

# Co-Neutral Commentary One

Issued October 2013

## Compromise and Settlement Agreement

(D.G. vs. Yarborough, Case No. 08-CV-074)

## I. Introduction

On January 4, 2012, the state of Oklahoma, its Department of Human Services (DHS) and Children's Rights, a national advocacy organization, reached an agreement in a long-standing federal class action lawsuit against the state on behalf of children in the child welfare custody of DHS. That matter, *D.G. vs. Yarborough*, Case No. 08-CV-074, resulted in a Compromise and Settlement Agreement (CSA), which was approved by the United States District Court for the Northern District of Oklahoma on February 29, 2012. Under the CSA, the parties identified and the court approved Eileen Crummy, Kathleen Noonan and Kevin Ryan as "Co-Neutrals," and charged them to evaluate and judge the ongoing performance of DHS to strengthen its child welfare system to better meet the needs of vulnerable children, youth and families.

The CSA gave DHS an opportunity to develop and present for the Co-Neutrals' approval a comprehensive reform plan. DHS, with the assistance of state leaders, advocates and other stakeholders, developed the Pinnacle Plan, a five-year roadmap of significant commitments beginning in State Fiscal Year (SFY) 2013, also referred to as Year One. The Plan was approved by the Co-Neutrals on July 25, 2012. Further, the CSA charged DHS with identifying baselines and target outcomes to measure and report the state's progress in core performance areas – henceforth referred to as the "seven performance categories" -- which are:

- Maltreatment (abuse and neglect) of children in the state's legal custