering foster care are placed in family settings, a significant improvement compared to 2002 and a significant achievement compared to many other child welfare systems.

- The Department's performance in initially placing children in kinship resource homes fluctuated between 16.4% and 19.9% in the years from 2003 to 2008.[47] However, in 2009 the percentage of children initially placed in kinship resource homes fell to 14.3%, lower than the 2002 level (14.6%).

- Some regions are significantly more successful in utilizing kinship resource homes than others. In Northeast and Davidson, kinship homes account for 32% and 26% of ***first placements***, respectively. In Shelby, Southwest, Knox, and Upper Cumberland, however, kinship homes account for less than 10% of ***first placements*** (2%, 6%, 8%, and 9%, respectively). Expressed in a somewhat different way, of those children whose ***first placements*** during state fiscal year 2008-2009 were in ***resource homes,*** 34% in East,[48]

[47] 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). Previously, the aggregate data produced from TNKids related to kinship resource homes only included kinship resource homes headed by relatives because TNKids did not indicate whether a non-relative resource home was headed by "fictive kin." The Department had not anticipated having the ability to expand reporting to include fictive kin until the implementation of the TFACTS. However, the Department released an enhancement to TNKids during 2008 that permits the identification of "fictive kin" in the system. As a result of this expanded reporting capacity, the kinship resource home data for 2009, 2008, 2007, 2006, and at least some of 2005 includes fictive kin homes.

[48] The notable difference for East in the percentage of children initially placed in kinship homes for the 2008-2009 state fiscal year (34 %) compared to the 2009 calendar year (19%) reflects both a decline in the number of first placements in East and an even more significant decline in the use of kinship homes in East during calendar year 2009. The data for state fiscal year 2008-2009 reflect the impact of these trends over only six months (the second half of the state fiscal year), while the data for calendar year 2009 reflect the impact of 12 months of these declining trends.

30% in Northeast, and 28% in both Davidson and Hamilton were kinship resource home placements. Only 2% in Shelby,[49] 8% in Knox, 11% in Southwest, and 11% in Northwest of children who were ***first placed in resource homes*** during state fiscal year 2008-2009 were placed in kinship resource homes. This considerable regional variation suggests that there is significant opportunity for improving kinship resource home utilization. It is encouraging that after implementing a pilot project focused on increasing kinship resource home utilization, Davidson doubled its initial placements in kinship homes from 13% of first placements in 2007 to 26% of first placements in 2009.

- The Department's performance in avoiding the use of placements in emergency or temporary facilities continues to improve. Initial placements in emergency or temporary facilities have decreased significantly, from 9% of initial placements in 2002 to 2% of initial placements in 2009.[50]

- The Department continues to place the large majority (approximately 90%) of children in custody either within their home regions or within 75 miles of their homes.

- The four single-county urban regions continue to be much more successful in initially placing children within their home counties (86%) than are the eight largely rural regions (45%). Southeast is the only region showing continuing improvement over the past five years. Performance in the urban regions has been relatively stable, fluctuating within a few percentage points with no noticeable trend. The remaining regions have seen a decrease in performance since 2007.[51]

- Some children in foster care continue to experience a significant number of placement moves; however, there has been a steady improvement in placement stability for each entry cohort since 2002. Eighty-two percent (82%) of children entering care during state fiscal year 2007-2008 experienced two or fewer placements during a two-year window of observation,[52] compared to 69% of children entering care during calendar year 2002.[53]

- Children whose first placement when entering out-of-home care was a kinship resource home continue to be significantly less likely to move than children placed in non-relative resource homes. Of the 611 children entering out-of-home placement for the first time in 2008 who were initially placed with relatives or fictive kin, 66% did not experience a placement move, compared to 48% of the 2,663 children entering out-of-home placement for the first time in 2008 who were initially placed in non-relative resource homes. Improved identification, utilization, and support of kinship resource homes is therefore a

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[49] As discussed further in footnote 46, this may reflect greater utilization of relatives as alternatives to placement in custody.

[50] Expressed as a percentage of initial congregate care placements, initial placements in emergency or temporary facilities decreased from 46% of initial congregate care placements in 2002 to 17% of initial congregate care placements in 2009.

[51] While urban regions perform significantly better on "in county" placements than rural regions, on the other measure of "placement close to home"—placement within 75 miles—there is no such contrast in performance between urban regions as a group and rural regions as a group.

[52] The term "two-year window of observation" is defined and discussed in footnote 72.

[53] See the December 2008 Monitoring Report at page 38.

reasonable strategy for improving stability (in addition to the other benefits to children of relative placements).

- For children who change placements while in care, those moves tend to occur during the first six months in out-of-home care. A focus on understanding and addressing the factors that contribute to placement moves in the first six months in care would reasonably be expected to improve placement stability.

- According to the Department's aggregate reporting, the Department is not meeting the expectation for appropriately frequent parent-child visits for the large majority of children in care for whom the permanency goal is reunification. However, performance in this area has been improving since late 2008. DCS aggregate data reports for December 2009 reflect that 52% of children visited with their parent at least once per month—the highest percentage achieved since the intensive data clean-up in March 2007, when 57% of children visited with their parents at least once during the month. Based on preliminary results of a recent targeted case file review focused on parent-child visits, it appears that the aggregate data may be underreporting compliance because it is unable to account for cases in which there is a reasonable justification for the lack of parent-child contact. Of the 90 relevant cases reviewed, there was reasonable justification for the failure to visit with the mother in 42 (47%) of the cases. Of the remaining 48 cases for which visits would be expected, visits with the mother occurred at least once per month in 40 cases (83%). In 27 of these cases, or 56% of cases in which visits would be expected, visits occurred at least twice per month. Visits with the mother occurred less regularly than once per month in only eight cases (17%).

- For siblings placed in foster care, the Department has experienced significant success in keeping sibling groups together. However, according to the Department's aggregate reporting, the Department is not meeting the expectation for appropriately frequent visits for those sibling groups who are separated while in care. Since January 2007, the percentage of separated sibling groups visiting at least once during a two-month period has fluctuated from a low of 56% to a high of 69%. Based on findings of a recent targeted case file review of sibling groups for whom, according to DCS aggregate reporting, no visits occurred during a two-month period, it appears that the Department's aggregate data does not accurately capture all sibling visits. While visits in 32% of the cases reviewed fell far short of the minimum Settlement Agreement requirement over a six-month period, 68% of sibling groups reported as not having visited appeared either to have had visits at least once every two months during the six-month period or to have had a reasonable explanation or rationale for the missing visits.[54]

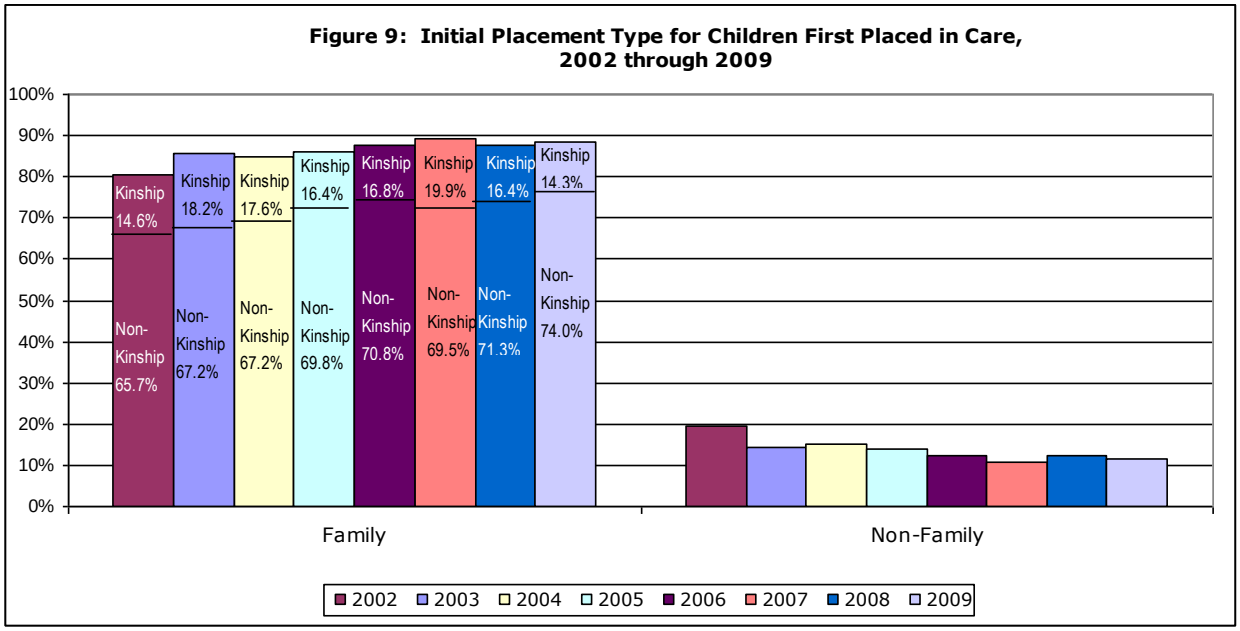
1. Serving Class Members in Resource Family Settings rather than Congregate Care Settings

The DCS *Practice Model* and the *Brian A.* Settlement Agreement emphasize the value of serving

[54] This review only looked at cases for which the aggregate data reported no visits between siblings during a two-month period. It therefore can not be used to draw any conclusions about overall underreporting in the sibling visit aggregate data.

children in family settings and therefore the importance of reducing the number of children served in residential/congregate care settings whose needs could be appropriately met in family settings.

Figure 9 below shows first placements by placement type for the past eight years. The family placement bars reflect both kinship resource homes[55] (top portion of each bar) and non-kinship resource homes (bottom portion of each bar). In 2002, 80% of children entering out-of-home placement for the first time were initially placed in family settings. This percentage has increased over the past six years, reaching 89% in 2007 and falling slightly to 88% in 2008 and 2009. This improvement is reflected in the significant number of children with higher levels of need who are being successfully provided for through therapeutic resource homes.[56]



Source: Longitudinal analytic files developed by Chapin Hall from TNKids data through February 2010.

[55] "Fictive kin" are included in the data for 2009, 2008, 2007, 2006, and at least parts of 2005 but are not reflected in the data for earlier years. See footnote 47.

[56] The Department produces a monthly report ("*Brian A.* Mega Report") that provides information about "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 31, 2009, 723 (81%) of the 893 Level II placements were in resource homes, 67 (8%) were in-home placements, and 103 (12%) were placements in group settings (excluding "Observation and Assessment" placements). Of the 668 Level III placements on this date, 374 (56%) were in resource homes, 42 (6%) were in-home placements, and 252 (38%) were in group settings. There were 73 Level IV placements on this date; all of these placements were in psychiatric facilities (Center for Intensive Residential Treatment, Parkridge Medical Center, Inc. (Valley), The Girls Center, and Cumberland Hall, as well as one placement in an out-of-state psychiatric facility). 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 31, 2009, 15 Level III children were being served by particular psychiatric facilities that were otherwise serving Level IV children. (A data error in the December 31, 2009 Mega Report resulted in one child being designated as receiving Level IV services at Youth Villages' Bartlette Campus when she was in fact receiving Level III services at that facility. She is excluded from the 73 Level IV placements described above.)

The percentage of initial placements in kinship resource homes increased from 14.6% in 2002 to 18.2% in 2003 and then ranged between 16.4% and 19.9% in subsequent years through 2008.[57] In 2009, however, the percentage of initial placements in kinship resource homes fell to 14.3%, a level below that of 2002.

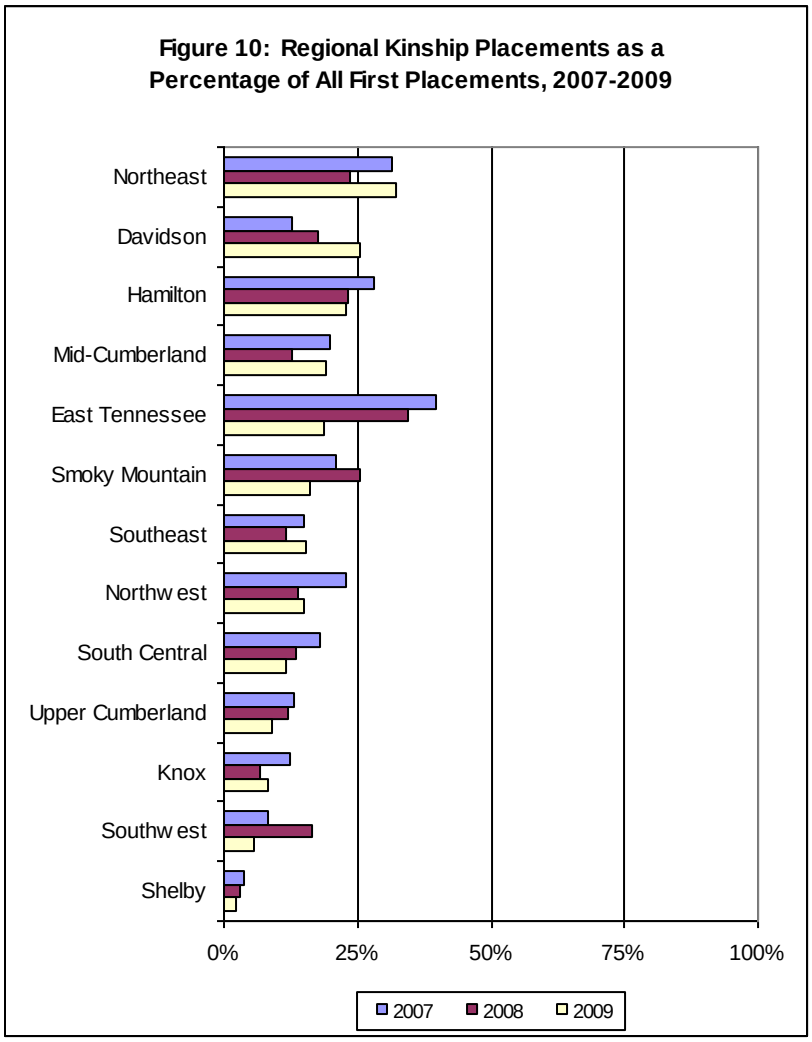
There is significant regional variation in the percentage of initial placements in kinship resource homes. Figure 10 displays the regional percentages of initial placements in kinship resource homes for children entering out-of-home placement during 2007, 2008, and 2009. The regions are ordered in the figure according to the percentage of initial placements in kinship resource homes during 2009.

As reported in the December 2008 Monitoring Report, East had the highest percentage (38%) of children entering care for the first time in 2007 who were initially placed in kinship resource homes. However, that percentage has decreased significantly in East over the past two years, with only 19% of children entering care for the first time in 2009 initially placed in kinship homes. This decreasing trend since 2007 was seen in all other regions except Northeast, Davidson, Mid-Cumberland, and Southeast. In Northeast, Mid-Cumberland, and Southeast, the percentage of initial placements in kinship resource homes decreased in 2008 but then increased in 2009 to a level similar to that in 2007.

In only two regions were more than a quarter of children entering care for the first time in 2009 placed in kinship resource homes: Northeast (32%) and Davidson (26%). The percentage of initial placements in kinship resource homes in Davidson has doubled since 2007, an increase that likely reflects the impact of a pilot program focused on increasing placements with relatives and kin.

Shelby has had the lowest percentage of initial placements in kinship resource homes since 2005, with 3% in 2005, 1% in 2006, 4% in 2007, 3% in 2008, and 2% in 2009.

[57] The percentage of children initially placed in a kinship home does not necessarily correlate to the percentage of children in a kinship home placement on any given day.

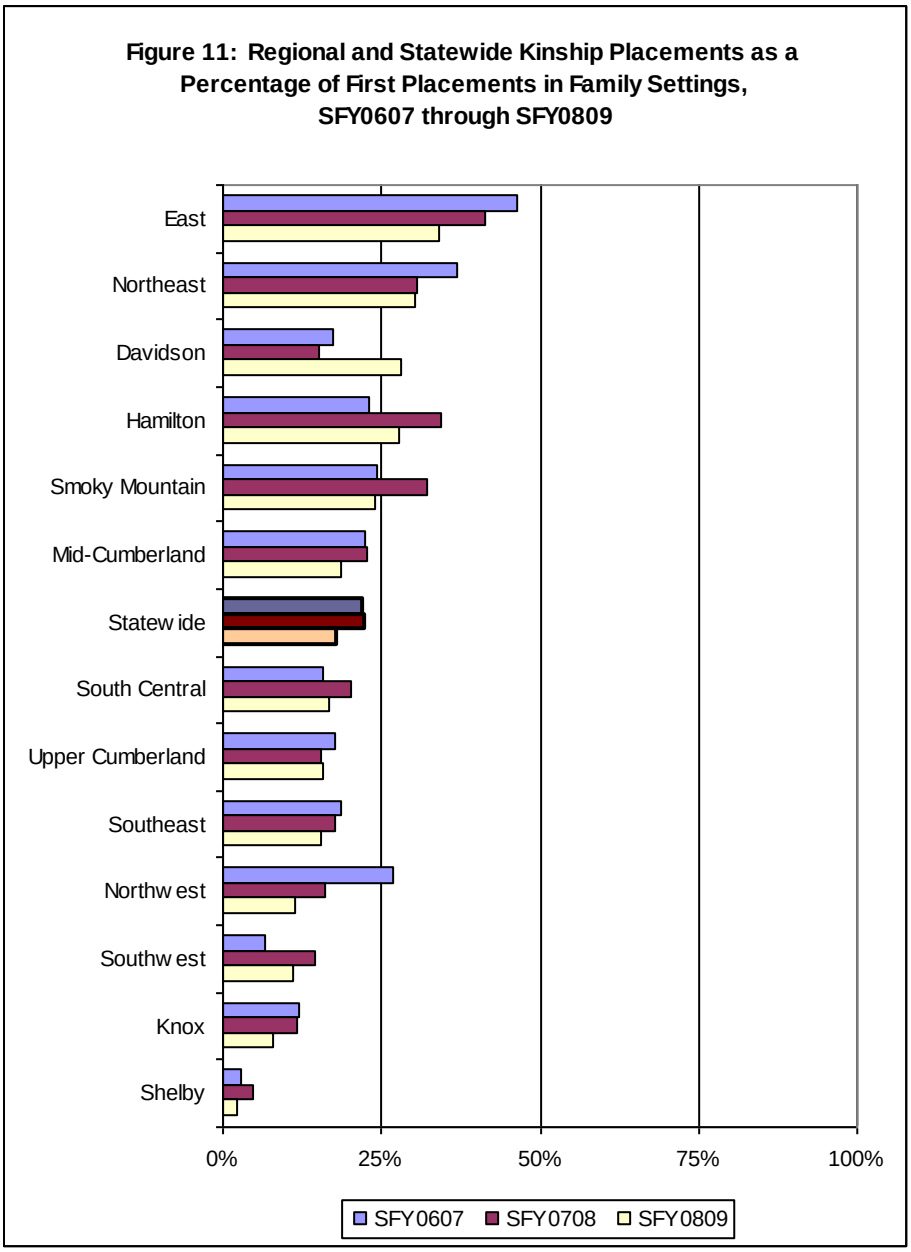


Source: Longitudinal analytic files developed by Chapin Hall from TNKids data through February 2010.

While the TAC has reported on initial kinship placements as a percentage of all initial placements, the Department, for its own management purposes, tracks initial kinship placements as a percentage of first placements in resource homes (rather than as a percentage of all first placements).[58]

Statewide and regional performance for initial kinship placements as a percentage of initial resource home placements is presented in Figure 11 for children first placed during state fiscal years 2006-2007, 2007-2008, and 2008-2009. The statewide and regional trends for this measure are very similar to those discussed above for kinship placements as a percentage of all initial placements.

[58] Children who were first placed in a non-family setting for fewer than five days and were subsequently moved to a kinship placement are counted as initial kinship placements for purposes of the Department's reporting on this measure.



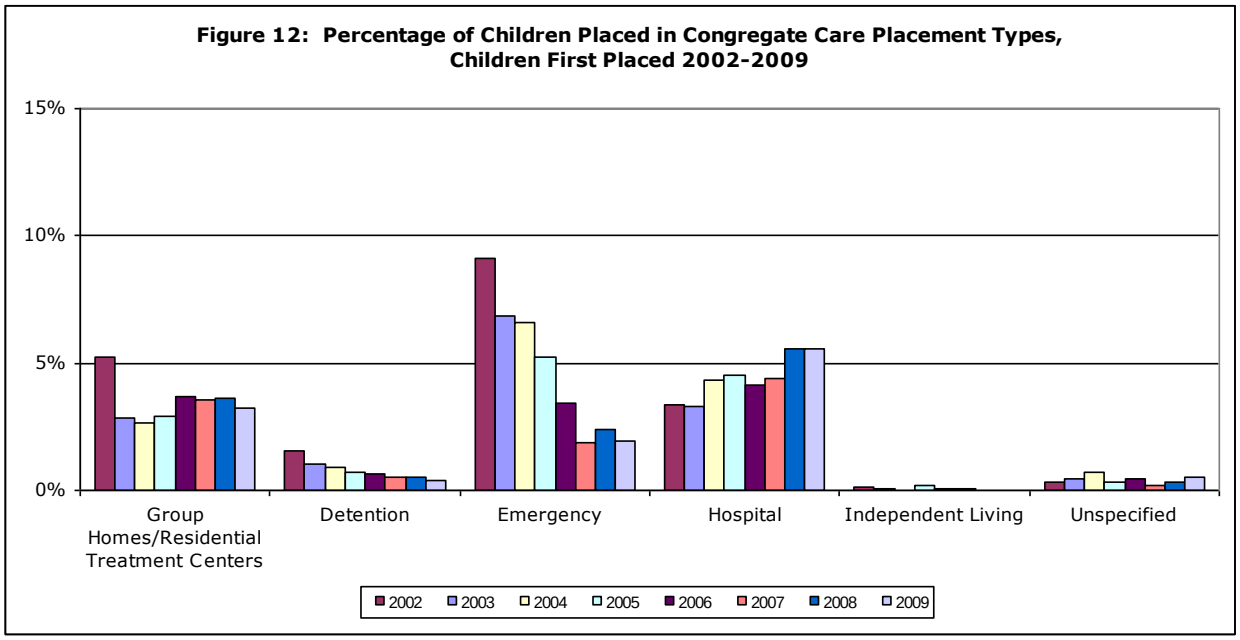
Source: Longitudinal analytic files developed by Chapin Hall from TNKids data through February 2010.

Figure 12 below shows the different types of congregate care placements for the initial placements shown in Figure 9.

The percentage of initial placements in emergency or temporary facilities has decreased significantly since 2002, from 9% (357) of the 3,917 first placements during 2002 to only 2% (78) of the 4,060 first placements in 2009. Initial placements in group homes/residential treatment centers and in detention centers have also decreased since 2002. Placements in group homes/residential treatment centers made up 5% of initial placements in 2002, decreased to 3% in 2003 through 2005, increased again slightly to 4% in 2006 through 2008, and decreased again

to 3% in 2009. Initial placements in detention centers decreased from 1.5% in 2002 to 0.4% in 2009.

The percentage of initial hospital placements increased somewhat over this period from 3% in 2002 to 6% in 2008 and 2009, and there was a slight increase in the percentage of unspecified initial placements from 2003 to 2006 and again in 2009. There were 22 unspecified initial placements in 2009.[59]



Source: Longitudinal analytic files developed by Chapin Hall from TNKids data through February 2010.

While the focus of most of the Department's reporting is on first placements, the Department also produces a "point-in-time" report that looks at the placement type for all children in custody on the last day of each month, regardless of whether they are in a "first placement" or a subsequent placement. The "*Brian A.* Class Clients by Placement Setting and Adjudication" report for December 31, 2009 indicates that 88% of the 5,289 *Brian A.* class members in custody on that date were placed in family settings. Performance as measured by this report on a monthly basis has consistently remained at this level with little fluctuation for at least the past couple of years. This is consistent with the increasing trend in placements in family settings for "first placements" of children entering custody during the year.[60]

[59] "Unspecified" indicates a data entry error (including failure to enter type of placement).

[60] In early 2008, the Department began producing a third report, "New Entries into Custody," which provides the number and percentage of children entering custody during the month who are placed in various family and congregate care settings. In contrast to the report on placement settings by cohort year, the monthly "New Entries into Custody" report frequently reflects a smaller percentage of children entering custody during the month who are initially placed in family settings. Differences in methodology between the two reports account for the discrepancy. Since the TAC has presented the cohort year report in previous monitoring reports, the TAC continues to rely on that report in order to show trends over time.

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 for Period IV "*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.*" (XVI.B.7)[61]

At the end of Period IV (December 2009),[62] 89% of children in custody in December 2009 were placed within a 75-mile radius of the home from which they entered custody. As of June 2008 (the end of Reporting Period III), 90% of children were placed within a 75-mile radius of the home from which they entered custody.[63]

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.[64]

The Department's regional goals for in-county placement take into account the differences between large, single-county urban regions and the other primarily rural multi-county regions. Those differences are reflected in Figure 13, which displays in-county first placement rates for the four urban regions (Shelby, Davidson, Knox, Hamilton) (urban in-county placement rate) separately from in-county first placement rates for the remaining multi-county regions (rural in-county placement rate). For children first entering out-of-home placement during 2009, 86% of children from urban counties were initially placed in their home counties (compared to 84% during 2007), while 45% of children from multi-county rural regions were initially placed in

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[61] The TAC has interpreted this to mean that on any given day during the 18-month period, at least 85% of the children in the class should be placed within the 75-mile limit.

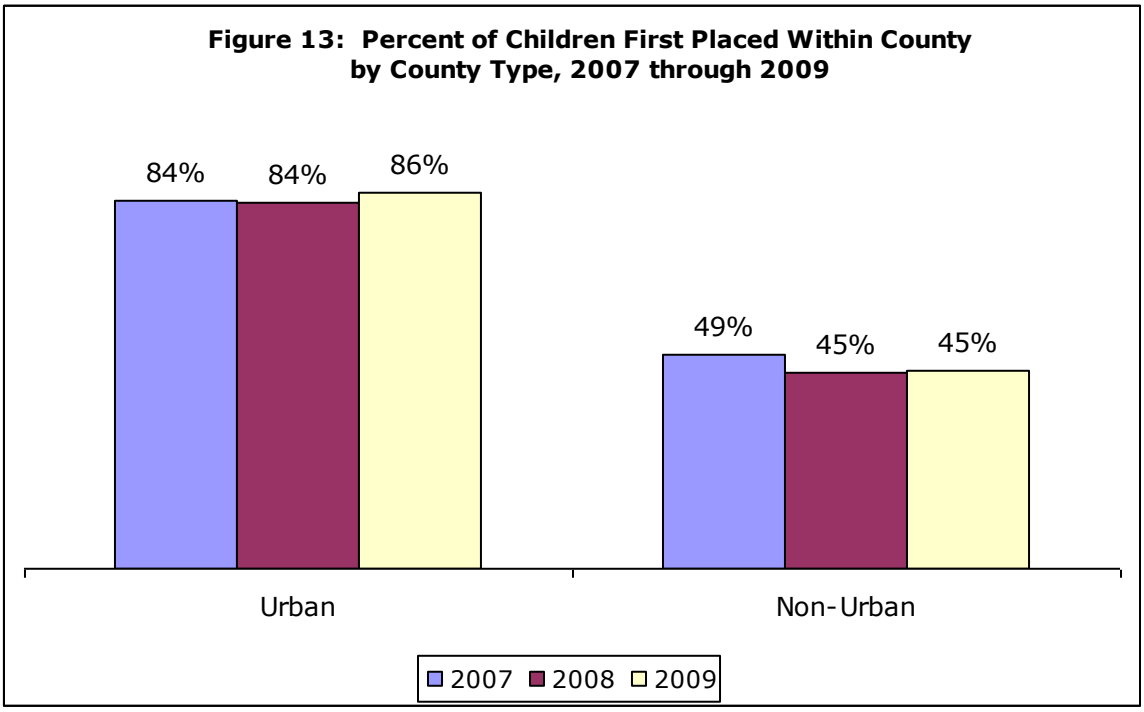
[62] The Department reports performance for the last month of Period IV (during the month of December 2009) for this measure.

[63] In calculating the percentage of children whose placements are within the 75-mile limit, the Department uses a strict standard that effectively includes as "non-compliant" children whose placement is "undetermined," children who are on runaway, and children who are in out-of-state (ICPC) placements.

[64] While it certainly makes sense to focus on increasing in-county placements generally, 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 "out-of-county" placements. 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.

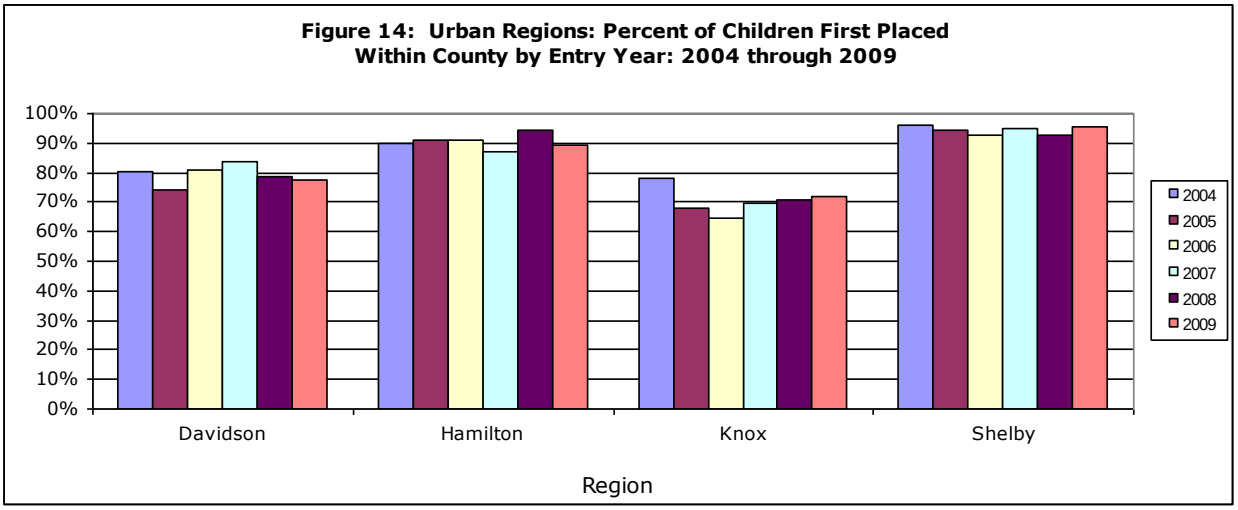
The Settlement Agreement recognizes that a child can appropriately be placed outside of a 75-mile radius of the home if "*the child's needs are so exceptional that they cannot be met by a family or facility within the region, or the child needs re-placement and the child's permanency goal is to be returned to his parents who at that time reside out of the region or the child is to be placed with a relative out of the region.*" (XVI.B.7.a)

their home counties (compared to 49% in 2007). These data may reflect some need for additional resource family recruitment in rural areas to ensure that children can be placed in or close to their home communities. However, it is important to note that while urban regions perform significantly better on "in county" placements than rural regions, on the other measure of "placement close to home"—placement within 75 miles—there is no such contrast in performance between urban regions as a group and rural regions as a group.

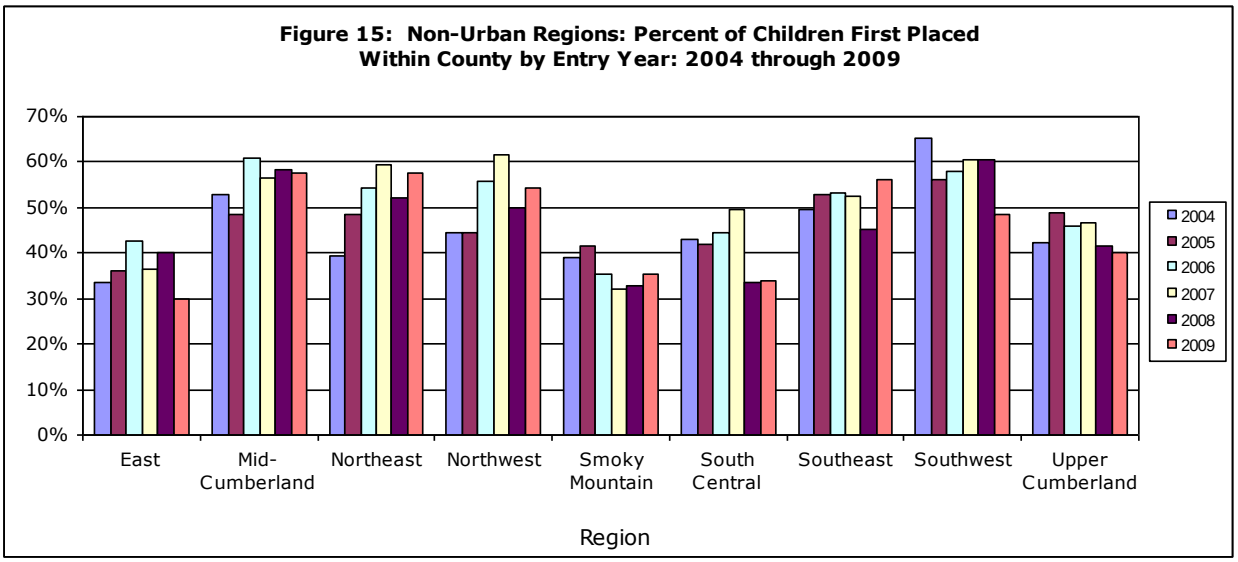


Source: Longitudinal analytic files developed by Chapin Hall from TNKids data through February 2010.

Figures 14 and 15 in combination present the performance of each of the regions with respect to in-county placement rates from 2004 through 2009.



Source: Longitudinal analytic files developed by Chapin Hall from TNKids data through February 2010.



Source: Longitudinal analytic files developed by Chapin Hall from TNKids data through February 2010.

3. Improving Stability While in Placement

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.[65] 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.

As discussed in previous monitoring reports, the Department has been pursuing a number of strategies to improve placement stability. While some children in foster care in Tennessee still experience a significant number of moves, recent data (both point-in-time and cohort) suggest on-going incremental improvement in placement stability since 2002. Although there has been a slight decrease in performance over the past year with respect to the *Brian A.* placement stability measure, from the 93% achievement level for the Supplemental Reporting Period from July 1, 2008 to March 31, 2009 to 88% for Period IV from July 1, 2008 to December 1, 2009 the Department expects to remain at or near the 90% achievement level required by the Settlement Agreement.

[65] As discussed elsewhere in this report, 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. See discussion in Section Six at pages 214-217.

For Period IV the Settlement Agreement establishes the following requirements related to placement stability:[66]

- "*At least 90% of children in care at any time during the reporting period 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 not exceeding 30 days;*" and

- *"At least 85% of children in care at any time during the reporting period 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 not exceeding 30 days*."[67] (XVI.A.3)

As reflected in Table 1 of the Key Outcome and Performance Measures at a Glance, performance for the Settlement Agreement's placement stability outcome measure (XVI.A.3 "Number of Placements") has declined since the Supplemental Reporting Period (July 1, 2008 through March 31, 2009) when the Department met (and surpassed) the Settlement Agreement standard for the first time, with 93% (9,841) of the 10,611 children who were in custody at some time during the period from April 1, 2008 to March 31, 2009 experiencing two or fewer placements within the previous 12 months and 86% (9,091) experiencing two or fewer placements within the previous 24 months.

During the second part of Period IV (January 1, 2009 through December 31, 2009), 88% (8,949) of the 10,168 children in custody at any time during that period had two or fewer placements within the previous 12 months in custody, and 84% (8,585) of those children had two or fewer placements within the previous 24 months in custody. Although performance for Period IV reflects a decline from performance for the Supplemental Reporting Period, performance for Period IV is only two percentage points short of meeting the Settlement Agreement requirement for the 12-month measure and one percentage point short of meeting the Settlement Agreement requirement for the 24-month measure.

In addition to reporting as required by the Settlement Agreement, the Department uses other measures to examine placement stability.

Figure 16 below presents the number of placement moves experienced by children first entering custody in 2008, observing placement stability through December 31, 2009, a "window" for observing placement stability that is a minimum of 12 months (for children entering care during December 2008) and a maximum of 24 months (for children entering in January 2008).

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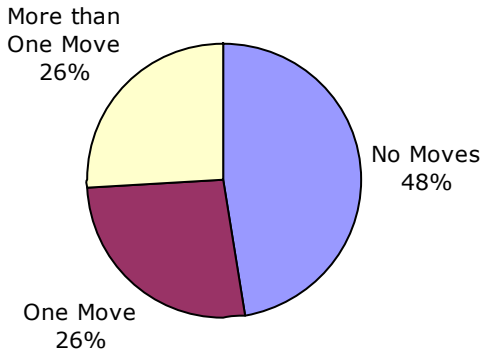
[66] According to the Settlement Agreement, "*measures in this section apply to children in care at any time during the reporting period and children still in care at the end of the reporting period. Placements made prior to September 1, 2001, shall not be counted in this measure. For children requiring emergency hospitalization who return to their immediate prior placement, that return shall not count as an additional placement*."

[67] For its reporting on this measure, the Department excludes trial home visits in addition to runaways and emergency hospitalizations because trial home visits are not out-of-home placements.

Forty-eight percent (48%) of the children entering care during 2008 experienced no placement moves, 26% moved only once during this window. Data for the 2006 entry cohort, presented in the December 2008 Monitoring Report, using a comparable window of observation (through April 30, 2008), showed the same percentages: 48% of children entering out-of-home care in 2005 experienced no placement moves, 26% experienced one move, and 26% experienced two or more moves.[68]

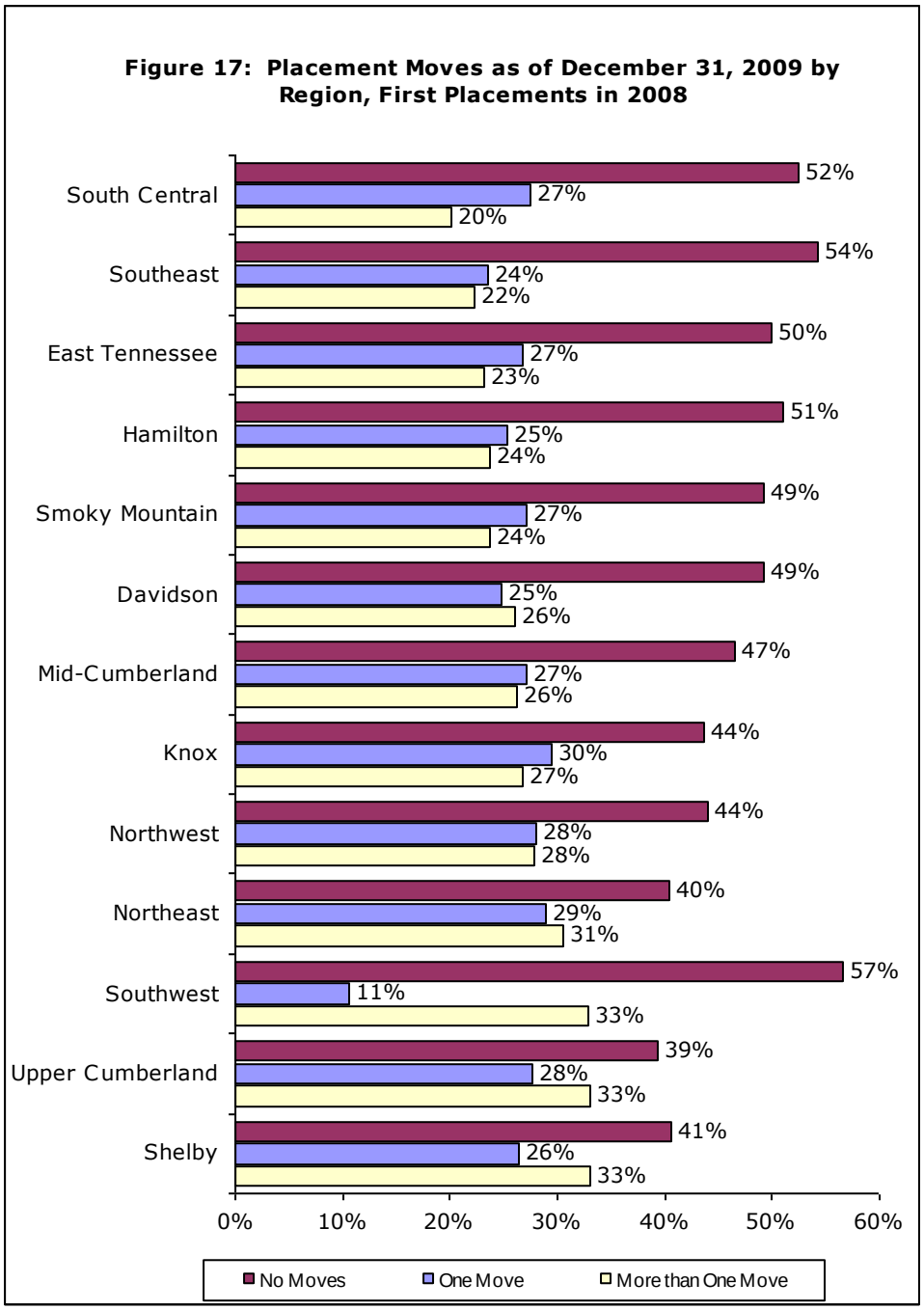
Figure 16: Placement Moves as of December 31, 2009, First Placements in 2008



Source: Longitudinal analytic files developed by Chapin Hall from TNKids data through February 2010.

Figure 17 provides a regional breakdown of this data. The figure organizes the regions by performance, with those regions with the lowest percentage of children moving more than once at the top.

[68] See Appendix G for a further breakdown of placement moves by number and region.



Source: Longitudinal analytic files developed by Chapin Hall from TNKids data through February 2010.

The data presented in Figure 18 also reflects an improvement in placement stability for more recent entry cohorts across three different windows of observation.

The blue line shows the percentage of children entering out-of-home care[69] during each state fiscal year who experienced two or fewer placements over a six-month window of observation.[70] For example, 87% of children entering care during the first six months of state fiscal year 2003-2004 experienced two or fewer placements as of December 31, 2003. This percentage reached 92% (as of December 31, 2007) for children entering care during state fiscal year 2007-2008 and has remained at 92% as of December 31st for children entering care during state fiscal years 2008-2009 and 2009-2010 .

The pink line, showing placement stability over a one-year window of observation,[71] also shows improvement for recent cohorts. Eighty-three percent (83%) of children entering care during state fiscal year 2003-2004 experienced two or fewer placements as of June 30, 2004, while 88% of children entering care during state fiscal year 2008-2009 experienced two or fewer placements as of June 30, 2009.

Performance over a two-year window[72] also reflects this same trend. As shown by the yellow line, 74% of children entering care during state fiscal year 2003-2004 experienced two or fewer placements as of June 30, 2005,[73] while 82% of children entering care during state fiscal year 2007-2008 experienced two or fewer placements as of June 30, 2009.[74]

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[69] 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. This measure excludes all out-of-home placement episodes lasting fewer than five days.

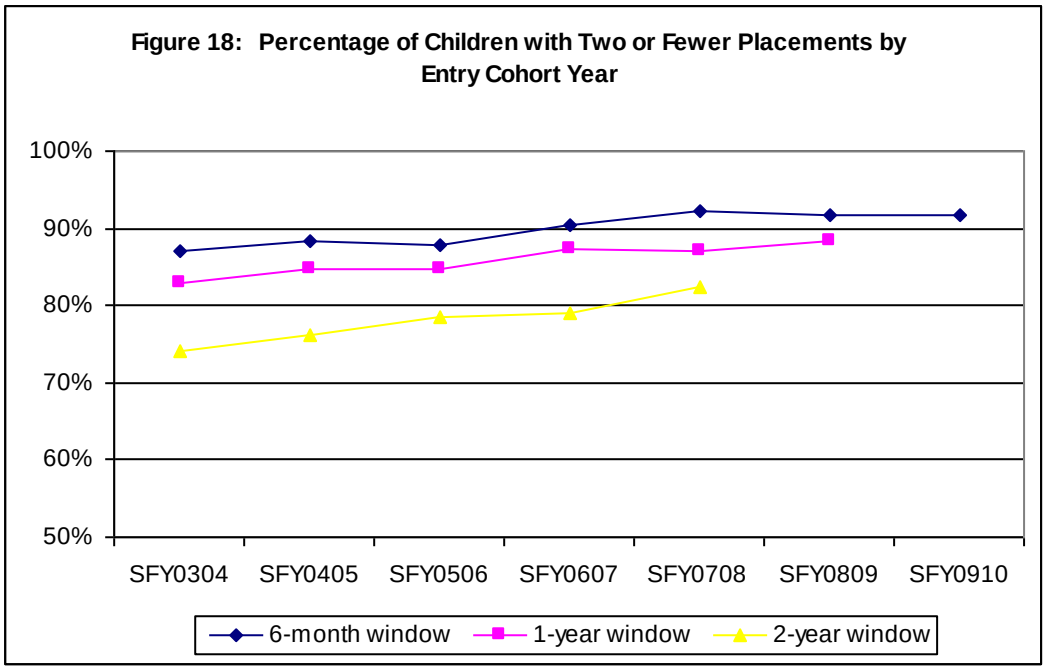
[70] This "six-month window" for each cohort year observes placement stability from a minimum of one day for children entering care on December 31st of the state fiscal year to a maximum of six months for children entering care at the beginning of the fiscal year (on July 1st).

[71] 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 state fiscal year (on June 30th) to a maximum of 12 months for children entering care at the beginning of the state fiscal year (on July 1st).

[72] This "two-year window" for each cohort year observes placement stability from a minimum of 12 months for children entering care during December of the first state fiscal year to a maximum of 24 months for children entering during January of the first state fiscal year.

[73] In the August 2009 Supplemental Monitoring Report, the TAC reported that 71% of children entering custody during state fiscal year 2003-2004 experienced two or fewer placements as of June 30, 2005. The higher percentage presented in this report is likely the result of data cleaning efforts conducted by Chapin Hall.

[74] The Department also produces a similar measure of placement stability for the children who were already in care at the beginning of each state fiscal year (the "in-care population"). The measure observes placement moves for children in care at the beginning of each state fiscal year over a two-year window. For example, placement moves for children in care on July 1, 2004 are observed from July 1, 2004 through June 30, 2006. The percentage of children who experienced two or fewer placements during the two year window applicable to each in-care cohort for the past five years has ranged from 83% and 85%: 84% of children in care on July 1, 2004, 83% of the children in care on January 1, 2005, 85% of the children in care on January 1, 2006, 83% of the children in care on January 1, 2007, and 85% of the children in care on January 1, 2008.

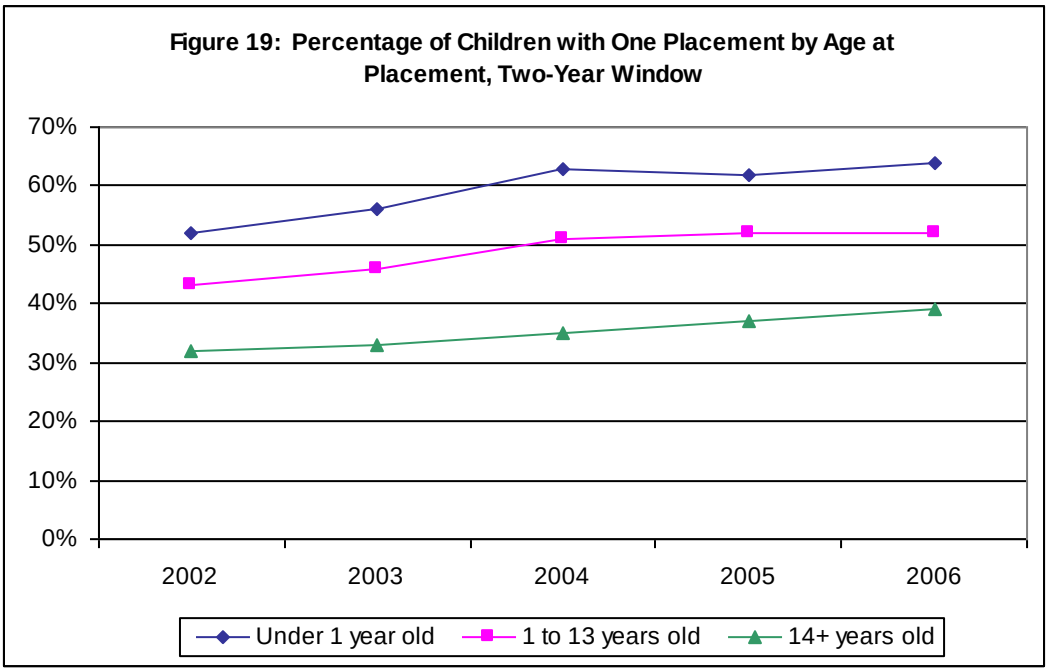


Source: SFY0304 from longitudinal analytic files developed by Chapin Hall from TNKids data through August 2009. SFY0405 through SFY0809 from longitudinal analytic files developed by Chapin Hall from TNKids data through February 2010.

Figure 19 presents a breakdown by age at the time of placement of the percentage of children in each calendar year entry cohort experiencing only one placement over a two-year window.[75] The data show that a greater percentage of children under 1-year-old experience only one placement than do children between 1 and 13 years old. Similarly, a greater percentage of children between one and 13 years old experience only one placement than do children 14 years and older.

Consistent with the overall improvement in placement stability, the percentage of children in each of the three age groups experiencing only one placement has increased since 2002.

[75] Updated data through entry cohort 2009 is not available for this report. However, because the trends in placement stability by age have been distinct and consistent over several cohort years—that children under one year old are less likely to experience placement moves than are older children, and that teenagers are most likely to experience placements moves—there is no reason to believe that those trends would have changed significantly in recent cohort years.



Source: Longitudinal analytic files developed by Chapin Hall from TNKids data through December, 31 2007.

The Department has engaged in additional analysis of its stability data in an effort to develop specific strategies for improving stability. The Department's analysis has resulted in two noteworthy findings that suggest potential improvement strategies.

First, children who are placed in kinship resource homes appear to have more stable placement than children placed in non-kinship resource homes. This is consistent with trends nationally. As of December 31, 2009, 66% of the 611 children entering out-of-home placement for the first time in 2008 who were initially placed in kinship resource homes did not experience a placement move, compared to 48% of the 2,663 children entering out-of-home placement for the first time in 2008 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 would reasonably be expected to improve placement stability. The Department continues to place special emphasis on improving regional kinship resource home recruitment and retention efforts.

Second, for those children who experience placement moves while in care, most of the placement moves occur in the first six months in care. A reasonable approach to improving placement stability might therefore be to focus on understanding and addressing the factors that contribute to placement moves in the first six months in care.

A more detailed presentation of this additional stability data, including an analysis of placement moves by region, is contained in Appendix G.[76]

[76] 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

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; however, inadequate parent-child contact and inadequate sibling contact (for those siblings not placed together) were identified as areas of concern in the September 2008 Monitoring Report. Performance in those areas has somewhat improved according to the Department's aggregate reports. It also appears, based on preliminary findings of two targeted case file reviews, that aggregate reports may be under-reporting performance.

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)."*

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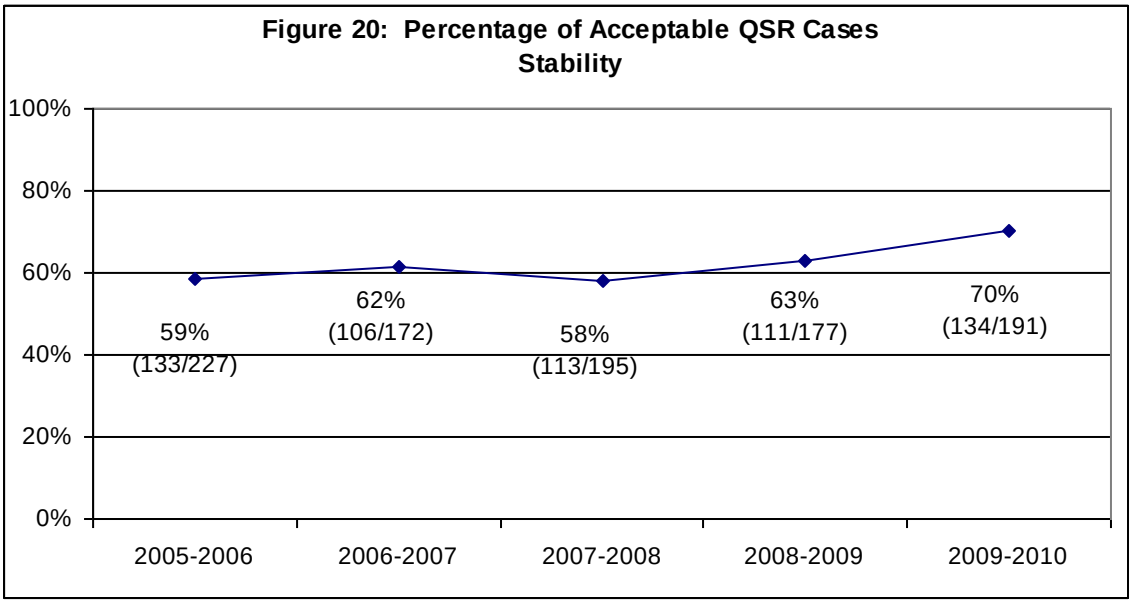
scored unacceptable for Stability if the child experienced disruption in school settings or disruption of important personal, therapeutic, or professional relationships.

Figure 20 presents the number and percentage of *Brian A.* cases receiving acceptable scores for Stability in the past five annual QSRs.



Source: Annual QSR finalized databases

The numbers are presented in parentheses, with the first number (to the left of the slash mark) reflecting the number of cases with acceptable Stability scores and the second number (to the right of the slash mark) reflecting the total number of cases reviewed.

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

- *"The child's case manager may consider the wishes of a child (generally older adolescents) and document any deviation from usual visitation requirements."* (XVI.B.1)

For Period IV, the Settlement Agreement states that *"50% of all class members with a goal of reunification shall be visited at least twice per month. For the remaining class members with a goal of reunification who are not visited at least twice per month, at least 60% shall be visited once a month."*

i. Parent-Child Visit Aggregate Reporting

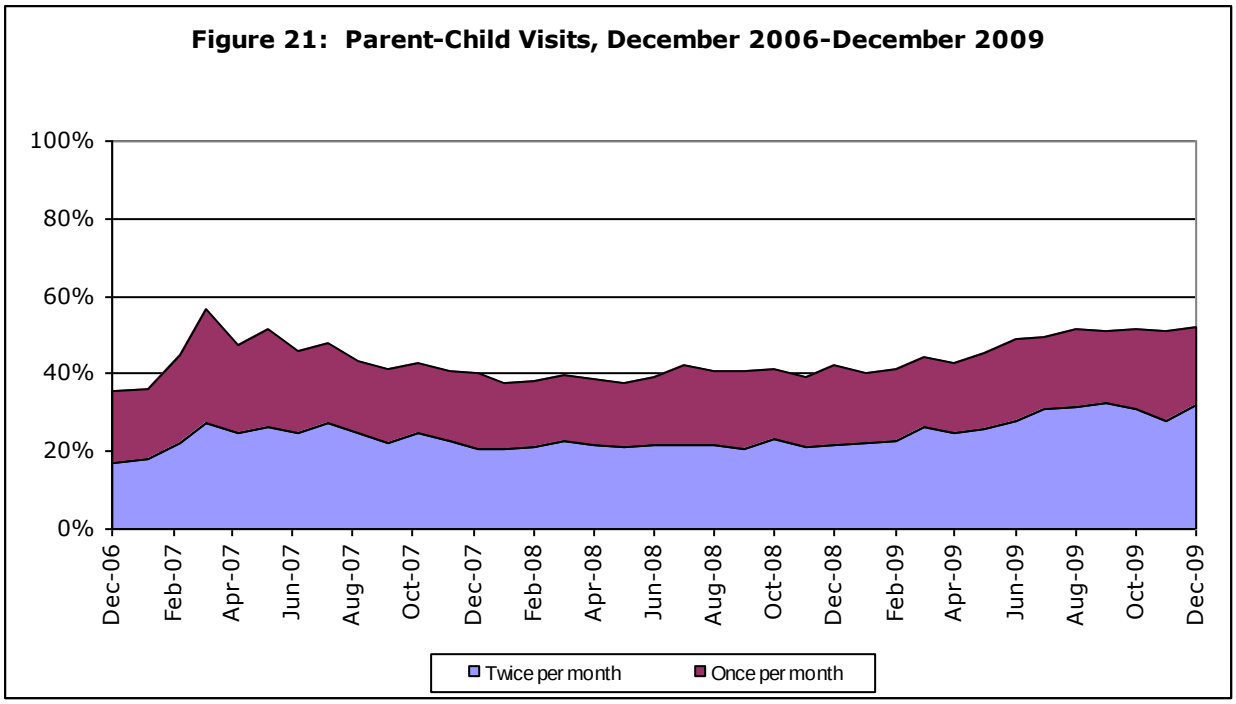
The TNKids system is not presently able to identify children whose visits with their parents would be subject to either exception, and therefore the Department applies the standard to all class members with a goal of reunification who are placed away from their parents, excluding only the small number of children who have run away from care or are placed out-of-state.[77]

As reflected in Table 1 (Data at a Glance), the Department has struggled to meet the Settlement Agreement requirements for parent-child visits since Interim Reporting Period III. However, as shown in Figure 21, the percentage of children visiting with their parents at least once per month has been increasing since November 2008. Thirty-two percent (32%) of children with reunification goals visited with their parents at least twice during December 2009 (compared to 50% required by the Settlement Agreement),[78] and 29% of the remaining children visited with their parents once during the month (compared to 60% required by the Settlement Agreement). Or, stated differently, a total of 52% of children visited with their parents at least once during December 2009. The Settlement Agreement effectively requires 80% visit at least once per month.[79] The percentage of children not visiting with their parents at all during the month was 48%. While there is still much room for improvement, this is the highest percentage achieved since the intensive data clean-up in March 2007, when 57% of children visited with their parents at least once during the month.

[77] 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. Notwithstanding DCS policy, for purposes of reporting related to the Settlement Agreement requirement, the Department now only reports on children with reunification goals.

[78] The Department reports performance at the end of Period IV (during December 2009) for this measure.

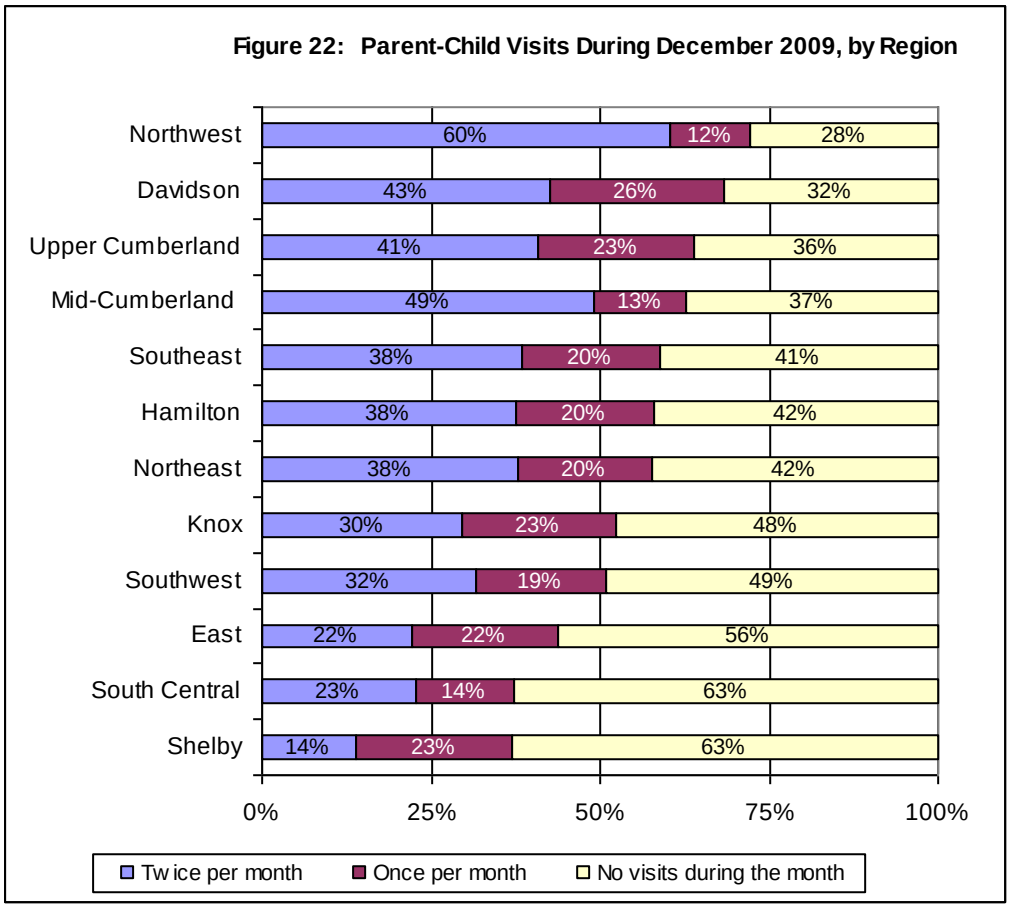
[79] This "effective" Settlement Agreement requirement is calculated by adding the number of cases in which the child visited with a parent at least twice per month to the number of cases in which the child visited with a parent at least once per month and then dividing by the total number of relevant cases (i.e., all children with a goal of reunification who were placed away from their parents during December 2009, excluding only the small number of children who had run away from care or were placed out-of-state).



Source: TNKids "Parent-Child Visit Compliance Summary Reports" (CEN-PRTCHDVT-200) for December 2006 through December 2009.

There is significant regional variation in performance on this measure as shown in Figure 22 below.[80] More than half of children visited with their parents during December 2009 in nine regions (Northwest, Davidson, Upper Cumberland, Mid-Cumberland, Southeast, Hamilton, Northeast, Knox, and Southwest). Like statewide data, the regional data reflect significant improvement in performance. As reported in the December 2008 Monitoring Report, during June 2008, Southeast and Northwest were the only two regions with more than half of children visiting with their parents at least once during the month.

[80] Data for East region presented in this figure is for the original East region and does not present performance for the two new regions, East and Smoky Mountain, separately.



Source: TNKids "Parent-Child Visit Compliance Summary Report" (CEN-PRTCHDVT-200), generated February 1, 2010 for the month of December 2009.

ii. Parent-Child Visit Targeted Review

Based on preliminary results of a recent targeted case file review focused on parent-child visits, it appears that the aggregate data may be underreporting compliance. TNKids aggregate data reporting is unable to account for cases in which there is a reasonable justification for the lack of parent-child contact, including those exceptions to the parent-child visit requirement explicitly provided for in the Settlement Agreement. Among the circumstances that reviewers considered to be a reasonable basis for missed visits are the following:

- A court order prohibiting contact between parent and child;
- A recommendation from a therapist that contact between parent and child be limited;
- Parental incarceration in facilities with very restrictive visiting conditions;
- Parent living out of state;
- Apparent unwillingness of parent to visit child regularly;
- Parent's whereabouts remain unknown despite at least some efforts by the Department to locate the parent; and
- Frequent cancelations of scheduled visits by parent.

Of the 90 relevant cases reviewed, there was reasonable justification for the failure to visit with the mother in 42 (47%) of the cases. Of the remaining 48 cases for which visits would be expected, visits with the mother occurred at least once per month in 40 cases (83%). In 27 of these cases (56% of cases in which visits would be expected) visits occurred at least twice per month. Visits with the mother occurred less regularly than once per month in only eight cases (17%).[81]

b. Placement with Siblings

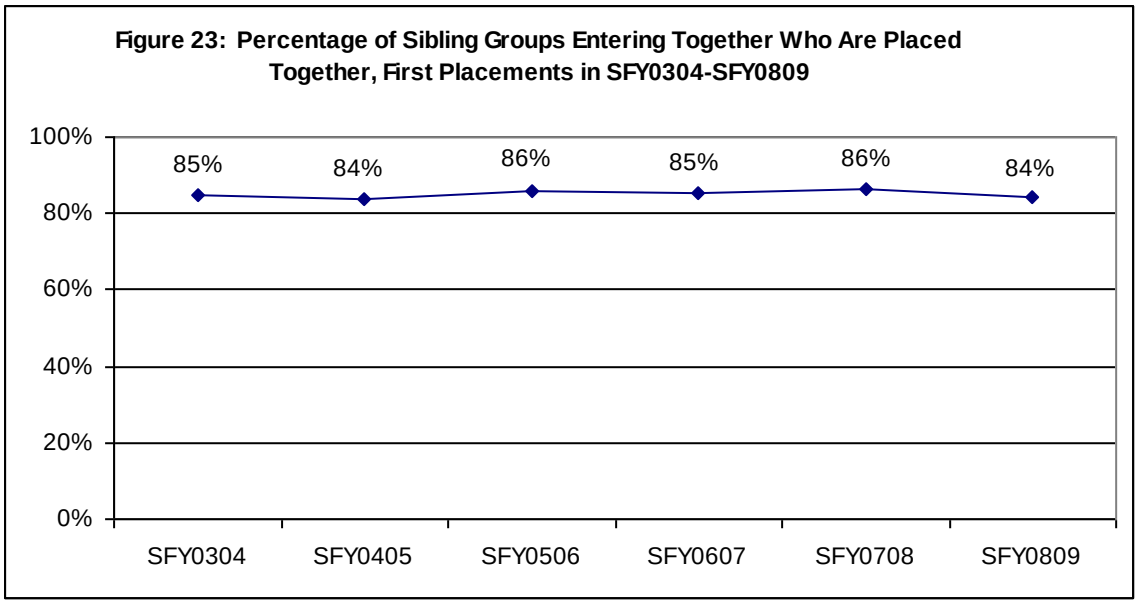
The Settlement Agreement provides that, "*siblings who enter placement at or near the same time shall be placed together, unless doing so is harmful to one or more of the siblings, one of the siblings has such exceptional needs that can only be met in a specialized program or facility, or the size of the sibling group makes such placement impractical notwithstanding diligent efforts to place the group together. If a sibling group is separated at the initial placement, the case manager shall make immediate efforts to locate or recruit a family in whose home the siblings can be reunited. These efforts will be documented and maintained in the case file.*" (XVI.B.3)

For Period IV, the Settlement Agreement states that "*at least 85% of all siblings who entered placement during the reporting period shall be placed together in the same foster home or other placement.*"

The TNKids system is not presently able to identify children whose placement with their siblings would be subject to any of the exceptions, and therefore the Department applies the standard to all sibling groups who enter custody within 30 days of one another.

During state fiscal year 2008-2009, 84% of sibling groups entering out-of-home placement together for the first time were placed together. Figure 23 displays performance on this measure for entry cohorts in state fiscal years 2003-2004 through 2008-2009. Performance has remained between 84% and 86% since state fiscal year 2003-2004.

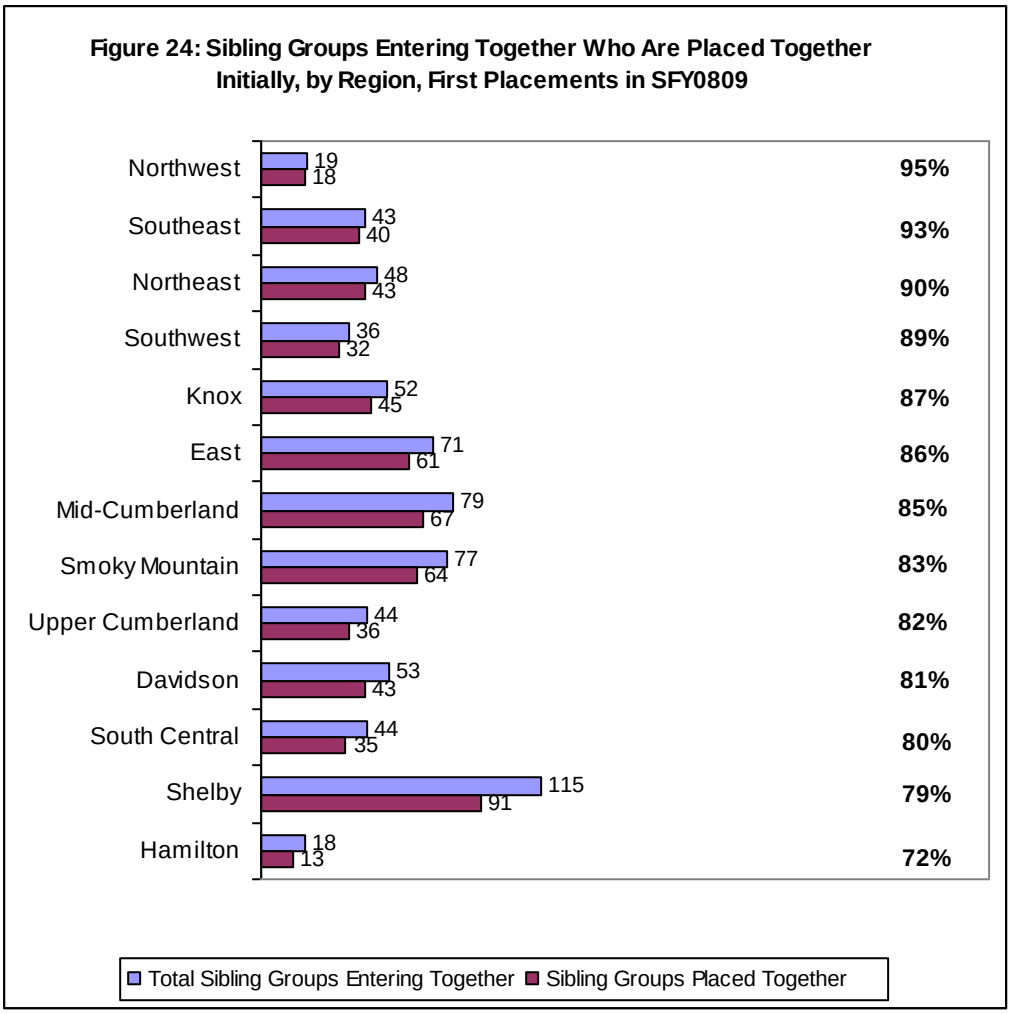
[81] TAC monitoring staff are in the process of finalizing a report with the results of this review.



Source: SFY0304 from longitudinal analytic files developed by Chapin Hall from TNKids data through August, 2009. SFY0405 through SFY0809 from longitudinal analytic files developed by Chapin Hall from TNKids data through February 2010.

Figure 24 below presents both the total number of sibling groups entering together for the first time in state fiscal year 2008-2009 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.

Shelby had by far the largest ***number*** of sibling groups entering out-of-home placement together for the first time in state fiscal year 2008-2009; 115 sibling groups compared to less than 80 sibling groups in each of the remaining 12 regions. Shelby also had the largest ***number*** of sibling groups placed together initially than in any other region: 91 sibling groups compared to less than 70 sibling groups in each of the remaining 12 regions. However, the ***percentage*** of sibling groups in Shelby initially placed together (79%) is lower than any other region except Hamilton.



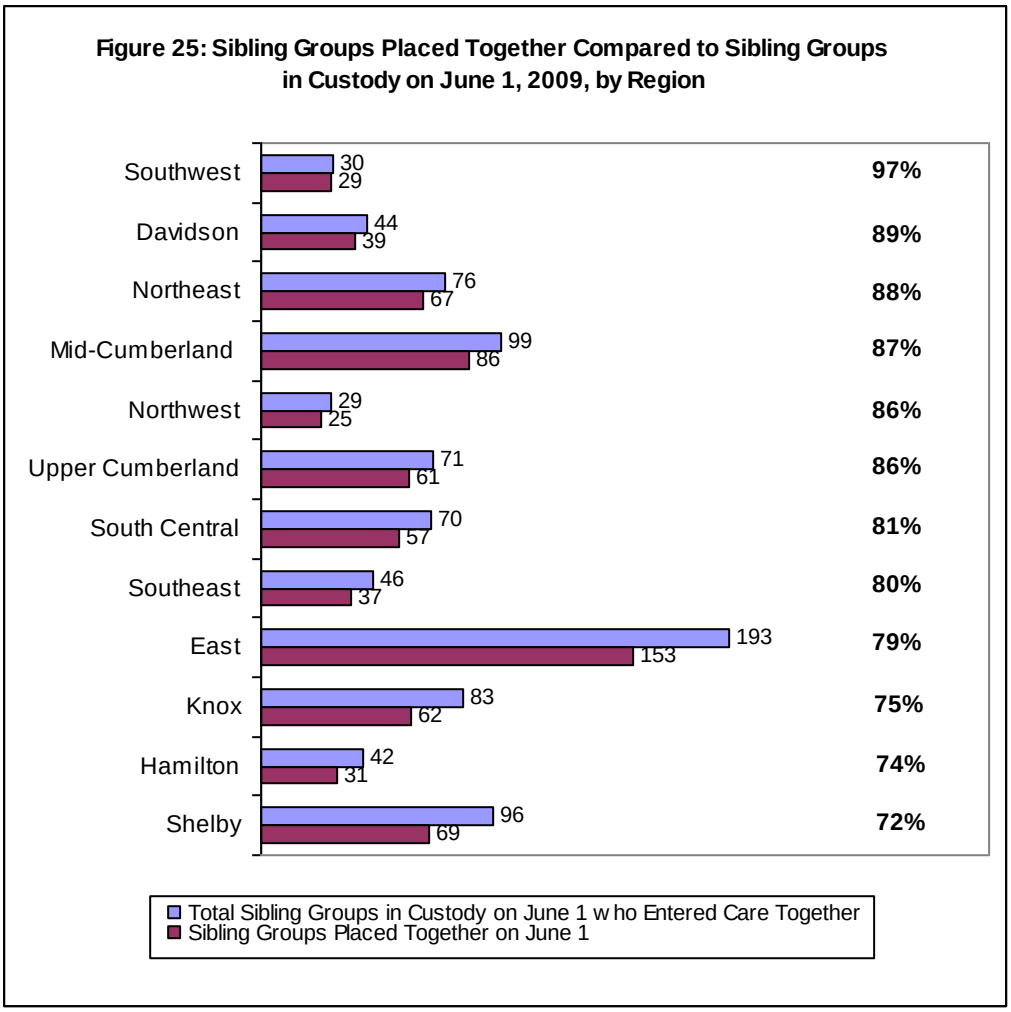
Source: Longitudinal analytic files developed by Chapin Hall from TNKids data through February 2010.

The Department also tracks the placement of all sibling groups in custody at the beginning of each month. As of February 1, 2010, 83.5% (751) of the 899 sibling groups in custody were placed together.[82] Since the Department began producing this report in November 2006, this percentage has remained quite stable, hitting its lowest point of 80.2% on December 1, 2007 and reaching its highest point yet of 83.6% on January 1, 2010.

Figure 25 displays regional performance on this measure as of June 1, 2009.[83] As shown in the figure, the placement of sibling groups in custody on June 1, 2009 differs significantly from the initial placement of sibling groups entering out-of-home care during state fiscal year 2008-2009. There are differences between the two measures for every region, though the differences are more pronounced for some regions than for others.

[82] 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 date the report is generated.

[83] Data for East presented in this figure is for the original East region and does not present performance for the two new regions, East and Smoky Mountain, separately.



Source: TNKids "Active *Brian A*. Class Sibling Groups Not Placed Together Visitation Summary Report" (SBL-ASGNPTVS-200), generated June 1, 2009 for the months of March and April 2009.

c. Contact with Siblings

For Period IV, the Settlement Agreement requires that *"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. Of the remaining children in the class in placement who have siblings with whom they are not living and with whom they did not visit at least once a month, at least 90% shall visit at least once every two months."* (XVI.B.2)

The Settlement Agreement allows an exception for "*situations when there is a court order prohibiting visitation or limiting visitation to less frequently than once every two months."*

i. Sibling Visit Aggregate Reporting

As is the case with reporting on parent-child visits, TNKids is not able to produce a report on sibling visits that identifies and excludes children subject to this exception. The Department in its reporting applies this standard to all sibling groups who entered custody within 30 days of one

another and are separated during the reporting period, irrespective of whether there is a court order limiting or prohibiting visits. The reporting on this performance measure therefore includes these class members as well, and thus current reporting is likely to slightly understate performance on the Settlement Agreement requirement.[84]

For the months of November and December 2009,[85] the statewide percentage of separated siblings groups[86] having face-to-face visits at least once per month during that two-month period was 43% (compared to 90% required by the Settlement Agreement). Of the remaining separated sibling groups, 45% visited once during the two-month period (compared to 90% required by the Settlement Agreement). Or, stated differently, a total of 69% of sibling groups visited at least once during the two-month period; the Settlement Agreement effectively requires 99%.[87] The percentage of siblings groups not visiting at all during the two-month period was 31%.

Figure 26 below presents performance on this measure since the Department began producing this report for the months of August and September 2006. During August and September 2006, a total of 49% of separated sibling groups visited at least once during the two-month period. This percentage reached a high point of 76% in June and July 2007. Since that time, performance has fluctuated between a low of 56% during March and April 2009 and a high of 69% during November and December 2007, July and August 2009, and November and December 2009.[88]

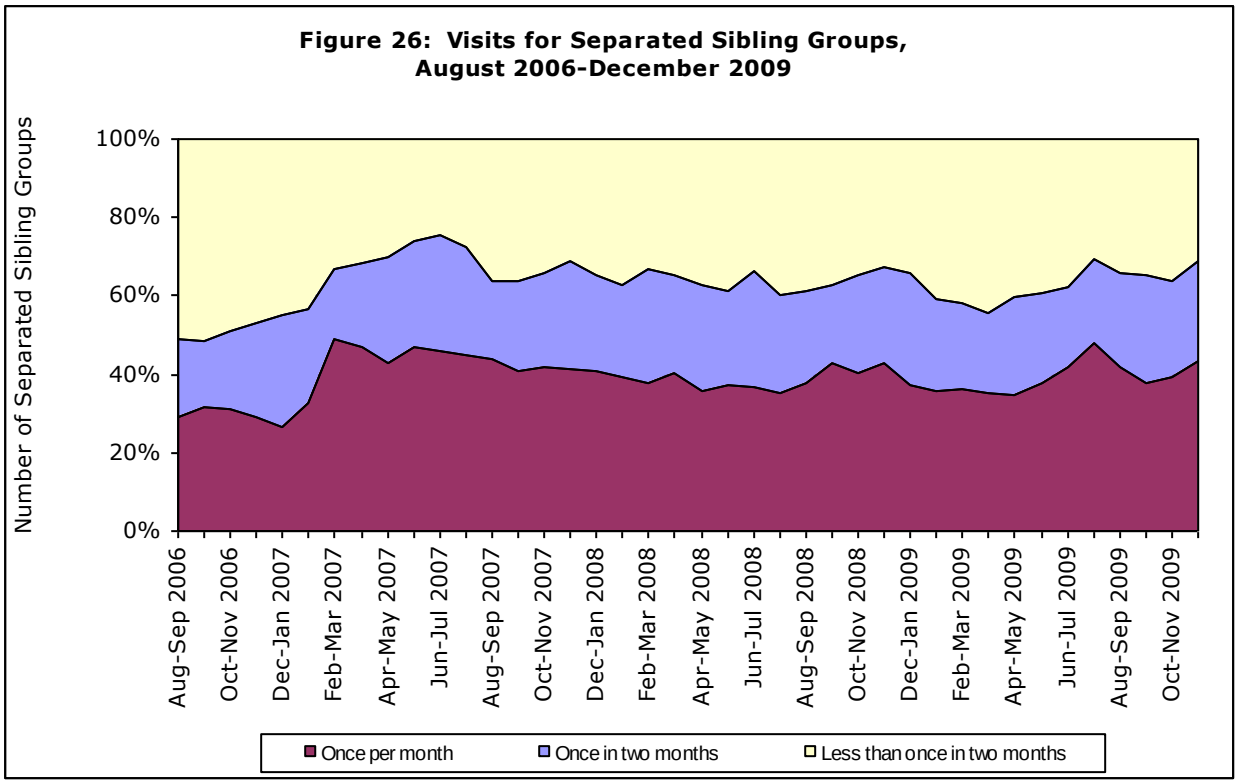
[84] Notwithstanding the under-reporting, the Department recognizes that it is far from meeting the requirements of the Settlement Agreement in this area.

[85] The Department reports performance for the end of the Reporting Period IV (during November and December 2009) for this measure.

[86] This measure includes all sibling groups in custody during the two-month period who originally entered custody within 30 days of one another, regardless of the type of entry (first placement or reentry) or placement type (with family or out-of-home), and excludes any child from the sibling group who is on runaway status on the date the report is generated.

[87] This "effective" Settlement Agreement requirement is calculated by adding the number of sibling groups visiting at least once per month to the number of sibling groups visiting at least once during the two-month period and then dividing by the total number of relevant sibling groups (i.e., all sibling groups who entered custody within 30 days of one another and were separated during November and December 2009).

[88] There was a typographical error in the August 2009 Supplemental Monitoring Report indicating that a total of 71% of separated sibling groups had face-to-face visits at least once during the two-month period of February and March 2009. However, only 58% of separated sibling groups had face-to-face visits at least once during the two-month period of February and March 2009.

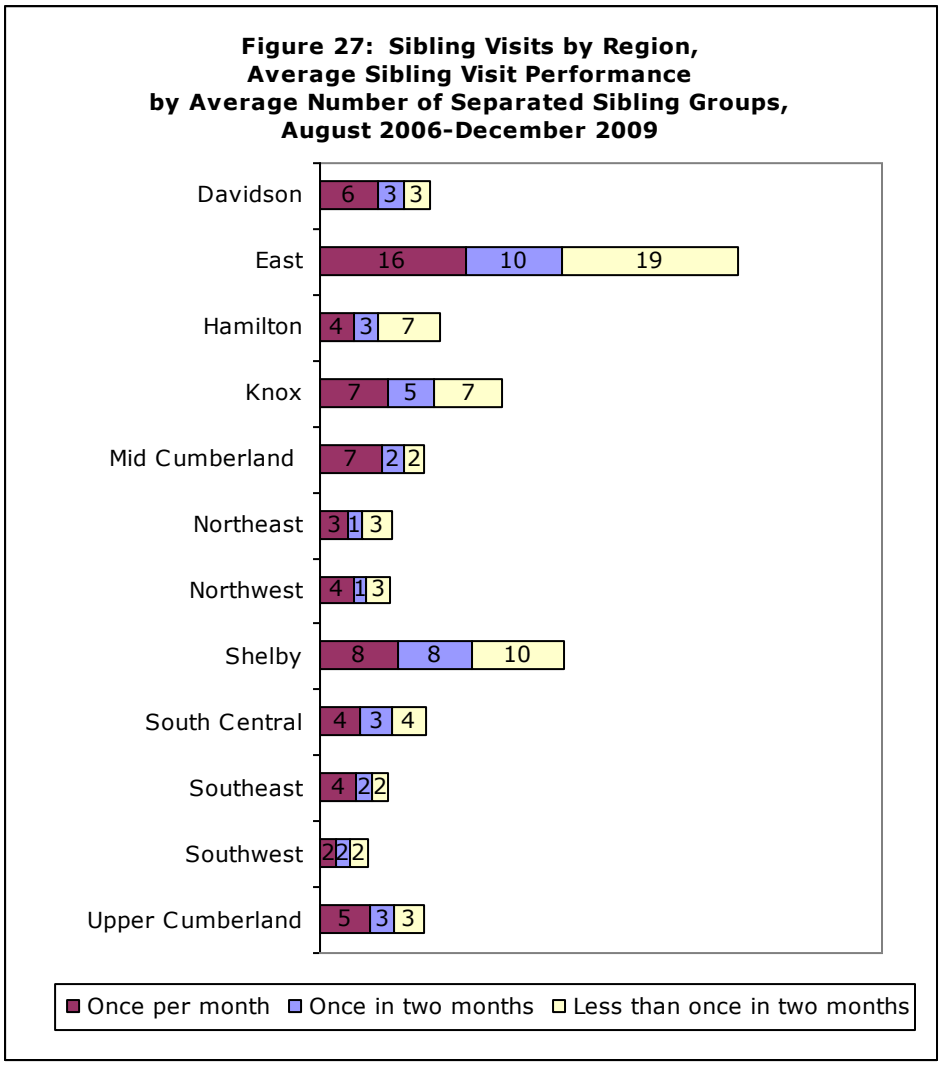


Source: TNKids "Active *Brian A*. Class Sibling Groups Not Placed Together Visitation Summary Reports" (SBL-ASGNPTVS-200) for August and September 2006 through November and December 2009.

Figure 27 below presents the average number of separated sibling groups visiting one another at each frequency, by region,[89] for the period from August 2006 to December 2009.[90] East and Shelby both account for a substantial number of the separated sibling groups and an even larger proportion of those visiting less than once in two months.

[89] Data for East presented in this figure is for the original East region and does not present performance for the two new regions, East and Smoky Mountain, separately.

[90] Because of the relatively small number of sibling groups who are separated in most regions, there is considerable fluctuation from month-to-month. In order to provide some meaningful way of understanding and comparing regional performance, the figure gathers and presents information based on a monthly average of relevant regional sibling separation data over a 41-month period.



Source: TNKids "Active *Brian A*. Class Sibling Groups Not Placed Together Visitation Summary Reports" (SBL-ASGNPTVS-200) for August and September 2006 through November and December 2009.

ii. Sibling Visit Targeted Review[91]

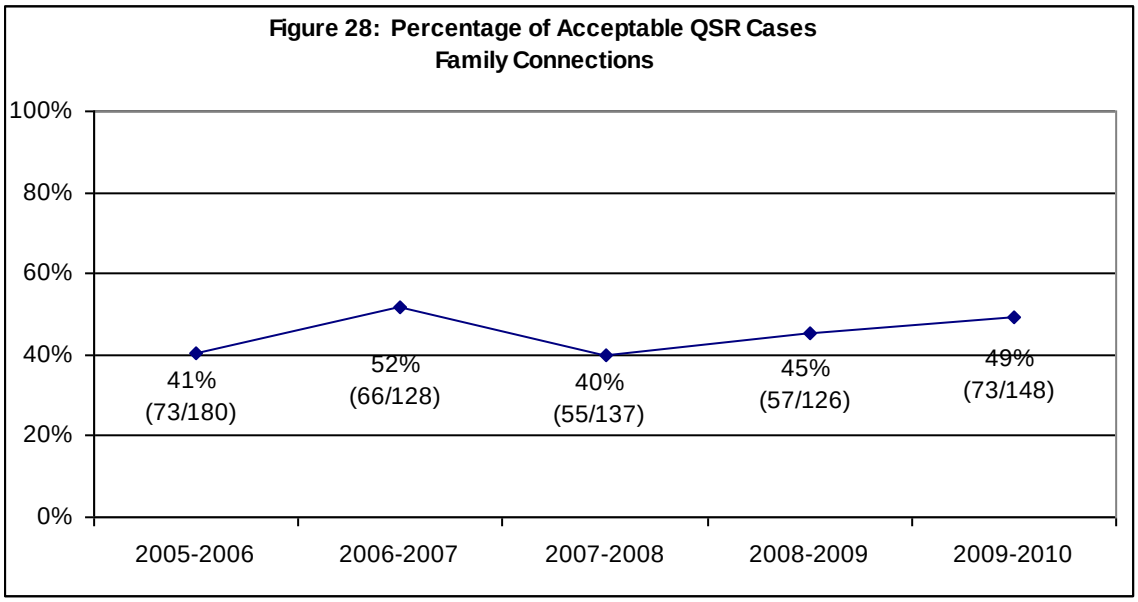
Based on findings of a recent targeted case file review of sibling groups for whom, according to DCS aggregate reporting, no visits occurred during a two-month period, it appears that the Department's aggregate data does not accurately capture all sibling visits. While visits in 32% of the cases reviewed fell far short of the minimum Settlement Agreement requirement over a six-month period, 68% of sibling groups reported as not having visited appeared either to have had visits at least once every two months during the six-month period or to have had a reasonable explanation or rationale for the missing visits.[92]

[91] The Results of the Targeted Review of Visits Between/Among Separated Siblings is attached as Appendix H.
[92] This review only looked at cases for which the aggregate data reported no visits between siblings during a two-month period. It therefore can not be used to draw any conclusions about overall under-reporting in the sibling visit aggregate data.

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 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 "all appropriate family members have periodic visits a minimum of bi-weekly." 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.

Figure 28 presents the number and percentage[93] of *Brian A.* cases receiving acceptable scores for Family Connections in the past five annual QSRs. The Family Connections indicator is only scored for cases in which (a) the child was placed out-of-home and (b) maintaining at least one family relationship was appropriate.



Source: Annual QSR finalized databases.

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

[93] In this figure (and in similar figures throughout the report), the numbers of cases are presented in parentheses, with the first number (to the left of the slash mark) reflecting the number of applicable cases (in this instance, cases with acceptable scores for family connections) and the second number (to the right of the slash mark) reflecting the total number of cases reviewed.

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, the 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.

- While over half of children who are discharged from state custody upon reaching the age of 18 remain in a secondary education program and a quarter have graduated high school or completed a GED, a significant minority of children "age out" without such achievement/ongoing involvement.

1. 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. The Department has recognized the important interrelationship between CPS work in general and the system's ability to serve

children in custody and DCS has therefore appropriately included improvements in CPS/MRS staffing and performance as part of its *Brian A.* implementation plan.[94]

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.

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

The U.S. Department of Health and Human Services (DHHS) requires 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. Under this standard, the term "all children in care" applies to both *Brian A.* class members (children adjudicated dependent/neglected or unruly) and children adjudicated delinquent. Tennessee reported that 0.28% of *Brian A.* children had been the victims of substantiated abuse or neglect by resource parents and/or congregate care facility staff for the 12-month period ending September 30, 2007 and that 0.32% had been the victims of such substantiated abuse or neglect for the 12-month period ending March 31, 2008.[95]

The Department has begun reporting the CFSR measure on a quarterly basis. The measure now includes all children in custody, including those adjudicated delinquent, who are not placed in a Youth Development Center. Abuse in care percentages for the period ending December 31, 2008 increased to 0.51%, but then declined to 0.41% for the period ending March 31, 2009 and even further to 0.34% for the period ending December 31, 2009.[96]

Beyond the CFSR data related to incidence of abuse and neglect of children while in care, there are a number of other sources of information that are relevant to evaluating the extent to which children in state custody are in safe placements and protected from harm and that examine a broader range of safety threats than those included in the CFSR measure. These sources of information include: the Quality Service Review, the Special Investigations Unit (SIU) reports, and the Incident Reporting (IR) system.

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[94] Section Three of this report includes discussion of some of the efforts the Department has made to improve the CPS/MRS process generally.

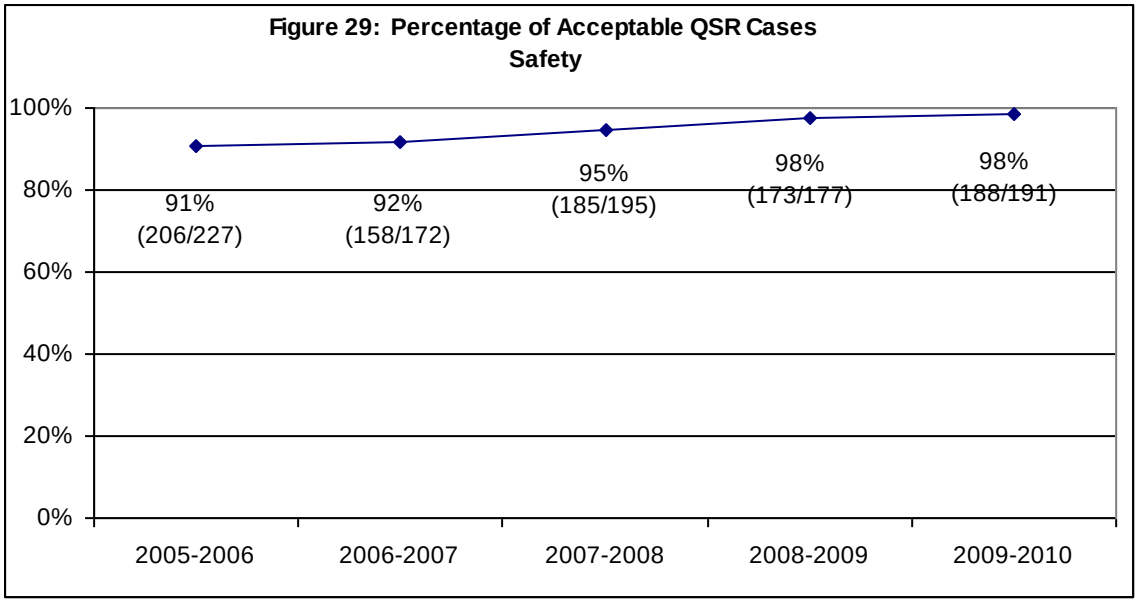
[95] Like the majority of other states, the Department has eliminated from its definition of abuse in care the categories of "substantial risk of physical abuse" and "substantial risk of sexual abuse." "Substantiated at risk allegations" are therefore no longer included in the CFSR percentages.

[96] The observation period for this measure is 12 months. To calculate the percentage of "children maltreated while in foster care," the Department takes the number of children in foster care as reported in the Adoption and Foster Care Analysis and Reporting System (AFCARS, which includes only children in a IV-E eligible placement setting) and subtracts from that number all children reported in the National Child Abuse and Neglect Data System (NCANDS) as having been the subject of maltreatment by a foster care provider during the reporting period.

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 29 presents the number and percentage of *Brian A.* cases receiving acceptable scores for Safety in the past five annual QSRs.



Source: Annual QSR finalized databases.

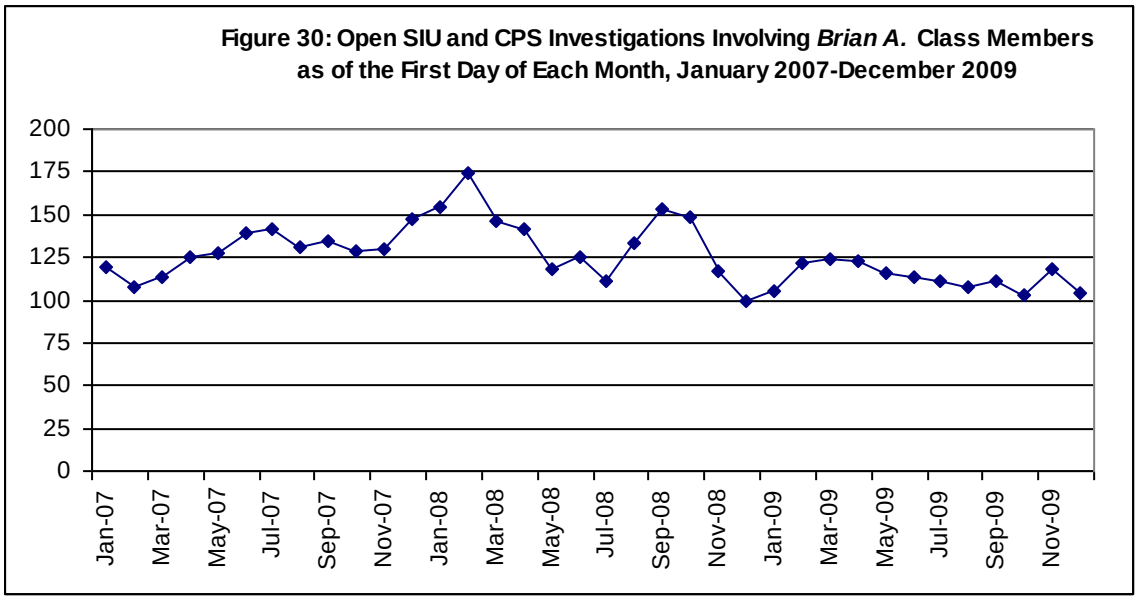
c. Special Investigations Unit and Child Protective Services Investigations of Reports of Abuse or Neglect of Children while in State Custody

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.[97]

While the Department does not regularly report substantiated abuse and neglect of children while in care beyond the CFSR measure data, the available data on the number of investigations of allegations of abuse and neglect of children in care provides some measure of the extent to which concerns about abuse and neglect of children in foster care (sufficient to warrant investigation) are brought to the Department's attention.

[97] CPS and SIU investigations and related data are more fully discussed in Section Three.

Figure 30 below displays the number of open investigations (both CPS and SIU) involving *Brian A.* class members as of the first day of each month for January 2007 through December 2009. Since January 2009, the number of open investigations on the first day of each month has ranged between 103 and 124.[98]



Source: TNKids "*Brian A*. Class Open Investigations Over 60 Days Old Report" (CPS-BRIANINV-200) as of the first day of each month for January 2007 through December 2009.

d. Incident Reports

The Incident Reporting (IR) automated system provides data on the number of reports received from private providers[99] and reviewed by the Department regarding the variety of categories of "incidents" which private providers are required to report regarding children in their care.[100] 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 appropriate use of restraint or seclusion. Incident reports are assigned a numbered "severity level" (1 through 4, with one being the least severe) based on the nature and circumstances of the incident.[101] The severity level determines the intensity of review and/or follow-up required of Departmental staff.

[98] For a breakdown of the length of time that these investigations have been open as of the first day of each month, see Section Three, Subsection B.1.c.

[99] As reported in previous monitoring reports, the Department is not yet routinely reporting incidents occurring in DCS operated placements through the Incident Reporting process. The Department has recently identified two regions, Tennessee Valley and Southwest, to serve as leaders in working through issues related to incident reports for DCS placements.

[100] While the reporting is supposed to be done electronically through a web-based application, the Department continues to receive a small number of reports through the old system of faxing or emailing "hard copies." (This serves as a back up when providers are unable to access the web-based system.) The Department anticipates that the greater accessibility of TFACTS will virtually eliminate the need for this back up system.

[101] The designation of severity level 4 refers to incidents involving a riot at a facility, the death or near death of a child in DCS custody, and incidents that do not involve death or near death but result in serious permanent injury or

Table 7 below displays the number of incidents reported through the automated system between October 1, 2009 and December 31, 2009 by severity level (Level 1 being the lowest and Level 4 being the highest) and incident type for both *Brian A.* class members and children with delinquent adjudications.[102]

There were a total of 3,996 incidents reported between October 1 and December 31, 2009, and five incident types made up the vast majority of the reports: physical restraint[103] (1,324); runaway[104] (593); assault[105] (587); emergency medical treatment[106] (411); and medication error[107] (271). There was one Level 4 incident reported during this quarter.[108]

Between January 1 and March 31, 2009, there were a total of 4,288 incidents reported, and the same five incident types made up the vast majority of those reports: physical restraint (1,102); assault (784); runaway (712); emergency medical treatment (510); and medication error (386). There were no Level 4 incidents reported during this quarter.

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disability (e.g., administration of medication that results in permanent paralysis but did not constitute a near death incident). Such incidents are immediately reported to the Executive Director for Child Safety (and to 911, as appropriate). At this time, Level 4 incidents are entered into the automated IR reporting system after the Director of Child Safety and emergency personnel, as necessary, have already responded. The main function of the IR system is to alert DCS staff of an incident requiring a response. Since these incidents have already been reported and responded to prior to their entry into the IR system, the Department is considering eliminating the Level 4 incident category from the IR automated system. Level 1 incidents currently include some medication errors that are non-injurious, such as a child's refusal to take a Tylenol that had been prescribed. By definition, these are not incidents that pose a serious risk of harm or cause actual harm.

[102] A list of definitions for each incident type is included as Appendix I.

[103] Physical restraint is defined as the involuntary immobilization of a child without the use of mechanical devices, including escorts where the youth is not allowed to move freely.

[104] Runaway is defined as a child or youth leaving a program without permission and his or her whereabouts are unknown or not sanctioned.

[105] Assault is defined as a willful and malicious attack by a child or youth on another person, not including horse-play.

[106] Emergency medical treatment is defined as a child or youth suffering an injury or illness that requires emergency medical attention.

[107] Medication error is defined as the administration of a medication not in accordance with the prescribing provider's instructions and/or DCS policy and procedure.

[108] This incident involved the deaths of two children and their birth mother in an automobile accident. The birth mother was the driver of the vehicle.

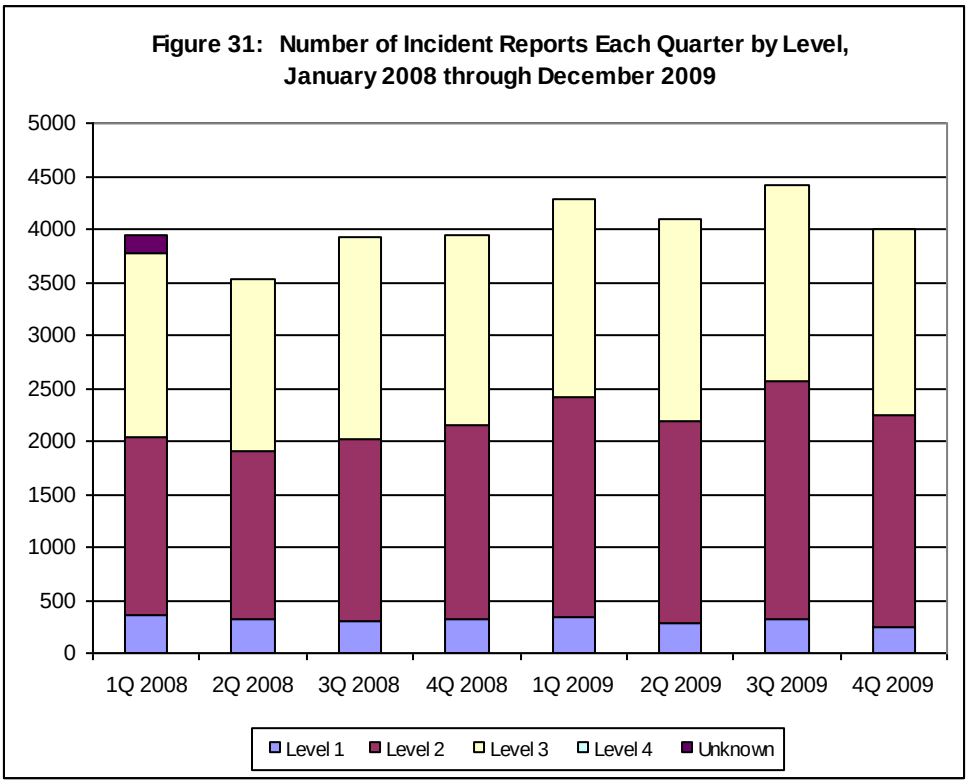
Table 7: Incident Reports Received Through Automated System, October 1, 2009 - December 31, 2009						
Incident Type	Severity Level				Total Number of Incidents	Percentage of Total Incidents
	Level 1	Level 2	Level 3	Level 4		
Abduction	0	0	1	0	1	0.0%
Abuse or neglect	0	0	106	0	106	2.7%
Arrest of child or youth	0	0	121	0	121	3.0%
Arrest of parent, surrogate or staff person	0	0	1	0	1	0.0%
Assault	0	424	163	0	587	14.7%
Contraband	0	19	194	0	213	5.3%
Emergency Medical Treatment	0	371	40	0	411	10.3%
Emergency Use of Psychotropic medication(s)	0	0	5	0	5	0.1%
Major Event at Agency	0	0	34	1	35	0.9%
Mechanical Restraint	0	0	4	0	4	0.1%
Medication Error	244	25	2	0	271	6.8%
Mental Health Crisis	0	105	104	0	209	5.2%
Physical Restraint	0	1000	324	0	1324	33.1%
Runaway (off facility property and out of physical sight of staff)	0	0	593	0	593	14.8%
Seclusion	0	66	49	0	115	2.9%
Total	**244**	**2010**	**1741**	**1**	**3996**	**100.0%**

Source: Incident Report Automated System data for the period October 1 through December 31, 2009.

Table 8 and Figure 31 below present the number of incidents reported through the Automated System each quarter, by severity level, since January 2008.

Table 8: Number of Incident Reports Each Quarter by Level, January 2008 through December 2009						
	Level 1	Level 2	Level 3	Level 4	Unknown	Total
1Q 2008	358	1678	1736	0	166	3938
2Q 2008	315	1598	1614	0	0	3527
3Q 2008	295	1733	1893	0	0	3921
4Q 2008	320	1822	1810	0	0	3952
1Q 2009	341	2067	1880	0	0	4288
2Q 2009	275	1918	1906	1	1	4101
3Q 2009	323	2239	1844	1	0	4407
4Q 2009	244	2010	1741	1	0	3996

Source: Incident Report Automated System data for the period January 1, 2008 through December 31, 2009.



Source: Incident Report Automated System data for the period January 1, 2008 through December 31, 2009.

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.D)

There are a number of data sources that the Department uses to track and report on the extent to which the Department 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)[109] 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/maintenance needs are being met.

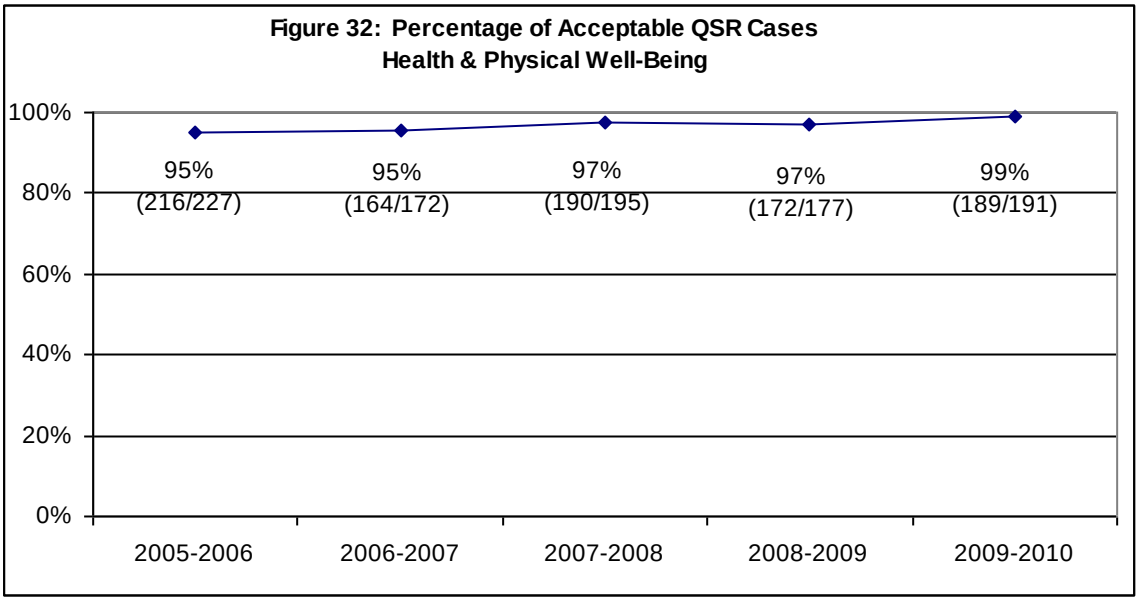
[109] The federally funded EPSDT program requires that Medicaid eligible children receive regular screening services at specified intervals (periodic screenings) and whenever a problem is suspected, and that children receive the treatment needed to correct any physical or mental illnesses or conditions 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.

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

If the child is taking medications, the reviewer must specifically determine whether the prescribing physician is monitoring the medications at least quarterly for safety and effectiveness, whether the child demonstrates age appropriate understanding of the medications, their purposes, and their administration, and whether the caregiver(s) with whom the child lives has an appropriate understanding of the medications, their purposes, and their administration.

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). Routine health and dental care have to have been received (even if it may not have been received on schedule). Immunizations must be current (even if they may not have been received on schedule). Acute or chronic health care must be generally adequate, although some follow-ups or required treatments may have been missed or delayed, and symptom reduction must be adequate. The child may have frequent colds, infections or non-suspicious minor injuries that respond to treatment.

Figure 32 presents the number and percentage of *Brian A.* cases receiving acceptable scores for Health and Physical Well-Being in the past five annual QSRs.



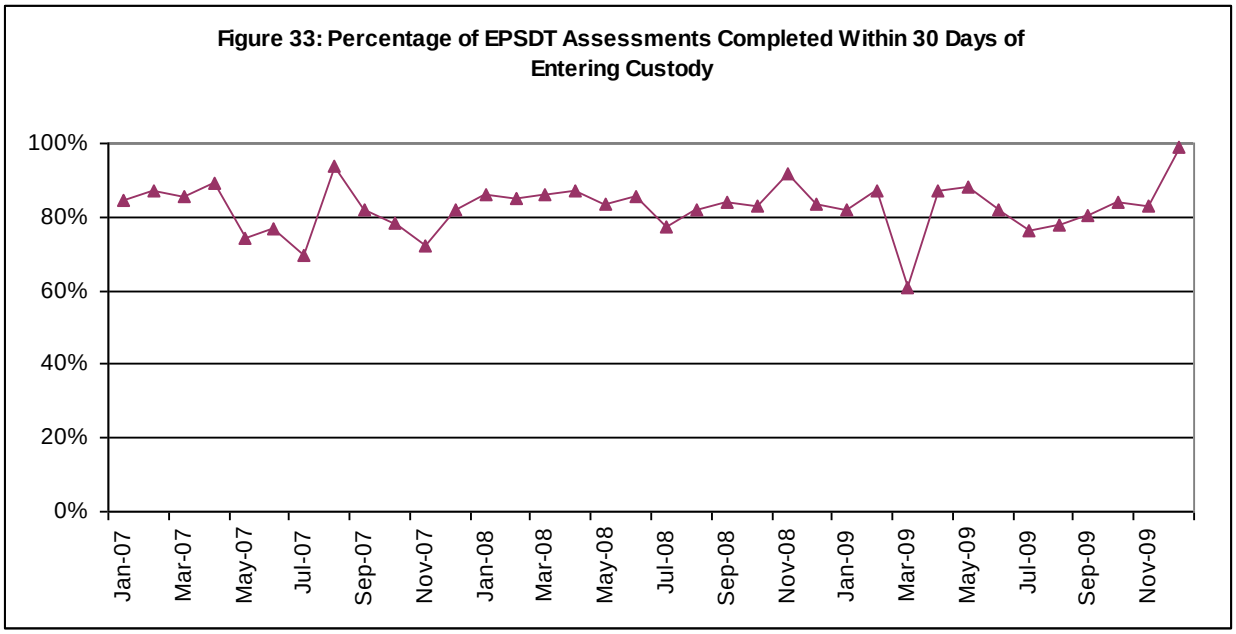
Source: Annual QSR finalized databases.

b. EPSDT Assessments

The EPSDT report is primarily designed to meet the reporting requirements of *John B. v. Goetz*, a class action lawsuit focused on Tennessee's implementation of EPSDT, which includes as a subclass, children in DCS custody. Produced by the DCS Division of Reporting and Analysis at

the beginning of every month, the EPSDT report provides information regarding the completion of initial and annual health assessments as well as annual dental assessments for children in custody.[110] The report for the month of December 2009 found that 99% of the 281 *Brian A.* class members entering custody during the month received an EPSDT assessment within 30 days of entering custody. The report also shows that 97% of the 6,385 *John B.* class children in custody during the month had received an EPSDT assessment within the past year and that 93% of the 5,393 *John B.* class children in custody during the month who were four years or older had received a dental assessment within the past year.

As reflected in Figure 33 below, there has been some considerable variation over the past two years in the percentage of initial EPSDT assessments completed within 30 days of entering custody.[111] Performance ranged from a high of 99% in December 2009 to a low of 60% in March 2009.



Source: Division of Reporting and Analysis EPSDT reports (EPSTBLSC_EPSDT_CMPNT_TBLS_123_Summ) for January 2007 through December 2009.

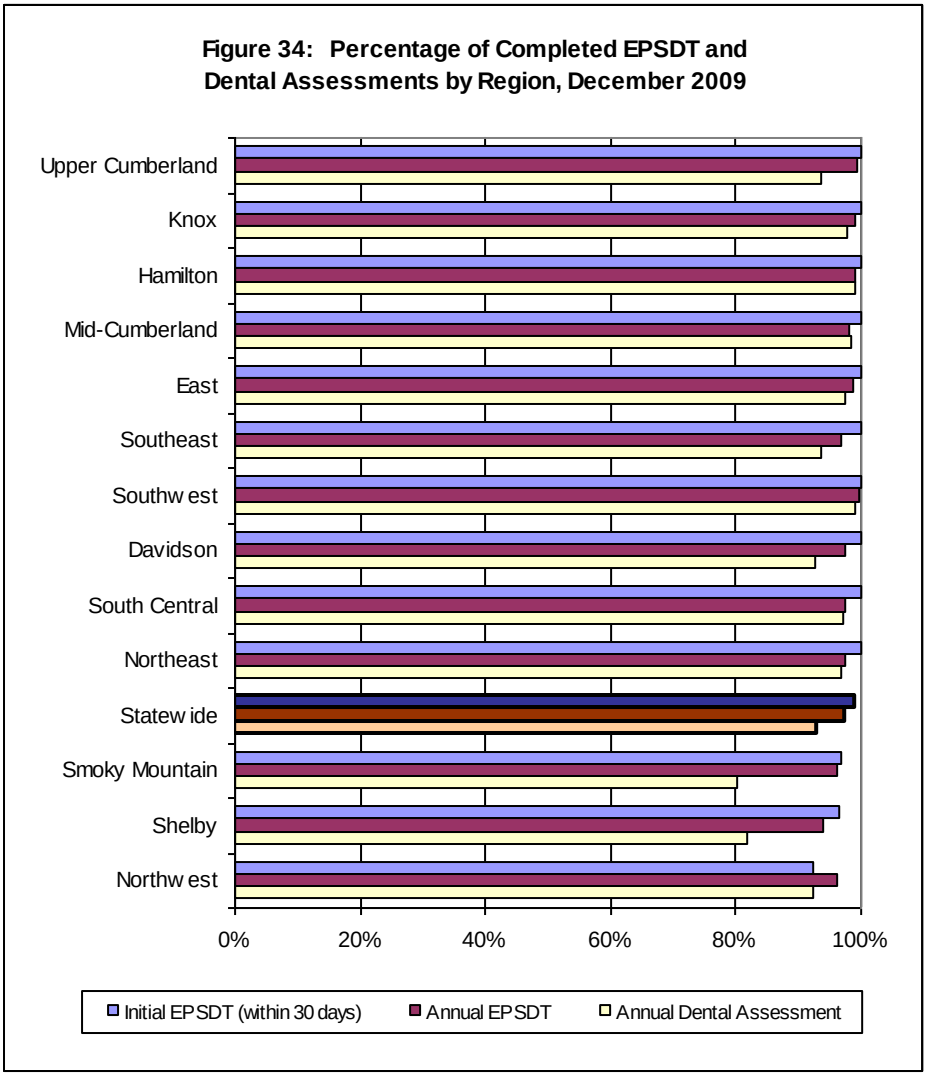
In contrast, the percentages of annual medical and dental assessments have remained relatively stable over this time period. Annual medical assessments ranged from a high of 95.4% in

[110] Because the *John B.* subclass includes all children in DCS custody except those placed in the four youth development centers, this report includes both *Brian A.* class members and some children with delinquent adjudications. Youth running away from DCS custody and youth in custody for fewer than 30 days are excluded from this report. The Department uses *John B.* class children as the base population for reporting on annual medical and dental assessments because these activities are relevant to the *John B.* Settlement Agreement. They are not specific requirements of the *Brian A.* Settlement Agreement. Assessments within 30 days of entry into custody, however, are required by the *Brian A.* Settlement Agreement, and the Department therefore uses *Brian A.* class children as the base population for reporting on initial assessments.

[111] The Department identified an error in the way the EPSDT report was run in December 2009 and produced a corrected report, which reflects a higher percentage of completion than in previous months. The TAC is unclear whether past reports reflect actual performance or were impacted by the same error.

December 2008 to a low of 92.3% in March 2009, and annual dental assessments ranged from a high of 88% in December 2008 to a low of 82% in December 2007.

Figure 34 below presents regional performance for the December 2009 report, arranged by percentage of initial EPSDT assessments completed within 30 days of entering custody.



Source: Division of Reporting and Analysis EPSDT reports (EPSTBLSC_EPSDT_CMPNT_TBLS_123_Summ) for January 2007 through December 2009.

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.D)

a. Quality Service Review Results

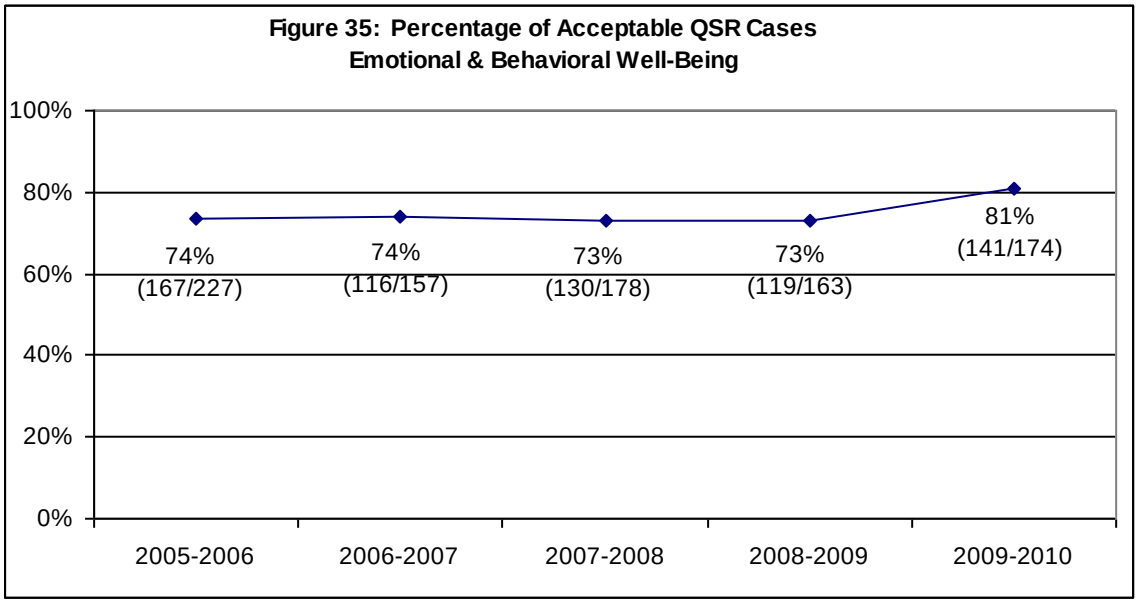
The Quality Service Review provides information about the extent to which the Department is identifying and meeting the mental health needs of children in its care.

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

- The child is doing well or, if not,
- The child is (a) making reasonable progress toward stable and adequate functioning and (b) that supports are in place for that child 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. If the child is in a special treatment setting, the child must be stable and making reasonable progress toward discharge and return home.

Figure 35 presents the number and percentage of *Brian A.* cases receiving acceptable scores for Emotional and Behavioral Well-Being in the past five annual QSRs.[112] As the figure reflects, after four years of fairly stable QSR findings, this year there has been a significant increase in the percentage of cases scoring acceptable for this indicator, from 73% to 81%.



Source: Annual QSR finalized databases.

[112] In the 2005-2006, this indicator was scored for all cases; however, in the reviews since 2005-2006, this indicator was scored only for cases of children age 2 or older.

b. Psychotropic Medications

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.

On average, during any given month between January and December 2009, 1,226 class members were receiving one or more psychotropic medications. The monthly numbers of children receiving medication during that time ranged from a low of 1,174 to a high of 1,254. A total of 2,604 (26%) of the 9,876 class members who were in DCS custody at any time during 2009 received one or more psychotropic medications at some point during their time in care.

The use of psychotropic medications among class members over the last year is very similar to that during calendar year 2007. As reported in the December 2008 Monitoring Report, 2,922 (25%) of the 11,647 class members who were in DCS custody at any time during 2007 received one or more psychotropic medications at some point during their time in care. The Department's analysis of the BlueCross BlueShield pharmacy data for 2009, including detailed breakdowns by age and race, is attached as Appendix J.[113]

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. [114]

a. Quality Service Review Results

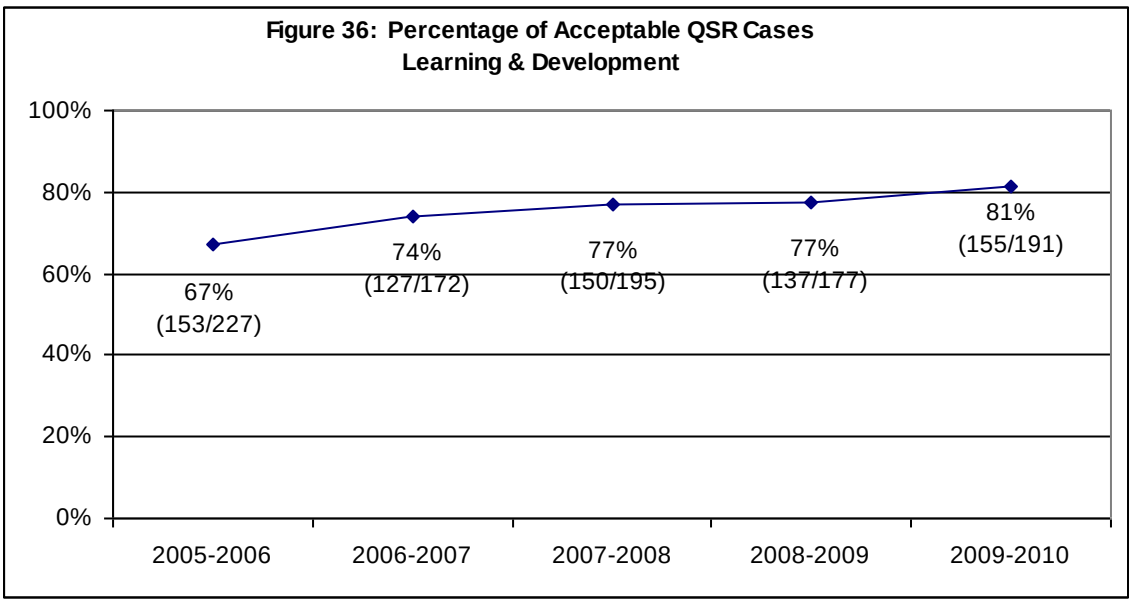
The QSR indicator for Learning and Development requires that the reviewer of a school-age child determine whether a child is regularly attending school, in a grade level consistent with the child's age, actively engaged in instructional activities, reading at grade level or IEP expectation,[115] and meeting requirements for annual promotion and course completion. If the child has special education needs, the reviewer is required to determine that there is a current and appropriate IEP and that the child is receiving the special education services appropriate to the child's needs. 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 the child is enrolled in at least a minimally appropriate educational program, consistent with the child's age and ability. The child must have at least a fair rate of school attendance and a level of participation and engagement in educational processes and activities that is enabling the child to meet the minimum educational expectations and requirements for the assigned curriculum and

[113] See Section Six F for discussion of the Settlement Agreement requirements related to the administration of psychotropic medications to children in DCS custody.
[114] See Section Six D for additional discussion of Settlement Agreement requirements related to education.
[115] IEP refers to the Individualized Education Plan required for special education students.

IEP. The child must be reading at least near grade level or near the level anticipated in an IEP and must be at least meeting the minimum core requirements for grade level promotion, course completion, and successful transition to the next educational setting (to middle school, to high school, to graduation, etc.).

Figure 36 presents the number and percentage of *Brian A.* cases receiving acceptable scores for Learning and Development in the past five annual QSRs.



Source: Annual QSR finalized databases.

5. Preparing Older Youth for Adulthood

The Settlement Agreement establishes specific requirements related to educational and/or vocational achievement or involvement for children who reach the age of majority while in state custody.

The Settlement Agreement states that for Period IV "*at least 90% of the children who are discharged from foster care during the reporting period 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 or college or alternative approved educational program for special needs children, currently enrolled in vocational training, or employed full-time.*" (XVI.A.7)[116]

For Period IV, the Department provided data on youth discharged from foster care at age 18 between January 1, 2009 and December 31, 2009. Of the 425 youth discharged during that period, 86% (364) met one or more of those educational or vocational achievement categories, representing a two-percentage point increase over performance for Reporting Period III (84%)

[116] *This measure excludes children on runaway status at the time they reach the age of 18.* (XVI.A.7)

but a one-percentage point decrease from performance of the Supplemental Reporting Period (87%).

One quarter (25%) had received a high school diploma or GED. (Because of the way in which this measure is calculated, the youth in this category may also be enrolled in a post-secondary or vocational education program, employed, and/or receiving post-custody services.[117]) Of the remaining youth who have not yet obtained a high school diploma or GED, 61% were enrolled in school (either completing high school or an alternative educational program). There were no youth who were employed part or full-time or who were receiving post-custody services who had not also met one of the other achievement categories.

The Department's concerns about outcomes for older youth go beyond the narrow focus of this specific achievement measure. As discussed further in Section Six, the Department has identified significant opportunities for improvement in the areas of permanency and preparation for adulthood for older youth and has made improved delivery of services and supports to older youth a priority area of focus.[118]

D. How successful is the Department in achieving 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 eight outcome and performance measures that relate to one or another aspect of permanency:

- 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;
- rate of adoption placement disruption; and

[117] Some youth may have achieved two or more of these measures upon discharge. In those cases only one achievement was selected for this outcome. Achievements were selected in the following order: GED/High School Diploma, enrolled in school, employed (full-time) at discharge. The Department currently reports employment, without distinguishing between full-time and part-time.
[118] See Section Six E.

- 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 six 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) has consistently been less than nine months; more than 70% have exited the system within 18 months, and about 80% have exited by 24 months.

- The median length of stay decreased to 6.4 months in 2004, and performance in 2005 and 2006 was very similar to that in 2004. However, the median length of stay increased somewhat in 2007 and 2008 to 6.9 months.

- There continues to be a significant variation in median length of stay among the regions. In 2008, the median length of stay ranged from 1.4 months for Davidson to 11.7 months for Hamilton and 11.2 months for Upper Cumberland.

- The rate of exit to a permanent exit (including reunification with family, discharge to a relative, and adoption) has increased for entry cohorts since state fiscal year 2003-2004, although there has been some variation in the trend for state fiscal years 2007-2008 and 2008-2009.[119]

Subsections 1 and 2 below present measures focused on how rapidly children exit custody to a permanent placement. Subsection 3 presents measures focused on how likely children are to exit to a permanent placement rather than a non-permanent exit (running away or "aging out" of the system), and Subsection 4 presents measures focused on how likely children are to remain in a permanent placement rather than reentering care.

1. Time to Permanency through Reunification and Adoption

[119] 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 on page 82, the data also suggest that the overall percentage of children exiting to permanency increased for children in the state fiscal year 2004-2005 entry cohort. More time is needed to observe exits to determine whether this trend will be maintained for later entry cohorts.

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

For Period IV, the Settlement Agreement requires that "*at least 80% of children entering care after September 1, 2001, who are reunified with their parents or caretakers 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 (i.e. those who are not reunified with their parents or caretakers at the time of discharge from custody within 12 months of the latest removal date), 75% shall be reunified within 24 months of the latest removal date.*" (XVI.A.1)

For Period IV, the Department provided data on children reunified with their parents or caretakers between January 1, 2009 and December 31, 2009. Of the 3,283 children reunified with their parents or caretakers during that period, 80% (2,613) were reunified within 12 months.[120] Of the remaining 670 children, 77% (518) were reunified within 24 months.[121] This is a slight improvement over performance for Reporting Period III. Of the children reunified with their parents during that period (July 1, 2007 through June 30, 2008), 79% were reunified within 12 months, and 75% of the remaining children were reunified within 24 months.

b. Adoption Finalization

For Period IV, the Settlement Agreement requires that of those children whose parental rights have been terminated or surrendered during the period from January 1, 2008 through and including December 31, 2008 (i.e., those in full guardianship), *"75% shall have their adoption finalized or permanent guardianship transferred within 12 months of being in full guardianship."* (XVI.A.2)[122]

For Period IV, the Department provided data on all children for whom parental rights were terminated or surrendered between July 1, 2007 and December 31, 2008.[123] Of the 1,783 children for whom parental rights were terminated or surrendered during that period, 74% (1,319) had their adoption finalized or permanent guardianship transferred within 12 months of entering full guardianship. This is the same percentage reported for Reporting Period III.

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[120] The reunification data regularly reported on by DCS and used by the TAC in this report includes both exits to "Reunification with Parents/Caretakers" and exits to "Live with Other Relatives." The Settlement Agreement limits this measure to exits to "Reunification with Parent/Caretakers."

[121] 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, 2009 and December 31, 2009, a total of 95% were reunified within 24 months.

[122] This provision has been amended by agreement of the parties for Period III and Period IV. It replaces language under the original Settlement Agreement that provided, for Period III, "*at least 85% of adoptions that become final within the reporting period shall have become final within 6 months of the adoptive placement.*"

[123] Consistent with past reporting, the Department used an 18-month reporting period rather than the 12-month reporting period specified in the Settlement Agreement.

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 for Period IV "*at least 75% of the children in placement shall have been in placement for two years or less*."[124] (XVI.A.4) For Period IV, the Department provided data on children in custody at any time between January 1, 2009 and December 31, 2009. Of the 10,168 children in custody during that period, 81% (8,204) had been in custody for two years or less. The finding for Reporting Period III was similar: 80% of children in custody between July 1, 2007 and June 30, 2008 had been in custody for two years or less.

The Settlement Agreement further provides that "*no more than 20% of the children in placement shall have been in placement for between 2 and 3 years*." (XVI.A.4) Eleven percent (1,128) of the children in custody between January 1, 2009 and December 31, 2009 had been in custody between two and three years. Ten percent of children in custody during Reporting Period III had been in custody between two and three years.

Finally, the Settlement Agreement states that "*no more than 5% of the children in placement shall have been placed for more than 3 years*." (XVI.A.4) Eight percent (836) of the children in custody between January 1, 2009 and December 31, 2009 had been in custody for more than three years, a slight decrease from the 10% of children in custody during Reporting Period III who had been in custody for more than three years.[125]

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).[126]

Figure 37 shows length of stay by duration in months for six entry cohorts, 2002-2007.[127] Each

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[124] This provision has been amended by agreement of the parties for Period IV. The original Settlement Agreement language provided that "*this measure shall include all children who entered care after October 1, 1998 and either left care at any time during the reporting period or are still in care at the end of the reporting period. Measurement shall exclude children still in care at the end of the reporting period who are in a long term relative placement for whom a long term placement agreement has been signed, and shall exclude children in permanent foster care.*" The amended language eliminates the exclusion in the original language and instead excludes from the measurement "*children still in care at the end of the reporting period who have a permanency goal of Planned Permanent Living Arrangement*." (XVI.A.4) Because the number of children in custody at any given time with a sole or concurrent goal of Planned Permanent Living Arrangement is very small, the Department decided not to exclude these children from this measure. Therefore, performance on this measure may be slightly under-reported.

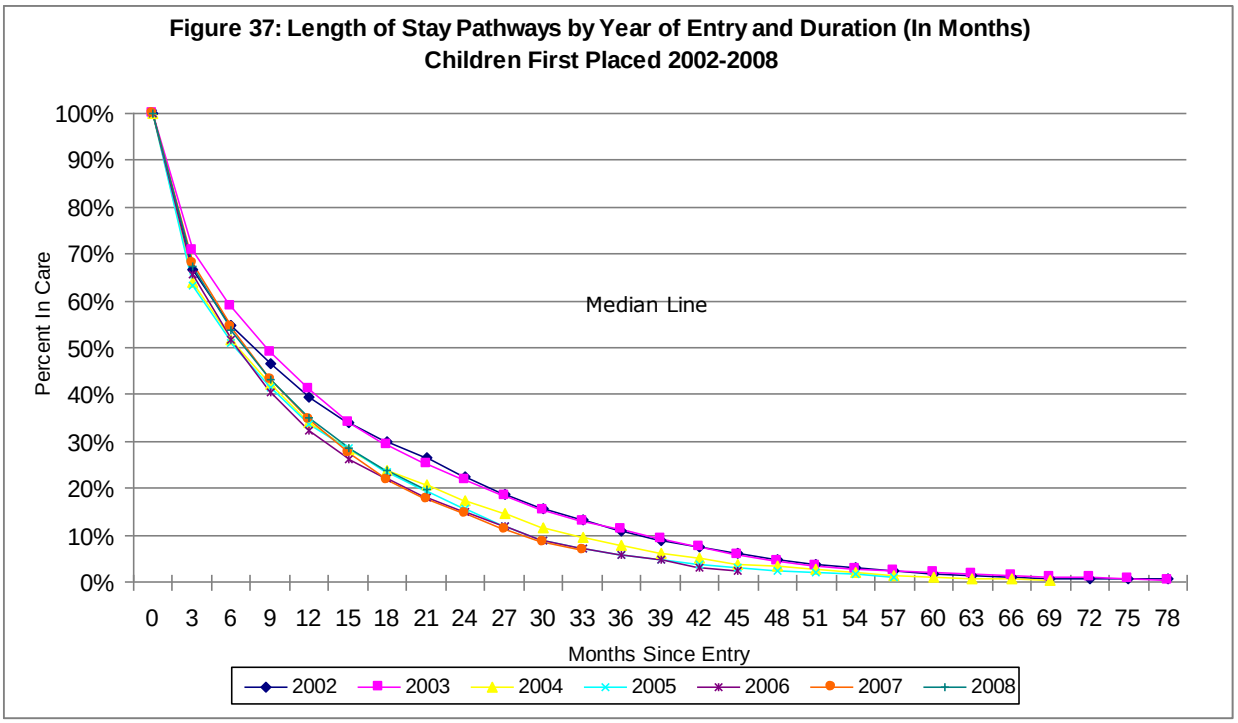
[125] TAC monitoring staff are in the process of completing a targeted case file review of children in custody for more than three years and the TAC anticipates issuing a supplemental monitoring report that will include the results of that review.

[126] 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.

[127] The technical term for this is a "survival curve."

line shows how many children were still in placement after each monthly interval of time. For example, for the 2002 entry cohort, the figure shows that after 75 months, all but about 1% of children had been discharged from foster care. The pattern of those discharges can be seen by following the path back in time.[128]

The data in Figure 37 show that the timing of exit from foster care in Tennessee has not changed very much over the last six years. The paths traced by each entry cohort are similar. However, children in the 2004, 2005, 2006, and 2007 cohorts exited care somewhat faster than children in 2002 and 2003 cohorts, at least for the first two to three years. The exit trajectory for the 2008 cohort appears to be similar to that of the 2004-2007 cohorts.



Source: Longitudinal analytic files developed by Chapin Hall from TNKids data through February 2010.

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 37, they provide a useful summary statistic that can be compared over time and across subgroups in the population.

Table 9 shows median durations for entry cohorts in calendar years 2002 through 2008, statewide and by region. Statewide, 50% of children entering care in 2002 spent 7.6 months in out-of-home placement; that number of months increased to 8.6 by 2003, decreased to less than

[128] 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.

6.5 during 2004, 2005, and 2006,[129] and then increased again to 6.9 for 2007 and 2008. The regional medians affirm the statewide trends, but indicate that the magnitude of the change differs significantly around the state.

Table 9: Median Duration in Months by Entry Year and Region, First Placements January 2002 - December 2008

	2002	2003	2004	2005	2006	2007	2008
Statewide	7.6	8.6	6.4	6.3	6.4	6.9	6.9
Davidson	7.4	7.2	4.7	2.0	2.6	2.7	1.4
East Tennessee	2.9	6.4	4.7	7.9	4.3	6.5	7.2
Hamilton	8.0	17.7	8.6	7.5	8.7	11.9	11.7
Knox	14.1	10.8	10.3	9.5	8.7	11.0	7.6
Mid-Cumberland	7.1	7.9	7.3	7.7	7.1	6.1	7.0
Northeast	6.8	7.9	6.0	5.3	7.9	7.6	6.4
Northwest	8.5	5.7	5.6	4.4	3.6	4.8	7.4
Shelby	12.2	11.5	9.2	7.9	7.6	6.6	5.2
Smoky Mountain	7.5	6.6	5.2	7.9	5.9	7.6	6.1
South Central	5.5	7.5	6.1	6.1	7.5	11.3	8.4
Southeast	8.2	10.4	6.0	4.5	7.9	5.6	7.3
Southwest	7.7	7.9	4.9	3.9	4.6	6.7	8.9
Upper Cumberland	7.4	10.8	7.7	8.7	8.0	9.2	11.2

Source: SFY0304 from longitudinal analytic files developed by Chapin Hall from TNKids data through August 2009. SFY0405 through SFY0809 from longitudinal analytic files developed by Chapin Hall from TNKids data through February 2010.

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. Additional information on exits to permanency by exit type is included as Appendix K. In addition, the Department tracks and reports the number of finalized adoptions by fiscal year.

a. Rate of Exit to Permanency

i. All Permanent Exits

[129] The September 2007 Monitoring Report contained erroneous length of stay data for the 2006 entry cohort, both statewide and for the regions (see the September 2007 Monitoring Report at page 54). The length of stay analysis for the 2006 entry cohort was inadvertently conducted using an incomplete data file. Chapin Hall has modified the collection and analysis processes involved in order to prevent this error from occurring in the future.

Children entering care during more recent state fiscal years exit to permanency more quickly than did children who entered care during state fiscal year 2003-2004, and this quicker rate of exit to permanency has remained relatively stable for children entering care in state fiscal years subsequent to 2003-2004.

Figure 38 shows the percentage of permanent exits[130] for entry cohorts in state fiscal years 2002-2003 through 2008-2009.[131] Each line shows the percentage of children entering during each year who were discharged from placement to a permanent exit after each interval of time. For example, for the state fiscal year 2003-2004 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 subsequent to state fiscal year 2003-2004 indicate that children in later cohort years are exiting to permanency more quickly than did children in the state fiscal year 2003-2004 entry cohort. For example, while 38% of children entering care in state fiscal year 2003-2004 exited to permanency within six months, 42% of children entering care in state fiscal year 2008-2009 exited to permanency within six months. Similarly, while 72% of children entering care in state fiscal year 2003-2004 exited to permanency within two years, 76% of children entering care in state fiscal year 2007-2008 exited to permanency within two years.

However, the rate of exit to permanency has varied somewhat for the two most recent entry cohorts (state fiscal years 2007-2008 and 2008-2009) during the first two years of observation. Although children entering care during state fiscal year 2007-2008 were exiting to permanency at a slower rate similar to that of the state fiscal year 2003-2004 entry cohort when observed after six months, the rate of exit to permanency for children in the state fiscal year 2007-2008 accelerated to match that of later cohort years when observed after two years. The rate of exit to permanency for children entering care during state fiscal year 2008-2009 shows the opposite trend: when observed after six months, children in the state fiscal year 2008-2009 entry cohort were exiting to permanency at a rate similar to that of later entry cohorts, but when observed after one year, the rate of exit for the state fiscal year 2008-2009 entry cohort had slowed to match the rate of exit to permanency for the state fiscal year 2003-2004 entry cohort.

The data also suggest that the overall percentage of children exiting to permanency increased for children in the state fiscal year 2004-2005 entry cohort. After five years, a total of 90% of children in the state fiscal year 2004-2005 entry cohort had exited to permanency compared to 88% of children in the state fiscal year 2003-2004 entry cohort. More time is needed to observe exits to determine whether this trend will be maintained for later entry cohorts.

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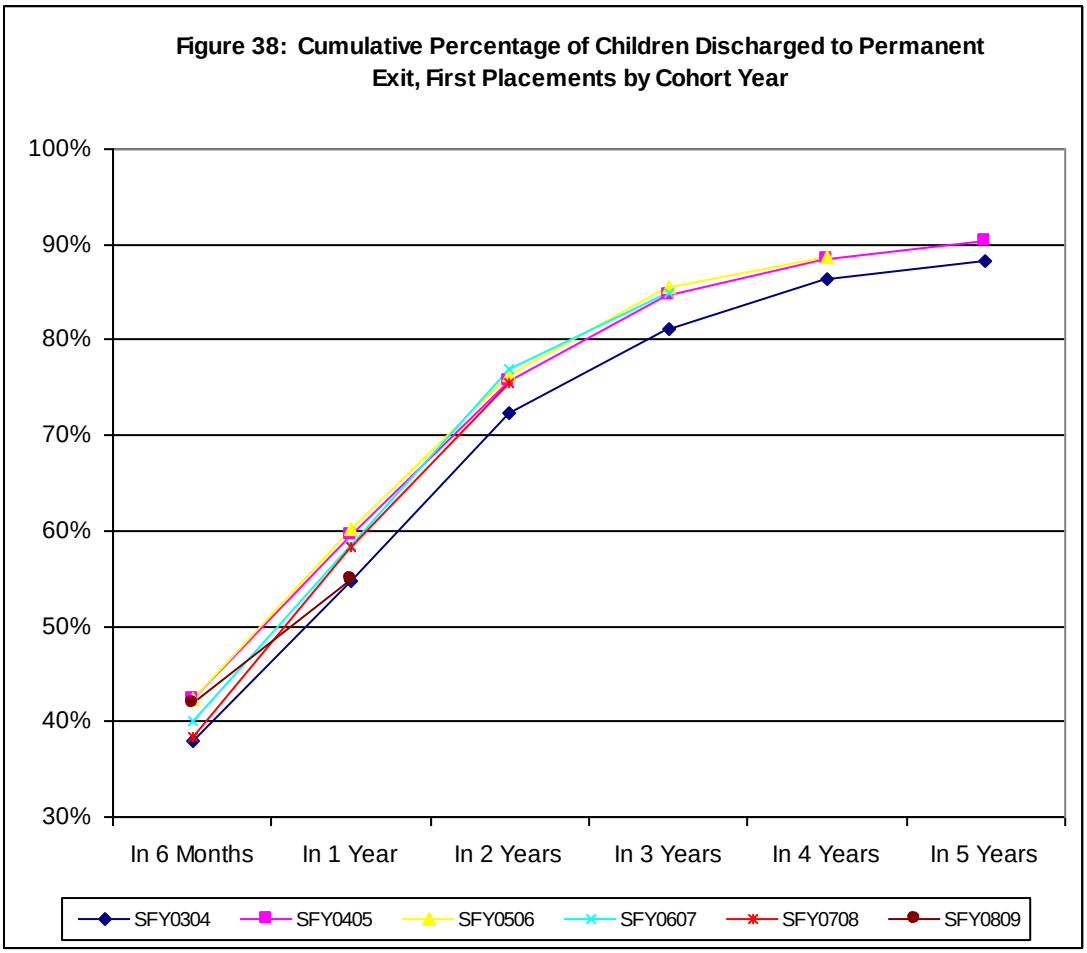
[130] Reunification, discharge to a relative, and adoption are the three exit types included in this "permanent exit" category.

[131] 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.



Source: SFY0304 from longitudinal analytic files developed by Chapin Hall from TNKids data through August 2009. SFY0405 through SFY0809 from longitudinal analytic files developed by Chapin Hall from TNKids data through February 2010.

ii. Permanent Exits to Relatives

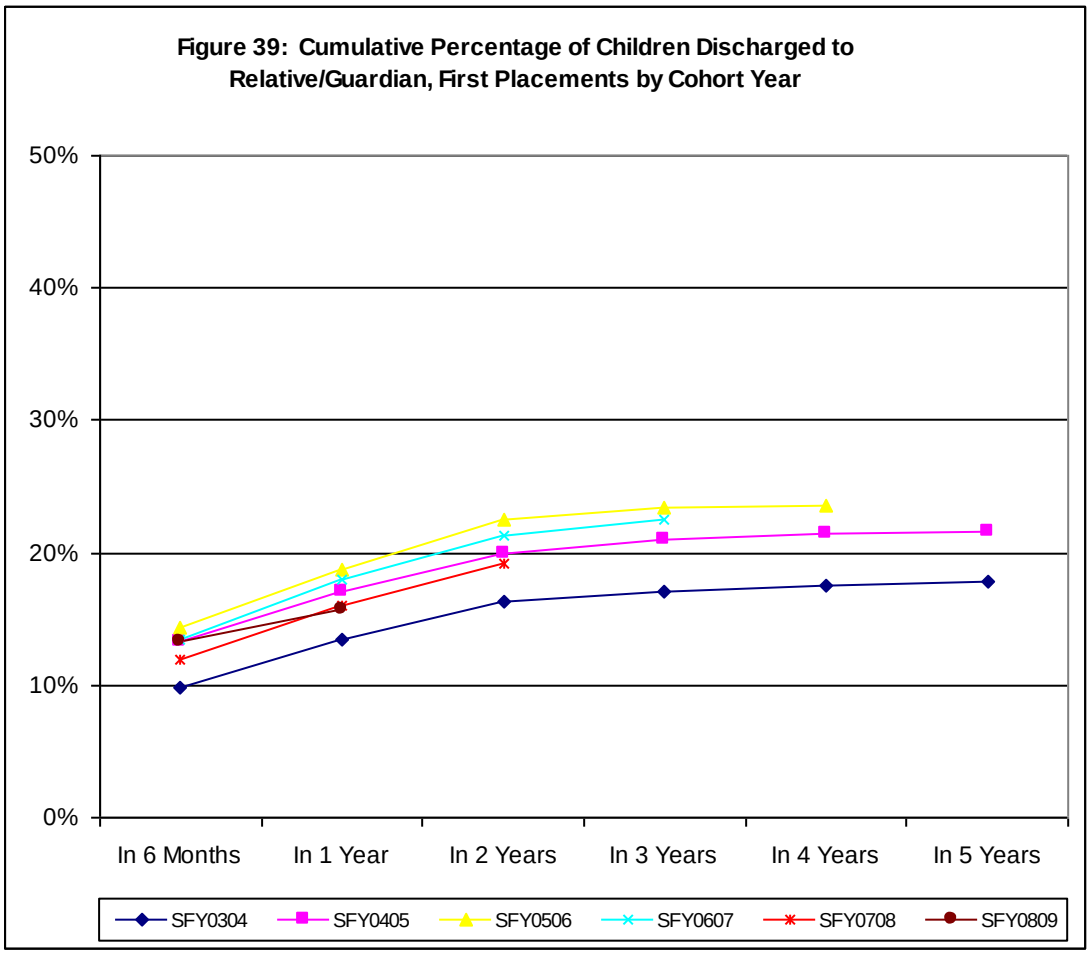
Both the rate and the overall percentage of children exiting to relatives increased significantly for children entering care during state fiscal years 2004-2005, 2005-2006, and 2006-2007,[132] but the rate of exit to relatives has slowed somewhat for children entering care during state fiscal years 2007-2008 and 2008-2009.

Similar to Figure 38 above, the lines in Figure 39 show the percentage of children entering care during each cohort year (state fiscal years 2003-2004 through 2008-2009) who were discharged from placement to relatives after each interval of time.

[132] One of the possible contributing factors to the increase in exits to relatives is the implementation of subsidized permanent guardianship as a permanency option under the Federal IV-E waiver. Subsidized permanent guardianship provides an alternative permanency option for kinship resource parents who wish to provide legal permanence to a child in their home, but who do not wish to adopt and do not feel that, were they to get custody of the child, they could provide for the child without additional assistance. See Appendix N of the December 2008 Monitoring Report for additional discussion of subsidized permanent guardianship.

Only 18% of children entering care during state fiscal year 2003-2004 had exited to a relative within five years of entering care. However, 22% of children in the state fiscal year 2004-2005 entry cohort had exited to a relative within five years of entering care, 24% of children in the state fiscal year 2005-2006 entry cohort had exited to a relative within four years of entering care, and 22% of children in the state fiscal year 2006-2007 entry cohort had exited to a relative within three years of entering care.

The rate of exit to relatives appears to have slowed slightly for children entering care during state fiscal years 2007-2008 and 2008-2009, with only 19% of children in the state fiscal year 2007-2008 entry cohort having exited to a relative within two years and only 16% of children in the state fiscal year 2008-2009 entry cohort having exited to a relative within one year.



Source: SFY0304 from longitudinal analytic files developed by Chapin Hall from TNKids data through August 2009. SFY0405 through SFY0809 from longitudinal analytic files developed by Chapin Hall from TNKids data through February 2010.

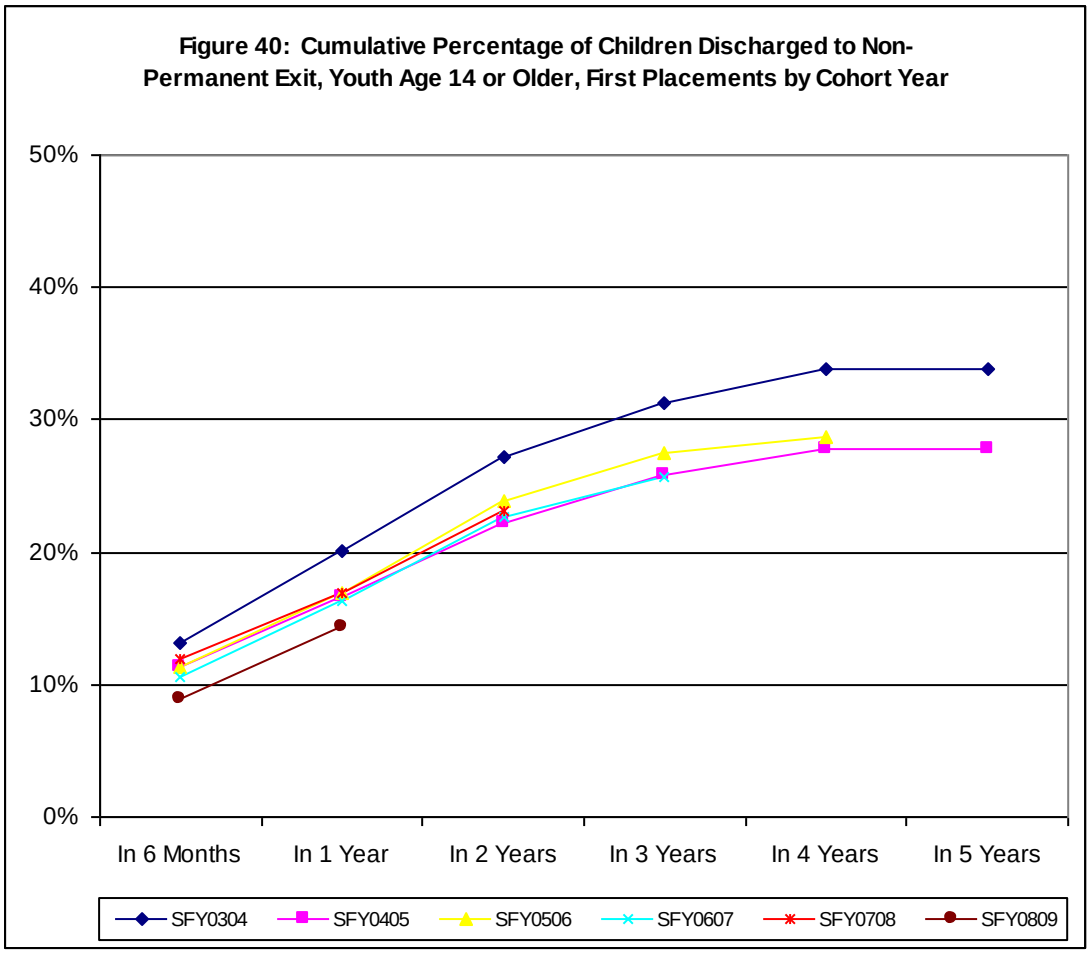
iii. Non-Permanent Exits

The rate and percentage of discharges from care to a non-permanent exit[133] has decreased for youth age 14 or older who entered care in the years since state fiscal year 2003-2004 (the vast majority of discharges to non-permanent exits are among youth age 14 or older). This trend continues for the state fiscal year 2008-2009 entry cohort, with the rate of non-permanent exits dropping below that of previous entry cohorts.

As shown in Figure 40 below, 20% of youth age 14 or older who entered care during state fiscal year 2003-2004 were discharged to a non-permanent exit within one year of entering care, while only 16% of youth age 14 or older who entered care during state fiscal year 2006-2007 were discharged to a non-permanent exit within one year of entering care. Only 14% of youth in the fiscal year 2008-2009 entry cohort were discharged to a non-permanent exit within one year of entry.

The data suggest that the overall number and percentage of youth "aging out" of care without a permanent family is decreasing. While 34% of youth in the state fiscal year 2003-2004 entry cohort were discharged to a non-permanent exit within five years, only 28% of youth in the state fiscal year 2004-2005 entry cohort were discharged to a non-permanent exit within five years.

[133] Non-permanent exits include running away, aging out, death, and transfer to the adult correctional system.



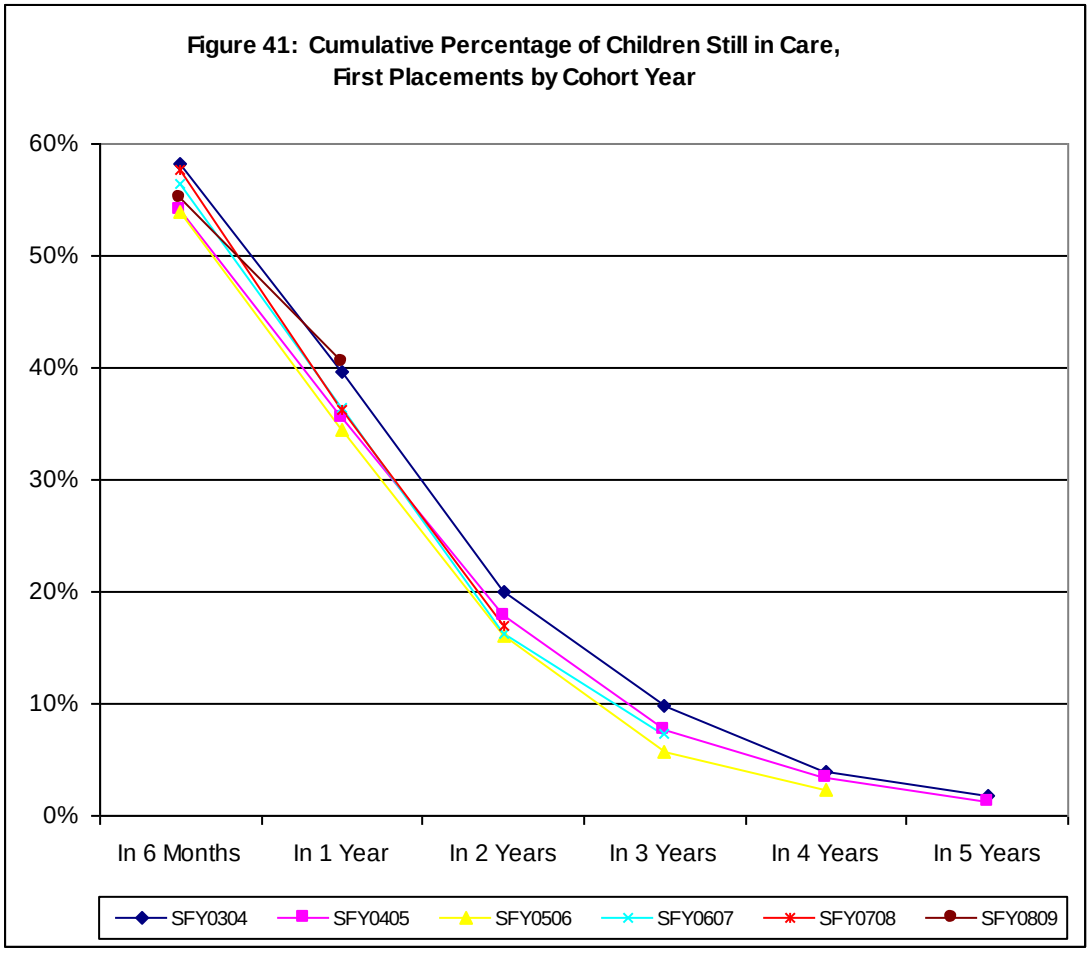
Source: SFY0304 from longitudinal analytic files developed by Chapin Hall from TNKids data through August 2009. SFY0405 through SFY0809 from longitudinal analytic files developed by Chapin Hall from TNKids data through February 2010.

iv. Children Remaining in Care

Figure 41 presents data on the percentage of children in each entry cohort who remain in care at each time interval. Given the data discussed in the previous subsections indicating that, for more recent entry cohorts, the rate of exit to permanency is slowing but non-permanent exits appear to be decreasing, the logical conclusion is that children entering care more recently are simply remaining in care longer than in previous entry cohorts.

As shown in the figure, 40% of children in the state fiscal year 2003-2004 entry cohort remained in care after one year, but this percentage decreased for the state fiscal year 2004-2005, 2005-2006, and 2006-2007 entry cohorts (36%, 35%, and 36%, respectively). As discussed above on page 82, for the state fiscal year 2007-2008 entry cohort, a slower rate of exits to permanency was observed at six months, but when observed at one year, the rate had increased and was comparable to that of the state fiscal year 2004-2005, 2005-2006, and 2006-2007 entry cohorts. The percentage of children remaining in care for the state fiscal year 2007-2008 entry cohort shows a corresponding trend: when observed at six months, 58% of children remained in care, but that percentage dropped to 36% when observed at one year. Conversely, for the state fiscal

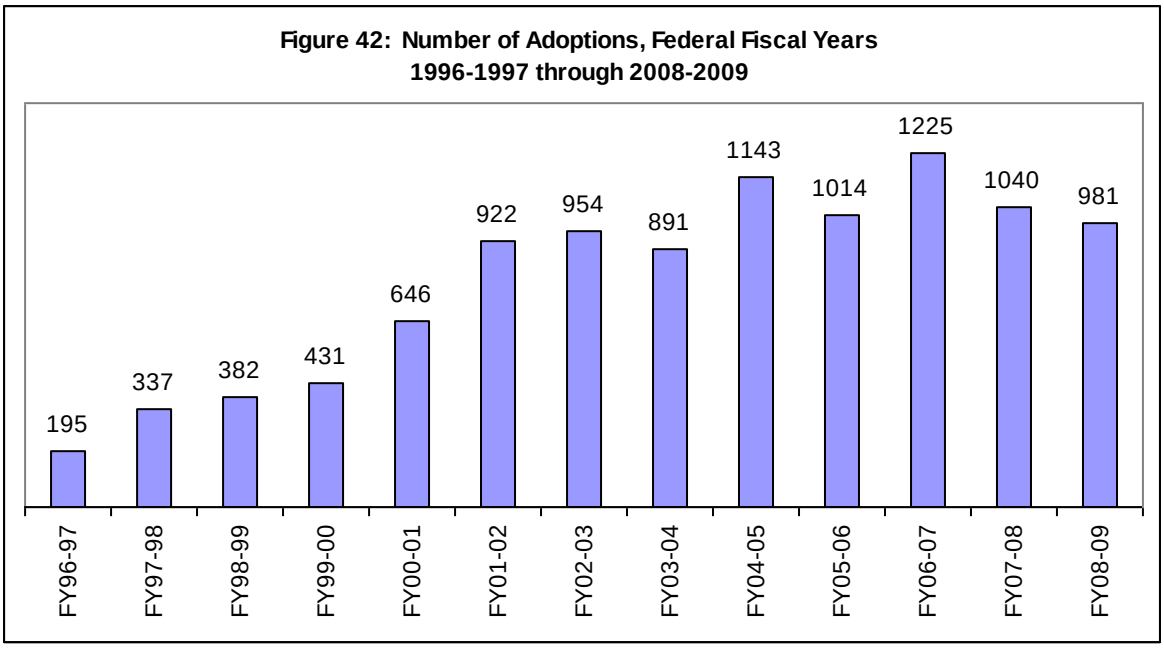
year 2008-2009 entry cohort (which showed a quicker rate of exits to permanency at six months), only 55% of children remained in care when observed at six months. However, as the rate of exits to permanency slowed when observed at one year, the percentage of children remaining in care (40%) was equal to that of the state fiscal year 2003-2004 entry cohort when observed at one year.



Source: SFY0304 from longitudinal analytic files developed by Chapin Hall from TNKids data through August 2009. SFY0405 through SFY0809 from longitudinal analytic files developed by Chapin Hall from TNKids data through February 2010.

b. Annual Adoption Finalization

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. Figure 42 below displays the substantial increase in the annual number of finalized adoptions over the past 13 federal fiscal years (October 1 through September 30). Although not as many adoptions were finalized during federal fiscal year 2008-2009 as were finalized in previous federal fiscal years, performance on this measure remains strong with 981 adoptions finalized during federal fiscal year 2008-2009.



Source: AFCARS Adoptions Reports as of October 1, 2009.

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 by December 31, 2009 (the end of Period IV): "*No more than 5% of children who are discharged from foster care at any time during calendar year 2008 (January 1, 2008 through December 31, 2008) shall reenter custody within 12 months after the discharge date from the prior custody episode*." (XVI.A.5)

At the time that the reporting for this measure was developed, the Department was not able to provide aggregate data on children who reenter care after adoption finalization. This measure therefore observes reentry for children who exited custody during the reporting period to all permanent or non-permanent exits[134] except adoption.

[134] 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 5,326 children who exited during the reporting period, 558 aged out of custody.

For Period IV, the Department provided data on children discharged from foster care between January 1, 2008 and December 31, 2008. The statewide reentry rate for children discharged from foster care during that period was 6.4%—that is, of the 5,326 children who exited care between January 1, 2008 and December 31, 2008, 339 reentered care within 12 months of their discharge date. As reported in the December 2008 Monitoring Report, the statewide reentry rate for children discharged from foster care during fiscal year 2007 (Reporting Period III) was 6.3%.

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 for Period IV "*at least 65% 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 3 months of when goal was changed to adoption. Of the remaining children in the class with a sole permanency goal of adoption during the reporting period who did not have a petition to terminate parental rights filed within 3 months, at least 75% shall have a petition for termination of parental rights filed within 6 months of when the goal was changed to adoption.*" (XVI.B.4)

For Period IV, the Department provided data on children with sole goals of adoption established between January 1, 2009 and December 31, 2009. Of the 612 children with a sole goal of adoption for at least three months during that period,[135] 87% (534) had TPR petitions filed within three months of the date that adoption became the sole goal.[136] For the remaining children who did not have TPR petitions filed within three months, the Department looked at those children who had a sole adoption goal for at least six months during the reporting period (excluding the children who had a TPR petition filed within three months). Thirty-two percent (14) of these 44 children had TPR petitions filed within six months.

For Reporting Period III, the Department provided data on children with sole goals of adoption established between July 1, 2007 and June 30, 2008. Of children with a sole goal of adoption for at least three months during that period,[137] 85% had TPR petitions filed within three months of the date that adoption became the sole goal. For the remaining children who did not have TPR petitions filed within three months and who had a sole adoption goal for at least six months that period, 32% had TPR petitions filed within six months.

6. Limiting Planned Permanent Living Arrangement as a Permanency Goal

[135] This includes eight children with delinquent adjudications.
[136] For purposes of this report, if separate TPR petitions are filed for each parent in a particular case, the calculation of time to TPR filing is based on the filing of the first petition.
[137] This included 16 children with delinquent adjudications.

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 were so unusual and the potential misuse of this option so great that a measure limiting its use would be appropriate.

The Settlement Agreement states that for Period IV, "*no more than 5% of children in the plaintiff class shall have a goal of permanent or long term foster care.*" (XVI.B.6)[138]

As of December 31, 2009 (the last day of Reporting Period IV), 0.2% of the children in the plaintiff class had a sole goal of PPLA, with no region exceeding 0.04%. The percentage of class members who had a concurrent PPLA goal was 0.3%, with no region exceeding 0.08%.

As of June 30, 2008 (the last day of Reporting Period III), 0.4% of the children in the plaintiff class had a sole goal of PPLA, with no region exceeding 2.9%. The percentage of class members who had a concurrent PPLA goal on June 30, 2008 was 2.11%, with no region exceeding 5.1%.[139]

[138] In addition to placing this percentage limitation on the overall use of PPLA as a permanency goal, the Settlement Agreement, as amended, required the TAC to review and approve the standards and processes for determining when PPLA is an appropriate goal. See discussion on pages 259-261.

[139] The use of PPLA as a concurrent goal was, at that time, generally related to qualifying a child for the option of subsidized permanent guardianship under the terms of the Title IV-E waiver.

SECTION TWO: STRUCTURE OF THE AGENCY

Section II of the Settlement Agreement requires the Department to establish, implement, and maintain statewide policies, standards and practices, create and utilize common forms across regions, and ensure uniformity in regional and statewide data collection and reporting.

The Department has taken a number of significant steps to meet this requirement including: 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 and implementing a new pre-service curriculum based on the *Standards*; implementing a statewide Quality Service Review process that evaluates child status and system performance using 22 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.

While there continues to be variation among regions in the extent to which the Department's *Practice Model* has been effectively implemented, 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.

The Department has modified its regional structure, first expanding from 12 to 13 regions by splitting what had been the largest region (East) into two new regions, East and Smoky Mountain, and subsequently consolidating two small contiguous regions, Southeast and Hamilton, into what is now the Tennessee Valley Region.

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)

Reports of abuse and neglect of children in state custody must be made to Child Protective Services (CPS) Central Intake. The "Special Investigations Unit" (SIU)[140] is responsible for investigating all of those reports in which 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.[141] Investigations of reports of abuse or neglect for children in DCS custody alleged to have occurred during the course of a home visit or during a runaway episode are conducted by regional CPS staff as part of the general CPS caseload.[142]

The *Brian A.* Settlement Agreement requirements apply to the abuse or neglect of children in the state's legal custody; however, the Department has recognized the important interrelationship between CPS work in general and the system's ability to protect children. The Department has therefore included in its overall reform effort work to improve the timeliness and quality of CPS investigations across the board.

As discussed in the December 2008 Monitoring Report, the Department has implemented a Multiple Response System (MRS), creating three "tracks" for responding to reports of child abuse and neglect: investigation, assessment, and resource linkage.[143] Under MRS, cases are assigned to one of the three tracks based on an assessment of risk (see discussion on page 97.) Cases assigned to "investigation" are subject to the traditional CPS response. Cases assigned to "assessment" are typically of lower risk and are served by a DCS case manager for a period of up to 120 days with the goal of linking the family to community-based services and supports, without the punitive effect of indicating and labeling someone a perpetrator.[144] The "resource

[140] The Special Investigations Unit (SIU) is now a Division of the Office of Child Safety. The Office has overall responsibility for Child Protective Services (CPS). SIU investigations are subject to all of the protocols and processes applicable to CPS cases in general.

[141] The responsibilities of SIU extend not only to investigating allegations of abuse and neglect of children while in foster care, but also to investigating allegations of abuse and neglect involving "third-party" perpetrators such as staff members at childcare centers, schools, or churches.

[142] CPS also conducts the vast majority of the investigations of reports of abuse or neglect involving children not in DCS custody.

[143] The Department began this work in 2005 with pilot initiatives and completed statewide implementation in 2009.

[144] Under DCS policy, families whose cases are triaged to the assessment track are supposed to receive a Family Functional Assessment (FFA) within 30 days, and if needed, be provided with supportive services and linkage to appropriate community services for a period of up to 120 days. As part of MRS implementation, Community Advisory Boards have been convened in each region to expand the breadth and depth of community partnerships and resources to serve children and families.

linkage track" provides an opportunity to make a referral for community based support in the case of a report that does not constitute an allegation of abuse and neglect, but that identifies a service need for a family. A case is not opened in TNKids for these resource linkage referrals, but the families are contacted and provided with referrals for services.[145]

This section includes a discussion of efforts to improve both the CPS/MRS process,[146] in general, and efforts under the Settlement Agreement to improve SIU operations and quality assurance functions, in particular.

A. Recent Improvement Efforts

Over the past year, in response to concerns identified through both the federal Child and Family Service Review (CFSR)[147] and the Department's own self-assessment processes, the Department has taken a number of actions to strengthen the CPS/MRS process and improve SIU operations:

- The Executive Director for Safety is reviewing investigation and assessment case files (in some instances with participation of the Commissioner and/or Deputy Commissioner) and then conducting "debriefing" sessions with the regional leadership to address any concerns identified in the reviews and develop strategies for addressing those concerns.

- The Department has initiated a special Quality Service Review (QSR) to include a review of five cases from each region in which children are not in DCS custody but have remained at home following a CPS investigation.[148]

- The Department has begun a two-region pilot project in the Upper Cumberland and Davidson regions, with technical assistance from the Atlantic Coast Child Welfare Implementation Center (ACCWIC), focused on: increasing skills for engaging and teaming with a family from the time of initial contact; better utilizing assessments to inform decision making and to determine appropriate case planning in non-custodial cases; increasing the quality and frequency of visitation for in-home cases; and creating a

[145] Resource linkage referrals typically would have been screened out prior to MRS implementation. These referrals are tracked manually in each region, but it is anticipated that they will be captured electronically in the new TFACTS system.

[146] The TAC uses the term "CPS/MRS process" in an effort to correct the tendency to incorrectly use the term "MRS" to refer only to assessment and resource linkage cases.

[147] The Department was not in compliance with Safety Outcome One, Item One: Timeliness of initiating investigations of reports of child maltreatment and Safety Outcome Two, Item Three: Services to protect children and prevent removal.

[148] The regions were asked to select cases that they believed to be examples of acceptable non-custodial case practice for this additional review of non-custodial cases. The QSR results for the system performance indicators reflect that a significant percentage of those cases that regions consider acceptable often fall short of the standards envisioned by the Department's practice model. The QSR results are consistent with the concerns related to non-custodial case practice identified in the CFSR.

field-focused quality workgroup dedicated to improving practice in non-custodial cases.[149]

- The Department is tracking and responding to aggregate reports related to investigations and assessments regarding response time and length of time to completion to ensure timely responses are made to families and cases are closed within acceptable time frames.

- Investigation and assessment caseloads are monitored to ensure adequate staffing is in place for case managers to receive no more than 11 referrals per month per case manager. Caseload information is tracked by regional leadership and Central Office staff and is discussed during regional administrators' meetings and on an individual basis with the regions as necessary when there are signs of exceeding the 11 to one ratio.[150]

- Central Office staff provide technical assistance to the regions in order to reduce caseloads in situations where there are vacancies or other circumstances that cause a barrier to timely closure of cases. The regions are currently receiving technical assistance from Central Office to right-size the programs in order to adhere to the CPS/MRS caseload expectations.

There have also been significant changes in key CPS/MRS leadership positions. Both Central Intake and SIU have new directors who appear to bring much needed skills and energy to those operations.

Under its new director, Central Intake has focused efforts on improving the consistency of decision making, particularly with respect to screen outs and assignments to the assessment or investigative tracks (using the Track Assignment Tool).[151] Emphasis has also been placed on analyzing call volume and ensuring that staff are allocated to ensure that calls are answered in a timely manner during high volume call times. The Director has also worked to improve communication with regional CPS/MRS staff by participating in monthly CPS/MRS conference calls.

The new SIU Director has implemented a rigorous supervisory review process to address concerns that she identified regarding the quality of SIU investigations and the quality of

[149] Based on this work, the Department intends to develop and implement a statewide plan to improve the Department's ability to accurately identify the family needs, secure or develop appropriate services, and monitor the effectiveness of those services.

[150] Some regions that have experienced difficulty with caseloads have developed tracking logs that are reviewed daily and/or weekly to ensure equity of assignments throughout the month. The regions also review detailed data from the monthly caseload report to ensure the caseloads are represented accurately and discuss any discrepancies with the data analysts.

[151] Assignment decisions are reviewed in supervisory and team meetings, and team leader peer-to-peer reviews have been utilized to improve screen out decision-making.

supervisory oversight of those investigations.[152] The SIU Director also leads weekly SIU conference calls, involving all team coordinators and team leaders, during which a team leader presents for discussion two cases which raised quality concerns or investigative challenges. The SIU Director has identified a need for supervisory training and supervisory skill assessment and has been in contact with the training division to schedule supervisory training.

B. CPS/MRS Process Performance

1. Timeliness of CPS/MRS Process

The Department focuses on three key indicators of the timeliness of its CPS/MRS process.

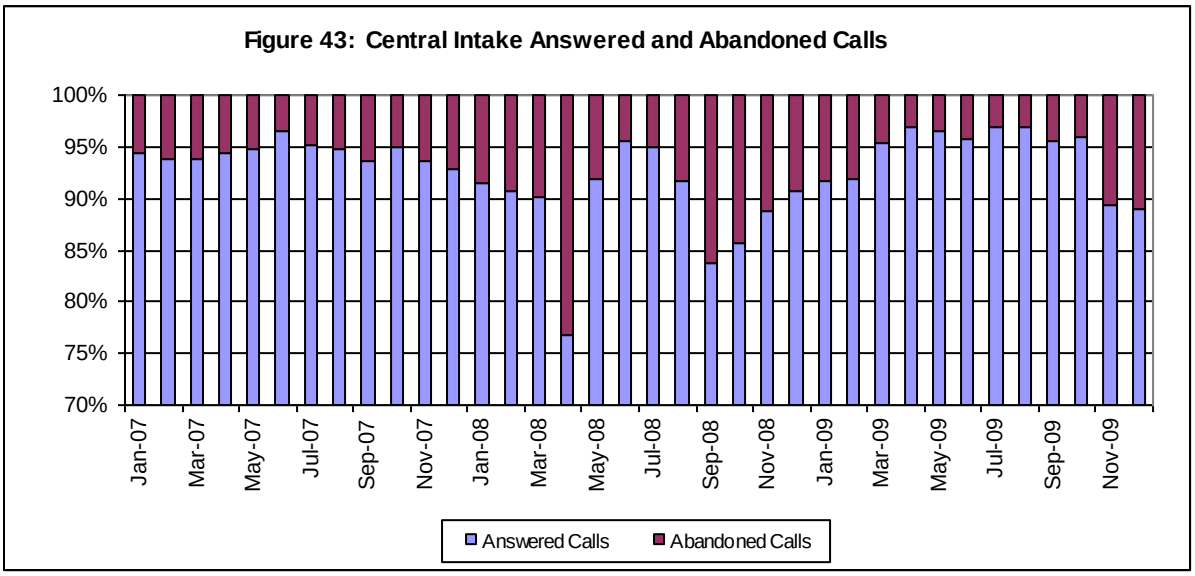
a. Central Intake Response

The first key indicator is the responsiveness of its Central Intake staff to phone calls alleging child abuse or neglect. The Department looks at "wait times" (the time a person calling in to the system waits before being connected to a Central Intake staff who takes down the information regarding the allegations); "abandoned" or "dropped" calls (the number of calls that are terminated as the result of someone hanging up before they connect to an intake person); and "talk time" (the amount of time an intake worker spends on the phone with the person making the report). The Department utilizes the automated tracking and reporting capacity of the Central Intake telephone system to which the vast majority of reports of abuse and neglect are directed.[153] The system is used to generate aggregate reports for the entire Central Intake Unit, for teams within that unit, or for individual intake workers.

Figure 43 below shows the percentage of answered and abandoned calls to Central Intake monthly for the period between January 2007 and December 2009.

[152] With respect to each case that is either "indicated" or "unfounded with concerns," team leaders are expected to review the case and, if they approve the case for closure, they must submit the case to the SIU Director for final review. The SIU Director reviews every indicated and unfounded with concerns investigation prior to closing the case. With respect to every unfounded investigation, team leaders are expected to review the case and, if they approve the case for closure, they must submit the case to an SIU team coordinator for final review. SIU team coordinators review every unfounded investigation prior to closing the case.

[153] The automated tracking and reporting system has been in operation since 2005. The automated system receives and tracks all reports of abuse or neglect received through phone calls or through the Department's abuse and neglect reporting webpage. The Department receives a small number of reports of abuse or neglect through fax, email, or letter. Such reports are typically non-urgent, and Central Intake staff ensure that these reports are entered into TNKids. Central Intake generally receives around 300 such reports each month.



Source: Interactive Intelligence "Distribution Queue Performance (Date by Queue)" reports for January 2007 through December 2009.

As seen in the figure, during 2007, close to 95% of calls were answered each month, with only about 5% of calls being "abandoned." Performance declined during the first part of 2008, with the number of answered calls during April 2008 reaching a low of 77%. Performance improved again during May, June, and July 2008 but began to decline again in August 2008, with the percentage of answered calls dropping to 84% by September 2008. Performance gradually improved over the next several months, with the percentage of answered calls increasing to 95% again by March 2009. The percentage of answered calls remained above 95% for most of 2009, but the percentage dropped again to 89% in November and December 2009.

Over the past two years, the average time to answer a call has generally remained under one minute and 30 seconds each month, ranging from a low of 17 seconds in June 2007 to a high of over three minutes in April 2008. During December 2009, the average time to answer a call was one minute and 24 seconds. Over the past two years, the average time Central Intake workers spent gathering information from each call remained near 10 minutes, ranging from a low of 9 minutes and 33 seconds in June 2007 to a high of 11 minutes and 27 seconds in September 2008.

The Director of Central Intake monitors on a daily basis the data related to both abandoned calls and wait times in an effort to identify peak call times and ensure adequate staffing during those times. Additional staff have been added to teams during peak call times, and the effectiveness of this strategy will be analyzed through the continued daily monitoring of data. An on-call schedule has also been developed for utilization when additional staff are needed to ensure adequate coverage. In addition, an "overflow" plan has been in place since April 2008 in which Central Office staff who have been trained to answer calls can be deployed to assist on days when the volume of calls is too great for the available Central Intake staff.

Central Intake has historically struggled with vacancies, and there were vacancies in late 2009 as well as holiday vacations that likely contributed to the drop in answered calls during November and December 2009. The Director is attempting to fill the vacancies expeditiously.

b. Investigation and Assessment Priority Response

The second key DCS indicator of the timeliness of the CPS/MRS 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 contact with the alleged victim. The Central Intake worker uses the Structured Decision Making Response Priority Decision Tree to determine the response priority assignment based on critical safety and risk factors involved.

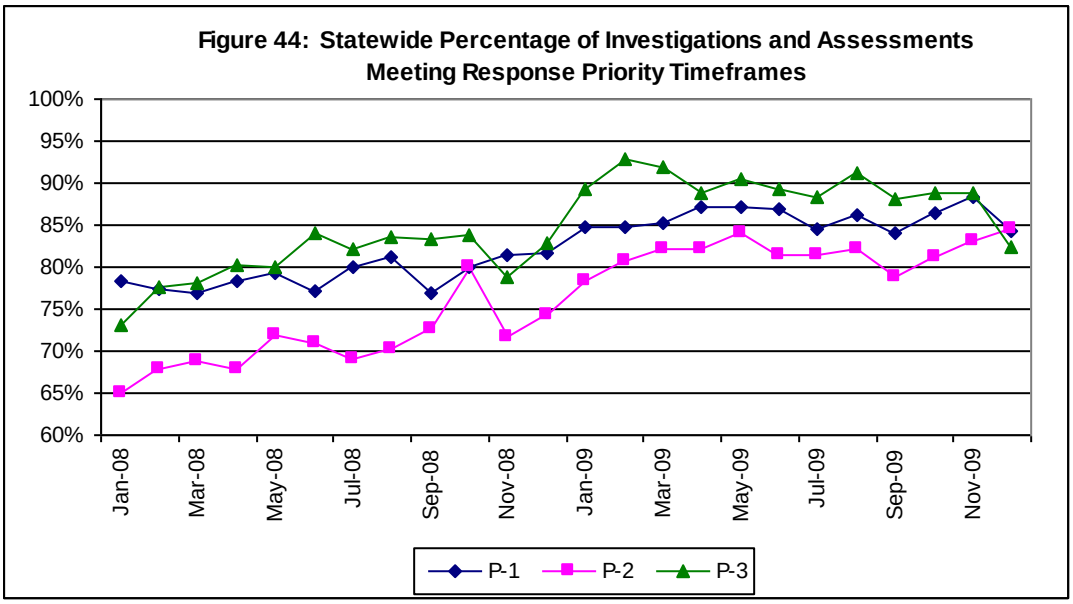
Reports are assigned a Response Priority 1 (P-1) when the child may be in imminent danger. Investigators responding to a P-1 report must initiate the investigation through face-to-face contact with the alleged victim(s) "immediately but no later than twenty-four (24) hours."[154]

Reports assigned a Response Priority 2 (P-2) "allege injuries or risk of injuries that are not imminent, not life-threatening or do not require medical care where a forty-eight (48) hour delay will not compromise the investigative effort or reduce the chances for identifying the level of risk to the child."[155] 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 48 hours.

Reports assigned a Response Priority 3 (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."[156] 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.

Figure 44 below shows the statewide percentage of investigations and assessments meeting the required time frames for each response priority based on the Department's monthly Response Priority Reports.[157] Performance for all three response priorities has improved since 2008.[158]

[154] DCS Policy 14.6.E.1. P-1 reports are assigned for investigation only because assessment would not be appropriate when the child may be in imminent danger.
[155] DCS Policy 14.6.E.2. The determination of whether to assign any report of abuse or neglect to assessment or investigation is always based on the severity of the circumstance/need.
[156] DCS Policy 14.6.E.3.
[157] The data in Figure 44 also include performance on priority response for Special Investigations.
[158] The Performance Improvement Plan for the most recent federal CFSR contains a combined goal for performance on all three response priorities of 66.6%. The goal was set based on a finding of 52% compliance for all three response priorities (combined) during the CFSR. The Department has exceeded this goal, reporting 85.2% combined compliance for all three response priorities during the period from April 2009 to March 2010.



Source: "CPS Referral Response by Priority Reports" for the months of January 2008 through December 2009[159]

c. Time to Investigation/Assessment Completion

The third key DCS indicator of the timeliness of the CPS/MRS process is the time to completion of the investigation or assessment. The Department produces regular reports to track the time from the receipt by DCS of the report of abuse and neglect to the completion of the investigation or assessment.

Figure 45 below shows the percentage of "overdue" CPS investigations (investigations that take longer than 60 days to complete)[160] on the last day of each month for the period from January 2006 through December 2009.[161] The Department did not produce data for the month of July 2007 because it was in the process of revising the reporting system to provide data on MRS implementation by separating open assessment cases from open investigations. Prior to this date,

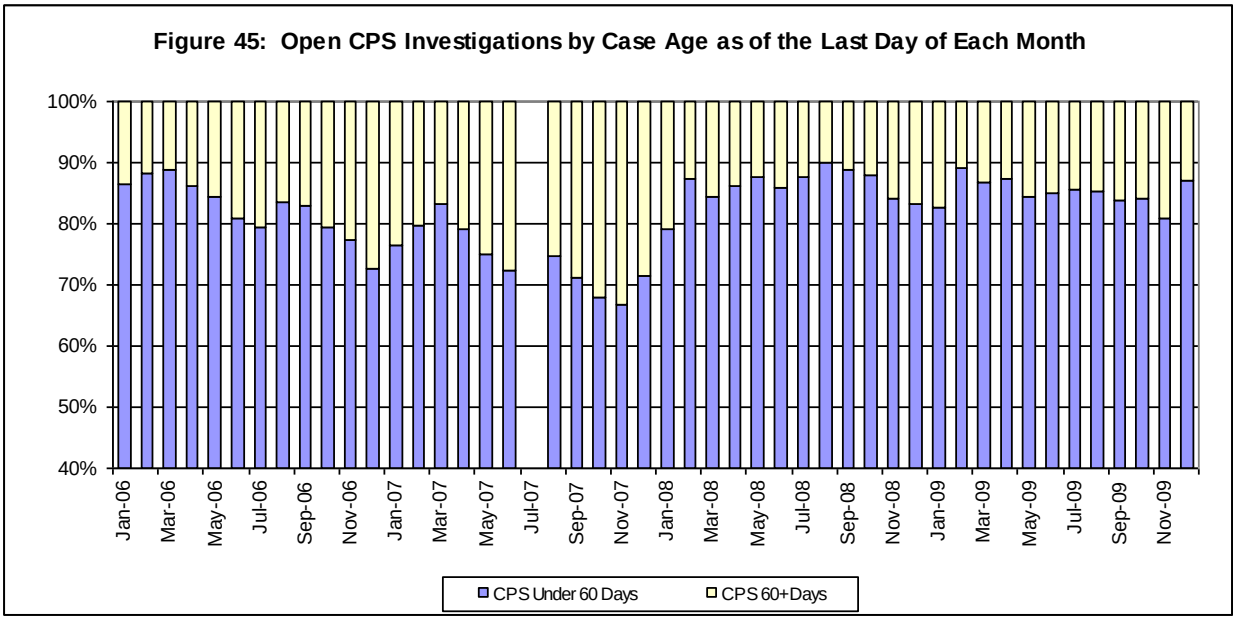
[159] There are certain "conventions" used in the production of this report that result in the erroneous designation of some investigations as "overdue" when, in fact, they were completed within the appropriate timelines. The monthly reports include a considerable number of non-compliant responses categorized as "Negative Response Time" and "Linked to Overdue Investigation." Negative response times generally indicate one of two circumstances: (1) the investigator or assessor responds to a call from law enforcement requesting immediate assistance and makes face-to-face contact with the alleged victim prior to the referral being called into Central Intake, and (2) the investigator or assessor fails to enter both the response time and response date into the appropriate TNKids fields. New referrals received by Central Intake regarding allegations that are already being investigated in an overdue investigation are categorized as "Linked to Overdue Investigation" because TNKids automatically links the response time to the earliest referral date. In December 2009, 42 (34%) of the 123 non-compliant response times for P-1 and 37 (11%) of the 329 non-compliant response times for P-2 fell into these two categories.

[160] In February 2008, the Department, in order to comply with Council on Accreditation (COA) standards (see Section Five at footnote 193), issued a policy shortening the timeframe for CPS investigations to 30 days from the original 60-day requirement. An exception is made to complete the investigation within 60 days for CPS investigations involving allegations of severe abuse (which, under Tennessee statute, require convening and review by a multi-agency Child Protective Investigative Team (CPIT)).

[161] In Figures 45, 46, 47, and 48, open SIU investigations are included in the number of investigations and assessments for each month.

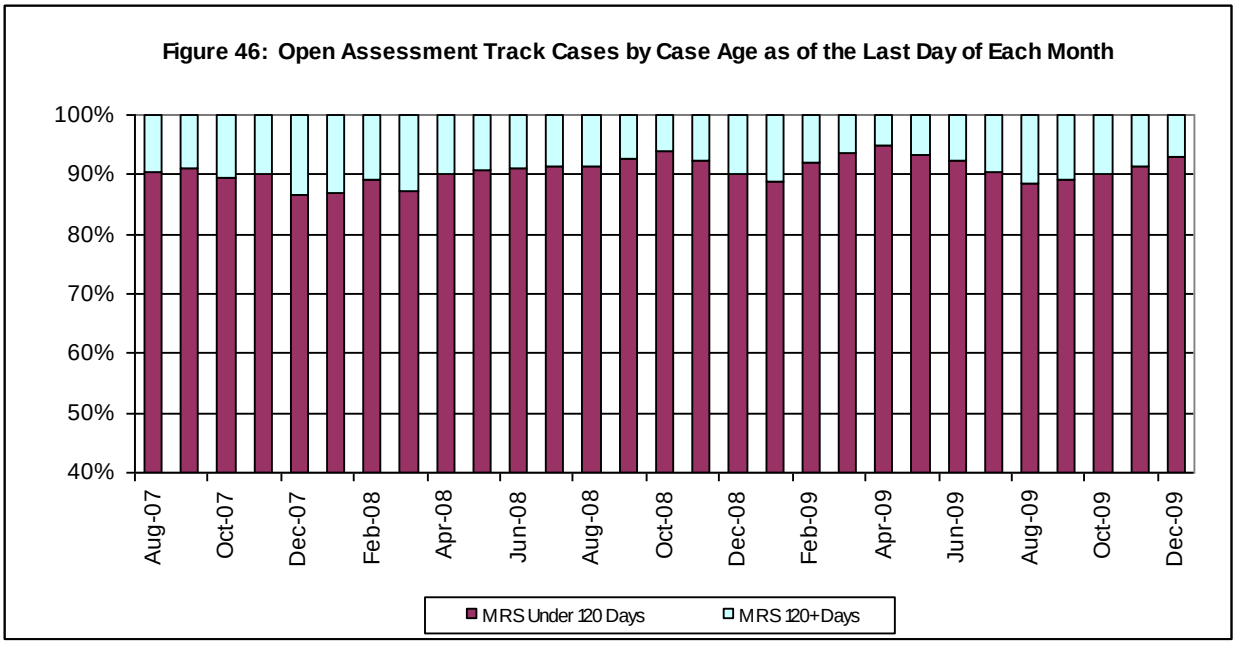
the Department made no distinction in its reporting between investigations and assessment cases, even though the Department had begun implementation of the MRS system in 2005.

As seen in the figure, the percentage of CPS investigations that take longer than 60 days to complete has decreased since 2007. Over the past two years, the percentage of investigations open more than 60 days has ranged from highs of 21% in January 2008 and 19% in November 2009 to a low of 10% in August 2008. Of the 3,235 CPS investigations that were open on December 31, 2009, 423 (13%) had been open more than 60 days.



Source: TNKids "Statewide Summary Report of Overdue vs. Open CPS and SIU Investigations" (CPS-INVPODUE-200) as of the last day of each month during the period January 2006 through December 2009.

Figure 46 shows the percentage of overdue assessment cases (cases that are open more than 120 days). This percentage has remained close to 10% since the Department began reporting assessment cases separately, with a high point of 13.4% in December 2007 and a low point of 5.3% in April 2009.



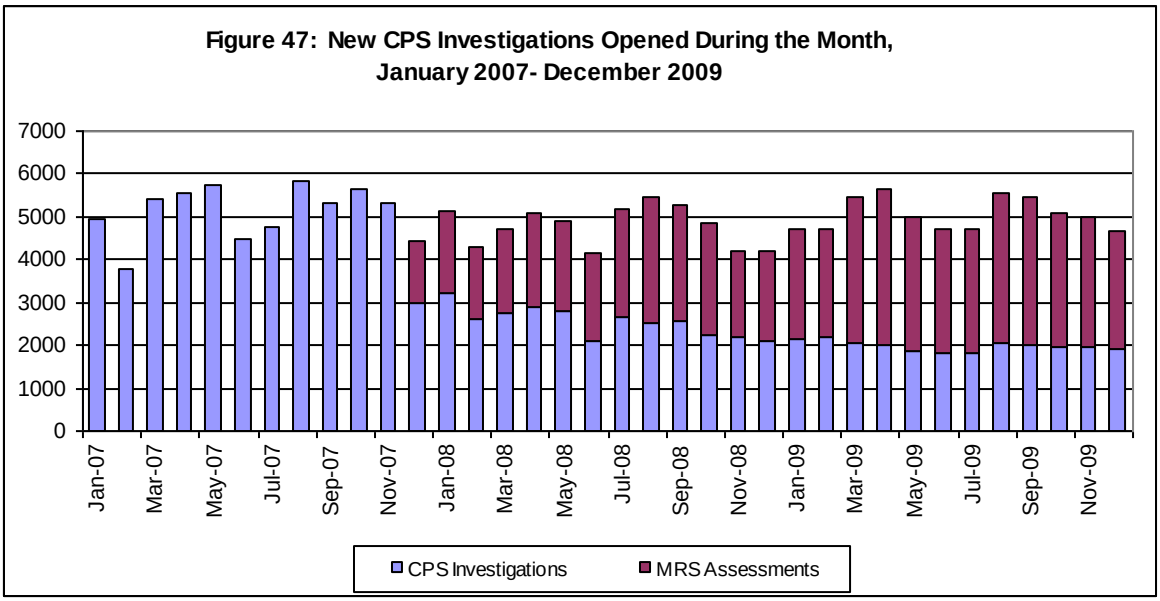
Source: TNKids "Statewide Summary Report of Overdue vs. Open CPS Assessments" (CPS-ASMTODUE-200) as of the last day of each month during the period August 2007 through December 2009.

It is also important to consider the trends in the number of open CPS investigations and MRS assessment track cases that are masked by looking at percentages alone.

Figure 47 below, which presents the number of new investigations opened each month from January 2007 through December 2009, shows that the implementation of MRS has had a significant impact on the number of new investigations opened each month.[162] An increasing proportion of new cases are being assigned to the assessment track instead of the investigative track. In November 2008, the Department implemented the Track Assignment Tool to improve consistency in decision making regarding the assignment of cases to the investigative and assessment tracks. In April 2009, the percentage of new cases assigned to the assessment track during the month reached a high point of 64%. That percentage appears to have leveled off after April 2009, fluctuating between 64% and 59%. In December 2009, 59% (2,744) of the 4,673 new cases opened during the month were assigned to the assessment track.[163]

[162] In December 2007, the Department began reporting investigations and assessments separately for this measure.

[163] Beginning in March 2009, the Department made changes to the way in which the investigation and assessment caseload report is run. The Department believes the report is more accurate now than it was previously, though the degree to which this accounts for the increase in the number of new assessment cases between February and March 2009 is unknown.



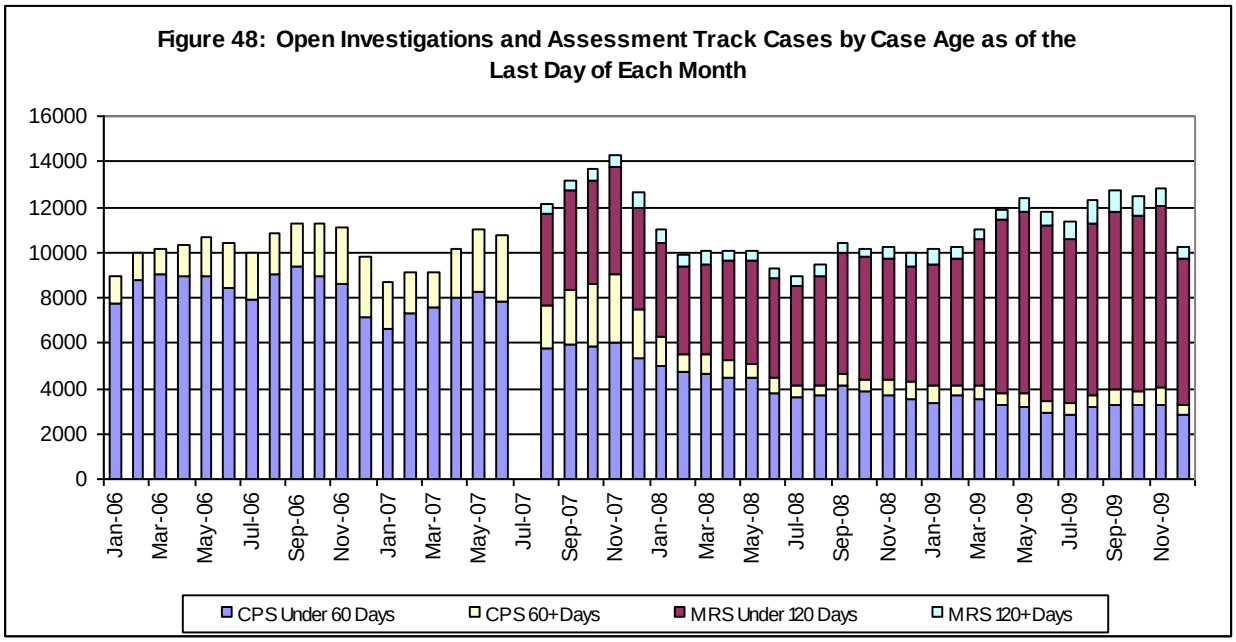
Source: "CPS Team Leader Caseload" reports and "MRS Team Leader Caseload" reports for the period from January 2007 through February 2009, and "CPS Case Manager Caseload" report for March 2009 through December 2009.

Figure 48 below shows the number of open investigations and assessment track cases as of the last day of each month for the period from January 2006 through December 2009.[164] By February 2008, the total number of open investigations and assessments had dropped significantly to 9,881 as a result of a considerable decrease in the number of overdue investigations (open 60 days or longer). However, the number had begun to increase again by September 2008, exceeding 12,000 by May 2009. The number dropped back to just over 10,000 again in December 2009.

Figure 48 also reflects the increasing proportion of open cases on any given day assigned to the assessment track instead of the investigative track. The number of open assessment cases surpassed the number of open investigations for the first time in June 2008. Assessment cases made up 70% of open cases for the first time in June 2009, falling slightly to 68% of open cases as of December 31, 2009.

Both of these trends (the increase in the total number of open cases over the past year and the increase in the proportion of open cases assigned to the assessment track over the past year) likely result, at least to some degree, from the significantly longer time period allowed for closure of assessment cases (120 days compared to 60 days for investigations). Assessments remaining open up to 120 days could continue to appear on monthly reports for up to five months (depending on when during the month they were initiated) before they would move into the "overdue" category, while investigations would only appear on monthly reports for up to three months before they would move into the "overdue" category.

[164] As noted earlier, the Department did not produce data for the month of July 2007 because it was in the process of revising the reporting system to provide data on MRS implementation by separating open assessment cases from open investigations. Prior to this date, the Department made no distinction in its reporting between investigations and assessment cases, even though the Department had begun implementation of the MRS system in 2005.



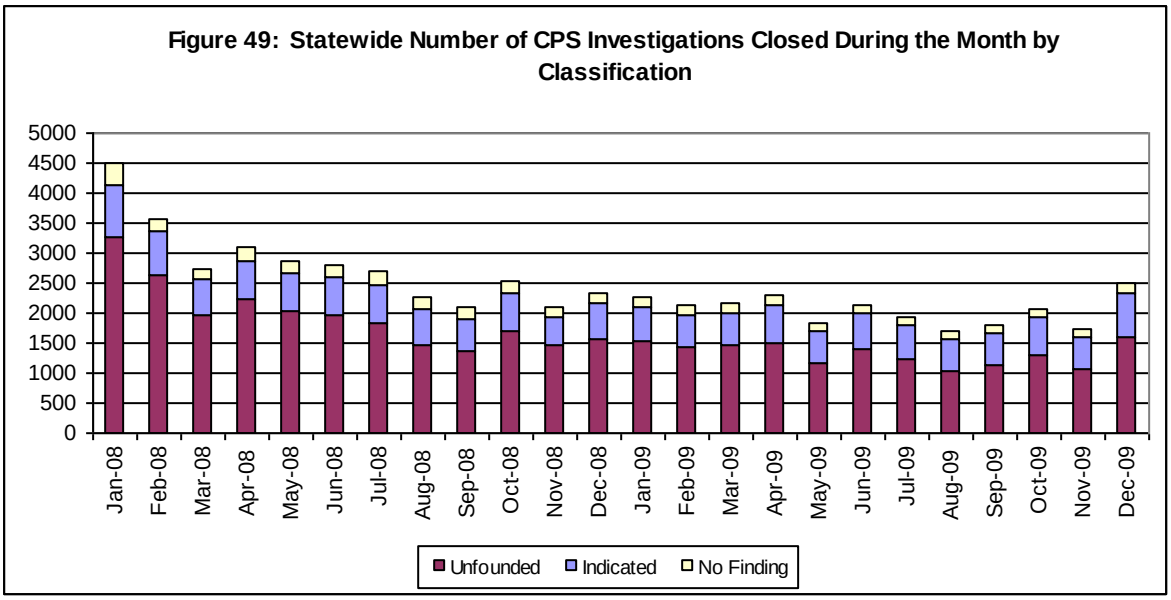
Source: TNKids "Statewide Summary Report of Overdue vs. Open CPS and SIU Investigations" (CPS-INVPODUE-200) as of the last day of each month during the period January 2006 through March 2009 and TNKids "Statewide Summary Report of Overdue vs. Open CPS Assessments" (CPS-ASMTODUE-200) as of the last day of each month during the period August 2007 through December 2009.[165]

2. Classification of Investigations and Assessments

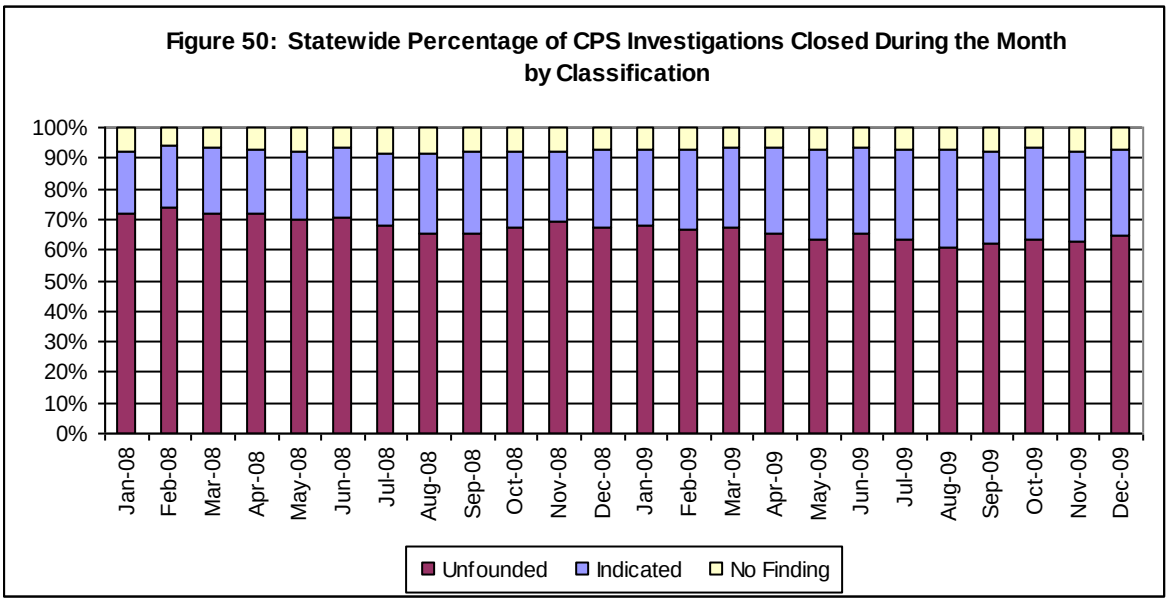
In addition to tracking timeliness of investigations/assessments, the Department tracks and reports classifications of investigations and assessments closed during each month.

Figure 49 below presents the number of investigations closed during each month from January 2008 to December 2009 according to classification, and Figure 50 presents the percentage of investigations classified in each category. The percentage of indicated investigations each month appears to have increased somewhat between 2008 (when "indicated" classifications ranged from a low of 20% in February to a high of 27% in September) and 2009 (when "indicated" classifications ranged from a low of 25% in January to a high of 32% in August).

[165] Tracking of assessment cases began in August 2007; data for July 2007 was not available.

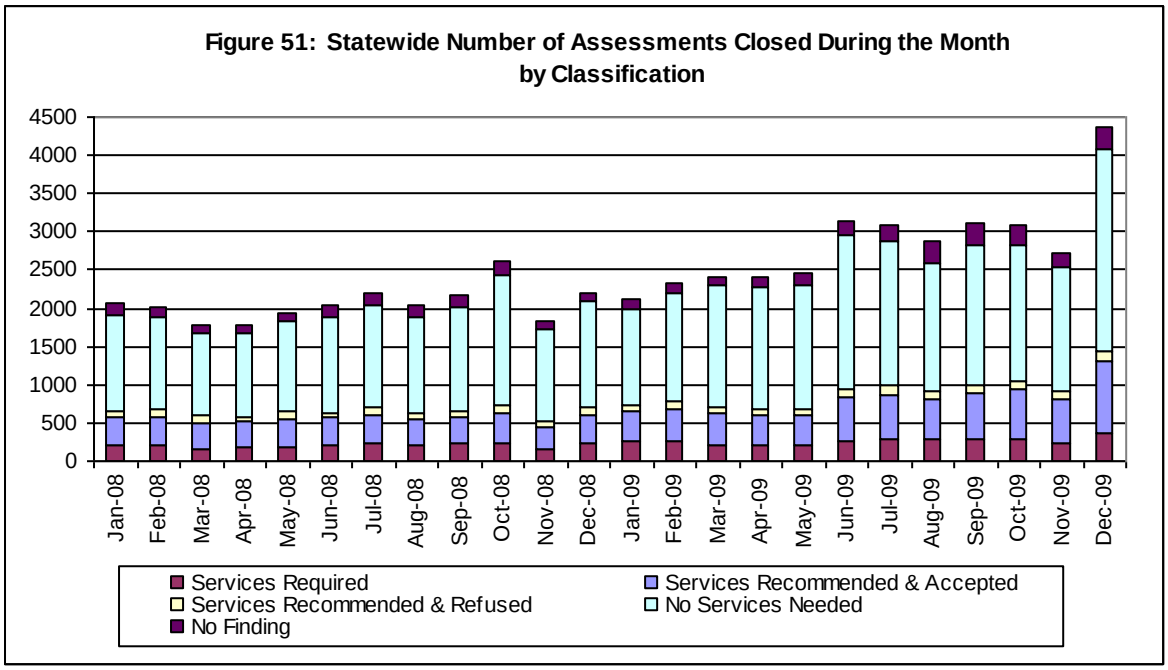


Source: "CPS Closed Investigations by Classification" reports for the period from January 2008 through December 2009.

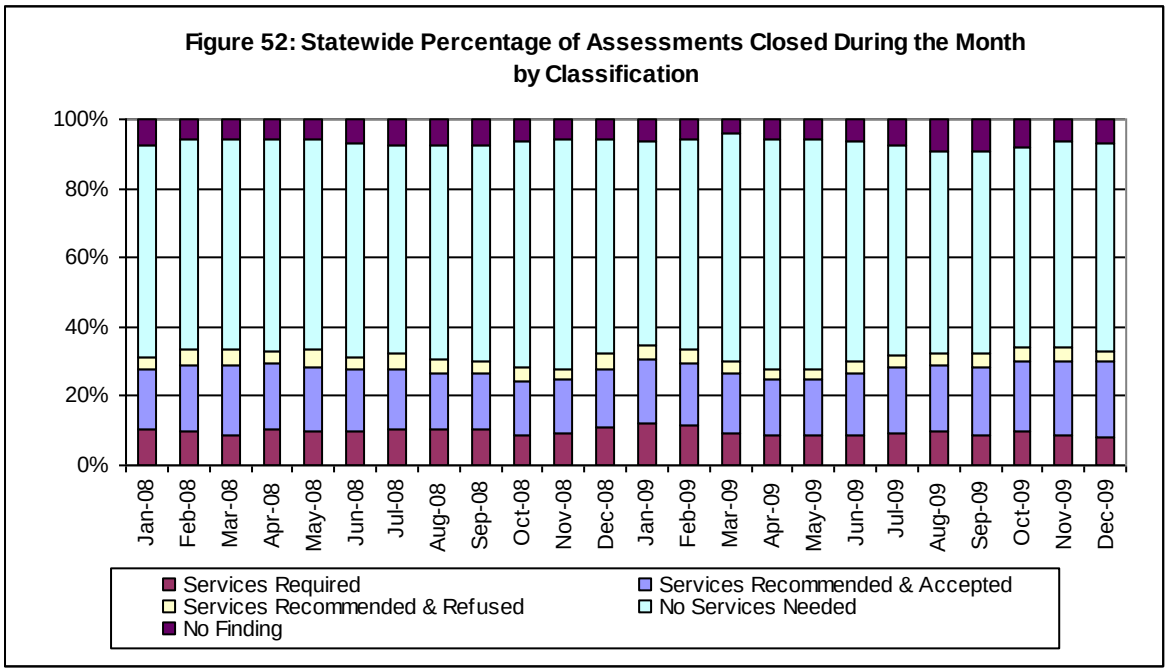


Source: "CPS Closed Investigations by Classification" reports for the period from January 2008 through December 2009.

Figure 51 below presents the number of assessments closed during each month from January 2008 to December 2009 according to classification, and Figure 52 presents the percentage of assessments classified in each category. The percentage of assessments classified in each category over the past two years has remained relatively stable, with assessments classified as "Services Required" ranging between 8% and 12% during that period and assessments classified as "No Services Needed" ranging between 59% and 66%.



Source: "CPS Closed Assessments by Classification" reports for the period from January 2008 through December 2009.



Source: "CPS Closed Assessments by Classification" reports for the period from January 2008 through December 2009.

3. Adequacy of CPS/MRS Staffing

While the Central Intake response times and the investigation completion times provide some indication of the adequacy of CPS/MRS staffing, the Department also tracks staffing at Central

Intake and the number of open investigations on the caseload of each CPS/MRS worker as part of its effort to ensure sufficient staffing of basic CPS/MRS functions.

As of May 15, 2010, there were 67 positions allocated to Central Intake and of those, 64 were filled. There were 880 positions allocated to CPS/MRS, 819 of which were filled. Of the 880 total CPS/MRS positions, 424 were generally assigned assessments (395 of these positions were filled as of May 15, 2010) and 228 were generally assigned investigations (217 of those positions were filled as of May 15, 2010). Fifty-one positions were assigned to the Family Crisis Intervention Program (FCIP)[166], 20 were assigned to resource linkage, and 29 were clerical or support positions. There were 123 supervisor positions, 115 of which were filled.

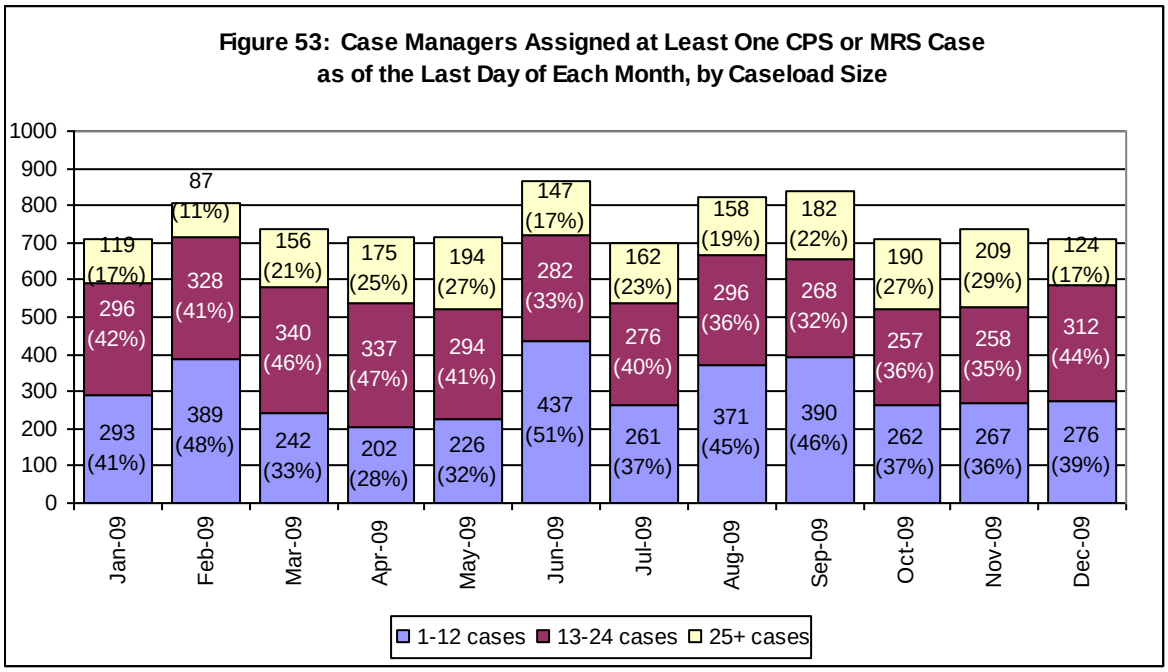
The *Brian A.* Settlement Agreement does not include a specific caseload standard for CPS workers. However, the Department has adopted as its caseload guideline the Child Welfare League of America (CWLA) standard that a CPS worker receive no more than 12 new cases for investigation or assessment each month. Given that investigations are expected to be completed within 60 days, the TAC uses as a proxy measure of maximum caseloads that a CPS case manager should have no more than 24 open cases at any time.[167]

Because a significant number of case managers handle both assessment and investigation cases (and some of those also handle a variety of other types of cases), presenting information on CPS caseloads is not a simple task. Figure 53 presents caseload information for case managers (including non-caseload carrying case managers, such as facilitators, who might on occasion carry an overflow case) who had at least one investigation or at least one assessment on their caseloads as of the last day of each month during calendar year 2009.[168]

[166] The Family Crisis Intervention Program is a legislatively mandated program designed to divert status offense cases from juvenile court. See TCA 37-1-168. TCA 37-1-132(b)(2) prohibits the commitment of an "unruly child" to DCS custody without first referring the child to the Department's "juvenile-family crisis intervention program" (established under TCA 37-1-168). The court may not commit the child to DCS custody unless the juvenile-family crisis intervention program "certifies that there is no less drastic measure than court intervention."

[167] While DCS has adopted the CWLA new cases per month limit, it has not explicitly adopted other CWLA caseload standards related to CPS: that a worker should serve no more than 17 families for ongoing services and support after the assessment (the CWLA term for what Tennessee calls "investigation"), assuming the rate of new families assigned is no more than one for every six open family cases; that combined initial assessments and ongoing services to families should be no more than 10 active ongoing family cases and no more than four active initial assessments.

[168] These data may slightly underreport actual caseloads because some case managers appear multiple times on the monthly reports if they are assigned cases under different supervisors. The TAC eliminated these duplicates for the January 2009 report and found that the statewide percentage of case managers falling into each caseload category changed by less than three percentage points, although the percentages changed more significantly for some regions. Because the impact of these duplicates appears to be small on a statewide level, the TAC decided not to spend the significant amount of time it would require to eliminate the duplicates from the reports for each month.



Source: "DCS Caseload Report" for the months of January through December 2009.

4. Evaluation of the Multiple Response System for Child Protective Services

The enabling legislation that established MRS includes a requirement for ongoing external evaluation and reporting of the impact of MRS.[169]

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[169] Outcomes to be evaluated and reported include:
"(1) The safety of children under the program compared with children served under title 37, chapter 1, part 4 and title 37, chapter 1, part 6, in light of the following and other factors that may provide useful information about the effectiveness of the program for its purposes: (A) The number of cases processed under the program by types of risks and needs addressed; (B) The number of cases referred for proceedings under title 37, chapter 1, by type; (C) The number of final dispositions of cases in the current reporting year by disposition as follows: (i) Closed on initial review; (ii) Closed after assessment; (iii) Closed after assessment and referral for available community-based public or private services; (iv) Numbers and types of cases in which the department proceeded under title 37, chapter 1, after the initial review; and (v) Numbers and types of cases in which there were reports of harm or sexual abuse under title 37, chapter 1, part 4 or title 37, chapter 1, part 6, with respect to children in a family considered or served under this part. (D) The extent to which the program has reduced the incidence of children who are subjected to harm or sexual abuse that would require a report under title 37, chapter 1, part 4 or title 37, chapter 1, part 6, or who otherwise would become eligible for services under title 37, chapter 1. (E) Estimates as to the risk of future harm or sexual abuse to children with respect to whom reports of harm or sexual abuse were determined not to show there had been harm or sexual abuse or to have been invalid. (F) The type and amount of community-based public or private services received by families.
(2) The timeliness of response by the department under the program;
(3) The timeliness of services provided to children and families under the program;
(4) The level of coordination with public and private community-based service providers to ensure community-based services are available to the public through the program;
(5) The cost effectiveness of the program with respect to the department, available community-based public and private service resources, and law enforcement and judiciary resources that might otherwise have become involved in the cases; and
(6) The effectiveness of the program in enhancing the welfare of children and keeping families together.
Upon implementation of the multi-level response system in any area, the department shall ensure that all data necessary for compliance with this section is collected and maintained." (TCA 37-5-2 through 37-5-9)

In April of 2010, Tennessee Center for Child Welfare (TCCW) completed a report entitled Tennessee Department of Children's Services Multiple Response System: A Preliminary Evaluation. The Report includes descriptive data on the MRS process (including the number and percentage of cases referred to each track, types and relative frequencies of cases referred to the assessment and resource linkage tracks, and types and frequencies of services provided in assessment and resource linkage track cases). Among the Report findings based on this data are the following:

- In fiscal year 2008, a total of 61,570 Investigation, Assessment and Resource Linkage cases were initiated statewide. Of those cases, 39,968 were CPS Investigations (65%).

- A sample of data taken after more regions had rolled-out MRS (between November 2008 and January 2009), revealed that over half (61%) of cases screened in for a response were assigned to the Assessment Track, with approximately 40% assigned to the Investigative Track. Only 130 (0.6%) cases were screened in for Resource Linkage. Thus, it is anticipated that future data reflecting MRS implementation statewide will show a larger proportion of cases in the Assessment Track.

- For the Assessment Track, the top five allegations were as follows: physical abuse (28.7%), drug-exposed child (27.6%), lack of supervision (22.4%), environmental neglect (20.1%), and psychological abuse (12.5%).

- For the Assessment Track, dispositions were as follows: 53.8% no services necessary, 24% pending or missing, 15.5% services recommended, and 6.7% services required.[170]

- For the Investigative Track, the top six allegations were as follows: sexual abuse/ exploitation (41.4%), physical abuse (27%), drug-exposed child (22%), lack of supervision (15.2%), drug-exposed infant (8.8%), and environmental neglect (8.1%).

- In 2008, 21% of investigations were indicated, 71% were unfounded, and 7.6% had no finding.

- More recent findings on the classification of investigations for February 2010 were as follows: 27.3% were indicated, 66% were unfounded, and 6.6% had no finding.[171]

The Report also includes the results of a comparative study of investigation track cases and the assessment/resource linkage cases, to determine whether there was any difference in the percentages of cases for which there were subsequent reports of maltreatment and subsequent findings of maltreatment. According to the Report:

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[170] These findings cannot be easily compared to the Departmental data set forth in Figure 52 above. It appears that the TCCW evaluation drew from a different data set and categorized cases somewhat differently than the Department does in its CPS Closed Assessments by Classification reporting.

[171] See the TCCW report, *Tennessee Department of Children's Services: Multiple Response System, 2010 Preliminary Evaluation*, page 6.

"Families assigned to each track were followed for 6 months to examine if another report of abuse or neglect was made. There were no significant differences between additional reports of abuse or neglect being made, whether a subsequent investigation occurred, or if an investigation was indicated. This information provides evidence that children assigned to the Assessment Track are as safe as children assigned to the Investigation Track."[172]

The Report includes the following table setting forth the relevant data:[173]

Initial Track Assignment	Sample	6 Month Follow-Up: Report for Abuse or Neglect	6 Month Follow-Up: Number Indicated Maltreatment
Assessment	7,070 (60.8%)	1,318 (18.6%)	161 (2.3%)
Investigation	4,553 (39.2%)	767 (16.8%)	124(2.7%)

Source: *Data from Children's Research Center Report (Scharenbroch, Healy, & Park, 2009)*

The Report, based on its analysis of the MRS system, concluded that the implementation of MRS was accomplished without any increased safety risks for children. The Report also presented information on the perceptions of DCS staff and representatives of various stakeholder groups of the relative merits and impact of the adoption of MRS.

The Children's Justice Task Force, in its 2009 State Plan, recommended further evaluation of the impact of MRS that would include qualitative case reviews of a "longitudinal sampling" of cases. Such an evaluation would provide a valuable supplement to the quantitative analysis of the TCCW evaluation.

C. Specific Requirements for Responding to Allegations of Children Being Subject to Abuse and Neglect While in Foster Care Placement

The Settlement Agreement (III.B) requires all reports of neglect/abuse in institutional, residential, group, or contract agency resource home placements be:

- received and investigated in the manner and within the time frame provided by law;
- referred to and reviewed by the Quality Assurance (QA) Unit; and
- referred to and reviewed by the DCS Licensing Unit (as appropriate).

The QA Unit is required to ensure that the reports are reviewed to identify any pattern of abuse or neglect.

[172] See the TCCW report, *Tennessee Department of Children's Services: Multiple Response System, 2010 Preliminary Evaluation*, page 7.
[173] See the TCCW report, *Tennessee Department of Children's Services: Multiple Response System, 2010 Preliminary Evaluation*, page 7.

The QA unit, and where appropriate, the DCS Licensing Unit are responsible for taking appropriate action with respect to these reports of abuse or neglect including:

- determining appropriate corrective action plans;
- ensuring implementation of those plans;
- providing additional monitoring;
- ensuring closure/termination of contract when appropriate;
- completing review of complaints of abuse and neglect within 90 days; and
- providing reports of the investigations to the *Brian A.* Monitor. (III.B)

1. Organizational Processes Related to Allegations of Abuse and Neglect While in Foster Care

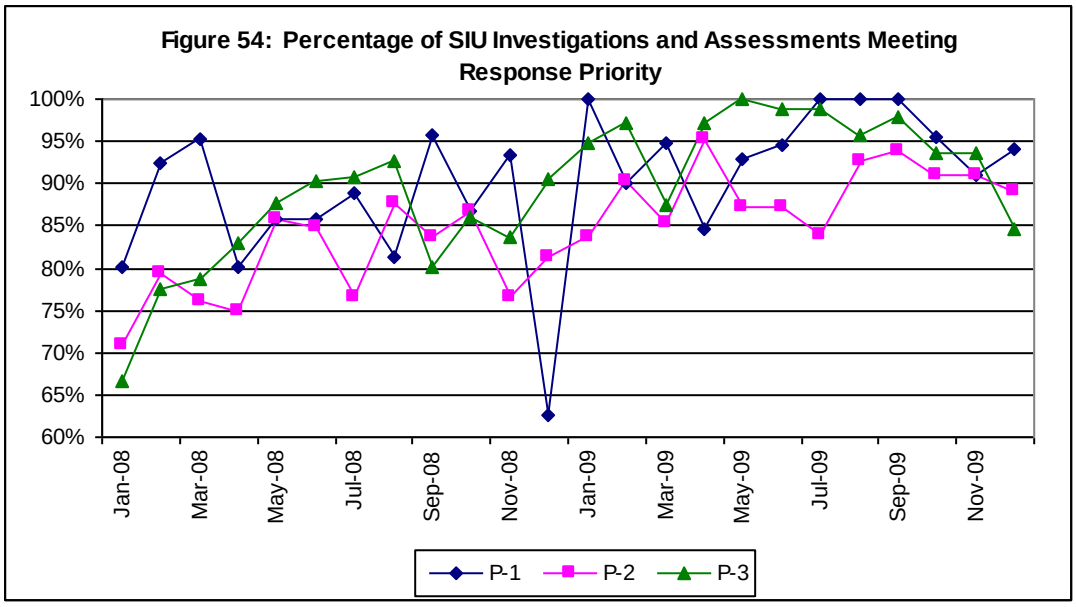
All reports of abuse or neglect of children in care, whether investigated by SIU or CPS/MRS, are processed through the Central Intake System, and response times are tracked as part of the Central Intake process.

The Office of Performance and Quality Improvement (PQI) is responsible for: (1) reviewing the SIU reports and the results of the SIU investigations; and (2) ensuring that information related to any findings of abuse and neglect by the SIU and/or any concerns that are raised by SIU about a particular placement as a result of their investigation is shared with other offices within the Department that are responsible for oversight of resource homes and placement facilities (both those operated by DCS and those operated by private providers). The PQI Office is responsible for ensuring that patterns of abuse and neglect are identified, corrective actions are implemented, and sanctions (including termination of contracts and closure of homes) are imposed as appropriate.

The Department has continued to refine and improve the internal notification process at the initiation, during, and after a report requiring an SIU investigation. It has also continued to improve its quality assurance processes through the PQI Office and through the Provider Quality Team System which is more fully described in Subsection 5 below and in Sections Eleven and Twelve of this report.

2. Timeliness of SIU Investigations

The Department tracks the percentage of SIU cases meeting response priority times. Figure 54 below shows the statewide percentage of investigations meeting the required time frames for each response priority. The percentage of SIU cases meeting response priority times has shown a general increasing trend since January 2008.



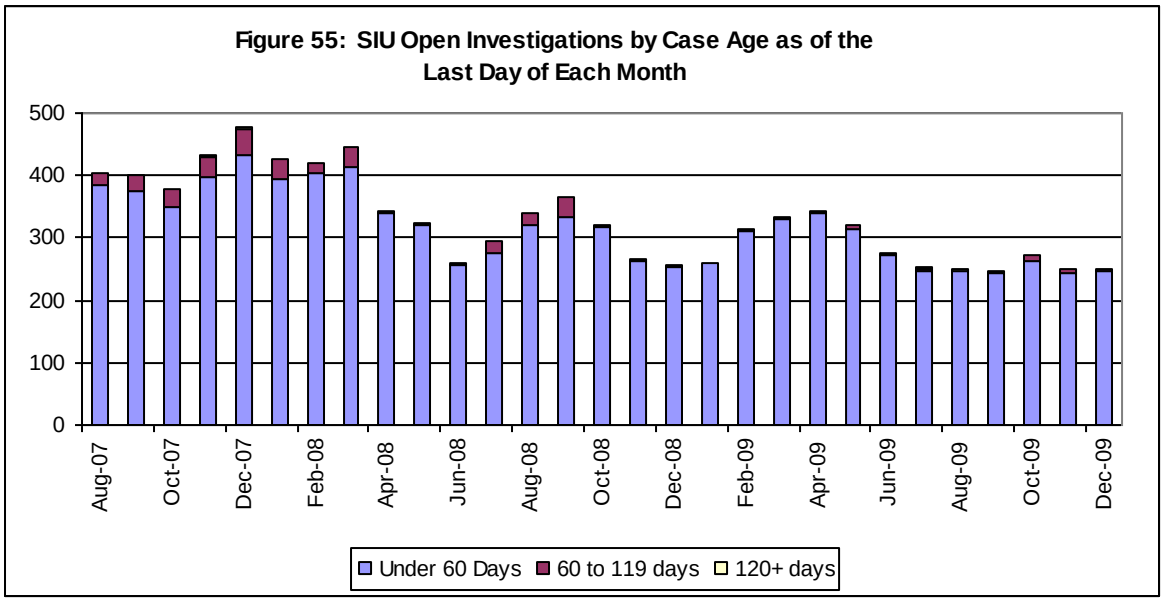
Source: "CPS Referral Response by Priority Reports" for the months of January 2008 through December 2009.

TNKids also produces monthly reports on the volume of new SIU investigations and closed investigations (including, but not limited to, *Brian A.* class members)[174] during the month, as well as the number of investigations not completed within the 60 days required by law (or "overdue" investigations). Figure 55 below shows the number of SIU open investigations (including, but not limited to, *Brian A.* class members) by case age as of the last day of each month for the period August 2007 to December 2009. Over this time period, the total number of open SIU investigations, though fluctuating from month to month, has shown a decreasing trend overall.

The number of overdue investigations has also decreased significantly between March 2008 and December 2009. While there was a brief increase during the months of July, August, and September 2008 (with the number of overdue investigations increasing to a high of 31), between then and December of 2009 there have generally been five or fewer overdue SIU investigations at the end of each month with some exceptions. On May 31, 2009, there were seven overdue investigations, one of which was more than 120 days old. From June through September 2009, there were five or fewer total overdue investigations on the last day of the month, but one case was more than 120 days old in June and September and two cases were more than 120 days old in July and August. On the last day of October 2009, 10 cases were between 60 and 119 days old, and on the last day of November 2009, eight cases were between 60 and 119 days old. (It should be noted, however, that in more recent months there has been a significant increase in the overall number and percentage of overdue SIU cases).[175]

[174] See footnote 140 for a discussion of the scope of abuse and neglect allegations investigated by the Special Investigations Unit.

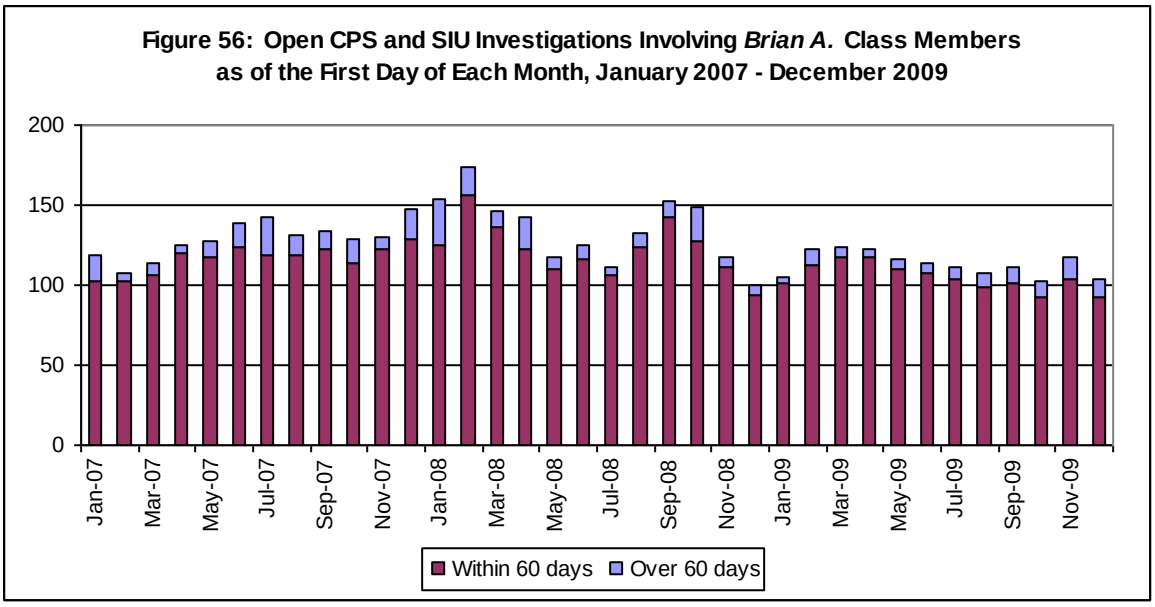
[175] On May 31, 2010, there were 394 open SIU investigations, 63 of which were overdue. Four of these investigations were more than 120 days old.



Source: TNKids "Statewide Summary Report of Overdue vs. Open CPS & SIU Investigations" (CPS-INVPODUE-200) for the period August 2007 through December 2009.

The Department also produces a monthly report from TNKids (the "*Brian A.* Class Open Investigations Over 60 Days Old Report") of the number and percentage of overdue investigations for *Brian A.* class members only. The report includes both SIU and CPS investigations involving *Brian A.* class members.[176] Figure 56 below shows the number of open *Brian A.* investigations each month during the period January 2007 through March 2009. These data show similar trends to that for SIU investigations presented above: the overall number of *Brian A.* investigations open at any time has decreased somewhat, and the number of overdue investigations has also decreased. Beginning November 2008, there were 10 or fewer overdue *Brian A.* investigations on the first day of each month until very recently. There were 14 overdue *Brian A.* investigations on November 1, 2009 and 11 overdue *Brian A.* investigations on December 1, 2009. (It should be noted that the number of overdue *Brian A.* investigations has continued to increase in recent months, a trend that appears consistent with the recent overall increase in the number of overdue SIU investigations described above.)[177]

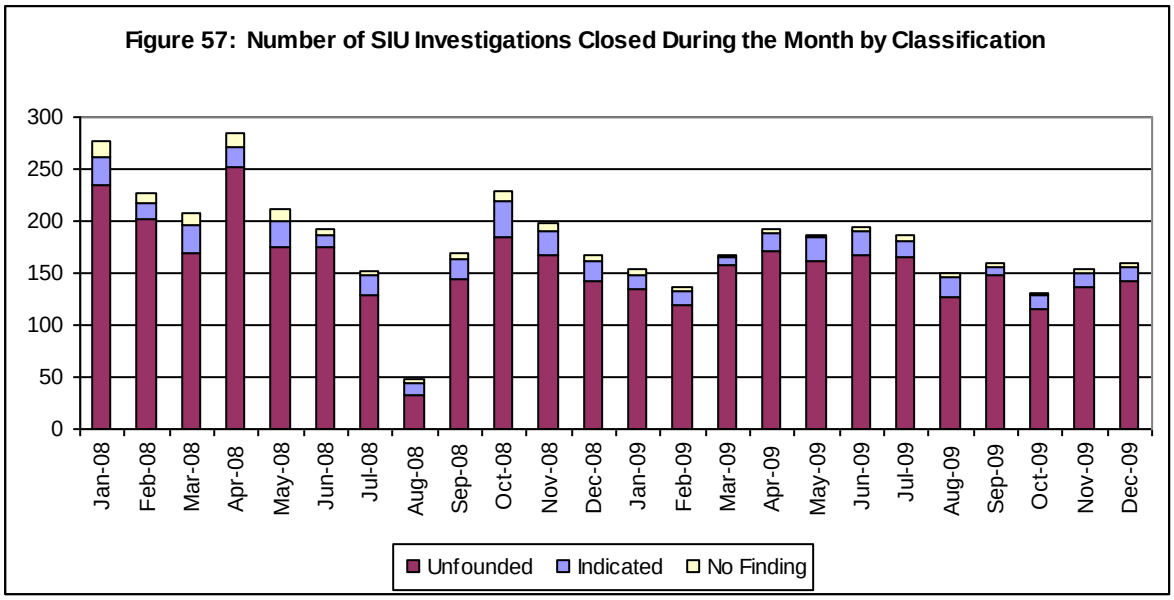
[176] See page 92 for a description of the allocation of responsibility between CPS and SIU for allegations of abuse or neglect of children while in custody.
[177] On June 1, 2010, there were 26 overdue *Brian A.* investigations.



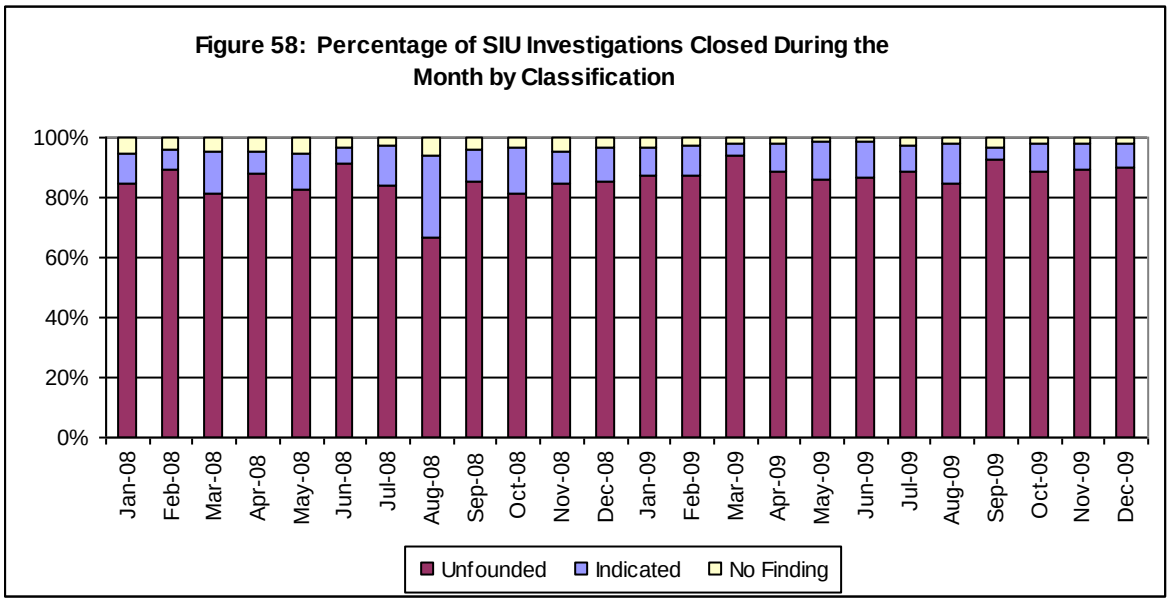
Source: TNKids "*Brian A.* Class Open Investigations Over 60 Days Old" (CPS-BRIANINV-200) for the period January 2007 through December 2009.

3. Classification of Special Investigations

Figure 57 below presents the number of special investigations closed during each month from January 2008 to December 2009 according to classification, and Figure 58 presents the percentage of special investigations classified in each category. The percentage of indicated special investigations each month has ranged between 4% and 15% over the past two years, with the exception of August 2008, when 27% of investigations closed during the month were classified as "indicated." The total number of investigations closed during August 2008 was also significantly smaller than in other months.



Source: "CPS Closed Investigations by Classification" reports for the period from January 2008 through December 2009.



Source: "CPS Closed Investigations by Classification" reports for the period from January 2008 through December 2009.

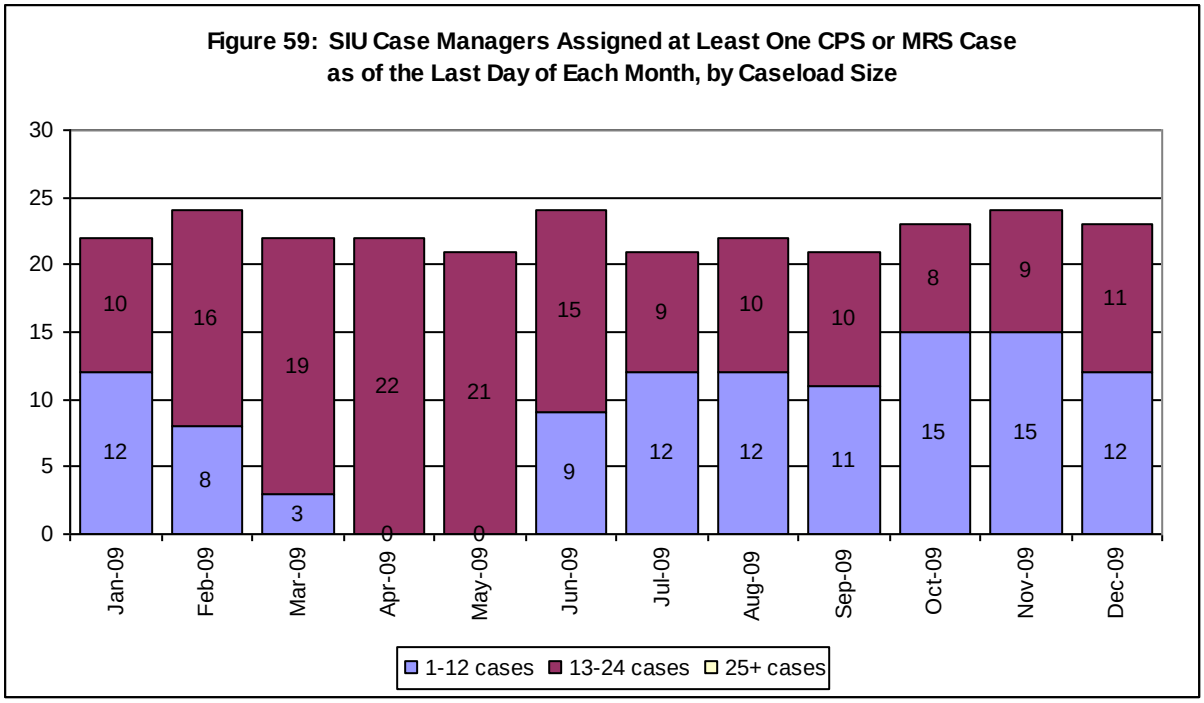
4. Adequacy of SIU Staffing

The TAC interprets the "adequate staffing" provision to require both that there are sufficient numbers of staff to cover the SIU caseloads and that those filling those positions have adequate skills to conduct high quality investigations.

a. Caseloads

In recent reporting periods, SIU caseloads were within CWLA caseload standards: no more than 12 new cases each month for an SIU investigator. Given that investigations are expected to be completed within 60 days, the TAC uses as a proxy measure of maximum caseloads that SIU case managers should have no more than 24 open cases at any time.[178]

Figure 59 below shows SIU caseloads on the last day of the month for the period from January 2009 through December 2009.[179] No SIU case manager had a caseload over 24 cases during that period. (It should be noted, however, that in recent months SIU caseloads have increased considerably.)[180]



Source: "DCS Caseload Report" for the months of January through December 2009.

There are presently 32 positions dedicated to SIU, of which 28 were filled as of May 15, 2010.[181] The positions are allocated to four teams located across the state. The Director and team coordinators are currently reassessing the physical location of case managers to determine the appropriate number of staff needed for each team and to cover each region. This reassessment includes not only an analysis of average number of referrals, caseload numbers, and vacancies, but considerations related to the travel challenges associated with responding to investigations in rural areas. This reassessment may result in vacant positions being strategically reassigned to different geographic hubs.

[178] See footnote 167 above.
[179] Unlike the caseload data presented earlier for CPS/MRS (see footnote 168 above), caseloads for SIU case managers appearing more than once on the monthly reports were totaled so that the each case manager is counted only once and his/her entire caseload is represented in Figure 59.
[180] On April 30, 2010, one case manager and all four supervisors had caseloads of 12 or less, 12 case managers had caseloads of 13 to 24 cases, and seven case managers had caseloads of 25 to 30 cases.
[181] The Department is currently in the process of filling four vacancies in SIU.

b. Quality of Case Investigations

As discussed in previous monitoring reports, reviews conducted by the Department's Quality Assurance (QA) Unit of SIU cases over the past three years raised significant concerns about the quality of SIU investigations. The December 2008 Monitoring Report noted that, despite some improvements in response to earlier QA reviews, "concerns remain regarding the quality of some SIU investigations, including instances of: failure to complete interviews with case managers and collaterals in a timely manner; failure to send initial and closing notifications to all appropriate parties; failure to document and review previous investigations involving the child or perpetrator; failure to use (or to use properly) the standardized risk assessment tool; and failure to freeze resource homes at the initiation of an investigation." The most recent review, released in March 2010, recognized significant improvements with conducting key investigative tasks and with documentation of the investigation, but also found "the quality of the investigations remains inconsistent. It is concerning that child(ren) may not be adequately assessed for safety while residing in out of home placements."

The concerns identified by the Department's QA Reviews have been reinforced by the experience of TAC monitoring staff who have participated on the Provider Quality Team reviews and who have been present on SIU weekly supervisory conference calls.

The TAC had particular questions about the quality of supervision being provided by SIU supervisors. It was difficult to understand how some of the deficiencies in the SIU cases identified by the Quality Assurance Unit would have escaped the normal supervisory reviews that the TAC presumed were being conducted by the SIU team leaders, team coordinators, and SIU Director.

The TAC is encouraged by the actions presently being undertaken by the new SIU Director to ensure that SIU investigators are receiving the quality of supervisory support, consultation, and supervision that they need to ensure that cases are thoroughly investigated, that the information collected is appropriately assessed, and that appropriate actions are taken in a timely manner in every case.

5. Review of Reports of Abuse or Neglect in Care by the Quality Assurance Unit

As discussed in greater detail in the December 2008 Monitoring Report, since 2007 the Office of Performance and Quality Improvement (PQI), the Department's "Quality Assurance Unit," has assumed responsibility for reviewing the SIU process and ensuring that information regarding the reports and results of those investigations is analyzed and shared and that appropriate corrective action is taken.

While an SIU investigation is ongoing, most of the efforts to ensure quality are the responsibility of the SIU Director, with assistance of SIU team leaders and team coordinators. After the SIU

investigation, the scope of review is expanded to include the Division of Evaluation and Monitoring (E&M) in the PQI Office.[182]

Over the last three years, the Department has developed a number of processes for reviewing and analyzing SIU reports, including:

- Periodic (at times quarterly, at times every six months) in-depth reviews of SIU case files (including both the closing notifications and the documentation in the TNKids investigation file) focused on investigation processes, documentation, and quality. A report of the results of the most recent review was issued in March 2010.

- Monthly reviews of all SIU investigation closing notifications involving *Brian A.* children and an effort (which proved too time consuming to maintain) to create a database to allow tracking to identify and monitor trends.

- Use of the Placement Quality Teams (PQT), discussed in more detail below and in Section Twelve, to review cases in which a child has been found to have been abused or neglected while in state custody.

The Department is reexamining both its approach to the periodic SIU case file reviews and the monthly reviews. While the QA review envisioned by the Settlement Agreement was intended to be used to identify problematic placements, problematic providers, and to ensure that SIU data was used to inform placement and provider oversight, these reviews had instead, as suggested by the discussion above, served to identify serious concerns about the quality of supervision being provided within the SIU unit.

With the change in leadership of SIU, the expectation is that the team leaders, team coordinators, and SIU Director will not only ensure that investigations are appropriately conducted, but that the SIU will be doing its own tracking of cases and will be more proactive in identifying trends and in communicating concerns about particular children, particular providers, and particular placements to the PQI staff.

As discussed in the December 2008 Monitoring Report, one of the Department's "green-level" Placement Quality Teams (hereafter referred to as the "Resource Home Green PQT"),[183] is responsible for reviewing the notification of the results of the SIU investigation (closing notification) for any SIU investigation involving a resource home placement in which the allegations were either indicated or were unfounded but the investigator noted concerns. The

[182] The PQI Office has been developing and refining its review process for CPS investigations of abuse or neglect of *Brian A.* children while in custody. The PQI staff person with responsibility for that review process has left her PQI position to become an SIU team coordinator. The PQI Office, in consultation with the TAC, has put these reviews "on hold" while the new SIU Director, with the assistance of the new SIU team coordinator, is revising the SIU process.

[183] This term is used to distinguish this "Green Team" from the Green PQT that is responsible for reviewing Corrective Action Plans that private providers submit in response to findings from PAR reviews and/or PQT intervention. For a more detailed discussion of the Placement Quality Teams, including the significance of the color designations, see Section Twelve, Subsection B.2 of this report.

team includes PQI and other Central Office staff, SIU staff, foster parent advocates, and regional staff.

All closing notifications involving private provider resource homes are reviewed by staff in the Child Placement and Private Providers Division. All closing notifications involving DCS resource homes are reviewed by staff in the Foster Care and Adoption Division. These staff members present the "indicated" and "unfounded with concerns" cases to the Resource Home Green PQT.

This PQT makes recommendations (including recommendations to develop safety and/or corrective action plans) for ensuring the safety of the children involved and for addressing concerns regarding the resource homes involved. This PQT also monitors the implementation of those recommendations. If, during the process of reviewing a case, the Resource Home Green PQT identifies a broader, more systemic issue involving a provider agency, the PQT may address the issue directly with the provider, make a referral to DCS Internal Affairs, and/or make a referral to the Yellow Zone Team.

The Resource Home Green PQT initiated the review of 246 resource homes for which the SIU investigation result was "indicated" or "unfounded with concerns" during calendar year 2009. By February 2010, 135 of those homes had been closed as a result of a Resource Home Green PQT recommendation, a decision by the region or the private provider not to use the home, and/or a request by the resource parent(s) to close the home. Thirty-four (34) of the 135 homes were closed in "good standing"[184] in TNKids, and for 31 of those 34 homes, TNKids contains a narrative describing the concerns discussed by the PQT. One hundred (100) of the 135 homes were closed in "bad standing"[185] in TNKids, and for 96 of those 100 homes, TNKids contains a narrative describing the concerns discussed by the PQT. The remaining home was closed before the option to designate a closure standing was available in TNKids.

At the initiation of an SIU investigation the home is automatically placed on "freeze", meaning that no new children can be placed in the home pending the completion of the investigation. For any case in which the SIU investigation results in a finding of "indicated" or unfounded with concerns," the home remains frozen until review by the Resource Home Green PQT. With regard to the 246 homes referred to above, the PQT agreed to lift the freeze (after corrective action, if necessary) for 74 homes, and five homes were never placed on freeze during or after the SIU investigation.[186] The PQT agreed to re-open one home after discussion of a previous closure in bad standing. Thirty-one (31) homes remained on freeze as of February 2010.

The yellow-level Placement Quality Team (the Yellow Zone Team), which includes the Director of PQI as well as representatives from the Performance Management Unit and Evaluation and Monitoring within PQI, is responsible for addressing concerns regarding private provider

[184] In these cases, after further study, the Department did not have serious concerns; however the families decided that they no longer wanted to serve as resource parents and ended their relationships with the Department.
[185] The concerns were substantial enough that that Department did not want to place any more children in those homes.
[186] Because the process for placing and lifting freezes is not automated, human error at some point during the "freezing" process is always a possibility, and may result in the failure to freeze a home.

agencies, with a focus on congregate care facilities. At present, the PQI staff person whose responsibilities include supporting the Yellow PQT is responsible for receiving and reviewing the closing notifications of every SIU investigation involving a congregate care facility in which the allegations were either indicated or were unfounded but about which the investigator noted concerns, but those closing notifications are not ordinarily reviewed by the Yellow PQT. The Department is considering developing another green team to review these closing notifications.[187]

[187] This new green team, presently referred to as the Data Trending and Analysis Team (DTAT), would review various data sources related to private provider performance, including Incident Reports and closed SIU investigations involving congregate care facilities.

SECTION FOUR: REGIONAL SERVICES

Section IV of the Settlement Agreement requires that each region have a full range of the following community based services to support families, resource families, and pre-adoptive/adoptive families:

- family preservation/removal prevention services;
- reunification services/transition support services;
- placement stabilization services;
- crisis intervention services; and
- in-home services.

In the early years of the reform effort, there appeared to be considerable variation from region to region in the availability and utilization of community-based services. There were differences in the range and quality of services available and in the types of services "preferred" from region to region. Funding for regional services often seemed to be arbitrarily allocated and those funds available were inconsistently utilized by regions.

In addition, it seemed that families were often linked to services of limited relevance to their actual needs. This was in part attributable to the traditional menu of services that existed – case managers had to offer services and they were limited by what they had available—but it was also reflective of the quality of practice and the limited ability of staff to assess need and envision the services that would respond to the needs identified.

The Department has taken a number of steps to ensure the rational allocation of funds to support community-based services and to ensure that each region has a range of quality services available. There has been greater attentiveness to equitable distribution of resources, identification of gaps in services (and efforts to fill those gaps) and a clear intention to move toward performance based contracting with providers of non-custodial services. (A list of contract services available to each region for fiscal year 2009-2010 is attached as Appendix L. The TAC anticipates providing, in the next monitoring report, a regional analysis of expenditures both under these contracts and through the use of flex funds.)

The Department has modified its approach to contracting for services, with each region having a single contract with a provider, rather than having multiple contracts with a set of providers. That provider can then subcontract for the range of services, but it is that provider who is ultimately responsible and accountable for ensuring the quality of the services delivered.

In order to ensure that each region has the range, quantity and quality of community-based services needed to serve its families, the Department is planning to have each region conduct its own regional needs assessment. The Department has engaged the Atlantic Coast Child Welfare Implementation Center (ACCWIC) in a two year project to help create a regional structure for (1) assessing quantity and quality of non-custodial services and supports, and (2) developing regional service arrays in response to the regional assessments.[188]

[188] The ACCWIC is also helping the regions improve the capacity of regional staff to accurately assess the needs of families and effectively match families to the right services and supports. Consistent with the Department's

SECTION FIVE: STAFF QUALIFICATIONS, TRAINING, CASELOAD, AND SUPERVISION

Effective intervention with children and families in the child welfare system is challenging work. It requires a committed, well-trained, 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.[189]

A. Requirement of Background Checks for DCS and Private Provider Agency Staff and Resource Parents (V.F.4)

The Settlement Agreement (V.F.4) requires a *"criminal records check and a child abuse registry screening"* (referred to in this report as a "criminal records and DCS background check") for all persons applying for all DCS and contract agency positions which involve any contact with children.[190]

Tennessee law 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.[191] Department policy requires criminal

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Program Improvement Plan, this work focuses on developing the assessment and resource linkage skills of CPS/MRS case managers.

[189] Section V also includes a provision that by July 1, 2002, Community Service Agency (CSA) staff not carry caseloads *"that include children in the plaintiff class."* (V.A) At the time of the Settlement, the CSAs were separate agencies with which the Department contracted for a variety of services including custodial case management. As part of its reform effort, the Department ended its contract with the CSAs and absorbed the CSA case management functions into the Department.

[190] Tennessee does not have a "child abuse registry." DCS has interpreted the term child abuse registry screening as it is used in the Settlement Agreement to refer to what DCS calls "DCS background checks." A DCS background check consists of a search of both TNKids and an historical pre-TNKids list called the Social Service Management System (SSMS) for any reports of abuse or neglect in which the person subject to the background check was indicated as a perpetrator of abuse or neglect. SSMS records are not as accurate or complete as TNKids. The SSMS records at times only contain a reference to a person being "indicated" as a perpetrator of abuse or neglect, without any information about the nature of the abuse and neglect alleged or the circumstances under which it occurred. Records after 1999 are found in TNKids and these records are believed to be complete, accurate, and readily accessible.

[191] Criminal violation information required of persons having access to children is as follows: "Such persons also shall submit to a criminal history records check to be conducted through the Tennessee Bureau of Investigation, shall supply fingerprint samples to the Tennessee Bureau of Investigation and to the Federal Bureau of Investigation, and shall submit to a review of such person's status on the Department of Health's vulnerable persons registry under title 68, chapter 11, part 10." TCA 37-5-511 (2).

records and DCS background checks for all persons applying for all DCS and private provider agency positions involving direct contact with children.[192]

1. Criminal Records and DCS Background Checks on DCS Employees

Over the course of the past two years, the Department has taken a variety of actions designed to ensure that criminal records and DCS background checks are completed consistent with this provision. As discussed in some detail in the December 2008 Monitoring Report, the Department, as part of its preparation for Council On Accreditation (COA) accreditation,[193] conducted a 100% audit of its personnel files to ensure that each file contained all required documentation, including documentation of these checks.[194] The Department discovered that there was a lack of uniformity in the way in which the Department had been conducting its criminal records and background checks. As a result, background checks on some employees had been less thorough, involving searches of some, but not all, of the relevant criminal record databases. To address this problem, the Department has revised its policy to provide detailed direction for completing and documenting criminal records checks on employees.[195]

The Department had also identified two groups of employees who, as a result of the special circumstances under which they became DCS employees, had not been subject to the full records and background check that applied to "new hires." The first group consisted of those employees who transferred into the newly created Department of Children's Services in 1996 when a number of divisions of several state departments serving children in state custody were consolidated to form a single custodial department. The second group consisted of those employees who transferred to DCS from the Community Services Agencies (CSAs) as part of the shift of custodial caseload responsibilities from the CSAs to DCS.

As reported in the December 2008 Monitoring Report, the Department completed its review of the personnel files of all employees and for any of those employees for whom documentation of criminal records and DCS background checks was incomplete, such checks were completed.

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[192] There are certain criminal offense histories which disqualify a person from holding such a position and there is a process for case-by-case exceptions to disqualification. (V.F.4)

[193] The Council on Accreditation (COA) is an international, independent, not-for-profit, child and family service and behavioral healthcare accrediting organization. COA partners with human service organizations to improve service delivery outcomes by developing, applying, and promoting accreditation standards.

[194] COA standards require, among other things, that the Department maintain documentation of criminal records and background checks in each employee's official personnel file.

[195] The Department has recently revised its ongoing personnel file review process. The Department now requires reviews of DCS personnel files to be conducted on three regions per fiscal year quarter. The review includes a check of all information in the personnel file required by DCS policy including required background check information. The reviews must include all personnel files of employees hired (both new hires and transfers from other agencies) within the preceding 12 months and a random review of 25% of personnel files of all other employees. Any deficiencies in the file review must be reported to the regional management as well as to the appropriate Executive Director and Deputy Commissioner. A Corrective Action Plan with deadlines must be implemented to address the specific deficiencies and any systemic problems will be identified. This revised review process took effect on July 1, 2010.

As discussed further in this section, similar clarification and detailed direction has also been provided for those conducting background checks of prospective resource parents and private provider staff.

Over the past year, the Department has identified one part of the criminal records check that at least in some instances was not being completed in accordance with policy. The new policies require that criminal records checks be obtained from all courts with criminal jurisdiction (Criminal Court, Municipal Court, General Session Court) for each jurisdiction in which the applicant has been a resident at any point during the last five years. However, as discussed in the December 2008 Monitoring Report, some regions indicated that they had encountered problems getting information from certain courts.

One of the problems identified by the regions was that many local courts charged for the background information. Because the same criminal background information is available from local law enforcement, and because local law enforcement either do not charge DCS a fee for this information or have more discretion to waive the fee, the Department has revised policy requirements to allow the local criminal history check to be accepted from either local law enforcement or local courts with criminal jurisdiction. The Department encourages regions to request waivers (from either the local court or local law enforcement) of any costs associated with the local criminal history check; however, if the local authorities refuse to waive the fee, the Department has established a procedure to access funds to pay the fee.[196]

This recent policy revision and the work done over recent months with the regions around the background check process should address what had been the major deficiency identified in the September 2009 spot check of personnel files conducted by the TAC monitoring staff: 21 of the 95 files reviewed were missing documentation of completed local criminal records checks.[197]

2. Criminal Records and DCS Background Checks on Contract Agency Employees

While the Department is directly responsible for ensuring that it has completed criminal records and DCS background checks of all of its own employees, the private provider agencies are required, by contract provision and/or licensing requirement, to ensure that they have completed such checks of all of their employees before those employees are allowed to work directly with children. Private providers are required to maintain documentation of the criminal records and DCS background checks in private provider personnel files.[198]

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[196] In a number of instances in which criminal records checks were found to be incomplete, the regions felt that they had met the requirement for the local criminal records check if they had requested the local records but the local authorities had refused to provide them due to non-payment of a fee. That misconception has been corrected and policy clarified to reflect that all criminal records checks must be completed prior to the employee's first day of work.

[197] Of the 95 files reviewed in that spot check, 76% (72) of files were found to have fully completed background checks and all files contained at least some of the checks. Of the 23 files with missing documentation, 21 were missing documentation of completed local criminal records, one was missing documentation of a Tennessee Sex Offender check, and one was missing an SSMS screening. Of the 21 files missing documentation of local criminal records checks, two had actually been completed during the time period covered by the review; 18 have since been completed and documented in the file or are in the process of being completed; in one case, the person is no longer employed by DCS. The missing Tennessee Sex Offender Check had actually been completed, but had not been placed in the file. The missing SSMS check had not been conducted, but has recently been completed.

[198] The Department has established a process by which private providers submit names of employees to DCS and the Department conducts a search of its records to determine whether those employees had been alleged to be a perpetrator of abuse or neglect.

Just as the Department identified a lack of consistency in the thoroughness of criminal records checks of DCS employees, the Department found similar problems with the criminal records checks conducted by private provider agencies of their employees. As was the case with DCS criminal records checks, the private providers and the internet background check services they relied on did not always include a search of all of the relevant criminal court records in their background checks. The *Private Provider Manual* and applicable DCS policies have been revised to clarify the expectations for criminal records checks, and DCS has worked with the private providers to ensure that they understand the expectations.

A survey sent by the TAC in the summer of 2009 to private providers asked, among other things, for the provider to indicate what criminal records and background checks they obtained on their employees. Based on the responses, there appeared to be a number of private providers who remained unclear about some aspect of the criminal records and background check process.

Over the past year, the Department has further clarified its background check policies and has followed up with each of the agencies whose survey responses had raised TAC concerns. DCS conducted training on all background check requirements with providers on April 27, 2010. The minutes of that training were also disseminated to providers. DCS plans to conduct additional background check training after July 1, 2010 to all providers regarding background check policies.

The Department is also amending its Policy 4.1, Employee Background Checks for DCS Employees (which sets forth criminal background check requirements for DCS employees and DCS resource parents and the guidelines and process for issuing waivers for some kinds of offenses) to apply to private providers and private provider resource parents.

The Department has refined and clarified contract monitoring and licensing oversight responsibilities with respect to documentation of criminal records and DCS background checks of private provider staff.[199] The DCS Licensing Unit is responsible for ensuring that criminal history and background checks have been completed on private provider staff of those agencies licensed by DCS.[200] The Department's PAR unit has that responsibility with respect to those agencies not licensed by DCS.[201]

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[199] As discussed in more detail in Section Twelve, DCS has both a Licensing Unit (focused on compliance with licensing standards) and a Program Accountability Review (PAR) team (focused on compliance with contract requirements), each of which conducts inspections and reviews of private providers. While all private providers serving DCS children must be licensed, the licensing authority for some providers is not DCS, but rather the Department of Mental Health and Developmental Disability (DMHDD).

[200] As a part of the licensure process, the DCS Licensing Unit visits private provider program sites that are licensed by DCS and reviews a 10% sample of employee files, but no fewer than five files and no more than 25 files for any site, with an emphasis on new hires, routinely checking for pertinent data, including background data as required in licensing standards. The Licensing Unit also now monitors for those agencies it licenses, not just licensure related personnel requirements, but the other personnel related standards set forth in the *Private Provider Manual*. This addresses the inefficiency of the prior practice of having the Licensing Unit and PAR each monitor the same agencies for their separate purposes.

[201] The PAR reviews of all private provider residential programs include an examination of the personnel files of 10% of the agency staff (in contrast with the site specific sample pulled by the Licensing Unit), but no fewer than five files and no more than 25 files. The PAR reviewers also place special emphasis on reviewing files of new hires.

In addition, the Child Placement and Private Providers (CPPP) unit, which has responsibility for overseeing the collection, maintenance and review of all state and federal IV-E safety documentation requirements, including criminal records checks, will soon be expanding the Resource Home Eligibility Team (RHET) process (described further in Section Nine), currently applicable only to private provider and DCS resource parents, to apply to congregate care private provider staff. With this expansion of RHET, private providers will be required to provide documentation of criminal records checks to DCS for each of the private provider staff hired, just as they are presently required to do for resource parents.

If in the course of contract and licensing reviews, private provider employee files are found to be lacking documentation of criminal records and/or DCS background checks, the provider agency must provide such documentation, either as part of the corrective action plan required by the contract performance review or as a condition of maintaining their license in the case of a licensing review. The licensing and PAR units have reported a decrease in findings related to criminal records and background checks over the past two years, reflecting what they believe to be a better understanding by private providers of the Department's expectations.

Any failure of a private provider to complete full criminal records or background checks on an employee carries financial penalties. In addition, any errors identified during a random review of background checks (PAR, Licensing or RHET) will generate a complete audit of the criminal records and background checks for all of the staff of the agency. This process also applies to subcontractors.

B. Education and Experience Requirements for Hiring and Promotion of Case Managers; Education Requirements for Child Care Workers (V.F.3)

The Settlement Agreement establishes basic education requirements for persons employed as "child care workers" and more extensive requirements for both hiring and promotion of case managers.

1. Childcare Workers

The Settlement Agreement provides that childcare workers employed in any childcare facility or program providing placements and services to children in foster care and their families are to have at least a high school diploma or a GED. (V.F.3)

Under present civil service requirements, childcare workers employed by the Department at DCS operated facilities must meet this requirement as a condition of employment.[202] The *Private*

[202] In the regions and facilities operated by DCS, the non-professional staff that may supervise children are: Community Services Assistants (also sometimes called Case Assistants), Food Service Stewards, Teacher's Assistants, and Children's Services Officers and Corporals. All of these are positions specific to DCS Group Homes with the exception of the Community Services Assistants. All require either a high school diploma or a GED. The Department reviewed the credentials for all of these staff during the review of the official personnel files for COA

Provider Manual requires that childcare workers employed by private providers must also meet this requirement.[203]

The vast majority of childcare workers are employed by private provider agencies. The Department's contract and licensing oversight processes for private providers both include a review of personnel files for documentation of the required educational qualifications.[204] Based on the TAC monitoring staff's periodic spot checks of both the Performance Accountability Reviews (contract oversight) and DCS Licensing Unit inspection reports, compliance with this particular requirement does not appear to be a problem.[205]

2. Case Managers

a. Minimum Educational Requirements

The Settlement Agreement (V.B.1, 2, 3) establishes minimum educational and experience qualifications for case managers which include:

- for entry level case managers (Case Manager 1), a Bachelor's degree, with preference for a Bachelor's degree in Social Work or related behavioral science;

- for higher level case manager positions (Case Manager 2-4), a bachelor's degree, with preference for a Bachelor's degree in Social Work or related behavioral science and additional experience.

A Master's degree in Social Work or related behavioral requirement is not required for higher level case manager positions; however, additional years of work experience are required for those without a master's degree who seek supervisory positions (Case Manager 3, Case Manager 4).

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and found that all personnel met this condition of employment. Additionally, correctional teachers also provide supervision in group homes. The correctional teacher position requires a minimum of a bachelor's degree, unless they have received professional credentialing from the Department of Education (DOE) as a Vocational Instructor. Those with DOE credentialing are in Vocational Instructor per Specialty positions which require a high school diploma.

[203] As set forth in the *Private Provider Manual*, a childcare worker must have a minimum of a high school diploma or a GED. One year of experience working in a children's services program is preferred. Volunteer experience, practicum, and intern experience in programs/facilities that work with dysfunctional children and families may be counted as pertinent experience. Childcare worker supervisors must have an associate's degree with emphasis in working with children. In addition, one year of experience working in a children's services program is required with experience in a residential setting. Two additional years of work experience in a residential setting with children may be substituted for the associate's degree.

[204] These review processes are discussed further in Section Twelve.

[205] As discussed in previous monitoring reports, occasionally an agency is cited for absence of documentation of education in the personnel file. In most of those cases, the agency has provided subsequent documentation that the worker meets the educational requirements. For educational or experience requirements that the Department has imposed beyond those specifically required by the Settlement Agreement, a waiver can be granted by the Director of the Child Placement and Private Providers (CPPP) Division. Absent such a waiver, an employee who does not meet all of the requirements set forth in the *Private Provider Manual* must be removed from the position.

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 job specifications presently state that a preference is given for those with degrees in social work or a related behavioral science. Applicants for case manager positions who have a degree in social work receive four additional points for this degree when their applications are scored for purposes of establishing their positions on the register from which case managers are hired.

As discussed in previous monitoring reports, the Department has established a new Graduate Trainee Register for graduates of the Bachelor of Social Work Child Welfare Certification Program (BSW Certification Program) discussed in more detail in Subsection E below. This new register is the preferred list from which entry level case manager positions are filled.[206] Only graduates of the BSW Certification Program can qualify for this Graduate Trainee Register. The BSW Certification Program includes two required courses, Child Welfare 1 & 2 (which cover the content of the Department's pre-service curriculum for new case managers) and 380 hours of field placement practicum with DCS or a DCS private provider.[207]

This new Graduate Trainee Register simplifies the process for hiring graduates from the BSW Certification Program (irrespective of whether they participate in the stipend program).[208] It avoids the delays and complications, discussed in the January 2006 Monitoring Report, which had previously impeded hiring BSW Certification Program graduates from the general case manager register.

b. Training and Competency/Performance Evaluation Requirements

The Settlement Agreement includes pre-service and in-service training requirements (discussed at greater length in Subsection D below) and also requires case managers to pass competency and performance evaluations for both retention and promotion.

- To be able to carry cases (other than a training caseload), a case manager must complete pre-service training and pass a skills-based competency evaluation. (V.D)

- To be promoted/retained, a case manager must satisfactorily complete a performance evaluation (within one year for Case Manager 1; within six months for Case Manager 2). (V.B.1, V.B.2)

- To assume supervisory responsibility, a team leader or supervisor must complete training and pass a skills-based competency evaluation. (V.F.1)

The Settlement Agreement requires the Department to develop, in consultation with the TAC, both a "skills-based competency evaluation" and a "performance evaluation tool." Case

[206] This new register was implemented in November 2007.
[207] A person holding a Social Work degree or related human services degree who did not complete the Child Welfare 1 & 2 courses and DCS field practice would not be eligible to be placed on the Graduate Trainee Register.
[208] For further discussion about the stipend program, see page 140 below.

manager evaluations must include an evaluation of performance on the case management requirements of the Settlement Agreement.

In addition, the Settlement Agreement (V.E.2) provides that the training unit shall on an annual basis:

- determine DCS workers in need of retraining as indicated by workers' failure to meet requirements of the Settlement Agreement, DCS policy, and/or reasonable professional standards; (V.E.2) and

- ensure additional training is provided to those workers so that those workers who do not improve as a result of such training are eligible for reassignment or termination. (V.E.2)

i. Competency Evaluation of New Case Managers Prior to Assuming Caseload

The Department requires that new case managers, other than those who graduated from the 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 course work and performance requirements that includes, but far exceeds, what is required for successful completion of the pre-service training.

The new case managers must demonstrate basic competencies in "critical skill" areas including: developing a professional helping relationship with the child(ren) and families; conducting family-centered assessments; developing and implementing family-centered planning; and completing accurate documentation that reflects the values of strengths-based, family-centered, culturally-competent casework.[209]
According to information provided by the Department's Training Division, 158 new case manager trainees enrolled in the new Case Manager Certification Program from January 1, 2009 through December 31, 2009, 66 of whom enrolled in the revised version of the training and 92 of whom were enrolled in the prior version of the training.

Of the 92 who started the prior version of the training and were subject to the knowledge exam and competency assessment associated with that training, 70 completed the training and were certified. Twenty-two failed to complete the training and stopped working for the Department

[209] The evaluation component for new worker certification has undergone a major revision in 2009. Of the 27 pre-service training groups held in 2009, eight of these followed the redesigned model (discussed in further detail in Subsection D).

For those groups completing the prior pre-service training, the new hires were required to complete a knowledge exam and a competency assessment. The knowledge exam consisted of four sections with each section of the exam containing 30 questions; a passing score requiring at least 15 items (50%) correct in each section. The skills assessment required that new workers demonstrate, at a satisfactory level, 10 key skills for working with children and families. Workers were expected to score at least a three on a five-point rating scale for each of the 10 skills. See previous monitoring reports for more detail about this competency assessment process.

The assessment process for the redesigned pre-service training is described in further detail in footnotes 228 and 230 and the accompanying text.

(mostly voluntarily). Of the 70 new hires that completed pre-service training, 58 passed the knowledge exam on the first attempt and 12 passed on subsequent attempts.

Of the 66 who started the revised version of the pre-service training and were subject to the competency evaluation associated with that revised version, 63 were ultimately certified. Two were terminated before completing certification and one failed certification.

The Training Consortium reports quarterly on the status of the completion of final assessment and knowledge exams. The Department had developed a training related computer database, the Training Tracking Tool, to provide automated tracking and reporting of all pre-service and in-service training.[210] The Training Tracking Tool was intended as a "stop gap" measure, until the training related component of Tennessee's new Project Edison data system became available.[211]

As of July 1, 2009, the Department started making the shift to inputting training information into Project "Edison's Enterprise Learning Management (ELM) System". Since that time, all new and currently delivered courses have been assigned a course number and been placed into ELM, which can then be used by the Training Coordinators to schedule staff for their training events. The plan is for ELM to be the official training file/database system that tracks all DCS employee training.[212]

ii. Performance Evaluation of Experienced Case Managers

(a) Performance Evaluation Tool and Catalog

The Department is still in the process of developing and implementing the performance evaluation process for experienced workers contemplated by the Settlement Agreement. The Department had previously completed work on a performance evaluation tool and process proposed by the Department's Office of Human Resource Development, but problems developed during the piloting of that tool and process. After significant feedback from regional staff a

[210] Prior to the development of this tool, regional training coordinators each had their own method of tracking training, some using Excel spreadsheets or similar computer systems, and others using some kind of "hard copy" tracking, such as an index card file system. The Department believes that the Training Tracking Tool (which has only been in use since June 2, 2008) will ensure that all training coordinators are collecting the same information and forwarding that information in a standardized and uniform format to the Professional Development and Training Division. The Department is now in the process of transitioning from tracking training via the Training Tracking Tool to tracking training within Project Edison's Enterprise Learning Management (ELM) system.

[211] Project Edison is Tennessee's Enterprise Resource Planning (ERP) system. ERP systems use an integrated software package to perform administrative business functions, including personnel administration. The personnel administration functions of Edison allow the Department to track and report all employee training and eventually track and report training of resource parents and private provider staff.

[212] The Department is still inputting legacy information from the previous database system as well as legacy information from the Training Tracking Tool into Edison's ELM system. A reduction in clerical support resulting from budget cuts has slowed the process of inputting legacy training data into Edison's ELM system. In addition, because of budget constraints, the DCS Training Division will be cutting 1.5 technical clerk positions, which will impact the division's ability to assist with inputting legacy information into ELM in a timely manner.

determination was made to suspend the implementation and redesign the performance tool and evaluation process.[213]

The Department has identified the following as key components of the revision effort:

- standardize the Job Performance Plans (JPPs) for a given job function—both for "major job responsibilities" and "behaviors or work outcomes characteristic of exceptional performance;"

- base the "behaviors or work outcomes characteristic of exceptional performance" on child welfare competencies and skill sets with the goal to fully implement a competency-based performance management system;

- provide supervisors with an online Professional Development Assessment (PDA) that allows them to identify the professional development needs of staff that will bolster performance in order to improve the competency-based behaviors or work outcomes identified on the Job Performance Plan;

- provide supervisors with a template for making a Professional Development Plan (PDP) for their staff that outlines opportunities for professional development that relate to the core work areas and skill sets outlined on the JPP; and

- provide training to supervisors on using revised Job Performance Plans, Performance Evaluations, and the Professional Development Plan.

The Department envisions that the evaluation process will include monthly conferences between the case manager and supervisor, that those conferences will inform a six-month interim performance evaluation, and that the process will culminate in an annual performance evaluation.

The revised performance evaluation process will be piloted in four regions, focusing initially on evaluation of the team coordinators and team leaders in those regions.[214] (Once the process is completed for these supervisory staff, the goal is to expand this evaluation process to non-supervisory case managers.)[215]

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[213] The development and implementation of a revised performance evaluation process is among the major commitments that the Department has included in its current Program Improvement Plan (PIP) developed in response to the April 2009 Child and Family Service Review report.

[214] Initial work has been completed with Human Resource Development staff and Tennessee Center for Child Welfare (TCCW) staff meeting with team coordinators from the four (4) pilot regions to get feedback on content for standardized Job Performance Plans. As a part of this work regional staff identified six core work areas critical to outstanding performance in any program area. A statewide survey was administered to seek additional input from team coordinators to gather additional feedback on the six core work areas identified. Work will continue with a series of workdays with regional staff to further refine the six core work areas identified, to link these to competencies and skill sets, and to finalize a standardized Job Performance Plan for case manager 4s (team leaders).

[215] The intention is that ultimately the full performance management system will be implemented statewide for staff at all levels. During 2010 and 2011, the focus will be on team coordinators and team leaders. The focus will be on direct service staff in 2011 and 2012.

Beginning in July 2010, the pilot regions are expected to start orienting supervisory staff to the new evaluation process and provide training in the use of the various tools on July 1, 2010. The Department expects that, no later than March 2011, all regions should be implementing the evaluation process for all supervisory staff.

(b) Promotion of Staff to Supervisory Positions

The Settlement Agreement contemplates that those promoted into the supervisory positions of team leader and team coordinator not assume their responsibilities until "after passing a skills based competency test geared specifically to child welfare supervision." The Department has interpreted this provision as requiring a performance evaluation that ensures that candidates for those positions have the ability to coach and mentor those whom they supervise in the core competencies of practice, which would include those related to the Child and Family Team process. The Department is revising its performance evaluation process to better meet this requirement.

As has been noted in previous Monitoring Reports, it is not clear that the criteria for creation of the civil service register from which supervisory positions must be filled will allow the Department to either require those competencies of supervisor position applicants or even allow the Department to prioritize hiring those applicants who demonstrate those competencies ahead of those who do not.[216] The Department requires the submission of the performance evaluation prior to processing any case manager promotions; however, unless the performance evaluation criteria are directly related to the criteria used by the register to rank applicants for supervisory positions, it is not clear what impact the performance evaluation will ultimately have on promotion.

(c) Supervisor Ability to Coach and Mentor Supervisees

As discussed in the December 2008 Monitoring Report, the Department developed the "Good to Great Initiative," the purpose of which was to ensure that supervisors understand and have the ability to coach and mentor the case managers they supervise on the core skills required by Tennessee's *Practice Model*. As part of that initiative, the Department completed a Professional Skills Assessment (PSA) for team coordinators and team leaders, focused on both the knowledge of the core practice competencies and the supervisory skills essential to effective coaching and mentoring of case managers around those core competencies. [217]

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[216] The civil service criteria for promotion are not aligned with the key quality characteristics required of more experienced and supervisory case managers. There may be situations in which persons with the competencies that are required for these positions cannot be hired from the applicable civil service registers because persons who do not have these competencies are placed higher up on the register (based on the other qualities "valued" by the civil service scoring/rating process). It is therefore important for the Department to address this issue with the Tennessee Department of Human Resources.

[217] The Professional Skills Assessment conducted as part of this initiative was not intended to serve as a formal performance evaluation. Rather its purpose was to establish a baseline of the strengths and weaknesses of current supervisory staff, identify training needs, and use that information in the work presently underway to redesign the formal performance evaluation process. The focus was on those supervisors who had not previously had a competency evaluation. Team leaders and team coordinators who had previously received a competency evaluation upon completion of the pre-service training curriculum were not subject to the PSA.

Generally, in conducting the assessments, Consortium trainers partnered with MSW Specialists or designees (Consortium trainer, Regional Administrator, Deputy Administrator, etc.) to assess team coordinators. The team coordinators partnered with either a trainer or MSW Specialist to assess team leaders. Assessments were largely conducted as on-the-job observations and could occur in more than one setting. Additional sources of assessments used included: supervisory logs, case file reviews, focus groups, and interviews with direct reports.

Team coordinators and team leaders were assigned one of the three ratings for each of the six skills assessed: skills exceed basic performance standards; skills meet basic performance standards; and skills do not meet basic performance standards. [218] Following the assessment, a Professional Development Plan was developed by the assessors and the team coordinator/team leader and this plan was used during the debriefing session to identify areas of future professional development.

A total number of 397 Professional Skills Assessments were submitted as completed to TCCW for data collection and analysis. There were 81 supervisors requiring a Professional Skills Assessment whose Professional Skills Assessment was either not completed or not submitted.[219] Of the 397 completed Professional Skills Assessments, 27% of the ratings for the six areas assessed exceeded expectations, 64% met expectations, and 4% did not meet expectations. The remaining 5% were missing ratings.[220]

(d) Identifying Retraining Needs

One of the purposes of the performance evaluation process is to identify supervisors and case managers in need of retraining and to ensure that they receive that retraining.

The Performance Management System that is being piloted in 2010 and implemented in 2011 includes a Professional Development Assessment (PDA) tool, a web-based tool, that provides a list of competencies, associated skill sets, and service outcomes and that captures joint assessments (by both the evaluator and the person being evaluated) of selected competencies/skill sets The PDA has been developed for evaluation of supervisors (team coordinators and team leaders) and will be implemented as part of the new performance evaluation process. The PDA for case managers is under development and is expected to be implemented in 2011.

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[218] The six areas assessed on the PSA were: Engagement, Teaming, Assessing/Understanding, Planning, Implementation, and Tracking/Adaptation.

[219] The majority (48 of 81) of these missing PSA are for one region which was piloting a "PSA 360 Degree Feedback Process" (so called because feedback for the evaluation of supervisor performance is solicited from the full circle of people with whom the supervisor interacts). The 360 process was initiated for some of these supervisors, but not completed. Other regions had up to eight supervisors lacking a submitted or completed PSA. One region's supervisors are not included in this count since the region piloted an initial draft of the PSA which had a different rating scale and slightly different categories.

[220] Some assessors neglected to rate the supervisor and other assessors submitted the PSA with missing pages.

After implementation, PDA web-based data will be used to identify, report, and track training and retraining needs by person, region, and statewide.[221]

C. Training Infrastructure (V.E)

The Settlement Agreement requires the Department to:

- create a full-time training unit;
- headed by a chief of training with appropriate qualifications; and
- with sufficient staff, budget, and other resources to provide training needed to ensure that case managers and supervisors comply with mandates of the Settlement Agreement. (V.E.1)

As discussed at length in previous monitoring reports, one of the most significant improvements implemented by the Department has been the expansion and enhancement of the Department's training capacity through a partnership with the Tennessee Social Work Education Consortium ("Training Consortium") and its administrative hub, the Tennessee Center for Child Welfare (TCCW).[222] The Training Consortium consists of 14 public and private universities that offer accredited undergraduate degrees in Social Work.[223] DCS maintains a full-time training unit with a full-time director within the Department, and works closely with the Training Consortium. The bulk of the Department's training is provided by Training Consortium staff, not by the Department's Professional Development and Training Division.

The combined budget for both the Professional Development and Training Division and the Training Consortium is substantial. The Consortium budget for 2010-2011 is $14 million and the Department's internal training budget is an additional $625,000 for a total of $14.6 million. The total budget for fiscal year 2009-2010 was $16.5 million. In the TAC's view, resources allocated to the training function are currently sufficient to support curriculum development, delivery of pre-service training and in-service training.

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[221] Participants in any of the training sessions conducted by the Training Consortium are routinely provided with the opportunity to identify any training needs they have on the course evaluation forms. However, while TCCW collects and reviews these evaluations, it is not clear at this point that the evaluation form is a valuable a tool for identifying important training needs.

[222] The Tennessee Center for Child Welfare, located at Middle Tennessee State University, is the base of operations for the Training Consortium.

[223] The Training Consortium's major responsibility is to develop, deliver, and evaluate professional training programs for DCS staff. The BSW stipend program is offered by 10 Consortium Universities -- eight public universities (University of Memphis, Austin Peay State University, Middle Tennessee State University, Tennessee State University, University of Tennessee-Knoxville, University of Tennessee-Martin, University of Tennessee-Chattanooga, and East Tennessee State University) and two private Universities (Freed-Hardeman University and Union University). The MSW Tuition Reimbursement Program is offered by four universities (University of Tennessee-Knoxville, East Tennessee State University, the Mid-Tennessee Collaborative that includes Middle Tennessee State University, Tennessee State University, Austin Peay State University partnership, and Western Kentucky University, which is by special agreement since it is not part of the Tennessee Consortium). Of the 14 Consortium universities, the eight public universities have a subcontract to deliver additional training for DCS. All eight universities provide in-service and resource parent training, while only six provide pre-service training (this excludes University of Tennessee-Martin and University of Tennessee-Chattanooga).

1. Pre-Service Training

Currently, six Consortium universities participate in the delivery of pre-service training. The Training Consortium staff developed a pre-service training calendar that is designed around the hiring patterns and practices of the Department.[224] The training schedule for the calendar year 2009 included a total of 32 pre-service training groups statewide.[225] Staff from the Training Division met with the Department's Office of Human Resource Development staff, as well as the regional training coordinators, to develop a process to ensure that newly hired case managers are able to begin Course 1 orientation as close as possible to the date that they are hired in order to avoid any significant delay before they begin the certification program. The regional Human Resources staff have been working with their respective training coordinators to hire staff on dates consistent with the pre-service training schedule.

2. Provision of On-the-Job Training

The Department has recognized the critical importance of the On-the-Job Training (OJT) experience for new case managers. Unless new case managers have opportunities to see what they are taught in the classroom being practiced in the field and unless they have opportunities to be coached and mentored in the first months of their practice, it will be difficult for them to develop the skills that good practice demands. The redesigned model for pre-service training enhances the OJT experience by allowing new hires to follow their training cases for the entire OJT time period. For the first week of OJT, the new hire shadows an experienced worker or her/his supervisor. During the second week of OJT, the new hire partners with the experienced worker and/or supervisor. During the third week, the new hire leads the training cases with the experienced worker/supervisor acting as coach.

The Department originally envisioned that a regional OJT coach would assume primary responsibility for provision of OJT experiences for new staff—for modeling, mentoring, and coaching. However, as observed in the December 2008 Monitoring Report, with only 13 OJT Coaches across the state, coaches were routinely working with such large numbers of trainees at any given time that it was impossible for them to spend much time individually with trainees working on their skill development.

The Department has therefore revised its OJT approach, vesting the primary responsibility on the new hire's supervisor to identify and arrange shadowing experiences and be the primary provider of the mentoring and coaching that had been envisioned as a significant part of the pre-service

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[224] The locations of trainings are determined by the number and work location of the new hires. Training Consortium trainers may travel to a new training location if the number of DCS new hires requires a change in the previously scheduled training site location. In addition, DCS new hires may travel outside their regions to participate in pre-service training, especially when group numbers are small and staff from several regions are combined to form one pre-service training group.

[225] The scheduling of pre-service training groups varies by grand region. For the West grand region, pre-service training groups are scheduled as needed, currently this is quarterly. For the Middle grand region, pre-service training groups are scheduled once a month with additional groups added as needed. Currently about every other month another group is added to the Middle grand region. For the East grand region, pre-service groups are scheduled once a month.

training.[226] The OJT coach position (now referred to as the "field coach") has taken on more of a supportive role to the new worker's supervisor. The field coach is to ensure that the new hire is receiving weekly support team meetings and is receiving appropriate practice opportunities during the three weeks of OJT activities. As a result of the shifting of their primary job responsibilities in coaching and mentoring to a more supportive role, the field coaches have been given additional job duties in a variety of functions. As of June 1, 2010, five field coaches have inherited more training support functions such as training coordinator; three are carrying a caseload (up to 14 cases), and four have assumed supervisory responsibilities (supervising up to four case managers).

D. Training Requirements for DCS and Private Provider Case Managers (V.E.3)

The Settlement Agreement includes specific requirements for pre-service and in-service training of case managers and supervisors:

For DCS case managers and private provider case managers with comparable responsibilities, the Settlement Agreement (V.E.3, V.E.4[227]) requires:

- 160 hours pre-service, including instructional training and supervised field training;
- 40 hours in-service annually;
- curriculum to be reviewed and developed in consultation with the TAC; and
- training to ensure case managers are meeting Settlement Agreement requirements.

For DCS case managers with supervisory responsibility and private provider case managers with comparable responsibilities, the Settlement Agreement (V.E.3, V.E.4) requires:

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

Title IV-E training allows states to claim a 75% federal match for certain training of state and local agency staff and current and prospective foster and adoptive parents.

1. Pre-service Training for New Case Managers

The development and implementation of the pre-service training curriculum for new case managers has been reported on in some detail in previous monitoring reports. The training content and number of hours devoted to pre-service training meet the requirements of the

[226] Case managers interviewed as part of the personnel file reviews conducted by TAC monitoring staff over the past two years often identified the shadowing experiences and mentoring and coaching by more experienced case managers as the most valuable part of the OJT period. The new hire's supervisor should be well positioned to ensure these experiences and opportunities during OJT weeks.

[227] The Department is also required, 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.E.4)

Settlement Agreement. To complete the pre-service training successfully, all new workers, other than graduates of the BSW Certification Program, must complete four weeks of classroom sessions, participate in four weeks of OJT activities, pass an evaluation focused on the classroom content at the conclusion of the first four weeks of training, and be observed in settings in the course of the OJT weeks in which they demonstrate basic competencies. Graduation from the BSW Certification Program requires successful completion of course work and performance requirements that includes, but far exceeds, what is required for successful completion of the pre-service training.

In 2009, in response to feedback received from case managers who had participated in the pre-service training, the curriculum was modified in five primary ways.

First, rather than continue to alternate one week of classroom training with one week of OJT experience in the field, the revised pre-service training delivers all of the classroom training in the first four weeks, followed by four OJT weeks in the field. This allows a level of continuity and consistency in the OJT experience that case managers found difficult to achieve under the previous structure.

Second, the revised curriculum makes greater use of online training modules. The online training begins with a "values assessment" that new workers complete in advance of the first week of classroom training. Each week of classroom training consists of two days of online content presentation, which include self-check quizzes that allow the participant and the trainer to assess learning of the material just presented. The online component is followed by three days of classroom activity that is primarily focused on application of content to factually-based situations and role playing exercises.

During the classroom portion, the results of the knowledge focused self-check quizzes from the online portion are reviewed. The Consortium trainer facilitating the pre-service learning completes a trainer observation form for each new hire in the group. This trainer observation form is kept as part of the learner portfolio, which is given to the supervisor and submitted to TCCW.

Third, at the conclusion of the four weeks of classroom training, a competency evaluation is conducted for each trainee by a panel consisting of the team leader (whom the case manager is eventually expected to work under), a second DCS employee (such as the field coach, another team leader, a team coordinator, regional administrator, etc.), and a Consortium trainer. The evaluation is organized around a case scenario and the trainee is expected to discuss how he or she would approach the case. In the course of the discussion with the panel, the trainee is expected to demonstrate a sufficient level of mastery of the materials presented in the first four weeks of training.[228]

[228] The panel results in one of three possible options for the new hire: OJT ready, needs extra guidance during OJT, and poor job fit. The panel assessment reflects the following competency areas: communication, engagement, teaming, assessment, child welfare mission and values, self-management, and writing skills. If there are concerns about a new hire's job fit, yet it is still decided for the new hire to continue with OJT, then a follow-up panel will be conducted to re-assess the new hire's ability and job fit. If a second panel is necessary, then a team coordinator, deputy regional administrator or regional administrator should be present.

Fourth, the primary responsibility for providing the OJT experiences lies with the team leader under whom the new case manager is eventually expected to be working. The team leader is responsible for finding appropriate shadowing experiences for the trainee, but the team leader is expected to be directly involved in coaching and mentoring the trainee during OJT weeks, including observing and critiquing the trainees as they handle their "training caseload." During OJT weeks, the new hire's support team is supposed to meet once a week and the DCS monthly performance briefing form is supposed to be completed weekly to monitor the new hire's progress. In addition, the field coach is to be available to assist and/or support the team leader in the assignment of appropriate cases, observing and providing feedback to the team leader and the new hire on strengths and needs that have been identified during the OJT weeks as well as participating and/or coordinating the weekly support team meetings with the appropriate team members.[229]

Fifth, in the ninth week of pre-service training, the final certification assessment is completed. The purpose of the certification assessment is to evaluate the new hire's skill demonstration during OJT. The assessment is not based on one observation, but rather based on many observations, debriefings, weekly supervision sessions and other interactions with the new hire. The assessors focus on skills demonstrated during weeks eight and nine, especially if the new hire has made marked improvement in skill development over the course of OJT. The assessors should include the new hire's supervisor, a second DCS employee (such as the peer support person, field coach, another team leader, a team coordinator, a regional administrator), and a Consortium trainer.[230]

The Department is informed of the completion of pre-service training by new hires through the TCCW by a letter to the training director, the new hire, and the new hire's supervisor. A copy of the letter as well as a copy of the final assessment and professional development plan is supposed to be filed in the Professional Development and Training section of the hard copy personnel file. It is the responsibility of the field coach and the training coordinator to ensure the new worker has made this information available to them to be filed.

The Council on Accreditation (COA) accreditation process requires the Department to have documentation of pre-service and in-service training records in personnel files.[231] Spot checks of DCS personnel files and interviews with DCS staff conducted as part of these spot checks have not identified any instances of staff failing to meet the pre-service training requirements.

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[229] The support team consists of the field coach, the supervisor, and the professional development specialist. The peer support person may also be part of the support team, but is not a required member.

[230] The certification assessment also results in one of three possible options for the new hire: recommended for certification, needs extra OJT time before certification, and poor job fit. The certification assessment includes the same competency areas as the panel assessment: communication, engagement, teaming, assessment, child welfare mission and values, self-management, and writing skills. If there are concerns about a new hire's job fit, assessors can decide that the new hire needs additional OJT time before certification. The team leader or team coordinator must be involved to monitor the situation, a specific Professional Development Plan should be created for the additional OJT time, and the new hire should be observed on a number of occasions in the field for a minimum of one week but no more than two weeks. After the additional OJT time, the Certification Assessment will have to be completed a second time. For the second attempt, the new hire must score 21 or above to be certified.

[231] COA standard HR 7.01.

2. In-service Training for DCS Case Managers

a. In-service Training for Experienced Case Managers

As discussed in detail in previous monitoring reports, in order to ensure that case managers who were hired prior to the implementation of the new pre-service training curriculum met the knowledge and competency expectations of the new curriculum, the Department developed an "in-service" version of the new pre-service curriculum, designed for delivery to this group of experienced case managers. All of the experienced case managers received the pre-service training; however, those case managers did not receive as part of that training a "skills assessment" comparable to the competency evaluation that new workers receive as part of the "pre-service training." As discussed in Subsection B, the Department has subsequently completed a "professional skills assessment" for the large majority of present supervisors. The Department anticipates that the new performance evaluation process (discussed earlier in this section) will include annual and ongoing assessment of case manager practice skills.

b. In-service Training to Meet Annual 40-hour Requirement

Through a combination of required in-service trainings that have accompanied many of the process improvements, practice changes, and Departmental initiatives and optional trainings offered during the year, the Department provides a wide range of in-service training opportunities for case managers.[232]

At the time the TAC issued its last monitoring report, the Department had not yet implemented a tracking system to ensure that DCS case managers are receiving the 40 hours of annual in-service training required by the Settlement Agreement.[233] (V.E.3) Since that time, as discussed in Subsection B above, the Department has started utilizing the Enterprise Learning Management (ELM) portion of the Project Edison system to track the training hours of all DCS employees. As stated before, the transition of legacy training information from the Training Tracking Tool to ELM continues to be in process. Current training hours for 2009-2010 are being entered into ELM by the regional training coordinators; however, much legacy training information from the previous training tracking tool remains to be entered into ELM.

Spot checks of DCS personnel files and interviews with DCS staff conducted as part of these spot checks have not identified any instances of DCS staff failing to meet the in-service training requirements.

3. In-Service Training for DCS Supervisors

[232] The TCCW Curriculum Catalog contains an extensive list of in-service course offerings for case managers.

[233] Notwithstanding the absence of an automated system for tracking and reporting completion of in-service training hours, the Department reasonably believed that most, if not all, of its case managers had been receiving at least 40 hours of in-service training annually because of all of the required training associated with the implementation of new policies, procedures, processes, and practices.

According to the Settlement Agreement, *"all case manager supervisors shall receive a minimum of 40 hours of in-service training that is directed specifically at the supervision of child welfare case workers, prior to receiving any supervisory responsibilities."* (V.E.3)

To meet this requirement, the Training Consortium delivers a five-day (40-hour) supervisor training known as *Supervision Basics*.[234] This training is required for all new (recently promoted) case manager supervisors including case manager 3s, team coordinators, and team leaders. In addition, all existing supervisors who had not previously participated in the training have been required to take either the five-day training or a three-day version of the five-day training. According to the most recent Consortium data, 396 supervisors have completed the five-day version and 117 supervisors have completed the three-day training.[235]

While the Settlement Agreement requires this training to occur before a person assumes supervisory responsibilities, because the number of supervisor positions to be filled at any given time is relatively small, there have been times when a decision was made to delay the training of one or two new supervisors until some "soon to be hired" supervisors were able to join the class.[236]

In addition to the required initial 40 hours of training for new supervisors, the Settlement Agreement requires that *"all case managers with supervisory responsibility shall receive a minimum of 24 hours of in-service training each year."* (V.E.3) To meet this requirement, experienced supervisors can select from a wide range of course offerings, including those provided through the Consortium, as well as those provided by the Tennessee Department of Human Resources.

The Department has been making a concerted effort to provide additional opportunities for supervisory staff to enhance their supervisory and leadership skills, beyond the basic supervisory training and the kind of substantive training that characterizes the bulk of the in-service offerings.

The Department has engaged the Learning Transformation Group, the Center for Applied Research, and Casey Family Services to provide leadership training for DCS staff of various levels of management, both from within Central Office and the regions.[237]

The Department has also begun offering, in collaboration with Middle Tennessee State University (MTSU) and TCCW, a Leadership Academy, consisting of a three graduate credit

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[234] *Supervision Basics* provides information about effective supervisory skills, quality casework, legal issues, ethical responsibilities, leadership skills, team building, personnel issues, and policy and federal laws that impact practice.

[235] New supervisory training is now being recorded and tracked in the Edison system. Once the "legacy" data is added to the system, Edison will be able to generate reports, including tracking the numbers of persons who have completed particular trainings.

[236] The Department and Training Consortium have agreed that supervisory training classes should generally include at least five supervisor trainees; however, there is an ability to negotiate for a smaller class size if necessary.

[237] The Learning Transformation Group and the Center for Applied Research training consists of 10 classroom sessions of applied leadership theory, led by the Learning Transformation Group, and four large group sessions organized around five key DCS projects. Each group has an executive sponsor from DCS or TCCW and an executive coach from the Center for Applied Research to provide ongoing guidance and feedback.

hour online class in leadership theory tailored to meet the need of current and/or potential regional child welfare leaders and a three graduate credit hour field practicum that has at its core a data-based project of importance to regional performance improvement. Forty DCS supervisors (case manager 3s, case manager 4s, and team coordinators) are participating in the Leadership Academy.[238]

4. Private Provider Agency Case Manager Training

As discussed in previous monitoring reports, the Department had been limited in its ability to monitor private provider training to ensure that it is comparable in content and number of hours to that required of the Department's case managers.[239] However, over the past year, the Department has made significant progress in this regard.

Working with TCCW, the Tennessee Alliance for Children and Families (TACF), and private providers, the Department has identified the substantive areas that private provider staff need to cover in their pre-service and in-service training. The Department has established a process for the submission and review of private provider pre-service curricula, training materials, and training schedules. The Department has developed and provided to the private providers a provider staff development guide, a provider agency self-assessment/monitoring tool, and a provider feedback form. These were designed to help the providers understand the key objectives and core content areas of the Department's pre-service training and to help them assess how well their pre-service curricula are meeting those objectives and covering the core content.

The Department is still working with the private providers to clarify expectations related to the competency evaluation component of the pre-service curriculum and therefore has not yet formally approved any private provider pre-service curricula. However, the Department has now received and reviewed pre-service curricula and self-assessment forms from every agency. The Department has found a number of examples of high quality pre-service training that appropriately covers most, if not all, of the expected content; it has also identified some private provider curricula that needed to be supplemented and strengthened, particularly in the areas of engagement, building trusting relationships and clearly articulating activities in their OJT process.

Regarding in-service training expectations, provider agencies are required to submit their in-service training schedules and training plans to the TCCW/DCS program coordinator for review to determine if the topic areas are appropriate based on the level of service provided by the

[238] Those who successfully complete both phases of the program will receive six graduate credit hours from MTSU, which the Department hopes will encourage more direct service supervisors to participate in an MSW program. Thus far, the program has garnered high praise from participants, some of whom have already applied for fall admission to an MSW program.

[239] All private provider agency case managers with comparable responsibilities to DCS case managers must receive the required 160 hours (80 classroom and 80 supervised field practice) of pre-service training and the in-service training (40 hours for case managers and 24 hours for supervisors) required by the Settlement Agreement.

private agency. Based on the reports from both licensing and PAR, private provider staff appear to be routinely meeting the pre-service and in-service training hour requirements.[240]

E. Additional Requirements for Improving Workforce Quality (V.C)

The Settlement Agreement required the Department, in consultation with the TAC, to develop and implement stipends and other incentives to support graduate work as part of ensuring that the Department is able to hire and retain case managers with undergraduate and graduate degrees in Social Work and related fields. (V.C)

The Settlement Agreement also required the Department to assess and determine whether salary increases are necessary to ensure that Tennessee is competitive with neighboring states concerning compensation for case managers and supervisors. (V.C)

As discussed in greater detail in previous monitoring reports, the Department has established a variety of stipend and incentive programs for both undergraduate and graduate work and has significantly increased salaries in accordance with recommendations of the salary comparability study that was required by the Settlement Agreement.

1. Stipend Programs (V.C)

The Department's BSW Stipend Program allows qualified students in the BSW Certification Program to receive tuition assistance and a financial stipend for up to four semesters in exchange for a commitment to work for DCS as a case manager upon graduation. For each semester that the student receives assistance, the student commits to working for six months for the Department.

The BSW Stipend Program began in 2004 and the first stipend students graduated in May 2005. As of May 2010, there have been 322 participants in the BSW Stipend Program, of which 278 graduated, 22 are presently enrolled, and 12 left the program before graduating.

Of the 278 graduates, 164 are currently employed by the Department. Of the 114 not currently employed by the Department, 54 graduated in May and are expected to be hired within 90 days of graduation. Five other former stipend students who graduated in May are presently pursuing MSW degrees and are expected to come to work for DCS upon graduating in May 2011.[241]

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[240] The Performance Accountability Reviews (PAR) of personnel files include a review of documentation of pre-service and in-service training looking at the number of hours and, to some extent, the topics covered by the training. However, PAR does not review the content of the curriculum or know the extent to which the training "corresponds" with that required of DCS case managers. As discussed earlier in this section, review and approval of private provider training curriculum is the responsibility of TCCW and the Department's training division.

[241] MSW stipend students make the same year-for-year commitment to work for the Department as BSW stipend students make. If they received a stipend to complete two years of the MSW program, then they are committed to working for DCS for two years. If they received a stipend to complete two years of a BSW program and then, as

Thirty-one graduates who were hired by the Department subsequently left DCS. Of those, 26 resigned for a variety of reasons, most after accepting other positions and five were terminated for unsatisfactory performance. Twelve of those who left completed their employment obligation before leaving.

Twenty-four other graduates never came to work for DCS. All have been or are being contacted by DCS to determine whether they intend to honor the agreement. Those who choose not to come to work will be required to repay any funds expended by DCS towards their education, as will the 10 students who withdrew from school without fulfilling their commitment. Those students who are hired by the Department, but do not complete two years of service,[242] are required to repay the Department on a pro-rated basis.[243]

The Department also hired 22 graduates of the BSW Certification Program, who did not participate in the stipend program. Eighteen are currently employed by the Department. Two were terminated for unsatisfactory performance and two resigned.

The Department anticipates that there will be approximately 90 BSW students enrolled in the stipend program in fall 2010.

2. MSW/MSSW Stipend Program (V.C)

The Department's MSW/MSSW stipend program allows qualified MSW/MSSW students employed by the Department to receive tuition assistance and a financial stipend in exchange for a commitment to work for the Department as a DCS case manager upon graduation. As is the case for the BSW stipend program, for each year that the student receives tuition assistance and a stipend, the student agrees to work a year for the Department upon graduation.

One hundred forty DCS employees have participated in the MSW/MSSW program. Of those, 52 received an MSW/MSSW degree since the program began (22 of them graduating this May) and 41 of these graduates are presently employed by the Department.[244]

There will be approximately 80 participants in the program at the start of the 2010-2011 academic year.

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these three students have done, immediately went into the one year MSW advanced standing program and received a stipend, they are committed to working for DCS for three years after graduation.

[242] This includes students who are terminated from DCS employment during the two years.

[243] Each student is notified by certified mail that the Department intends to collect any funds owed by the student for their unfulfilled commitment. Each student is given the opportunity to establish a payment plan with DCS. If the student is unwilling (or unable) to negotiate a payment plan, DCS uses one of two collection methods. If the student's balance is less than $10,000, the account is turned over to a collection agency contracted by the state. If the amount is in excess of $10,000, the account is turned over to the Attorney General's office for collection and possible litigation.

[244] Collection activities have begun for the employees who have left without completing their employment obligation.

3. Salary Adjustments (V.C)

In 2003, the Department initiated a special three-year salary adjustment process in response to the findings of the salary comparability study required by the Settlement Agreement. (V.C) That three-year adjustment was completed in 2006. In addition, as a result of general salary increases applied to a broad range of state government positions, case manager salaries were increased by an additional 3% in fiscal year 2007-2008. Table 11 lists the case manager salary ranges for 2003, 2006, and 2007-2010.

Table 11: Salaries for DCS Case Carrying Positions for 2003, 2006, and 2007 - 2010

Class Title	2003	2006	2007- 2010
Case Manager 1	$22,500 –$35,412	$29,376 – $40,968	$30,252 – $42,192
Case Manager 2	$25,476 – $40,884	$33,312 – $46,452	$34,308 – $47,844
Case Manager 3	$26,580 – $45,576	$34,656 – $48,348	$35,700 – $49,800
Team Leader	$28,860 – $46,128	$37,740 – $52,644	$38,868 – $54,228
Team Coordinator	$34,584 – $54,264	$44,772 – $62,460	$46,116 – $64,332

Source: Department of Children's Services, Office of Human Resource Development.

F. Provisions Related To Caseloads and Case Coverage (V.A, V.D, V.E, V.F, V.G)

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.

1. Caseload Limits

The caseload limits apply to caseloads carried by DCS case managers and also caseloads carried by private provider case managers who have comparable responsibilities to those of DCS case managers. (V.A)

The Settlement Agreement (V.D, V.F) establishes the following maximum caseloads for case managers and supervisors:[245]

[245] 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 working level 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

- new case manager who has not completed training and certification: training caseload only; (V.D)
- case manager 1: 15 children; (V.F)
- case manager 2 or case manager 3 with no supervisory responsibilities: 20 children; (V.F)
- a case manager 3 who supervises one to two case managers: 10 children; (V.F)
- a case manager 3 who supervises three to four case managers: 0 children; (V.F) and
- a case manager 4: 0 children. (V.F)

The Settlement Agreement established caseload limits of 12 for "adoption unit case managers." (V.F) However, the Department has as part of its reform effort eliminated the separate case carrying adoption unit.[246]
The Settlement Agreement also provides that *"for those workers carrying a mixed caseload," those workers shall carry no more than the "weighted equivalent, as those weights have been determined in consultation with the Technical Assistance Committee."*

While many case managers have caseloads that include "non-*Brian A.* cases" ("juvenile justice" cases or "non-custodial" cases), the Department has consistently taken the position, at least with respect to mixed custodial caseloads, that if there is at least one *Brian A.* case on a case

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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 or field office or a single/small residential program, 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.

[246] Under the "one worker/one child" approach, the child's case manager is responsible for that child until the child reaches permanency, including permanency through adoption. The Department has eliminated the "handoff" from a "foster care unit case manager" to an "adoption unit case manager" of children whose permanency goal becomes Adoption.

Adoption Specialists or Permanency Specialists, instead of handling caseloads, are to help provide the Child and Family Team and the case manager with expertise in the adoption process and assistance in identifying and carrying out the variety of tasks associated with moving a child toward successful adoption. Their job is to support the case manager with completing the adoption paperwork and locating homes for children with no identified permanent families.

Adoption Specialists or Permanency Specialists continue to intermittently be assigned CPS "overflow" cases, in some situations in response to vacancies, or medical/maternity leave and in other situations simply to support closer compliance to COA standards for CPS caseloads. During the spring of 2010, almost every region had a number of non-caseload carrying staff from permanency specialists to court liaisons and resource parent support staff assisting CPS. The utilization of these staff depends in large measure as to whether they had ever done CPS work or were able to participate in CPS specialty work training.

As discussed in the September 2007 Monitoring Report, in some regions where there have been large percentages of vacancies (as a result of both turnover and case managers being out on medical or maternity leave) the permanency specialists who were formerly adoption workers have been assigned cases. All *Brian A.* cases, regardless of the case manager carrying the case, are counted when the caseload cap report is run. However, permanency specialists still carry the adoption worker position number in TNKids and they would therefore be reported as being in or out of compliance based on whether they were within the 12 child caseload limit established by the Settlement Agreement for the "adoption unit case managers."

Apart from the exceptional circumstances of the type experienced by the East region in the spring of 2007 and discussed in the December 2008 Monitoring Report, the Department maintains that the only other non-caseload carrying staff who should currently be carrying cases are adoption/permanency specialists and those staff are only supposed to be carrying the cases of children with whom they had been involved at the time of the transfer to the one child/one worker model.

manager's caseload, the caseload cannot exceed the *Brian A.* caseload limits and must be reported on that basis.[247]

The Department is in the process of developing a caseload measure that anticipates that more case managers will be handling mixed caseloads of both custodial and non-custodial cases. Under this new caseload measure, which will include a caseload limit of 25 "cases," non-custodial casework with a single family will count as one case, irrespective of the number of children in the home; custodial cases, on the other hand, will not only count each child in custody as one case, but will add one case to that count for each family that the case manager is working with (if reunification is the goal).

The TAC had originally understood that, based on analysis of similar approaches to measuring mixed caseloads in other states, the Department believed that the number of individual children that any case manager would be working with under this weighted caseload measure would be 20 or fewer (and 15 or fewer for a case manager 1). While that is true for mixed custodial caseloads (and in fact such mixed custodial caseloads would be smaller than under current *Brian A.* limits), it is not clear that it would be true for mixed custodial and non-custodial caseloads. The Department is considering whether to propose a mixed caseload weighting for caseloads that include both *Brian A.* and non-custodial cases, for the TAC to review, consistent with the present Settlement Agreement provisions.[248]

In any event, the Department has committed to continue to track and report the number of individual children that any case manager with a *Brian A.* case is working with at any given time and to ensure that irrespective of any new caseload measure, the number of individual children on that case manager's caseload does not exceed the applicable *Brian A.* caseload limit.[249]

a. DCS Case Manager Caseloads

As has been noted in previous monitoring reports, one of the most significant accomplishments of the Department's reform effort has been the reduction of caseloads to manageable limits. In the early years of the reform, the Department dramatically increased the number of front-line case manager and supervisor positions. Over the past several years, the Department has been tracking and reporting regional caseloads on a monthly basis to identify regions experiencing the

[247] This commitment to reporting the number of individual children that any case manager is working with at any given time will address the concern raised in previous monitoring reports about the inconsistency in the way in which regions have reported caseloads that include a mix of non-custody (FSS) and custodial children (at least one of whom is a *Brian A.* class member). While every region in these mixed caseload situations counted every child in custody as a single case, irrespective of whether they were part of a sibling group, some regions have counted a non-custodial case involving a sibling group in a single FSS-served household as one case. Thus in at least some regions, a case manager who was responsible for one *Brian A.* child, 10 non-custodial children from 10 separate households, and 12 children from sibling groups involving four different households, would be responsible for 23 children, but for purposes of *Brian A.* aggregate caseload reporting, could be reported as having only 15 cases.

[248] The plaintiffs have taken the position that DCS must count all individual children assigned to any one case manager who is assigned to at least one class member.

[249] This would also include reporting on the number of non-custodial cases making up any caseload that includes a *Brian A.* class member.

greatest difficulty keeping caseloads within limits and has allocated additional positions to those regions.[250]

The table below presents the extent to which statewide and regional case manager caseloads from July 2008 through December 2009 were within the caseload limits established by the Settlement Agreement to ensure that caseloads are small enough to allow effective work with families and children. (V.F.) As is reflected in the table, about 97% of case manager caseloads statewide fall within the established caseload limits (between 94.4% and 98.6%) over the 18 months of reporting.

The table also reflects the regional variation. Between July 1, 2008 and December 1, 2009 six regions had caseload compliance rates above the statewide 18-month average of 96.7% and five other regions had compliance rates between 94.3% and 96.3%. Only one region, Upper Cumberland, had a compliance rate (91.1%) that was more than five percentage points lower than the statewide average. However, it should be noted that this percentage both exceeds the statewide average for the previous 18-month period (January 2007 through December 2008) and reflects a significant improvement for Upper Cumberland over its own compliance rate for that previous period (84%).

[250] The Department has a work group, which includes fiscal, human resources, and program staff to strengthen and monitor this process. The Department is trying to make sure that the Office of Human Resource Development (HR) and the Department of Finance and Administration (FA) are communicating when there is a resignation or other changes in an employee's status, and they are tracking the information with supervisors on caseload reassignment (FA tracks information through TNKids). The annual rightsizing effort is an example of one of the accomplishments of the work group. The Department has continued to monitor regional caseloads and vacancies on a monthly basis. The budget for fiscal year 2010-2011 has somewhat limited the Department's ability to rapidly fill positions. However, careful analysis and monitoring of *Brian A.* caseloads continues to indicate compliance. Executive staff in the Commissioner's Office will be completing an enhanced rightsizing review with each region to support on-going compliance.

Table 12: Case Manager Caseload Limit Compliance Rates, July 2008 through March 2009									
	Jul-08	**Aug-08**	**Sep-08**	**Oct-08**	**Nov-08**	**Dec-08**	**Jan-09**	**Feb-09**	**Mar-09**
Southwest	100%	100%	100%	100%	100%	100%	100%	100%	100%
Mid-Cumberland	96.8%	100%	99%	100%	100%	100%	100%	100%	100%
Northwest	100%	100%	100%	100%	100%	100%	100%	100%	100%
Davidson	100%	98.5%	100%	100%	100%	100%	100%	100%	100%
Shelby	97.4%	98.2%	96.4%	95.2%	95.3%	95.3%	95.2%	99.0%	98.9%
Southeast	91.9%	94.6%	94.4%	100%	100%	100%	97.3%	97.2%	97.1%
Statewide	**95.2%**	**95.4%**	**94.4%**	**96.4%**	**97.1%**	**97.4%**	**96.6%**	**98.6%**	**98.2%**
South Central	100%	100%	100%	95.9%	92.0%	96.0%	96.0%	96.0%	96.1%
Northeast	92.1%	98.3%	96.6%	95.1%	98.3%	94.9%	96.7%	98.3%	93.0%
East	95.9%	86.9%	87.1%	96.8%	94.5%	96.9%	93.6%	96.8%	100.0%
Knox	86.4%	86.4%	80.0%	88.1%	95.4%	93.0%	91.1%	100%	97.7%
Hamilton	92.3%	94.9%	97.2%	100%	97.2%	97.4%	95.0%	97.4%	92.7%
Upper Cumberland	84.8%	91.8%	87.9%	86.4%	96.6%	96.8%	96.7%	100%	98.3%

Source*: Brian A.* Caseload Limit Compliance Report July 2008 through March 2009.

Table 12 (continued): Case Manager Caseload Limit Compliance Rates, April 2009 through December 2009										
	Apr-09	**May-09**	**Jun-09**	**Jul-09**	**Aug-09**	**Sep-09**	**Oct-09**	**Nov-09**	**Dec-09**	**Averages for Jul-08 to Dec-09**
Southwest	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
Mid-Cumberland	100%	100%	100%	100%	100%	100%	100%	100%	100%	99.8%
Northwest	100%	97.1%	97.1%	100%	96.9%	100%	100%	100%	100%	99.5%
Davidson	100%	100%	100%	100%	98.2%	94.9%	96.6%	100%	94.8%	99.1%
Shelby	99.0%	98.1%	95.3%	100%	99.0%	100%	96.8%	98.0%	99.0%	97.6%
Southeast	97.2%	97.3%	97.3%	94.6%	100%	97.2%	100.0%	97.2%	94.4%	97.1%
Statewide	**97.7%**	**96.5%**	**96.2%**	**97.0%**	**97.6%**	**96.2%**	**96.9%**	**97.1%**	**96.1%**	**96.7%**
South Central	98.0%	95.9%	91.3%	95.9%	95.8%	95.7%	94.2%	96.3%	98.0%	96.3%
Northeast	95.1%	93.6%	95.0%	96.6%	94.9%	93.0%	96.5%	96.6%	92.9%	95.4%
East	94.9%	93.8%	95.0%	95.6%	97.4%	97.4%	99.1%	99.1%	92.9%	95.2%
Knox	100%	93.0%	97.6%	100%	100%	100%	100%	97.9%	97.9%	94.7%
Hamilton	92.1%	91.9%	94.6%	91.9%	91.7%	85.7%	94.1%	94.4%	97.1%	94.3%
Upper Cumberland	96.4%	96.2%	92.5%	86.0%	94.2%	82.4%	82.4%	81.5%	88.5%	91.1%

Source: *Brian A.* Caseload Limit Compliance Report April 2009 through December 2009.

It is important not only to know what percentage of caseloads exceeds caseload limits during a particular month, but also to know by how many cases those caseloads exceed the limits. A caseload that is one or two cases over the limit creates a much lesser burden 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.

As reflected in Table 13 below, of the 24 case managers whose caseloads as of December 1, 2009 exceeded the applicable caseload limit, 14 of those workers exceeded those limits by just one to two cases. There were five workers with caseloads that were three to five cases over the limit. There were five workers with even larger caseloads: four workers who were six to 10 cases over the limit and one worker who was 11-20 cases over the limit.[251] Of those five case managers whose caseloads exceeded the limits by six or more cases, two were from Upper Cumberland, and one each were from East, Northeast, and Southeast.[252]

Table 13: Caseloads Exceeding *Brian A.* Standards by Position as of December 2009

Job Class/Position	1-2 Cases Over Limit	3-5 Cases Over Limit	6-10 Cases Over Limit	11-20 Cases Over Limit
Case Manager 1	5	3	0	0
Case Manager 2	4	1	2	0
Case Manager 3 (Non-Supervisor)	0	0	0	0
Case Manager 3 (Supervisor 1-2)	3	1	1	0
Case Manager 3 (Supervisor 3-4)	0	0	1	0
Case Manager 3 (Supervisor 5+)	0	0	0	0
Case Manager 4	1	0	0	1
Case Manager 4 (Filling Vacancy)	1	0	0	0
Totals:	**14**	**5**	**4**	**1**

Source: *Brian A.* Caseload Threshold Employee Compliance Exception Report as of December 1, 2009.

[251] Two of these over the limit caseloads involved workers whose caseload was composed almost entirely of non-*Brian A.* cases. If one of the unruly or neglected or abused children on a non-custodial caseload comes into custody, the case will at that time be on that case manager's "tree," even if the case is promptly transferred to another case manager with a *Brian A.* caseload. This was the case for two of the case managers discussed in the text above; one whose caseload was identified as having been more than 17 cases over the limit in December and one whose caseload was identified as having been more than eight cases over the limit. By February, these cases had been reassigned and the juvenile justice case manager had no *Brian A.* cases.

[252] The regions that have had the greatest difficulty keeping caseloads within the *Brian A.* caseload limits have been regions which have consistently experienced high turnover/vacancy rates. As discussed in more detail on page 153, the current state budget has not allowed the Department to do "over-hiring;" however, the Department has worked to establish a bank of vacant positions that can be deployed in response to staffing needs.

For the 19 case managers who as of December 1, 2009 were carrying caseloads of one to five over their respective limits, TAC monitoring staff examined these case managers' caseloads for January and February 2010 to determine if the caseloads returned to the level of compliance. By February 2010 the caseloads of 11 of the 19 case managers were back within the caseload limit, five were one to two cases over the limit, and three were three to five over the limit.

For the five case managers who as of December 1, 2009 were carrying caseloads of six or more over their respective caseload limits, TAC monitoring staff examined these case managers' caseloads for January and February 2010 to determine if the caseloads returned to the level of compliance. By February, the caseloads of three of the five case managers were back within the caseload limits; of the remaining case managers, one had a caseload that was seven over the limit and the other had a caseload that was eight cases over the limit.

b. DCS Supervisor Caseloads

Table 14 presents the numbers of supervisors, statewide and by region, whose supervisory workloads over the 18-month period from July 2008 through December 2009 were within the five to one supervisee to supervisor workload limit, which under the Settlement Agreement standards, are considered small enough to allow effective supervision. (V.F) As is reflected in the table, expressed as a statewide 18-month average, 96% of supervisors had manageable workloads over that period, with regional averages for that time period ranging from 92.8% to 99.7%.

Table 14: Supervisor Caseload Limit Compliance Rates, July 2008 through March 2009									
	Jul-08	**Aug-08**	**Sep-08**	**Oct-08**	**Nov-08**	**Dec-08**	**Jan-09**	**Feb-09**	**Mar-09**
Mid-Cumberland	100%	100%	100%	100%	100%	100%	94.7%	100%	100%
South Central	92.9%	100%	100%	100%	100%	100%	100%	100%	100%
Southwest	100%	100%	100%	100%	100%	100%	100%	100%	100%
Northwest	100%	100%	100%	100%	100%	100%	100%	100%	100%
Hamilton	100%	100%	90.0%	100%	100%	100%	100%	100%	91.7%
Northeast	92.9%	100%	92.9%	100%	100%	92.9%	86.7%	100%	100%
Upper Cumberland	88.9%	94.7%	100%	94.7%	100%	94.7%	94.4%	94.4%	94.4%
Statewide	**93.9%**	**96.5%**	**93.9%**	**95.4%**	**95.3%**	**93.2%**	**91.7%**	**95.2%**	**98.4%**
Davidson	100%	100%	92.9%	93.3%	100%	93.3%	93.3%	92.9%	92.9%
Shelby	92.6%	100%	96.3%	91.7%	87.0%	87.0%	87.0%	100%	100%
East	86.2%	83.3%	80.0%	89.7%	90.0%	86.2%	86.2%	88.9%	100%
Knox	92.3%	100%	92.3%	92.3%	84.6%	84.6%	85.7%	86.7%	100%
Southeast	90.9%	90.9%	90.9%	90.9%	90.0%	90.0%	81.8%	81.8%	100%

Source*: Brian A.* Supervisor Caseload Limit Compliance Report for July 2008 through March 2009.

Table 14 (continued): Supervisor Caseload Limit Compliance Rates, April 2009 through December 2009										
	Apr-09	**May-09**	**Jun-09**	**Jul-09**	**Aug-09**	**Sep-09**	**Oct-09**	**Nov-09**	**Dec-09**	**Averages for Jul-08 to Dec-09**
Mid-Cumberland	100%	100%	100%	100%	100%	100%	100%	100%	100%	99.4%
South Central	100%	100%	100%	100%	100%	100%	100%	100%	100%	99.2%
Southwest	100%	100%	100%	100%	91.7%	91.7%	100%	100%	100%	100%
Northwest	100%	100%	90.0%	88.9%	100%	100%	88.9%	87.5%	100%	100%
Hamilton	90.9%	90.9%	90.9%	90.9%	100%	100%	100%	100%	100%	98.0%
Northeast	92.9%	93.3%	85.7%	100%	100%	100%	100%	100%	100%	96.1%
Upper Cumberland	100%	100%	100%	100%	100%	100%	93.8%	93.8%	93.3%	95.2%
Statewide	**97.9%**	**96.8%**	**94.7%**	**98.4%**	**98.4%**	**97.3%**	**95.6%**	**96.1%**	**98.9%**	**94.8%**
Davidson	92.9%	100%	100%	100%	86.7%	86.7%	86.7%	100%	100%	95.4%
Shelby	100%	87.5%	83.3%	100%	100%	95.2%	100%	86%	100%	93.5%
East	100%	100%	96.7%	100%	100%	100%	92.0%	100%	100%	87.8%
Knox	100%	100%	100%	100%	100%	93.8%	86.7%	84.6%	92.9%	91.0%
Southeast	90.9%	90.9%	90.9%	90.9%	100%	100%	100%	100%	100%	89.7%

Source*: Brian A.* Supervisor Caseload Limit Compliance Report for April 2009 through December 2009.

It is important not only to know what percentage of supervisors have workloads that exceed the five supervisee limit during a particular month, but also to know by how many supervisees they exceed that limit. Supervising six case managers instead of five creates a much lesser burden on a supervisor than supervising seven or eight. It is, therefore, important to look at the number of supervisees supervised by those supervisors whose workloads were over the limit in any given month.

There were only two supervisors whose workloads, as of December 1, 2009, exceeded the supervisor/supervisee standard and both exceeded the standards by just one supervisee.

c. Private Provider Caseloads

Under DCS policy, reflected in the *Private Provider Manual*, private provider case managers and supervisors with comparable responsibilities to the DCS case manager are required to comply with the caseload limits applicable to DCS case managers and supervisors. In addition, the provider manual places further restrictions on private provider caseloads that include medically fragile children or children in therapeutic foster care. A caseload composed entirely of such children can be no greater than 10 and for a mixed caseload, the caseload limit is twenty, with each medically fragile child or child in therapeutic foster care counting as two cases. Because children in therapeutic foster care and medically fragile children make up about 60% of the children served by private providers at any given time, private provider case manager caseloads have historically been subject to much lower limits than those established by the Settlement Agreement.

Private provider caseloads are routinely monitored as part of the annual Licensing and PAR reviews. It is a rare occurrence for these reviews to find a private provider with caseloads in excess of the caseload limits.[253]

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

Staff turnover has always been a significant problem for the Department. While there appears to be some improvement in turnover rate, high turnover continues to be a challenge. In order to ensure that there are sufficient staff to maintain required caseloads in each region, the Settlement Agreement requires "over-hiring" for any region in which annual turnover rate exceeds 10% and where reassigned cases are transferred to workers already at caseload limits. (V.G)

The Department has developed a process for tracking, reporting, and responding to regional turnover. As discussed in previous monitoring reports, the Tennessee Department of Human Resources had approved the use of overlap positions ("over-hires") for regions that have an annual turnover rate over 10%. Since turnover rates in excess of 10% still exist across the state, the Department had developed a pool of case managers ("over-hiring") that could be deployed to regions experiencing high turnover.

[253] TAC monitoring staff are aware of one PAR report (from October 2008) involving a private provider with seven case managers with caseloads over the contract limit and one supervisor who was supervising six case managers, one more than the contract limit. Those findings were promptly addressed through a corrective action plan.

As a result of efforts to cope with state budget challenges, the Department has not been able to continue blanket approval of these overlap positions. The Department has continued to closely monitor on a monthly basis both caseload limits and vacancies to assure that each region has adequate positions and staff to maintain appropriate caseloads. While the Department no longer has an "over hire" pool, it has established a "bank" of vacant positions that can be shifted to specific regions in response to staffing needs, including those related to high turnover.

For regions with an annual turnover rate over 10%, the Department had intended that each region in consultation with the Central Office would develop a strategic plan that would include setting specific turnover reduction goals. While there were some early efforts to develop these regional plans, the Department recognizes that this is an area which needs renewed focus.[254]

The table below presents the annualized turnover rates for January 2009 through December 2009.[255] Increases in turnover were seen for case manager 1 positions where the annualized turnover rate went from 15% (for January 2008 through December 2008) to 27% (for January 2009 through December 2009). The Department attributes this increased turnover to a concerted effort to use the pre-service training and competency evaluation process to weed out newly hired case managers who do not have the required skills and temperament to be retained and promoted to case manager 2.[256] Other positions only varied a few percentage points between 2008 and 2009, except for team coordinator positions, that experienced no annualized turnover during the period of January 2009 through December 2009.

[254] The Department had created a statewide workgroup to look at turnover and to develop strategies to reduce staff turnover. That work group did not have the impact that had been hoped for. At this point, a high level Central Office Human Resources staff person is assigned to work directly with each of the regional administrators to discuss turnover rates and develop strategies to address turnover. This staff person has monthly face-to-face conversations with each regional administrator.

[255] Only separations from the Department are calculated in this turnover rate. 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. While the current Human Resources data system does not have the ability to report on promotions or lateral moves, it is critical that the Department examine and respond to the impact of this kind of "turnover." The Edison system is able to capture transfers of DCS staff to and from other Departments, but does not have the capacity to produce aggregate reports on promotions or lateral moves.

[256] The increased turnover rate for CM1 may also be in part attributable to the increasing numbers of new hires from BSW programs (who are hired as CM2s rather than CM1s) and the consequent reduction in the number of persons hired as CM1s. The drop in those hired as CM1s has therefore coincided with the increased number of CM1s "weeded out" during the pre-service training process. In August 2008 the Department experienced turnover in 19 of 309 CM1s positions; in August 2009, there was a turnover of 67 out of a total of 203 CM1 positions.

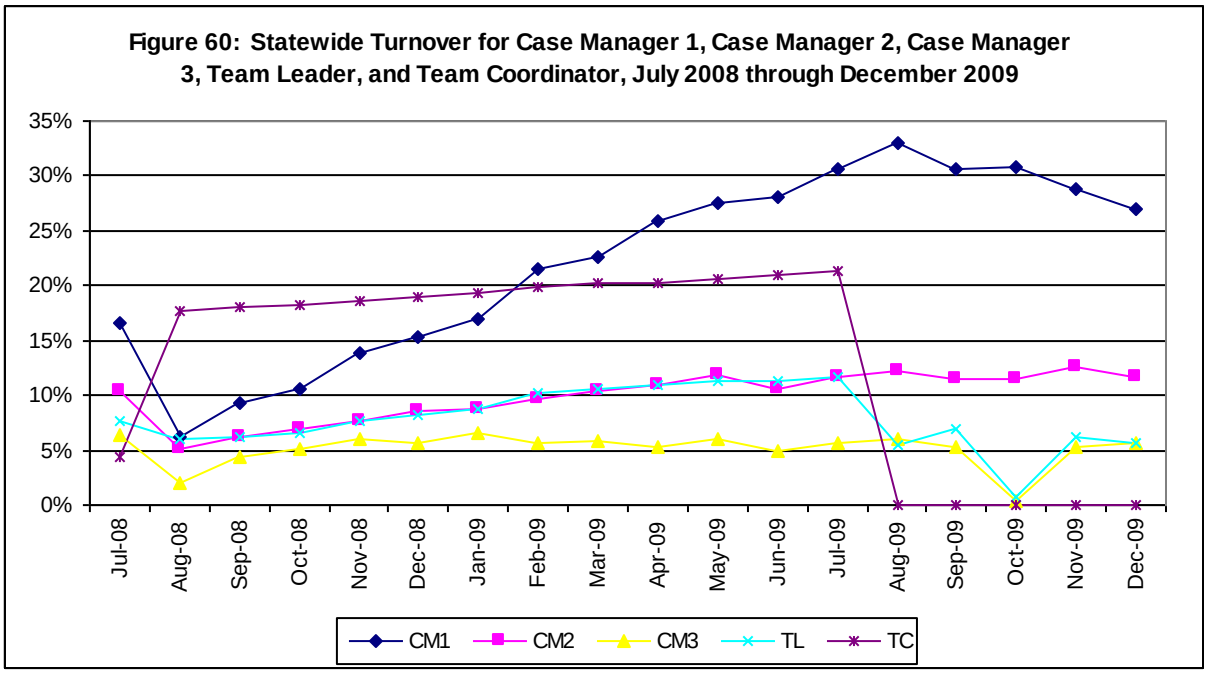
Table 15: Percentage of Annualized Case Manager Turnover by Region, January 2009 through December 2009					
	Case Manager 1 Turnover	Case Manager 2 Turnover	Case Manager 3 Turnover	Team Leader Turnover	Team Coordinator Turnover
Davidson	76.9%	14.7%	13.2%	12.5%	0.0%
East	21.5%	13.4%	0.0%	4.3%	0.0%
Hamilton	0.0%	15.4%	5.2%	0.0%	0.0%
Knox	21.2%	13.2%	0.0%	0.0%	0.0%
Mid-Cumberland	36.9%	14.0%	11.7%	4.5%	0.0%
Northeast	18.5%	9.5%	9.2%	0.0%	0.0%
Northwest	0.0%	5.5%	0.0%	6.8%	0.0%
Shelby	0.0%	13.7%	7.9%	2.2%	0.0%
Smokey	6.8%	8.0%	0.0%	0.0%	0.0%
South Central	8.6%	13.8%	0.0%	8.5%	0.0%
Southeast	35.0%	8.7%	0.0%	5.2%	0.0%
Southwest	0.0%	6.4%	0.0%	7.3%	0.0%
Upper Cumberland	43.6%	12.8%	6.1%	15.4%	0.0%
Statewide	**27.1%**	**11.8%**	**5.4%**	**5.3%**	**0.0%**

Source: Turnover Data Report, Office of Human Resource Development, calendar year 2009.

Figure 60 below shows the statewide annualized turnover rates from July 2008 through December 2009 for case manager 1, case manager 2, case manager 3, team leader, and team coordinator positions.[257] The figure reflects the steady increase in turnover in case manager 1 positions over that period from a low of 6% in August 2008 to a high of almost 33% as of August 2009, and declining modestly over the next several months to around 27% in December of 2009.[258] Turnover in team coordinator positions was between 18% and 21 % from August 2008 and July 2009, before dropping to 0% for the remainder of 2009. Turnover in case manager 2 positions has gradually increased since August 2008 and has remained somewhat above 10% since March 2009. Team leader turnover was generally less than 10% between July 2008 and December 2009, and CM3 turnover remained generally stable at around 5%.

[257] DCS calculates and presents turnover as an annualized turnover figure for each month. For example, the turnover rate report for June 2008 would be an annualized rate for the 12-month period beginning July 1, 2007 and ending June 30, 2008; the turnover rate report for July 2007 would be for the 12-month period beginning August 1, 2006 and ending July 31, 2007. To figure 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, divide by 12 months to get an average number of employees per month for that region. The separations in that region for the month are then divided by the average number of employees per month to calculate the turnover percentage rate for that region.

[258] See Subsection B.2.b.i for the number of case manager 1 terminations prior to completion of training.

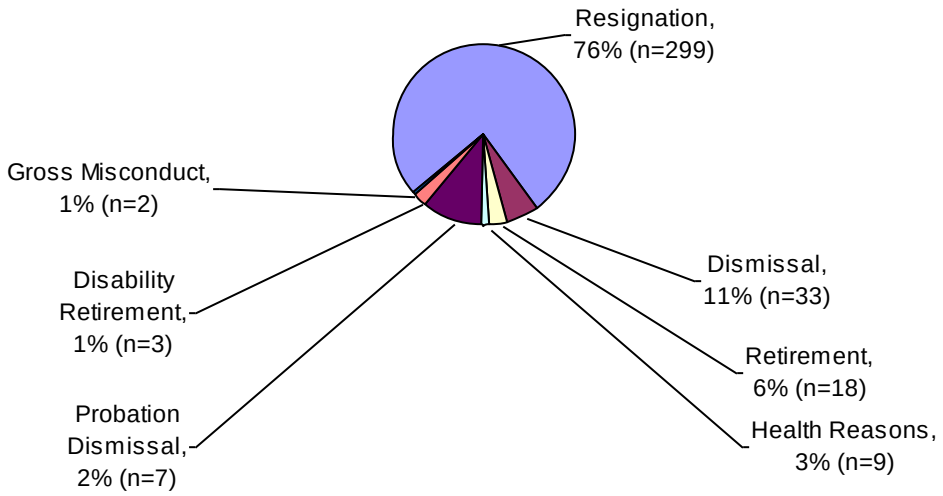


Source: Turnover Data Report, Office of Human Resource Development, July 2008 through December 2009.

The Turnover Data Report also includes information on the reason for the turnover, divided among seven categories: leaving the Department, either by resignation (76%), retirement (6%), disability retirement (1%) or for health reasons (3%), or by involuntary termination (that accounted for only 14% of case manager 2 turnover) such as dismissal (11%), gross misconduct (1%) or probation dismissal (2%).

Figure 61 below reflects that from July 2008 through December 2009, 86% of the case manager 2 turnover was a result of the employee voluntarily terminating employment with the Department. Eleven percent of case manager 2s separated from the Department because the Department terminated their employment, and 6% retired.

Figure 61: Statewide Case Manager 2 Reasons for Separation, July 2008 through December 2009 n=301



Source: Turnover Data Report, Office of Human Resource Development, July 2008 through December 2009.

The Department believes that a key to reducing turnover is to ensure that the applicants for entry level case manager positions understand the nature of the work, have had special Social Work training and field experience to prepare them for the work, and are committed to serving as DCS case managers. For this reason, the Department's primary strategy for reducing turnover is increased reliance on graduates of the BSW Certification Program, discussed in Subsection E above, to provide a pipeline of trained and committed entry level applicants who understand the demands of this kind of work.

In 2009, 64 stipend students were hired into entry level case manager positions (16 more than had been hired in 2008), and approximately 25% of all entry level case managers hired in 2009 were graduates with BSW degrees from one of the schools in the Training Consortium.[259] The Department's Human Resources Division hopes that the percentage of stipend students hired as part of the entry level case manager workforce will continue to rise in coming years.[260] The expectation is that these employees will stay longer because they want to work in public child welfare and have had two years of preparation, including relevant field placement experience, before joining the Department. Because the certification courses are included in the

[259] According to Edison personnel data, there were a total of 243 entry level case managers hired in 2009.

[260] The Department had projected that within five years more than 80% of the entry level case manager workforce would be stipend students; however those projections were based on increasing the maximum number of slots to 200 per year, and therefore having more graduates annually. Fiscal constraints and rising tuition have made it impractical to increase the number of slots. While the total amount budgeted for the stipend program has not been decreased, with increases in tuition, those funds covered fewer students. The stipend amount was decreased by about 50% to allow the Department to continue to fund the same number of slots. In addition, some schools have had difficulty filling their allotted slots because students were reluctant to make the two year employment commitment required. For these reasons, the Department has never filled more than 130 slots per year and in most years has had between 110 and 120 active participants.

undergraduate curriculum, these graduates do not have to complete pre-service training and come to the Department ready to carry a caseload.

The Department is also working aggressively to enroll more employees in graduate level social work or related degree programs. This should translate into employees who are better prepared to assume higher levels of responsibility.

In an effort to better understand regional turnover rates and to identify factors that contribute to turnover so that actions can be designed to address those factors, the Department had developed and implemented an exit interview process. For employees who voluntarily terminated employment and agreed to participate in the process, regional human resources staff attempted to conduct face-to-face interviews with separating employees. The results of the interviews were to be compiled into a report detailing the reasons for termination.

While the Department hoped to use the exit interviews to get a better understanding of why employees who left voluntarily chose to leave, fewer than 50% of departing case managers have been willing to participate in those exit interviews. The Department is currently reexamining the exit interview process to see if participation by exiting staff can be increased. The current exit interview form is also being redesigned to better capture and present exit interview data.

3. Requirements for Case Reassignment (V.F.5)

The Settlement Agreement establishes requirements related to the process for reassigning cases from one worker to another. (V.F.5) 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.[261] However, as discussed in previous monitoring reports, the Department has determined, based on its own assessment of its performance in this area, that it has not been meeting these standards for case reassignment.

[261] It is the Department's expectation that all private providers have policies regarding case reassignment. Effective as of July 15, 2010, the *Private Provider Manual* has been amended to include specific language regarding the case reassignment requirements of the Settlement Agreement.

As noted in the September 2007 Monitoring Report, TNKids does not routinely capture information needed to assess whether the failure to have a face-to-face meeting between the departing worker and receiving worker in a particular case was the result of a "documented emergency" or "leave without notice."

The Department was developing the capacity to use its TNKids system to track and report on case reassignment to ensure that it is able to flag all cases that have not been reassigned within one business day. However, this report was put on hold as a result of resources being shifted to TFACTS. The Department intends to develop in TFACTS a report that will identify those case managers or teams that are having difficulty meeting these requirements. Using information from follow up with these case managers and teams, the Department intends to identify the obstacles to achieving reassignment within the appropriate time frame and implement strategies to overcome these obstacles. The Department anticipates that this reporting and follow up process will be in place by April 1, 2011.

4. Requirements for File Maintenance and Documentation (V.G)

One of the basic requirements for a well-functioning child welfare system is that case files be kept up-to-date and that there are no significant gaps in documents. For that reason, the Settlement Agreement establishes a number of requirements for case file maintenance and documentation. (V.G)[262] The Department's policies require that all child case files be kept in an organized manner, and contain all pertinent information required to effectively manage the case.

The COA standards include a requirement for timely data entry. The self-assessment conducted by DCS as part of the COA accreditation process also identified this as an area in need of improvement. The Department implemented strategies to meet the file maintenance related requirements of COA and the Settlement Agreement.

The Department has developed a monthly report that shows the timeliness of case recording entry, which has been in use since February 2008. If a case recording is entered into TNKids more than 30 days past the date the event occurred, the case manager's name will appear on the report.[263]

As reflected in the table below, between July 1, 2008 and December 1, 2009, the percentage of case recordings entered into TNKids each month within 30 days of the "occurred date" has ranged between 88.7% and 91.3% statewide. There is considerable regional variation. The Southwest, Mid-Cumberland, Shelby, and Davidson regions generally have monthly timely recording rates of around 95%, while Northeast, East, South Central, and Knox are consistently below 90% (with Knox ranging from a high of only 86.5% in September and October of 2008 to

[262] Documentation *"shall be added to the case file…within 30 days of the case work or activity."* The file *"shall contain adequate documentation tracking the service provided, any change in placement…and authorizations which document approval for placements, treatment and services."*

[263] The Department discontinued the CQI process (described in the December 2008 Monitoring Report) which focused on timely entry of case recordings. The Department concedes that this is an area that may need some renewed supervisory attention, at least in poorer performing regions.

a low of 78.6% in December 2009). There is still some work to be done to understand why this regional variation exists and then to take appropriate action in those regions that seem to be struggling with this.

The Department anticipates that the implementation of TFACTS will facilitate timely documentation of case activity. Because TFACTS is a web-based system, case managers can more readily access the system to enter case recordings and other documentation. Alerts and prompts built into the system remind case managers and supervisors of required activities and relevant time lines, encouraging both timely case practice and timely documentation. The integration into TFACTS of so many of the forms and tools that workers use and the ability to scan other documents into TFACTS should make it much easier for a case manager to ensure that documentation is in the file.

Table 16: Percentage of Case Recordings Completed Within 30 days of Occurred Date, July 1, 2008 through March 1, 2009									
	Jul-08	**Aug-08**	**Sep-08**	**Oct-08**	**Nov-08**	**Dec-08**	**Jan-09**	**Feb-09**	**Mar-09**
Davidson	89.4%	89.4%	93.8%	94.5%	94.6%	94.6%	94.5%	94.6%	94.3%
East Tennessee	85.3%	84.9%	88.2%	87.9%	88.1%	87.5%	86.8%	87.5%	87.7%
Hamilton	87.8%	88.0%	91.7%	91.7%	91.9%	92.0%	92.6%	93.5%	93.5%
Knox	83.2%	82.4%	86.5%	86.5%	85.6%	85.3%	84.0%	83.5%	82.7%
Mid-Cumberland	92.8%	92.5%	95.6%	95.8%	96.3%	95.9%	96.1%	96.3%	96.3%
Northeast	86.1%	85.9%	89.6%	88.1%	87.6%	86.8%	85.6%	85.5%	85.2%
Northwest	95.1%	94.3%	95.3%	94.9%	93.9%	92.3%	91.5%	90.0%	90.4%
Shelby	92.8%	91.2%	95.1%	95.8%	95.9%	96.0%	94.7%	94.5%	94.3%
South Central	91.2%	90.8%	91.1%	90.7%	90.2%	89.8%	89.3%	89.1%	89.2%
Southeast	81.5%	81.8%	85.2%	86.3%	86.7%	87.6%	88.1%	90.1%	91.9%
Southwest	94.7%	94.0%	94.4%	94.0%	94.3%	93.0%	94.2%	94.7%	95.0%
Upper Cumberland	90.2%	89.9%	91.1%	91.1%	91.3%	90.2%	89.9%	90.0%	90.0%
Statewide	**88.7%**	**88.2%**	**91.3%**	**91.3%**	**91.2%**	**90.8%**	**90.4%**	**90.6%**	**90.6%**

Table 16 (continued): Percentage of Case Recordings Completed Within 30 days of Occurred Date, April 1, 2009 through December 1, 2009									
	Apr-09	**May-09**	**Jun-09**	**Jul-09**	**Aug-09**	**Sep-09**	**Oct-09**	**Nov-09**	**Dec-09**
Davidson	94.1%	93.7%	94.0%	94.3%	94.5%	94.9%	95.2%	95.6%	95.8%
East Tennessee	88.0%	87.7%	87.6%	87.3%	87.2%	86.6%	87.0%	85.6%	84.7%
Hamilton	93.8%	94.0%	94.4%	93.4%	93.4%	93.2%	93.0%	93.2%	93.1%
Knox	82.3%	81.8%	80.6%	80.7%	80.7%	80.5%	79.4%	78.6%	78.1%
Mid-Cumberland	96.2%	96.6%	96.5%	96.7%	96.8%	96.6%	96.3%	95.9%	95.3%
Northeast	84.9%	83.9%	83.2%	82.9%	82.9%	84.0%	84.5%	85.5%	85.9%
Northwest	91.5%	91.6%	91.7%	91.0%	91.4%	91.8%	92.0%	92.0%	91.6%
Shelby	94.4%	94.7%	94.8%	95.1%	94.9%	94.7%	94.7%	94.6%	94.1%
South Central	89.0%	89.1%	88.8%	88.6%	88.6%	88.5%	87.8%	86.9%	86.5%
Southeast	92.7%	93.5%	94.3%	94.2%	94.4%	94.4%	94.8%	94.8%	94.2%
Southwest	94.7%	94.7%	94.9%	95.0%	95.4%	95.5%	96.4%	96.5%	96.7%
Upper Cumberland	90.7%	91.4%	92.1%	92.6%	92.6%	93.0%	92.2%	91.6%	88.6%
Statewide	**90.8%**	**90.8%**	**90.8%**	**90.7%**	**90.7%**	**90.7%**	**90.6%**	**90.2%**	**89.6%**

Source: *Brian A.* Timeliness of Entry on Case Recordings monthly report for July 1, 2008 to December 1, 2009.

SECTION SIX: PLACEMENT AND SUPERVISION OF CHILDREN

Section VI of the Settlement Agreement contains a broad range of provisions related to assessment, placement, and service provision. The provisions as a whole are intended to ensure that the needs of children and families are identified, that services to address those needs are provided, and that children are placed in the least restrictive settings to meet those needs (in most cases, family like settings).

A. Needs Assessment (VI.A)

The Settlement Agreement requires that the Department conduct a Needs Assessment with annual updates (collectively referred to as the Annual Needs Assessments) during the original five-year period contemplated by the Settlement Agreement. The Settlement Agreement specifies that the recommendations of the Annual Needs Assessments be implemented by the Department, and establishes an additional financial commitment of four to six million dollars each year to fund Needs Assessment recommendations.

Previous monitoring reports have detailed the findings and recommendations of the various needs assessments and the work that the Department has done to implement those recommendations. As a result of stipulations of the parties that extended the original timelines of the Settlement Agreement, the Needs Assessment activities and expenditures related to those activities have extended beyond the five years contemplated by the Settlement Agreement. Over that extended period of time, the Department has made the following annual expenditures in implementing needs assessment recommendations:

Table 17: Needs Assessment Expenditures, Fiscal Years 2004 through 2010

FY 2004	$1,053,550
FY 2005	$1,126,966
FY 2006	$4,276,876
FY 2007	$6,184,190
FY 2008	$7,424,443
FY 2009	$5,931,379
FY 2010	$2,214,922
Total	$28,212,326

Source: DCS Financial Reports.

Actual service expansions and improvements supported by these expenditures exceeded $30,000,000 because for some activities, the Department was able to use the Needs Assessment dollars to leverage additional federal funds.

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B. Placement Standards, Limits and Exceptions (VI.C)

1. General Standard for Appropriate Placement of Children

The Settlement Agreement establishes as the general standard for placement that children be placed in accordance with their needs, as close to home and community as possible, and in the least restrictive, most home-like setting, with siblings. (VI.C.5)

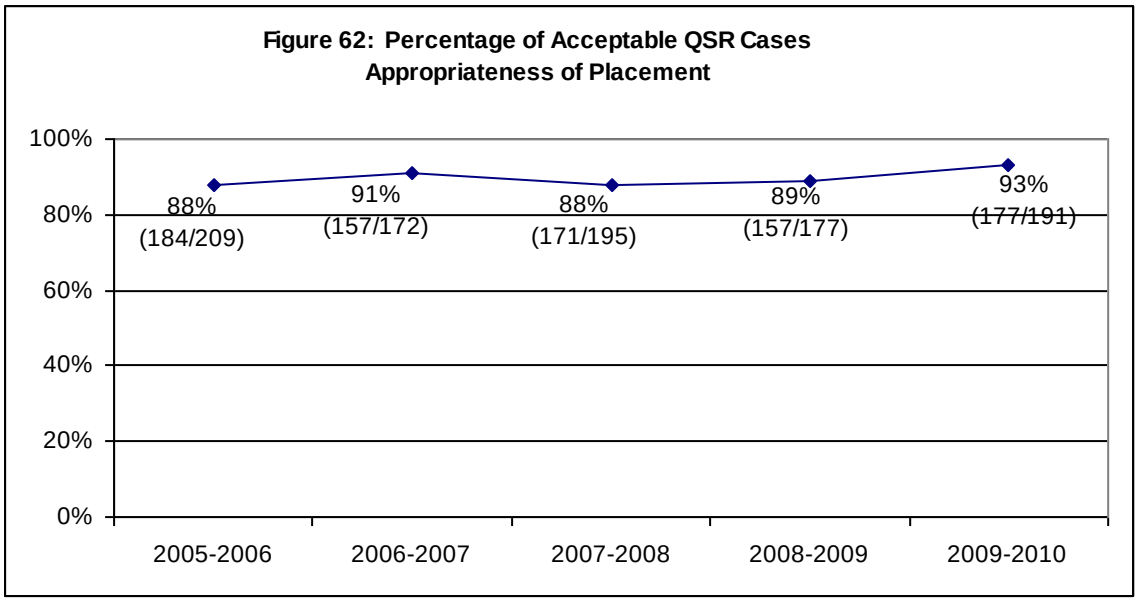
Some of the TNKids aggregate data reports shed light on the Department's performance with respect to this general standard. For example, as discussed earlier in this report, approximately 90% of children in care are served in resource family settings rather than congregate care, an indication of considerable success in finding "home-like" placements for most children. On the other hand, many children experience multiple placements, suggesting that a significant number of children are placed in resource homes or congregate care settings that prove unable to meet their needs.

The Quality Service Review (QSR) also provides some data relevant to this general standard. The QSR indicator for Appropriateness of Placement requires the reviewer to consider whether the child, at the time of the review, is in the "most appropriate placement." To receive a minimally acceptable score on this indicator, the reviewer must find that: the placement is consistent with the child's needs, age, ability, and peer group, as well as the child's language, culture, and/or religious practice;[264] the child is in the least restrictive environment; the child is in a placement that is a good match for the child; and the child maintains some connections with his/her community.

Figure 62 presents the number and percentage of *Brian A.* cases receiving acceptable scores for Appropriateness of Placement in the past five annual QSRs.[265]

[264] Among the cases from the 2006-2007 QSR that were scored unacceptable on this indicator was that of a Hispanic child who spoke very little English placed in a home with resource parents who did not speak Spanish.

[265] In the 2005-2006 QSR, the Appropriateness of Placement indicator was not scored for 18 children who were on a trial home visit, placed in-home, or exited custody to permanency or aged out. All cases were scored for Appropriateness of Placement in the 2006-2007, 2007-2008, 2008-2009 and 2009-2010 QSRs.



Source: Annual QSR finalized databases.

2. Specific Placement Limitations

Consistent with and in furtherance of the general standard for appropriate placement, the Settlement Agreement creates a set of specific limitations on settings and circumstances of the placement of class members and identifies circumstances under which departure from those limitations is acceptable. (VI.C) The Settlement Agreement also requires that the Department establish a process of high-level supervisory review, acknowledgement, and approval of placements that depart from those limitations. (VI.C.1,2,7,8,9) The purpose of that process is to document those instances of departure from the placement limitations, explain the circumstances that resulted in the departure, and determine whether the departure falls within one or more of the permissible exceptions to the placement limitation (compliant exception) or does not fall within one of those exceptions and thus constitutes a violation of the Settlement Agreement (non-compliant exception).[266]

There have been two primary sources of information on which the Department has relied in tracking and reporting on its progress in ensuring placements that comply with the placement limitations. First, there are a number of aggregate data reports that the Department produces from the TNKids database that provide relevant information on many of the placement

[266] The distinction between a compliant and a non-compliant exception is not necessarily the same as the distinction between a reasonable placement decision and an unreasonable placement decision. For example, an exception to allow a large sibling group reentering care to live with the resource parent they had lived with before, even if there is now one other foster child in that home, would be both reasonable and "compliant" for the children in that sibling group if the regional administrator concludes this is the best placement for the children involved and the amount of risk created by having one additional child in the home is manageable. By contrast, an exception to allow a group of siblings to be placed further than 75 miles from their home because there is no closer home that can accept a sibling group may be reasonable in the sense that this is an appropriate decision given the alternatives available at the time of placement, but "non-compliant" in the sense that it reflects a larger systemic problem (the failure to recruit enough resource homes that can take large sibling groups closer to the children's home).

limitations. These reports help identify those children whose placement falls outside of the general placement limitations, but these reports do not provide information on the extent to which those identified children fall within one of the permissible exceptions to the specific limitation.

Second, there has been a regular monthly administrative review process conducted by the Division of Child Placement and Private Providers (CPPP), referred to as the Exceptions Desk Review. Division staff review and analyze documentation of a sample of the Placement Exception Requests (PERs)[267] to both understand the extent to which those exceptions are or are not appropriate and to ensure that the required regional supervisory review and approval/acknowledgement process is being complied with. The regions provide CPPP with a spreadsheet listing each child for which a PER has been filed during the month, and CPPP selects a sample of PERs to review.

The PER process—both the paper documentation required of the regional administrators and the review of that documentation by Central Office staff—as originally designed and implemented made sense at the beginning of the reform, both because of the limited tracking and reporting capacity that the Department had and because there was still considerable resistance within DCS to the placement provisions.

Now that the substantive placement standards are well understood, broadly accepted, and, according to aggregate data, generally complied with, the Department is appropriately redesigning the process. The PER review and approval process has been integrated into TFACTS, which will both reduce the paperwork burden associated with the present hard copy process and increase the capacity for automated tracking, reporting and analysis of PER data.

The CPPP Division intends to do monthly tracking of statewide and regional aggregate data related to each of the placement types to identify and respond to trends and to identify regions that appear from the data to be having greater challenges than others with respect to particular placement types. Based on the analysis of the monthly aggregate data, CPPP intends to select particular regions or particular placement types for further review (which would include case reviews) and work with the regions to understand and address any placement issues identified.[268]

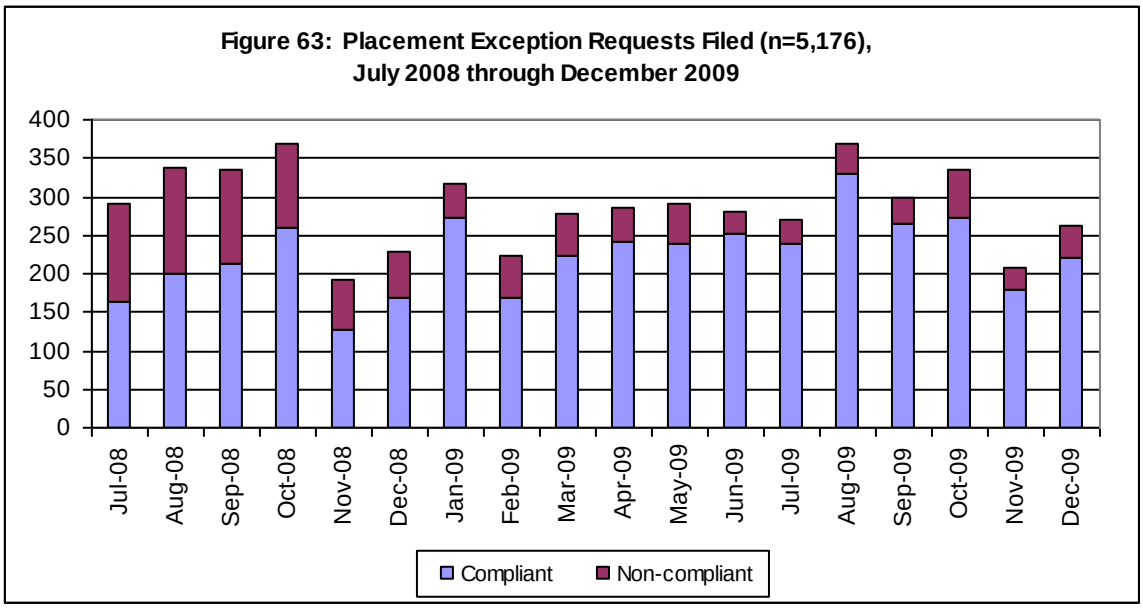
The Department anticipates eventually shifting the responsibility for PER oversight from CPPP staff to the Office of Performance and Quality Improvement (PQI) as part of its quality assurance activities. The TAC looks forward in future monitoring reports to being able to rely on the TFACTS aggregate reporting and the follow-up analysis and case review findings of CPPP and

[267] A copy of the most recent version of the PER form is attached as Appendix M.

[268] The Department contemplates that both regional staff and CPPP staff will review the data and pull samples of exceptions for a full review of regional practice related to placements, from which a joint report will be compiled and disseminated to the Regional Administrator and the Executive Director of Regional Support. The Department expects each region to develop a Corrective Action Plan (CAP) to address the deficiencies noted in the report. The CAP is to be reviewed and approved/rejected by the appropriate Executive Director of Regional Support, who is expected to monitor the implementation of the CAP to ensure execution and compliance. The Department intends to revise Policy 16.46 to reflect this new protocol.

PQI. However, for purposes of this monitoring report, TAC monitoring staff drew on the soon-to-be-obsolete Exception Desk Review process.

The CPPP Division issued a monthly Exceptions Desk Review Report for each month of the monitoring period, setting forth both regional and statewide data. The monthly reports include information on the number of exception requests filed in the regions, the number of requests that reflect permissible exceptions (compliant) and the number that reflect violations (non-compliant). According to the Exceptions Desk Review Reports for the period from July 2008 through December 2009, 5,175 PERs were filed.[269] Of these exceptions, 4,038 (78%) were deemed compliant and 1,137 (22%) were deemed non-compliant. Figure 63 presents Placement Exception Request data by month.[270]



Source: Exceptions Desk Reviews July 2008 – December 2009.

TAC monitoring staff conducted a spot check of some of the recent PERs submitted by the regions to determine the extent to which the facts set forth in the PER supported the region's conclusion that the placement was "compliant."[271] Of the 38 exceptions reviewed, there were 4

[269] The monthly reports produced by CPPP also include results of an in-depth review of at least a 10% sample of the exceptions reported by each region, to evaluate the quality of the reasoning of the region in approving the exception and the documentation of the decision, in terms of both the facts included in support of the exception and the completeness of the form. These reviews reveal wide regional variation in both the extent of the documentation and the quality of reasoning supporting the exception.

[270] Because the Department is not yet satisfied that PERs are being filed in every case in which policy requires, an increase in PERs from one month to the next could be the result of an increase in placements that fall into that particular exception category, but might also be the result of improved compliance with the PER filing requirement.

[271] TAC monitoring staff reviewed 38 of the 45 PERs that were the subject of the CPPP December 2009 Exceptions Desk Review Report. CPPP pulled and conducted its own review of this sample of the 262 PERs filed in December; CPPP included among the 45 PERs it reviewed, seven that involved "more than two therapeutic children in a resource home," which is not a placement limitation of the Settlement Agreement.

(11%) for which the facts set forth either appeared to contradict the region's determination or were insufficient to support that determination.[272]

At this point, it is difficult to compare or relate most of the aggregate data reports for a particular month to the Exceptions Desk Review Report for that month. The aggregate data reports include all children who as of the day of the report are in placements that fall outside of the general placement limits, irrespective of whether they were placed that month or have been in that placement for a number of months. The Exceptions Desk Review reports include only those children who were actually placed that month, since the exception request must be filed at the time the child is initially placed in the placement that is outside the general placement limit. For this reason, the aggregate database cannot presently be used to determine whether an exception request has been filed for every child who is placed outside the general placement limitations.[273]

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[272] Those questionable determinations broke down as follows:

- Ten exceptions involved resource home capacity limits: seven for "more than three foster children in the home" and three for "more than six total children in the home." The regions designated eight of those exceptions as compliant and two as non-compliant. Two of the eight designated as compliant by the regions were found by TAC monitoring staff to be questionable.
- There were 12 exceptions for placement not within region or 75 miles. The regions designated eight of those 12 exceptions compliant and four non-compliant because they resulted from "resource limitations." TAC monitoring staff found one of the eight compliant findings to be questionable.
- There were 11 exceptions for placement in a congregate care facility with capacity in excess of eight. Ten were designated by the regions as compliant and one was designated non-compliant. TAC monitoring staff found one of the 10 cases designated by the region as compliant to be questionable.
- There were four exceptions for separation of siblings, three of which were designated compliant and one non-compliant. TAC monitoring staff did not find any of these to be questionable.
- There was one exception for placement in a temporary Primary Treatment Center (PTC) in excess of 30 days. This exception can not be designated as compliant; non-compliant is the only option.

In the past (as reflected in the August 2009 Supplemental Monitoring Report), TAC monitoring staff questioned a significantly higher percentage of the cases determined by the CPPP review to be "compliant". The CPPP staff revised their approach to the review to place greater emphasis on the adequacy of the substantive explanation for the exception, rather than on the procedural completeness of the exception form. They also did some follow up work with the regions on the PERS for the last quarter of 2009. This accounts for both the higher percentage of PERS designated by the Department as non-compliant in the last quarter and the significantly fewer instances in which TAC monitoring staff questioned the CPPP designation.

[273] While the Department believes that this process is providing sufficiently accurate data for purposes of present reporting on the extent to which placement exceptions are compliant and non-compliant with *Brian A.*, there is considerable variation in how the exception reports are filled out, and it is possible for discrepancies in the reporting to occur, as would be expected of a reporting process that relies entirely on hand-counting from hard copy forms. Because there is no present way to link the exception reporting process with the TNKids reporting on placement limitations, there is no way to assure that such exception requests have been filed on every child for whom one is required. CPPP is working on developing mechanisms for comparing available data with the PERs sent by the regions for a few of the placement exception categories where this may be possible. For example, as discussed below in Subsection B.2.g, CPPP is provided a monthly report of all children placed during the month in a residential placement that has more than eight DCS children in it on the day the data is pulled. While this is not an exact measure because it may leave out congregate care placements that have a capacity more than eight but do not have more than eight DCS children at the time of the report, it will capture many of the children for whom a PER should have been filed each month. CPPP also reviews on a weekly basis the use of Primary Treatment Centers (PTCs) by the regions, and follows up with the individual region whenever a child is in the PTC placement for 25 days or more. CPPP is beginning to use this data to reconcile the information being provided by the regions related to PTC placements lasting longer than 30 days.

For those cases for which exception requests are filed, lack of specific "in region" resources—resource homes that can accommodate large sibling groups, therapeutic resource homes, resource homes for medically fragile children, residential treatment programs especially in rural regions—appears to be the major reason for filing exception requests. These constitute "non-compliant" exceptions.

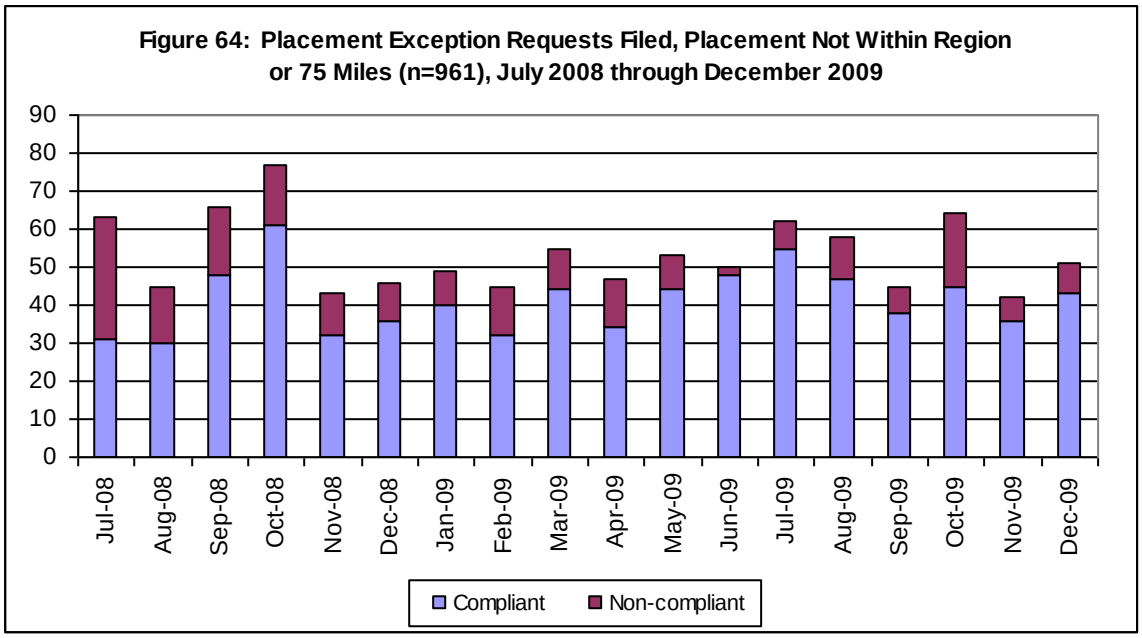
The following subsections identify the placement limitations and present data and findings related to each limitation.[274]

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.C.1)

The Settlement Agreement requires that children be placed within their own region or within 75 miles of the home from which they entered custody. An exception to this requirement is permitted if the child's needs cannot be met by a family or facility within the region, if the child is being moved closer to parents who are no longer living in the home region, or if the child is being placed with relatives outside of the home region. Any such exception must be certified in writing by the regional administrator or team coordinator based on his or her own examination of the circumstances.

As reported in Section One of this report, about 90% of children in placement at any given time are in placements that are within 75 miles of their home. Based on an examination of the Exceptions Desk Reviews for the period from July 2008 through December 2009, a total of 961 Placement Exception Requests were filed for children outside the 75-mile limit, of which 744 (77%) were designated as compliant and 217 (23%) were designated as non-compliant.

[274] For purposes of calculating the various measures of these placement limits, a child is considered to enter foster care custody on the day the child enters legal custody or the day the child enters DCS physical custody, whichever comes first. (VI.B)



Source: Exceptions Desk Reviews July 2008 – December 2009.

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.C.2)

The Settlement Agreement limits the placement of children in emergency or temporary facilities 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; in such a case, the regional administrator must certify in writing that the assessment is essential for determining an appropriate placement.

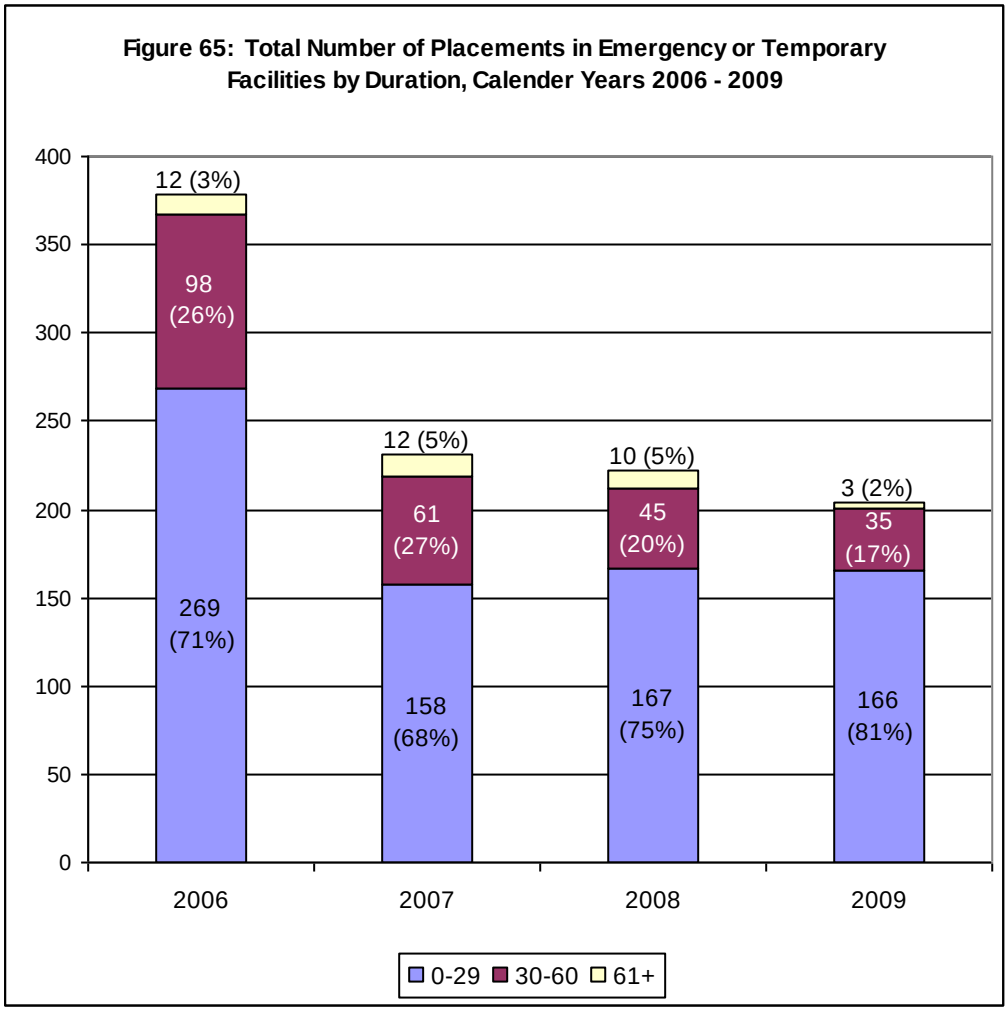
According to the "*Brian A.* Class 12-Month Report of Children in Emergency/Temporary Facilities" for the period from January 1 through December 31, 2009 (produced by the Division of Reporting and Analysis), there were 204 placements in emergency or temporary facilities during 2009, involving 189 different children. Of the 204 placements during 2009, 81% (166) lasted fewer than 30 days,[275] 17% (35) lasted between 30 and 60 days, and 2% (3) lasted more than 60 days.[276]

[275] This report slightly overstates cases in excess of the limit because it includes 30 day placements in the category "placements exceeding 30 days".

[276] Of the three class members whose placements lasted more than 60 days, from TNKids documentation it appears that two new custody entrants with challenging presenting issues were placed for assessment and that they were moved to appropriate placements after 61 and 64 days. In the remaining case, the file indicated that the child was to

The Department has continued to reduce both the number and percentage of "non-compliant" emergency/temporary placements.[277]

As reflected in Figure 65, there was a dramatic reduction in the use of emergency and temporary placements from 2006 to 2007, followed by a more gradual reduction every year from 2007 through 2009.[278]



Source: DCS Reporting and Analysis Division Report "*Brian A.* Number of Placements in Emergency or Temporary Facilities Region Summary, 12-Month Report from January 1, 2006 through December 31, 2006, January 1, 2007 through December 31, 2007, January 1, 2008 through December 31, 2008, January 1, 2009 through December 31, 2009" created January 3, 2007, January 3, 2008, January 7, 2009, and January 6, 2010.

be moved within the 30 day period, but because of resource limitations the child remained in the primary treatment center for 65 days and was then moved to an appropriate placement.

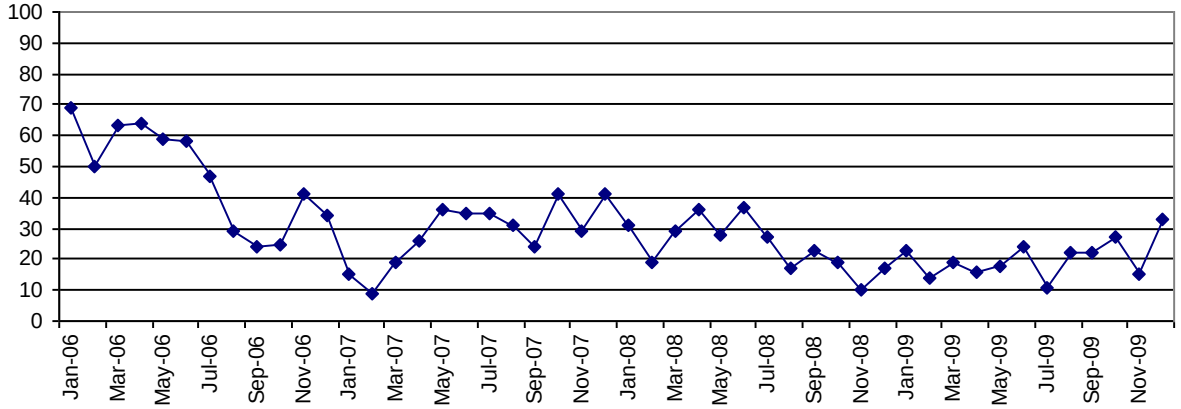
[277] In 2008, there were 222 such placements (involving 202 children), 75% (167) of which lasted fewer than 30 days, 20% (45) of which lasted between 30 and 60 days, and 5% (10) of which lasted more than 60 days.

[278] The significant reduction in these placements since 2006 does not appear to be attributable to the slight reduction in the number of children in custody over that period.

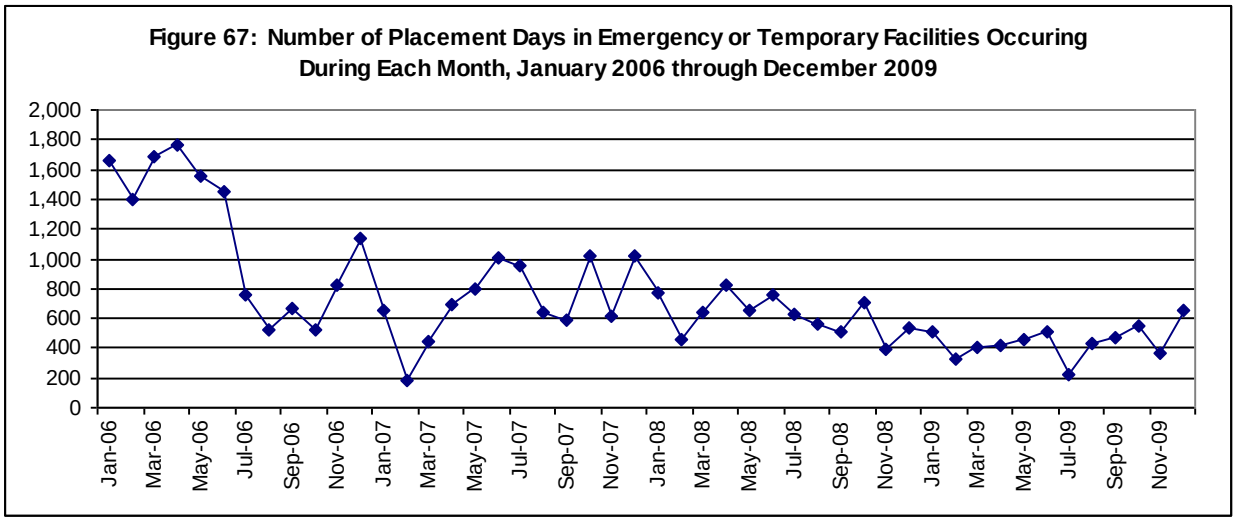
There was also a reduction each year from 2006 to 2009 in the number of children who experienced multiple placements in emergency or temporary placements. Fourteen children experienced such multiple placements in 2009 compared with 20 children during 2008, 26 children during 2007, and 48 children during 2006.

The Division of Reporting and Analysis produces a report each month showing the number of placements in emergency or temporary facilities over the previous 12-month period. It also produces a monthly report showing the cumulative number of days those placements lasted. Figures 66 and 67 show the data from these monthly reports for the 48-month period, beginning January 2006 and ending December 2009. As reflected in the figures, use of emergency or temporary facilities declined in the latter half of 2006 and reached its lowest point in February 2007. Since February 2007, use of emergency and temporary placements has increased somewhat but remains well below the January 2006 level.

Figure 66: Number of Placements in Emergency or Temporary Facilities Occuring During Each Month, January 2006 through December 2009



Source: DCS Reporting and Analysis Division Report "*Brian A.* Number of Placements in Emergency or Temporary Facilities", 12 1-Month Periods from January 1, 2006 through December 31, 2006, created January 3, 2007; 12 1-Month Periods from January 1, 2007 through December 31, 2007, created January 3, 2008; 12 1-Month Periods from January 1, 2008 through December 31, 2008, created January 5, 2009; and 12 1-Month Periods from January 1, 2009 through December 31, 2009, created January 5, 2010.

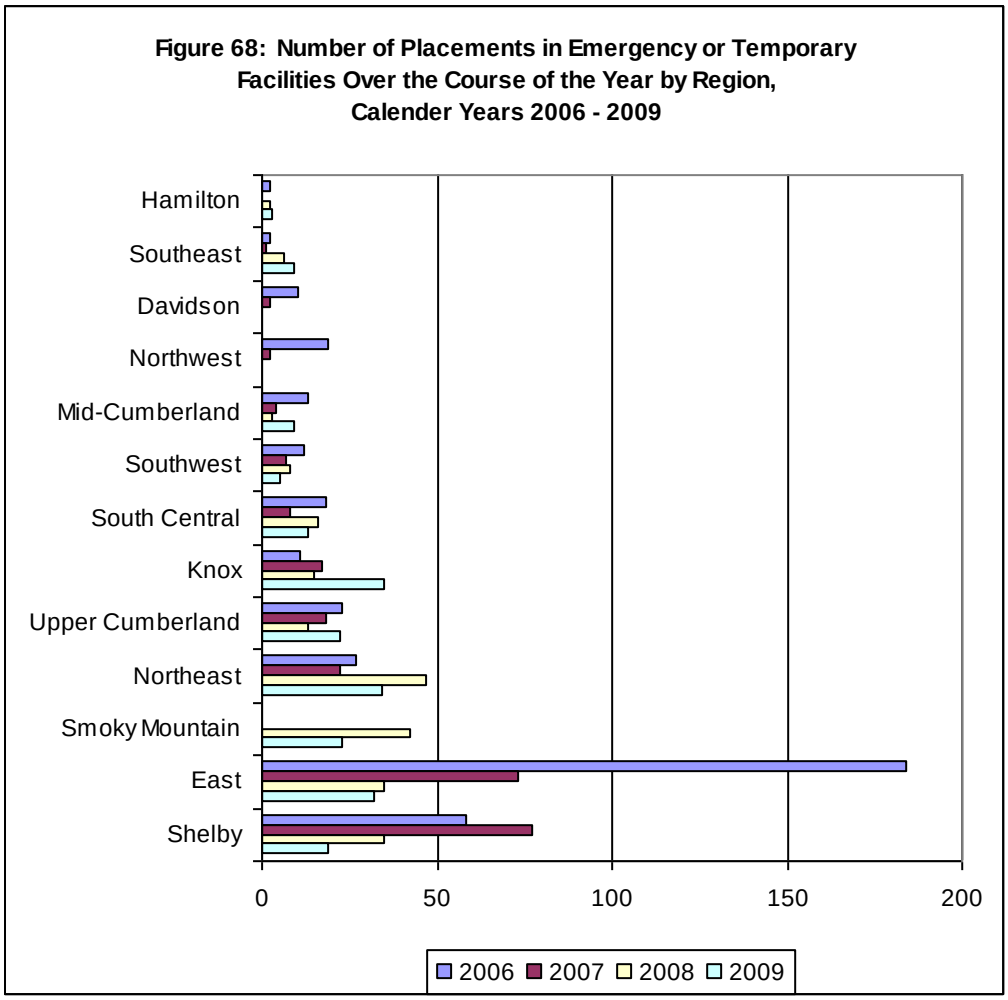


Source: DCS Reporting and Analysis Division Report "*Brian A.* Number of Placements in Emergency or Temporary Facilities", 12 1-Month Periods from January 1, 2006 through December 31, 2006, created January 3, 2007; 12 1-Month Periods from January 1, 2007 through December 31, 2007, created January 3, 2008; 12 1-Month Periods from January 1, 2008 through December 31, 2008, created January 5, 2009; and 12 1-Month Periods from January 1, 2009 through December 31, 2009, created January 5, 2010.
This figure presents the sum of the number of days of each placement in an emergency or temporary placement during the month.

There continues to be regional variation in the use of emergency and temporary facilities. As reflected in Figure 68 below, overall use of emergency or temporary facilities declined statewide and for most regions from 2006 to 2007. However, while Davidson and Northwest have not used an emergency or temporary facility since 2007, use by the Knox and Northeast regions exceeds that of 2006. In addition, the reduction in the numbers of placements in East in 2008 and 2009 is misleading because it reflects the separation of East into two smaller regions, "new" East and Smoky Mountain. [279] The new East and Smoky Mountain combined continue to account for a significantly higher number of emergency or temporary placements than the other regions.[280]

[279] The Smoky Mountain region is included in the East region analysis for 2006 and 2007. Data for the East region excludes Smoky Mountain in 2008 and 2009.

[280] In 2009, the new East and Smoky Mountain regions' use of emergency or temporary placements accounted for 32% (66 of 204) of such placements, 35% (77 of 222) in 2008, and 32% (73 of 231) in 2007. Because the old East region was one of the larger regions in terms of number of children in custody, it would not be surprising that it would have a larger number of children in emergency placements than regions with smaller numbers of children in custody. The old East region was among the regions with the highest number of new entrants into custody (a reasonable measure of the in-custody population). Expressed as a percentage of the average number of children in care at any given time, the new East region has the second highest rate of emergency placement utilization, while the utilization rate for the Smoky Mountain region is close to the statewide average.



Source: DCS Reporting and Analysis Division Report "*Brian A.* Number of Placements in Emergency or Temporary Facilities Region Summary," 12 Month Report from January 1, 2006 through December 31, 2006, January 1, 2007 through December 31, 2007, January 1, 2008 through December 31, 2008, January 1, 2009 through December 31, 2009" created January 3, 2007, January 3, 2008, January 7, 2009, and January 6, 2010.

For the period from July 2008 through December 2009, a total of 31 PERs were filed for children in emergency or temporary placements in excess of 30 days, of which four (13%) were designated as compliant and 27 (87%) were designated as non-compliant. For that same period, a total of 10 PERs were filed for children experiencing multiple emergency or temporary placements within a 12-month period, of which seven were designated as compliant and three were designated as non-compliant.

c. Prohibition against placement of children in jail, correction facility, or detention center (VI.C.3)

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.

The Division of Reporting and Analysis produces a semi-monthly report titled the "*Brian A.* Placement Report," which provides data regarding the placement of every *Brian A.* class member as of the date on which the report is produced.[281] The Placement Report for December 31, 2009 lists six *Brian A.* class members as being placed in a jail, correctional, or detention facility. The number of children appearing on this report for the 24 semi-monthly reporting periods that the TAC monitoring staff reviewed for 2009 has fluctuated from a low of five to a high of 14.

As has been discussed in previous monitoring reports, periodic case file reviews of class members in detention center placements conducted over the past three years (the most recent of which was conducted in February of 2009)[282] have consistently found that the vast majority of the detention center placements fell within one of the permissible exceptions to this general prohibition: a child charged with delinquent conduct and held on that basis; a child placed by order of the court; or a child arrested and held briefly, with DCS picking the child up promptly upon being notified by the court or detention center. While reviewers have identified some situations in which the placement in detention appeared to be instigated by DCS staff or private agency staff and resource parents under circumstances that seemed questionable, the duration of the detention in those cases was relatively brief.[283]

As previously reported, the Department's CPPP Division now conducts weekly reviews of all children in detention as of the weekly review date, immediately contacts the region to find out the circumstances requiring detention center placement, and brings any cases of *Brian A.* children in detention to the semi-monthly Utilization Review team meeting for review and appropriate action.[284] In addition, regional staff and private provider agencies have been instructed to file a Placement Exception Request whenever they receive notification that a child has been placed in detention. [285]

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[281] Because this is a point-in-time report, this report would not identify a child who came into detention but was released during the period between reports.

[282] See the August 2009 Supplemental Monitoring Report for a discussion of the findings of this review.

[283] Results of the February 2009 detention placements review are discussed in the August 2009 Supplemental Monitoring Report, page 49.

[284] The report used to identify the children in detention each week is a "point-in-time" report. In any given week, there can be class members who have been held for short periods (usually overnight) in detention who will not show up on the weekly list because the regions removed the child promptly. These cases usually involve children who have runaway from a placement, have been picked up by the police and brought to detention (and DCS notified), and have been shortly thereafter released to a DCS worker. However, on occasion, police may respond to a call from a resource parent and take the child to detention. When this occurs, the CPPP staff are to ensure that there is some follow-up discussion with the resource parents, and if they are private provider resource parents, with the private provider to clarify DCS policy with respect to the use of detention and, in appropriate cases, to request "de-escalation training" for the resource parents.

[285] Of the seven detention PERs filed in the last quarter of 2009, the Department determined that two were compliant and five were non-compliant. The November 2009 Exception Desk Review included one PER filed for detention. The PER was determined to be compliant because the child was placed in detention as a result of a court order. TNKids documentation indicates that the youth had two detention stays in November with both stays lasting one night, but only a PER for the first episode was filed. Both stays in detention were based on allegations of delinquent conduct.

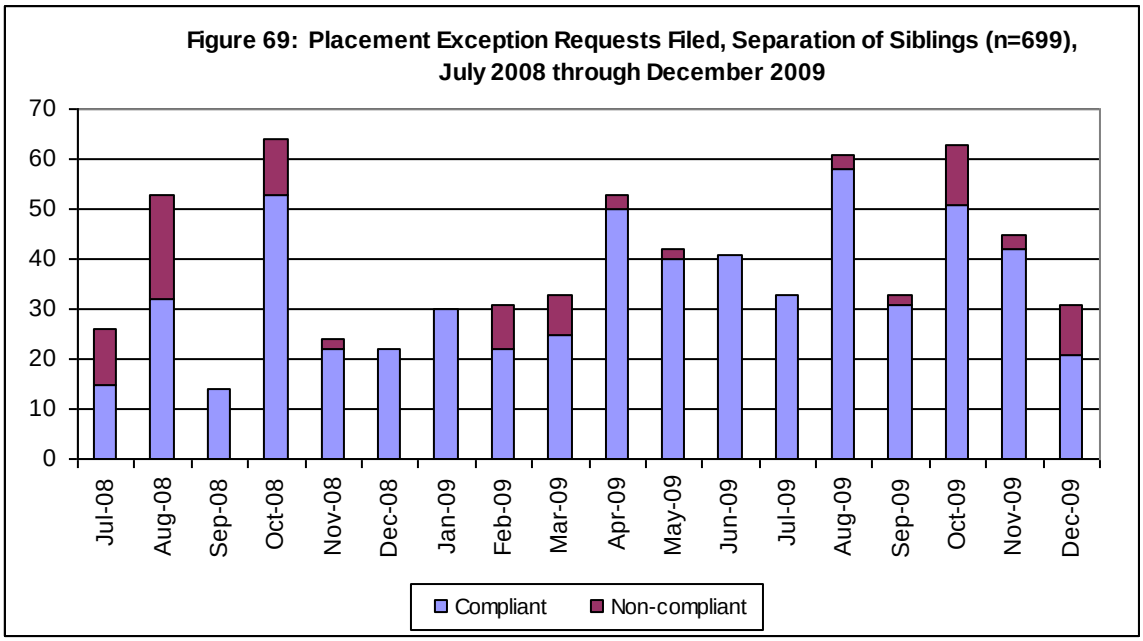
d. Limits on sibling separation (VI.C.6)

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. If a sibling group is not placed together initially, the case manager is required to make immediate efforts to locate or recruit a family in whose home the siblings can be reunited.

Keeping siblings together is a relative strength of DCS practice. As reported in Section One, 84% of *Brian A.* sibling groups entering custody during the period July 1, 2008 through June 30, 2009 were initially placed together, and at any given time approximately 83% of siblings are placed together.

The aggregate report does not presently distinguish between separations that fall within one of the permissible exceptions and those that constitute *Brian A.* violations. Based on an examination of the Placement Exceptions Desk Reviews for the period from July 2008 through December 2009, a total of 699 exception requests were made for children separated from siblings. Of the 699 exceptions, 602 (86%) were designated as compliant and 97 (14%) were designated non-compliant.[286]

[286] As reported in the September 2007 Monitoring Report, the 2006 Case File Review examination of sibling separation included follow-up in cases in which siblings were separated at any point during the review period to determine whether such separation fell within one of the permissible exceptions. A total of 36% of the children in the review sample were separated from some or all of their siblings at some point during the review period. Based on both information in the case files and the supplemental documentation provided by the Department, reviewers concluded that all sibling separations fell into one or more of the exceptions of the Settlement Agreement permitting sibling separation. See January 2007 Monitoring Report, pages 44-46.



Source: Exceptions Desk Reviews July 2008 – December 2009.

e. Resource home capacity limits (VI.C.7)

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/or 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 allows the "Regional Assistant Commissioner"[287] to make an exception to these limits on an individual basis in the best interests of the child, but such exceptions are not to exceed more than 10% of all placements made annually in each region, must include detailed reasons justifying the exception, and must be reported to the TAC annually. The only other exception permitted is when the placement of a sibling group in a resource home with no other children in the home would exceed these limits.

There are two sources of information relevant to the Department's performance with respect to this exception: the Department's own data from its exception request process; and the results of a targeted review conducted by TAC monitoring staff of resource homes with more than three children in them.[288] Both sources of information reflect that a significant percentage of

[287] As a result of a restructuring of the Department, the position of Regional Assistant Commissioner was eliminated. Under the current structure, authority for this particular responsibility is exercised by the Regional Administrator or his/her designee.

[288] TNKids produces two reports at the beginning of each month related to resource home capacity exceptions. The "*Brian A.* Resource Homes Compliance Summary Report" provides the **number of resource homes** that exceed these limits on the date of the production of the report. The "*Brian A.* Class Children with Resource Homes Compliance Exception Summary Report" provides information about the ***number of children*** placed in resource homes exceeding the limits as of the report date. However, these reports exclude any resource home in which a sibling group is placed, irrespective of whether there are other foster children in the home who are not part of the sibling group. For this reason, the report cannot be relied on to determine the number of homes that exceed capacity.

placements of children in resource homes with more than three children in them are not consistent with the capacity limitations established by the Settlement Agreement.

i. Results of the Targeted Review

TAC monitoring staff conducted a targeted review of resource homes with greater than three foster children or greater than six total children.[289] TAC monitoring staff conducted telephone interviews with 28 resource parents from a total of 27 individual resource homes, which, as of April 3, 2009, were reported by TNKids as housing 118 class members.[290] Twelve (43%) of those homes were private provider homes and 16 (57%) homes were DCS resource homes.

The targeted review found that, in a significant number of cases, resource homes which exceeded the general capacity limits did not meet a permissible exception. Of the 27 homes included in the survey with more than three foster children or more than six total children, the reviewers found:

- In 12 (43%) homes, the situation clearly met a permissible exception for having more than three children in the home: there was one sibling group, no other foster children in the home, and there were no more than a total of six children, including the resource family's natural and/or adopted children.

- In 10 (36%) of the homes, there was a sibling group, but there was also at least one additional foster child in the home who was not part of the sibling group (including homes with two sibling groups).

- No home had more than three foster children under the age of 3 in the home.[291]

With respect to the "best interest" exception, permitted by the Settlement Agreement, for up to 10% of the homes that exceed the capacity limits and do not meet one of the other exceptions, the reviewers could not make specific findings for two reasons. First, the Settlement Agreement does not enumerate any considerations that should go into that determination; second, the

[289] At the TAC's request, the Department ran a TNKids report identifying all resource homes which as of April 3, 2009 had more than three foster children and/or more than six total children (including sibling groups). The TNKids report identified 155 homes meeting one or both of these exceptions. Six hundred and seventy class members were placed in these 155 homes. These 670 children constituted approximately 12% of the class members in custody. (For purposes of this calculation, the number of class members in custody as of April 3, 2009 was assumed to be 5,413, which is the number reflected in the March 31, 2009 *Brian A.* Class List.) (The previous report pulled for the previous review showed 203 homes housing 877 class members as of December 5, 2007, representing 14% of class members.) A sample of 50 homes was pulled for the most recent review. Reviewers were able to successfully conduct telephone interviews with a resource parent in 28 of those homes. Some of the homes had wrong or disconnected numbers listed in TNKids and some were closed by DCS or at the request of the resource parent during the time period.

[290] Reviewers found some discrepancies between the information in the TNKids report related to the numbers of children in the home and the information provided by the resource parent about the status of the home on April 3, 2009.

[291] Sixteen of the 28 homes reviewed had birth or adopted children in the home. Reviewers can say that none of those 16 homes had more than three foster children under the age of 3, but are not able to report on whether any of the birth or adopted children were under the age of 3.

reviewers felt that making such a determination would require a much broader inquiry into the facts and reasoning of the Child and Family Team at the time of placement. However, the reviewers did seek to determine whether a child whose placement would otherwise violate the capacity limits had some pre-existing relationship with the resource parent and/or the other children in the home, since that might arguably support a "best interest" finding for that child.

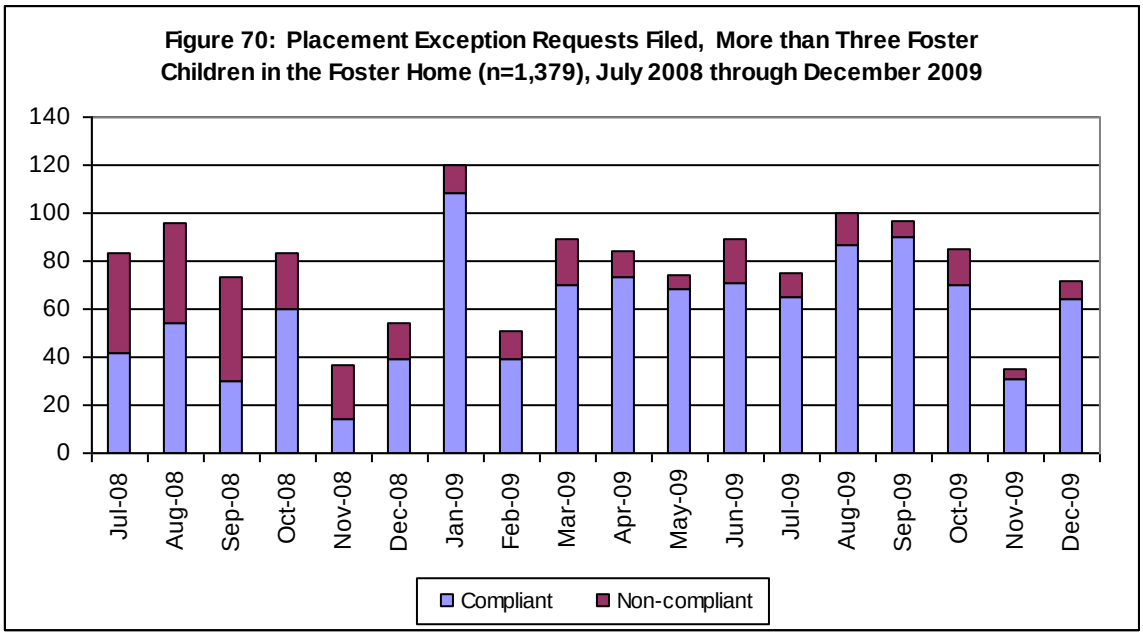
In four (15%) of the 27 homes surveyed, one, some, or all of the children had a connection to the resource parent prior to the placement with that resource parent. In three homes, it was a biological relationship; in the other home, the resource parent was the neighbor, prior to custody, of one of the foster children placed in her home.

ii. Exception Request Data

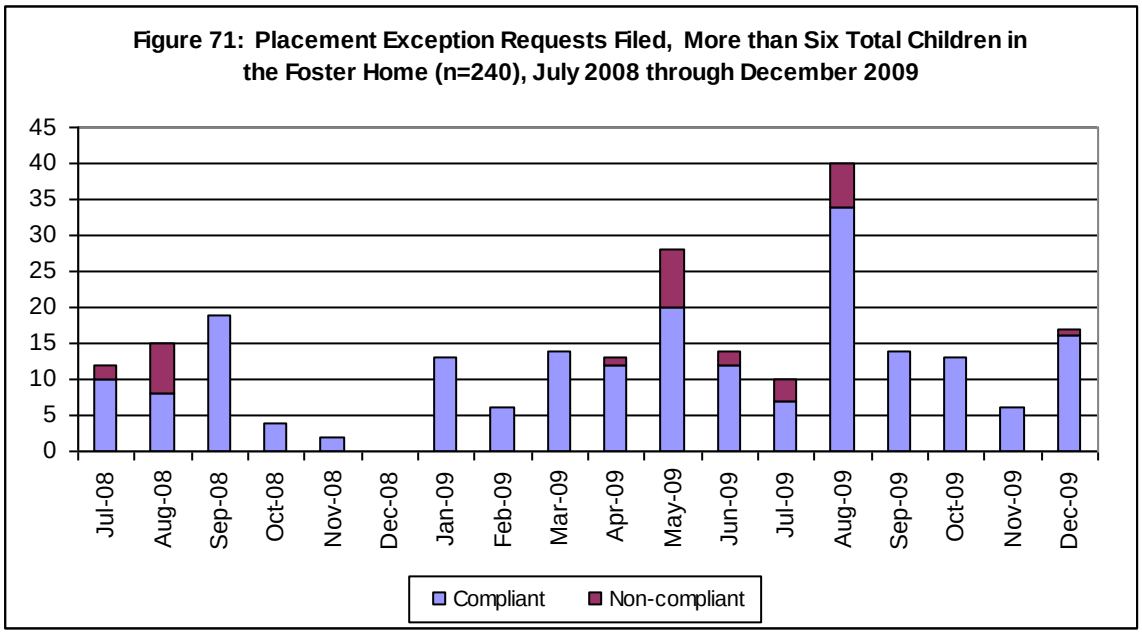
The data generated by the Department's PER process suggests a significantly higher level of compliance than was found by the targeted review; while the targeted review only found 43% of cases to clearly meet a permissible exception, the PER data shows 79% of cases as compliant.[292]

As set forth in the figures below, the early months of the reporting period (July through August 2008) reflect that about half of the children placed in resource homes that exceeded the capacity limits did not fall within any of the permissible exceptions, comparable to the findings of the targeted review. However, those placements made up a much smaller percentage of the PERS for the remaining 15 months of the review period. Based on an examination of the Exceptions Desk Reviews for the period from July 2008 through December 2009, a total of 1,683 placement exception requests were filed for resource home capacity exceptions, of which 1,322 (79%) were designated as compliant and 361 (21%) were designated as non-compliant.[293]

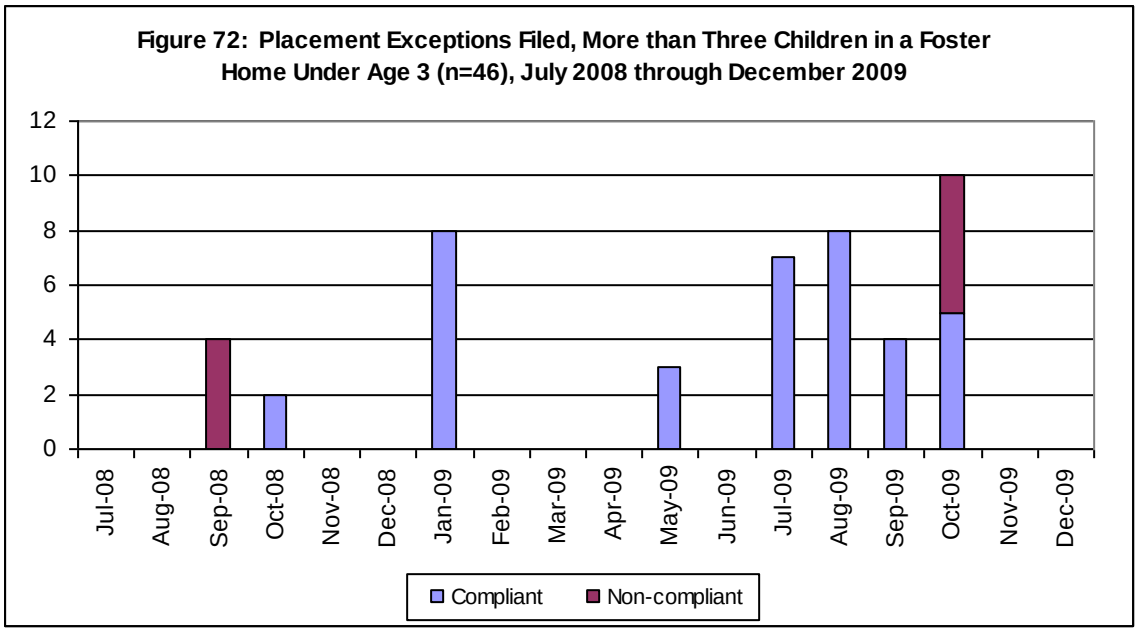
[292] As with other placement exceptions, regions are required to submit exception requests any time placement of a child results in a resource home exceeding capacity, and exception requests must be filed for each child in the home, not just the child or sibling group whose placement resulted in the home exceeding capacity.
[293] Spaces representing months in these figures that are blank indicate that no Exceptions were filed during that month.



Source: Exceptions Desk Reviews July 2008 – December 2009.



Source: Exceptions Desk Reviews July 2008 – December 2009.



Source: Exceptions Desk Reviews July 2008 – December 2009.

The Exceptions Desk Review results for resource home capacity underscore the critical importance of resource parent recruitment and retention.

f. Limits on placement of children under age 6 in group care (VI.C.8)

The Settlement Agreement generally prohibits placement of a child under 6 years of age in a congregate care setting. The only exception permitted is for a child with exceptional needs that cannot be met in any other type of placement. Such placement requires the written approval by the regional administrator, which must be based on his or her personal determination that the child's needs can only be met in that specific facility. The written approval must include a description of the services available in the facility to address the individual child's needs.

For prior monitoring periods, the Division of Reporting and Analysis had been producing a report called the "*Brian A.* Class Report on the Number of Children Under the Age of Six in a Group Care Setting." The report provided the number of children under age 6 who are placed in a congregate care setting on the date of the report, as well as the ages of any such children. Because the prior reporting and follow up by the TAC monitoring staff found such placements both rare and made in accordance with the provisions of the Settlement Agreement and because the Department's Utilization Review Process has been found to effectively monitor such placements, the parties agreed that the Department did not need to continue to produce this report for this monitoring period.

The spreadsheets used for the Department's Utilization Review process, which list all class members placed in Level III and IV[294] residential facilities, have shown no children under the age of 6 between July 1, 2008 and December 31, 2009.

[294] Level IV facilities have been included on these spreadsheets since June 2009.

g. Limits on placements of children in group care with excess of eight beds (VI.C.9)

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 without express written approval by the regional administrator.[295] The regional administrator's approval must be based on his or her certification and specific findings that the child's needs can be met in that specific facility and that the facility is the least restrictive placement that could meet the child's needs. The written approval must include a description of the services available in the facility to address the individual child's needs.

At the time of the September 2007 Monitoring Report, the Department recognized that it did not have the capacity to produce reliable data on this exception. TNKids was able to generate a list of children who were in congregate care placements; however, no distinction was made within that group between those congregate care placements greater than eight and those with capacities of eight or fewer; and the Department had not generated a list in another format that identified those placements greater than eight. In addition, the PER data related to this exception was of limited value because at least some regions did not understand that there was an expectation that a PER be filed any time a child was placed in a facility whose capacity exceeded eight beds.

In an effort to address this situation, the CPPP Division worked with the DCS Licensing Unit to develop a list of all congregate care facilities and their licensed capacity. This list was developed at the beginning of 2008 and shared with the regions to assist them in determining which congregate care placements required a PER.[296]

Figure 73 below shows the number of class members placed in the congregate care facilities that have a capacity greater than eight according to the Licensed Capacity list provided by CPPP in March 2010.[297] As reflected in this figure, at any given time, there are between 250 and 300 class members placed in congregate care facilities with capacities greater than eight.[298]

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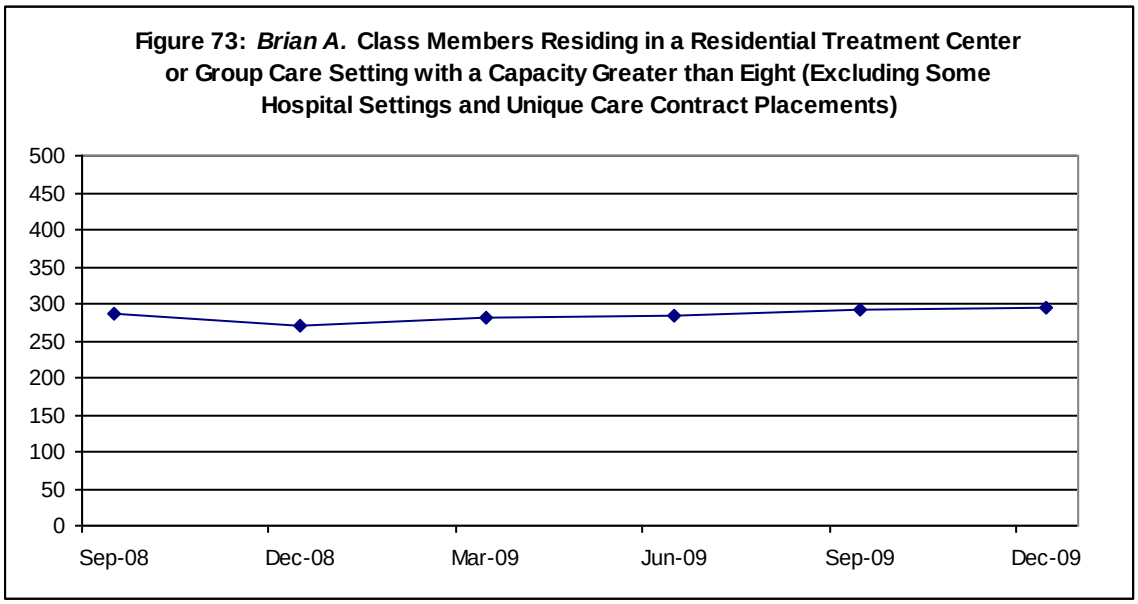
[295] The capacity of a multi-unit or multi-building congregate care facility is not determined by the capacity of a particular unit or building, but rather by the total number of beds on the campus. It is not clear whether the Settlement Agreement contemplates that an exception request would have to 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.

[296] CPPP also implemented an accountability measure to help ensure that PERs are being filed in the regions for placements in this exception category. CPPP is now receiving a monthly report of all children placed during the month in a residential placement that has more than eight DCS children in it on the day of the pull. While this is not an exact measure because it may leave out congregate care placements that have a capacity more than eight but do not have more than eight DCS children at the time of the report, it will capture many of the children for whom a PER should have been filed each month. CPPP seeks further documentation from regions that have a discrepancy between the number of PERs reported for this category and the number of placements on the report.

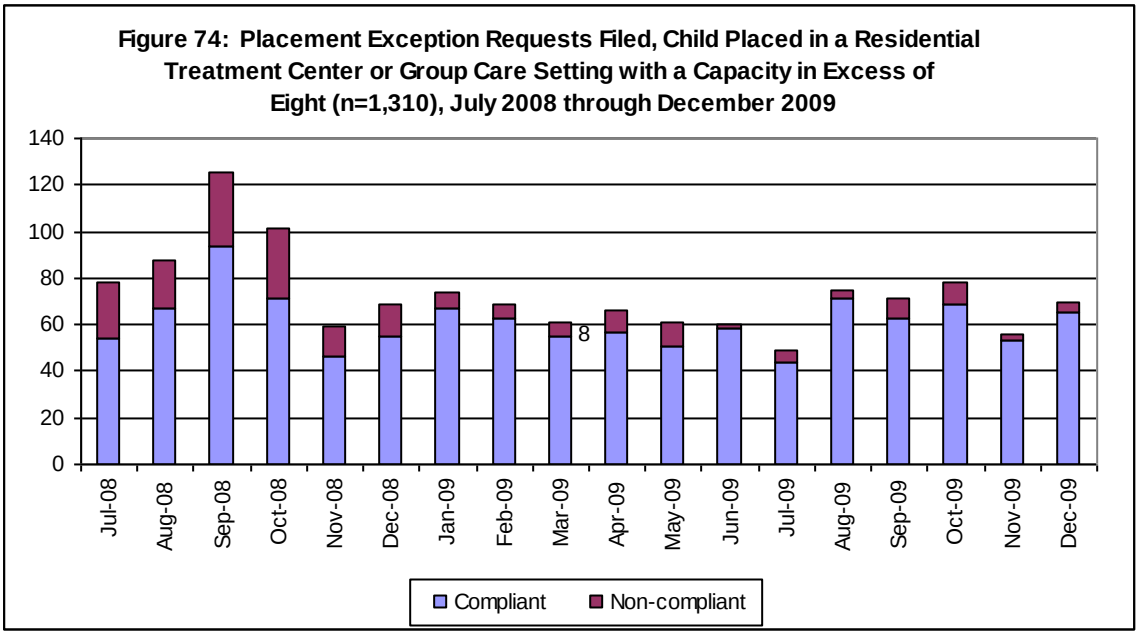
[297] As discussed in Section Six.B.2 above, the number of PERs filed in a month for congregate care greater than eight will be less than the number of children which the aggregate data reports as in placement in a given month. This is because the aggregate data show all children placed as of a certain day each month and PERs are only filed at the time of the initial placement.

[298] This figure shows the number of children placed in a facility deemed by CPPP and the Licensing Division to have a capacity greater than eight. This may slightly underreport the actual number of these placements. Some possible explanations for the underreporting would be: unique care placements and hospital placements that are not included but possibly should be, as well as facilities that have been added as contracts or subcontracts since the list was generated and distributed. Unique care contracts are special placements made in facilities that do not contract



Source: *Brian A.* Placement Reports as of the last day of each month and the Licensed Capacity list of facilities provided by CPPP.

Based on an examination of the Exceptions Desk Reviews for July 2008 through December 2009, there were 1,310 exception requests related to placements in congregate care facilities with capacities of more than eight, of which 1,103 (84%) were designated as compliant and 207 (16%) as non-compliant.



Source: Exceptions Desk Reviews July 2008 – December 2009.

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with the Department. These placements are rarely used and only in cases where the child's needs are so exceptional that they will be best served in a special facility and are always the subject of high level review.

While congregate care placements are appropriate for some children at some point in their placement, the Department is committed to serving children in family placements whenever possible and moving children from congregate care to family settings as soon as a child can safely and appropriately be moved. The Central Office has set up a process for conducting Utilization Reviews (UR) to ensure that children are placed appropriately, in the least-restrictive setting to meet their needs, and that they are receiving the services they need and are benefiting from those services. The UR review team involves either the Commissioner or the Deputy Commissioner and the Medical Director, as well as other Central Office staff. The regional psychologists are responsible for presenting the cases for review.

The Department first focused on children in Level IV acute psychiatric facilities, and based on those utilization reviews feels confident that the children served in Level IV settings are appropriately placed.[299] The group continues to review children served in Level IV congregate care settings (focusing on those children in such settings for over 90 days), but now also reviews children who are served in Level III congregate care settings for over 120 days.[300]

h. Prohibition of placing child assessed at high risk for perpetrating violence or sexual assault with foster children not so determined.

In the December 2008 Monitoring Report, the TAC reported that the Department had begun using the Child and Adolescent Needs and Strengths (CANS) assessment as a vehicle for ensuring that it is meeting the requirement of Section VI.C.4 of the Settlement Agreement providing 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 CANS assessment includes specific inquiry into "Child Risk Behaviors" including three categories of behavior (or "prompts")—"danger to others," "sexual aggression" and "sexually reactive behavior"—which can be used to identify children who might be "at high risk for perpetrating violence or sexual assault."

CANS assessments are required to be initiated by the case manager within one business day of the day a child (age 5 or above) enters custody and are expected to be approved by the team leader and finalized by the regional CANS Consultant within five business days of the child entering custody. The CANS is completed and approved online through a DCS web application.

Additional CANS assessments (reassessment CANS) are to be completed at various points in the life of a case (prior to the revision of the permanency plan, at any major transitional period throughout the custody episode, and just prior to a child's release from custody) and must be done at certain intervals, depending on the child's level of need (for children receiving Level 1 services, at least every six months, for those receiving level 2 or 3 services, at least at six months

[299]A process is now in place that the regional psychologists review the cases of children designated for Level IV placements, before the placement is made and at intervals throughout the placement.
[300]Central Office holds bi-weekly Utilization Review meetings led by the Commissioner (with designated regions participating).

and then at least every three months thereafter, and for those receiving level 4 services, no less than every three months).

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, will consider whether any proposed placement for the child is serving children who are not aggressive.[301] Conversely, the Department expects that in making any placement decision of a child who is not aggressive, the Child and Family Team will specifically determine whether any proposed placement is presently serving a child at high risk for aggressive behavior.

Certain DCS staff members have particular responsibilities related to these placements:

- Regional Placement Specialists should know whether the child being placed is a "high risk" child and whether any of the children in a proposed placement is a "high risk" child.

- The CFTM facilitator should make sure that any time there is a "high risk" child being placed or the placement being considered presently serves a "high risk" child, the Child and Family Team addresses that issue.

- The Team Leader and the CANS Consultant, reviewing and approving the CANS of a child found at "high risk" for aggressive behavior, should intervene if he or she believes the child is placed in a placement where the child poses a high risk to non-aggressive children.

Finally, resource parents should alert the Department if they find themselves being asked to care for children who they feel pose a danger to other children in the home or whom the resource parent is unable to protect from other aggressive children in the home. (While a resource parent might not receive a copy of the CANS at the time of placement,[302] there is a standard form that the DCS worker is to fill out and provide to the resource parent with information about a child and this form includes a checklist of behaviors including sexual acting out, sexual aggression, physical aggression, and assault.)

In order to determine whether, notwithstanding the envisioned placement decision making process, children at high risk of aggression are in fact being placed with children not at high risk, the Department has implemented a process for identifying such placements (at this time, limited to resource home placements) and requiring the regions to review those placements. The High Risk Review Process was implemented in August 2008. On the 15th of each month, the Central Office Program Director for the Statewide CANS project generates an extract of all children for whom a CANS was completed during the previous month and develops a list of all of those children who have an "actionable service score" (2 or 3) on Danger to Others (DTO), Sexually Aggressive (SA), and Sexually Reactive (SR), and who are presently placed in resource homes in

[301] 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.

[302] Resource parents should generally have access to the CANS and should be familiar with the CANS process since "reassessment" CANS are based in large part on information provided by the resource parent.

which there are other children. The list is sorted by region and each region is sent its list for review and response.

The Regional Administrator is required to initiate a review process by staff that the region believes is the most appropriate to review the safety of these children in these placements. At a minimum, the list is sent to the Regional Administrator, the head of the Regional Placement Resources Unit, the Regional Psychologist, and the Regional CANS Consultant. In some regions it is also sent to the Deputy Regional Administrator or other persons known by the Central Office to be involved in the regional review process.

Each region is sent a worksheet with the names of the children from that region whom they are being asked to review and the regions are asked to provide the Central Office with answers to the following questions:

- What are the behaviors that identified the child as having high risk needs?
- Were the Child and Family Teams of each of the children in the home aware of the placement of the high risk child?
- Is each Child and Family Team comfortable with the safety of the placement?
- In the time since the placement of the high risk child, has the region reviewed the placement and reviewed the circumstances of each of the children in the home?
- What happened during the original placement that resulted in the high risk child being placed with other children despite having high risk needs?
- If there is presently a safety concern for any child in the home regardless of the CANS score of the high risk child, how is that safety concern being addressed?
- Has the region taken any action in response to what was learned from reviewing the high risk placement (e.g., training, refinement of the placement process)?

Central Office expects sufficient factual details from the regions in their responses to these questions to allow the Central Office to be satisfied that the placement is in fact appropriate or, in the event that it is not, that actions are being taken to address any safety concerns.

The regions are expected to return these worksheets with the answers to these questions and any additional information the region deems relevant within two weeks of receiving the list of children.

This two-fold approach—the emphasis on the front-end responsibilities of the Child and Family Team as a whole and of specific team members in particular to use the CANS to ensure that aggressive children are not commingled with non-aggressive children; and the High Risk Review process that identifies, reviews, and responds to potentially problematic placements—appears to

be reasonably designed to ensure compliance with this particular provision of the Settlement Agreement.

The Department still has some work to do to fully implement the High Risk Review process. The Central Office staff person responsible for seeing that the list is generated and sent to the regions for review has been assigned many other responsibilities and has had difficulty ensuring that the list is generated in a timely manner, that regions are responding in a timely manner, and that the responses adequately address the high risk concerns. This staff person does not at this point have the time to do the kind of tracking and follow up that the process envisions. While he makes an effort to flag and follow up on the most serious cases, it is not clear that he is able to devote the time necessary to identify all of those cases.

A number of regional administrators have indicated that they have found the review to be helpful to them, both in recognizing and responding to individual cases of poor placement decisions that put children at risk, and in identifying systems defects that allowed inadvertent commingling of high risk children with other children. However, while some regions have developed clear protocols and processes to receive, review and respond to the High Risk Review reports, there is considerable variation among the regions in the quality of the review and response. For example, in the High Risk Review for December 2009, two regions provided detailed information reflecting thoughtful discussions by regional teams which had reviewed the cases; on the other hand, no responses were provided from two regions that together accounted for 17 of the 71 cases of high risk children placed with other children in resource homes.

In reviewing the cases from the December 2009 High Risk Review for which responses were received, TAC monitoring staff found good examples of regions providing clear documentation of the basis on which the region concluded that, notwithstanding the "high risk" CANS score, the child's placement did not pose a safety risk to any child in the home and was appropriate.[303] However there were also cases in which the region did not provide sufficient information to allow the TAC monitoring staff to understand the reasoning behind the placement[304] or the reasoning supporting the placement seemed inconsistent with the facts presented by the region.[305]

TAC monitoring staff expect to take a more active role in supporting the CANS High Risk Review process over the next six months.

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[303] For example, a child determined to be high risk for sexually reactive behavior was placed in a resource home with her siblings. The regional review indicated that the sexualized behaviors are directed towards adult males, specifically the male foster parent, and not towards her siblings or other children.

[304] In one such case, the Central Office review flagged a child as being a danger to others and placed in a home with other children. The region responded with a conclusory statement that everyone was safe in the home and that the child was placed with siblings, but failed to explain the basis for that conclusion, describe the behaviors that led to the danger to others classification, and/or set forth what was being done to ensure the safety of all children in the home.

[305] For example, one child was determined to be a danger to others after he told his resource parent that he wanted to kill the younger foster child in the home with the knife he was hiding under his pillow. The child had to be supervised around the clock until a CFTM was held. The child was moved to another home with foster children his age or older; however, it was not clear what the basis was for concluding that the child would not pose a similar threat to children his own age or older.

C. Assessment Process to Support Case Planning/Service Provision (VI.D)

The Settlement Agreement requires that the Department implement a standardized assessment protocol that includes:

- a medical evaluation;
- a psychological evaluation, if indicated; and
- these assessments should be conducted prior to custody or within 30 days after the child comes into custody.

The Settlement Agreement requires that any initial placement made in advance of this assessment be reviewed in light of the assessment to ensure that the placement meets a child's needs.[306]

As has been discussed in previous monitoring reports, the Department has developed and is implementing a functional assessment process to support planning, service provision and placement decisions. The process draws upon a variety of assessment tools and activities including:

- *Structured Decision Making (SDM)* in the CPS process to screen and prioritize response to reports of abuse and neglect, to assess safety and risk in the course of the CPS investigation, and to support the MRS assignment process;

- *Child and Adolescent Needs and Strengths (CANS)* assessment, designed to help identify strengths and needs in the three core areas–safety, permanence and well-being–related to planning, service provision, placement, and level of need/level of care in three domains;[307]

- *Early Periodic Screening, Diagnosis, and Treatment (EPSD&T)* assessment for all children coming into state custody, to identify medical and behavioral health needs; and[308]

- *The Ansell-Casey Life Skills Assessment (ACLSA)* is designed to support case planning and service provision for the "independent living" needs of older youth.[309]

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[306] The Settlement Agreement also required the TAC to review the assessment protocol and ensure that it is a complete assessment of child's individual needs; and if not, to make recommendations which DCS shall implement to ensure that the protocol does ensure a complete assessment of the child's individual needs. The findings and recommendations of the TAC's review are set forth in the April 2005 Monitoring Report, pages 56-58. The Department has developed an assessment process and a set of assessment tools focused on the areas of child and family functioning identified by the TAC as essential to a full assessment. The Department's present emphasis on improving case manager assessment skills and consolidating and better integrating the various assessment tools into the assessment process is consistent with the TAC's recommendations.

[307] The Department has also developed and implemented a non-custodial CANS related assessment tool, the Family Advocacy and Support Tool (FAST), to help assess family strengths and needs for purposes of providing non-custodial services.

[308] See Section One for further discussion of EPSDT assessments for children entering state custody.

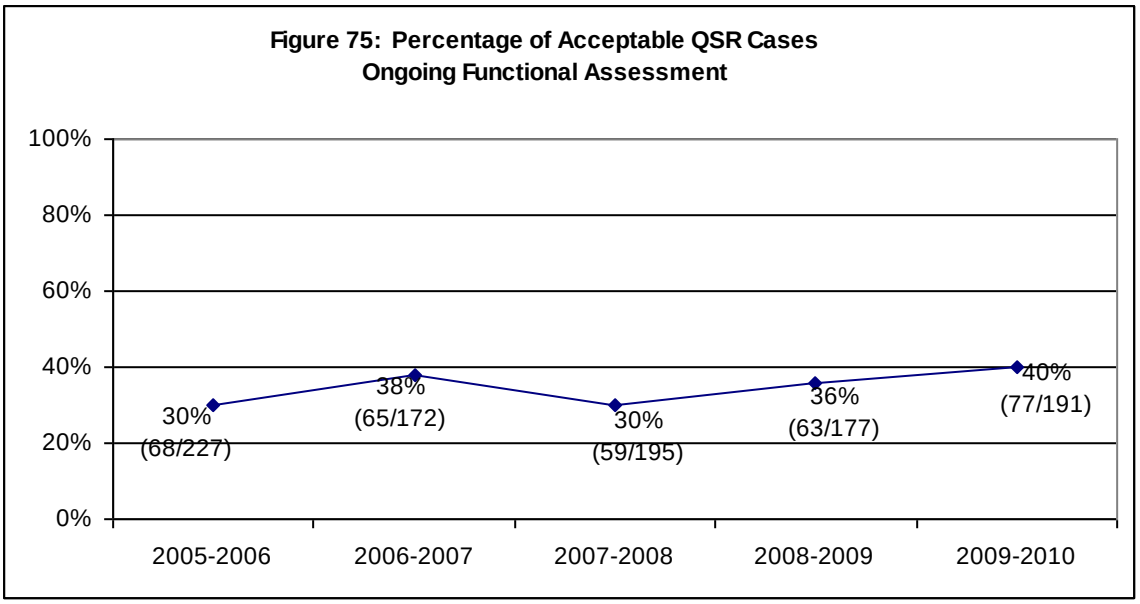
[309] See discussion at page 198.

Each of these assessment tools is intended to support the development and updating of a written Family Functional Assessment (FFA), described by the Department as "an inclusive, living document that captures the results of all other assessment tools and provides historical information from the family, child, and other team members. The FFA continually evaluates a child and family's strengths and needs as well as offering an explanation as to why those strengths and needs exist."[310]

Consistent with the Settlement Agreement, the Department's placement process and placement policies contemplate that placement decisions, both initial placements and any change in placement, will be driven by the assessment. As discussed in Subsection H below and in Section Seven of this report, the Child and Family Team has the ultimate responsibility for integrating assessment information into the case planning and decision making process. The initial placement is intended to be made at the direction of the Child and Family Team based on the assessment made by the team, drawing from information generated by the range of assessment activities and from strengths and needs identified by the team in its planning and placement decision making process. When an emergency placement is made in advance of a Child and Family Team Meeting (CFTM), the CFT is to examine the appropriateness of that placement based on assessment information available at its initial meeting. The functional assessment is intended to be an ongoing process and the team is responsible for tracking progress, adjusting the plan and revisiting the placement decision if further assessment information suggests that the placement is not meeting the child's needs.

The Department presently uses the Quality Service Review (QSR) as the primary measure of the Department's progress in implementing the functional assessment. In order for a case to receive an acceptable rating for Ongoing Functional Assessment, the reviewer must find that the child and family's strengths and needs have been identified by the Child and Family Team and are used by the team to make decisions, including decisions regarding the provision of appropriate supports for the child and family. The functional assessment draws from "formal assessments" such as psychological and medical evaluations, and from formal assessment tools such as the forms filled out as part of the CANS and SDM processes. The functional assessment also draws heavily from the insights and perspectives of the team members, including family, based on the team members own observations, interactions and experiences with the child and family. As the QSR scores in Figure 75 reflect, the effective use of functional assessment remains a challenge.

[310] *State of Tennessee Department of Children's Services Self Assessment for Round Two of the CFSR, June 2008*, page 135.



Source: Annual QSR finalized databases.

As discussed in the December 2008 Monitoring Report, the Department, as part of the CFSR process, conducted a self-evaluation of its assessment process, including the use of assessment information in case planning and placement decision making.[311] The Department expressed confidence that it had made significant progress toward the formation of a streamlined assessment process that, when fully realized, will produce comprehensive plans for children and families that address underlying needs identified during the assessment. However, the Department acknowledged that it continues to struggle to make comprehensive and appropriate assessments of children, families, and resource families.

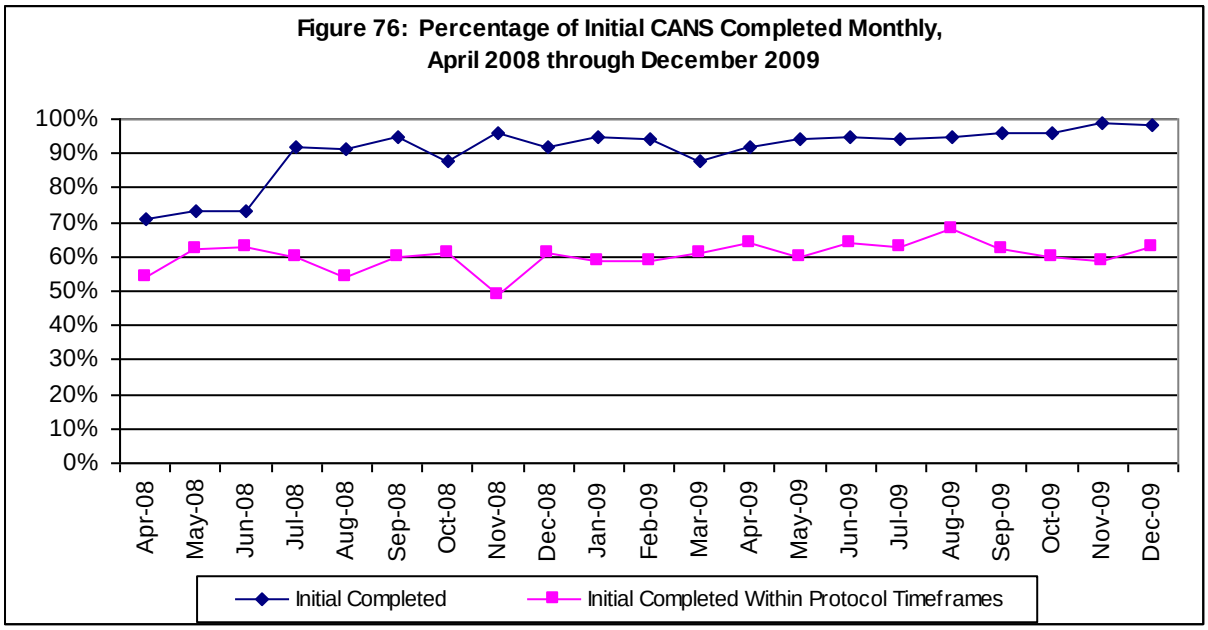
Much of the Department's self-evaluation focused on the implementation of the CANS. The CANS certainly provides a structure and focus for identification of strengths and needs that should improve the assessment process when it is fully implemented.

As reflected in Figure 76 below, the Department has increased the percentage of cases for which an initial CANS is completed from 58% statewide in October 2007 to 92% in December 2009. However, completion of the CANS was timely in only 63% of the cases in December 2009 and there appears to be considerable variation in the extent to which the CANS is presently integrated into the planning process. For some case managers, the CANS is a valuable way of processing and sharing information with the Child and Family Team to support the assessment and planning process. For others, it is viewed as yet another required form that gets "filled out" and "sent off" to the Centers of Excellence,[312] but that does not add value to the planning process.

[311] Id. at pages 134-138.

[312] There are three Centers of Excellence (COEs): University of Tennessee's Boling Center in Memphis serves West Tennessee, Vanderbilt University Medical Center in Nashville serves Middle Tennessee, and Cherokee Behavioral Health Center in Knoxville serves East Tennessee. These Centers provide mental health evaluation and consultation services for children in DCS custody. As part of this work, the Centers are responsible for the oversight of the CANS process. CANS consultants, employed and supervised by the COEs, are located in DCS offices across the

Figure 76 below presents tracking data on both the percentage of initial CANS that were completed (the blue colored line) and the percentage of CANS that were completed within the protocol time frame of 5 business days from entering custody (the pink colored line.)

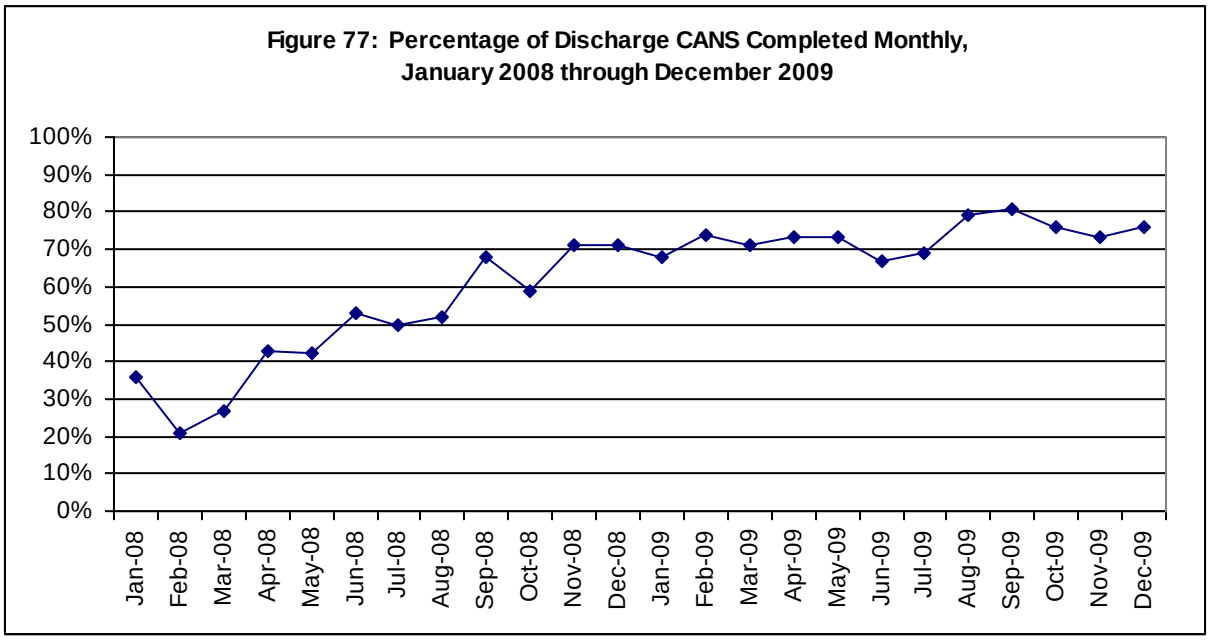


Source: CANS Statewide Project Summary, April 2008 through December 2009.

A discharge CANS is supposed to be completed (or updated) prior to discharge as a way of assessing progress by the child and family in the areas identified in the initial CANS, and informing discharge planning to meet ongoing needs. The discharge CANS is supposed to be completed prior to discharge from custody, or within five days of exiting if the child had an immediate custody discharge. As reflected in Figure 77 below, while there has been considerable improvement in the percentages of cases in which a discharge CANS was completed, completion rates for the discharge CANS have fluctuated between approximately 70% and 80% over the last six months of the monitoring period. In December 2009, a discharge CANS was completed in 76% of the cases for which a discharge CANS should have been completed.[313]

state. CANS consultants provide training to DCS staff, review completed CANS and consult with case managers and other staff regarding the scoring and use of the CANS assessment.

[313] Data on the timeliness of discharge CANS is not presently available.



Source: CANS Statewide Project Summary, January 2008 through December 2009.

Not unexpectedly, the written Family Functional Assessment (FFA) documents vary in quality. There has been an effort to structurally link the CANS to the Family Functional Assessment Template, and the Permanency Plan has been restructured to parallel the FFA template. With the implementation of TFACTS, the assessment tools will be completed in TFACTS and strengths and needs identified by those assessments will automatically appear in prompts in the Family Functional Assessment and Permanency Planning templates (which are also filled out in TFACTS) to help ensure that this assessment information is incorporated into the FFA and addressed in the Permanency Plan.

This integration and linking of assessment tools and planning documents into TFACTS is a significant improvement that should better guide case managers and certainly make completing the various tools and templates a more efficient and user-friendly process. However, the Department recognizes that the primary challenge is to develop the assessment skills of the case managers and case manager supervisors. As the Department observed in its self-evaluation:[314]

> "While the tools that make up the assessment protocol are in place, frequently many Family Service Workers have a difficult time seeing them as an integrated process rather than singular tools. Because of this limited view, the information gathered through the tools and the assessment process has not been synthesized consistently into individualized case plans to address the unique needs of the child, family, or resource family."

Improvement of assessment skills is one of the core commitments that the Department has made in its Program Improvement Plan (PIP) submitted in response to the April 2009 CFSR Report. The Department expects to address this challenge through improved training and increased

[314] CFSR Statewide Self Assessment, July 2008.

coaching and mentoring focused on assessment as part of its broader focus on the core practice elements of the Child and Family Team process.

D. Education Services (VI.E)

The Settlement Agreement requires the Department to ensure that children in foster care receive timely access to reasonable and appropriate education (including special education).

In order to provide specialized advocacy for children to ensure that individual children have access to a reasonable and appropriate education, the Settlement Agreement requires the Department to establish full-time educational specialists in each region and to create positions for 12 additional lawyers with responsibility for educational advocacy.

Finally, the Settlement Agreement requires that the Department conduct an evaluation of the in-house schools that serve children in DCS custody.

1. Hiring of Educational Specialists and Educational Attorneys

Shortly after the entry of the Settlement Agreement, the Department established and filled full-time educational specialist positions in each region and hired 12 additional lawyers, then referred to as "education attorneys."

The Department presently has 15 Education Specialist positions (all of which are presently filled) with every region having at least one specialist and two regions, Shelby and Mid-Cumberland, having two specialists each. 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[315] and the in-house schools operated by private providers. Education Specialists work with DCS staff, resource parents and local school systems to help ensure that children are receiving appropriate services. Education Specialists frequently attend Child and Family Team Meetings and participate in the multidisciplinary "Well-Being Teams" that convene to review "front-end" needs of children when they first enter DCS custody. Based on information gathered from QSR, in-house school evaluations and focus groups, it appears that case managers and school staff have found Education Specialists to be valuable resources for ensuring that children's educational issues and needs are addressed.

Early in the reform effort the Department dramatically increased the number of attorney positions, including adding 12 positions for "education attorneys." There are now 75 DCS attorney positions statewide (one of which is vacant). Twelve of those attorneys—one in each region—are designated to handle education issues. The "education attorneys" are expected to have special expertise and training related to education issues; however, those attorneys

[315] The Department is the Local Education Agency for five Youth Development Center (YDC) schools and seven group home in-house schools. See TCA 37-5-119.

presently handle regular caseloads and devote the bulk of their time to general staff attorney duties. They remain available as a resource and support to the educational specialists, should the education specialist determine that attorney advocacy is needed. However, it appears that education specialists have not found attorney advocacy to be a frequent need. The education specialists report having a good working relationship with not only the DCS education attorneys, but also the special education attorneys for the Department of Education, who serve as an additional resource for legal consultation and guidance.

2. Indicators of Timely and Appropriate Education Services

As discussed in the previous monitoring reports, both QSR results and previous case file reviews suggest that a large majority of the children in foster care are receiving appropriate educational services:[316] the vast majority of school age children are attending public schools and the Department appears to be acting responsibly to ensure that special education needs are being addressed.[317]

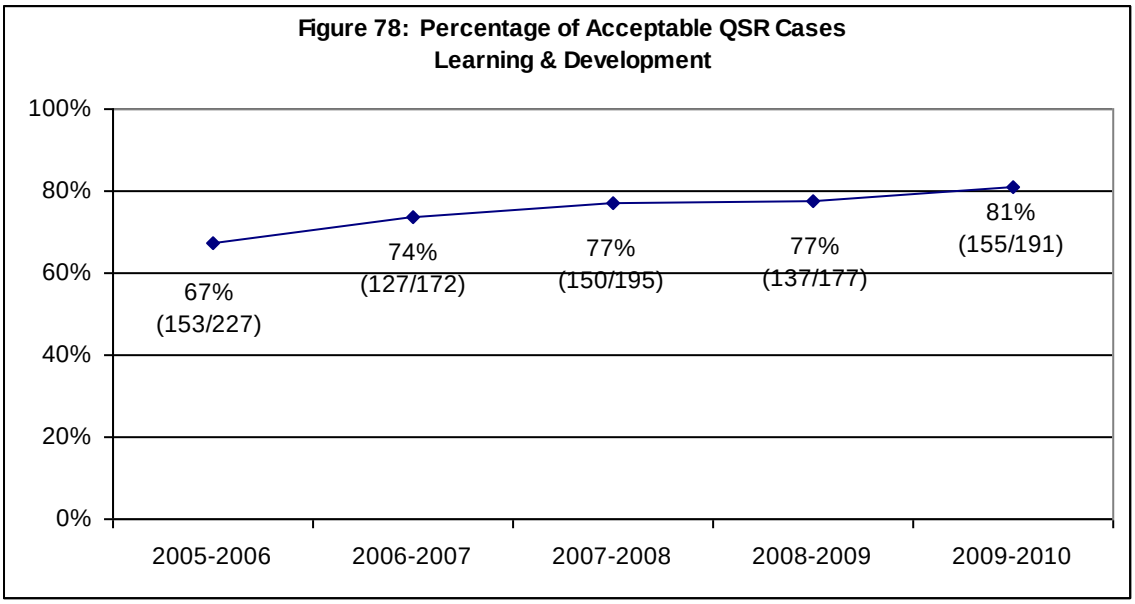
The QSR indicator for Learning and Development requires the reviewer to consider whether the child, at the time of the review, is receiving appropriate educational services consistent with the child's age and ability. For the case to score "acceptable," the reviewer must find that the child is receiving such services.[318]

Figure 78 presents the number and percentage of *Brian A.* cases receiving acceptable scores for Learning and Development in the past five annual QSRs.

[316] The major concern identified in the September Monitoring 2007 report with respect to education was the frequency with which a child's initial placement in foster care and/or subsequent placement moves within foster care require a change of school. The Department recognizes that as a concern. The strategies focused on keeping children in their home communities and addressing issues of placement instability, if successful, should increase stability of school placement.

[317] The Department now participates along with 130 other Tennessee school systems in utilizing "Easy IEP", the state's automated special education student management software. Among other things, this system provides participating school systems with immediate on-line access to information such as previous and current IEPs, eligibility reports, procedural safeguard documentation and student progress reports. The Department anticipates that this will both improve compliance with special education requirements and facilitate the exchanging of records among schools and eliminate the delays associated with obtaining hard copies of records.

[318] While the large majority of the QSR cases involve school age children (ages 5 to 18), the annual QSR scores for Learning and Development include both school-age children and younger children in the sample.



Source: Annual QSR finalized databases.

While an acceptable score on the QSR for Learning and Development indicates that a child is receiving appropriate education services, an unacceptable score does not necessarily mean that the child is not receiving appropriate education services. Attendance in an appropriate school program is just one factor that reviewers consider. The indicator is broader than just educational services and the focus of scoring is the extent to which the child is achieving developmental and educational milestones consistent with the child's age and ability.

In order to better understand the extent to which the failure to provide appropriate education services contributed to those QSR cases that were scored unacceptable, TAC monitoring staff reviewed the QSR results for the Learning and Development indicator and conducted a targeted case file review of school-age children whose cases scored "unacceptable" in the 2009-2010 QSR. Children were considered "school age" if they were 5 years of age or older or if they were 3 years of age or older and entitled to special education services through Tennessee Early Intervention Services (TEIS).

Of the 132 cases involving school-age children in the 2009-2010 QSR, 33 (25%) were scored unacceptable for Learning and Development. In five of those 33 cases, it appeared that children had significant emotional and behavioral health challenges that impaired their daily functions and impeded their learning. In those cases, addressing the mental health issues appeared to be the critical focus and the unacceptable score for Learning and Development did not appear to be based on a failure to provide educational services.

In the remaining 28 cases, TAC monitoring staff found some indication that the failure to provide some educational service was a contributing factor to the case receiving an unacceptable score.

- In eleven cases, the unacceptable rating was attributable in part to a failure to adequately assess the child's developmental and educational needs.[319]

- In twelve cases, the child had poor grades, was behind in school, and/or was performing below grade level, but the child was not receiving services to address those deficits.[320]

- In four cases, the child was certified for special education and reviewers were concerned with the sufficiency of the services provided;[321]

- In one case, the child was on a trial home visit but was not enrolled in a school program of any kind. [322]

The Department appears to face greater challenges in meeting the educational needs of older youth in care. The targeted case file review of 16 and 17 year olds discussed in Subsection E.2. below, which focused on case planning and service delivery for older youth in care, identified concerns with the adequacy of educational services in 46% (41) of the cases.

3. Completion of In-House Schools Evaluation

As reported in previous monitoring reports, the evaluation of the in-house schools has been conducted in stages.

Early in its reform effort the Department recognized at that time that for a large percentage of children who were attending in-house schools, public school was the more appropriate educational placement, and that, irrespective of the quality of the in-house school programs, there was no justification for maintaining all of those in-house school programs, especially those programs serving Level 1 children.

The Department established policies and procedures to ensure that in all but exceptional circumstances requiring a more restrictive educational setting, children in foster care would be educated in the more normalized settings of their local public schools. The Department also implemented a review process of the children then served in in-house schools to examine the appropriateness of their educational programs and to transition those children to public school if appropriate.

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[319] The circumstances giving rise to the perceived need for an assessment varied from case to case. For example: two children were in need of developmental assessments to determine eligibility for TEIS; one child needed to be assessed to determine if the school problems the child was experiencing were attributable to ADHD; the Child and Family Team in another case believed the child had an undiagnosed learning disability that would make the youth eligible for special education services and supports.

[320] Examples of educational services are tutoring, credit recovery, GED waivers and the like.

[321] In three of those cases, the school did not have a copy of the child's IEP and the children were not receiving accommodations. In another case, the child was not making progress on educational goals and reviewers were concerned that child's needs had not been reassessed.

[322] The child had not been enrolled in school for over a month at the time of the QSR review. Before the THV occurred, the Child and Family Team planned for the child to enroll in virtual school, but the parent did not enroll the child because she did not have the money.

Shortly after the entry of the Settlement Agreement, external consultants conducted an initial review of the 66 in-house schools then serving *Brian A.* class members (other than Tennessee Preparatory School). The Department committed to completing the in-house schools evaluation called for by the Settlement Agreement once it had finished its review of the children attending those schools and transitioned all those who were appropriate for public school into public school. The Department anticipated that once this had been accomplished, there would be significantly fewer in-house schools to evaluate.

In 2007, the Department, in consultation with the TAC, selected a qualified outside evaluator to begin the final phase of the review of in-house schools. Between September 2007 and May 2008, utilizing a methodology reviewed and approved by the TAC, the evaluator assessed 17 of the 38 in-house schools then serving *Brian A.* class members. The results of that assessment were discussed in detail in the December 2008 Monitoring Report.

In 2008, the TAC determined that it was appropriate for the Department's education specialists to complete the evaluations of those schools remaining to be evaluated, using the same methodology that had been used by the outside evaluator. The Department has completed the evaluation and a report of that evaluation was submitted to, reviewed by, and discussed with the TAC in March 2010.

While it was important to complete the formal evaluation of in-house schools called for by the Settlement Agreement, at this point in the Department's development it is the on-going involvement of the Department's Education Division with each of the in-house schools, not the formal evaluation, that will best assure that the in-house schools are providing adequate services to the children they serve.

Each provider agency school is required annually to complete an In-House School Compliance Document and provide supporting information to certify that it is meeting DCS educational standards. The Education Division follows up with three formal monitoring visits to each in-house school every year to further review compliance with standards. Examples of information gathered from the documentation and monitoring reviews include: DOE school approval status, current teacher licensure, appropriate provision of special education services, completion of educational passport reviews (public vs. in-house schools), compliance with DOS testing, curriculum and library requirements. In addition to the Department's own monitoring, at the request of DCS, the Department of Education is now conducting special education monitoring of the in-house schools every two years.

The TAC has been very impressed by the level of knowledge that Education Division staff have of the strengths and weaknesses of the in-house schools, of the efforts that they make to work with those schools to address any identified weaknesses, and of the commitment to terminate contracts of those schools when corrective actions are insufficient.[323]

At present there are 35 in-house schools serving *Brian A.* class members.

[323] This is reflected by the fact that three of the 38 in-house schools with whom the Department had contracts in 2007 have not had their contracts renewed.

E. "Independent Living" Services For Older Children (VI.I)

The general provisions of the *Brian A.* Settlement Agreement related to assessment, case planning and service provision (primarily those in sections VI.D,E , VII, and VIII.C) apply with equal force to older youth. In addition, the Settlement Agreement includes a variety of provisions (and policies generated pursuant to those provisions) which require a higher level of active participation in and responsibility for planning and decision making based on age (e.g., required presence of older children at Child and Family Team Meetings and increased rights and responsibilities of older children to make health care decisions).

The Settlement Agreement also includes a provision specific to older youth, requiring that DCS "shall have a full range of independent living services and shall provide sufficient resources to provide independent living services to all children in the plaintiff class who qualify for them." (VI.I)

In order to ensure that assessment, case planning and service provision for older youth address their "independent living needs"—the services and supports necessary to allow older foster youth to successfully transition to adulthood—DCS has adopted a number of policies specific to older youth. Policy 16.51 describes the "InTERdependent Living Plan" (ILP) [324] as a "section of the Permanency Plan for all youth in state custody age fourteen (14) and older" and places the responsibility on the case manager "to develop this plan along with the Permanency Plan." The policy further specifies that:

"specific emphasis must be paid to the youth or young adult's input and preferences in its development. The integration of goals that project the youth or young adult's increasing ability to manage all aspects of their own lives self-sufficiently, with all available options for the establishment of legal, physical and relational permanency and support, is essential."

1. The Department's Response to Needs Assessment III

As discussed in the December 2008 Monitoring Report, *Needs Assessment III*, completed in December 2007, focused on the Department's efforts to meet the needs of adolescents in foster care. The Department found that, while there is a wide range of services[325] available and some youth were receiving all of the services for which they were eligible, there were a significant number of eligible children who were not getting all of the services to which they were entitled and/or were not receiving those services in a timely manner.

The Needs Assessment identified three broad areas for improving service delivery to and outcomes for older youth, recommending that the Department:

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[324] The Department renamed what had formerly been referred to as Independent Living, because the term "inTERdependent living" was considered more consistent with the Department's vision for older youth transitioning to adulthood. The "TER" is an acronym for Teaming to Engage Resources.

[325] The InTERdependent Living Division offers services to current and former foster youth to promote: educational attainment (e.g. tutoring, standardized testing fees); housing (e.g. Independent Living Allowance); permanency; financial stability; and employment and job readiness (e.g. interview clothing and apprenticeships).

- strengthen youth engagement and build a youth voice infrastructure;
- redefine the work of the Independent Living Division by integrating preparation for adulthood and relational permanency[326] efforts; and
- collaborate with other state agencies and external partners to build a system supporting successful youth transition to adulthood.

Needs Assessment III found considerable variation in the extent to which older youth were accessing services and supports for which they were or should have been eligible. In some situations those services had not been readily available; in others there had been bureaucratic obstacles to accessing the services (including policies that restricted eligibility beyond what was required by state and federal law). A major impediment to older youth receiving independent living services has been a lack of knowledge among case managers and supervisors, resource parents and private provider staff, and among the youth themselves about available services and the means for accessing them. Whatever the reasons, *Needs Assessment III* found that a significant number of eligible children were not getting all of the services to which they were entitled and/or were not receiving those services in a timely manner.

Among the specific findings of *Needs Assessment III* were the following:

- Numerous problem cases reflected a failure to prepare a young person to participate in the CFT process and a failure to place that young person at the center of his or her own team, surrounded by supports (including those of the youth's own choosing).

- When administered, the Daniel Memorial Assessment (assessing preparation to adulthood skills) typically was not used by the involved case managers and was not integrated into the broader assessment and planning processes.

- Independent Living Plans, required at age 16, were not being routinely done or, if they had been done, they were often insufficient or were not integrated into or parallel with other plans (e.g., permanency plans, Individualized Education Plans, etc.).

- Independent Living Program services were not oriented toward building lasting relationships that support preparation for adulthood and were not integrated with permanency services.

- There was little use of IL wraparound funds for preparation for adulthood for younger adolescents in custody who may or may not age out of care. As a consequence, little in the way of concrete resources was being expended to help normalize the experience of youth in custody.

[326] The term "relational permanency" refers to the establishment of enduring connections to supportive, caring adults without the formal family relationship that is denoted by the "legal permanency" options such as reunification, adoption, or subsidized permanent guardianship.

- Particularly for mental health services, inherent difficulties in transitioning from one system to another were being made more difficult by the fact that there was little state-level coordination, as services are provided by Community Mental Health Center.

- While IL staff generally seemed knowledgeable about traditional preparation for adulthood services and post-secondary supports, they could not on their own successfully transition youth to adulthood, especially given the agency's recognition that a long-term connection to a caring adult is an essential element of successful transition.

- A substantial number of older youth had behavioral and emotional problems.

In response to the findings and recommendations of *Needs Assessment III*, the Department developed an InTERdependent Living Strategic Plan in 2007. The Strategic Plan was organized around goals in five areas:

- educational attainment;
- housing;
- establishment of permanent connections;
- community engagement; and
- establishment of comprehensive mental health services for transitioning youth.

In accordance with that plan, the Department has revised its IL related policies (incorporating a number of improvements recommended by older youth themselves), has switched to the Ansell Casey Life Skills Assessment (ACLSA) (which is web based, in multiple languages, and provides individualized feedback that can more easily inform case planning); has integrated the InTERdependent Living Plan (ILP) into the Permanency Plan; and has created a "technological fix" to help ensure that all older youth receive an ACLSA assessment and ILP (before a permanency plan can be generated for an older youth, an ACLSA assessment date must be entered in TNKids and entries must be made in relevant ILP fields).

Most significantly, the Department has made the focus for case planning for older youth "permanency **and** successful transition to adulthood" not "permanency **or** successful transition to adulthood." While in the past, IL services had been viewed as an "alternative to permanency"—a kind of consolation prize for those older youth for whom the Department had failed to find permanent families—now preparation for adulthood and provision of IL services to support that preparation is to be considered in the context of the major emphasis on "fostering permanent connections," through either "legal permanency" or "relational permanency." The Department has embraced in its policy a philosophy that a youth is never too old to find permanency, and that there is no more important contributor to successful preparation for/transition to adulthood than having those personal family or family like connections that will last into adulthood.

2. Results of the InTERdependent Living Targeted Case File Review

The InTERdependent Living (IL) Targeted Case File Review was designed to assess the extent to which assessment, case planning and service provision for older youth in DCS custody is meeting the case work standards which the Department has established in response to the provisions of the Settlement Agreement, the findings and recommendations of *Needs Assessment III*, and the requirements of older-youth specific provisions of federal law.[327]

The cases were reviewed between June and September 2009 and were rated based on the status of the casework through the date of the review.[328]

While the reviewers identified examples of high quality practice, the review identified significant work to be done to align actual practice with that envisioned by DCS policy. Among the key findings of the case file review were the following:

- In only 21% (19) of the 90 cases reviewed was case practice sufficiently consistent with Departmental expectations for preparing older youth for the transition to adulthood to be rated as "clearly acceptable;"

- In 49% (44) of the cases, case practice was rated as "marginal," reflecting some aspects of expected practice with older youth;

- In 30% (27) of the cases, case practice was clearly unacceptable, reflecting little or none of the aspects of preparation for adulthood set forth in DCS policy.

- Every case file included an Interdependent Living Plan (ILP), which was incorporated into the permanency plan.[329] However, there was considerable variation in the quality of the ILPs. While TNKids requires some entry in the fields of the ILP, entries range from thoughtful and detailed information to minimal information and boilerplate language.[330]

- There was a life skills assessment of some kind in 92% (83) of cases reviewed. In 86% (77) of the cases those assessments were current enough (less than a year old) to be able to inform case planning; however, even in those cases for which current assessment information was available there often appeared to be little discussion with the youth and/or team members of the ACLSA and little connection between the ACLSA results and the provisions of the plan.

- The vast majority of youth in the cases reviewed were regularly attending the Child and Family Team Meetings. Youth were present for the Permanency Planning CFTM in 93%

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[327] The InTERdependent Living Targeted Case File Review is attached as Appendix N.

[328] For any case that received an overall "unacceptable" rating, the Department was provided the opportunity to submit supplemental information including actions that had been taken subsequent to the review.

[329] The "technological fix" implemented by the Department prevents production of a permanency plan for a child 14 years or older, unless an ACLSA completion date is entered and entries are made in the required ILP domains (at least two, the Life Skills and Support domains, if the child is age 14-16; all domains if the child is 17 years of age).

[330] In one case, the ILP was largely filled by entering "NA" in each field.

(84) of the cases.[331] However, while there were some excellent examples of older youth who were actively participating in their case planning, whose voices were clearly being heard and respected by the other members of the Child and Family Team, and whose reasonable preferences and personal goals were driving the case plan, this was not routinely the case.

- A significant number of the older youth reviewed had intellectual disabilities[332] and/or mental health needs that presented special challenges to successful transition to adulthood. With respect to those youth whose disability is mental retardation and who therefore are eligible for adult supportive services from the Division of Intellectual Disabilities (DIDS) and with respect to those youth whose mental health needs are likely to require adult residential services from the Department of Mental Health and Developmental Disabilities (DMHDD), regional staff appeared to be identifying those youth and coordinating with the appropriate agency to ensure a smooth transition. For those youth reviewed with borderline intellectual functioning or with mental health concerns that impair daily functioning, there is less certainty that they will receive the combination of coordinated services that they need.

In response to these findings, the Commissioner has implemented a special administrative review process and is conducting monthly reviews with each region of cases involving older youth. The Department expects the combination of these new reviews and the Commissioner's monthly FOCUS reviews (which involve a large number of older youth in care) will help advance the quality of case practice. [333]

F. Use of Psychotropic Medication, Physical Restraint, and Seclusion (VI.F, VI.G.)

The Settlement Agreement requires the Department to:

- review and revise policies and procedures regarding the administration of psychotropic medications to children in foster care;

- review and revise policies and procedures related to use of physical restraint, seclusion, and isolation of children in foster care;

[331] In 2% (2) cases, the youth were not in attendance because they were on runaway when the permanency plan was updated. In 4% (4) cases, the CFTM summary forms or the documentation in TNKids did not reflect who was in attendance at the CFTM.
[332] Intellectual Disabilities is the terminology now used by the state to refer to the diagnosis of mental retardation. The Division of Intellectual Disabilities (DIDS) was formerly referred to as the Division of Mental Retardation Services.
[333] Issues related to permanency and transition to adulthood for older youth were also a major focus of a recent two day convening on resource home recruitment and retention involving teams from each of the regions.

- ensure that medication is administered only with appropriate informed consent, with a preference for parental consent, with a health unit nurse to be available to provide consent when parental consent cannot be obtained; and

- hire a Medical Director, reporting directly to the Commissioner, to oversee implementation, monitoring, and corrective action with respect to the administration of psychotropic medications and the use of physical restraint and seclusion.

The Settlement Agreement establishes two specific reporting and review requirements with respect to the use of psychotropic medications, restraints, and seclusion:

- all health unit nurses must maintain logs of approvals of medication administration, and those logs, as well as copies of logs maintained by contract agencies, are to be submitted to the Medical Director for review on an ongoing basis; and

- all incidents of the use of restraint and seclusion must be reported to the Central Office "resource management unit" and made available to the DCS Licensing Unit and Medical Director for appropriate action.

As discussed in the December 2008 Monitoring Report, the Department has revised its policies and hired qualified staff to oversee the implementation and provide the review and monitoring required to ensure that practice is consistent with the policies. It has developed and continues to deliver required training for DCS and private provider staff and for resource parents. The Department has made significant progress in building its data capacity related to psychotropic medications and incident reporting. That increased data capacity has resulted in improved tracking and monitoring and helps ensure that informed consent is obtained and documented for all children receiving medications.

1. Appointment of a Medical Director and Other Staffing

The Department established the position of Director of Medical and Behavioral Services (Medical Director) and originally hired a psychologist to serve in that position. The Department subsequently established an additional position, "Chief Medical Officer", and hired a board certified child psychiatrist to fill that position. The psychologist who had been serving as Medical Director resigned in 2008; the person then serving as Chief Medical Officer has since assumed the position of Medical Director and the Department has found it unnecessary at this point to fill the Chief Medical Officer position.

The Department has 16 nurse positions, 14 of which are regional positions (13 are presently filled) and two of which are in central office, and 12 psychologist positions.[334]

2. Review and Revision of Policies and Procedures

[334] The Medical Director, nurses and psychologists are considered members of the "Well-Being Unit."

As has been reported in previous monitoring reports, the Department, in consultation with the TAC, developed and promulgated a set of policies and procedures with respect to the administration of psychotropic medications and the use of restraints and seclusion that are well reasoned, appropriately conservative, and consistent with relevant professional standards. The Pharmacy and Therapeutics Committee has proven a valuable resource in consultation around updates and revisions of psychotropic medication policies.

3. Implementation of Policies and Procedures

In the January 2006 Monitoring Report, the TAC discussed the Department's plan for implementing the new policies and procedures. The implementation plan included:

- development and delivery of training relevant to psychotropic medication, restraints, and seclusion 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 an automated system for tracking, reporting, and analyzing use of medications, restraints, and seclusion; 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.

The Department has made significant progress in each of these areas.

a. Training

The Department has developed five separate training modules that must be completed every two years:

- Psychotropic Medication Policy Training;
- Fostering Positive Behavior (behavior management training that includes information on use of restraints and seclusion);
- Medication Administration for Resource Parents;
- CPR and First Aid for Resource Parents; and
- Assistance with Self-Administration of Medication for DCS Youth in Group Home Settings (training for unlicensed personnel in group home settings).

Newly hired case managers are required to complete the Psychotropic Medication Policy Training during one of the OJT weeks of the pre-service training and are required to complete Fostering Positive Behavior training within 30 days of completion of the pre-service training. As discussed in the December 2008 Monitoring Report, the Department has also delivered this training as required in-service training for those case managers who had been hired prior to the development of this training.[335] Fostering Positive Behavior, Medication Administration for Resource Parents, CPR and First Aid are now required training for all resource parents and all resource parents should have already received the training, either during the course of their initial certification or as part of the recertification process.[336]

With respect to the training of private provider staff, representatives of the private providers have received training in each of these three curricula designed to build their capacity to deliver training to private provider staff and resource parents. The Department requires each private provider to develop and implement a training plan to ensure that all staff and resource parents receive the appropriate training.[337]

The Department has completed the development of the curriculum module for Assistance with Self-Administration of Medication for DCS Youth in Group Home Settings. The curriculum was piloted beginning in October 2008 within the DCS Group Homes. The curriculum was reviewed by the Department's legal department and by the Tennessee Nursing Board before being

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[335] According to the DCS Training Division as of June 8, 2010: 2324 staff members (case managers and other field staff) have received the Psychotropic Medication Policy Training and 3383 DCS case managers have received the Fostering Positive Behavior training.

[336] According to the DCS Training division, as of June 4, 2010, Medication Administration training has been attended by 8119 DCS resource parents. (Because resource parents may be required to take this training as a periodic "refresher" course, this total "double counts" resource parents who have taken the training more than once.) This class is taught by licensed health care professionals through a statewide contract with a medical staffing agency. As of June 4, 2010, 3576 DCS parents have been trained in CPR and First Aid. (This total also "double counts" resource parents who have taken the training more than once.)

The Training Consortium has worked with DCS to formulate a version of the "Fostering Positive Behavior" curriculum that is specific to resource parents. The Training Consortium began delivering this version of the training to resource parents at regional conferences in September 2006. According to the DCS Training Division, a total of 2561 resource parents have completed the training as of June 4, 2010. This class is offered in the monthly rotation of in-service classes provided by the Consortium.

[337] In the September 2007 Monitoring Report, the TAC reported on the number of private provider staff that attended the "Training for Trainer" sessions on the Psychotropic Medication Policy curriculum and received the Medication Administration for Resource Parents curriculum. The Department has since recognized that it failed to put a mechanism in place to ensure that all subcontractors were trained with the curricula and that new providers, after the original training in 2006, also received the information. Because of difficulties with the tracking and reporting of private provider training, the Department has not been able to provide up-to-date information on the extent to which private provider staff have received "train-the-trainer" or other training related to the medication training modules.

The Training Consortium in cooperation with the Tennessee Alliance for Children and Families (TACF) has delivered "train-the-trainer" sessions for the Fostering Positive Behavior training across the state to give private providers this curriculum and assist them in their plans for delivering it within their agencies. This training has been provided to 171 private provider staff.

Additionally, contract agencies that provide foster care services to DCS will receive an additional copy of the "Fostering Positive Behavior" curriculum that is specific to resource parents. They will be responsible for delivering this in-service training to their contracted resource parents. A total of 32 providers have attended a "Train-the-Trainer" Session for Fostering Positive Behavior for Resource Parents as of June 4, 2010.

approved. The curriculum was approved by the Nursing Board in October 2009 and finalized and posted for Private Provider Agency use in January 2010.[338]

b. Publication and Distribution of Guidelines

In 2007, the Department published a document entitled *Psychotropic Medication Utilization Parameters for Children in State Custody*, (Medication Parameters).[339] Copies of the Medication Parameters have been distributed to all of the private providers with whom the Department contracts for resource homes and congregate care placements and have also been sent to the Tennessee Chapter of the American Academy of Pediatrics (TNAAP), the Tennessee Academy of Family Physicians (TNAFP), and the Tennessee Association of Mental Health Organizations (TAMHO).[340]

c. Congregate Care Facility Monitoring and Oversight

As the foundation for congregate care facility monitoring and oversight, the Medical Director, Central Office nurses, other Central Office Well-Being Directors and Well-Being Unit regional staff have worked in conjunction with Child Placement and Private Providers (CPPP) to revise, refine and raise standards within the Provider Manual Scope of Services requirements.

As discussed in more detail in Section Twelve, the Department has been integrating the variety of oversight and monitoring activities related to licensing, program accountability reviews, incident reports, and SIU investigations. There are now protocols related to psychotropic medications, restraints and seclusion that DCS staff are expected to utilize during the site visits they conduct (both announced and unannounced) as part of the monitoring, auditing, and other contract oversight of congregate care facilities. The Medical Director and Central Office Well-Being Nurse meet regularly with Program Accountability Review (PAR) monitors to discuss medication, seclusion and restraint issues. PAR teams review a sample of client files when they visit private providers and look at medication issues and incident reporting. Findings related to these issues are included in the PAR reports and considered by the Provider Quality Team System (PQTS) in reviewing a specific private provider and deciding how to proceed.[341]

d. Improving Data Capacity related to use of medication, restraints and seclusion

One of the major obstacles to successful implementation of the policies and procedures related to medication, restraints and seclusion has been the limited capacity of the Department's information system to capture and report relevant data.

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[338] Development and delivery of these trainings had been delayed because of a perceived need to enact authorizing legislation delineating the limited circumstances in which non-licensed DCS and private provider personnel are authorized to assist children in state custody with the "self-administration" of medications. This legislation was passed with an effective date of July 1, 2007.

[339] This document, which was adapted from a publication of the Texas Department of State Health Services, replaced a less detailed preliminary guidelines document that the Department had been using.

[340] A copy of this document can be found in Appendix J of the September 2007 Monitoring Report.

[341] As discussed further in Section Twelve, PAR reviewers monitor private provider agencies for compliance with contract provisions. Corrective action plans related to PAR findings are submitted to the PAR unit and reviewed by a Green PQT.

As a result of the August 2007 TNKids build, the Department has enhanced capacity to capture and report more detailed health related data, including informed consent. TFACTS will maintain this ability to capture and monitor specific psychotropic medication and informed consent information.

The Department has also been able to utilize the BlueCross BlueShield (BCBS) pharmacy claims database to provide a detailed and comprehensive picture of the number of children receiving psychotropic medications during the course of any given month. The data can be sorted in a variety of ways including by demographic characteristics of the children, by specific medication or number of medications, and by specific prescriber and/or provider. The Department plans to continue to utilize BCBS pharmacy claims data on an ongoing basis as this database is considered the "gold standard" in terms of data accuracy.[342]

The Department had planned to run the BlueCross BlueShield data against the TNKids Health Service icon data to help identify those children who are receiving medications but for whom the informed consent required by DCS policy is not documented in the TNKids Health Services icon. This has proved to be beyond the capacity of the TNKids system and the Department has not yet determined whether TFACTS will have this capacity.

Progress has also been made in improving data capacity related to the Incident Report (IR) process. As reported in previous monitoring reports (and as discussed further in Sections One and Twelve of this report), the Department had struggled to develop a system for the receipt and investigation of incident reports (which include reports related to all uses of restraint or seclusion as well as reports of medication errors or improper use of medications) that ensures that IR reports come to the attention of all persons with responsibilities related to the substance of the report, that any necessary investigations are conducted and the results of those investigations are shared, and that any appropriate follow-up including any required corrective action occurs.

In January 2007, the Department began the transition from a hard copy IR reporting process to a web application linked to TNKids. The Department trained and gave access to the IR web application in phases to providers and DCS staff and completed the process in July 2007.[343] The database is used not only to capture information, but to send automatic electronic notifications to those staff with responsibility for acting on the information received, to track the responses of those persons, share the results of investigations, and track and report on follow-up. The intensity of review and/or follow-up required of Departmental staff is determined by the severity level assigned to the incident. The IR web application will be rolled into TFACTS.

The Well-Being Unit psychologists (presently supervised by the Medical Director) are responsible for the initial review and investigation of incidents involving the use of restraints

[342] The process of obtaining the data from BlueCross Blue Shield and running that data against the TNKids custody data to create the report of all children in state custody receiving psychotropic medications takes approximately six weeks. The Medical Director is now reviewing this data on a periodic basis and is developing an approach to use the data to flag particular children, classes of children, particular providers or classes of providers for further scrutiny. Included in Appendix J of this report is data generated by the Department regarding the administration of psychotropic medications during 2009.

[343] In circumstances in which web access is for some reason unavailable, private providers can fax a "hard copy" IR; DCS staff receiving the fax are now responsible for entering the IR into the database.

and/or seclusion that meet a defined severity level. The Well-Being Unit nurses (presently supervised by the central office nurse) are responsible for the initial review and investigation of incidents involving medication errors that meet a defined severity level. The Well-Being Unit nurses and psychologists have defined criteria for notification and consult with the Medical Director and/or central office nurse related to these incidents.

e. Implementation of Review Processes

The Medical Director works with the Well-Being Unit nurses to review both cases in which review and approval is required by the new DCS medication policies and cases that have been "flagged" because of other concerns.

Among the "triggers" requiring review and/or approval by the Medical Director of administration of psychotropic drugs to children in state custody are the following:

- any medication of a child under the age of 6;
- any case of a child receiving four or more medications;
- any dosages in excess of those set forth in the guidelines;
- any combinations of drugs specifically designated in the guidelines;
- any "red alert" medications—medications that the Medical Director in consult with the Pharmacy and Therapeutics Committee has identified as sufficiently unusual or of such limited appropriate application that all instances of use of that drug should be reviewed (28 of the 111 available psychotropic medications have been designated "red alert");
- any situation in which anxiolytic or antipsychotic psychotropic medications have been prescribed "as needed"; and
- any instance of emergency administration of psychotropic medication.

The Medical Director has been working with the Office of Information Systems (OIS) to refine the automated screening process to eliminate some unnecessary triggers (for example, limiting the circumstances for flagging of cases that have been previously reviewed and approved or screening and eliminating cases flagged as a result of data entry errors). When TFACTS is implemented, the Well-Being Unit nurses will have the capacity to correct data entry errors or override an automatic trigger in cases that had been previously reviewed and approved.[344]

[344] The Medical Director's review begins when TNKids sends an email alerting that a child's psychotropic medication administration is not consistent with policy. The Medical Director then reviews the child's TNKids Health information to determine the reason for the "trigger." The Medical Director then reviews information regarding: age of child, placement, diagnoses and current target symptoms, current medication request, and prescribing provider. The appropriateness of medication, dosage for the age of the child, the diagnosis, and target symptoms are reviewed in each case. Other areas that are reviewed on specific cases as indicated by the situation include: social history, medical history, previous psychiatric history including previous psychotropic medications, previous psychiatric hospitalizations, medications that the child is prescribed at the time of the initial evaluation by current provider, other modalities of treatment the child is currently receiving (e.g., behavioral therapy, psychotherapy), current level of functioning, and current placement stability/longevity. If there are no concerns after reviewing relevant information, the Medical Director documents the result of her review directly into TNKids. If concerns are identified, the Medical Director sends an email requesting additional information from the Well-Being Unit nurse. The Well-Being Unit nurse follows up with necessary parties and reports the results to the Medical Director, who then documents her findings in the TNKids file.

The Medical Director has also been working with the Well-Being Unit nurses to refine their role in the review process. Well-Being Unit nurses consult regularly with the Medical Director regarding medication issues, including concerns that nurses have raised regarding specific prescribing providers.

According to the Medical Director, the vast majority of cases reviewed thus far indicate thoughtful decision making on the part of the prescribing provider, with the goal of stabilizing the child in the child's current placement or of enabling the child/youth to step down to a less restrictive placement. Occasional cases have resulted in a recommendation to transfer care from a primary care provider to a specialist (psychiatrist) because of the complexity of the issues. In a very small number of cases, the review identified concerns about the quality of care and resulted in the transfer of each case to a different prescribing provider.[345]

As a result of TNKids enhancements, Well-Being Unit nurses no longer maintain hard copy medication logs. Well-Being Unit nurses instead enter all health information into the TNKids Health Services Icon. The information entered in the Health Services Icon in combination with BlueCross BlueShield Data and the automated medication review process functions as the medication log maintenance and review process required by the Settlement Agreement.[346]

The Department has developed and implemented a number of forms and informational documents to improve continuity of care as children/youth enter and leave state custody and change placements.

A new Well-Being Information and History form captures information at the beginning of a case related to a variety of areas of well-being, including the early identification of any conditions for which the child is receiving or has received medication and/or other treatment. Regional Well-Being staff hold weekly or bi-weekly meetings to review new entrants into custody.

A one-page Informed Consent informational document assists in educating providers about DCS policy.

The Department has implemented a "Health Services Confirmation and Follow-Up Form" to be submitted by the provider and the case manager following any medical appointment indicating actions to be taken (including prescription of medication), as well as a "Psychotropic Medication Evaluation Form" which is used specifically to address health care when psychotropic medication is prescribed. The provider may also submit their own documentation that provides equivalent information.

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[345] In one instance quality of care concerns were raised by Well-Being Unit nurses and Central Office Review triggers, corroborated by BlueCross BlueShield annual aggregated pharmacy data and Pharmacy and Therapeutics Committee members from the community. An unannounced visit by Well-Being Unit nurses ensued, the Provider Quality Team System was notified, a Corrective Action Plan was requested and an element of the final outcome was that the prescribing provider has been replaced.

[346] The Department's present approach is a much more efficient and effective oversight process than maintaining hard copy medication logs and having those logs periodically reviewed by the Medical Director.

According to the Medical Director, these steps have contributed to a quicker identification of and response to any questions or concerns related to psychotropic medication and have resulted in a higher level of documentation of informed consent.[347]

Finally, the TNKids Health Summary serves as the child/youth's health passport and improves continuity of care. This functionality will be maintained within TFACTS.

f. Pharmacy and Therapeutics Committee

As reported in previous monitoring reports, the Department has established a Pharmacy and Therapeutics Committee (P&T), chaired by the Medical Director, whose membership includes psychiatrists and pharmacists with special expertise related to child and adolescent psychiatry and who have agreed to meet at least quarterly to advise on issues related to mental health treatment. The Committee has been involved in DCS Policy revisions and updates as well as the development of the *Tennessee Psychotropic Medication Utilization Parameters for Children in State Custody*.

The Committee has also developed medication dosage limits which trigger further review. The members have reviewed situations in which children/youth in DCS custody have been prescribed red letter medication (Clozaril) and developed a protocol under which the prescription would trigger Center of Excellence review. Most recently the Committee has discussed appropriate actions to be taken with respect to "high prescribers"—those providers identified by the annual aggregate BlueCross BlueShield pharmacy data as frequently prescribing four or more psychotropic medications for a single child.

It is still anticipated that the P&T Committee will review situations in which the prescribing practices of a particular provider have raised some concerns, facilitating discussions with the prescribing provider to determine the extent to which the concerns are valid, and where there are valid concerns, working with the prescribing provider to help ensure that those concerns are addressed or, in cases in which those concerns persist, advising the Department on appropriate actions. The original intention was to use monthly BlueCross BlueShield data to identify providers for review; however, that data proved too unwieldy. It is now the intention to use annual BlueCross BlueShield aggregate reporting for this purpose.

G. Case Manager Contact with Children (VI.K)

The Settlement Agreement requires that a case manager have contact with each child on his or her caseload 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, as amended, also sets a minimum number of case manager visits for each child:

[347] The TAC anticipates conducting a targeted review once TFACTS is implemented to determine the extent to which the informed consent policies have been successfully implemented.

- six visits in the first two months of any new placement (at least three of which must take place at the placement);
- two visits per month thereafter; and
- three visits per month during the first month of a trial home visit; and two visits per month for the remainder of the trial home visit.

The Settlement Agreement also provides that during every required visit the case manager spend some private time speaking with each child (with the exception of infants).

In private provider agency managed cases, the Settlement Agreement requires the private provider case manager visit with the same frequency and in the same manner as a DCS case manager in a DCS case managed case and also requires:

- monthly visits by the DCS case manager;
- at the child's placement, including private time with the child; and
- at least one visit every three months being a joint visit with the private provider agency case manager.

As discussed in the December 2008 Monitoring Report, the Department has over time increased its capacity to report aggregate data on face-to-face contacts made by DCS and private provider case managers. A significant accomplishment has been the development of a web-based reporting process that allows private providers to document their contacts in TNKids rather than relying on DCS staff to input data from progress reports submitted by the private providers. The present web application does not have the capacity to receive the narrative summaries describing the interaction between the child and the private provider case managers that are typically included in TNKids case recordings for DCS case manager contacts. However, with the implementation of TFACTS, the private providers will be able to provide that narrative.[348]

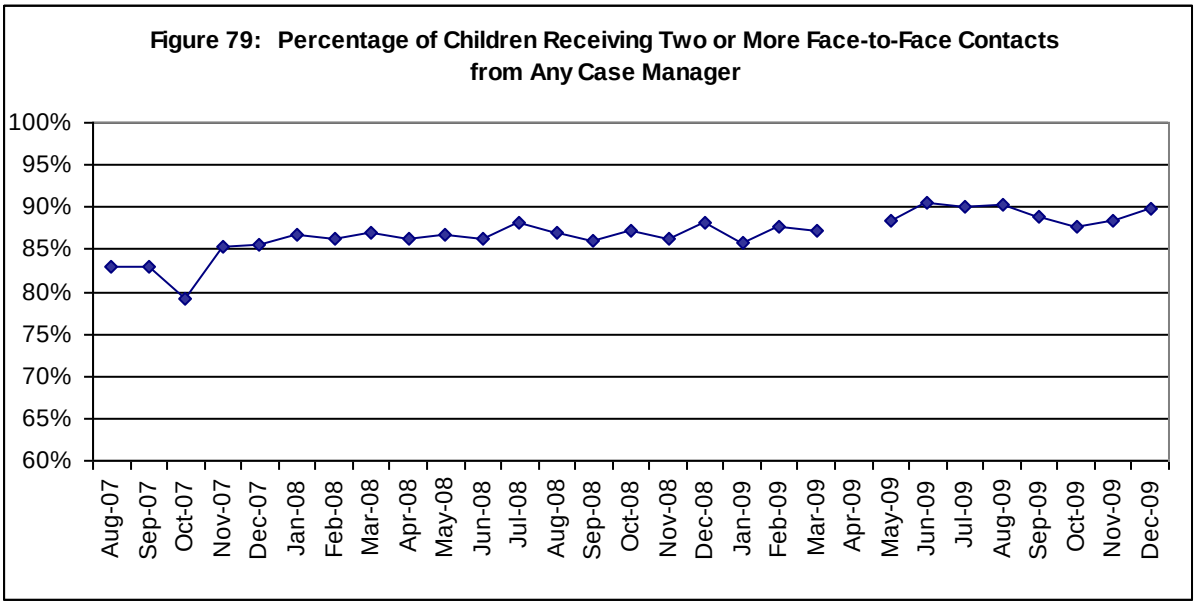
Although case manager contacts are not yet occurring with the frequency required by the Settlement Agreement, there has been a steady and significant improvement in frequency of case manager contact over the past two and a half years.

1. Percentage of Children Receiving Two or More Face-to-Face Contacts

In August 2007, the Department started producing a report ("DCS and Private Provider Aggregate Face-to-Face Report") that counts the number of face-to-face contacts by any case manager (DCS or private provider) for all children in the plaintiff class. As reflected in Figure 79 below, the percentage of children in the plaintiff class reported to be receiving two or more

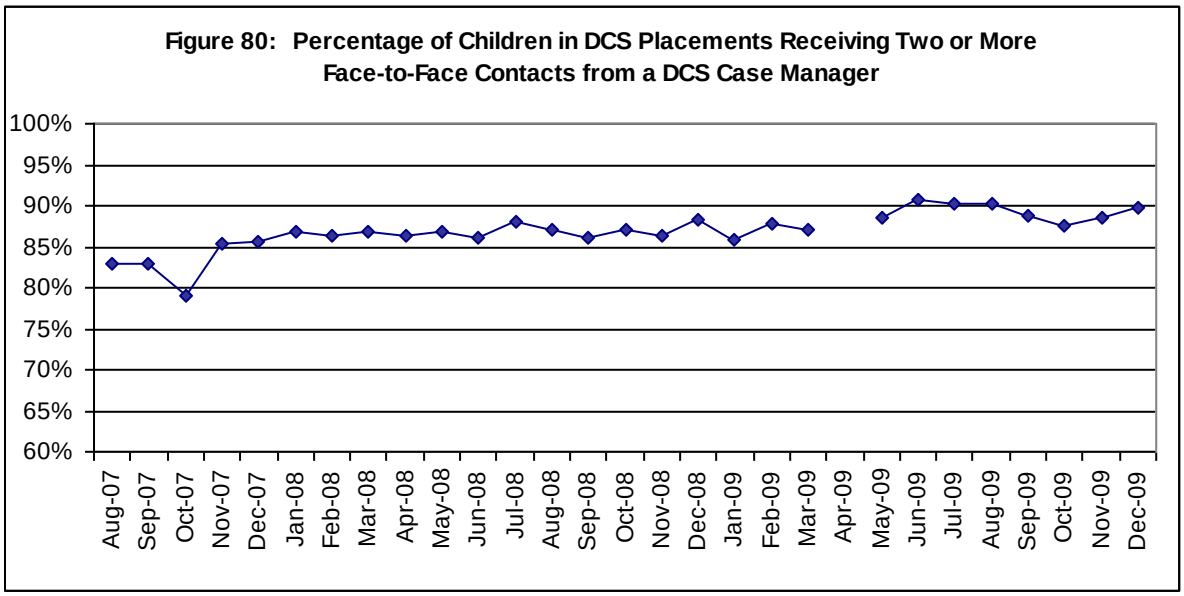
[348] Private provider case managers are currently submitting written summaries to DCS case managers to be filed in the child's case file. While TFACTS has the capacity to receive case note narratives directly from private provider staff, at least initially the private providers will be expected to enter just these monthly summaries in to TFACTS. The Department and the providers have agreed to the areas and level of detail to be included in the monthly summaries.

face-to-face contacts each month increased from 83% in August 2007 to 88% in July 2008 and has remained fairly stable since that time, fluctuating between 86% and 91%.[349]



Source: TNKids "DCS and Private Provider Aggregate Face-to-Face Report," August 2007-December 2009.

The Department also produces separate aggregate reporting on the performance of DCS case managers visiting children in DCS placements. In December 2009, 85% of class members in a DCS placement received two or more visits by a DCS case manager. As reflected in Figure 80 below, the percentage of children in DCS placements receiving two or more contacts by a DCS case manager has ranged from 82% to 88% during Reporting Period IV.



Source: TNKids "*Brian A.* Clients- DCS Non-Contract Placements Face-to-Face Contacts," August 2007-December 2009.

[349] Figure 79 excludes data from April 2009, because the Department inadvertently reported March 2009 figures for April 2009.

In October 2009, the Department started producing aggregate reporting on the performance of private provider case managers visiting children in private provider placements. In October 2009, 79% of class members in a private provider placement received two or more visits by a private provider case manager; that percentage increased to 80% in November 2009, and to 81% in December 2009.[350]

One of the limits of the aggregate reports discussed above is that they do not provide information on the extent to which some individual children may be going for months without any face-to-face visits. Even if every month 99% of the children were receiving at least one face-to-face visit according to the monthly reports, if it is the same children making up that 1% each month who are going without a visit, the aggregate reporting would be masking a significant problem. TAC monitoring staff, utilizing two reports that identify children who have had "zero contacts" from their case manager during any given month, conducted a targeted review of those children to determine how frequently children are going multiple months without face-to-face visits with their case manager. While the review did identify a number of children who had gone without a visit from their case manager for two months or more, those cases appear to be relatively rare. The report of the results of that review is attached as Appendix O.

2. Percentages of Children Receiving at Least One Monthly Face-to-Face Visit at the Child's Placement

The DCS and Private Provider Aggregate Report also captures 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 addresses the requirement that children have a monthly face-to-face visit in the child's placement. As reflected in Figure 81 below, the percentage of case managers reported to be meeting the requirement of monthly face-to-face contacts in the child's placement has increased since the Department began tracking this requirement in February of 2008, from 69% to around 80% in recent months.[351]

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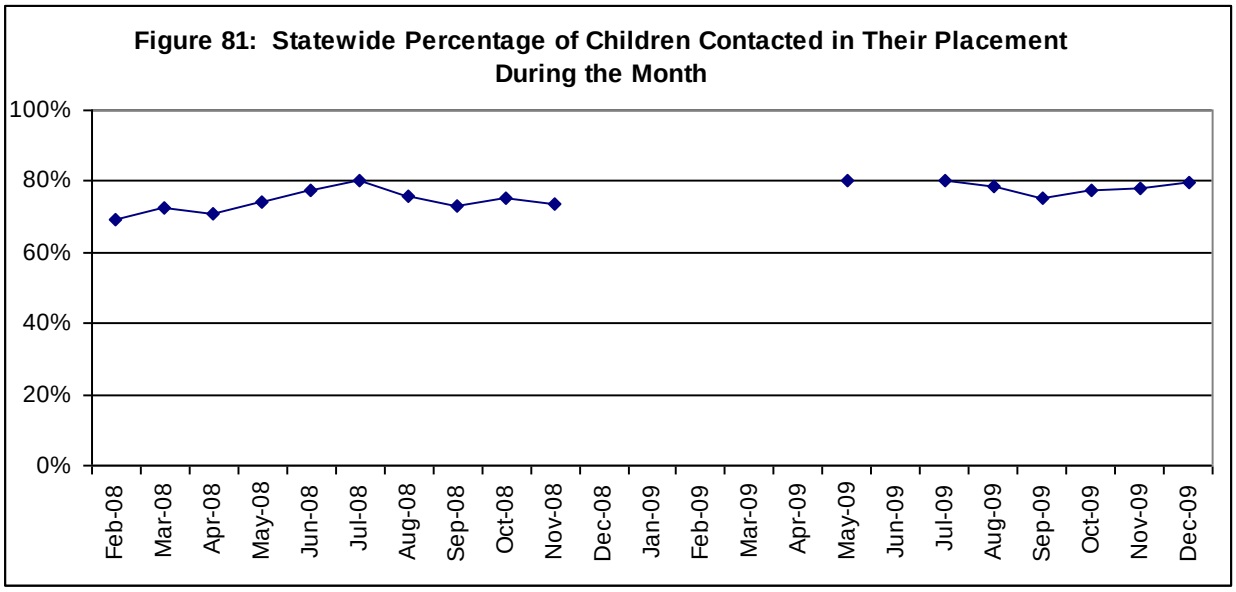
[350] The aggregate data with additional filtering identifies a number of agencies with poor performance in meeting the face-to-face requirement for children placed in the provider's care. Based on follow-up, the Department believes this to be mostly a documentation and reporting problem, and not a reflection of private provider performance. The Department has taken corrective actions with individual providers to ensure that face-to-face contacts are entered.
As a part of provider monitoring, the CPPP Division tracks private provider performance and reports its findings to various Placement and Well-Being staff persons, and to the Commissioner and Assistant Commissioner. In addition, face-to-face contact performance is included in the Provider Scorecard.

[351] Figure 81 excludes data from December 2008 through April 2009, and June 2009 because of errors in the report. The Department is aware of how the errors occurred and was willing to produce corrected reports for the months with erroneous data. The TAC determined that it was unnecessary because they have addressed the error and producing the report would take away scarce time and resources from current priorities such as implementation of TFACTS. The TAC has not validated the way in which the numbers are pulled from TNKids or the accuracy of the information in TNKids designating the location of the face-to-face contact.



Source: TNKids "DCS and Private Provider Aggregate Face-to-Face Report," February 2008-December 2009.

3. Percentage of Children Receiving Six Face-to-Face Contacts During the First Two Months in a New Placement

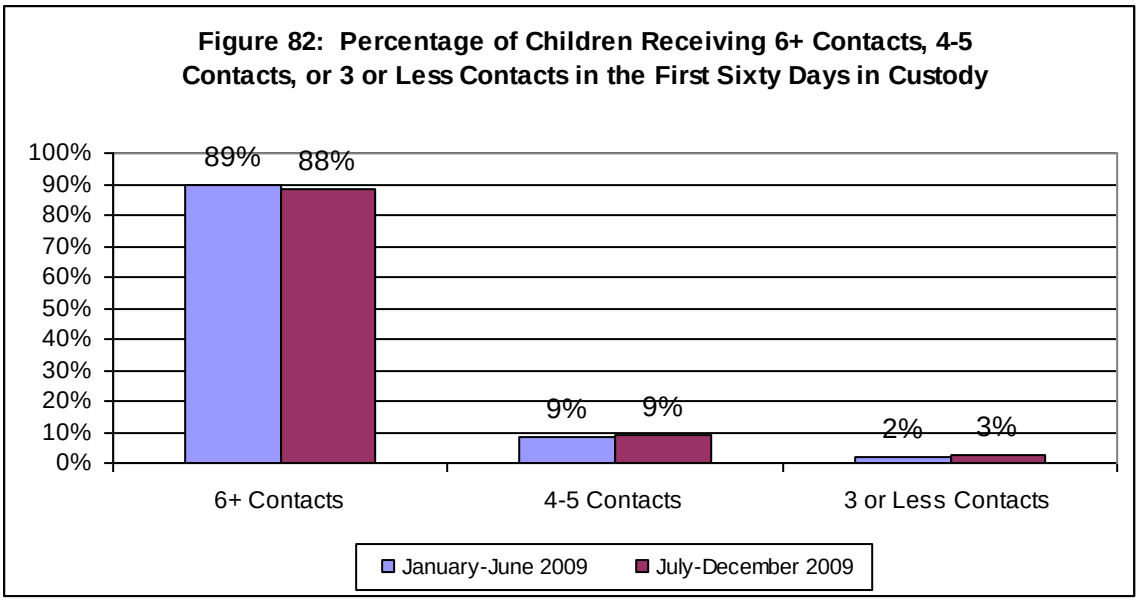
The Department has done very limited reporting related to the requirement that a child receive six visits during the child's first two months in a new placement and presently produces no regular reports related to this requirement.[352]

In order to provide some information on the extent to which the Department is complying with this requirement, the TAC arranged for production of a report for each of two six-month periods (January through June 2009 and July through December 2009) for any child who entered care during the six month period and who remained in care for at least 55 days. The report presented the number of case manager face-to-face contacts for each child, sorted according to the following categories: children who received six or more contacts; children who received four or five contacts; children who received three or fewer contacts.[353]

As reflected in Figure 82 below, almost 90% of these children received six face-to-face contacts during their first 55-60 days in care, another 8% to 9% received four or five face-to-face visits, and only 2% to 3% received fewer than four face-to-face contacts.

[352] The December 2008 Monitoring Report included data from what was then a new monthly private provider report ("*Brian A.* Face-to-Face Private Provider Placements-New Admissions to Custody") that tracked the number of face-to-face contacts by private provider case managers in the first 60 days of a child's entry into custody. That report has been discontinued.

[353] The report made no distinction between children who were in a single placement for the entire period or were in multiple placements during that time. It pulled face-to-face contacts by the case manager with primary responsibility for contact at the time of the visit, so that if a child were 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.



Source: "*Brian A.* DCS and Private Provider Face-to-Face New Admissions, All Contacts, January-June 2009 and July-December 2009.

Table 18 and Table 19 below present the same data, broken out by region.

Table 18: DCS and Private Provider New Admissions January through June 2009

Region	Total Number of Admissions in Custody 55+ Days Requiring a Visit	6+ Contacts	6+ Contacts %	4-5 Contacts	4-5 Contacts %	3 or Less Contacts	3 or Less Contacts %
Davidson	109	107	98.2%	1	0.9%	1	0.9%
East	175	145	82.9%	23	13.1%	7	4.0%
Hamilton	53	47	88.7%	6	11.3%	0	0.0%
Knox	158	143	90.5%	12	7.6%	3	1.9%
Mid-Cumberland	241	226	93.8%	15	6.2%	0	0.0%
Northeast	149	123	82.6%	22	14.8%	4	2.7%
Northwest	50	48	96.0%	2	4.0%	0	0.0%
Shelby	282	269	95.4%	8	2.8%	5	1.8%
Smoky Mountain	178	154	86.5%	15	8.4%	9	5.1%
South Central	135	114	84.4%	19	14.1%	2	1.5%
Southeast	96	93	96.9%	2	2.1%	1	1.0%
Southwest	90	80	88.9%	9	10.0%	1	1.1%
Upper Cumberland	141	111	78.7%	25	17.7%	5	3.5%
Statewide Total	1857	1660	89.4%	159	8.6%	38	2.0%

Source: "*Brian A.* DCS and Private Provider Face-to-Face New Admissions- All Contacts, January-June 2009.

Table 19: DCS and Private Provider New Admissions July through December 2009							
Region	Total Number of Admissions in Custody 55+ Days Requiring a Visit	6+ Contacts	6+ Contacts %	4-5 Contacts	4-5 Contacts %	3 or Less Contacts	3 or Less Contacts %
Davidson	112	99	88.4%	11	9.8%	2	1.8%
East	150	130	86.7%	19	12.7%	1	0.7%
Hamilton	76	67	88.2%	7	9.2%	2	2.6%
Knox	167	152	91.0%	14	8.4%	1	0.6%
Mid-Cumberland	212	201	94.8%	10	4.7%	1	0.5%
Northeast	143	142	99.3%	0	0.0%	1	0.7%
Northwest	68	61	89.7%	3	4.4%	4	5.9%
Shelby	291	260	89.3%	19	6.5%	12	4.1%
Smoky Mountain	195	169	86.7%	17	8.7%	9	4.6%
South Central	142	101	71.1%	31	21.8%	10	7.0%
Southeast	118	108	91.5%	8	6.8%	2	1.7%
Southwest	85	80	94.1%	5	5.9%	0	0.0%
Upper Cumberland	144	107	74.3%	28	19.4%	9	6.3%
Statewide Total	1903	1677	88.1%	172	9.0%	54	2.8%

Source: "*Brian A.* DCS and Private Provider Face-to-Face New Admissions- All Contacts, July-December 2009.

4. Other Requirements

The Department is presently not able to provide aggregate reports related to the Settlement Agreement requirement that the case manager spend private time with the child during each required face–to-face contact.

The Department is also not presently able to provide aggregate reports related to the Settlement Agreement requirement that there be joint DCS/private provider case manager face-to-face contact once every three months in private agency managed cases.

5. TFACTS Reporting Capacity Related to Face-to-Face Contacts

The Department is expecting to continue aggregate reporting from TFACTS with respect to the following face-to-face visit requirements which are currently the subject of TNKids reporting:

- number of face-to-face contacts with the DCS case manager (zero, one, two, and three or more) each month for children in both DCS and private provider placements;
- number of face-to-face contacts with the private provider case manager (zero, one, two, and three or more) each month for children in private provider placements;
- total number of face-to-face contacts with both DCS and private provider case managers each month for children in both DCS and private provider placements; and

- for each group listed above, the number of face-to-face contacts occurring in the child's placement each month.

It is not yet clear whether TFACTS will have an expanded reporting capacity beyond what is presently available in TNKids.

H. Miscellaneous Structural Requirements

1. Staffing to Support Placement Process

The Settlement Agreement requires the Department to establish and maintain a Resource Management Unit within the Central Office that is responsible for training regional staff on placement issues. (VI.J) Under the terms of the Settlement Agreement, regional placement resource management units are "*responsible to ensure a careful and appropriate matching of a child's individual needs with the child's resource family or placement facility*." Regional resource units are required to have "*sufficient staff and other resources*" to ensure that all children requiring placement are placed promptly and appropriately, and in accordance with their needs.

The Child Placement and Private Providers unit (CPPP) is the Central Office resource management unit and there are regional placement specialists in each of the regions. However, the Central Office and regional resource units no longer make placement decisions. Instead, under the Department's present placement process[354] the regional resource units or Placement Service Divisions (PSD) act as a support for the Child and Family Team in identifying and securing placements based on the team's decisions. The Central Office Unit, CPPP, provides support and technical assistance to the regional placement specialists and assists a region when the region is having a difficult time finding an appropriate placement for a child or when the region is experiencing problems with a particular private provider.

There are five key components of the current placement process that are relevant to Section VI.J of the Settlement Agreement:

- consolidation of previously separate placement units;
- implementation of an assessment process that provides the information necessary to ensure that the child is matched with the best placement;
- use of Child and Family Teams to make critical decisions regarding child removal, initial placement and placement transition;

[354] The Department originally referred to this as the Unified Placement Process (UPP), primarily as a vehicle for reorienting regional staff to changes from what had been a bifurcated process, based on whether a child was going to be placed in a DCS placement or with a private provider. The designation signifies the collapsing of what had been separate placement units into a single unit and integration of those staff into the CFTM placement decision-making process.

- development of locally accessible resources that match the needs of children and their families; and
- use of data to measure progress in making the right placements for children.[355]

Historically, each region has maintained separate placement units, one with responsibility for knowing and accessing private provider placements and the other with responsibility for knowing and accessing DCS operated placements. Workers in these units did not know all the placement resources available in the region and placements were determined first by which unit was responsible for placement and then by what "slots" were "open" at the time the case was referred to that unit. The persons in the unit responsible for finding a placement in most cases had never met the children they were responsible for placing.

Under the present placement process, each region has a single placement unit with designated placement specialists for each county or group of rural counties. These specialists are expected to be 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.

Matching a child with the placement that will best meet his or her needs requires not just a thorough knowledge of the strengths of the resource homes and congregate care programs available to the region, but also a good understanding of the strengths and needs of the child and family. For this reason, the Department has placed special emphasis on the effective use of the Child and Adolescent Needs and Strengths (CANS) Assessment and the development of a quality Family Functional Assessment to guide placement decision-making by the Child and Family Team.

With this restructuring of the placement process, the Child and Family Team, not a resource management unit, is responsible for placement decisions and for assessing and reassessing to ensure that children are in placements that meet their needs. The consolidation of the placement units has already significantly improved the placement process and resulted in more broadly informed and involved placement specialists.

In order to ensure that the right mix of services and placements are available in the region to meet the needs of the children and families in that region, placement specialists are expected to keep track of resources not only so that the best matches can be made from the available placements but also so that resource needs and resource gaps can be identified and filled. The regions are expected to develop local resources to meet the needs of local children and families.

As reported in the December 2008 Monitoring Report, in order to support the regional placement process, the Central Office committed to providing the regions with:

[355] The sixth key component of the present placement process is engagement of each child in the process, paying special attention to concrete steps that can be taken to help reduce the trauma of the removal experience and ease the transition into a new placement. The Department places special emphasis on developing and implementing a menu of practices and approaches that can help reduce the trauma of the placement process. This includes creating more comfortable settings for children to wait in while efforts to find a placement are being made, sharing information (including through pictures) about the particular families that are possible placements for the child, and developing routines for introducing children to their resource families in ways that help ease the transition.

- regular and timely production of region-specific and county-specific outcome data, both baseline data and tracking data;

- a resource home database that allows regional staff ready access to up-to-date and accurate data on every DCS and private provider resource home, to track available resource homes and match children with those homes;

- an assessment protocol (and training of regional staff in the use of that protocol) that integrates the variety of assessment tools (SDM, CANS, the Family Functional Assessment) into a clearly understood, uniform process for gathering and analyzing the information that the Child and Family Team needs to make good case planning and placement decisions; and

- funding allocations and resource development support to ensure both a sufficient range and capacity of services and placement resources within the region to meet the needs of the children in that region, including services necessary to avert placement or support a family-based placement, and readily accessible "flex funds" to allow the Child and Family Team the ability to respond quickly to case specific needs.

The Central Office has provided region specific and county specific outcome data, but has continued to struggle to provide a useful resource home database for the field. The TFACTS resource link has been designed to address this need.

As discussed in Section Six, Subsection C of this report, the Department is continuing to refine its assessment protocol to better identify strengths and needs; and the Department continues to work to ensure an appropriate service array to meet those needs (including availability of flex funds).

2. Data to Support the Placement Process

The Settlement Agreement also requires that the Department maintain a computer system that allows the central and regional offices to track for each placement (whether that placement is provided directly by DCS or through contract with a private provider) the following:

- current license and accreditation status;
- reports of abuse or neglect that have been filed and/or substantiated against the facility or agency within the past three years;
- facility or agency vacancies;
- the ages and genders of children whom the facility or agency is licensed to accept;
- the age and gender of all children in the facility or agency;
- the level of care that the facility or agency can provide;
- specialized services available through the facility, agency or by the resource parents; and

- the total number of children who may reside in the facility or with the agency at one time pursuant to the agencies license.[356] (VI.J)

a. Data related to congregate care placements

As discussed in previous monitoring reports, the TNKids system does not provide Central Office and regional staff with ready access to the information required by this section of the Settlement Agreement beyond the level of care that a private provider can provide. However, with the implementation of TFACTS, most of this information will be readily available.[357]

b. Data related to resource home placements

As required by the Settlement Agreement, TNKids provides information on both the level of care that can be provided by a particular resource home as well as specific behaviors that the resource family feels equipped to deal with. Additional information regarding resource homes (including capacity, present level of utilization, and approval status) is also readily accessible through the TNKids resource home database.[358] Further, TFACTS is expected to provide improved access to this information.

3. Requirement that Private Providers Accept Children for Placement

The Settlement Agreement 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.[359]

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[356] Although the general language of the Settlement Agreement appears to be intended to include information related to both congregate care and resource family placements, all but one of the specific (bulleted) data required related to placement called for by Section VI.J of the Settlement Agreement relate to "facilities" and "agencies," but not to resource parents.

[357] Some information may continue to be unavailable. Tennessee's licensing process does not include licensing for specific genders and only some licenses specify age limits. TFACTS may not provide information on other children in these facilities who are not in DCS custody (e.g., children "privately placed" by their parents, children placed by other states.)

[358] See Section Nine for further discussion of the strengths and limitations of this database.

[359] The Department does not have a formal structure for identifying situations in which a private provider refuses to accept a child who DCS deems is appropriate and determining whether the refusal is contrary to the policy and contract requirement. There may be instances in which private providers, rather than engaging in a discussion about whether a child is appropriate, simply indicate that they do not have a bed available. In general, the Department enjoys a good working relationship with the private providers with whom it contracts for placements. In addition, the Department's work on Performance Based Contracting, discussed further in Section Twelve, is designed to identify those agencies that are best able to meet the needs of children in foster care. Private providers that appear to be reluctant to accept children that DCS has deemed as appropriate for placement with that provider or are frequently unavailable when the Department is looking for an appropriate placement for a child are likely, if implementation is completed and successful, to be identified and those issues addressed as part of the implementation of Performance Based Contracting.

4. Avoiding Conflict of Interest in Placement Process

The Settlement Agreement has two provisions intended to address potential conflicts of interest in the placement process:

- The Department is prohibited from contracting with any agency for which an owner or board member holds any other position that may influence placements provided to children in plaintiff class (including, judges, referees and other court officers).

- The Department is required to notify all agencies of this prohibition and is required to obtain written confirmation from any agency with which it contracts that no such conflict of interest exists. (VI.H)

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 2009-2010 contract year, the Department has required each private provider to file annually with the Department a current list of board members and an individual conflict of interest statement from each such person in order to ensure that each provider provides affirmative documentation of their compliance with this conflict of interest provision. The Department will be integrating the recording and review of this documentation into its broader private provider oversight process.

5. Continuum Contract Review

The Settlement Agreement requires that the TAC review the continuum contracts and make recommendations to the Department with regard to the continuum contracts.[360] (VI.L) The Department is required to implement those recommendations.

In 2003 the TAC conducted a study of the existing continuum contracts and issued a report with recommendations focused on four areas:

- better defining what a continuum is and ensuring that only programs that meet this definition are treated as continuums;

- setting meaningful standards for the range of services to be provided by continuums;

- clarifying the roles and responsibilities of DCS and continuum providers; and

- better evaluating the performance of individual continuums, and using the results to influence contracting decisions.

[360] A continuum contract is one in which the Department's reimbursement to the private provider agency is based on the level of needs presented by a child and family, rather than the type of placement or facility in which the child is housed. Thus a provider earns the same rate whether it serves the child in a congregate care facility, in a resource family, or with supportive services in the child's own home.

As reported in previous monitoring reports, the Department has implemented the TAC's recommendations. The Department has increased expectations for continuum providers to meet the needs of most children—even those with challenging behavioral issues—in family-based settings. The Department has also worked with individual providers to help them move toward these goals, in some instances changing contracts as a result.

The TAC recommended that by May 1, 2005, continuums be required to serve at least 75% of the Level II children in their care and at least 50% of the Level III children in their care in resource family settings. On December 31, 2009, there were 833 class members served through Level II continuum contracts and 557 class members served through Level III continuum contracts;[361] 95% (793) of those served through Level II continuum contracts and 75% (417) of those served through Level III continuum contracts were placed in family settings.[362]

The Department requires continuums to provide a full array of services and a full range of service settings, from congregate care to family settings, to meet the individualized needs of the children and families they serve. A number of agencies that had been unable to comply with the new standards either elected to discontinue their continuum contract or increased their ratio of family settings to congregate care settings to comply with the mix required in order to be considered a continuum.

The Department has fully implemented Performance Based Contracting and all contracts for placement providers are performance based. [363]

[361] This includes Level III continuum contracts and Level III continuum Special Needs contracts.
[362] This data is derived from the DCS Mega Report.
[363] See Section Twelve, page 198 for discussion on Performance Based Contracting.

SECTION SEVEN: PLANNING FOR CHILDREN

The Settlement Agreement (VII.A.) requires the Department to maintain and update policies and procedures establishing a planning process:

- that initially seeks to work intensively with the family to allow the child to remain safely at home;
- that when removal is necessary, works intensively with the family to allow safe reunification quickly; and
- that when reunification with the family of origin is not appropriate or cannot be accomplished safely within a reasonable period of time, assures the child an alternative, appropriate placement as quickly as possible.

The Department's practice standards, policies, and procedures articulate a planning process that is in accordance with this requirement and the Quality Service Review Protocol reflects, reinforces, and assesses the case planning process consistent with these requirements.

At the core of the planning process is the Child and Family Team (CFT) and the Child and Family Team Meeting (CFTM).

As previously reported, the Department has developed a CFTM database from which it has been generating quarterly reports related to the CFTM process, including data related to team composition and participation in team meetings.[364] Quarterly CFTM data reports are available beginning with the last quarter of 2007 (October 1 through December 31, 2007). There is some evidence that problems with inaccurate or incomplete data entry have resulted in some under-reporting of at least some Child and Family Team Meetings.[365] Nevertheless, the combination of aggregate CFTM data reports and the CFT process related information generated by the ongoing

[364] This CFTM reporting has been built into TFACTS. TFACTS will not only capture and report what is presently available from the CFTM data base, but will also be able to separately capture and report the presence of a GAL and the presence of private provider staff. (The present report groups private provider staff and GALs under the catch all "other agency partner.") TFACTS will also be able to capture cases in which a mother or father is deceased and not count those cases in a report on the percentage of cases in which the mother or father is present. (The Department hopes to revise the TFACTS report at some point to eliminate those cases in which the parents' rights have been terminated.) Finally, the TFACTS CFTM report will identify and report all Child and Family Team Meetings held prior to a child's exit from custody, not just those meetings labeled as Discharge Planning Child and Family Team Meetings.
A significant improvement for the report is that in TFACTS it will be available for a region to request it as frequently as monthly. Presently, by the time the report is generated, almost five (5) months have passed since the beginning of the quarter. This ready access should allow for more timely use of data to inform and improve practice.

[365] As discussed in Subsections B and C below, TAC monitoring staff recently reviewed the case files of a number of children who, according to the CFTM data base, had not received an Initial CFTM or an Initial Permanency Planning CFTM, and found that in a significant number of those cases, case recordings and/or other documentation in the file indicated that those CFTMs had in fact occurred.

Quality Service Review (QSR) provides a good basis for evaluating the extent to which the Department is successfully implementing its Child and Family Team Meeting process.[366]

A. Child and Family Team Meeting Participants (VII.B)

1. The Composition of the Child and Family Team

The Settlement Agreement provides that the Child and Family Team include:

- the child;
- the immediate family;
- the case manager;
- formal support persons (resource parents, guardians *ad litem* (GALs), court appointed special advocates (CASAs), contract agency workers); and
- informal support persons (including relatives and fictive kin).[367]

2. Required Participants in Child and Family Team Meetings (VII.B, C)

[366] While the CFTM reports provide much of the information that the Department needs to monitor the extent to which it is implementing the CFTM process, there are some limits to the present aggregate reporting capacity. Aggregate reporting of the presence of case managers at CFTMs is not presently available. (Creating such a report seemed unnecessary because the case manager is ordinarily the one scheduling the CFTM and case manager presence has not been identified as an implementation problem.) In addition to this reporting limitation, the present CFTM reporting does not include aggregate data on the extent to which guardians *ad litem* (GALs) and court appointed special advocates (CASAs) are being notified about upcoming CFTMs, nor does it include aggregate reporting of the supervisory sign off that indicates a supervisor's review of the results of a CFTM that he/she did not attend. TFACTS will have a "scheduling" section for generating invitations to CFTMs and this section will be able to capture and report when GALs or CASA volunteers are invited in advance of CFTMs; however, the scheduling section is more likely to be utilized when CFTMs are planned in advance, and is not designed to facilitate (or capture) efforts to notify team members when a CFTM is quickly arranged in response to an emergency. In any event, reporting on these invitations is not a present priority for TFACTS reporting.

The Department has continued to revise the CFTM Summary Form to better capture the focus and content of the CFTM discussions. The "meeting summary form" calls for the facilitator to record the meeting type, location, date and time, participants, content, and decisions made. The form elicits information about the situation that prompted the meeting (including risks and safety issues), the family's strengths and needs/concerns, the efforts made for the child and/or family to reduce trauma, the progress and barriers in achieving permanency for the child, and an immediate visitation plan (including parents and siblings, for the three months following the meeting). The form also includes a meeting summary and a section on decisions made at the meeting, with questions about participant agreement and concerns with those decisions. Finally, the form asks for other individuals who could be invited to join the team, and the date of the next CFTM.

The TAC had considered using these forms to supplement CFTM data reports and QSR results. However, while these forms are in many of the files, there is considerable variation in the way in which they are filled out and it is not clear how the regions are actually using the forms.

[367] Fictive kin is defined as 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.

a. Children

Children 12 years of age or older are to participate in their CFTMs unless extraordinary circumstances exist and are documented in the case record explaining why the child's participation in the particular CFTM would be contrary to the child's best interest.[368] (VII.B)

While the Settlement Agreement does not require the child's GAL and CASA to participate in the CFTM, the Department is required to provide reasonable advance notice of CFTMs to both the GAL and CASA for the child. (VII.B)[369]

b. Parents

Parents are expected to participate in CFTMs. If it is "impossible to meet with the parents," the CFTM planning process is to begin within the time frames for the Initial CFTM and Initial Permanency Planning CFTM, notwithstanding the parents' absence. The Department is required to make efforts to ensure the parents' participation by, for example, providing transportation and/or child care, or by briefly rescheduling a CFTM. These efforts are to be documented in the case file. (VII.C)

In the event that parents cannot be located or refuse to meet with the worker, the case manager must document all efforts made to locate the parents and to ensure that the meeting takes place.

c. Case Managers

The child's case manager is to attend all CFTMs involving children on his or her caseload. (VII.B)

d. Case Manager Supervisors

The DCS supervisor assigned to the case is to participate in:

- the Initial CFTM;
- the Initial Permanency Planning CFTM;
- the Discharge Planning CFTM;
- any CFTM if the case manager has less than one year experience;
- at least one CFTM every six months for children who have been in custody for 12 months or more; and
- other CFTMs as the supervisor deems appropriate based on the complexity of the case, the availability of other supports in the meeting such as a full-time or skilled facilitator, and the experience of the case manager. (VII.B)

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[368] It is recognized that although a child may not yet be 12 years old, he/she may be able and willing to participate in his/her case planning and decision making, and should be encouraged and empowered to do so. See Standard 10-101, p 146, of the *Standards of Professional Practice for Serving Children and Families: A Model of Practice*.

[369] Attending such meetings is one of the responsibilities required of an attorney accepting an appointment as a guardian *ad litem* under Tennessee Supreme Court Rule 40.

The Department is required to develop a process for supervisors to review, monitor, and validate the results of CFTMs that they do not attend to ensure supervisors remain engaged and responsible for quality casework. (VII.F)

e. Resource Parents

Resource parents are to be included in the Child and Family Team. (VII.B)

f. Formal and Informal Support Persons

In addition to the child's case manager, the child/youth, and his or her own family, the Child and Family Team should include persons who represent both formal and informal supports for the family. The Settlement Agreement provides that the following persons be included among Child and Family Team members as appropriate: resource parents, guardians *ad litem* (GALs), court appointed special advocates (CASAs), contract agency workers, and other relatives and kin. (VII.B)

g. Full-time or Back-Up Facilitators

A full-time facilitator or specially trained "back-up" facilitator is to participate in:

- every Initial CFTM; and
- every Placement Stability CFTM for potential disruptions. (VII.B)

3. Findings Related to Team Composition and Participation in Team Meetings

As reflected by both the QSR results and the CFTM data reports, the Department is not routinely forming fully functional Child and Family Teams and actively involving team members at team meetings.

In general, however, the attendance of children over the age of 12 continues to be a relative strength and there has been an incremental improvement in the attendance of relatives at Initial CFTMs. There has also been an increase in supervisor attendance at CFTMs and an increase in the utilization of trained facilitators, even for the Initial Permanency Planning and Discharge Planning CFTMs, for which a trained facilitator is not required.

However, there has been relatively little significant improvement in attendance of other participants over the past year. While attendance of mothers is consistently much higher than that of fathers, there remains a considerable "fall-off" in participation of mothers after the Initial CFTM and Initial Permanency Planning CFTM. The very low level of participation of fathers in all CFTMs continues to be a challenge, as does the limited participation of informal support persons.

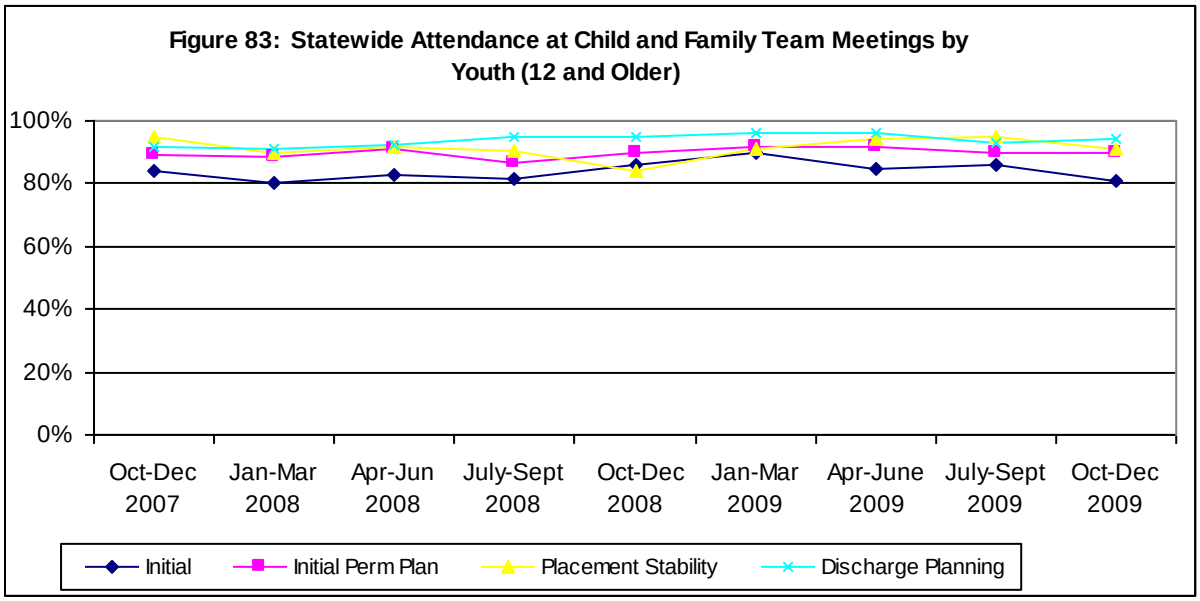
Particularly concerning is the relatively low proportion of resource parents attending CFTMs. It is understandable that resource parent attendance for Initial CFTMs would be low, but it is

troubling that resource parents are present at fewer than 40% of Initial Permanency Planning CFTMs and at only 42% of Placement Stability CFTMs.

a. Children

The Department continues to make progress in its efforts to ensure attendance of older children at most Child and Family Team Meetings; however, there appears to have been a decline in attendance at the Initial Child and Family Team Meetings during 2009. While the 2009 CFTM data reflects that the Department has generally maintained its improved performance in the level of participation in Initial Permanency Plan CFTMs, Placement Stability CFTMs and Discharge Planning CFTMS, attendance of children 12 years old and older at Initial CFTMs have decreased from 90% in the first quarter of 2009 to 81% in the last quarter of 2009.[370]

Figure 83 below reflects the frequency with which older children attended the Child and Family Team Meetings convened in their cases.



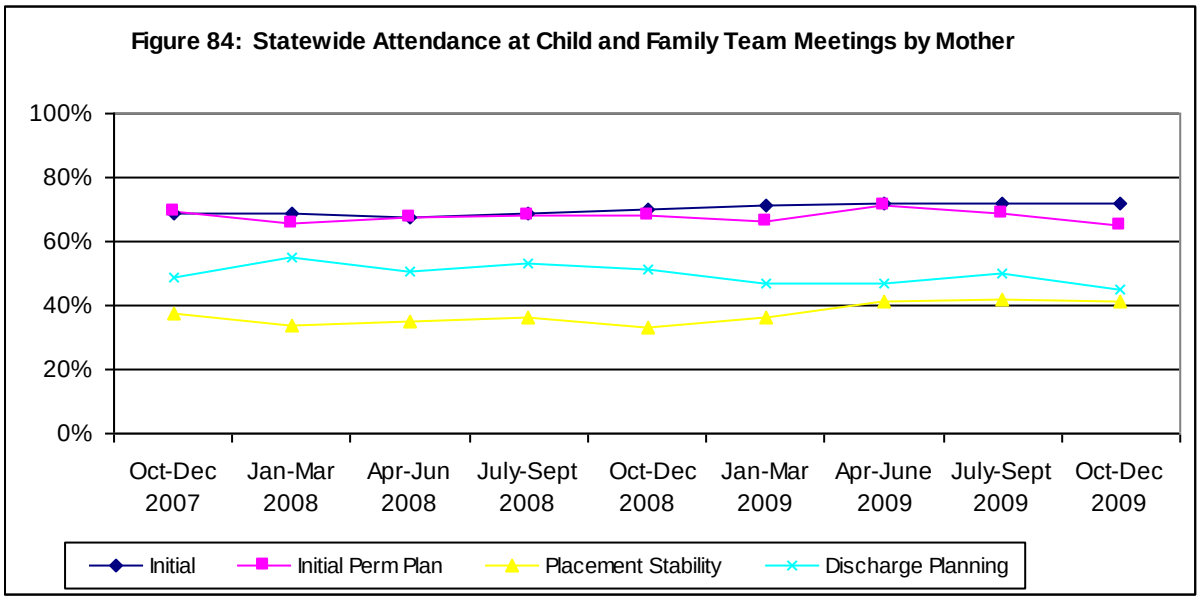
Source: TNKids "Child and Family Team Meeting (CFTM) Report for *Brian A.* Clients" (CFT-BACFTMSR-200); reports for the third quarter of 2007 and all four quarters of 2008 and 2009.

b. Parents

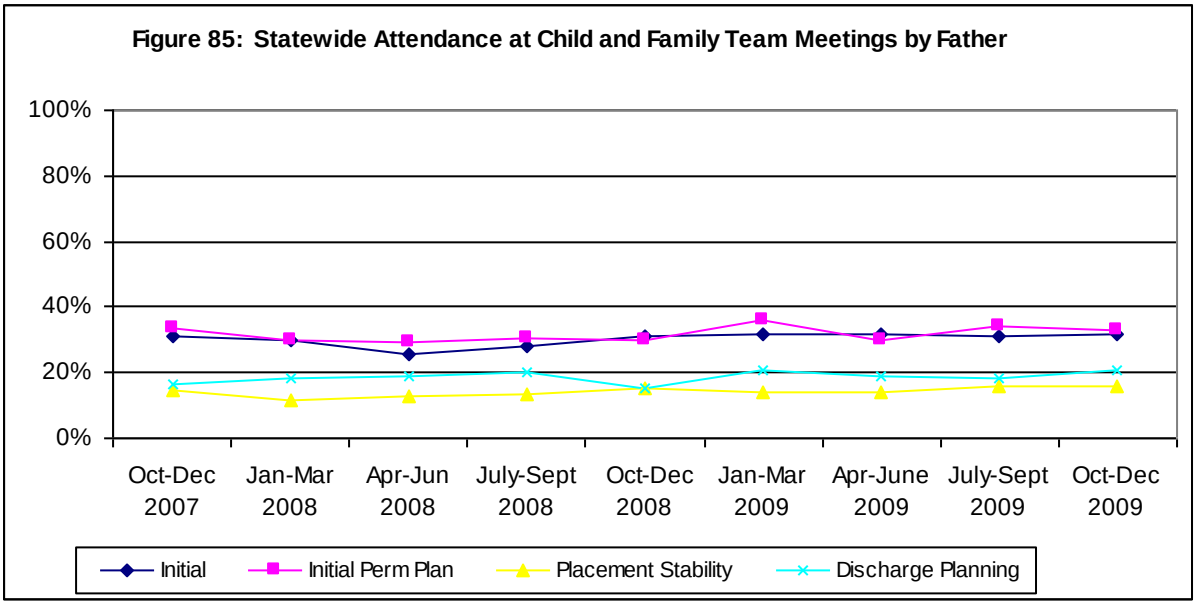
The CFTM data continues to confirm the long-held perception that CFTMs are more likely to involve children's mothers than they are to involve fathers and stepparents. In addition, the data reflects that parents are more likely to be at CFTMs in the beginning of the child's time in care, at Initial and Initial Permanency Planning CFTMS, than at Placement Stability and Discharge meetings.

[370] The new CFTM reporting also captures CFTM attendance of children under 12. During the fourth quarter of 2009, of the children 11-years-old or younger for whom a CFTM was held, 39% were in attendance at their Initial CFTM, 35% at their Initial Permanency Planning CFTM, 46% at their Placement Stability CFTM and 58% at their Discharge Planning CFTM.

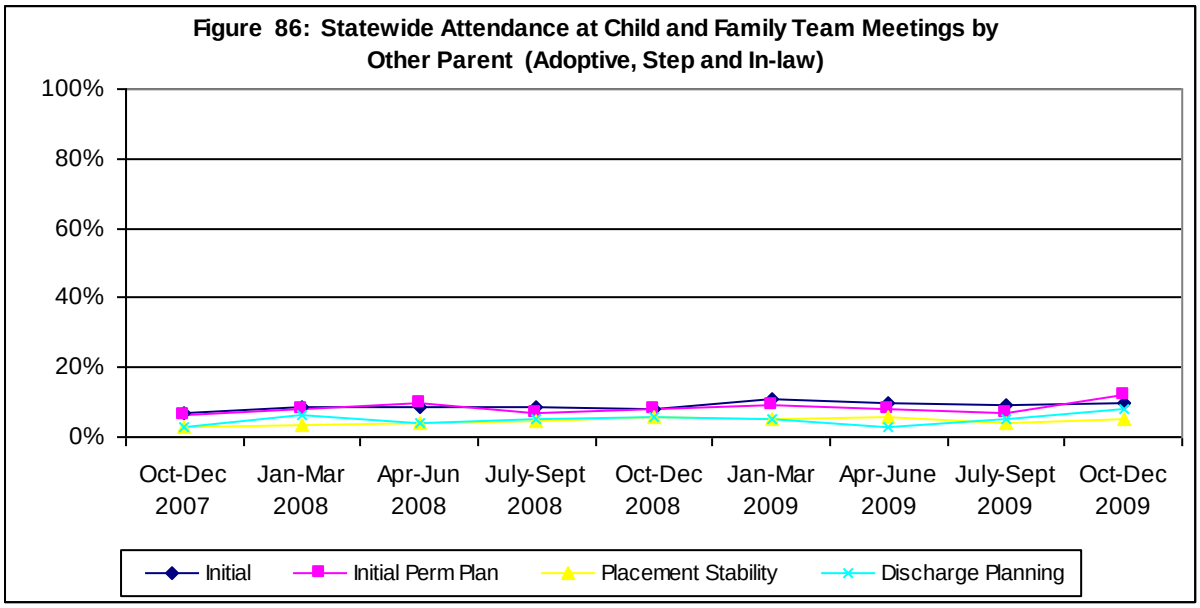
The figures below reflect the Department's quarterly performance with respect to parental attendance at Child and Family Team Meetings.



Source: TNKids "Child and Family Team Meeting (CFTM) Report for *Brian A.* Clients" (CFT-BACFTMSR-200); reports for the third quarter of 2007 and all four quarters of 2008 and 2009.



Source: TNKids "Child and Family Team Meeting (CFTM) Report for *Brian A.* Clients" (CFT-BACFTMSR-200); reports for the third quarter of 2007 and all four quarters of 2008 and 2009.



Source: TNKids "Child and Family Team Meeting (CFTM) Report for *Brian A.* Clients" (CFT-BACFTMSR-200); reports for the third quarter of 2007 and all four quarters of 2008 and 2009.

c. Case Managers

The CFTM aggregate reporting does not specifically capture case manager presence at CFTMs. Because the case managers are responsible for directing all case planning and for entering the details of the CFTM in TNKids, the Department presumes that case managers are present at all meetings (unless they are sick or otherwise unavailable because of an emergency situation).

d. Case Manager Supervisors

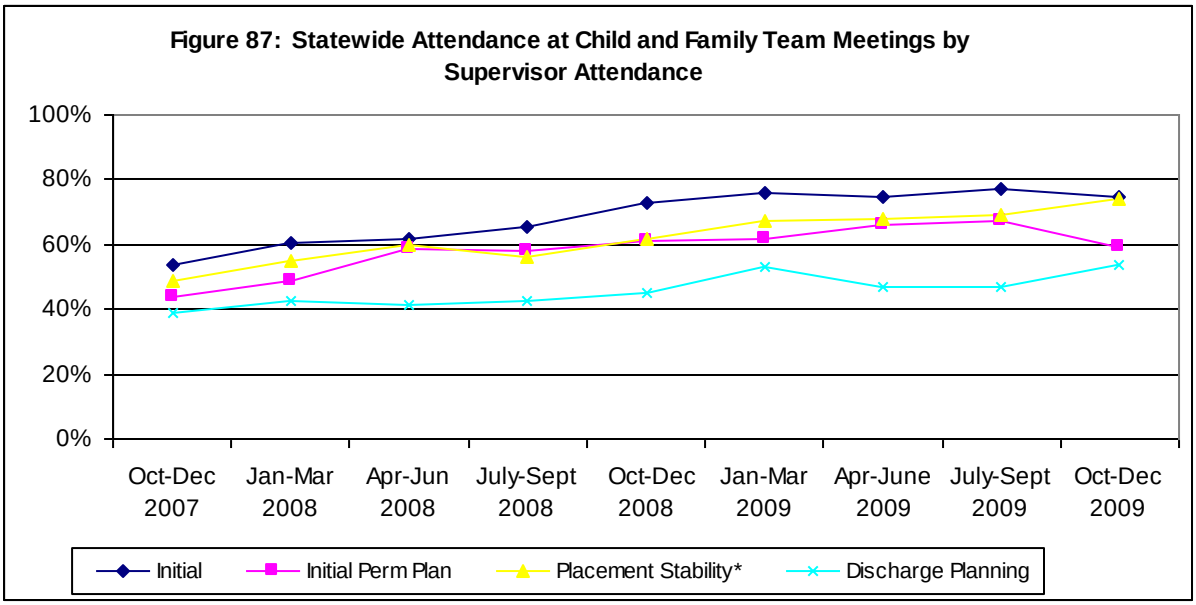
The parties modified the original Settlement Agreement requirements related to supervisory participation in CFTMs and, as part of that modification, required the Department to develop a mechanism for tracking supervisor presence at meetings and tracking and reporting supervisor review of the results of meetings that the supervisor does not attend. The Department has not yet found a satisfactory mechanism for tracking and reporting all of the requirements of this provision.

The new CFTM report captures supervisor presence at CFTMs but does not allow reporting on the required review and sign off by a supervisor when they do not attend a CFTM. The CFTM Summary Form includes a place for the required supervisory sign-off; however, the Department has not found a way of utilizing these forms to provide the tracking and reporting contemplated by the Settlement Agreement.

The new Tennessee Family and Child Tracking System (TFACTS) will include the capacity to track and report supervisory sign-off. TFACTS will not allow a case manager to complete the CFTM entry until the supervisor has reviewed it and approved it in the system, so without supervisory approval, the entry will not show up in case recordings. The Department believes that this requirement will better ensure the supervisor's awareness of the quality of CFTMs that

they cannot attend. While TFACTS has the capacity to capture the supervisory approval, reporting on supervisor approval is not included in the initial set of reports to be available from TFACTS.

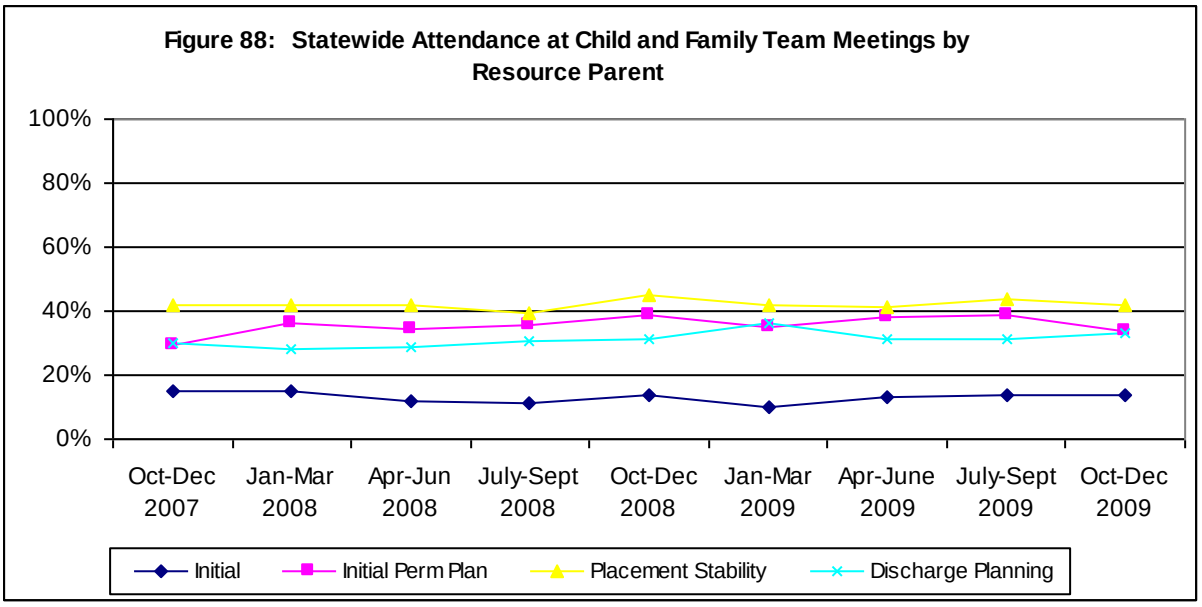
Supervisors are expected to participate in Initial, Initial Permanency Planning, and Discharge Planning CFTMS. (VII.B) The CFTM reporting, however, also captures supervisor attendance at Placement Stability CFTMs. The figure below reflects the Department's quarterly performance with respect to supervisor attendance at Child and Family Team Meetings.



Source: TNKids "Child and Family Team Meeting (CFTM) Report for *Brian A.* Clients" (CFT-BACFTMSR-200); reports for the third quarter of 2007 and all four quarters of 2008 and 2009.

e. Resource Parents

Resource parents are likely to be critical members of a child and family's team, offering insight into the child's daily life and current strengths and struggles.



Source: TNKids "Child and Family Team Meeting (CFTM) Report for *Brian A.* Clients" (CFT-BACFTMSR-200); reports for the third quarter of 2007 and all four quarters of 2008 and 2009.

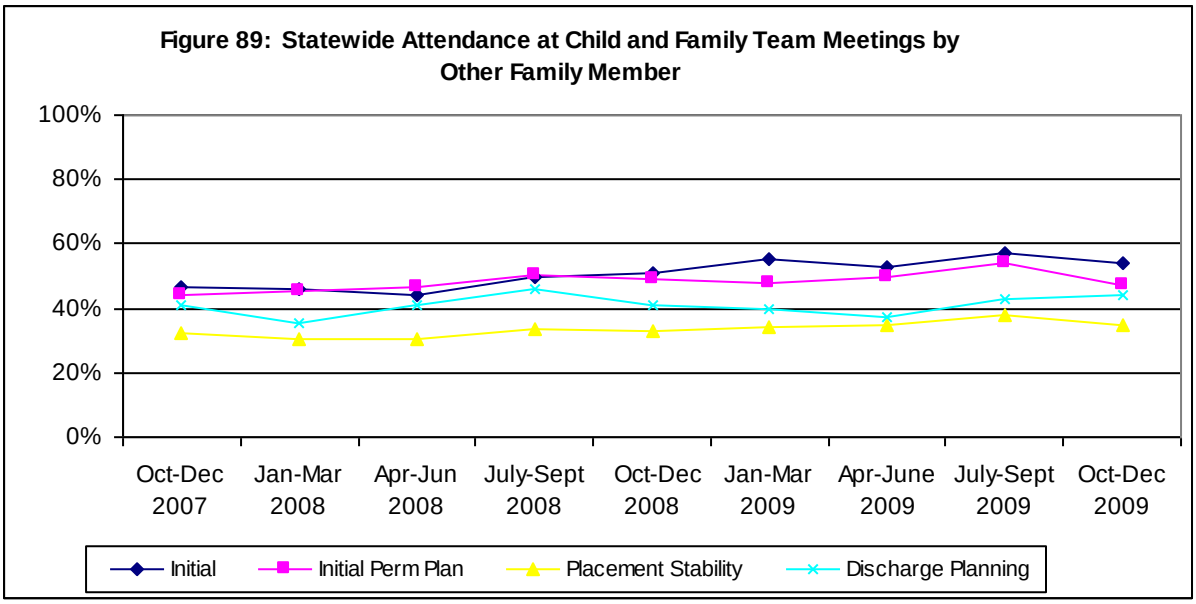
The relatively low level of participation of resource parents in CFTMs is concerning. While it is understandable that resource parents might not be present at the Initial CFTM, one would expect to see greater levels of participation at subsequent CFTMs.

f. Formal and Informal Support Persons

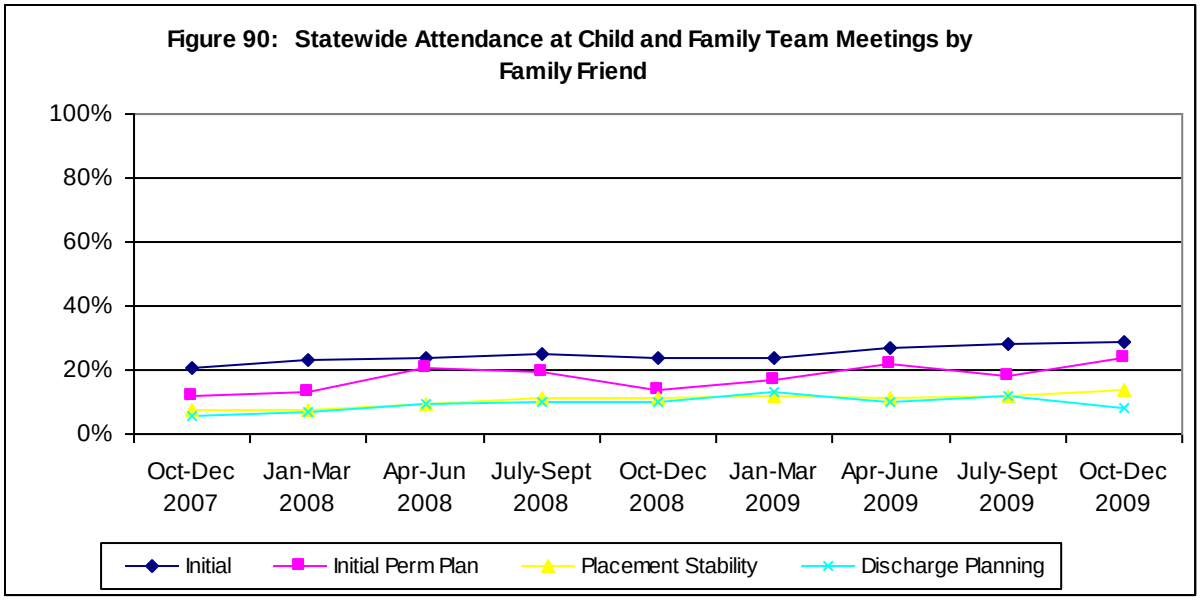
Formal and informal support persons, including relatives, significant members of the family's community (e.g., neighbors, fellow church members, family friends, teachers, coaches, employers, Alcoholics/Narcotics Anonymous sponsors), guardians *ad litem* (GALs), court appointed special advocates (CASAs) and other agency partners[371] can be important partners for children and families in the teaming process.

As reflected in the figures below, TNKids allows aggregate reporting on the extent to which other family members, family friends and private agency staff are present at CFTMs.

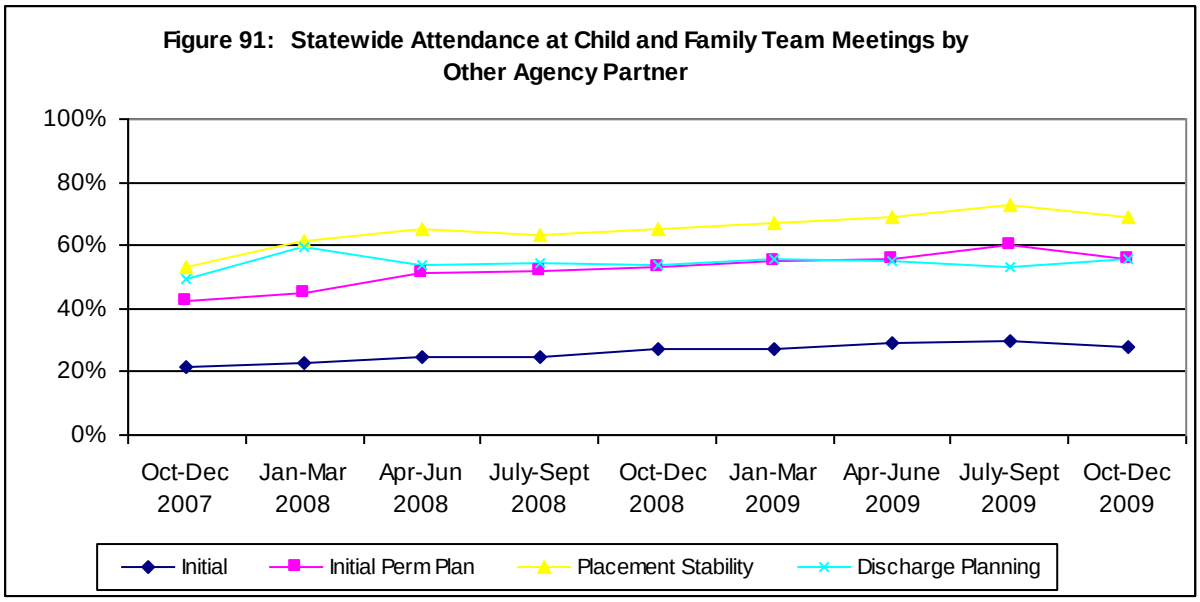
[371] In the current CFTM report, the 'Other Agency Partners' include: CART (Child Abuse Review Team) members, court personnel, CPIT (Child Protective Investigative Team) members, law enforcement, medical/dental care providers, non-DCS attorneys (may include GALs), provider agency staff, and service providers. As discussed in footnote 367, TFACTS has separate categories for GALs and provider agency staff.



Source: TNKids "Child and Family Team Meeting (CFTM) Report for *Brian A.* Clients" (CFT-BACFTMSR-200); reports for the third quarter of 2007 and all four quarters of 2008 and 2009.



Source: TNKids "Child and Family Team Meeting (CFTM) Report for *Brian A.* Clients" (CFT-BACFTMSR-200); reports for the third quarter of 2007 and all four quarters of 2008 and 2009.



Source: TNKids "Child and Family Team Meeting (CFTM) Report for *Brian A.* Clients" (CFT-BACFTMSR-200); reports for the third quarter of 2007 and all four quarters of 2008 and 2009.

The low level of participation of extended family and friends in CFTMs suggests some significant opportunities for improvement.

TNKids does not allow aggregate reporting on the extent to which GALs and CASAs are notified of the time and setting of CFTMs. The new TFACTS system will include a notification process that will enable the Department to track who is invited to meetings, and by what means.

g. Full-time or Back-Up Facilitators

The Department has recognized the importance of building its cadre of skilled facilitators in order to have the capacity to ensure the presence of full-time or back-up trained facilitators for all Initial CFTMs and all Placement Stability CFTMs, while at the same time allowing facilitators time to meet their additional responsibilities to coach and mentor case managers in the development of their facilitation skills.

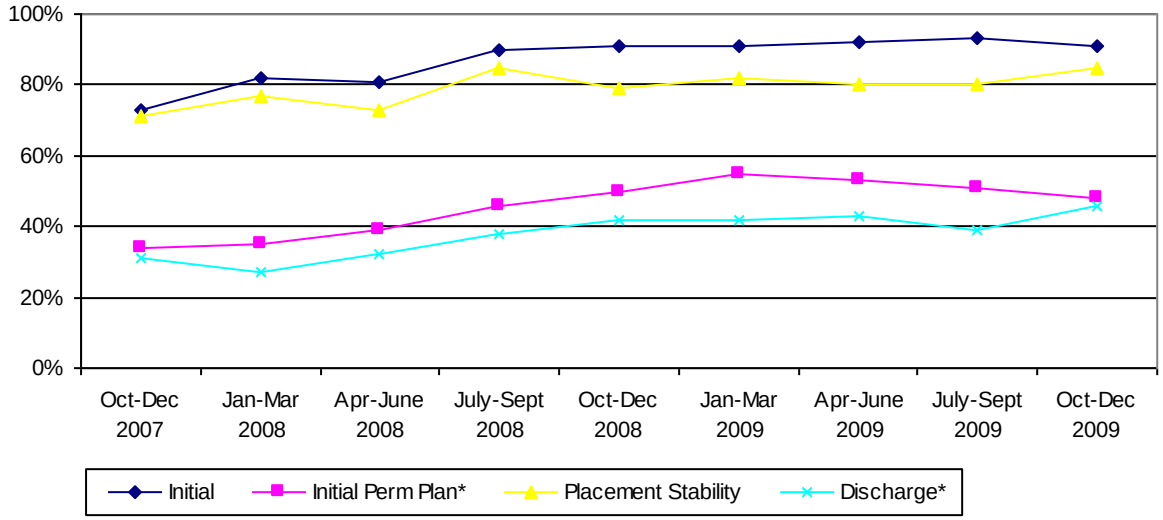
The Department has a core of 79 full-time facilitators and 253 employees who are identified as back-up or part-time facilitators (including those at Youth Development Centers).[372] Of the total

[372] The Department reports that the use of back-up facilitators varies greatly by region. Several regions report successful, frequent availability and use of their back-ups, and attribute this success to the thought given to, and the qualities of, those chosen for the role, and the support they receive from leadership. In the Northeast Region, around 15% of CFTMs over the past six months were conducted by a back-up facilitator and in South Central, about 20% of CFTMs per month are conducted by a back-up facilitator. The Northwest Region, on the other hand, rarely uses back-up facilitators. Knox, which had rarely used back-up facilitators, now only has one full-time facilitator, and has therefore recently increased its use of back-up facilitators. Davidson, Smoky Mountain, Northeast, and Tennessee Valley (Southeast side) utilize court liaisons as back-up facilitators particularly for "pre-custodial" CFTMs (CFTMs held for children who have come to the attention of DCS and are at risk of entering custody, but have not, as of the date of the CFTM, been placed in DCS custody) and report resulting success in reducing unnecessary custodial placement. In several regions full-time facilitators and other staff are being asked to assist

pool of facilitators, 229 have been certified. Of the 229 certified facilitators, 136 have been designated by the Department as having sufficiently exceeded the expectations in all 10 skill assessment areas to qualify as coaches and mentors to their peers.[373]

The figure below reflects the Department's quarterly performance with respect to the requirement that Initial and Placement Stability Child and Family Team Meetings be conducted by trained, skilled facilitators. The figure also presents skilled facilitator presence at Initial Permanency Planning CFTMs and Discharge CFTMs, for which their presence is not required by the Settlement Agreement.

Figure 92: Child and Family Team Meetings Conducted by Trained, Skilled Facilitator



Source: TNKids "Child and Family Team Meeting (CFTM) Report for *Brian A.* Clients" (CFT-BACFTMSR-200); reports for the third quarter of 2007 and all four quarters of 2008 and 2009.

3. Quality Service Review (QSR) Results Related to Team Composition and Participation in Team Meetings

The QSR results reflect the considerable variation in the extent to which the Department is successful in convening effective Child and Family Teams.

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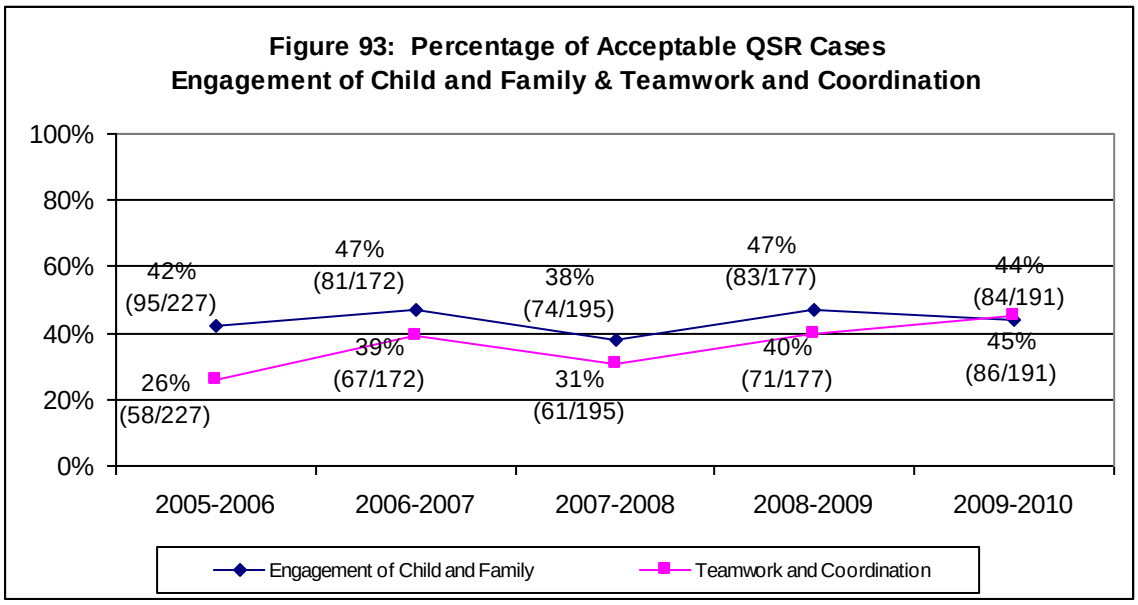
with CPS overflow, which is impacting their ability to be available when requested for CFTMs. Other regions report that their back-ups are most often not available because of their numerous other responsibilities.

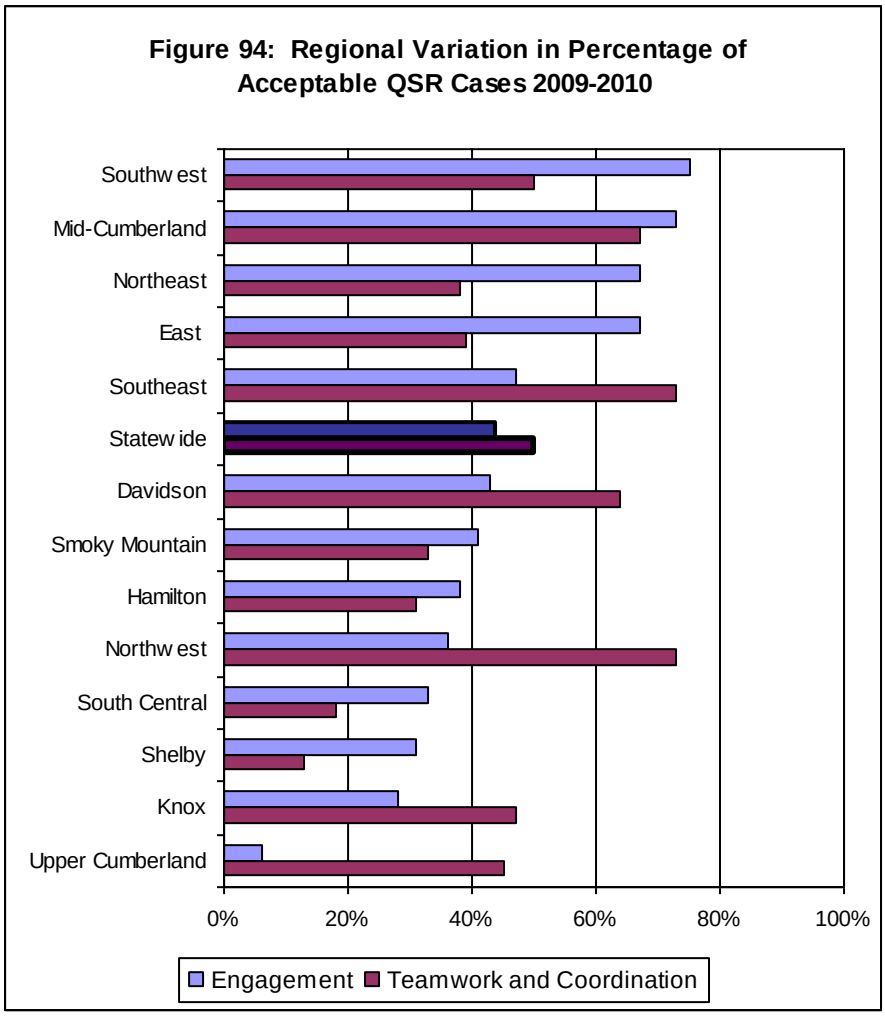
[373] The skill areas are as follows: demonstrates preparation for meeting with the child and family; uses interpersonal helping skills to effectively engage the child and family; establishes a professional helping relationship by demonstrating empathy, genuineness, respect and cultural sensitivity; 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.

The Department utilizes two QSR indicators, Engagement of Child and Family 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.

Figure 93 presents the number and percentage of *Brian A.* cases receiving acceptable scores for Engagement of the Child and Family and Teamwork and Coordination in the past five annual QSRs. Figure 94 presents the number and percentage of acceptable scores by region for the 2009-2010 QSR.



Source: Annual QSR finalized databases.



Source: Annual QSR finalized databases.

As noted in previous monitoring reports, the Department has recognized that for progress to be made in this area, team leaders and case managers must pay considerably more attention to preparing family members in advance of the Initial Child and Family Team Meetings, helping family members identify and invite members of their informal support network to the meetings, and scheduling meetings at times and places (and providing such supports as transportation and child care) to make it possible for family members and others to attend meetings.[374]

[374] For example, CFTMs were held outside of business hours (8:00 am to 4:30 pm) in an average of 22% of cases, at a community site in an average of 1% of cases, and in a home/placement setting in an average of 9% of cases in the fourth quarter of 2009. Of all meeting types, Initial meetings were the most likely to be held outside of business hours (in 22% of cases) and at a community site (in 2% of cases), and Discharge Planning meetings were the most likely to be held in a home/placement setting (in 19% of cases).

B. Initial CFTM (VII.C)

The Settlement Agreement specifies that the process of building a team, assessing, and convening a formal CFTM is to begin prior to a child entering DCS custody, except when emergency removal is required. The Initial CFTM is to occur either:

- prior to a child coming into custody; or,
- in emergency removal cases, within seven days of a child coming into custody.

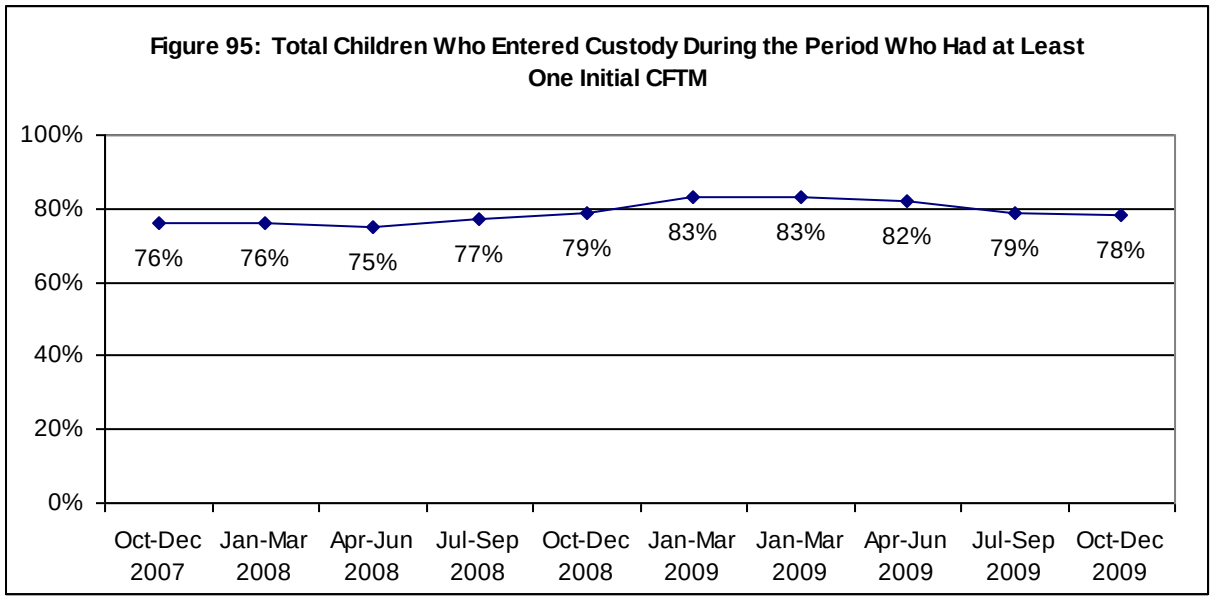
At the Initial CFTM, the team is to:

- discuss the strengths of the family and the issues that necessitated removal;
- explore alternatives to custody that would ensure the safety of the child;
- identify the family's basic needs that must be addressed immediately;
- identify changes by parents that may be necessary to allow the child to safely return home;
- determine the appropriateness of the child's placement;
- arrange for a visiting schedule between the child and the child's parents;
- ensure that all reasonable efforts are made to enable visiting to take place;
- arrange an immediate schedule of expected contacts between the parents and the case manager; and
- begin developing the permanency plan.[375]

The Department has modified its policies and training content to reflect the areas of focus listed above.

The figure below reflects the Department's quarterly performance, according to the CFTM reports, with respect to the requirement that an Initial Child and Family Team Meeting be held for every child entering custody.

[375] As discussed earlier, in all instances in which it is impossible to meet with the parents, the planning process is to begin within the required time frames, notwithstanding the parents' absence. The Department is required to make efforts to ensure the parents' participation, including providing transportation, childcare, and/or a brief rescheduling, and is to document those efforts in the child's case file.



Source: TNKids "Child and Family Team Meeting (CFTM) Report for *Brian A.* Clients" (CFT-BACFTMSR-200); reports for the third quarter of 2007 and all four quarters of 2008 and 2009.

This data, if accurate, would raise significant concerns about current DCS practice. TAC monitoring staff therefore recently reviewed the case files of 46 children from three regions who, according to the CFTM database, had not received an Initial CFTM, to determine, based on case recordings or other documentation in the file, whether those CFTMs had in fact occurred. Based on this spot check, it appears that in the vast majority of those cases a CFTM had been held (but not documented), and in a significant number of those few cases in which there was no Initial CFTM, there was a reasonable explanation for the failure to convene a CFTM.

The reviewers found reasonable explanations for not having CFTMs for five children. For three of those children (a sibling group), the Initial CFTM was "waived" by the Regional Administrator because the mother was hospitalized and incoherent; an Initial Permanency Plan meeting was held three weeks later with the mother in attendance. The other two children, an out-of-state runaway and a child who had been kidnapped by a birth mother whose rights had been terminated and who was hiding with the child in Tennessee, did not have CFTMs because they were returned to the state with jurisdiction shortly after being taken into custody in Tennessee.

Reviewers found that 41 of the 46 children should clearly have had an Initial CFTM. Of the 41 for whom Initial CFTMs should have been held, reviewers found that an Initial CFTM had in fact been held for 35 children. In the remaining six cases, reviewers were unable to find evidence of an Initial CFTM and no information suggesting a reasonable explanation for not holding one. Those cases were referred to DCS for additional follow up. The Department confirmed that in five of the six cases, an Initial CFTM had not been held and there was no reasonable explanation for that failure. In the remaining case, the Department asserted that, while there was no specific reference to a CFTM, case notes reflecting that the grandparents and child were at the DCS office from 4:30 p.m. to 7:00 p.m. on the day that the child came into custody was evidence that there was in fact an Initial CFTM in that case.

The aggregate data reporting provides information on whether an Initial CFTM was held within the applicable time period.[376] However, there is no aggregate data report that provides information about the quality of the Initial CFTM. While it appears that facilitators structure the meeting to address the areas that the Initial CFTM is intended to cover, the quality of the Initial CFTM depends to a great extent on the right people being present for the meeting and prepared to participate. As the TAC has previously reported, based upon information from qualitative reviews, feedback from staff, and observations of CFTMs by consultants and TAC monitoring staff, it appears that case managers are not consistently doing the pre-meeting preparation necessary to engage families, prepare them to participate fully in the team meetings, and ensure the presence of important team members. The Department may be able to use the "meeting summary form" that is supposed to be filled out by the CFT facilitator and/or the case manager to gather information on the extent to which these aspects of CFT practice continue to remain a challenge.[377]

C. Initial Permanency Planning CFTM (VII.D)

The Settlement Agreement provides that an Initial Permanency Planning CFTM occur within 30 days of a child entering custody.

The purposes of the Initial Permanency Planning CFTM are to:

- further collaborate with the family on the development of a plan to address problems that necessitated removal;
- specify changes or action to be taken by the parents necessary to allow the child to return home safely;
- identify the services that need to be provided to the parents and child to ensure a successful reunification; and
- determine the appropriateness of the placement.

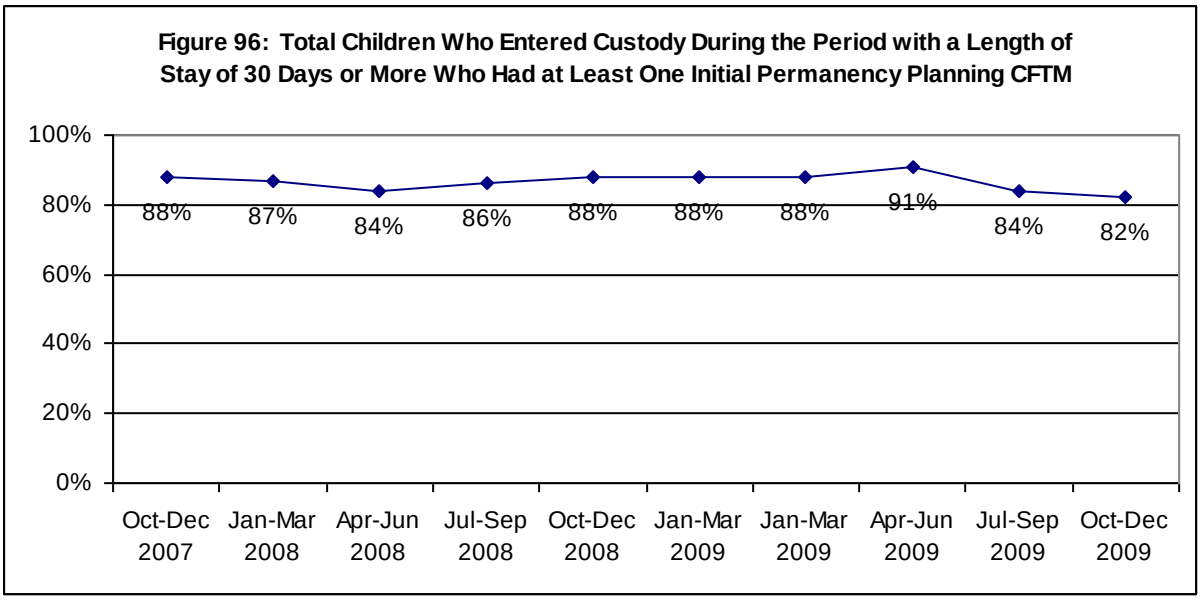
The Department has modified its policies and training content to reflect the areas of focus listed above.

The aggregate CFTM reporting enables the Department to track the occurrence of Initial Permanency Planning Child and Family Team Meetings.

The figure below reflects the Department's quarterly performance, based on its CFTM reports, with respect to the requirement that an Initial Permanency Planning Child and Family Team Meeting be held for every child with a length of stay of 30 days or more.

[376] For those children who had at least one Initial CFTM, 85% of their meetings occurred within seven days before or after the child entered custody in the first quarter of 2009, 80% in the second quarter of 2009, 81% in the third quarter of 2009 and 82% in the fourth quarter of 2009.

[377] A discussion about the content of the CFTM Summary Form is included in footnote 366.



Source: TNKids "Child and Family Team Meeting (CFTM) Report for *Brian A.* Clients" (CFT-BACFTMSR-200); reports for the third quarter of 2007 and all four quarters of 2008 and 2009.

This data, if accurate, would raise significant concerns about current DCS practice. TAC monitoring staff therefore recently reviewed the case files of 10 children from two regions who, according to the CFTM database, had not received an Initial Permanency Planning CFTM, to determine, based on case recordings or other documentation in the file, whether those CFTMs had in fact occurred. Based on this spot check, it appears that in most of these cases either Permanency Planning CFTMs were in fact held, but were not documented correctly in TNKids, or that there was a reasonable explanation for the failure to convene a CFTM.

In one of the 10 cases, the child was ordered released from custody the day before her Permanency Planning CFTM was scheduled to be held. Of the nine remaining children, reviewers found that an Initial Permanency Planning CFTM had in fact been held for three children; however, for the remaining six children, reviewers were unable to find evidence of an Initial Permanency Planning CFTM and found no information suggesting a reasonable explanation for not holding one. These six cases were referred to DCS for further follow up.

Based on supplemental information provided by the Department with respect to three of these six children, it appeared that the initial permanency plan had been developed during a meeting at which a parent was present and which, under the circumstances, could have been considered a CFTM, but was not documented as such.

In the cases of the remaining three children, the meetings at which the permanency plans were developed were not considered CFTMs because there were no family members present at the meetings.[378] In the case of one child, the parents executed surrenders prior to the permanency planning meeting and so the initial permanency plan with a sole goal of adoption was developed

[378]In an effort to respond to situations in which "staffings" of cases—meetings involving only DCS staff—were improperly coded as CFTMs, the Department had created a guideline that if there is no family member present and little effort or ability to get family there, the meeting should **not** be considered a CFTM.

by DCS staff without either parent being present. In the case of the remaining two children, the mother was in a drug rehabilitation program at the time of the development of the initial permanency plan. The case manager and facilitator developed the permanency plan, and subsequently reviewed the plan with the mother upon her release from drug rehabilitation.

The aggregate data reporting provides information on whether an Initial Permanency Planning CFTM was held within the applicable time period.[379] The quality of the Initial Permanency Planning CFTM, and whether and how well the purposes of the meeting were achieved, should be reflected in the content and quality of the permanency plan.

D. Permanency Plan Content (VII.D)

The Settlement Agreement provides that the permanency plan is to:

- be built upon family strengths;
- address the family's and child's needs;
- designate time frames for completion of actions to achieve permanency and stability;
- specify the permanency goal and how the goal will be achieved;
- identify what services are necessary to make accomplishment of that goal likely;
- specify who is responsible for provision of those services;
- specify when those services will be provided; and
- specify the date by which the permanency goal is likely to be achieved (with the time based on the child's situation rather than on preset time periods for required reviews).

Parents are to be presented with a copy of the plan at the conclusion of the Initial Permanency Planning CFTM for their signature.

Both policy and training establish expectations for permanency plan content that include the requirements of the Settlement Agreement. However, the Department has for some time acknowledged that there is a significant gap between the expectations set forth in policy and the Department's present performance in this regard. The permanency plan template has undergone a variety of revisions and some very significant revisions have been included in the template that will be rolled out with TFACTS by October, 2010.

The TFACTS permanency plan template reflects the family-based design of the TFACTS system. The Department believes that the new Family Permanency Plan has a number of key advantages over the present template, including the following:

- All program areas (CPS, JJ, probation and custodial cases) will utilize the same planning document: the Family Permanency Plan. A family will only have one Permanency Plan.

[379] For those children who had at least one Initial Permanency Planning CFTM, 89% of their meetings occurred within 30 days of the child's custody begin date in the first quarter of 2009, 91% in the second quarter of 2009, 89% in the third quarter of 2009, and 90% in the fourth quarter of 2009.

- Even if they have more than one child receiving services from DCS, the family will have one document from which they will work. The new Family Permanency Plan will be able to link assessments to the family's strengths and concerns.

- Indicators that are derived from DCS assessments such as the CANS, ACLSA, and FAST will be listed on the Permanency Plan template. The team will be able to show which indicators rated as strengths or concerns as they develop the Family Permanency Plan. This will encourage the workers to bring their assessments to the CFTMs and utilize them when developing the plan.

- The Family Permanency Plan will now capture more than just "needs". The team will be asked to identify concerns (referring to behaviors, presenting problems, etc.), underlying needs that contribute to those behaviors or problems, as well as the desired outcomes and action steps needed to address them. This will encourage workers and team members to "dig deeper" when assisting a family in resolving their issues.

- TFACTS will allow a worker to now capture informal planning activities between the times they are creating a formal plan documents. Strengths, concerns, outcomes and action steps can be documented along the way and not just when creating or revising a plan document. The worker will later be able to connect these items to the formal Permanency Plan document when it is time to revise the plan.

- TFACTS will have the ability to print sections of a plan that apply to one or more persons.

Because the new Family Permanency Plan represents a significant change from the current practice of developing an individual plan for each child, considerable work has been done to assist the field in understanding the new template and process. An overview of the new Family Permanency Plan process has been created and presented to several key groups throughout DCS. These include Central Office leadership, regional administrators, Juvenile Justice regional coordinators, and all of the regional general counsels.[380]

A satellite broadcast of the presentation was provided for all regions and participants were allowed to phone and email questions. A series of webinars on the subject have also been held and a "storyboard' (also referred to as a "cheat sheet") developed to help case managers adjust to the new plan. In addition, the CFTM facilitators received a half-day training on the new Family Permanency Plan and DCS and TCCW have developed a "go-to meeting" training to provide information about the new Family Permanency Plan and other critical TFACTS topics.[381]

[380] DCS has also worked to notify our court partners of the upcoming changes in the Family Permanency Plan. An overview of the changes to the Permanency Plan has been presented to the Administrative Office of the Courts and at a conference for court workers. The Department also made a short presentation on the subject at the Juvenile Court Judges Annual Conference in August 2010.

[381] This training began its pilot with the Mid-Cumberland region, was rolled out statewide to team coordinators, team leaders and other high level staff prior to the statewide implementation of TFACTS, and will be made available to all other front-line staff once the initial rollout is completed.

Currently DCS is providing coaching sessions for regional staff that allow workers to practice entering the new plans in the system with a facilitator available to answer questions.

The Department determines its own level of performance on this requirement based on the QSR results for Permanency Planning. Because the quality of the case plan is a major focus of the QSR scoring, the Department expects "acceptable" ratings to correlate with plans that generally meet the requirements of the Settlement Agreement and "unacceptable" ratings to correlate with plans that generally do not meet the requirements of the Settlement Agreement.[382]

The QSR indicator for Child and Family Permanency Planning Process requires the reviewer to examine the content of the permanency plan to determine whether the plan is based on a "big picture" assessment that includes clinical, functional, educational, and informal assessments; and whether it specifies the goals, roles, strategies, resources and schedules for coordinated provision of assistance, support supervision, and services for the child and family.

In order to receive a minimally acceptable score on the QSR, the permanency plan must include basic formal and informal supports and services, assembled into a sensible service process, with a workable fit between the child and family's situation and the service mix. In addition, the permanency plan must be reviewed and revised to reflect any major changes in the circumstances of the child and/or family.

If only some of the basic supports are included in the plan, the fit between the service plan and the service mix is poor, or services are insufficient, the case cannot receive an acceptable score for this indicator. Similarly, if the plan does not reflect changes in circumstances, the case cannot receive an acceptable score.

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[382] Consistent with the TAC's previous approach to reporting on this area, in order to corroborate the Department's assumptions regarding the correlation between these QSR results and the quality of the case plan, TAC monitoring staff reviewed the case plans of 101 cases from the 2009-2010 Quality Service Review. Reviewers examined plans of 78 cases that failed for either Child and Family Permanency Planning (131) or Permanency Plan/Service Implementation (124), and reviewed case plans for 23 cases that received acceptable scores for either or both indicators (36 received acceptable scores for Child and Family Permanency Planning and 32 for Permanency Plan/Service Implementation).

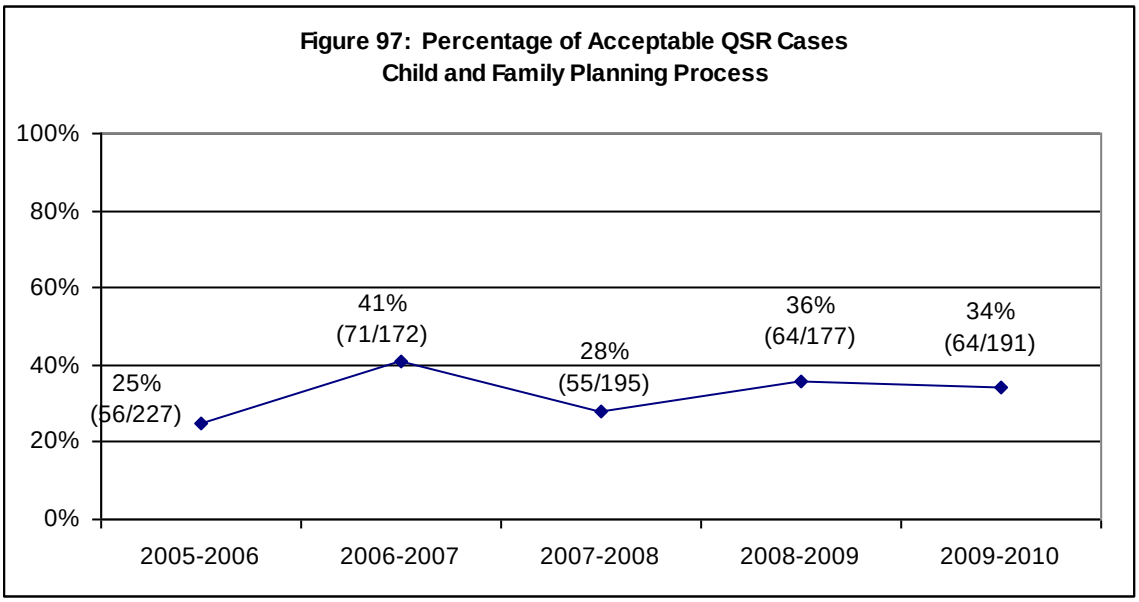
In the cases that were scored "unacceptable" for the permanency plan related indicators, the reviewers found that the case plans failed to meet most, if not all, of the content requirements set forth in the Settlement Agreement. In most of the cases that were scored "acceptable," the reviewers found that the case plans (written or 'working') met many of the content requirements set forth in the Settlement Agreement.

As was the case in previous years' reviews, TAC monitoring staff found that the plans that scored "unacceptable" were often general/generic and did not seem to reflect the individual needs of the child and family. Many of the plans seemed "boilerplate" rather than individualized, included similar language, and similar desired outcomes and actions to achieve them. The plans frequently listed the same dates for achieving all desired outcomes.

Along with reviewing permanency plans for children included in the QSR reviews, TAC monitoring staff, as a part of the InTERdependent Living Targeted Case File Review (discussed in detail in Section Six, pages 199-200), reviewed the plans of 90 16 and 17-year-olds. Reviewers found the majority of their plans to be similarly lacking individualized, thoughtful, specific planning.

The Department has recognized the range of deficiencies in the contents of the permanency plan and has revised its permanency planning policies, template, and training. Some very significant revisions have been included in the template that will be rolled out with TFACTS.

Figure 97 presents the number and percentage of *Brian A.* cases receiving acceptable scores for Child and Family Permanency Planning Process in the past five annual QSRs.



Source: Annual QSR finalized databases.

As the TAC has previously observed, as helpful as improving the permanency planning template may be, what is more important is that the Initial Permanency Planning CFTM be facilitated by someone who understands the strengths-based team-driven planning process that is envisioned by the Department's CFT model. Because Permanency Plan CFTMs are not among the meetings for which presence of a trained full-time facilitator is required,[383] the success of the Permanency Planning CFTM will depend in large part on the understanding and skills of the case managers and team leaders.

Obtaining parent signatures on permanency plans has long been part of DCS policy. The TAC monitoring staff review of permanency plans for children who were the subject of the 2009-2010 QSR found that the majority of plans were signed by one or both parents.

E. Permanency Plan Implementation and Tracking (VII.D, K)

The Settlement Agreement provides that all services documented in the record as necessary for the achievement of the permanency goal will be provided within the time period in which they are needed.

The child's DCS case manager and his/her supervisor have ongoing responsibility to assure:

[383] The CFTM aggregate reporting indicates that 53% of Initial Permanency Planning CFTMs (those meetings that do not require a trained facilitator) were conducted by a trained, skilled facilitator in the first quarter of 2009, 55% in the second quarter of 2009, 49% in the third quarter of 2009, and 49% in the fourth quarter of 2009.

- that the child's permanency goal is appropriate, or to change it if it is not;
- that the child's services and placement are appropriate and meeting the child's specific needs;
- that the parents and other appropriate family members are receiving the specific services mandated by the permanency plan;
- that they are progressing toward the specific objectives identified in the plan; and
- that any private service providers identified in the plan or with whom the child is in placement are delivering appropriate services.

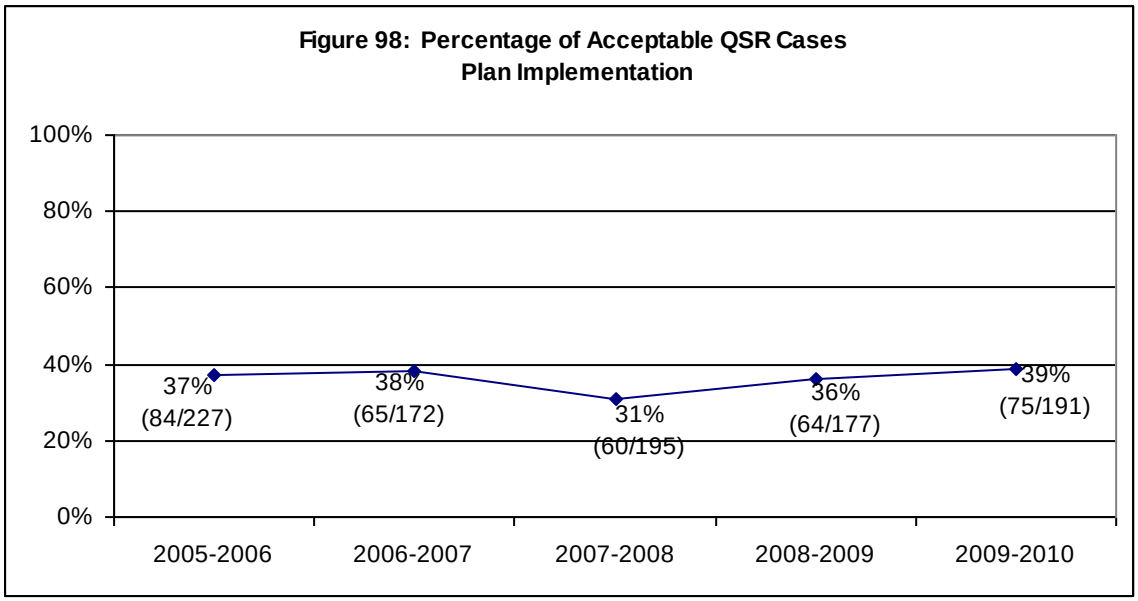
The Department measures the extent to which its performance in this area meets the requirements of the Settlement Agreement primarily based on the QSR results for Plan Implementation and Tracking and Adjustment.

The indicator for Plan Implementation requires that the reviewer examine how well the services/actions, timelines, and resources planned for each of the change strategies are being implemented to help the parent/family meet conditions necessary for safety, permanency, and independence and the child/youth achieves and maintains adequate daily functioning at home and school, including achieving any major life transitions. The reviewer is to examine the degree to which implementation of the plan is timely, competent, and adequate in intensity and continuity.

In order to achieve a minimally acceptable score, the reviewer must find that the strategies, formal and informal supports, and services set forth in the plans are being implemented in a timely, competent, and consistent manner and that services of fair quality are being provided at levels of intensity and continuity necessary to meet at least some priority needs, manage key risks, and meet short-term intervention goals.

If the plan implementation is limited or inconsistent, if services are not being provided in a timely manner, if the services are of limited quality, or being provided at levels of intensity and continuity insufficient to meet priority needs, manage key risks, or meet short-term intervention goals, the case cannot receive an acceptable score.

Figure 98 presents the number and percentage of *Brian A.* cases receiving acceptable scores for Plan Implementation in the past five annual QSRs.



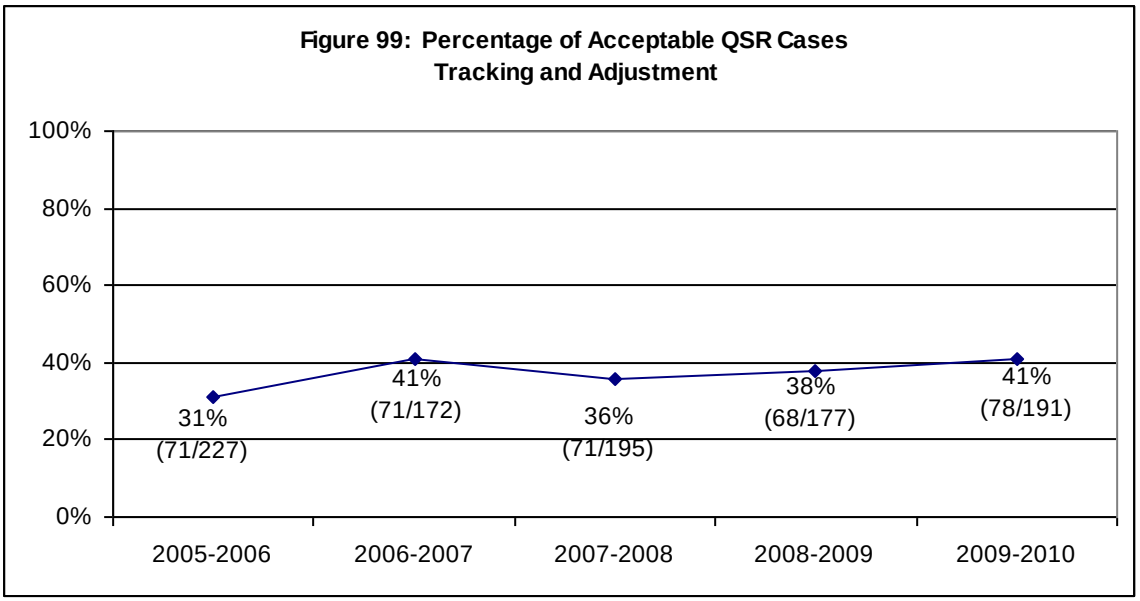
Source: Annual QSR finalized databases.

The indicator for Tracking and Adjustment requires the reviewer to determine whether services are routinely monitored and modified by the team to respond to the changing needs of the child and family. There is an expectation that the permanency plan be modified when objectives are met, strategies determined to be ineffective, new preferences or dissatisfactions with existing strategies or services are expressed, and/or new needs or circumstances arise.

In order to receive an acceptable score, the reviewer must find at a minimum that periodic monitoring, tracking and communication of child status and service results is occurring and that strategies, supports, and services being provided to the child are responsive to changing conditions.

If monitoring and communication is only occasional or if strategies, supports and services being provided are only partially responsive to changing conditions, the case cannot receive an acceptable score for this indicator.

Figure 99 presents the number and percentage of *Brian A.* cases receiving acceptable scores for Tracking and Adjustment in the past five annual QSRs.



Source: Annual QSR finalized databases.

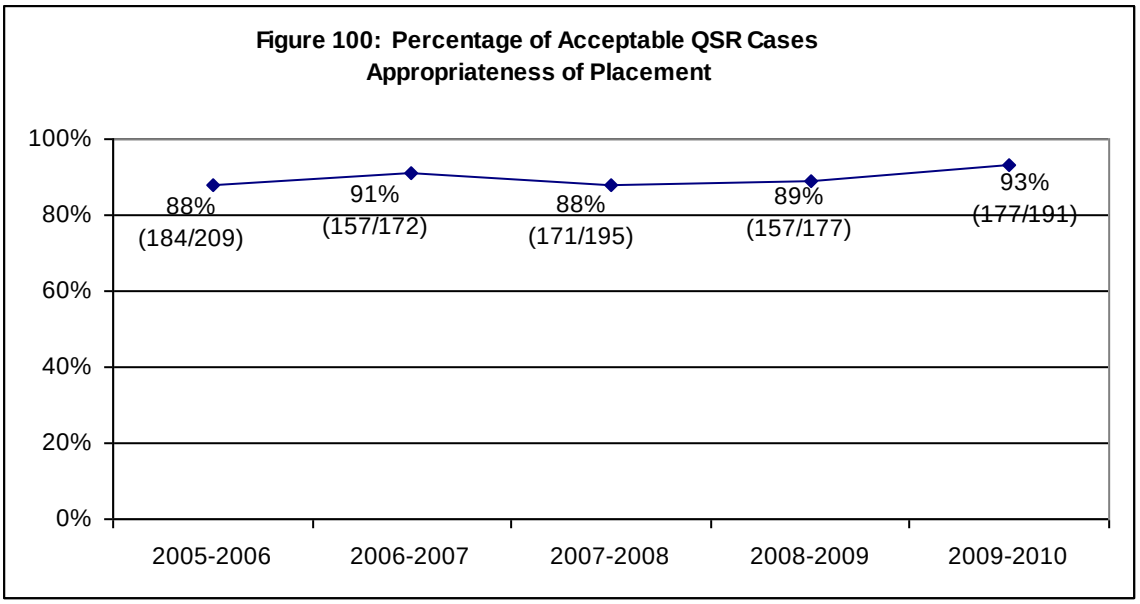
There are two other indicators that are relevant to monitoring this area of performance, Appropriateness of Placement and Resource Availability and Use.

As discussed in Section Six, the QSR indicator for Appropriateness of 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).

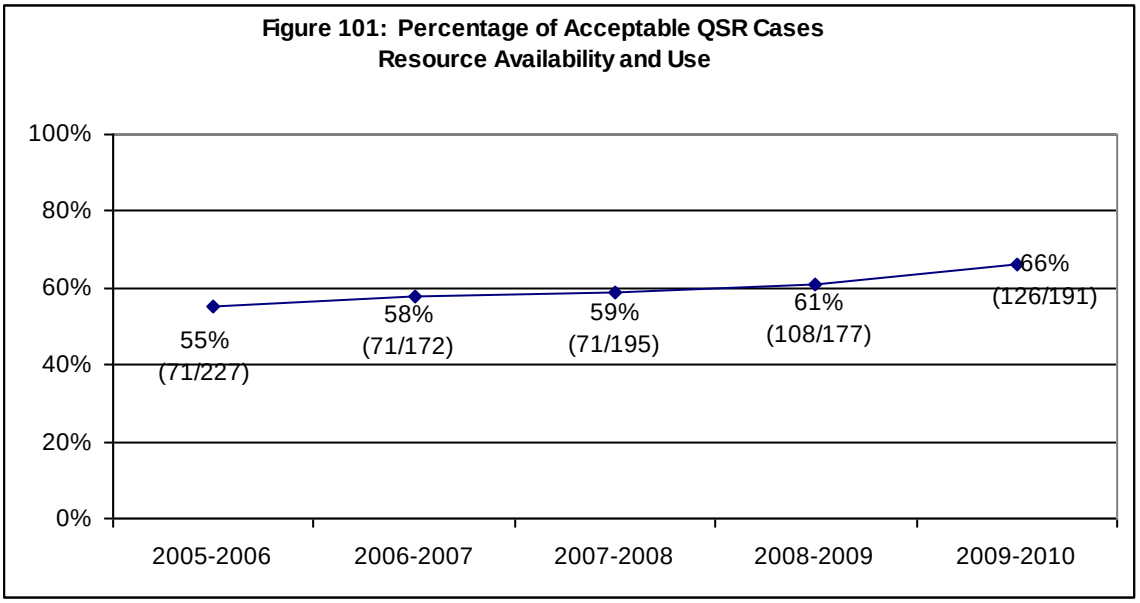
The indicator for Resource Availability and Use asks the reviewer to determine if there is an adequate array of supports, services, special expertise, and other resources (both formal and informal) available and used to support implementation of the child and family's service plan. The reviewer must determine if those resources are used in a timely manner, adapted to fit the situation, right in intensity and duration, and convenient for family use (times and locations); if the system is able to develop new or newly adapted resources if current ones are not appropriate as well as identify unavailable resources; and for children who cannot remain in their home, if there is an adequate array of family placements.

Figure 100 and Figure 101 present the number and percentage of *Brian A.* cases receiving acceptable scores for Appropriateness of Placement[384] and Resource Availability and Use in the past five annual QSRs.

[384] In the 2005-2006 QSR review, the Appropriateness of Placement indicator was not scored for 18 children who were on a trial home visit, placed in-home, or exited custody to permanency or aged out. All cases were scored for appropriateness of placement in the 2006-2007, 2007-2008, 2008-2009, and 2009-2010 QSRs.



Source: Annual QSR finalized databases.



Source: Annual QSR finalized databases.

F. Placement Stability CFTM (VII.E)

The Settlement Agreement provides that a Placement Stability CFTM be convened prior to the potential disruption of any child's placement while in state custody, or, in the event of an

emergency change of placement, as soon as team members can be convened, but in no event later than 15 days before or after the placement change.[385]

The goal of the Placement Stability CFTM is:

- to review the progress in the current placement and determine if the current placement is still appropriate to meet the child's needs;
- to determine whether or not the current placement can be maintained and develop a plan to support the child's needs and stabilize the current placement;
- if the current placement is not appropriate and/or cannot be maintained, to develop a plan for the transition to an alternative placement in the least traumatic manner possible; and
- if a change of placement has already taken place, to explore ways to help strengthen that present placement and prevent any future disruptions. (VII.E)[386]

Department policy and training regarding the CFT process establishes expectations for Placement Stability CFTMs that meet the requirements of the Settlement Agreement.

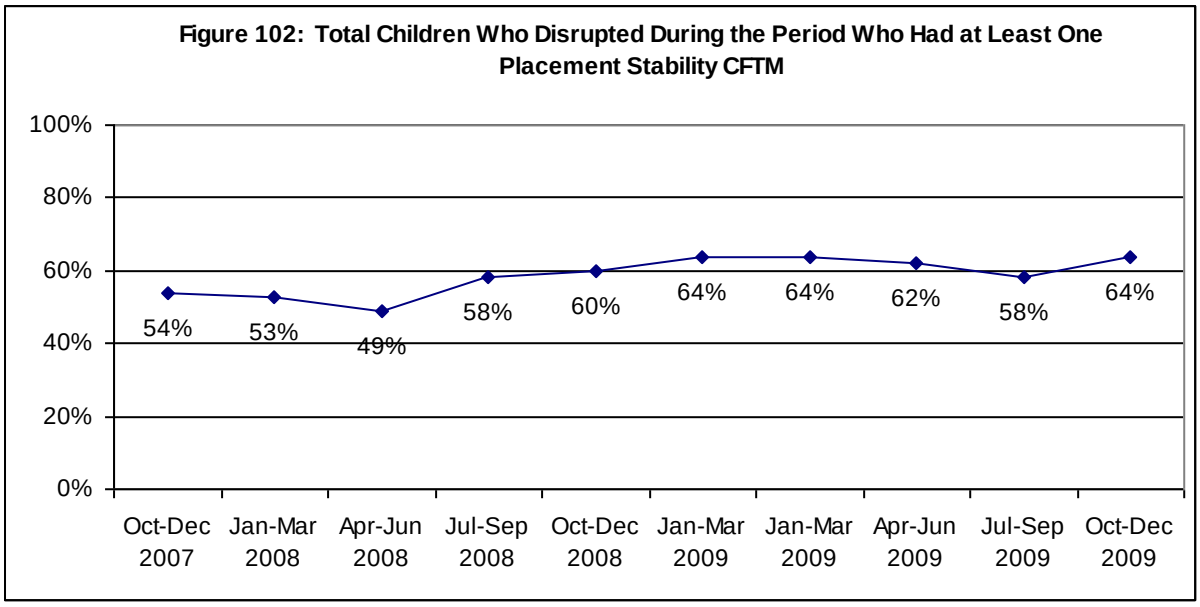
The figure below reflects the Department's quarterly performance with respect to the requirement that a Placement Stability Child and Family Team Meeting be held for every child who experiences a placement disruption.[387]

[385] Disruption is defined as an unplanned interruption of placement in a resource home or group care setting that is not the result of progress toward achieving permanency. Threats to the stability of a placement can be the result of any number of factors including, but not limited to: medical or physical condition beyond the monitoring or treatment capacity of the caregiver; the behavior of the child; or changing circumstances of the resource family affecting their willingness or ability to provide for the needs of the child. These are distinct from placement changes to facilitate permanency such as reunification with the family, placement into a pre-adoptive home, exit to the custody of a relative, or placement into a relative's home providing kinship care.

[386] The Placement Stability CFTM is to be convened as soon as there are indications that the current placement is at risk with the hope that the placement can be stabilized, if it is still appropriate for the child. If the placement cannot or should not be preserved, the team is to identify the best placement for the child and plan how to minimize the trauma that may result from changing placements.

When a child or youth must be moved before a Placement Stability CFTM can be arranged, the Child and Family Team is to convene as soon as possible after the move to assess how to stabilize the new placement and support the child, family, and caregiver through the adjustment period.

[387] For those children who had a Placement Stability CFTM, 88% of their meetings occurred within 15 days before or after the placement disruption in the first quarter of 2009, 90% in the second quarter of 2009, 94% in the third quarter of 2009, and 87% in the fourth quarter of 2009.



Source: TNKids "Child and Family Team Meeting (CFTM) Report for *Brian A.* Clients" (CFT-BACFTMSR-200); reports for the third quarter of 2007 and all four quarters of 2008 and 2009.

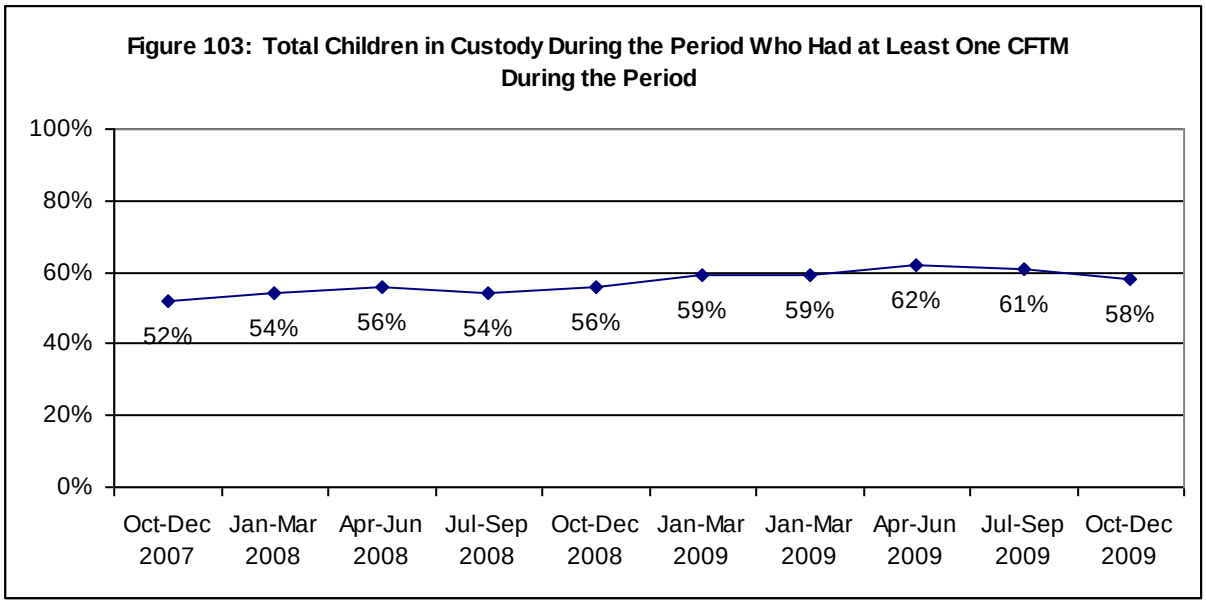
G. CFTM to Review/Revise Permanency Goal (VII.L)

The Settlement Agreement provides that a CFTM be convened whenever a permanency plan goal needs to be revised. At the CFTM, the team should discuss the reasons for the proposed goal change and consider alternative options for permanency such as guardianship, adoption, or the addition of a concurrent goal. In addition, the child's permanency plan is to be reviewed at a CFTM at least every three months.[388]

Department policy and training regarding the CFT process establish expectations for CFTMs to review and/or revise the permanency plan that meet the requirements of the Settlement Agreement.

The figure below reflects the Department's performance with respect to the requirement that a Progress Review Child and Family Team Meeting be held no less often than every three months for every child in custody.

[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.



Source: TNKids "Child and Family Team Meeting (CFTM) Report for *Brian A.* Clients" (CFT-BACFTMSR-200); reports for the third quarter of 2007 and all four quarters of 2008 and 2009.

H. Discharge Planning CFTM (VII.M, VII.N)

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;

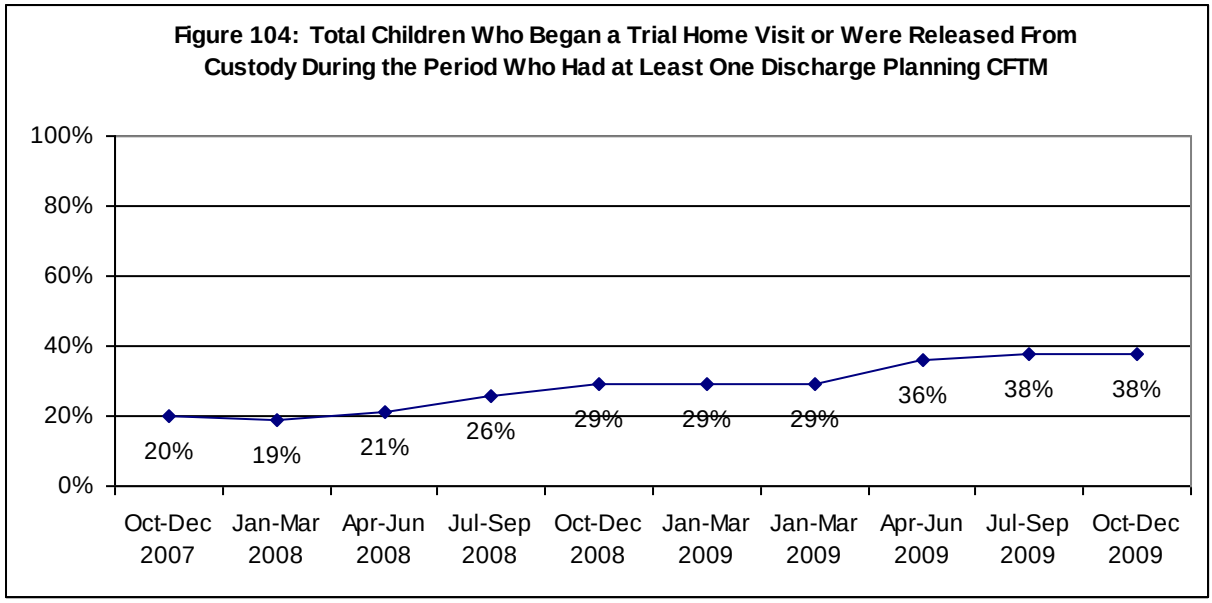
- DCS provide or facilitate access to all services necessary to support the trial home visit; and

- 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. (VII.N)

Department policy and revised training regarding the CFT process establish expectations for a Discharge Planning CFTM that meets the requirements of the Settlement Agreement.

The aggregate CFTM reporting enables the Department to track the occurrence of Discharge Planning Child and Family Team Meetings.

The figure below reflects the Department's quarterly performance with respect to the requirement that a Discharge Planning Child and Family Team Meeting be held for every child who begins a trial home visit or is released from custody.[389]

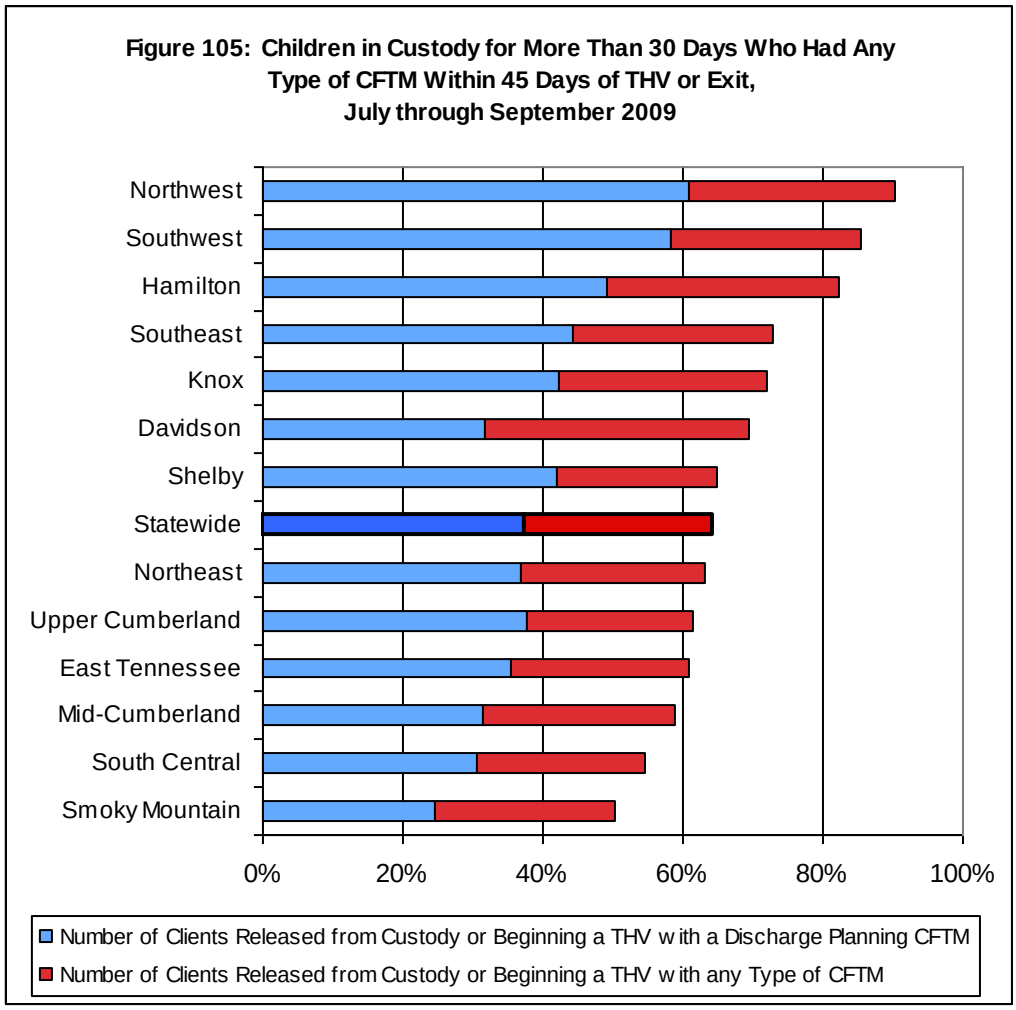


Source: TNKids "Child and Family Team Meeting (CFTM) Report for *Brian A.* Clients" (CFT-BACFTMSR-200); reports for the third quarter of 2007 and all four quarters of 2008 and 2009.

This data, if accurate, would raise significant concerns about current DCS practice; however, the Department believes, based on internal reviews that it has conducted, that data entry errors have resulted in significant underreporting of Discharge Planning CFTMs. In their review of cases reported as not having had Discharge Planning CFTMs, the Department found that in a significant number of those cases, CFTMs had taken place, but were labeled as Placement Stability, Permanency Plan Revision, or most often, "Special Called" CFTMs. With the exception of reporting whether a meeting of any type occurred during the reporting period, Special-Called CFTMs and Permanency Plan Revision CFTMs are not included in the CFTM report.

For the third quarter of 2009, the Department had OIS run a special report from that quarter that would show whether any child in custody for more than 30 days had any type of CFTM within 45 days of either the beginning of a trial home visit or exiting from custody. As reflected in Figure 105 below, in addition to those children who were reported as having a Discharge Planning CFTM, another 382 children (an additional 27%) had some other CFTM within 45 days of beginning a THV or exiting. If these additional meetings addressed discharge planning, it would bring the Department's performance up to 64.3%.

[389] For those children who had at least one Discharge Planning CFTM, 91% of their meetings occurred within 30 days prior to the THV or custody end date in the first quarter of 2009, 89% in the second quarter of 2009, 86% in the third quarter of 2009, and 92% in the fourth quarter of 2009.



Source: Discharge Planning Report, July through September 2009.

While the Department recognizes that this still falls short of the Settlement Agreement requirements and may not necessarily mean that good discharge planning is being done in those meetings, the Department does believe that it is performing better than the CFTM report as currently designed is capturing. For the new CFTM report, the Department has added a line to the Discharge Planning CFTM to capture what percentage of children had a CFTM of any type within 45 days of beginning a THV or exiting custody.

1. Requirement of Trial Home Visit prior to Discharge

The Settlement Agreement includes the following specific requirements regarding trial home visits (THV):[390]

[390] 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 TCA 37-1-130 (generally requiring a 90-day trial home visit for dependent and neglected children that DCS is returning home) and TCA 37-1-132 (generally requiring a 30-day trial home visit for unruly children that DCS is returning home).

- DCS shall recommend to the Juvenile Court a 90-day trial home visit for all children for whom a decision is made to return home or to be placed in the custody of a relative, before the child or youth is projected to exit state custody;

- shorter trial home visits of between 30 and 90 days shall be allowed based on specific findings and the signed certification of the case manager, supervisor, and regional administrator for the child that a shorter trial home visit is appropriate to ensure the specific safety and well-being issues involved in the child's case; and

- all cases involving trial home visits of less than 90 days shall be forwarded to the TAC for review. (VII.M)

Consistent with the original Settlement Agreement, it has long been the policy of the Department to recommend 90-day trial home visits for all children for whom a decision has been made to return them to the custody of parents or relatives. The policy was revised pursuant to the May 8, 2007 modification of the Settlement Agreement to retain the general rule that the Department request a 90-day trial home visit, but to allow the Department to recommend a shorter THV under certain circumstances:

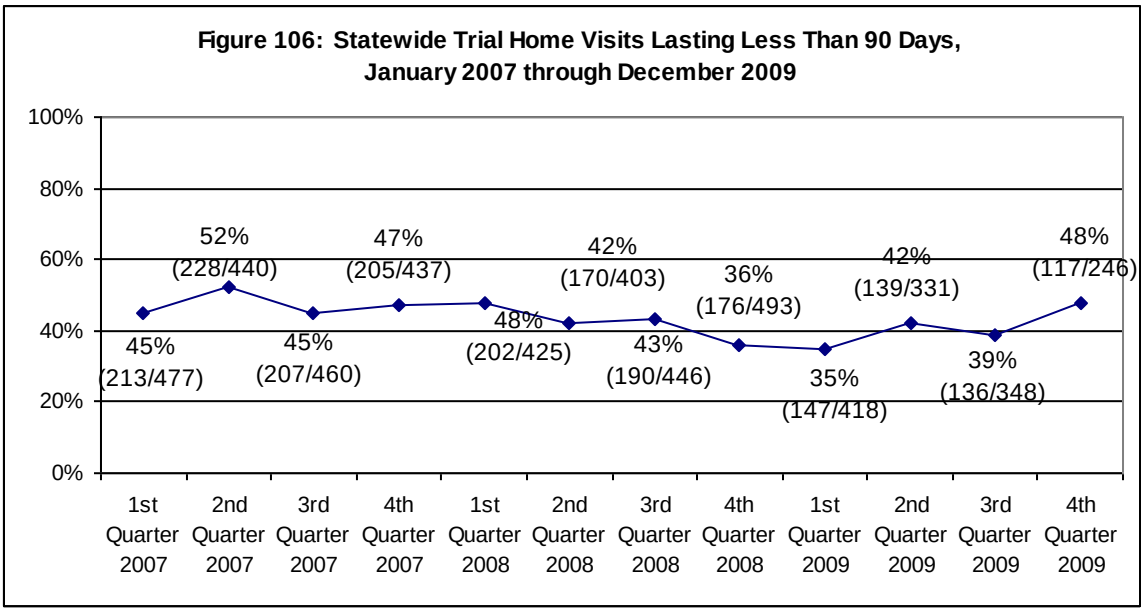
> *An exception to this general rule shall be allowed, based on specific findings and the signed certification of the case manager, supervisor and regional administrator for the child, that a shorter trial home visit is appropriate to ensure the specific safety and well-being issues involved in the child's case. Under this exception, a trial home visit may be recommended for less than 90 days but in no case less than 30 days. All cases in which the exception is used shall be forwarded to the Brian A. Monitor/Technical Assistance Committee (TAC) for their review.*

The Department has recognized that while this policy has been in effect since May 2007, regional practice has not been consistent with this policy. Moreover, despite the expectations that the regions would be giving oversight of this area of practice additional attention to improve performance, the significant percentage of children not receiving a 90-day trial home visit has continued to fluctuate between 35% and 52% with no clear trend toward improvement. [391]

Figure 106 summarizes the quarterly statewide less than 90 day trial home visit data from the beginning of 2007 through 2009.[392]

[391] There is some regional variation, with the East region showing a clear decrease in the number of THVs less than 90 days and Shelby showing a clear and dramatic increase in the number of THVs less than 90 days. Most regions continue to fluctuate.

[392] Figures presenting the regional less than 90 day THV data, from the beginning of 2007 through 2009, can be found in Appendix P.



Source: *Brian A*. 2007, 2008 and 2009 THV Quarterly Reports.

Table 20 presents the number and percentage of *Brian A*. children released from custody in 2009 whose trial home visit was less than 90 days in length. Of the 1343 trial home visits reported for 2009, 40% (539) lasted less than 90 days.

Table 20: Trial Home Visits Less than 90 Days in Length, January - December 2009

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
Davidson	**50%** (12/24)	**44%** (11/25)	**47%** (15/32)	**41%** (7/17)
East Tennessee	**31%** (18/58)	**32%** (10/31)	**32%** (9/28)	**29%** (9/31)
Hamilton	**38%** (6/16)	**44%** (7/16)	**60%** (9/15)	**67%** (8/12)
Knox	**36%** (9/25)	**56%** (15/27)	**29%** (10/35)	**24%** (8/33)
Mid-Cumberland	**36%** (16/45)	**48%** (26/54)	**39%** (19/49)	**43%** (17/40)
Northeast	**25%** (12/48)	**50%** (11/22)	**27%** (7/26)	**43%** (9/21)
Northwest	**17%** (2/12)	**13%** (1/8)	**33%** (3/9)	**24%** (5/21)
Shelby	**70%** (26/37)	**59%** (10/17)	**74%** (25/34)	**89%** (17/19)
Smoky Mountain	**30%** (16/53)	**29%** (15/52)	**35%** (15/43)	**25%** (9/36)
South Central	**29%** (12/41)	**35%** (8/23)	**24%** (8/34)	**27%** (11/41)
Southeast	**25%** (5/20)	**37%** (7/19)	**25%** (3/12)	**10%** (2/20)
Southwest	**78%** (7/9)	**45%** (5/11)	**63%** (10/16)	**33%** (5/15)
Upper Cumberland	**20%** (6/30)	**50%** (13/26)	**20%** (3/15)	**25%** (10/40)
Statewide	**35%** (147/418)	**42%** (139/331)	**39%** (136/348)	**48%** (117/246)

Source: *Brian A*. 2009 THV Quarterly Report.

A more concerted effort to understand and address the issues related to THVs appears to be underway, led by the regional administrators. In a recent report documenting this effort, the regional administrators made it clear that they embrace the THV provisions of the Settlement Agreement as a statement of "best practice": that as a general rule trial home visits (THVs) should be implemented prior to discharge to a parent or relative and those THVs should be 90 days in length; that when a THV of less than 90 days is recommended, there should be specific reason(s), documented in the case file, to support the decision that a shorter visit is appropriate and adequately addresses safety and well-being concerns; that the case manager and supervisor who are recommending a THV shorter than 90 days should notify the regional administrator of that decision and the reasons they recommend a THV less than 90 days; and that in no event should a THV shorter than 30 days be recommended.

Despite their commitment to these THV requirements, the regional administrators recognized that the THV reports from TNKids reflect THVs of less than ninety days as routine practice, not as relatively infrequent exceptions. They therefore decided to review and analyze recent cases of THVs lasting less than 90 days to better understand what accounts for such a high percentage of those cases.

The review was designed to answer four key questions:

- To what extent are cases being misreported as having THVs of less than ninety days because of problems with the way in which the data for the report is pulled?

- To what extent are the shorter THVs results of decisions made by the courts, despite the recommendation of the Department for a 90 day THV?

- To what extent do the cases reflect appropriate exceptions to the general rule?

- With respect to cases that do not reflect appropriate exceptions, how did that happen and who approved the exception?

During the month of March 2010, the regional administrators reviewed each of the cases from their region(s) that were closed between October 1 and December 31, 2009 with an exit reason documented in TNKids as Reunification or Exit Custody to a Relative that was not preceded by a THV of at least 90 days. The information from the review was captured in nine categories reflecting the range of explanations that they anticipated would be reflected within the group of cases reviewed.

Table 21 presents the results of that review.

Table 21: Reasons for Trial Home Visits Less than 90 Days, October through December 2009										
Region	THV was 90 days	THV close to 90 days	Court release	Unruly youth	Release at preliminary or adjudicatory hearing	With relative more than 90 days	Shorter THV with RA approval	Shorter THV with RA approval	Other	Total
Davidson	6				1					7
East	8						1			9
Hamilton	3		4						1	8
Knox	2	4			1			1		8
Mid-Cumberland	3	5	4		3			3		18
Northeast		3	5	1						9
Northwest		4		1						5
Shelby	4	1			4		2	6		17
Smoky Mountain	1	3	6						1	11
South Central			1	1	3		5	1		11
Southeast		1	1							2
Southwest			5							5
Upper Cumberland		6	2		1		1			10
Total	27	27	28	3	13	0	9	11	2	120

Source: Report to the *Brian A.* Technical Assistance Committee, Trial Home Visits Less than 90 Days, May 2010.

As the table reflects, in almost a quarter of the cases (23%), the THVs were found to be in fact 90 days or more in length. These cases involved situations in which the child's physical placement (where the child was actually living) remained the same, but the child's placement type as designated in TNKids changed during the course of the THV. [393] Because the TNKids THV data is based on the time in the last "placement type", these THVs were incorrectly reported as shorter than 90 days.

In an additional 23% of the cases, the THV was between 70 and 89 days (most of those between 80 and 89), shorter than the 90 day general rule, but close enough to ninety days and with sufficient indicia of stability that the regional administrators considered these cases to be effectively compliant with the general rule. In many of these cases, the child's THV was adjusted to coincide with a previously scheduled court date that was near 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.

Thus, in almost half of the cases (46%), the THVs were either actually 90 days or more in length but not reported so, or were very close to 90 days.

In about another quarter (23%) of the cases, children were released on the court's own initiative that may, or may not be supported by a formal motion or petition. A significant number of these

[393] Some examples of this include children on THV receiving in-home continuum services where services are completed prior to the THV being terminated or a THV interrupted briefly by a hospitalization period. The THV time would be reported based on the date of termination of continuum services or the date of return from a hospital stay, not as of the date the child was placed on THV.

releases occurred as a result of requests or recommendations made by parents, their attorneys, and guardian *ad litems*.[394]

There were three additional cases, involving children with an adjudication of unruly, in which the juvenile courts took the position that the Juvenile Court Act provides for a 30 day trial home visit and that the child was therefore entitled to be discharged after a successful 30 day THV.[395]

Another group of children (11%) 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.

Nine children (8%) exited custody during the review period through reunification or exiting to the custody of relatives after a shorter THV that either was approved after consultation with the regional administrator or that the regional administrator would have approved, had he/she been consulted. In these cases, the regional administrators concluded that the shorter THV did not compromise the family's stability and sufficient supports were in place to ensure permanency was sustained.

In only 11 of the 120 cases reviewed (9%) did the regional administrators conclude that the shorter THV was without sufficient justification and clearly contrary to both the spirit and the letter of Department policy and the provisions of the Settlement Agreement.

Following their review and analyses, the regional administrators have committed to a THV review process for their respective regions that will, at a minimum, include the following:

- Regional administrators will develop a process in each region by which the team leader/case manager will request a review of any case where it is proposed that child(ren) exit custody to reunification or to the custody of a relative and the Child and Family Team is contemplating a trial home visit of less than 90 days.
- Regional administrators will review the recommendations of the Child and Family Team (CFT) when considering any trial home visit to be less than 90 days in length.
- Regional administrators will document their decision (approval or denial) of trial home visits that will not be 90 days in length in the current child welfare information system.
- Regional administrators will share their reviews of monthly THVs less than 90 days with the TAC.
- The regional and statewide data around THVs less than 90 days in length, and the reasons uncovered in each regional administrator's monthly review, will be compiled and used to identify and address any trends.

[394] Regional administrators recognize the challenge in discerning with clarity if these requests were met with adequate opposition, any opposition at all, or if the releases were passively supported by the Department's staff.
[395] For a description of the process and timelines related to trial home visits as governed by the Juvenile Court Act, see footnote 390.

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;[396]
- 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. (VII.N)

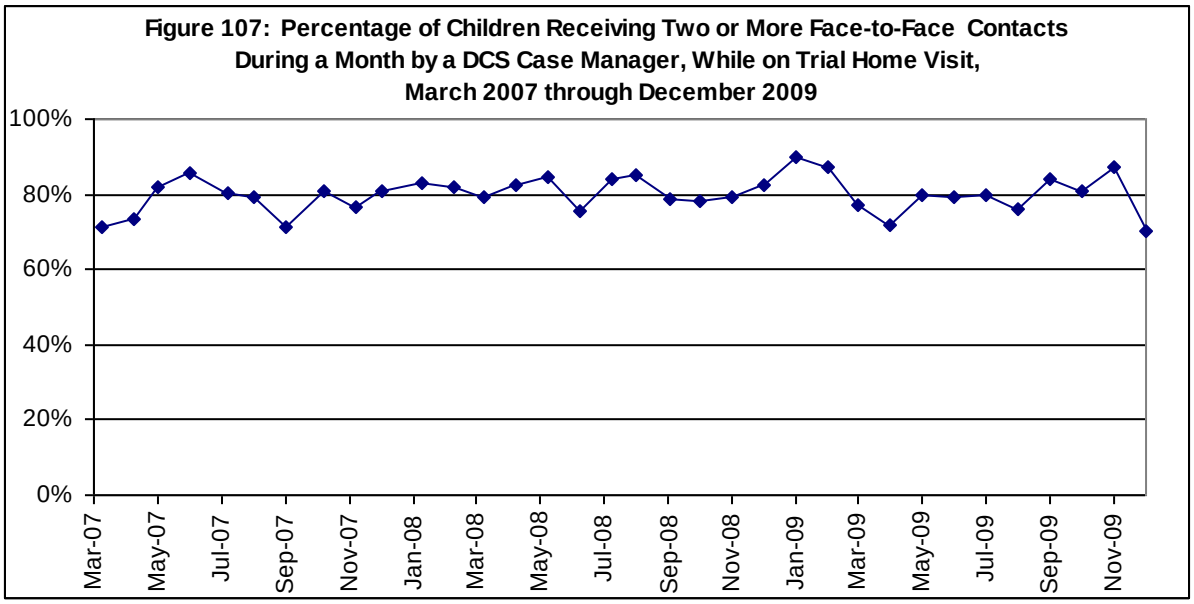
Policy and training has been revised in accordance with the amended Settlement Agreement language addressing trial home visits and the responsibilities and expectations for case managers during the course of those trial home visits.

As reflected in Figure 107 below, aggregate reporting on the number of case manager face-to-face contacts indicates that between March 2007[397] and December 2009, a monthly average of 80% of children on trial home visit received two or more DCS case manager visits a month. [398]

[396] 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.

[397] The Department's aggregate reporting on case manager face-to-face contacts while children are on THV began in March 2007.

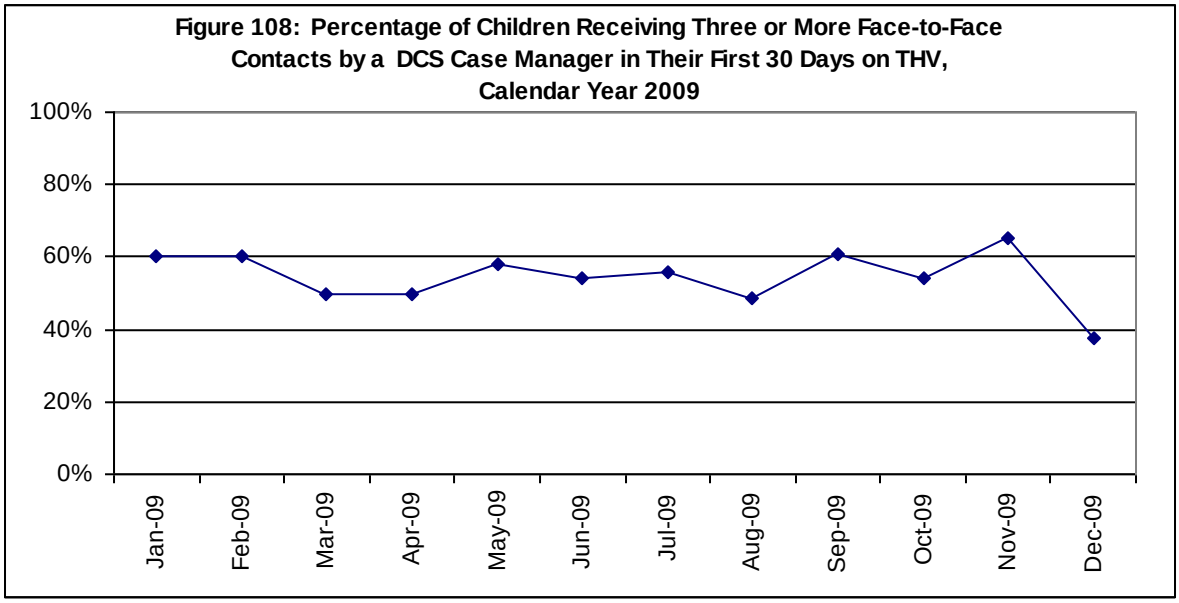
[398] The Department also runs reports that capture private provider case manager face-to-face contacts with children (who had been in private provider placements just prior to THV) on THV that differentiate between the monthly requirements outlined in the Settlement Agreement. (VII.N) Between September 2007 (when the Department began such reporting) and May 2009, when the Department discontinued this particular private provider THV face-to-face report, a monthly average of 73% of children received two or more visits per month from private provider case managers after the first 30 days of THV. Between January and December 2009, the time period covered by the recently produced THV report, 48% of children received three or more visits from private provider case managers during the first 30 days of THV.



Source: Client-Case Manager Face-to-Face Contacts for THV Placement, *Brian A*. Class, Two Months Back, March 2007-December 2009.

The Department recently produced a report that captures the extent to which children on THV in 2009 received three case manager visits during the first 30 days of their THV.

As reflected in Figure 108 below, between January and December 2009, a monthly average of 55% of children on THV (who had been in DCS placements just prior to THV) received three or more DCS case manager visits during the first 30 days of their THV.



Source: Face-to-Face Initial THV Report, January-December 2009.

There is no aggregate reporting available to document the extent to which case manager visits include private time with the child. There is also currently no aggregate reporting available to document the extent to which case managers are contacting service providers, visiting children's

schools, talking with their teachers and/or ascertaining their progress in school and the appropriateness of their school placement.

A spot check by TAC monitoring staff of case files of children on THV has found very little documentation of either private time with the child or case manager involvement with service providers or schools during the time the child is on THV.

I. Special Provisions Regarding Children in Care for More Than 12 Months (VII.J)

The Settlement Agreement includes the following special requirements with respect to children who have been in care for more than 12 months:

- For any child who has a permanency goal of return home for more than 12 months, the case manager, with written approval from his or her supervisor, shall include in the record a written explanation justifying the continuation of the goal and identifying the additional services necessary or circumstances which must occur in order to accomplish the goal.

- No child shall have a permanency goal of return home for more than 15 months unless there are, documented in the record and approved by the supervisor, compelling circumstances and reason to believe that the child can be returned home within a specified and reasonable time period.

Department policy is consistent with these Settlement Agreement requirements.

As discussed further in Section Eight, the Department, as part of ensuring that the case manager and supervisor are meeting these requirements, has instituted a process that includes special administrative reviews of children who have been in care for nine to 12 months and of children who have been in care for more than 15 months. As discussed further in Section Eight, the Department produces a monthly report that tracks children who have been in care for at least 15 of the past 22 months to ensure compliance with the Adoption and Safe Families Act (ASFA) requirement that TPR be filed in these cases unless there are compelling reasons for not filing.[399] (Figures based on those monthly reports are presented in Appendix Q.)

J. Special Provisions related to Goal of Planned Permanent Living Arrangement (VII.G)

The Settlement Agreement, as recently amended, prohibits the use of "permanent foster care" or "long term foster care" as permanency goals, recognizes that these goals have been replaced by

[399] The cases reviewed as part of a recently completed targeted review of children in custody for more than three years generally reflected appropriate documentation of compelling reasons (and facts supporting that finding) in those cases for which either TPR had not been filed or TPR had been filed but not within fifteen months of the child coming into care.

"other planned permanent living arrangement" (PPLA), requires the TAC to issue recommendations on the use of the goal of Planned Permanent Living Arrangement (and on the use of subsidized permanent guardianship), and requires the Department to implement those recommendations.

Pursuant to this provision of the Settlement Agreement, the TAC recommended that:[400]

- the conditions that make PPLA a permissible permanency goal generally remain substantively the same as under the original Settlement Agreement, but that the age below which PPLA would not be a permissible goal be increased from 15 to 16, subject to appropriate exceptions for kin placements, for "special circumstances", and for establishing eligibility for subsidized permanent guardianship;

- a child age 12 or older be informed of all permanency options and agree to PPLA before the goal can be considered appropriate;

- a goal of PPLA only be approved if it is a team decision and the Child and Family Team includes steps in the permanency plan to help the child build enduring relationships with positive, supporting adults who are committed to maintaining such relationships beyond the child's involvement in the child welfare system;

- the team review the goal every six months, and the Commissioner or her designee review it every year, for continued appropriateness; and

- if a child moves, the PPLA goal be reexamined.

.

At the time of the December 2008 Monitoring Report, the Department was in the process of implementing the recommendations that the TAC had made related to the review and approval (and reapproval) process for those cases in which a child has a goal of PPLA. The Department anticipated that all of the TAC recommendations would be fully implemented by February 2009.

The Department has established a PPLA review process that incorporates the TAC's recommendations in policy, protocol and process.

According to the Department's PPLA report, there are 23 dependent and neglected children that have a sole or dual goal of PPLA as of May 20, 2010. Of these:

- Three have not requested approval from Central Office for PPLA. The regions have been notified that a request is needed.

- Two have a PPLA goal that has been denied or the region reports it was selected in error. The regions have agreed to change the goals on those plans.

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[400] *The Recommendations of the Technical Assistance Committee Related to The Use of Planned Permanent Living Arrangement (PPLA) as a Permanency Goal for Tennessee's Foster Children/Youth*, issued on December 6, 2007, is attached as Appendix N to the December 2008 Monitoring Report.

- One child needs a new PPLA request because of a change in placement, and Central office has contacted that region to request the PPLA documentation.

- For three children, the region has sent Central Office their PPLA information and Central Office is still reviewing them.

- Of the 23 children, only seven have a sole goal of PPLA. In one of those cases, the goal is being changed because the request for approval of PPLA as a goal was denied following review.

In keeping with the TAC's recommendations, Central office staff have identified some real and some perceived differences in the services and supports available to children in foster care and their resource parents, as compared to children and their adoptive families, that act as a financial or other disincentive to adoption or subsidized permanent guardianship and make PPLA a preferable option. The Central Office staff work with regional staff to address any misperceptions and make sure that any decision to opt for PPLA occurs after a full discussion.

The Central Office is also working with regions to ensure that practical approaches are being taken to support children in situations in which DCS reasonably believes that a child is going to return to his or her family of origin at age 18, but does not feel that reunification is a safe or appropriate permanency goal.

The Department consistently maintains a small number of children with a sole or concurrent goal of PPLA. As of December 31, 2009, 29 (0.55%) of the 5,297 *Brian A.* class members had a sole or concurrent PPLA goal. Twelve (0.23% of the class) of the 29 (41%) children had a sole PPLA goal. As of May 31, 2010, 27 (0.49%) of the *Brian A.* class members had a sole or concurrent PPLA goal. Eight (0.14% of the class) of the 27 (30%) children had a sole PPLA goal.[401]

K. Concurrent goals (VII.I)

Children with an initial goal of return home may also have another concurrently planned permanency goal. Record keeping and tracking for any child with more than one goal shall be consistent with a goal of return home until such time that return home is no longer an option.

This provision of the Settlement Agreement appears not to have substantive import but simply to be a clarification of how cases with concurrent goals, one of which is return home, are to be counted for purposes of the aggregate reporting that is "goal specific." When the Department

[401] The August 2009 Supplemental Monitoring Report reported that as of May 31, 2009, 23 (0.43%) of the 5,359 *Brian A.* class members had a sole or concurrent PPLA goal. Nineteen (0.35% of the class) of the 23 (83%) children had a sole PPLA goal. The September 2007 Monitoring Report reported 35 (0.5%) of 6,535 *Brian A.* class members with a sole goal of PPLA as of August 31, 2007. That report did not include data on those with a concurrent PPLA goal; however, as of August 31, 2007, 175 (2.7%) of 6,535 *Brian A.* class members had a sole or concurrent goal of PPLA.

produces a report on the extent to which it is meeting performance or outcome measures for children with a goal of Return to Parent, the Department has the ability to include in that report (and has included in applicable *Brian A.* reports) children who have concurrent goals, one of which is return to parent.

L. Independent Living No Longer a Permissible Permanency Option (VII.H)

The Settlement Agreement states that Independent Living shall not be used as a permanency goal, and that the term, as now used by the Department, refers to a service array intended to enable older youth to transition into adult life and live independently.

Department policy and practice is consistent with this provision of the Settlement Agreement.

SECTION EIGHT: FREEING A CHILD FOR ADOPTION

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;
- 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.

These requirements reflect present DCS policy. The change of a child's permanency goal to the sole goal of adoption by definition constitutes the beginning of the adoption process.[402]

The Department has initiated a series of administrative reviews, discussed below, in an effort to ensure that practice related to the initiation of the adoption process is consistent with the requirements of the Settlement Agreement. (VIII.A.)[403]

A. Requirement of Diligent Searches (VIII.C.1, 3, 4)

The Settlement Agreement requires that diligent searches for parents and relatives be conducted:

- by the case manager; (VIII.C.1)
- prior to the child entering custody or no later than 30 days after the child enters custody; (VIII.C.1)
- updated within three months of child entering custody; (VIII.C.3)

[402] 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.

[403] As discussed further in this section, there has not been a uniform process for ensuring that the results of these administrative reviews are recorded in TNKids. Documentation in individual case files has been inconsistent and there is limited capacity for aggregate reporting on the extent to which these required reviews are in fact occurring. TFACTS will have a section devoted to case conferencing (defined as meetings regarding a case that take place between staff members of the Department). The Department expects those conducting these administrative reviews to use this section to document those reviews. Once TFACTS is fully operational and sufficient time has passed to allow staff to begin using the case conferencing field, aggregate reporting on these reviews should be available.

- updated when a child has been in custody for six months; (VIII.C.4) and
- documented in the case record. (VIII.C.1, 3, 4)

If a previously absent parent is located, reasonable efforts must be made to engage that parent and evidence of those efforts is to be reflected in the permanency plan. (VIII.C.3)

If a relative is located and the plan changed to a goal of Exit Custody to Live with Relative, the relative is to be clearly identified in the permanency plan and the requirements to exiting custody to live with that relative are to be clearly articulated in the permanency plan. (VIII.C.3)

In the past, the "diligent search" was primarily thought of as the legal pre-requisite for "service by publication" of parents whose whereabouts were unknown. As the term is presently used, the diligent search is not primarily a search for an absent parent to meet a legal requirement, but an effort 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.

This 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. If reunification with parents or relatives ultimately proves to be unsuccessful, this kind of "up front" and ongoing diligent search, to both locate and involve family members, makes it much easier to meet the procedural and substantive requirements for termination of parental rights.[404]

The Settlement Agreement requirements are set forth in the Department's newly revised policy,[405] and the Department has created a protocol for conducting diligent searches and developed a diligent search letter, checklist, and genogram template to assist case managers in conducting diligent searches.[406] 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's policy states that information regarding diligent search efforts and outcomes should be documented in TNKids by the case manager within 30 days of the date of the occurrence and also added to the Family Functional Assessment. The team leader is responsible for ensuring that the case manager documents all diligent search efforts in TNKids, including

[404] If the diligent search process is implemented well, one would expect this to be reflected not only in increased utilization of kinship resource homes, but in improvements in the timelines of the Termination of Parental Rights (TPR) process.

[405] Policy 16.48 Diligent Search was revised to match the new diligent search and family notification requirements of H.R. 6893 Fostering Connections to Success and Increasing Adoption Act. A workgroup comprised of central office and field staff developed a new family notification letter and updated the current paper method of tracking diligent search activity. The regional members of the workgroup provided training on the revised policy and new forms to individual teams in their respective regions.

[406] Council on Accreditation (COA) requires, as part of the planning process, that there be an effort to find family and look for possible relative or kinship placements. FC 4.02 states that concurrent planning is undertaken when appropriate and includes early identification of potential family resources and early placement with a permanent family resource. This COA requirement emphasizes early identification of relative and kinship placements, while the Department's Policy 16.48 on Conducting Diligent Searches emphasizes the on-going nature of diligent search in addition to the early identification of potential family resources.

ensuring that the forms (letter, checklist, and genogram) are put in the physical file.[407] As discussed in the December 2008 Monitoring Report, the Department had designed and delivered specific training to ensure that regional staff understand the expectations related to diligent search. Following the most recent revision of the "diligent search" policy in the fall of 2009, the Department has begun a new round of diligent search training.[408]

In order to evaluate the extent to which regions are conducting diligent searches in accordance with Department policy, the Department designed its 2010 TNKids Audit to focus on documentation of diligent searches. Internal Audit randomly selected 10 case files in each of the 13 regions and examined documentation in the files to answer the following questions:

- Was a diligent search conducted within 30 days, three months, and six months of youth coming into DCS custody?
-
- Who was the subject of the diligent search (policy requires searches for both parents and grandparents)?
-
- What mechanisms were included in the diligent search?
-
- What were the results of the diligent search?

The reviews of the files began in April 2010 and concluded in May 2010. While the results of the audit are still being compiled for presentation in a final audit report, the auditor conducted debriefing sessions with each region at the conclusion of each regional case file review. Based on the information shared in those debriefing sessions, the Department recognizes that additional work remains to be done to align practice with the expectations of policy, particularly with respect to diligent search for paternal relatives. Initial results from three regions indicate that the Department is doing a better job in locating birth parents than in locating grandparents and other extended family. The audit itself has seemed to trigger a focus on diligent search in the regions; the auditor noted many cases in which increased "diligent efforts" activities coincided with the timing of the audit.

TFACTS has been designed to capture diligent search activity on cases, which will provide an electronic method of monitoring this information and capturing the detail needed for aggregate reporting. A diligent search report is being developed to assist the Department in ensuring that diligent search activity is taking place within 30 days of entering custody, three months of entering custody, and six months of entering custody.

B. Requirement of Attorney Review of Cases of Severe Abuse within 45 Days (VIII.C.2)

[407] TNKids does not have the capacity to capture and report aggregate data on the conduct of either initial or updated diligent searches. However, TFACTS will include some aggregate reporting capacity.

[408] A training for trainers has been conducted on the revised policy, and those who have been trained are responsible for delivering the new diligent search training to all case managers in their respective regions.

The Settlement Agreement 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.

In 2008, the Department began producing a semi-monthly TNKids report, sorted by region, which identifies all children who fall within this category. As discussed in the December 2008 Monitoring Report, 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 for TPR.

There is considerable regional variation in the process for conducting these reviews. In some regions, the regional administrator and regional general counsel meet monthly and conduct the reviews themselves, while in others, team coordinators, team leaders, and/or case managers participate in the review meetings. In some regions, the cases are reviewed by a team that includes DCS legal counsel in advance of the review conducted by the regional administrator and regional general counsel. Some regions use their own system to identify and track these cases, rather than relying on the TNKids report.

The regions also differ in the assignment of responsibility for documenting these reviews in TNKids. In some regions the regional administrator is responsible for documentation, whereas in others a team coordinator or team leader is responsible, and in some regions there remains some ambiguity regarding the responsibility.

In any event, the attorney review should be documented in the case recordings, and those recordings should provide sufficient information to understand the basis for whatever decision is reached and any action steps to be taken based on that decision.[409]

TAC monitoring staff reviewed copies of a recent semi-monthly report identifying for each region those children who were supposed to be subject to the 45 day review and then "spot checked" one or two cases from each region to determine the extent to which these reviews (and findings and action steps coming out of those reviews) were documented in the case files. Of the 20 cases reviewed, three had clear documentation in the case recordings that a meeting had occurred between the regional administrator and the regional general counsel or other regional DCS attorney at which the required discussion took place. There were two cases where case recordings indicated a meeting involving the regional administrator, team leader, and DCS attorney, but it was not clear whether or not the required discussion had taken place. In the remaining 15 cases, TAC monitoring staff were unable to find any evidence that the required meeting and discussion had taken place.[410]

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[409] Because there is no check box or specific field in TNKids for recording this required review, the documentation of the review should be made by the case manager in the narrative case recordings.

[410] Most of these cases contained documentation of the legislatively required review by the Child Protective Investigative Team (CPIT). However, that is a separate review from the one required by the Settlement Agreement and there was no indication that DCS counsel participated in any of the CPIT reviews.

C. Requirement of Attorney Review of Children in Custody at Six Months (VIII.C.4.b)

The Settlement Agreement requires that progress on existing permanency plans be reviewed with a DCS attorney for any child who has been in custody for six months to accomplish the following: (VIII.C.4.b)

- identify any case that is appropriate for Termination of Parental Rights (TPR) at six months and file TPR;

- consider cases in which a child is ready to return home or be placed in custody of a relative and determine what legal steps need to be taken to achieve permanency and what information the DCS attorney will need from the case manager to proceed legally; and

- consider cases for possible legal grounds for termination in which the child is not ready to return home or be placed in the custody of a relative. In these cases, the attorney and case manager are to establish a certain date by which the decision whether to go forward on TPR shall be made, and that discussion and the date selected is to be documented in the child's case file.

The Department has been producing a monthly report, by region, identifying all children who have been in care for six months and whose cases are to be reviewed within the month. Regional lists have been provided to the regional administrator, the regional supervising attorney for their review, and the Executive Directors of the Office of Regional Support. Regions have been responsible for ensuring that these reviews are occurring and that the purposes of the review are being achieved.

Based on the Department's experience with this six month review, it has come to the conclusion that an attorney review at six months should not be required. The Department believes that the 45 day review in cases involving severe abuse allegations adequately ensures discussions of those cases for which early filing of TPR may be appropriate. For all other cases, the Department believes that the appropriate timing and focus for the next required review with the legal staff should be the nine-month review provided for in Section VIII.C.5 of the Settlement Agreement.

D. Requirement of Attorney Review of Children in Custody at Nine Months (VIII.C.5)

When a child has been in care for nine months, the Settlement Agreement requires that progress on existing permanency plans be reviewed with the DCS attorney for the following purposes: (VIII.C.5)

- if the child is to return home or be placed in the custody of a relative, a timetable for supervised visits, trial home visits, and hearings to be returned to the parent/relative shall be established; (VIII.C.5.a)

- 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; (VIII.C.5.b) 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 CFT shall continue to search for relatives as placement options. (VIII.C.5.c)

There is some regional variation in the implementation of this review. Some regions have regularly scheduled monthly or quarterly administrative case review meetings that DCS legal staff already attend which include, but are not limited to, discussion of the items required by the nine-month attorney review. Other regions have a process for notifying the case manager and legal counsel that a child has been in custody for nine months and expect that the case manager and legal counsel will have the required discussion. While some regions have a clear requirement that a specific person is responsible for documenting the discussion in TNKids, in other regions there is less clarity.

TAC monitoring staff will be conducting spot checks of cases from the nine-month review to determine whether there is documentation in the case file of this review.

E. Special Requirements Regarding Children in Custody for more than Twelve Months (VIII.C.6)

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 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 (reasons must be documented in the child's case file). (VIII.C.6)

To ensure that this provision is implemented, the Settlement Agreement requires that a review of the status of every child who is in custody for 12 months or more be conducted on a quarterly basis by the regional leadership, including the DCS attorney. (VIII.C.6) If TPR has not been filed and there are no compelling reasons for not filing TPR, the case is to be "re-staffed" to determine what actions need to be taken to ensure that permanency for the child is achieved.

Each of the regions has developed or is developing processes for reviewing these cases. In some regions, the review occurs as part of the regularly scheduled monthly or quarterly administrative reviews involving the regional administrator and regional general counsel. In other regions the regional general counsel conducts an initial review and then follows up to ensure either that there are compelling reasons for not filing or that steps are taken to file for TPR. In some regions, it is the regional administrator or deputy regional administrator, rather than the regional general counsel, who conducts this initial review and the regional general counsel only becomes involved if there is a need to file TPR.

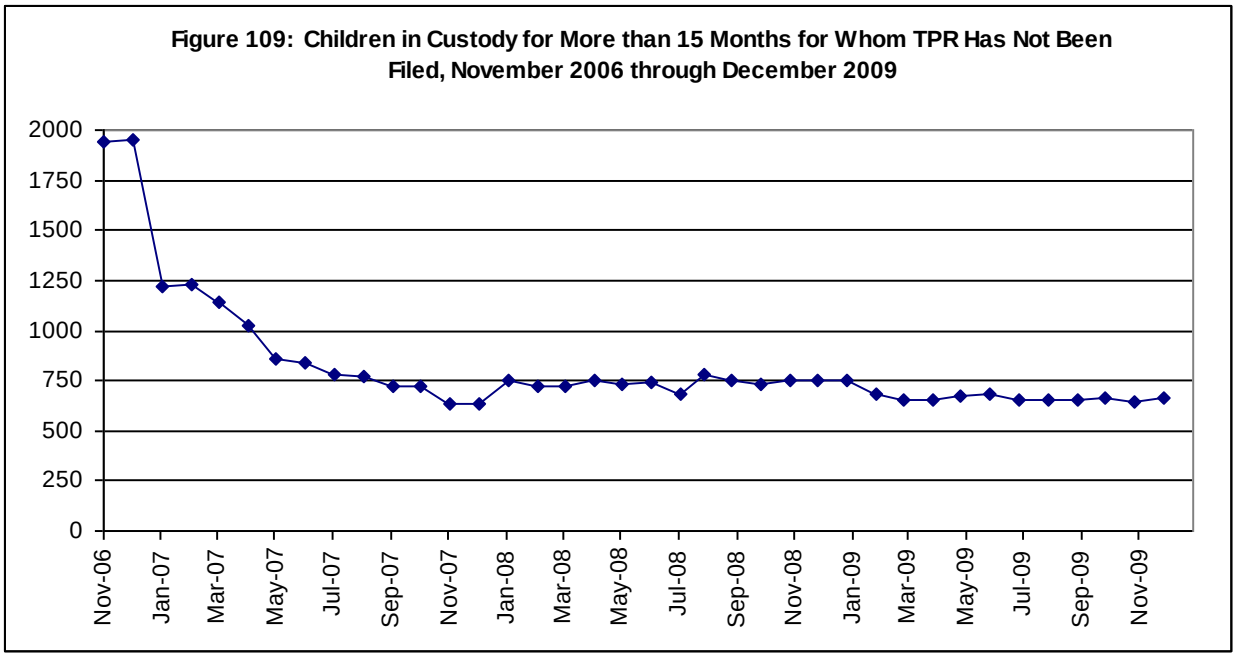
While some regions have taken specific steps to ensure that these reviews are documented in TNKids, in many regions it is still unclear who is responsible for documentation of the reviews.

The Department currently produces a monthly report, by region, identifying all children who have been in care for 15 months or more for whom no TPR petition has been filed. Regional lists are provided to the regional administrator and the regional supervising attorney for their review.

As discussed in the December 2008 Monitoring Report, the review process initially included a monthly conference call**,** convened and chaired by the Commissioner and a deputy general counsel, to discuss the results of the region's review of the cases. Having established expectations related to these reviews through her participation, the Commissioner now expects the Regional Administrators to conduct these reviews without her participation. The Commissioner continues to monitor aggregate regional data related to children in care for more than 12 months and will periodically participate in regional reviews in response to that data.[411]

As reflected in Figure 109 below, in the time since the institution of these reviews, the Department has made considerable progress in reducing the number of children in custody for more than 15 months for whom TPR has not been filed. That number dropped from over 1900 when the reviews began in November 2006 to 1224 in January 2007, just two months later. The number continued to decline until November 2007 when it hit a low of 630. In 2008, the number fluctuated between 679 and 776. In 2009, the number fluctuated between 643 and 747. In December 2009, there were 662 children in custody for more than 15 months with no TPR filed.

[411] Using both spreadsheets containing basic information regarding all of the children falling into the review category and the notes from the previous administrative reviews related to any children identified in those notes who are still in care, problematic cases have been identified and action steps developed for those cases. The results of these reviews and the expectations for further actions have been recorded in the meeting notes. These notes have been used for follow up and tracking at subsequent reviews. The reviews are intended to make sure that for any case in which TPR has not been filed, there are in fact "compelling reasons," notwithstanding the time the child has been in care, that the case should not proceed to termination. The reviews appear to be having the intended effect. As noted in footnote 399, cases reviewed as part of a recently completed targeted review of children in custody for more than three years generally reflected appropriate documentation of compelling reasons (and facts supporting that finding) in those cases for which either TPR had not been filed or TPR had been filed but not within fifteen months of the child coming into care.



Source: "15 Month Review" Monthly Lists for November 2006 through December 2009.

F. Time Frames Related to the Adoption Process (VIII.C.7)

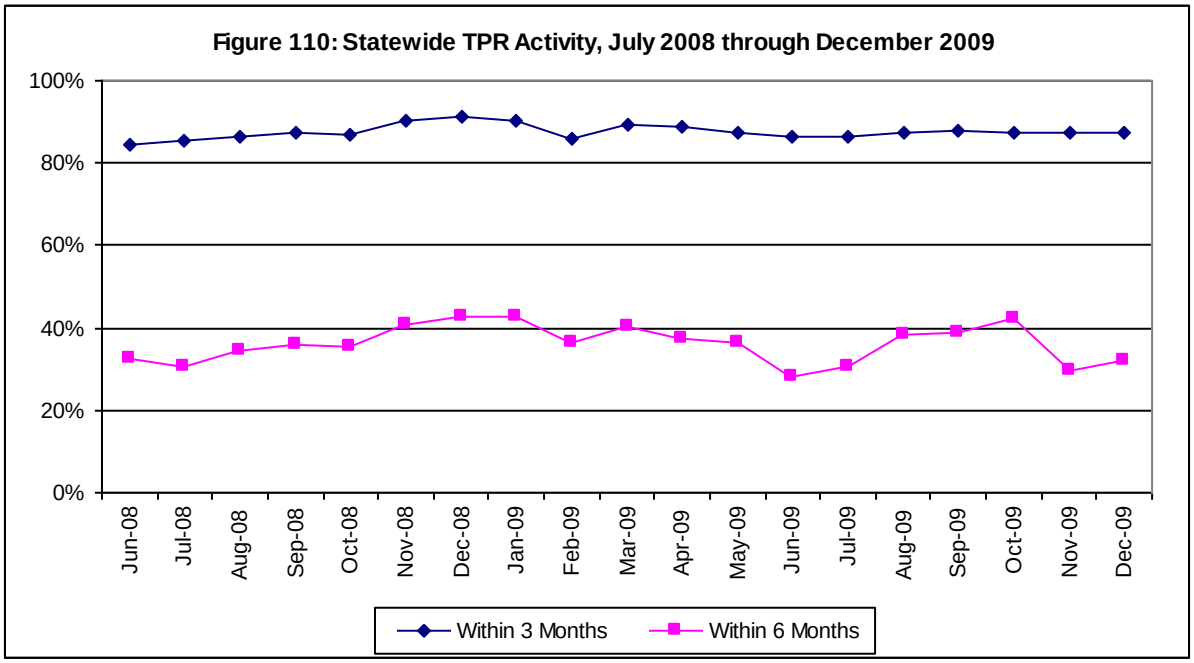
The Settlement Agreement establishes time frames related to critical activities in the adoption process.

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 if a legitimate basis for termination exists. (VIII.C.7.a)

Section One presented data related to children with sole goals of Adoption established between January 1, 2009 and December 31, 2009.[412] Of the 612 children with a sole goal of Adoption for at least three months (approximately 90 days) during that period,[413] 87% (534) had TPR petitions filed within three months of the date that Adoption became the sole goal.[414] For the remaining children who did not have TPR petitions filed within three months, the Department looked at those children who had a sole Adoption goal for at least six months during the reporting period (excluding the children who had a TPR petition filed within three months). Thirty-two percent (14) of these 44 children had TPR petitions filed within six months.[415]

[412] This data comes from the "Permanency Plan Goal of Adoption TPR Activity Compliance Report."
[413] This includes eight children with delinquent adjudications.
[414] For purposes of this report, if two separate TPR petitions are filed in a particular case, the calculation of time to TPR filing is based on the filing of the first petition.
[415] Performance on this measure during this period may be slightly under reported because of changes resulting from the TNKids build during May 2008. (Performance on the July 2008 report covering the period from August 1, 2007 through July 31, 2008 may also be under reported.) The Department has corrected this problem for future reports but has not yet reproduced earlier reports that were affected.

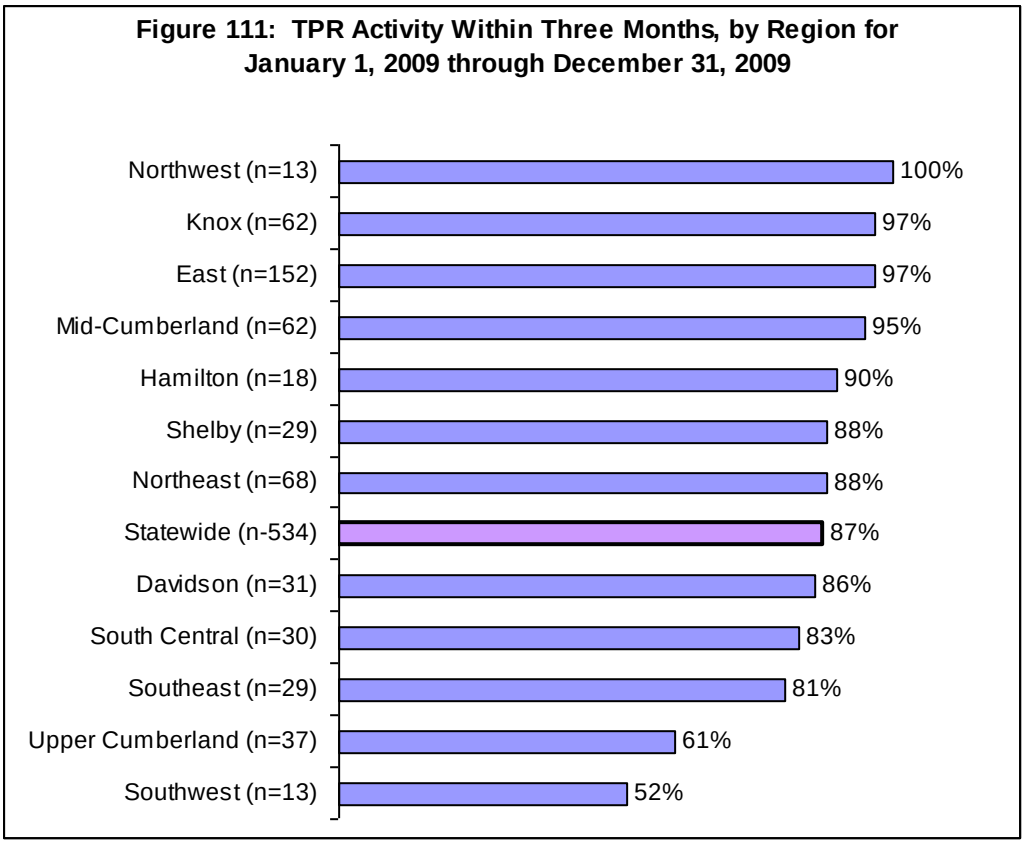
The blue line in the figure below shows the percentage of children in DCS custody with a sole goal of Adoption for three months or more as of the particular date indicated, for whom TPR petitions were filed within three months of the date that Adoption became the sole goal. The pink line in the figure below shows, "*for those remaining children in custody for six months or more who did not have TPR petitions filed within three months*," the percentage who had a TPR petition filed within six months of the date that Adoption became the sole goal.



Source: TNKids report "Permanency Plan Goal of Adoption TPR Activity Compliance Report" for July 2008 through December 2009.

Figure 111 below shows, by region and statewide, the percentage of children in DCS custody with a sole adoption goal for at least three months during the 12-month period ending December 31, 2009 whose TPR petitions were filed within three months of the date that adoption became the sole goal. Statewide, TPR petitions were filed within three months in 87% of the cases. As the figure reflects, seven regions outperformed the statewide percentage. Two regions substantially underperformed relative to the statewide percentage: Sixty one percent of TPR petitions in Upper Cumberland were filed within the three month time frame and 52% were filed within that time frame in Southwest.[416]

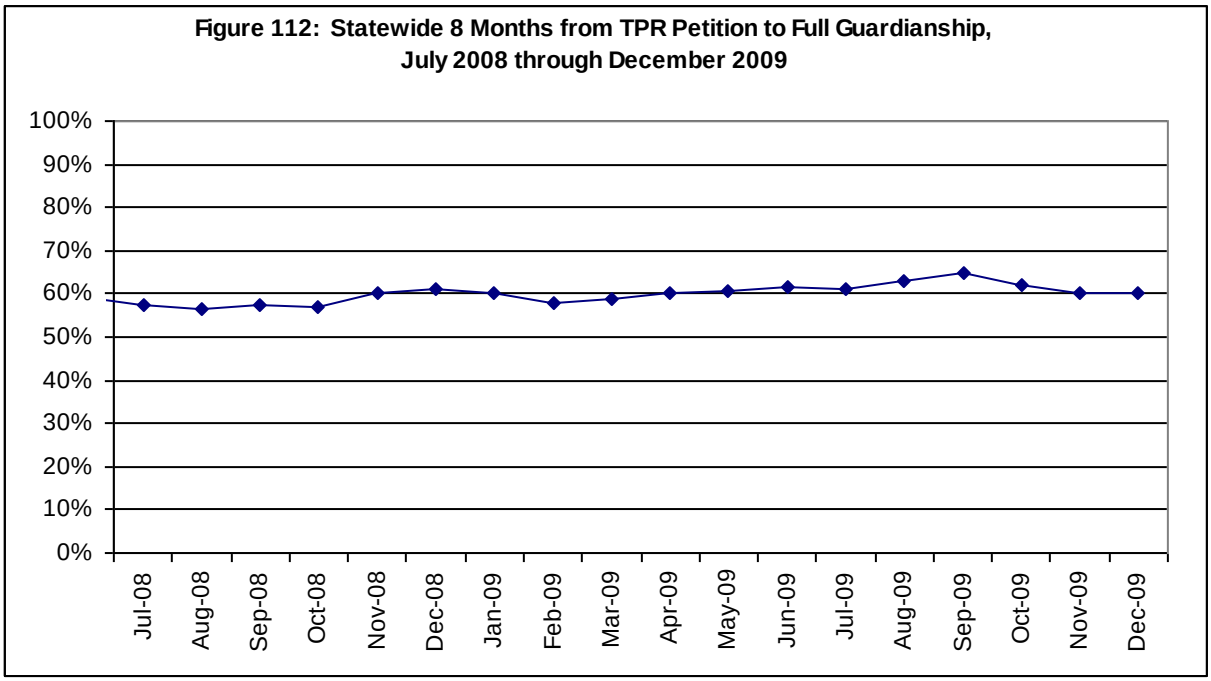
[416] Southwest had been the top performing region, having all of its TPR petitions filed within three months of the date that adoption became the sole goal for the 21 monthly reports preceding May of 2009.



Source: TNKids report "Permanency Plan Goal of Adoption TPR Activity Compliance Report" for July 1, 2008 through December 31, 2009.

The Settlement Agreement emphasizes the role of the Department in ensuring that TPR petitions receive prompt hearings. 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.7.b) To monitor its own performance in this area, the Department regularly tracks time from TPR filing to the entry of the final order of guardianship. The figure below shows that between July 2008 and December 2009 the Department obtained full-guardianship orders within eight months of TPR at the relatively stable rate of about 60%.[417]

[417] The Department began producing this report in October 2007 after the Settlement Agreement was revised.



Source: TNKids report "*Brian A*. Children over Eight Months from Petition to TPR Order Summary Report" July 2008 through December 2009.

The table below presents a regional breakdown of this data. Upon averaging the regional percentages for this time period, there are five regions Knox, Northwest, Southwest, Davidson, and Mid-Cumberland performing above the state average (60.1%). Regions experiencing a gradual increase over time in the percentage of children who had an order of guardianship entered within eight months of filing TPR petition include Hamilton (34.8% to 61.7%), Northwest (57.1% to 68.8%), South Central (43.5% to 66.2%), Southeast (27.1% to 67.5%). Those regions showing a gradual decline over time in the percentage of children who had an order of guardianship entered within eight months of filing the TPR petition include Davidson (75.4% to 54.7%) and Southwest (57.8% to 47.7%).

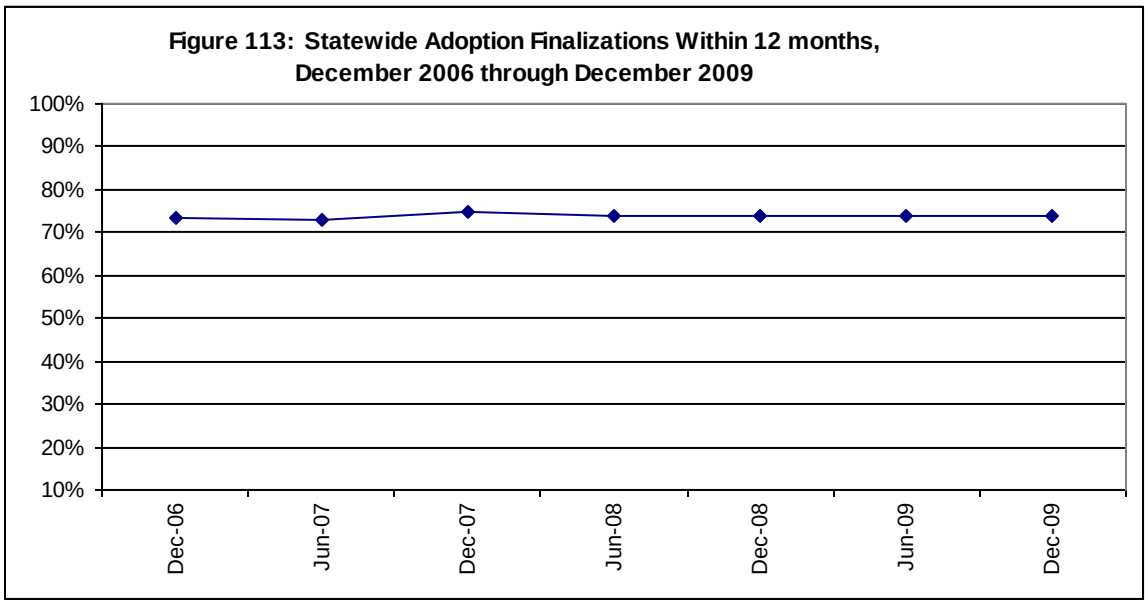
Table 22: Eight Months from TPR Petition to Full Guardianship by Region, July 2008 through March 2009									
	Jul-08	**Aug-08**	**Sep-08**	**Oct-08**	**Nov-08**	**Dec-08**	**Jan-09**	**Feb-09**	**Mar-09**
Knox	89.6%	92.2%	90.4%	90.4%	90.6%	92.3%	93.5%	93.0%	92.5%
Northwest	57.1%	61.3%	90.9%	88.9%	87.5%	87.5%	88.2%	86.7%	87.5%
Southwest	57.8%	51.9%	59.7%	59.0%	80.4%	78.9%	76.5%	86.7%	84.6%
Davidson	75.4%	69.7%	63.5%	62.1%	66.3%	64.9%	57.5%	59.0%	65.9%
Mid-Cumberland	63.8%	62.1%	64.8%	61.8%	67.1%	64.5%	63.9%	60.9%	63.9%
Statewide	**57.4%**	**56.5%**	**57.2%**	**57.1%**	**60.3%**	**61.2%**	**60.1%**	**58.0%**	**58.7%**
Upper Cumberland	61.8%	58.1%	53.8%	54.0%	54.7%	61.5%	58.1%	57.1%	57.8%
South Central	43.5%	48.5%	52.5%	49.0%	54.7%	60.9%	56.1%	62.0%	61.1%
Southeast	27.1%	28.8%	35.5%	37.7%	46.8%	46.2%	43.1%	49.2%	53.8%
Shelby	43.4%	43.5%	47.6%	53.6%	56.0%	59.6%	57.8%	51.9%	49.2%
East	54.7%	48.8%	40.5%	36.8%	42.9%	40.7%	43.3%	38.3%	45.6%
Northeast	52.5%	50.9%	51.8%	51.6%	45.6%	45.2%	46.7%	40.7%	36.5%
Hamilton	34.8%	39.5%	38.6%	37.5%	40.0%	37.2%	35.7%	35.7%	37.8%

Source: TNKids report "*Brian A*. Children over Eight Months from Petition to TPR Order Summary Report" for July 2008 through March 2009.

Table 22 (continued): Eight Months from TPR Petition to Full Guardianship by Region, April 2009 through December 2009										
	Apr-09	**May-09**	**Jun-09**	**Jul-09**	**Aug-09**	**Sep-09**	**Oct-09**	**Nov-09**	**Dec-09**	**Average**
Knox	90.0%	86.1%	86.6%	86.7%	88.0%	88.7%	84.2%	81.9%	81.8%	88.8%
Northwest	92.9%	92.3%	91.7%	75.0%	75.0%	83.3%	91.7%	91.7%	68.8%	83.2%
Southwest	81.8%	84.2%	78.6%	81.3%	68.8%	61.1%	60.0%	47.4%	47.4%	69.2%
Davidson	69.1%	69.9%	71.3%	77.8%	75.8%	86.0%	58.2%	56.1%	54.7%	66.8%
Mid-Cumberland	63.6%	67.0%	64.6%	63.5%	63.8%	66.5%	65.9%	65.6%	71.9%	64.7%
Statewide	60.4%	60.6%	61.7%	61.1%	62.9%	65.0%	62.0%	60.4%	60.3%	60.1%
Upper Cumberland	60.0%	60.8%	55.1%	56.8%	58.2%	60.8%	61.8%	64.2%	67.6%	59.0%
South Central	55.8%	52.7%	64.4%	61.0%	66.0%	72.6%	65.7%	67.6%	66.2%	58.9%
Southeast	63.5%	70.8%	77.8%	91.9%	92.1%	74.4%	65.0%	64.1%	67.5%	57.5%
Shelby	48.9%	46.2%	52.6%	52.4%	54.4%	59.1%	58.3%	49.6%	47.7%	51.8%
East	50.9%	50.6%	48.2%	48.5%	53.7%	54.7%	53.9%	52.2%	51.0%	47.5%
Northeast	42.9%	46.4%	48.1%	46.3%	47.4%	47.7%	48.8%	49.5%	47.2%	47.0%
Hamilton	43.4%	45.8%	51.1%	49.1%	49.1%	58.0%	57.4%	58.1%	61.7%	45.0%

Source: TNKids report "*Brian A.* Children over Eight Months from Petition to TPR Order Summary Report" for April 2009 through December 2009.

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.7.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." The figure below, based on quarterly reports, shows the statewide percentage of adoptions finalized within 12 months of children achieving full guardianship. The percentage of adoptions finalized within 12 months of full guardianship has been relatively stable from December 2006 (73%) to December 2009 (74%).



Source: "Adoptions Finalized within 12 Months of Full Guardianship" quarterly report.

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 her designee. (VIII.C.7.d) As discussed above in Subsection E, the Department regularly produces reports identifying all children who have been in custody for 15 months or more with no TPR petition filed and these cases are currently being reviewed by the Commissioner (or her designee).[418]

The September 2007 Monitoring Report indicated that the Department was developing a process for capturing, tracking, and reporting on the following:

- explanatory data for cases in which a termination petition is not filed within 90 days of goal change;[419]
- efforts made for cases that fall outside the eight months "TPR to final order" time line;[420] and

[418] See Subsection E regarding special requirements regarding children in custody for more than 12 months. (VIII.C.6)

[419] Of the 612 children who had a sole Adoption goal for three or more months between January 1, 2009 and December 31, 2009, 78 (13%) did not have a TPR petition filed within 90 days of goal change to Adoption.

[420] Of the 1236 children who obtained TPR orders between January 1, 2009 and December 31, 2009, 480 (39%) children obtained those orders in eight months or more.

- reasonable steps taken for cases that go longer than 12 months from full guardianship to adoption finalization.[421]

The Department has not implemented this review process. The Department can track and report the number of children for whom filing of TPR, entry of the order of full guardianship, or finalization of adoption exceeds the respective 90-day, eight-month, and 12-month limits.

TAC monitoring staff are in the process of completing a case file review of children who have been in DCS custody for longer than three years. The review, expected to be completed by November 2010, will provide some information on the factors contributing to delays in filing TPR or in achieving full guardianship after filing TPR, and the extent to which the Department is taking "all reasonable steps" within its control to avoid/respond to these delays.

Data generated from the Finding Our Children Unconditional Supports (FOCUS) process, described in Subsection G.2 below, should provide relevant information on the extent to which the Department is doing all that it reasonably can to ensure that children in full guardianship are adopted or otherwise achieve permanency within 12 months.

Finally, the Department's *Initiative to Reduce Long Term Foster Care*, for which they are seeking additional outside funding, would provide additional insights on the factors contributing to delays in achieving permanency.

G. Identifying Adoptive Placements

1. Single resource parent approval process and resource parent adoption preference (VIII.C.8)

The Settlement Agreement requires that DCS maintain an approval process in which resource parents may be approved simultaneously as both foster and adoptive parents, so that whenever possible and appropriate, placements can be minimized and resource parents can be eligible to adopt the children for whom they have been providing foster care. (VIII.C.8)

The Settlement Agreement also establishes 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.8)

The Department has implemented a single resource parent approval process which qualifies resource parents as both foster and adoptive parents. 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.

[421] Of the 1,783 children for whom parental rights were terminated or surrendered between July 1, 2007 and December 31, 2008, it took longer than 12 months from full guardianship to adoption finalization for 464 (26%) children.

2. When the present resource parent is not willing or appropriate to adopt (VIII.C.9, 10)

The recent modifications of the Settlement Agreement established a new process for reviewing and responding to cases in which Adoption is a goal but an adoptive family has not been identified. The FOCUS process is designed to ensure that each such child has an updated Individual Recruitment Plan (IRP), that a full, updated archaeological dig has been conducted, that there is a well-functioning and appropriately constituted Child and Family Team. The Settlement Agreement envisions the Child and Family Team receiving additional support from external experts in adoptive family recruitment.

The language of the Settlement Agreement describes the FOCUS process as applying only to those children for whom no adoptive family has been identified within 60 days of full guardianship. However, the Department has revised the FOCUS process to include all children who are in full guardianship.

Under this revised process, when a child enters full guardianship, DCS Central Office FOCUS staff review that child's situation with the region to determine whether an adoptive family has been identified. If a family has been identified, the Central Office and regional staff discuss the action steps and timeline for moving the case to adoption. If a family has not been identified, the Central Office and regional staff determine whether the case should be referred to Harmony Adoptions for assignment to one of their regional case coordinators with special expertise in adoptive family recruitment.[422]

With respect to those cases referred to Harmony, the regional case coordinator is responsible for ensuring in every case assigned to them that updated archaeological digs are conducted, strong, functioning Child and Family Teams are formed, and appropriate and up-to-date Individual Recruitment Plan are developed and implemented.

The Department has designed and is implementing a reasonable tracking and reporting process for all FOCUS cases.

The Department is using this data and the qualitative information gathered in the course of periodic case review discussions to both determine the effectiveness of the FOCUS process in moving children from full guardianship to adoption and to gain some insight into (and develop some strategies to address) those cases which prove particularly difficult to move to adoption.

[422] If a case originally retained by the region (either because a home had been identified or because the region felt it would be able to identify a home) proves problematic (the identified home backs out or finding a home proves more difficult than expected), a further determination can be made to refer the case to Harmony at that point.

H. Timelines for Adoption Finalization after Permanent Family Identified (VIII.C.11)

The recent modifications to the Settlement Agreement provide that, once a permanent family has been identified for and with the child or youth, the Department is to take the steps to ensure timely permanency. (VIII.C.11)

1. Timelines for "Resource Parent Adoptions"

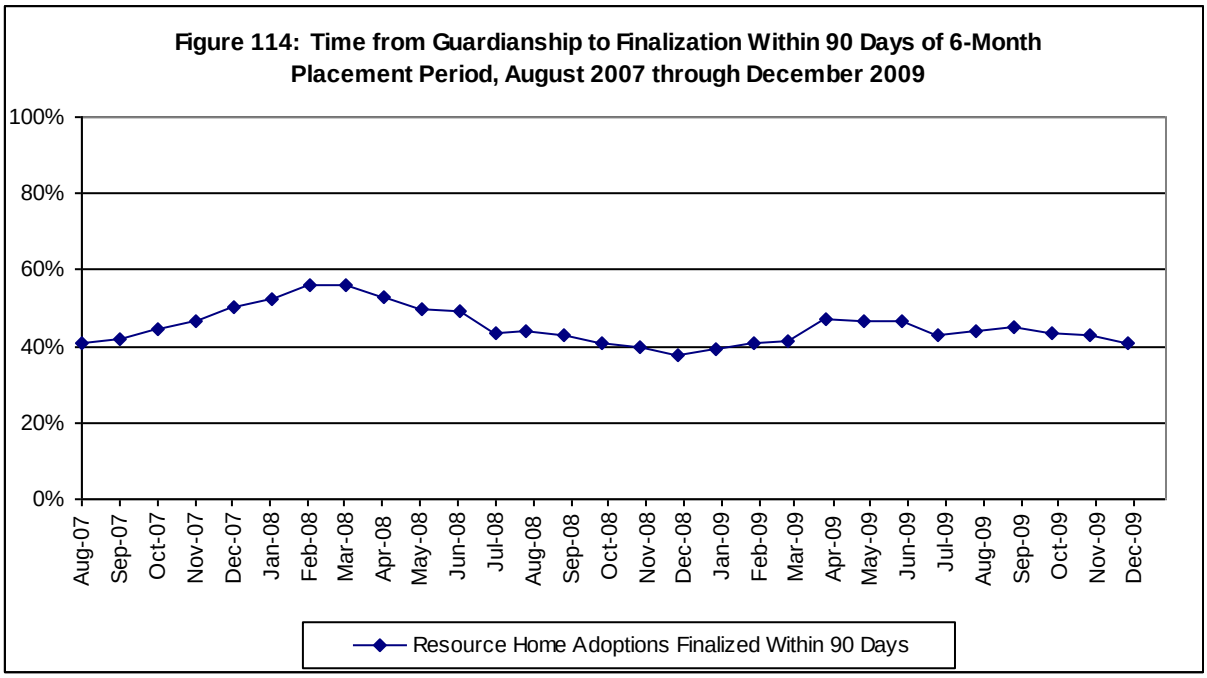
If the adoption is a "resource parent adoption"—that is, the resource family with whom the child is living at the time that the termination of parental rights order is entered is the intended adoptive family,[423] the Settlement Agreement requires DCS to take all reasonable steps to ensure that the adoption is completed within 90 days of the final, unappealable order of Termination of Parental Rights, provided the court did not issue any additional requests for information and the child has been in the home for the required time period. (VIII.C.11.a)

In its reporting on this measure, the Department distinguishes "resource home adoptions" from "new placement adoptions" based on the time between the placement of the child in the home and the signing of the Intent to Adopt. "Resource home adoptions" are presumed to be those adoptions for which the Intent to Adopt form was signed more than six months after placement. "New placement adoptions" are those adoptions where the Intent to Adopt form was signed six months or less after placement.[424]

The figure below shows the percentage of resource home adoptions within 90 days of a child entering full guardianship. As the figure reflects, the Department's success in achieving finalization within 90 days for resource parent adoptions improved steadily from 41% in August 2007 to a high of 56% in March 2008; however, that trend reversed in December 2008 when the percentage dropped to 38%. In April 2009, it climbed to 47%; however, as of December 2009, it was at 40%.

[423] As discussed in previous monitoring reports, traditionally more than 80% of adoptions in Tennessee are "resource parent adoptions."

[424] As discussed in Section One, signing of the Intent to Adopt form is not an accurate measure of the beginning of a pre-adoptive placement. Nevertheless, the Department believes that use of the date of the Intent to Adopt form as a vehicle for distinguishing resource home adoptions from new placement adoptions makes sense.



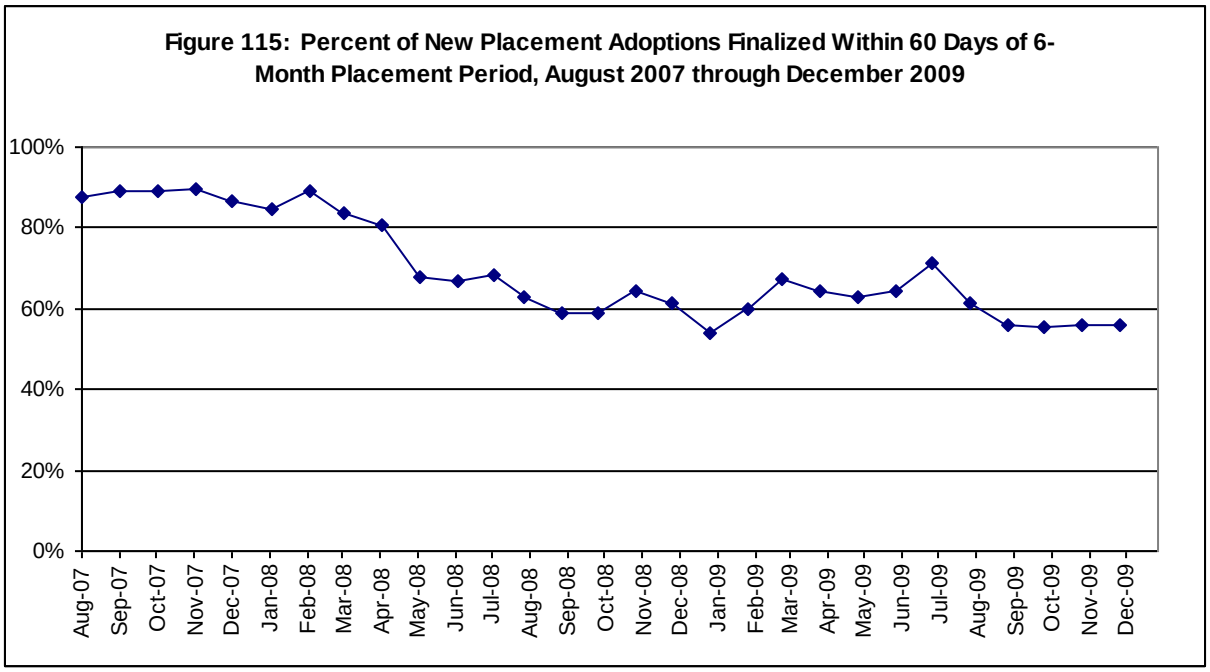
Source: *Brian A*. Finalized Adoption Compliance Report for August 2007 through December 2009.

2. Timelines for "New placement" Adoptions

If the adoptive placement is a new placement, the Settlement Agreement requires DCS to take all reasonable efforts to ensure that the adoption is completed within 60 days after the end of the six-month placement period provided the court did not issue any additional requests for information. (VIII.C.11.b)

The figure below shows the percentage of new placement adoptions finalized within 60 days after the end of the six-month placement period between August 2007 and December 2009.[425] The percentage of new placement adoptions finalized each month for the period from August 2007 to February 2008 ranged between 85% and 89%. A decline in the level of performance has occurred since that time, with the percent of new placement adoptions that were finalized within 60 days dropping to 54% in January 2009. The level of performance increased to 71% in July 2009, and then dropped to 56% in December 2009.

[425] New placement adoptions are those adoptions where the Intent to Adopt form was signed six months or less after placement.



Source: *Brian A*. Finalized Adoption Compliance Report for August 2007 through December 2009.

3. Efforts to Reduce Time to Adoption Finalization

The Department, with the assistance of members of the Congressional Coalition on Adoption Institute, has been engaged in a sophisticated analysis of the adoption process for children in full guardianship with adoptive families identified, in an effort to identify ways to eliminate inefficiencies and delays in moving those children to permanency. Using Six Sigma tools and methodology, and guided by the pro bono services of the Six Sigma Black Belt Team from Vought Aircraft Industries Inc., a DCS leadership team has identified considerable regional variation in the process of moving children to adoption and identified both factors contributing to delays in some regions and promising strategies for addressing those factors and expediting the process.

The team has established "baseline data" for an April 2009 cohort of children in full guardianship with a family identified at that time against which to measure the impact of improvement efforts. The team has begun implementing strategies to reduce the time to finalization and will be looking at time to finalization for children in this cohort to measure the success of the improvement effort.

I. Post Adoption Services (VIII.C.12)

The Settlement Agreement requires that DCS establish and maintain a system of post-adoptive placement services to stabilize and maintain adoptive placements, to which all adoptive families are to be entitled, and about which all resource parents are to be notified at the earliest appropriate time. (VIII.C.12)

The Department presently contracts for post-adoptive placement services with a program referred to as ASAP (Adoption Support and Preservation). This program offers intensive in-home services, support groups, educational forums and training opportunities, and help lines for adoptive parents.

In addition to the post-adoption services, ASAP also began providing pre-adoption counseling to adopting parents and children in 2008. This pre-adoption counseling, which is for adopting parents, involves help with parenting skills, self-awareness of triggers, and other aspects of being an adoptive parent. The pre-adoption counseling also works with the adopting parent and the child together.

For the 2006-2007 state fiscal year, (July 2006 through June 2007), the ASAP program served 636 clients with a disruption rate of 12% and a dissolution rate of less than 1%. In state fiscal year 2007-2008, the program served 793 clients with a disruption rate of 10% and a dissolution rate of 1%. In state fiscal year 2008-2009, the program served 955 clients with a disruption rate of 6% and a dissolution rate of 1%. Thus far in state fiscal year 2010 (through May), 1,098 clients have been served with a disruption rate of 15% (17 children) and a dissolution rate of less than 1%.

The funds budgeted and expended for this contract were $1,385,195 in fiscal year 2004-2005 and $1,663,600 in fiscal year 2006-2007, $2,108,200 in fiscal year 2007-2008, $2,863,000.00 in fiscal year 2008-2009, and $2,283,236.00 in fiscal year 2009-2010.

In order to ensure that resource parents are both aware of and understand how to access post-adoption services, the Department has modified its contract with its post-adoption services provider to require that ASAP make personal contact with every adoptive family prior to the finalization of the adoption.

ASAP also provides post-permanency support to the subsidized permanent guardianship families to prevent disruption and reentry into care.

Notwithstanding these efforts, the Department has identified a number of cases in which adoptive parents in need of post adoption supports and services had difficulty accessing those services and supports because of a lack of coordination and communication among various DCS and provider agency staff.[426] The Department has convened a work group to address these concerns.

[426] In addition, as discussed further in Section Nine, a number of cases reviewed by the TAC monitoring staff have raised questions about whether prospective adoptive parents are being adequately informed and given the opportunity to effectively negotiate rates, and whether procedures for determining eligibility for adoption subsidy and appropriate rates are uniform across the state.

SECTION NINE: RESOURCE PARENT RECRUITMENT, RETENTION AND APPROVAL

A. General Infrastructure Related to Recruitment and Retention

The Settlement Agreement requires that the Department:

- establish and maintain statewide, regional, and local programs of resource parent recruitment; (IX. A)
- adequately staff recruitment teams in each region; (IX. B)
- maintain a statewide and regional support system for resource families; (IX.C.4) and
- to the extent possible, use existing resource families to recruit and retain new resource families. (IX.C.4.)

1. Development of Resource Parent Recruitment and Retention Plans

The Department's approach to resource parent recruitment has included a range of statewide, regional, and local activities. While the Department has developed annual statewide and regional recruitment and retention plans for some time, the Department recognized that the planning process had not produced plans capable of driving effective recruitment and retention efforts. In 2009, the Department took a different approach to recruitment planning.

In December 2009, the Department held a "Families for Tennessee Teens" convening, a two-day meeting focused on recruitment and retention, with representatives from each of the regions and from Central Office. Regional representatives included resource parents, kinship parents, providers, and youth. A follow up convening was held in June 2010 and included regional reporting on the extent to which short-term goals set at the previous convening had been met. The regions have developed and are continuing to refine plans that focus on increasing the effective utilization of relative caregivers and kinship resource homes, implementing high-quality, child-specific recruitment, and utilizing data to both set goals and measure progress. Each region is expected to report at the next scheduled convening on their progress.

Considerable effort has been put into generating the data that the regions need to develop their plans and to monitor implementation of those plans. Each region was provided with region specific data related to demographics, placements, permanency, and resource homes at the December 2009 convening. The 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. Most of the 2010 regional plans include goals related to improving responses to resource parent inquiries; increasing numbers of resource homes, especially homes that are willing to serve the teenage population; identifying homes for children

in full guardianship with no identified permanent family; and increasing the number of children placed with someone with whom they have a previous relationship (kin placements).

While this appears to be a more promising approach to the development of resource home recruitment plans, it is not yet clear how effectively the plans will be implemented and whether they will have the desired results. Nevertheless, this seems to be an important step toward developing an ongoing approach to resource home recruitment that would constitute the "program of resource parent recruitment" required by the Settlement Agreement.

2. *Development of Resource Parent Database*

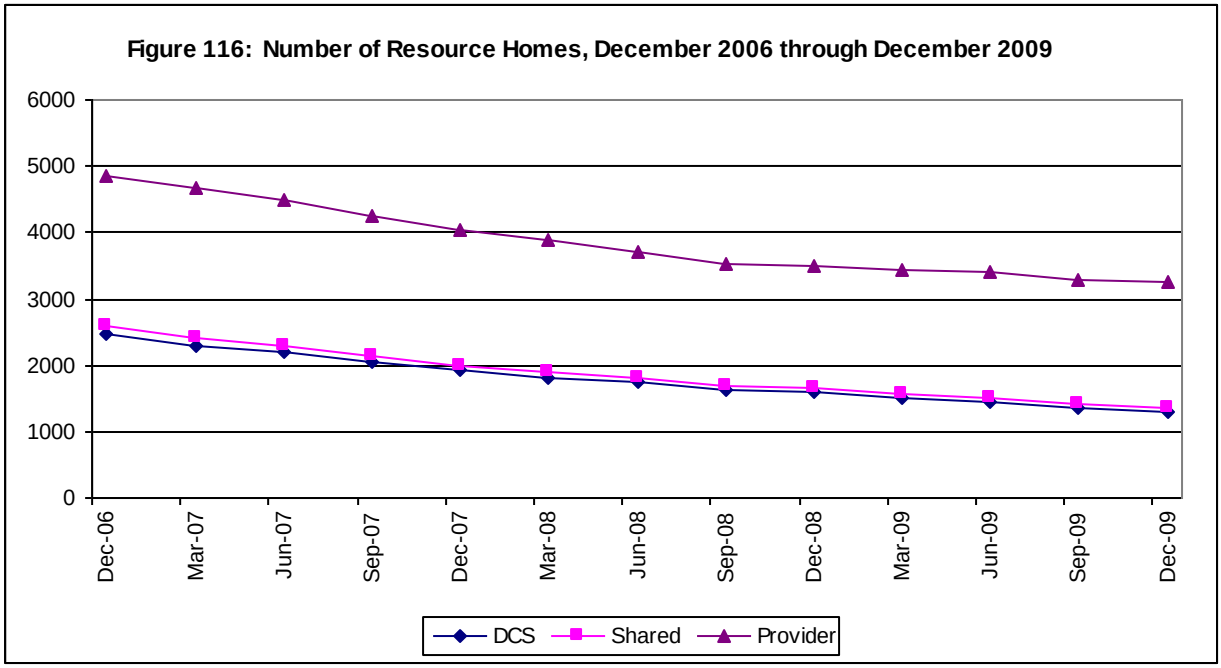
As discussed in previous monitoring reports, the Department has struggled to create a resource home database. While considerable progress has been made in improving the resource home related data available to the field, TFACTS, once fully implemented, is expected to provide the kind of readily-accessible, accurate information about current resource home capacity that the field needs.

As of December 31, 2009, there were 3,266 fully approved DCS and private provider resource homes in the resource home database, including fully approved expedited kinship resource homes.[427] In order to assess the success of the Department's efforts to increase its resource home capacity, TAC monitoring staff analyzed the "Approved Resource Homes Timeframe Report" from the time that the report first became available in December of 2006. As is reflected in Figure 116 below,[428] the Department's resource home capacity has been steadily declining over that time, driven primarily by the decline in DCS resource homes, but also resulting from a net loss in private provider resource homes.[429] During this time there has also been a decline in the number of class members in DCS custody from 6,873 in December 2006 to 5,297 in December 2009 (net reduction in the custodial population of children).

[427] Resource homes that were initially approved with an expedited approval and have since completed the full approval process are included in the number of fully approved DCS homes; resource parents with an expedited approval who have not yet completed the full approval process are not included. These data are derived from the TNKids Approved Resource Home Timeframe Report. This number may exclude some resource homes that are technically unapproved on the day of the TNKids pull, because their reassessment has not been entered. Therefore, the actual number of available resource homes may be slightly higher than indicated in this report.

[428] Figure 116 is a "stacked line graph" showing the number of resource homes. The blue line indicates DCS resource homes, the pink line represents DCS homes plus homes that DCS shares with private providers (homes that take placements directly from DCS as well as from a private provider agency), the purple line represents DCS homes, shared homes, plus private provider homes. The area between the pink line and the purple line reflects just private provider homes. This figure shows in-state homes only.

[429] The number of resource homes declined from 2,595 in December 2006 to 1,354 in December 2009. The number of provider resource homes declined from 2,267 in December 2006 to 1,912 in December 2009.



Source: TNKids Approved Resource Home Timeframe Report.

3. Staff Support for Recruitment and Retention

There are currently six Central Office positions related to resource home recruitment and retention, three Foster Care staff and three Adoption staff. Five of the positions are filled and one position is currently vacant. Central Office staff members, along with regional Masters in Social Work students who are responsible for providing as part of their field work, technical assistance and support to one or two of the 12 regions around their recruitment plan development. There is considerable variation from region to region in the staffing of recruitment and resource home support units. Because the Department has taken the position that "recruitment is everybody's job," there are no longer any regional positions with the title of "recruiter," and there are no regional staff members with full-time responsibilities for recruitment. Based on a review of the regional recruitment plans, it appears that recruitment activities that are occurring are being carried out by staff members in resource parent support positions, placement unit positions, or by resource linkage staff. It also appears that the level of effort being devoted to resource parent recruitment has varied widely from region to region.

The Department recognizes that to ensure that regional recruitment and retention plans are implemented, someone with time and appropriate authority in the region needs to have responsibility for overseeing the work. The Director of Foster Care and Adoptions has therefore been working to identify a high level administrator in each region to assume that responsibility.

There are 73 full-time resource parent support workers across the state: nine in Tennessee Valley; eight in Upper Cumberland; seven in Mid-Cumberland, Northeast and Smoky Mountain; six in Davidson, East and Southwest; five in South Central and Shelby; four in Knox; and three

in Northwest.[430] Responsibilities vary by region, but resource parent support staff are generally responsible for monthly home visits with resource parents, approvals and re-approvals of resource homes, home studies, recruitment events and offering additional support to resource parents. When TFACTs is functional, the resource parent support staff will be assigned "caseloads" of resource families. The Department has not yet determined the maximum number of resource families that a single resource parent support worker can reasonably be expected to support and whether "approved families" should be weighted differently from "in-study" families.

The recruitment and retention staff resources within the Department were supplemented for fiscal year 2006-2007 and fiscal year 2007-2008 (July 1 through June 30) by an $850,000 contract with a private agency. The goal of this contract was to expedite the approval process by assisting with home studies. The Department also contracted with private agencies to supplement resource home recruitment, retention, and approval resources within the Department. This contract was renewed for fiscal year 2008-2009 and fiscal year 2009-2010 for the same amount, but has been reduced to $425,000 for fiscal year 2010-2011. The Department is in the process of reassessing these contracts and the expectations it has of private providers conducting expedited home studies.

The Department has also expanded its contract with two private agencies to include more activities, including providing support groups and grief and loss counseling to resource parents.[431]

As the TAC has observed in previous monitoring reports, it is difficult to determine the extent to which the staffing devoted to resource home recruitment and retention is sufficient to support the work outlined in the regional recruitment and retention plans. In the past, obstacles to resource parent recruitment and retention have included slow response times to initial inquiries from those interested in becoming resource parents, delays in connecting potential resource parents with training that was convenient and accessible, and the inability of the Department to complete home studies in a timely manner for those who successfully completed the training.

With the improved data capacity of TFACTS, the Department will be better able to determine the extent to which staffing shortages are affecting the ability to engage in recruitment activities, respond in a timely manner to inquiries, complete the approval and re-approval processes, and to support the resource families assigned to each resource parent support staff member.

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[430] Many of these staff persons may have other responsibilities as well. These numbers do not include the team leaders who have supervisory responsibilities for those performing the tasks described. Mid-Cumberland has two vacancies.

In addition to the resource parent support workers, Davidson has one home study writer for Interstate Compacts; East has one home study writer for Expedited homes; Shelby has five home study writers; and Smoky Mountain has one home study writer.

[431] The Department's experience with these private agency contracts has been mixed. One agency has consistently provided high-quality services and the Department has therefore appropriately looked for other opportunities to expand the work with them. The other agency's work has been satisfactory in some regions, but of poor quality in others.

4. Resource Parent Support Activities

In considering whether resource families are properly supported, it is important to understand both the specific services made available to them and the kinds of interactions they have on a daily basis with the case workers responsible for the children in their care, and the other regional staff with whom they interact.

The Department's present statewide and regional support system for resource parents includes a number of components:

- The Department supports and works closely with the Tennessee Foster Adoptive Care Association (TFACA), the state association of resource parents, both at the Central Office level and within the regions.

- The Department has continued to support the Foster Parent Advocate Program. The original purpose of the Advocate Program was to provide information to resource parents about the Foster Parent Bill of Rights, to help resolve disputes that a resource parent may have with a DCS staff person, and to provide information on the investigation process to any resource parent against whom an allegation of abuse or neglect is made.[432] There are currently 12 advocates across the state, with two regions having no advocate because the position is vacant and one region having multiple advocates. The Department now contracts with a private agency to manage and support the Advocate Program and the improvement in the quality of support provided by this private agency has had a significant positive impact on the program. The program is not only better serving its original purposes, but it is becoming a more active partner in system improvement efforts.

- The Department has also partnered with the same private agency that now manages and supports the Foster Parent Advocate Program to produce the website www.parentachild.org to facilitate easy access to information and support.

- The Department has encouraged regions to include resource parents in various regularly held meetings, such as regional Continuous Quality Improvement meetings, recruitment, retention and support workgroup meetings, and regional leadership meetings; however, the extent to which resource parents are involved varies considerably from region to region. Resource parent representatives participate in regularly held Central Office meetings related to Special Investigations.[433]

- Since March of 2004, the Department has contracted with private agencies to provide support for adoptive parents through the Adoption Support and Preservation (ASAP)

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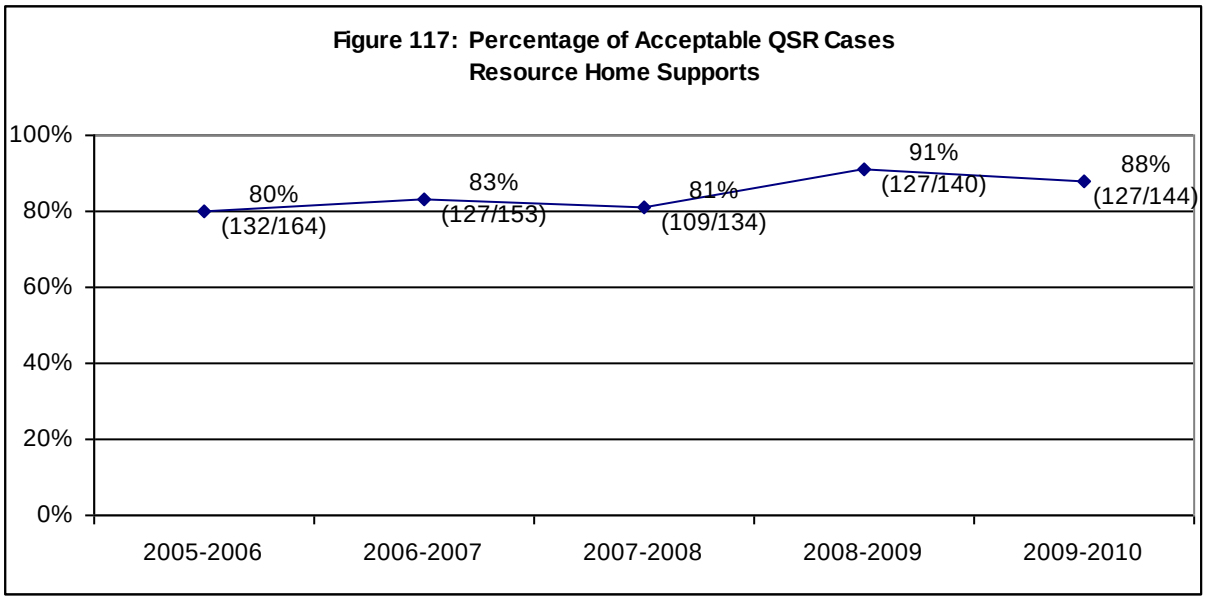
[432] In 2009, the General Assembly amended the Foster Parents Bill of Rights to require DCS to establish a grievance procedure for resource parents to raise certain kinds of concerns. A statewide workgroup (composed of DCS staff, private providers, resource parents, and staff of the Tennessee Commission on Children and Youth) developed the grievance procedure and DCS regions developed local protocols to support that procedure. DCS staff, DCS resource parents, and provider resource parents have been trained on the grievance procedure.

[433] See Section Three, page 116.

program. As discussed in Section Eight, this program offers intensive in-home services, crisis intervention, support groups, educational programs, and help lines for adoptive parents.[434]

The Quality Service Review includes a specific focus on the quality of the support that the Department provides to resource parents. The QSR indicator for Resource Home Supports requires the reviewer to determine whether the resource family is being provided the training, assistance, supervision, resources, support, and relief necessary to provide a safe and stable living arrangement for the child that meets the child's daily care, development, and parenting needs.

Figure 117 presents the number and percentage of *Brian A.* cases receiving acceptable scores for Resource Home Supports in the past five annual QSRs.[435]



Source: Annual QSR finalized databases.

These QSR results are consistent with feedback received from resource parents who participated in the telephone survey conducted by the TAC monitoring staff, and including questions related to resource parent support, discussed in Section Six. While the TAC monitoring staff did encounter situations in which resource parents felt unsupported or required additional help or information, the majority of resource parents shared positive experiences. Seventy-eight percent of resource parents surveyed felt they were receiving a mid to good or great level of support from DCS and/or their private provider agency.

[434] See Section Eight for discussion of data related to families served by ASAP.

[435] Only cases of class members placed in out-of-home family settings are presented. The resource homes reviewed for this indicator included DCS and private provider resource parents, kinship homes, and pre-adoptive parents. Children with finalized adoptions are not included in the QSR sample.

As discussed in greater detail in the December 2008 Monitoring Report, the Department launched Project Accountability Support and Knowledge (Project ASK).

Project ASK was a targeted review of all resource homes that as of April 2008 were fostering at least one child 13 years or older. The Department designed Project ASK to accomplish two main objectives: (1) to evaluate resource homes and ensure the safety and well-being of the youth and resource parents in the home; and (2) to provide support to resource parents by visiting them, listening to them, and linking them with services or trainings that may be able to enhance their abilities and experiences as resource parents, and address concerns or issues identified by reviewers or resource parents.

As a result of the information gathered through Project ASK, the Department recognized a need for additional preparation and support for resource parents serving teens. In response, the Department has revised the PATH training and developed additional in-service training opportunities to cover some of the topics that were identified as particularly relevant to fostering older children. The topics are covered in online, classroom and conference workshop offerings for resource parents and staff. The various trainings include, but are not limited to, information on engaging and parenting teenagers, behavior modification techniques, loss and attachment issues, positive parenting, positive discipline, and anger management. At least one of the in-service offerings was designed to include resource parents, resource parent support staff, case managers and supervisors participating in a training and supervision model that focuses on youth and emotional and behavioral problems. This training takes a team approach and looks at how staff and adult behaviors contribute to the conflict cycle with youth and find a common framework with which to communicate and improve interactions with youth and families.

Quality Service Reviews, surveys of resource parents, focus groups, and targeted interviews have identified examples of high-quality case work with resource parents in every region, where training, mentoring, day-to-day supports, and case manager responsiveness won praise from resource parents. Nevertheless, the Department recognizes that one of the basic elements of an effective regional support system for resource parents—good communication and support from the case managers serving the children the resource parent is fostering—is not being uniformly delivered.

As discussed in previous monitoring reports, based on feedback from resource parents, the Department recognizes that while resource parents appreciate special outings, award dinners, and recognition events, what is most important to an effective support (and retention) effort is ensuring day-to-day responsiveness of case managers and resource home support staff to questions and concerns that arise. Providing important information about children when they first arrive at the resource home and being especially attentive during the first days of placement, returning phone calls promptly, soliciting input from the resource parent, valuing the resource parents perspective, keeping resource parents "in the loop," and scheduling CFTMs to accommodate resource parent schedules and childcare needs, are among the kinds of things that resource parents have identified as important to them.[436]

[436] As discussed in Section Seven, participation of resource parents in CFTMs is still not at level one would hope for. There also continues to be some anecdotal evidence that resource parents at times are not getting all available information that they should be getting at the time of placement. There is some basis for believing that this is

5. Utilization of Resource Parents in Recruitment Efforts

In the course of phone interviews with DCS staff with experience and expertise in resource parent recruitment, questions arose about the effectiveness of most of the traditional DCS staff activities associated with resource parent recruitment: staffing recruitment booths at community events; handing out brochures and recruitment packets in their local communities, and/or their churches; and speaking or appearing in advertisements, public service announcements, commercials, and recruitment videos. The one general recruitment activity that was identified as effective was resource parents telling their stories to people they come in contact with.

Notwithstanding this acknowledgement, there does not yet seem to be a concerted effort to mobilize resource parents and center recruitment efforts around them.[437]

The Department has previously implemented a set of modest financial incentives for resource parents who recruit new resource families, but that program appears to have been discontinued. However, a number of private providers have created significant financial incentives to encourage their resource parents to recruit new homes for higher needs children.

Just as enthusiastic resource parents sharing the rewards of fostering and adopting is the most effective recruitment tool, resource parents who have experienced poor communication and a lack of responsiveness can undermine recruitment efforts. The Department's Practice Standards and DCS policy are clear about the need for communication and openness; however, lapses in practice disincline resource parents to be involved in recruiting and make it more difficult for those who want to recruit to present the strongest case to prospective resource parents.

B. Additional Structural Requirements Related to Recruitment and Retention

The Settlement Agreement also requires that the Department:

- ensure the availability of a toll-free phone number in all regions to ensure access to information regarding adoption and the adoption process (including the approval process) and children available for adoption; (IX. A)

- respond to all inquiries from prospective resource parents within seven days after receipt; (IX.C.1)

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actually more likely to be the case with private provider resource parents, since private agency is a buffer between DCS and the resource parent, and it may be that private agencies are not as diligent in passing on information to their resource parents.

[437] Some Central Office staff are involved in a leadership/research project with the Center For Applied Research. During the course of this project, research was conducted and showed that resource parents are the most successful recruiters. Resource parents are being invited to recruitment workgroups and activities and are asked to take a greater role in leadership around these efforts.

- in consultation with the TAC, develop and implement a statewide 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 placements and services;[438]

- identify specific staff to conduct exit interviews with all resource parents who voluntarily resign; and

- issue annual reports on why resource families leave DCS and what steps are necessary to ensure their retention. (IX. C)

Prospective resource parents can inquire about resource parenting 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 is available online at www.tn.gov/youth/adoption.htm. The website www.parentachild.org also contains information regarding recruitment and retention, and contains a link to the AdoptUsKids www.adoptuskids.org website, which has profiles for the children in state custody who are in need of adoptive homes.

When calls come to the 1-877 number, they are answered by Foster Care staff in Central Office and the information about the prospective resource parent is emailed to the appropriate region. Regions are expected to contact the prospective resource parent and enter the home into TNKids as an inquiry.[439] A tracking spreadsheet has been developed for all of these inquiries. Regions also enter prospective resource parents into TNKids as inquiries if they come to the region's attention directly or through another source. Central Office staff, using the spreadsheet, follow up with regions to assure inquires are entered into TNKids. The Central Office and a number of the regions have included in their respective resource home recruitment plans the goal of improving timely response to inquiries. Between February and July 2009, 33% of inquiries coming through the 1-877 number were entered into TNKids (indicating that there had been some response to the inquiry). By March 2010, the percentage had increased to 66%, and the response rate for inquiries made in March, April and May of 2010 was 100%.

As a part of its recruitment and retention efforts, the Department is required to ensure that the race and ethnicity of resource families be proportionate to the race and ethnicity of the custodial population. Table 23 compares the race of resource parents (both DCS and private provider)

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[438] *"...provided however that individual children shall be placed in resource families without regard to race or ethnicity."* (IX.H)

[439] In the past, the Department had the Central Office mail packets to prospective resource parents and that technically met the requirement of the Settlement Agreement. The Department recognized that while it was a good way to comply with the Settlement Agreement, it was not an effective way to ensure thoughtful engagement of potential resource parents. The process is being redesigned so that the first response is a phone call from the region. As the regions develop their protocols for response, the TAC will conduct a spot check to ensure that the phone calls are occurring promptly as envisioned by the Settlement Agreement provision.

with the race of the custodial population as of December 31, 2009. As the table reflects, the Department is generally achieving this goal.[440]

Table 23: Custody and Primary Caretaker Race Comparison as of December 31, 2009 (DCS and Private Provider Homes)				
Race	Custody	Percentage	Primary Caretaker	Percentage
White	3693	68%	2438	65%
African American	1385	25%	1165	31%
Asian	7	0.1%	5	0.1%
Native Hawaiian/Other Pacific Islander	2	0.0%	1	0.0%
Multiple Race	153	3%	5	0.1%
American Indian/Alaska Native	10	0.2%	7	0.2%
Unable to Determine	193	4%	153	4%
	5443		3774	

Source: TNKids Open Resource Homes Report December 31, 2009 and *Brian A*. Class List December 31, 2009.

As discussed in previous monitoring reports,[441] while Department policy has for a number of years required staff to conduct exit interviews with resource parents, those interviews have not been routinely conducted. The Department worked with two private agencies to attempt to interview former resource parents whose homes were closed since October 2009.[442] The provider agencies provided the Department with hard or electronic copies of the interview responses but did not aggregate the data or compile the findings into a report. The Department expects to release a report in the fall of 2010 reporting on findings from fiscal year 2009-2010 (July 1, 2009 through June 30, 2010). The Department has decided to take the interview process back "in house" rather than continue to contract out for that function.

The following table shows the 10 most frequent resource home closure reasons (accounting for 2046 of the 2338 DCS closures entered into TNKids) for the DCS and private provider homes that closed during 2009, including homes that completed the initial expedited approval process but did not complete the full approval process, according to the "Closed Resource Homes Report."[443] As reflected in the table, 42% of the total case closures reflect positively on the Department's performance: 14% have adopted and decided not to take any more foster children; and 28% were kinship resource homes whose interest in fostering was limited to the child that they were specifically recruited to foster.

[440] The Department may be facing some challenges with smaller, but growing, ethnic populations. For example, on December 31, 2009, there were 42 resource homes and 254 class members showing in TNKids as being of Hispanic origin.

[441] The December 2008 Monitoring Report discussed the results of the exit interviews that had been conducted by Central Office staff during 2007.

[442] The private providers have been provided with a list of closed homes monthly and have attempted to conduct interviews with each home, however, some homes have incorrect contact information and some homes did not agree to participate in the interview. While the Settlement Agreement specifically outlines that the Department conduct exit interviews with resource parents who voluntarily resign, the Department pulls a report from TNKids each month and attempts to contact every DCS home that closed after the resource parents had completed the approval process.

[443] Each of the closure reasons excluded from this report had a frequency of 25 or less and combined account for only 12% (292) of the 2338 home closures.

Table 24 : Resource Homes Closure Reasons	
Family began fostering to care for a relative solely and foster care is no longer necessary for this child.	618
Family has decided not to foster at this time.	410
Family has adopted and is selecting out of foster care.	319
Change in family circumstance prevents them from continuing to foster at this time.	223
Failure to meet minimum requirements for resource parents or residence.	160
Demonstrated inability to sufficiently parent children in state custody.	99
Family to continue fostering but changing to another agency	86
ICPC Case Ended	52
Inablity to cope with children's behaviors	49
Kinship Case Ended	30

Source: Closed Resource Homes Report January 1, 2010.

C. Resource Parent Approval Process

The Settlement Agreement requires that the Department:

- develop and maintain standards for the approval of resource families, utilizing nationally accepted standards that apply equally to DCS and private agency resource parents;[444] (IX.B)
- have regional and local offices handle the resource parent approval process; (IX.B)
- maintain dual approval process for resource parents;[445] (IX.A) and
- complete all home studies within 90 days of applicant's completion of approved training (Parents As Tender Healers (PATH) training), unless the applicant defaults or refuses to cooperate. (IX.C.1)

The Department's present 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

[444] The standards and approval process are to be established "*in consultation with the TAC*."
[445] The term dual approval process is taken to mean that the approval process qualifies parents to be both resource parents and adoptive parents.

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 subjected to the same approval criteria as DCS resource families.

At the end of 2006, the Department adopted the Structured Analysis Family Evaluation (SAFE) as its new home study tool.[446] All regions are moving to using the SAFE home study tool to approve resource families. When TFACTS is implemented, 100% of the DCS homes must have a SAFE home study; and all private provider homes are expected to have a SAFE home study by July 1, 2010, or by each individual home's next annual re-assessment. Therefore, the Department believes that all resource homes will have a SAFE home study by July 1, 2011.

The Department has also taken steps to ensure IV-E eligibility for both DCS and private provider resource parents. The Department has now implemented the Department Resource Home Eligibility Team (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 PATH training.[447]

The RHET process appears to effectively ensure that all private provider resource homes meet all of the standards required for approval and re-approval. A recent federal IV-E audit found non-compliance issues with private providers in relation to group/congregate care facilities, but there was a finding of 100% compliance with respect to private provider resource homes.

It was in preparation for the IV-E audit that the Department recognized the need to implement DRHET. Although the federal IV-E audit found only 2.2% of the DCS resource home sample to be non-compliant, the Department's implementation of DRHET, coupled with implementation of quarterly regional IV-E compliance reviews, underwrites a commitment to 100% compliance by internal and external placement resources. Through DRHET, DCS has conducted a review of all DCS homes approved or reapproved in fiscal year 2008-2009 to ensure that they are compliant with basic IV-E safety check requirements. The Department is conducting a similar review in 2010. The regions must provide DRHET with all required documentation and receive DRHET approval before a child is placed in a resource home. Compliance with this requirement is monitored by DRHET staff through a monthly TNKids review of open homes that have not received approval.

The Department has also recently implemented field IV-E reviews. Quarterly peer reviews, modeled after the federal IV-E audit, sample 25% of DCS resource homes and the accompanying

[446] The tool focuses on assessing the strengths and needs of resource families in core areas related to: family relationships, family history, personal characteristics of the family members, the home environment, and factors related to general and specialized parenting.

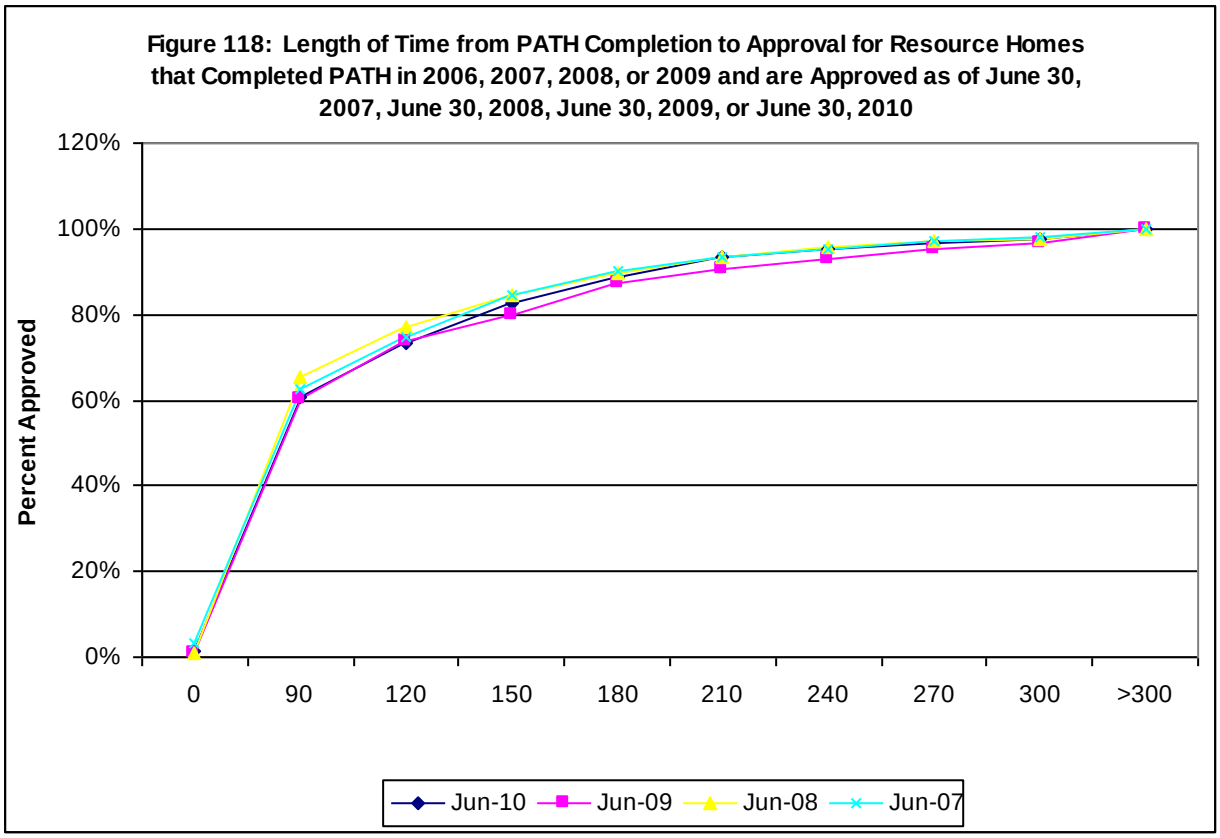
[447] While RHET maintains electronic copies of these eligibility documents, private providers remain contractually responsible for ensuring that their resource homes and their residential facilities are meeting the requirements for IV-E eligibility and that copies of the required documentation are furnished to the Department.

placements each quarter. The review targets all elements captured through a federal audit (legal orders, timeliness of permanency plans, and eligibility as it relates to the child and the resource home). The feedback loop requires corrective action when appropriate, and highlights learning opportunities.

With respect to determining the efficiency of the approval process, a report in TNKids lists all currently approved resource homes and includes the date that the parents completed PATH, the date that they were approved, and other approval information. Figure 118 shows the percentage of approvals by number of days from completion of PATH to approval (by resource home) for resource parents who completed PATH in calendar years 2006 through 2009 and were approved resource homes within the required time frames as of June 30th of the following year (for example, PATH was completed in calendar year 2009 and approved within the required time frame as of June 30, 2010).[448]

Sixty-two percent were completed within the required time frame as of June 30, 2007 for homes that had completed PATH in 2006; 65% were completed within the required time frame as of June 30, 2008 for homes that completed PATH in 2007; 60% were completed within the required time frame as of June 30, 2009 for homes that completed PATH in 2008; and 61% were completed within the required time frame as of June 30, 2010 for homes that completed PATH in 2009.

[448] This calculation omits: resource parents who were participating in PATH in a given year but had not completed it as of December 31 of that year; people who completed PATH in a given year but were not approved as of June 30 of the next year; and people who completed PATH in a given year and were already approved and closed as of June 30 of the next year. It gives an incomplete picture of the efficiency of the PATH training and approval process. Also, this calculation measures the time from PATH completion to full approval while the Settlement Agreement specifies time from PATH completion to the completion of the home study.



Source: TNKids Approved Resource Home Timeframe Report.

The Settlement Agreement also requires that no resource family receive a foster child for placement until the family has received resource parenting training.[449] There is an exception allowed for certain expedited placements with relatives.

To ensure that no child is placed with a family prior to completion of training and approval (with the exception of expedited placements), the TNKids placement field will not accept the entry of a resource home placement for a child unless that resource home appears on the TNKids list of approved resource homes. It is therefore not possible to enter a resource home as a placement in TNKids that is not an approved home. A semi-monthly TNKids report is produced that alerts the regional administrator, other regional staff, and Central Office, of any child who does not have a current placement (the TNKids placement field is left blank). As of December 31, 2009, there were seven children on this report, and all of whom had entered custody in December. For six of these children, their TNKids placement screen shows that they were actually placed in an approved DCS or private provider resource home on a date in December, but the placement must not have been entered into TNKids at the time of the report. The other child was on runaway status from December 17, 2009 to May 5, 2010.

The Settlement Agreement also requires that DCS provide a waiver process for relatives wishing to care for related children that would permit an expedited placement with a relative, prior to the

[449]The training is to be specified in consultation with the TAC.

completion of the approval process. Prior to the waiver of requirements, staff must have completed a home visit and conducted a local criminal records check.[450]

In situations where approval for placement has been granted under a waiver, all remaining approval requirements, including the relative's completion of approved resource parent training must be completed within 150 days. (IX.G)

The Department's present policy regarding the expedited approval process for relatives conforms to the requirements of the Settlement Agreement.

There is, unfortunately, no DCS report that provides accurate data on the extent to which the Department is meeting the 150-day time limit for achieving full approval of an expedited resource home placement.

One potential source for this data is the TNKids *Brian A.* Class List. The list indicates for each child a "program type" and a "placement date" (reflecting the date that the child was placed in that "program"). A child placed in an expedited resource home placement that has not yet received final approval should have the program type designation "EXPHM" (expedited resource home); the "placement date" field is the date from which the 150 days to full approval can be measured. Once an expedited home receives full approval, the "program type" should be changed to "DCSFH" (DCS resource home).[451] If the Department is meeting the requirements for timely full approval of expedited resource homes, there should be no children on the *Brian A.* Class List with a placement type designated "expedited" and a placement date more than 150 days from the date of the report.

In order to provide some reporting on the extent to which recent expedited resource home placements are achieving full approval within 150 days, TAC monitoring staff reviewed the 48 expedited resource home placements identified in the December 31, 2008 *Brian A.* Class List with placement dates in December 2009. By May 31, 2010, each of those resource homes should either have achieved full approval or have been closed as a resource home.[452]

The December 31, 2009 *Brian A.* Class List showed 207 homes, housing 313 class members, with the program type of Expedited home. Eleven (5%) of these homes had a placement date prior to 2009. Forty-eight homes had a placement date in the month of December 2009. Of the 48 homes identified, in 12 cases, the children were discharged to the custody of the relative that had initially served as an expedited resource placement, or to their parents, or were otherwise released from custody prior to May 31, 2010. In 17 others, the child remained in DCS custody,

[450] TAC monitoring staff will be conducting a targeted review of expedited approvals to provide some data related to compliance with this requirement.

[451] A provider home cannot be an expedited home; however, it is possible (although in practice rare) that a home that reaches full approval could under certain circumstances opt to become a private agency home rather than a DCS home. In those rare cases the program type would not change to "DCSFH" but would instead change to the appropriate contract designation (e.g., Level 2 or Level 2 Continuum).

[452] This review was not able to look at the exact time from expedited placement to full approval. For homes in which the child(ren) were placed during the month of December 2009, the Department would have had between 150 and 180 days to complete approval.

but was moved to another placement prior to May 31, 2009. (Of these 29 homes, four had reached full approval status prior to May 31, 2010.)

Of the remaining homes—those that were caring for a DCS custody child as of May 31, 2010—16 (84%) had completed the full approval process by May 31, 2010 with children remaining in the home. According to TNKids, only three (16%) had still not completed the full approval process by May 31, 2010.

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.[453] The Department is seeking to better understand the obstacles that are preventing better utilization of the natural circles of support of children coming into care as resource family placements and to design strategies to overcome those obstacles.

D. Training

The Settlement Agreement requires that the Department:

- maintain a statewide and regional plan for resource parent training, in consultation with the TAC; (IX. C)

- ensure that training classes are available (a) beginning every 30 days in every region; (b) at times convenient for foster and adoptive parent applicants; and (c) with individualized training available "as needed;" and

- ensure that each resource family receives additional annual training.

The Department uses the Parents as Tender Healers (PATH) curriculum, a nationally recognized curriculum, for pre-service training for resource parents. The Training Consortium is responsible for almost all pre-service training (PATH classes) and all first year resource parent in-service training (core classes), held regularly within each region. The Department maintains a list of regionally offered resource parent training classes and the training schedules are available online through the website of the Training Consortium. A link to that schedule can also be found on the website www.parentachild.org.

[453] The Commissioner at the December 2009 Families for Tennessee Teen's convening, appropriately recognized that more work needs to be done to ensure that relatives are presented with the range of options available to relatives and can make knowledgeable decisions about which option to pursue. The Commissioner emphasized that steps must be taken to correct the misperception in the field that "diverting" a child by placement with a relative is better than making that relative a kinship resource home. Relatives should make the decision as to which option makes the most sense for them, and should not be pressured or steered by Department staff to choose one option over the other. The Department is conducting some targeted reviews in certain regions to determine the extent to which regional practice is complying with the Commissioner's directive.

TAC monitoring staff reviewed the online PATH class schedule and found that in 2009 at least two classes were in session in each month in every region, with the exception of December 2009, during when Upper Cumberland region held only one PATH class. 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.

The Department has confidence in the quality of the regular PATH classes based on the structure of the classes, the quality of the Training Consortium trainers, and the feedback it receives on the classes from resource parents. In large part in response to feedback from resource parents, the Tennessee Center for Child Welfare has significantly revised the PATH training. The new PATH curriculum includes new techniques to address trauma, attachment, discipline, crisis, birth parent partnership, and helping children make appropriate transitions. In addition, effective strategies to appropriately parent teenagers are included in each session.

The department recognizes those serving as kinship resource parents are in a different position than those resource parents who follow the more deliberate process of first going through training and then having children placed with them. Especially when children are placed with relatives on an expedited basis, the fact that the children are placed in advance of the training creates special needs and special challenges.

The Department has therefore modified the PATH curriculum for kinship applicants to include a separate orientation session to address kinship specific needs (such as, the need for immediate resources). Also, kinship scenarios are included in the majority of the activities and videos.

The Department continues to struggle with how to better make the PATH training more accommodating of kinship resource parents. Unlike other resource parents who can plan and schedule their training to fit their schedules before taking on the responsibilities of fostering, kinship families have in a sense had fostering foisted upon them by situations that they did not plan for. Their routines have already been disrupted by new responsibilities, and it is a special challenge to fit in among all of the new parenting demands nine weeks of PATH classes (and to find child care for the kin for whom they are now caring to allow them to attend classes). The Department is trying to identify better ways to accommodate and support kinship families in completing PATH training.

PATH training is typically delivered to groups, but in appropriate situations, particularly with relatives and kin, the curriculum can be delivered on an individual basis. The regions remain responsible for the delivery of individualized PATH training to those for whom that training is appropriate.[454] The Department feels that it has further work to do to inform kinship resource

[454] Individual PATH training typically consists of in-home "tutorials" conducted by a PATH trainer, utilizing the same curriculum, materials and DVDs as used in classroom delivery. Individual PATH training is appropriate either when regular classes are not available within the time frames necessary for the particular home involved or when a

families for whom individualized PATH training may be appropriate, and to ensure that the training is delivered to those families effectively. In order to ensure that there is some uniformity in the delivery of training, the Department is developing guidelines for determining when the individualized training is appropriate, and a process for informing people about the individualized option and reviewing requests to receive the individualized training. At present, the Department believes that there is considerable variation among and within the regions regarding all aspects of the individualized training.

After their first year, resource parents are expected to get their training in the form of electives that are available from a variety of sources.[455] Resource parents are encouraged to select training topics based on their interests and needs. Some training, including Fostering Positive Behavior and Medication Administration for Resource Parents, is required in-service training. These credits can be obtained by attending the annual resource parent association training conference, special workshops, independent living training, or special events and trainings within the community.[456]

In order to ensure that each DCS resource family is receiving the required training, regional resource parent support units are required to review documentation that training has been completed, as a part of the initial approval and annual reassessment process. According to the Department, corrective action plans are issued and resource homes will not be re-approved without documentation of annual training.

As a part of an ongoing IV-E review of resource homes by Central Office staff, resource home files are also reviewed for in-service training completion. Central Office staff bring to the attention of regional staff when a file indicates insufficient in-service training. Regional staff take necessary action, possibly including a corrective action plan. The Department expects that 100% of resource home files will have been reviewed by December 2010.

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. The Licensing Unit of DCS reviews a sample of resource parent files for compliance with licensing standards , at least semi-annually, for all contract agencies operating under a license issued by DCS. They look for documentation of initial PATH training and required annual in-service training. PAR reviews all contract agencies annually for compliance with contract provisions issued by the DCS Child Placement and Private Providers Division and the *Private Provider Manual*. PAR checks for initial PATH training and training requirements after the first year.[457] The RHET process described above also ensures that private provider resource parents complete PATH training.

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work schedule or other demands on the prospective parent's time make it impractical for them to attend the regular PATH classroom trainings. Some DCS staff may be unaware of this service.

[455] Many regions are using electronic means to notify resource parents of training opportunities. For example, the Northeast Region sends an electronic newsletter monthly to resource parents. The newsletter includes current training selections.

[456] Department Policy 16.8.L specifies the number of hours and the training subjects required of resource parents after their first year.

[457] PAR and Licensing reviews have not identified this as a problem. See Section Twelve page 327 for further discussion regarding Supervision of Contract Agencies.

The TAC does not presently have sufficient information from which to determine the extent to which resource parents are in fact meeting the annual in-service training requirements.[458]

E. Room and Board Rates for Resource Parents and Respite Care Stipend

The Settlement Agreement includes the following provisions regarding room and board rates for resource parents:

- all resource parent room and board rates, including those of private agency resource parents, are to meet USDA guidelines[459] and are to be adjusted annually to be no lower than USDA guidelines for the cost of raising children within the Tennessee region; (IX.D)

- specialized rates are to be established for both DCS and private agency resource parents providing services to special needs children; (IX. E.)

- relatives who are approved as resource parents shall receive the same room and board rates as those of non-relative resource parents; (IX.D.) and

- adequate and appropriate respite services are to be provided in each region to resource parents with special needs children. (IX.C.5)

1. DCS Resource Parents

All DCS resource parents, both relative and non-relative, receive the same room and board rates. The previous rates are reflected in Table 25 and the present rates are reflected in Table 26.

[458] Aggregate data has not been available regarding in-service training, however, the Department expects to be able to monitor and report on this in TFACTS.

[459] The Settlement Agreement uses the term USDA "standards." The TAC assumes that the parties intended for resource parent room and board rates to meet the guidelines set forth in the USDA Center for Nutrition Policy and Promotion's publication: Expenditures on Children by Families. The Current Annual Report as of June 30, 2008 is the 2007 Publication. This publication reports estimated annual expenditures on a child by husband-wife families for the United States and five regional categories. Estimated annual expenditures are reported for three income categories. In this monitoring report, the USDA guidelines for estimated annual expenditures on a child by husband-wife families for the Urban South for the lowest income group and middle income group are presented.

Table 25: Resource Parent Board Rates (Effective March 1, 2008)				
	Age	Foster Care	Adoption Assistance	Subsidized Permanent Guardianship
Regular Board Rates	0-11 years	$22.62 per day	$22.57 per day	$22.57 per day
	12 years and older	$26.56 per day	$26.51 per day	$26.51 per day
Special Circumstances	0-11 years	$24.88 per day	$24.83 per day	$24.83 per day
	12 years and older	$29.22 per day	$29.17 per day	$29.17 per day

Source: DCS Intranet Web Site.

Table 26: Resource Parent Board Rates (Effective June 1, 2009)				
	Age	Foster Care	Adoption Assistance	Subsidized Permanent Guardianship
Regular Board Rates	0-11 years	$23.26 per day	$23.21 per day	$23.21 per day
	12 years and older	$27.28 per day	$27.23 per day	$27.23 per day
Special Circumstances	0-11 years	$25.59 per day	$25.54 per day	$25.54 per day
	12 years and older	$30.01 per day	$29.96 per day	$29.96 per day

Source: DCS Intranet Web Site.

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.[460] 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.[461]

The following table compares the Department's standard and special circumstance board rates (set forth in the second column) to the USDA guidelines for the daily cost of raising children for the lower and middle income group (set forth in the first column), excluding expenditures for healthcare and childcare.[462]

[460] 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.

[461] DCS Policy 16.29 Resource Home Board Rates.

[462] Tennessee provides healthcare and childcare as a separate benefit and covers all costs associated with these areas. Therefore, resource parents are not financially responsible for these expenditures.

Table 27: Comparison of USDA Guidelines and DCS Board Rates		
Age of Child	**Estimated Daily Expenditures Lowest/Middle**	**DCS Board Rates Regular/Special Circumstances**
0 - 2	$15.59/$21.37	$23.26/$25.49
3 - 5	$16.16/$21.89	$23.26/$25.59
6 - 8	$17.86/$24.08	$23.26/$25.59
9 - 11	$19.88/$24.88	$23.26/$25.59
12 - 14	$19.86/$26.22	$27.28/$30.01
15 - 17	$20.00/$26.49	$27.28/$30.01

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 in Tennessee for the lowest income group designated by the guidelines and, for some of the age ranges, for the middle income group as well. The rates are slightly lower than the USDA guidelines for the middle income group for other age ranges.

With respect to respite services, the Department has allocated an additional $600 per year (the annual cost for 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 it for respite care or not.

2. Private Provider Resource Parents

Department Policy 16.29 requires that private provider agencies must provide board payments to resource families that meet the Southeastern USDA Guidelines. By contract provision, private providers are required to pay their resource families a daily rate that meets the Settlement Agreement provision requirements. The private providers have traditionally paid their resource parents at higher rates than DCS, in part because private provider resource homes are primarily utilized by DCS for children with higher levels of care.

In February 2010, TAC monitoring staff conducted a survey of private providers to determine the extent to which the lowest board rate paid by those agencies met or exceeded the USDA guidelines.[463]

While the USDA guidelines categorize expenditures according to the age of the children, the board rates paid by most private provider agencies are determined by the child's level of care,

[463] All 24 agencies identified by the Department as providing resource homes for DCS children were contacted and each provided the TAC with information on their lowest board rates.

not by the child's age. For purposes of this report, the TAC is reporting the lowest rate in the private providers board payment schedule (usually the Level I rate); however, most children being served by private provider agencies are classified as Level II or Level III.

The lowest board rates of each of the 24 private providers with whom DCS contracts for resource homes meet or exceed the USDA guidelines for the lowest income group.[464]

F. Additional Provisions for Special Needs Children

The Settlement Agreement also requires the Department to:

- ensure that resource parents caring for special needs children are provided specialized training necessary for the care of special needs children; and

- continue to contract with private agencies for the provision of therapeutic foster care and medically fragile foster care.[465] (IX. E)

The scope of services for contracts with providers serving special needs children includes a requirement that specialized training be provided to resource parents who are caring for medically fragile and therapeutic children. In addition to the standard trainings required of all resource parents, there is an additional requirement of 15 hours of specialized training prior to the placement of a special needs child (either medically fragile or therapeutic) with suggested topics of training identified. Moreover, the resource parents shall receive specialized training on the individual needs of each child/youth to be placed in their home which may also count toward the 15 hours of additional specialized training. The Department is still developing the process for monitoring the training provided to these resource parents. The Department anticipates having that process implemented in October 2010.

The Department continues to contract with private provider agencies for therapeutic foster care and medically fragile foster care. The scope of services developed for the current "level system" includes improvements in the areas of: assessment and admission criteria, training and service expectations, oversight and monitoring for agencies providing special needs foster care.

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[464] When measured against the USDA guidelines for the middle income group, there are only eight providers whose lowest scheduled board rates meet or exceed the USDA guidelines for all age groups. The lowest scheduled board rates of thirteen providers meet or exceed the USDA guidelines for the middle income group for some but not all ages. The lowest scheduled board rates for the remaining three agencies are below the USDA guidelines for the middle income group.

[465] The Settlement Agreement also provides that the details concerning provision of foster care to special needs children will be presented to the TAC for consultation, including the issue of establishing minimum resource parent payment rates for categories of special needs children. The Department is to follow all TAC recommendations for program modifications. (IX E) The TAC has previously reviewed payment rates for categories of special needs children.

The Department is also exploring a partnership with a private agency focused on providing a smooth transition from foster care to adult services for children who require those services as adults.[466]

G. Adoption Assistance

The Settlement Agreement requires that all potential adoptive families, including resource families caring for a child with special needs who has become eligible for adoption, will be advised of the availability of the adoption subsidy, with the notification documented in the child's record, and the family's access to such subsidy facilitated. (IX. F)

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.[467] In addition, as discussed in Section Eight, the Department has expanded the scope of its post-adoption services contract with a private agency to include working with families who have signed the Intent to Adopt form, to provide pre-adoptive counseling including ensuring that families understand their eligibility for adoption assistance and have help applying for such assistance.

Notwithstanding these efforts, a review of a number of cases involving adoptions of children with complex medical and behavioral needs has raised concerns about whether prospective adoptive parents in these kinds of cases are being adequately informed and given the opportunity to negotiate the appropriate adoption subsidy, and whether procedures for determining eligibility for adoption subsidy and appropriate subsidy amounts are uniform across the state.

The Department has convened a work group that includes representatives of key stakeholder groups (including adoptive families, advocacy groups, service providers, state legislative and constituent services staff) in an effort to create a more integrated response system for those families who have adopted children with significant medical or behavioral health needs, particularly those who are having difficulty meeting the medically necessity criteria for residential services or no longer meet the criteria for residential services and the child or youth is needing to return home with strong supports. That work will necessarily involve some examination of how to ensure that in the course of the adoption contracting process, the Department and the prospective adoptive parents anticipate needs, ensure that the adoption subsidy and available supports are sufficient to respond to those anticipated needs, and that the prospective adoptive parents are aware of what to do if, despite the conscientiousness of the pre-adoptive planning, additional services and supports become necessary.

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[466] This private agency promotes care in a family model by providing extensive training and support for the child prior to the youth's eighteenth birthday.

[467] The Intent to Adopt adequately serves this purpose, notwithstanding the limited value it has as a surrogate measure for the time of placement in a pre-adoptive home. See footnote 24.

There are 7,753 Tennessee families currently receiving an adoption assistance subsidy from the Tennessee Department of Children's Services.

SECTION TEN: STATEWIDE INFORMATION SYSTEM

The Settlement Agreement requires that DCS implement a statewide information system that:

- is a functional system (X.A.), capable of providing system wide reports, including AFCARS reporting capacity (X.B); and

- is subject to an intensive data clean-up, periodic audits to ensure accuracy and validity, and an audit every 12 months to ensure ongoing accuracy of data. (X.C)

The Settlement Agreement requires that the Department conduct an evaluation of the data system, in consultation with the TAC, and follow recommendations of that evaluation.

As discussed in previous monitoring reports and as is demonstrated by the data reports that the TAC has been able to rely on for the production of its recent monitoring reports, the Department has implemented a functional statewide information system that is presently accomplishing what is called for by the Settlement Agreement. The required evaluation of the data system was completed early on in the reform effort and the Department has continually improved the functionality of its data system and conducted the regular cleanups and audits envisioned by the Settlement Agreement.

The Department is now in the process of transitioning to its new SACWIS system, the Tennessee Family and Child Tracking System (TFACTS). TFACTS not only takes advantage of the significant advances in information systems technology, but, unlike TNKids, has been designed from the beginning to support the Department's present practice model and performance needs. TFACTS is engineered both to limit opportunities for inaccurate or incomplete data entry and to provide for improved auditing and data clean-up. It is anticipated that TFACTS will be a much more functional, user-friendly information system than TNKids, and will provide a vastly improved and more robust reporting capacity.

As discussed in the December 2008 Monitoring Report, with the dramatic improvements in TNKids, the establishment of the TNKids electronic file, rather than a "hard file" as the "official" case file, and the variety of technological checks and on-going data quality activities that continuously "audit" TNKids data accuracy, the "annual TNKids audit" as originally conceived in the Settlement Agreement, has become obsolete. In the first year of the implementation of TFACTS, there will be a variety of activities focused on ensuring that the system is accurately capturing data, including both internal and external validation processes, and as previously discussed, data accuracy will not depend on a single annual audit, but rather on a variety of ongoing, regular data accuracy assurance processes and built in technological checks.

The Department has therefore in the past couple of years appropriately decided to use the "annual audit" called for by the Settlement Agreement more strategically. Last year, the annual audit focused on the completeness of documentation in resource home files. This year, as

discussed in Section Eight of this report, the audit focused on case file documentation of diligent searches required by Section VIII of the Settlement Agreement.

SECTION ELEVEN: QUALITY ASSURANCE

A. Required Establishment of a Quality Assurance Program (XI.A)

The Settlement Agreement requires the Department to create a Quality Assurance Program directed by a Quality Assurance (QA) Unit. The QA Unit 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 QA Unit is required to coordinate with and complement the activities of the *Brian A.* Monitor.

The Department created a small Quality Assurance Unit in 2001. However, as the Department developed a more sophisticated approach to quality assurance, the role and responsibilities of that unit expanded. The Office of Performance and Quality Improvement (PQI) is now responsible for the specific QA Unit responsibilities enumerated in the Settlement Agreement.[468]

The creation of the PQI Office was in large part designed to ensure the capacity to track, coordinate, and integrate the variety of quality assurance activities that the Department is engaged in, by consolidating many of these activities under the direct oversight of the PQI Director. Prior to the creation of the PQI Office, quality assurance related functions were distributed among a variety of units and divisions, creating considerable confusion about roles and responsibilities and limiting the effectiveness of the Department's quality assurance efforts.

The PQI Office has been developing and implementing structures for tracking, coordination, and integration of these activities.

The PQI Office continues to work closely with the TAC monitoring staff, reflecting the coordination and integration of functions envisioned by the Settlement Agreement.

B. Staffing of the Quality Assurance Unit (XI.C)

The Settlement Agreement requires that the Quality Assurance Unit be directed by a person with appropriate qualifications who reports directly to the Commissioner.[469] The QA Unit is to be adequately staffed and staff are to be adequately trained.

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[468] The term "QA Unit," as used in this section therefore refers to the Office of Performance and Quality Improvement.

[469] As a technical matter, under the present organizational chart, the Executive Director reports to a Deputy Commissioner rather than directly to the Commissioner.

The PQI Office combines under one umbrella a broad set of activities related to performance management and improvement, quality improvement, and organizational learning. The PQI Office is headed by an Executive Director who is a member of the Central Office Core Leadership Team, and has regular and frequent communication with the Commissioner and both of the Deputy Commissioners with responsibility related to *Brian A.* class members. The Office is divided into two divisions, Evaluation & Monitoring (E&M) and Planning, Policy and Performance Management (PPPM).[470]

The E&M Division. performs a wide array of evaluation, monitoring, and review activities. E&M is divided into two units: the Quality & Compliance Monitoring Unit, consisting of Program Accountability Review (PAR) and Licensing,[471] and the Evaluation Unit that manages the Quality Services Review (QSR) process and (as staffing allows) conducts a variety of assessment and evaluation activities, including those related to federal child welfare evaluation.[472] The effort toward creating an integrated approach for gathering and utilizing data on provider performance (including the development of the Provider Scorecard discussed in Section Twelve) is led by E&M.

The PPPM Division coordinates the work of four smaller teams within the division: Planning,[473] Accreditation/Policy Development,[474] Placement Quality Team System (PQTS),

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[470] The PQI Office has 41 positions. The E&M Division has 25 positions (five of which are vacant), and is supervised by a Program Director 3. The PPPM Division has 14 positions (two of which are vacant), and is supervised by an Executive Administrative Assistant 3.

[471] The Licensing and PAR Units are responsible for much of the monitoring activity described in Section Twelve of this report. The Licensing team is a regulatory authority governed by statute and promulgated rules and is responsible for the evaluation and licensing of all programs that fall within the purview of applicable state licensing regulations. These programs include: Family Boarding Homes, Group Care Homes, Child Placing Agencies, Residential Child Care Agencies, Juvenile Detention Centers, Temporary Holding Resources, Runaway Houses, Child Abuse Prevention Agencies, and Maternity Homes.

The Licensing Unit also coordinates the accreditation of all hardware secure programs operated by the Department through the American Correctional Association's Council on Accreditation, conducts annual reviews and provides on-site technical assistance to these programs in the interpretation and application of all pertinent standards in developing local policy and procedure.

Licensing staff consists of a Director, an Administrative Secretary, one Program Coordinator and five Program Specialists.

Program Accountability Review (PAR) conducts annual monitoring of DCS contract service providers through on-the-ground reviews for compliance with terms of contracts, including the *Private Provider Policy Manual* and other referenced performance standards, with a focus on the appropriateness and quality of services. PAR consists of a Director, an Administrative Services Assistant position (presently vacant), and 10 Program Monitor positions (two of which are presently vacant).

[472] While E & M has conducted a number of assessments and evaluations, strong focus has been placed on SIU over the past three years. This division also has a role in monitoring and supporting utilization of the Incident Reporting system. E&M consists of a Director and three Program Coordinators (two of which are presently vacant).

[473] The responsibilities of the Planning team include the development of reports and strategic plans as required by state and federal mandates. They facilitate the creation of these reports by ensuring the integration of practice and policy across program areas. This team consists of a Program Manager and a Program Specialist.

[474] The Accreditation/Policy Development team promotes the establishment of standards of best practice that will result in the Department of Children's Services achieving accreditation through the Council on Accreditation (COA). This team facilitates: a thorough self-assessment of policies, systems and practices; coordinates accreditation review processes; and provides oversight for the maintenance of accreditation standards of best

Facilitation,[475] and Continuous Quality Improvement (CQI).[476] PPPM also is responsible for various policy development and planning activities. This division develops and coordinates the creation and distribution of departmental policy, develops and monitors strategic plans, and coordinates reports required by state and federal mandates.

The Department has provided a range of training opportunities and technical assistance support for the PQI Office staff related to their specific areas of responsibility. These opportunities have included: Center for Applied Research Leadership Training (which includes a full-day session focused on quality assurance and quality improvement); computer-based CQI training; advanced training and technical assistance related to the QSR process; quarterly technical assistance calls with the National Resource Center on Organizational Improvement; in-person training and COA "webinars" on PQI standards, reaccreditation and site visit trips; and subject matter training for Licensing and PAR staff.

C. Reporting Requirements

The Settlement Agreement requires that the Quality Assurance (QA) Unit:

- provide regular periodic reports; (XI.B) and
- conduct specialized case record reviews on issues addressed by the Settlement Agreement. (XI.B)

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practice. The team also maintains the Department's policy manual by assisting stakeholders with the revision of current policies and the creation of new policies and is also responsible for facilitating the revision and creation of the Department's forms and manuals, and other special assignments as necessary. Accreditation/Policy Development consists of a Director, an Administrative Services Assistant 5, and a Program Coordinator.

[475] The PQTS Facilitation team consists of three levels of cross-functional teams, which include Central Office and regional staff that meet on a regular basis to address issues of concern as they relate primarily to the performance of private residential providers. This team is responsible for gathering pertinent information related to private provider performance and synthesizing the information into a summary report that can be presented to the PQTS. This team is also responsible for setting the PQTS schedule, agenda, and facilitating the actual meetings. The PQTS is also beginning to facilitate data tracking and analysis activities for certain reports through the Data Trending and Analysis Team (DTAT). The PQTS Facilitation team consists of a Director, a Program Specialist, and a Program Coordinator.

[476] CQI is a process by which all staff are invited to be involved in the evaluation of the efficiency and effectiveness of services provided to children and families. Evaluation involves the examination of the Department's internal systems, procedures, outcomes, input from participants, and relationships and interaction between DCS and other stakeholders. From the evaluation, areas identified as needing improvement are discussed, action plans are developed, and strategies are implemented to improve service delivery. CQI staff consists of a Director position, three Program Coordinators, and an Administrative Services Assistant 2.

In addition to the Central Office PQI staff, each region has at least one person identified as the Continuous Quality Improvement (CQI) Coordinator. This position is focused on developing the regional CQI team process and improving the regional capacity for understanding and using aggregate data reports. In some regions the data responsibility is shared between the CQI Coordinator and another identified regional staff person (i.e., a data analyst or another position). Six regions (Mid-Cumberland, Southwest, Tennessee Valley, Upper Cumberland, South Central, and Shelby) have a second position that provides additional support to the CQI Coordinator. The majority of CQI staff have additional responsibilities, such as team coordinator, QSR coordinator, team leader, COA coordinator, and/or skilled facilitator. Currently, there are 18 regional CQI staff.

The QA Unit is required to issue reports at least every six months. (XI.E) The reports are to be public record unless disclosure is prohibited by law (XI.D); are not to include information that would identify particular children (XI.D); and are to be provided to both the Commissioner and the Monitor. (XI.E)

The PQI Office presently issues the Quality Service Review reports (both regional reports issued as the reviews are completed and statewide reports as the data from each of the regions is combined), quarterly case process review reports, and the DCS Annual Report. The PQI Office also conducts and reports the results of specialized case record reviews on issues addressed by the Settlement Agreement, including a review of the quality of SIU investigations.[477]

Copies of reports related to the Settlement Agreement have been made available to both the Commissioner and the TAC.

D. Requirement of Special Administrative Case Record Reviews (XI.E)

The Settlement Agreement requires the Department to establish a process for conducting special administrative case record reviews for two general purposes. First, to provide information to determine whether DCS is following provisions of the Settlement Agreement, DCS policy, and good social work practice; and second to identify case managers or supervisors who, as a result of quality assurance review, are in need of additional training or reassignment, or for whom termination may be appropriate. (XI.E.1-2)

1. Annual Review

The Settlement Agreement requires the QA Unit to *"review a statistically significant number of cases from each region of the state."* This case review is to include interviews and an independent assessment of the status of children in the plaintiff class. As part of this review process, the Department is 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, and to use that measure in evaluating performance. (XI.E.3)

The Department, in collaboration with the Tennessee Commission on Children and Youth (TCCY) and the Tennessee Consortium for Child Welfare (TCCW), has developed and implemented a Quality Service Review (QSR) that serves as the Annual Review. The QSR protocol provides an assessment of both child status and system performance as required by the Settlement Agreement. While the QSR includes cases involving delinquent children, the

[477] Among other reports and related documents produced annually by PQI are: the Child and Family Service Review (CFSR) Performance Improvement Plan (PIP); the Title IV-B Annual Progress and Service Review; the Title IV-B Child and Family Service Plan; the Title IV-E State Plan; the Strategic Plan (mandated by the State Governmental Accountability Act of 2002); and the Council on Accreditation (COA) Annual Report. The following reports are produced quarterly: Case Process Review Reports; Incident Reporting; and PIP updates required by federal law.

random, stratified sample includes approximately 200 *Brian A.* class members (drawn from each region of the state) and the Department provides separate analysis and reporting on these children.[478] In addition to randomly-selected cases, the Department added the review of five ("Plus 5")[479] additional *Brian A* cases per region in the 2009-2010 review, resulting in an additional 60 cases being reviewed.[480]

2. Supervisory Unit Reviews

The Settlement Agreement requires that, if significant problems are identified in a region, the QA Unit is to review a statistically valid sample of cases within each supervisory unit to identify whether particular units have particular problems and whether administrative action is necessary. (XI.E.4)

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[478] The Department recognizes the importance of ensuring that there are adequate numbers of qualified QSR reviewers, sufficient administrative support for the review process, and capacity in the regions to use the QSR results as a vehicle for improving case practice. The Department, TCCY, and TCCW have paid significant attention to strengthening and formalizing the reviewer training, development, and certification process. A better-defined reviewer development process was rolled out in July 2007. This revised process involves a certification subcommittee of the Tennessee QSR Team (comprised of DCS, TCCY and TCCW staff) and includes clearly articulated expectations for participation and performance. In the Department's view, more work was needed around training, reviewer development, and inter-rater reliability.

Over the past year, the Department has developed an approach to reviewer training and development that is designed to ensure that all beginning reviewers receive formal training and orientation to the QSR process and the opportunities both to shadow an experienced reviewer and to be observed and critiqued by an experienced reviewer. In order to ensure that there is a group of advanced reviewers capable of coaching and mentoring new reviewers, the QSR training plan includes advanced training and a certification and recertification process for experienced reviewers, all of which have been implemented in the 2009-2010 review year. The Department has developed a "six-pronged approach" to QSR training that provides the range of training experiences from a general orientation to the QSR process for all staff to the development of lead reviewers and coaches.

The Department has also recognized that the PQI Office must be able to promptly provide the regions with the QSR results and supporting case stories, and to assist the regions in using the QSR feedback in both individual professional development and in designing and implementing broader practice improvement strategies. The Department has created a set of expectations outlining how the regions will be using the QSR results to improve practice, and has revamped the approach to the Friday QSR exit conferences, in which members of the Central Office leadership team participate, to identify the lagging indicators that will be a focus of improvement efforts between then and the next review. Each region, with support from a Central Office coach, is expected to develop and implement an improvement plan to address the areas identified in the exit conference.

For the past year, the Department has arranged for four TCCW staff to provide much needed additional support for the variety of administrative activities associated with the QSR process. It TCCW staff is not able to provide that degree of assistance during the 2010-2011 QSR review, there will be a need to find additional DCS resources to support the QSR process.

[479] For the "Plus 5" reviews, regions selected cases they believed represented strong implementation of DCS' *Practice Model*. Results of these reviews (reviewed by a select pool of DCS and TCCW reviewers and undergoing the same quality assurance process as other statewide cases) are compared with the five highest scoring *Brian A.* cases from the statewide review, and with the region's total *Brian A.* QSR scores.

[480] More cases (statewide and "Plus 5") were reviewed in the 2009-2010 review year than will be reviewed going forward, because the Southeast and Hamilton regions, which were reviewed separately last year, have combined into one region, Tennessee Valley.

The QSR process is designed to identify and respond to problems in both front-line and supervisory practice, and the Department is in the process of clarifying its expectations for regional follow-up. As the 2009-2010 QSR data is finalized, the QSR data for both this year and last year will be sorted and reported by team coordinator, to allow the Central Office and the regions to better understand the level of practice in different clusters/supervisory groups. The Department will then use the narrative case stories to identify factors contributing to both practice strengths and practice challenges. The results of this process is also expected to be used to inform the performance evaluation process discussed in Section Five, including identifying any administrative actions that might be appropriate to address problematic performance.[481]

3. Special Administrative Reviews

The Settlement Agreement requires the QA Unit to oversee special administrative reviews in a number of categories of cases or circumstances. (XI.E.5)

a. All cases in which there have been three or more reports of neglect or abuse concerning a particular caretaker for a particular child; and
b. All cases in which there has been a substantiated/indicated incident of neglect or abuse of a child while in state custody

Reports of abuse and neglect alleged to have occurred while children are in foster care are to be reported through CPS Central Intake and investigated by either the Special Investigations Unit (SIU) or Child Protective Services (CPS), depending upon the relationship of the alleged perpetrator to the child.[482]

The PQI Office assumed the responsibility for oversight of administrative reviews of SIU investigations in 2007 and implemented a process for reviewing SIU investigations involving *Brian A.* class members. A designated PQI staff member with CPS experience has been conducting regular reviews of SIU investigations involving *Brian A.* class members and issuing reports summarizing the review findings, identifying both areas of strength and areas of concern, and making recommendations for improving both the SIU process and the quality of SIU investigations. This PQI staff member was, at least during some periods, reviewing all SIU closing notices using a "short form" protocol and conducting a more in depth review of a sample of those cases.[483]

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[481] The PQI Office does not review a statistically valid sample of cases within a supervisory unit when the QSR identifies practice problems in cases handled by that unit, notwithstanding what is called for by this provision of the Settlement Agreement. However, requiring such a supervisory unit sample review makes little sense in light of the other sources of both qualitative and quantitative data related to supervisory unit performance now available as a result of developments in the Department's data reporting capacity that have occurred since the entry of the Settlement Agreement.

[482] 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 a member of a resource parent's household, a DCS or private provider employee, a teacher, a therapist, or another professional responsible for caring for children. CPS investigates all other reports of abuse or neglect of children while in DCS custody, including those in which the alleged perpetrator is a member of the child's birth family or a family friend. For further discussion of SIU, see Section Three page 92.

[483] That PQI staff member has been selected by the new SIU Director to fill a Team Coordinator position with SIU. The new Director is implementing a number of changes in SIU's internal case tracking and data analysis, and

In addition, the Department has been using Placement Quality Teams (PQT), discussed in more detail in Sections Three and Twelve, to review cases in which a child has been found to have been abused or neglected while in state custody. One of the green-level Provider Quality Teams (the Green PQT) is responsible for reviewing the closing notification of every SIU investigation involving a resource home placement in which the allegations were either indicated or were unfounded but the investigator noted concerns. The Green PQT is also responsible for ensuring that appropriate actions are taken to address concerns related to resource homes through home closure or remedial action. The Yellow PQT is responsible for addressing concerns regarding private provider agencies, with a focus on congregate care facilities.

The Green PQTs have been responsible for reviewing all indicated SIU investigations involving *Brian A.* children regarding allegations of abuse or neglect occurring in resource homes.[484] The Yellow Provider Quality Teams are being alerted to many of the indicated SIU investigations involving *Brian A.* class members in congregate care placements; however, the TAC cannot say that all of those cases are receiving administrative review.[485] In addition, unless either the abuse or neglect of the class member occurs in the resource home or congregate care facility or the alleged perpetrator is a resource home member or facility staff, a PQT administrative review is not required.[486]

While the Department has made considerable progress toward ensuring the administrative reviews of all indicated reports of neglect or abuse of a child while in care, the Department has not developed any systematic approach for identifying and administratively reviewing cases of three or more reports of abuse concerning a specific child or caretaker. It is certainly possible that individuals who are involved in conducting SIU investigations or reviewing SIU closing notifications[487] will identify such cases and bring them to the attention of the relevant Placement

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bringing increased emphasis to the quality of case investigation. The Department anticipates that some periodic reviews of SIU by PQI will resume within the next six months, once these changes have been sufficiently implemented, but that the review process might be modified based on the improvements in supervision and tracking implemented by the new Director.

[484] The new SIU Director has taken significant steps to address communication problems that have previously resulted in some SIU cases involving *Brian A.* children regarding allegations of abuse or neglect occurring in resource homes not being reported to the Green PQT. The Green PQT depends on either CPPP (in the case of private provider resource homes) or Foster Care and Adoption (in the case of DCS resource homes) to place the SIU cases on the agenda. There is not yet an administrative review process in place for reviewing SIU investigations involving *Brian A.* children regarding allegations of abuse or neglect occurring in congregate care facilities.

[485] The Department is considering creating a Data Trending and Analysis Team (DTAT) whose responsibilities would include reviewing indicated SIU investigations involving congregate care facilities.

[486] Although there is presently no regular administrative review process contemplated for those cases in which the incident of abuse and neglect occurs on a home visit and the perpetrator is a member of the child's family or community, one SIU review included a review of a small sample of these cases and identified concerns including the quality and timeliness of documentation, the documented use of a safety assessment tool, interviews with case managers and collateral contacts and visits to the home where the alleged incident occurred.

[487] These reviewers include not only those involved in the PQT review processes discussed above and in Sections Three and Twelve, but also the Executive Directors of Regional Support who track SIU closing notifications and follow-up actions for investigations occurring in their respective regions (although the Executive Director for the east half of the state tracks closing notifications for resource homes only, not for group homes or residential facilities); and some regional administrators who track closing notifications and follow-up actions for investigations occurring in their regions.

The overall tracking of administrative reviews of all indicated reports of neglect or abuse of a child while in care from the initiation of the report, tracking the progress of SIU investigations, and monitoring the follow-up work in

Quality Team or other relevant person or group for review and appropriate action. However, the Department has not yet created a tracking system that flags for review a child or a caretaker who has been the subject of three or more reports of neglect, nor has it vested specific responsibility in any person or group to identify and review such cases.

c. All cases in which a child has experienced three or more placements in the last 12 months

As reported in previous monitoring reports, while there have been some CQI activities focused on understanding placement instability and developing strategies to improve stability, the Department has never implemented regular targeted reviews of children experiencing three or more placements in a 12-month period. However, to the extent that this provision was intended to ensure that the Department is gathering and analyzing information necessary to understand and improve placement stability, the Department appears to be accomplishing this purpose through its extensive analysis and tracking of aggregate placement stability data, and through its use of this data to develop strategies for improving placement stability.[488]

d. All cases in which a child has experienced two or more emergency or temporary placements in the last 12 months or has been in shelter or emergency care for more than 30 days

The Department tracks the use of emergency and temporary placements through regular aggregate reporting. Based on this tracking, the Department believes that use of emergency and temporary placements is generally trending in the right direction. The Department has focused on these placements as a part of the bi-weekly Utilization Review of congregate care placements. Increased monitoring over time of the appropriateness of these placements is expected to decrease the number of placement days and the overall use of emergency and temporary shelters.

The PQI Office is not conducting administrative reviews of *"all cases in which a child has experienced two or more emergency or temporary placements in the last 12 months or has been in shelter or emergency care for more than 30 days."* However, the combination of aggregate data tracking and the utilization reviews appears to adequately serve the purposes of this provision of the Settlement Agreement.[489]

e. All cases in which a child has had a permanency goal of return home for more than 24 months; and
f. All cases in which a child has had permanency goal of adoption for more than one year and has not been placed in adoptive home

All children in these groups are currently the subject of administrative reviews described in Section Eight of this report. While these reviews are overseen by Central Office senior leadership rather than the PQI Office, they appear to be more than adequate to serve the purposes of these two provisions.

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the regions and by private providers, is monitored by a specific staff member in the Child Placement and Private Provider Unit (effective July 15, 2010).

[488] See discussion in Section One, Subsection B.

[489] See discussion in Section Six, Subsection B.

g. All cases in which a child has returned home and has reentered care more than twice and has a goal of return home

The PQI Office is not conducting administrative reviews of *"all cases in which a child has returned home and has reentered care more than twice and has a goal of return home."*[490]

TAC monitoring staff reviewed all *Brian A.* class members in DCS custody between January 1, 2010 and March 31, 2010, who had three or more prior custody episodes and who had a sole or concurrent goal of reunification. There were only seven class members in this group. Of those seven children:

- One (age 8) has a concurrent goal of Exit Custody to Live with Relatives and is currently on a trial home visit with his maternal aunt.

- One (age 13) has a concurrent goal of Exit Custody to Live with Relatives and is expected to return to the home of his maternal grandmother after the child receives sex offender treatment.

- Two siblings (ages 9 and 6), have a goal of Reunification and a concurrent goal of Adoption. The team plans to file the termination for parental rights in August 2010 when the initial permanency plan expires from the previous custody episode. The Department is also working a third goal of Exit Custody with either the father of a third sibling or with their maternal aunt who was their resource parent during the previous custody episode.

- One (age 17) a teen mother who lives with her child (who is also in foster care) in a resource home, is expected to age out in October 2010 and return to her mother. The teen's parent has not worked the permanency plan and the safety concerns that resulted in the recent custody episode persist. The youth is being encouraged to find alternate housing so that her daughter can exit custody with her.

- One (age 16) absconded from his placement within days of entering custody in March 2010 and has yet to be found. The custody episode is a result of a violation of probation and it is planned that he will return to the custody of his father.

- One (age 18) aged out of custody in May 2010 and returned to live with her mother. Shortly after turning 18, she was adjudicted delinquent for an infraction that occurred when she was 17 and was placed on DCS probation.

h. All cases in which the date for accomplishment of a permanency goal of reunification has been exceeded by 12 months

[490] As discussed in the September 2007 Monitoring Report, the Department tracks reentry rates more broadly. The PQI Office has in the past identified regions in which reentry (meaning a second custody episode within a 12 month period) was significantly higher than in other regions and conducted targeted reviews, in conjunction with regional staff, of children experiencing their second custody episode in that region.

All children in this group are currently the subject of administrative reviews described in Section Eight of this report. While these reviews are overseen by Central Office senior leadership rather than the PQI Office, they appear to be more than adequate to serve the purposes of this provision.

E. Implementation of Racial Disparity Study Recommendations (XI.E.6)

The Racial Disparity Study required by the Settlement Agreement resulted in ten recommendations set forth in the implementation plan approved by the Court in 2003. (See Appendix R). Nine recommendations fall into three areas—data analysis and reporting, resource family and relative caregiver recruitment and support, and workforce development—and DCS is continuing to respond appropriately to each.[491]

The Department provides regular reporting of key outcome measures by race/ethnicity. As discussed in detail in the January 2007 Monitoring Report, the Department conducted a sophisticated analysis of this data and followed up on recommendations suggested by that analysis.[492] As reflected in the design of its *Initiative to Reduce Long-Term Foster Care*, the Department is utilizing race/ethnicity data in its strategic planning.

The Department's overall effort to ensure sufficient resource homes for children, including improving utilization of relative and kinship placements, and the regional recruitment and retention planning process responds to the recommendations related to this area. The Department expanded the relative caregiver program, established a subsidized guardianship option, and implemented policies to ensure financial support and case manager attention for kinship resource homes comparable to non relative homes.[493]

While recruiting resource homes remains a challenge, the Department has maintained statewide a percentage of African American resource homes that is comparable to the percentage of African American children in foster care. The resource home recruitment planning process includes analysis of the racial/ethnic mix of resource homes and the utilization of kin. Appropriate recruitment strategies and targets have been developed when the lack of African American

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[491] The Department has not followed up in any formal manner on the recommendation that it examine the potential diversion of class members to juvenile justice. This recommendation was based on a general concern from experience in other states and not on any particular findings of Tennessee's Racial Disparity study with respect to Tennessee practice and, while the TAC has not formally examined this issue, nothing has come to its attention, either through referrals from stakeholders or data gathered in the course of monitoring activities, that this is a problem.

[492] Florence Crittenton received funding from DCS for a year to pilot their program in Knox County and it has been able to obtain continuation funding. Davidson County is piloting a similar program with support from a number of community partners. The Department also continues to collaborate with Renewal House, a residential drug treatment program in Davidson County for mothers with young children, in a facility that allows the children to stay in residence with their mothers, thereby avoiding the necessity for DCS placement. Renewal House also provides a range of out-patient and support services for addicted and recovering mothers and their children.

[493] While Department policies and staff training are consistent with these recommendations, the Department recognizes that ongoing work is needed to ensure that all relatives have a clear understanding of the support options available to them. TAC monitoring staff's zero contact review did not identify kinship resource homes as more likely to be inadequately visited by case managers.

resource parents is a key issue in a region. An experienced Central Office staff person works actively with regions on developing and implementing community outreach to community organizations and churches.

With respect to workforce related recommendations, the 2005 DCS diversity gap analysis reflected diversity throughout the workforce and that continues to be reflected in the DCS annual analysis for the state's Affirmative Action and Title VI plans. With the assistance of external consultants, DCS has engaged in a cultural competency planning process. DCS provides appropriate cultural competency training to its staff.

The Department has substantially implemented the recommendations of the Racial Disparity Report and for those recommendations that contemplate ongoing activities, the Department has demonstrated an appropriate "maintenance of effort."

F. Requirement of Backlog Review (XI.F)

The Settlement Agreement requires the Department to implement a special review of all foster children in custody who entered DCS custody prior to October 1, 1998. For each child, the Department is required to: review the permanency plans, determine the appropriateness of the goal, the barriers to permanency, and services in place to move a child to permanency.

The review is to include interviews and individualized corrective action plans. Special reviews of the children in this "backlog" group are required to occur at least once every three months until permanency is achieved for every child.

The initial backlog group consisted of 2,301 children. As of December 31, 2009, all but eight children had achieved permanency, exited the child welfare system to a "non-permanent" exit, or were otherwise no longer a member of the plaintiff class.[494] Each of these eight remaining children fall within one or more of the groups receiving the regular administrative reviews described in Section Eight of this report.

TAC monitoring staff reviewed the eight remaining children on the backlog list and found:

- One has since been adopted by her resource parents that she has lived with since April 2009.

- One youth (age 18) with significant developmental disabilities and mental health needs has aged out and is receiving post-custody services until a conservator is appointed and the youth is transferred to the Division of Intellectual Disabilities Services (DIDS) to

[494] If a child on the backlog list were to have been subsequently adjudicated delinquent, that child would be removed from the backlog list as a result of that adjudication. The TAC has not been able to determine how many of the children who were originally on the backlog list were removed from that list based on a subsequent adjudication of delinquency.

receive adult supportive services. The youth also has the support of her resource parent who she has lived with off and on since February 2007.

- One youth (age 18) has since aged out and is living with his birth mother who had been found through the FOCUS process after not having any involvement with her son since her rights were terminated in 1997. In addition to the support of his mother, he will receive adult case management and medication management from a community mental health provider.

- One youth (age18) has since aged out and is planning to remain in his resource home to finish high school. It now seems, however, that he will not graduate before his 19th birthday and will therefore be without the support of post-custody services, and possibly transitional living services, as he has been put on their waiting list. Along with the commitment of his resource family, he has the support of his football coach at school.

- One youth (age 17) has been in the same resource home since entering care in 1995, and is expected to age out and receive adult supportive services through the Division of Intellectual Disabilities Services (DIDS), and have continued support from her current resource family.

- One child (age 13) is placed in a resource home with her older sister who has already been adopted by the family. The child has reservations about adoption and is receiving services to prepare her for adoption.

- One child (age 13) is placed in a resource home with a family who has committed to adopting him. Prior to this potential adoptive placement, the child had experienced three adoptive placement disruptions. He has significant mental health needs and exhibits challenging behaviors. An uncle has expressed a willingness to take custody of him if the present pre-adoptive placement is disrupted.

- One youth (age 17) does not have permanency and is expected to age out. The youth has family but the relationship is strained because of his challenging behaviors. The team has discussed post-custody and transitional living with him and he has expressed interest, but there are no concrete plans for his transition to adulthood.

G. Requirement of Process for Reporting and Acting on Children in Special Categories (XI.G)

The Settlement Agreement requires that the Department have a process in place to report on and "immediately take all necessary action on the status of" children in specifically numerated categories.[495]

[495] It is not clear what the parties intended by the words "immediately take all necessary action on the status of" these children. Reports are generally distributed to appropriate Central Office and regional staff, and with respect to some provisions, the Department has established expectations for Central Office and/or regional follow up.

For all of the areas discussed in the subsections below, the Department expects to establish, for each category, a threshold that will trigger a targeted review by PQI. The Department expects regional and Central Office staff to refer concerns related to any of these categories of cases to the State CQI Team for resolution.

1. Children in one or more emergency, temporary or shelter facilities for more than 45 days in the past 12 months

The Department produces a regular monthly report, referred to as the "*Brian A.* Class 12 Month Report of Children in Emergency/Temporary Facilities," identifying children that fall into this particular category. This report is provided to the plaintiffs, the TAC, the PQI Office, and various other Departmental staff in both Central Office and the regions.

There were 16 placements in emergency or temporary facilities lasting more than 45 days between July 1, 2008 and December 31, 2009.

The CQI unit has completed preliminary monitoring of the practice of placing children in emergency or temporary shelters for more than 45 days. The CQI Prep Team, the workgroup to support the state level CQI team (presently led by the interim CQI director), has started and will continue quarterly review of the emergency placement reports for concerning trends. As issues are identified regarding the use of these facilities, they will be addressed in the State CQI Team, the senior level CQI decision making group (which consists of senior Department leadership and regional staff).

2. Foster children who were in jail, detention, or other correctional facilities within the past 12 months

In the September 2007 Monitoring Report, the TAC expressed concerns that while the regions were receiving notification from the Central Office of children held in jails or in detention facilities, there was no process for closing the feedback loop in those cases in which the detention center placement did not fall within a particular exception. The TAC emphasized the importance of ensuring corrective action actually occurs in such cases both with respect to the specific child involved and with respect to preventing similar situations in the future.

As discussed in Section VI.B., the CPPP Executive Director now conducts weekly reviews to identify any class members in detention, follows up immediately with the regions to determine the circumstances of the placement, and brings those cases to the attention of the Utilization Review team for further review and appropriate action. This review process adequately addresses the prior concerns.

3. Children in resource homes that exceed licensed capacity or are not licensed

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The Department "approves" rather than "licenses" resource homes, and the approval process does not involve approving a home for a specific capacity. As discussed in Section Nine of this report, it is not possible to enter a resource home as a placement in TNKids that is not an approved home. This technological check has superseded the QA unit role regarding this provision.

As discussed in Section Six, the Settlement Agreement imposes limitations on the number of children who may be placed in a resource home at one time, allowing: (1) no more than three resource children in that resource home; (2) no more than a total of six children, including the resource family's natural and/or adopted children; and (3) no more than three children under the age of 3 residing in a resource home. The Settlement Agreement allows exceptions for large sibling groups (when no other children are in the home) and, "on an individual basis in the best interests of the child," (with the latter exception "not to exceed more than 10% of all placements made annually in each region,") and requiring that the regional administrator provide detailed reasons justifying the exception.[496]

Because of the limitations on the capacity of TNKids to factor in (and factor out) sibling group placements, the Department has been unable to produce reports that could be readily used to identify homes that exceeded the permissible capacity.[497]

With the implementation of TFACTS, the Department expects to be able to produce reliable aggregate reporting that identifies homes that exceed capacity and use that reporting to ensure appropriate actions are taken with respect to these homes.

Once this reporting is available, the Department expects to conduct quarterly reviews of resource homes over capacity, and to create a corrective action process for regions and providers where frequent capacity overages are found.

4. Children with permanency goal of return home that has remained in effect for more than 22 months

All children in this group are currently the subject of regular, high-level administrative reviews, pursuant to the process described in Section Eight of this report. While these reviews are overseen by Central Office senior leadership rather than the PQI Office, they appear to be more than adequate to serve the purposes of this provision.

As of December 31, 2009, 193 children had a sole or concurrent goal of Reunification for more than 22 months.[498]

5. Children who do not have a permanency plan

[496] See Section Six at page 175 for further discussion regarding resource home placement exceptions.

[497] PAR and Licensing both monitor resource home capacity for private provider placements. Those reviews find a low occurrence of capacity violations. Where capacity is exceeded, PAR or Licensing look for a Placement Exception Request (PER) waiver. It is very rare that a provider has not submitted a waiver request.

[498] Of these children, 30 had a sole goal of Reunification, 116 had concurrent goals of Reunification and Adoption, 45 had concurrent goals of Reunification and Exit to Relatives; and two had concurrent goals of Reunification and Subsidized Permanent Guardianship.

The Department produces a regular weekly report, called the "AFCARS Foster Care Missing Data Report," that identifies children who have no permanency plan documented in TNKids. This report is provided to regional staff who use the report to ensure that the permanency plan information in TNKids is updated for the semi-annual report to the US Department of Health and Human Services on the permanency goals of children in custody.

The Department also includes the numbers of children in each region who do not have a permanency plan documented in TNKids in the monthly "*Brian A.* Class List" that is provided to the TAC, the PQI Office, and various Departmental staff in both Central Office and the regions.

As of December 31, 2009, 325 children did not have a permanency plan documented in TNKids; 312 of these children had been in custody for fewer than 60 days. The Executive Directors of Regional Support monitor these data every month to ensure that permanency plans are developed for these children and entered into TNKids as quickly as possible.

6. Children for whom the permanency goal has not been updated for more than 12 months

The Department produces a regular monthly report, referred to as the "*Brian A.* Permanency Plan Over 12 Months Report," identifying children that fall into this particular category. This report is provided to the TAC, the PQI Office, and various other Departmental staff in both Central Office and the regions. As part of its data cleaning process, the Division of Reporting and Analysis asks regional staff to update the TNKids permanency plan data for children on the list who have current permanency plans that have not been entered into TNKids.

As of January 10, 2010, 50 children had a permanency goal that had not been updated for more than 12 months.

Once data cleanup, as described above, is completed, the Department expects the State CQI Prep Team[499] to review the updated reports on a quarterly basis to ascertain which children do not have current permanency plans entered into TNKids. This team is expected to contact the appropriate regional administrator and regional CQI staff to ensure that corrective action is planned or has been taken. If systemic problems are identified by the State CQI Prep Team, they will be referred to the State CQI Team[500].

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[499] The purpose of the State CQI Prep Team is to be the workgroup to support the State Level CQI Team. This team meets on a monthly basis and has representation from all program areas. A regular responsibility of this team is to review items to be addressed at State CQI to make certain that the items are followed up on prior to the meeting. This group will also be able to resolve issues before they go to State CQI, allowing for more timely decision making and efficient feedback loop, considering this team meets monthly.

[500] The State CQI Team is the senior level CQI decision-making group. This team meets on a quarterly basis and includes the Commissioner, Deputy Commissioners, Executive Directors, and directors from all program and administrative areas. The State CQI Team also includes the regional CQI coordinators. When issues are sent up from the regional offices, or from lower level teams in Central Office, the State CQI team reviews the issues for resolution. This team also reviews data from various reports.

7. Children with a sole permanency planning goal of adoption for more than 12 months and for whom TPR has not been filed

All children in this group are currently the subject of regular, high level administrative reviews, pursuant to the process described in Section Eight of this report. While these reviews are overseen by Central Office senior leadership rather than the PQI Office, they appear to be more than adequate to serve the purposes of this provision.

Of the 918 children in DCS custody for whom Adoption was the sole permanency goal as of December 31, 2009, there were only eight children with a sole goal of Adoption for more than 12 months for whom TPR had not been filed.[501]

TAC monitoring staff reviewed the cases of those eight children to determine the reason TPR had not been filed, and found the following:

- One child (age 5) is placed in a resource home that is expected to be her adoptive home and TPR has recently been filed on both parents. The Child and Family Team is evaluating the financial aspects of the adoption and what is in the best of interest of the child, who has cerebral palsy and significant hearing loss.

- One child (age 9) is placed in a resource home that is expected to adopt the child and his sibling when the termination of parental rights petition is granted at an upcoming hearing.

- Six siblings are placed together in the same pre-adoptive home. The Department recently non-suited the termination of parental right petition because of lack of casework and the goal of Return to Parent was added to the permanency plan. The resource parents, private provider, and therapist are not in agreement with the addition of the Return to Parent goal. The parents do not have contact with the children because the father was indicated for severe abuse. The resource parents were initially willing to adopt the sibling group, but have stated that the children will have to be moved once visits start with the family.

[501] Of the 918 children, TPR had been filed for 830. The remaining 80 children for whom TPR had not been filed had a sole goal of Adoption for 12 months or less.

SECTION TWELVE: SUPERVISION OF CONTRACT AGENCIES

As of December 31, 2009, of the 5,298 *Brian A.* class members in placement, 2,499 (47%) were placed with private providers. The vast majority of these children have been 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. The Settlement Agreement therefore 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. Requirements for Contracting For Private Provider Placements and Services

The Settlement Agreement requires that the Department:

- contract 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;[502] (XII.B) and

- not contract with any agency that has not been licensed by the State to provide placements for children in the plaintiff class. (XII.B)

The Department's *Private Provider Manual* requires that private provider agencies adhere to the applicable mandates set forth in the *Brian A.* Settlement Agreement.[503] All private providers that the Department contracts with for the placement of children in the plaintiff class are licensed either by DCS or by the Tennessee Department of Mental Health and Developmental Disability (DMHDD). For fiscal year 2009-2010 (July1, 2009 through June 30, 2010), the Department has 104 residential contracts with 32 private providers.[504] Many of these private providers may have multiple licenses for separate programs. 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 licenses all 24 private providers that provide foster care services for the Department. There are currently 19 providers and 33 sites or placement locations that contract with DCS (including subcontractors) that have a license from

[502] These state standards are to reflect reasonable professional standards.
[503] *Private Provider Manual* 1.III.
[504] The term "residential contracts" refers to the contracts for placement and accompanying services. For purposes of *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 32 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.

DMHDD. Some of these placement locations are operated by private providers that also have a license from DCS.

The DCS Licensing Unit 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 Unit suspends, revokes, or fails to renew the license of a provider, the Licensing Unit immediately brings this to the attention of the Placement Quality Team System.[505] The Department of Children's Services is currently coordinating with the Licensing Division of DMHDD to develop a Memorandum of Understanding outlining basic protocols for interdepartmental notification and information sharing. Protocols within the Memorandum of Understanding will address the sharing of reports generated from licensing or contract monitoring functions, notifications of changes in licensing status, suspension of admissions, termination of contract, etc. The DCS Licensing Unit coordinates internally with the DCS Contracts Development Division 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. Additionally, licensure verification will be accessible for all contract and subcontracted private providers, including those licensed by DMHDD, under the new TFACTS information system. This information will be updated and maintained by the DCS Licensing Unit.

B. Requirements Related to Monitoring of Contract Agency Placements

1. Performance Based Contracting

The Settlement Agreement requires that DCS contract for placements and services with provider agencies "pursuant to annual performance-based contracts issued by DCS."[506] (XII.A)

The Department, with ongoing assistance from the Chapin Hall Center for Children, has implemented Performance Based Contracting (PBC). Chapin Hall provides and analyzes data concerning the performance of all DCS regions. In addition, Chapin Hall reviews TNKids data on each private provider that has served 30 or more children within a two-year period. For PBC, private providers are measured on performance related to three main standards: reduction in amount of care days, increase in the amount of permanent exits, and reduction in reentries. The goal for private providers is to reduce care days and increase permanent exits by 10%, relative to their baseline for a fiscal year, while keeping reentry rates stable.

The Department has implemented Performance Based Contracting with its private providers in phases. In Phase I of the PBC process, the Department began using Performance Based Contracts with five private providers beginning at the start of fiscal year 2006-2007. At the time that Phase I began, these five providers served approximately 40% of class members served by a

[505] See Subsection B.2.b below for a description of the Placement Quality Team System.
[506] The Settlement Agreement required that such performance based contracts be developed by DCS within 90 days after the approval of this Settlement Agreement and entered into in the next contracting cycle (i.e. the contracting year beginning July 1, 2002).

private provider.[507] The Department repeated the process for Phase II of the PBC initiative with six additional private providers beginning July 1, 2007. At the time Phase II began, the 11 PBC providers served approximately 54% of class members served by a private provider. Beginning July 1, 2008, nine additional private providers entered into PBC for Phase III.[508] At the time Phase III began, the twenty PBC providers served approximately 79% of class members served by a private provider.

The first year of each Phase was a "no-risk period" for the new providers entering PBC, during which data on each of the private provider's outcomes was gathered and analyzed. Private providers that met or exceeded targets earned reinvestment dollars; those that failed to meet targets were informed about the size of the penalty they would have incurred at this level of performance after full implementation of PBC. Providers were not charged penalties until their second year in PBC, or after the completion of their pilot year. For the 2008-2009 fiscal year, all five of the Phase I providers earned reinvestment dollars. Of the Phase II providers, two of six providers were assessed penalties totaling $229,195. Four of the Phase III providers did not meet their targets; however, they were not assessed penalties during this "no risk" period. Had the penalties been assessed, the dollar amounts would have totaled $280,942.

Beginning in July 2009, all private providers that contract with the Department for placements do so through a performance based contract. Thirteen additional private providers entered into PBC at this time. As of March 2010, there are 32 private providers that have residential contracts, as well as eight providers that serve as subcontractors to one or more primary contractors. Chapin Hall is currently analyzing the data for the 2009-2010 fiscal year, and individual meetings will be held with the private providers in 2011 to determine reinvestment dollars earned and penalties incurred.

2. Inspections and Monitoring of Contract Agency Placements

The Settlement Agreement requires that:

- all contract agencies providing placements for children in the plaintiff class be inspected annually by DCS Licensing Unit staff in an unannounced visit; (XII.C)

- DCS determine in a written report whether the agency complies with state licensing standards; (XII.C) 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. (XII.C)

[507] According to the *Brian A.* Class List for June 30, 2006, there were 7,338 class members, 2,541 (35%) of which were served by a private provider. Of those 2,541, 1,012 (40%) were served by one of the five Phase I private providers.
[508] One of the nine providers joining PBC in Phase III is actually a collaborative of three smaller private providers.

The Settlement Agreement also requires that DCS expand the staff of its Licensing Unit to allow for increased monitoring and oversight responsibilities of contract private providers.

a. PAR and Licensing Unit Reviews

The Department annually conducts at least one unannounced visit to all programs licensed by DCS.[509] These unannounced visits are in addition to annual scheduled, or announced, visits conducted by the Licensing Unit. The Program Accountability Review (PAR) Unit also conducts inspections of private providers.[510] 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 visit is documented in a written report that is posted on the Department's Integrated Monitoring shared computer drive and provided to the private provider, the Director of Child Placement and Private Providers, the Division of Evaluation and Monitoring, the TAC Monitoring Office, the appropriate regional administrators, identified DCS program stakeholders, and subject matter experts.

In the case of programs used by DCS but licensed by the Department of Mental Health and Developmental Disabilities (DMHDD), annual licensing visits are conducted by DMHDD. DMHDD is required by TCA 33-2-413 "to make at least one unannounced…inspection of each licensed service or facility yearly." DMHDD coordinates with the Department regarding the providers that it licenses, through reports and correspondence. During calendar year 2009, the Division of Evaluation and Monitoring conducted unannounced visits to DMHDD licensed sites. Contingent on adoption of the aforementioned Memorandum of Understanding and consistent receipt of reports and other relevant information from DMHDD, the Department is now inclined to rely on the unannounced visits conducted by DMHDD.

While the DCS Licensing Unit has 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. In previous monitoring reports, the TAC expressed concerns that the allocation of different, but often overlapping, responsibilities was confusing and inefficient, and that the lack of coordination and communication between the various units created a risk of delayed recognition of and/or response to problematic private provider practices.

Considerable progress has been made in coordination and integration of the various oversight efforts. The Department has fully consolidated monitoring and oversight functions into the Office of Performance and Quality Improvement (PQI). The Division of Evaluation and Monitoring, within the Office of PQI, now includes both the DCS Licensing Unit and the unit that conducts Program Accountability Reviews (PAR), both of which result in the issuance of reports on each private provider by PQI. Those reports, as well as other information and documentation specific to each provider, are available on a shared computer drive, accessible to

[509] The Department of Children's Services is required by Tennessee Code Annotated TCA 37-5-513 to conduct inspections "at regular intervals, without previous notice."

[510] While the policy dictating PAR review requirements mandates reviews once every three years, PAR conducts a review on many of its private providers annually and all within the three year cycle.

any staff member with any oversight or related programmatic responsibility. Additionally, in an effort to reduce redundancy in monitoring, for DCS licensed sites contracting with DCS, the DCS Licensing Unit recently has taken on monitoring for compliance with Planning, Policy, and Performance Management (PPPM) requirements in the area of personnel, in addition to reviewing compliance with state licensing regulations.

The Department continues to deploy multi-disciplinary site visit teams that have included DCS Licensing Unit staff and PAR staff, and others with special expertise relevant to the facility under review, in an effort to improve the quality of the reviews of providers about which the Department had concerns, and in order to ensure better communication with respect to any issues identified and responses required to address those issues.

Finally, the Placement Quality Team reviews, discussed below, bring together representatives of the various units with responsibility for some aspect of private provider oversight to discuss specific issues of concern related to private provider placements.

b. Placement Quality Team Reviews

The Department has implemented and continues to refine and improve the Placement Quality Team System (PQTS), a system for reviewing and responding to complaints or concerns raised about particular private providers or particular placements. Responsibility for reviewing and responding to these complaints and concerns falls to teams that are designated Green Zone, Yellow Zone, and Red Zone, based on the severity of the complaints or concerns.

The Red PQT consists of the Commissioner and her senior leadership. The Red PQT has the ultimate decision-making responsibility for imposing the most severe sanctions—freezing admission, removing children from a residential placement, or ceasing to contract with an agency. The Red Team generally reviews cases brought to its attention by the Yellow PQT, based on the Yellow Team's determination that the concerns are sufficiently serious to warrant such a drastic response.

The Yellow PQT, which meets on an as-needed basis, consists of representatives from each of the divisions and units that have special responsibilities for private provider oversight: the Division of Evaluation and Monitoring, the Licensing Unit, the PAR unit, the Child Placement and Private Providers (CPPP) Unit (which has the responsibility of developing and managing the inventory of private provider agency placements and services), the Director of Medical and Behavioral Health and others with appropriate expertise and relevant responsibilities. The purpose of these meetings is to share concerns that have come to the attention of any of the team members, either in the course of the oversight activities of their unit or division, or through referrals from complaints about a particular private provider by others (e.g., family members, resource parents, members of the general public) made to regional or Central Office staff and routed to the PQT for review and response.[511] This process applies to both private providers as a whole and specific group or congregate care facilities.

[511] A referral form is available on the DCS website, which can be used by any DCS staff to refer private providers to the PQT.

In general, the providers about which concerns have been raised will be identified in advance of the Yellow PQT meeting and representatives from the Performance Management Unit in the Office of Performance and Quality Improvement will then prepare and distribute a summary of available information about the particular provider. This summary generally includes the following information: the presenting concerns; current DCS contracts; number and types of clients served; history with PQT or corrective action; Special Investigations or CPS investigations; Incident Reports; Licensing and PAR visits and reports; as well as other information, if relevant (such as fiscal information).

The Yellow PQT reviews the information and concerns presented and decides what, if any, further action is appropriate. When there are concerns, actions typically taken include: sending out a team to do an unannounced site visit and gather further information; requiring the private provider to develop and implement a corrective action plan to address concerns; holding a face-to-face meeting with the provider management staff; and/or setting up technical assistance for the provider. If the Yellow PQT determines that a freeze on admission, removal of children from a facility, and/or termination of the contract with the provider is appropriate, the team refers the case to the Red PQT.

During calendar year 2009, the Yellow PQT monitored 23 private providers about which concerns had been raised, and conducted 16 on-site visits or inspections. Twelve providers came into Central Office to meet with the Department as a result of PQT involvement. Thirteen corrective action plans were requested. Eleven private providers had their admissions suspended; and two providers were permanently closed to DCS youth.

There are currently two Green level PQTs. One team, the Resource Home Green Team, meets weekly and reviews private provider or DCS resource homes which were the subject of SIU investigations that were either "indicated" for abuse or neglect or closed without a finding of abuse or neglect but "with concerns" noted by the investigator.[512] The second Green PQT is a team that reviews corrective action plans that private providers submit in response to findings from PAR reviews and/or PQT intervention.[513] The Green Teams have the ability to feed information or referrals to the Yellow PQT when the teams recognize that the concern needs the level of oversight and intervention that is available from the Yellow Team.

The Department is continuing to develop and refine the PQT process. The Department is generally satisfied with the way in which the 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.[514] The Department has developed an approach to situations in which,

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[512] See Subsection C below for further discussion of this Green PQT. Work also remains to ensure that all follow-up for action steps developed in the GPQT are completed, including proper closure of resource homes in TNKids with narratives describing concerns. CPPP and Foster Care and Adoption have been tracking action steps from the meeting, and the effectiveness of these tracking systems appears to be improving over time. A process will need to be developed either within SIU, PQI, or both for reviewing the data and analyzing trends, including the identification of multiple investigations involving the same alleged perpetrator/same child.

[513] The Department is considering convening a third Green PQT that will focus on tracking data and information related to private providers to identify trends, including SIU closures and other data related to congregate care facilities.

[514] The TAC has noted considerable improvement in this area over the past two years.

for example, regional staff have more generalized concerns about the quality of a resource home or facility or the way children are being treated in the facility, but there is no specific Incident Report, SIU Investigation, or PAR or Licensing Review finding that is the source of the concern. The Department recognizes that continued training and technical assistance is required to educate all regional staff about their responsibility for monitoring private provider performance.

c. Revision of Monitoring Instruments

The Division of Evaluation and Monitoring (E&M) has revised the various monitoring forms and protocols to heighten the focus on monitoring of quality, in addition to the more quantitative and procedural requirements of the *Private Provider Manual*.[515] In recognition of the fact that many different aspects of private provider performance have historically been measured, often by different units, PAR and Licensing continue to work with other DCS units both to create greater uniformity in gathering and reporting of information and to reduce redundancy. The Division is beginning to work with the regions to educate front-line staff regarding the case manager's "monitoring roles" when visiting private providers.

d. Provider Scorecard

The Department is developing a Provider Scorecard (PSC). The purpose of the Scorecard 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. The Department sees the Provider Scorecard as an evolving process, which for the first few years will be used primarily to help private providers improve performance, and later be used to inform future contracting decisions.

Currently, the Department conveys messages about private provider performance in a variety of ways. Licensing reviews are focused on the applicable licensing standards (including the physical plant, basic health and safety, and personnel requirements). The Program Accountability Review (PAR) process, relying on-site visits to private providers and reviews of samples of both private provider personnel files and private provider child case files, reports primarily on the extent to which the files document compliance with the *Private Provider Manual* requirements related to personnel qualifications and training, and case management responsibilities. Through Performance Based Contracting, the Department provides private providers with aggregate data on their success achieving permanency for children in a timely manner (and information about how they are performing relative to their past performance). With the recently developed capacity of TNKids to provide some private provider specific aggregate reporting, other important information about provider performance, for example the private provider's success in ensuring regular case manager contacts with children and families and promoting parent-child and sibling visits, may be communicated in still other ways.

[515] PAR and Licensing reports have been restructured to be more conducive to aggregation of data and to frame findings in terms of potential effects on the safety, permanency and well-being of children. PAR also hopes to develop mechanisms that emphasize distinguishing findings reflecting systemic problems from those reflecting an isolated departure from generally acceptable practice.

Investigations of reports of abuse and neglect of children while in placement (SIU reports) and monitoring of the Incidents Reports (IR), which providers are required to file for certain types of incidents, also provide vehicles for communication with private providers about their performance. For those private providers that come to the attention of the Provider Quality Team System (PQTS), whether as a result of a PAR or Licensing review concern, SIU investigation, or IR monitoring, the Department communicates through requirements for corrective action plans and a range of available sanctions.

In 2008, the Department developed a preliminary Provider Scorecard (PSC) design and shared the result with a pilot group of private providers. After receiving feedback from the TAC, and with the work of a workgroup consisting of DCS and provider staff, the Department has developed a revised version of the Scorecard. This version, comprised of twenty indicators within the domains of safety, permanency, and well-being, incorporates the various measurements described in the preceding paragraphs into a single tool that helps the Department in judging and communicating with providers, and can serve as a tool to help providers implement internal improvements. The Scorecard allows private providers to see how their performance compares to that of other providers serving similar populations.

The current Provider Scorecard, in its initial year, will measure a group of programs serving Level III and Level IV clients, comparing them to each other. The Department anticipates releasing this Provider Scorecard in the fall of 2010, measuring fiscal year 2009-2010 performance (July 1, 2009 through June 30, 2010). For fiscal year 2010-2011, the Department intends to monitor, for scorecard measures, programs serving Level II clients and issue a scorecard for those providers in the fall of 2011. The remaining programs (primary treatment centers and any remaining foster care programs) would be measured during fiscal year 2011-2012 and issued a scorecard in the fall of 2012. This roll-out plan should result in all private providers being provided with a scorecard by the fall of 2012. The Department also plans to gather and share many of the quantitative measures in the scorecard for the other providers, not being provided a scorecard that year.

C. Abuse or Neglect of Children While Placed With Contract Agencies

The Settlement Agreement (XII.D) requires that:

- alleged abuse or neglect of children placed with a contract agency be reported by the agency to the DCS Child Protective Services Unit in the county in which the facility is located;
- alleged abuse or neglect concerning children placed with any contract agency be reported to the Central Office Resource Management Unit and the Quality Assurance Unit;
- DCS incorporate these reports, and their findings, into the annual review of each contract agency; and
- DCS evaluate carefully those reports and consider prior corrective actions and the history of the agency and determine if there are serious problems that place children at serious risk of harm and prevent further contracts from being issued.

The Department has initiated a centralized intake process for receiving reports of alleged abuse and neglect. All calls, including those made to the regional Child Protective Services (CPS) office, are funneled through Central Intake, which ensures that the calls are answered and assigned for response. As discussed in Section Three, cases involving allegations of abuse and neglect of a child while in a foster care placement are investigated by either the Special Investigations Unit (SIU) or CPS, depending upon the relationship of the alleged perpetrator to the child.[516]

Allegations that a child has been abused or neglected while that child is in a private provider placement should also be reported by the private provider as an Incident Report (IR). (See Section One at page 66 for data related to Incident Reports.) These reports are now sent to DCS electronically through a web-based application, and notice of the report is emailed to key contacts within the various DCS units with responsibility for investigating the incident, reporting the incident, responding to the incident, and/or using the information generated to establish corrective action plans or other appropriate actions.[517] This information should be available to inform the Department's monitoring of private providers under review (as discussed above regarding PQT) and should be included in PAR reviews.[518]

As discussed above, a central focus of the PQT process is the review of all cases in which an SIU investigation has resulted either in a finding of abuse or neglect of a child in a resource home or a closing of the investigation without such a finding, but "with concerns" noted by the investigator, to ensure that that information is shared within the Department and appropriate action taken. The Department has implemented specific protocols for addressing allegations of abuse and neglect of children by resource parents of a private provider. SIU investigations of allegations of abuse or neglect involving resource parents of a private provider are tracked through the Child Placement and Private Providers Unit (CPPP). SIU notifies the designated director within CPPP of all investigations. When an investigation is initiated, the home is frozen in TNKids and no children should be placed there during that time.[519] If the allegation is "indicated" for abuse or neglect, or closed "with concerns" by the investigator, CPPP brings the case to the Green Team and the team discusses the case. If the case is indicated for abuse, the private provider will usually choose to close the home and the Green PQT will not need to take

[516] 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. CPS investigates all other reports of abuse or neglect of children while in DCS custody including those in which the alleged perpetrator is a member of the child's birth family or a family friend.

[517] Some IRs are faxed to the Department rather than entered by the private provider for a variety of reasons. These faxed IRs are entered into the electronic system by staff within DCS for tracking purposes.

[518] The integrity of the IR review process depends on the filing of IRs by the appropriate person when incidents occur. PAR staff, as part of their oversight process, look for information in case files and from other sources to identify situations in which IRs should have been filed. They then check to make sure that IRs have been submitted related to those situations. The Department also reviews aggregate IR data related to each private provider and to providers serving similar populations in similar settings to look for any anomalies in IR reporting.

[519] Freezing, or suspending admissions, to a home in TNKids does not prohibit placement in the home. A user can technically still make a placement in the home and enter it into TNKids by acknowledging through a window that pops up that the user is aware that the home is under suspended admissions status. Nevertheless, the expectation is that no one would make a placement into a home if TNKids shows the home is on suspended admissions.

action, other than verifying that the home is closed in TNKids and the investigation or allegation is documented so that this information is available, should the person whose home was closed ever apply to be a resource parent in the future.[520]

If the case is not indicated for abuse or neglect, but the investigator identifies some concerns that need to be addressed, the private provider may be required to implement a corrective action plan and keep the home on freeze until a corrective action plan that satisfies CPPP and the Green PQT is completed, and evidence is provided to CPPP. CPPP also tracks the number of SIU investigations that are either indicated or closed with concerns, and monitors for systemic issues or patterns that may cause a private provider to need to be reviewed by the Yellow PQT. If the Green PQT notes that three SIU investigations are either closed unfounded with concerns or are indicated on the same resource home or same child/youth, the trend should be reported to the Director of PQTS for consideration about whether it should be referred to the Yellow Team. For indicated or concerning SIUs involving congregate care facilities (a much lower number than for resource homes), the Director of PQTS reviews and routes them for appropriate follow-up.

As discussed in Section Three, the PQI Office previously assumed responsibility for reviewing all of the SIU investigation case closures and issued periodic reports on the quality of those investigations. The Director of SIU has been replaced, and the Department is confident that under the new leadership, concerns raised in these reports will be addressed, and SIU will be better able to track SIU investigations and identify patterns. It is not clear at this time what will take place for external reviews going forward. The combination of these case closure reviews and the PQT reviews increases the likelihood that patterns of abuse and neglect related to specific resource homes or congregate care facilities will be identified. However, the Department is hampered by the fact that it does not have reports to enable tracking and reporting of SIU investigations and findings. The Department is working on refining processes that would help ensure that information is readily available to promptly identify private providers that need heightened scrutiny because of the volume and/or nature of the incidents subject to SIU investigation, and sharing of information between various PQTs and SIU.

[520] If the case is indicated, a CPS search would also identify the person as an indicated perpetrator and prohibit him or her from becoming a resource parent.

SECTION THIRTEEN: FINANCIAL DEVELOPMENT

The Settlement Agreement requires that the Department:

- develop and implement policies and procedures for maximization of federal funds; (XIII.A)

- establish a mechanism acceptable to the Monitor for reporting the budgeting of both federal and state dollars and ensure that federal funds supplement rather than supplant state dollars; (XIII.B) and

- maintain a financial record keeping system that ensures that resource parents are not paid for children who are no longer in their homes, that any instances of overpayment are identified and the Department reimbursed, and that there is an adequate system relating to cash receipting procedures. (XIII.C)

A. Maximization of Federal Funding

At the time of the January 2006 Monitoring Report, the Department had submitted to the TAC a Fiscal Program Implementation Plan outlining its approach to resource development and management. Significant progress had been made at that time toward maximizing Title IV-E funding. A review of Department practices completed in June 2005 by a highly qualified external consultant found that Tennessee's current federal claiming structure is "fundamentally sound." The Department identified some areas for improved claiming and was pursuing revenue maximization strategies consistent with the consultant's recommendations.

In the September 2007 Monitoring Report, the TAC highlighted a number of areas of DCS focus that reflected the Department's thoughtful and appropriate development and implementation of strategies for maximizing federal funds. These included:

- improving education of and instructions for field staff regarding determining initial and continued eligibility;

- improving communication between program staff and fiscal staff;

- implementing policy changes that ensure that the optimal claiming approach is taken for children with concurrent eligibility for both SSI and Title IV-E;

- increasing the time period that children on runaway remain on TennCare from 10 days to 90 days; and

- creating the Resource Home Eligibility Team (RHET) in the Child Placement and Private Providers unit (CPPP) to monitor private provider resource homes to ensure that they are meeting Federal eligibility requirements.

Over the past two years, the Department has continued to approach revenue maximization in a conscientious and responsible manner. The Financial Planning and Reporting Unit of the Department's Office of Finance and Program Support leads quarterly, regional fiscal review meetings focused on maximizing child eligibility for IV-E funding and Targeted Case Management.[521]

B. Overall Increase in Funding for DCS

The Department has faced, and continues to face, significant challenges created by shortfalls in state revenues, which has required all state agencies to undergo budget cutbacks. The Department has worked closely with the Governor's office, 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 two budget cycles to avoid the kinds of budget cuts that would significantly undermine the progress that the Department has made. There is some concern that significant cuts in the budgets of other state departments and local agencies that have been the Department's partners in serving families and children may create additional challenges for the Department in carrying out its mission.

Nevertheless, notwithstanding the current funding challenges, consistent with the expressed intent of the Settlement Agreement, the Department has succeeded over the past eight years 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 Settlement Agreement, and has been thoughtful and responsible in achieving the budget adjustments necessitated by the significant state revenue shortfall.

C. Improved Financial Record Keeping

With respect to the specific concern of the Settlement Agreement with overpayments, it appears that the Department has adequately addressed prior problems with overpayment of resource parents and adoptive parents. The Comptroller's Audit for fiscal year 2008-2009 contained minor audit exceptions related to these areas, reflecting the significant work that the Department has done in improving its IV-E documentation and review process.[522] The Department

[521]These meetings also review utilization of overtime and flex funds. A regional report card is currently being developed that will serve as a tool for fiscal review meetings in measuring financial performance.

[522] Of the 60 adoption assistance cases audited, involving a total of $243,503 in payments, the audit process identified $5,053 in federal reimbursement that, upon further review, had been improperly claimed and was therefore refunded to the federal government. Of the 65 foster care cases audited, involving a total of $266,745, the

anticipates that the integration of placement information and payment information that is built into the TFACTS system will provide additional safeguards against overpayments.

As also noted in previous monitoring reports, the Department appears to have adequate cash receipting procedures and systems. This has not been an audit issue in recent years.

The implementation of Edison in October 2009 has provided opportunities to improve payment processes and financial reporting, and the implementation of TFACTS will provide further opportunities to improve procurement practices and enhance financial reporting.

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audit process identified $877 in federal reimbursement that, upon further review, had been improperly claimed and was therefore refunded to the federal government. The Department took appropriate corrective actions in response to the audit findings and recommendations, including clarifying for DCS staff eligibility and documentation requirements that may have not been well understood.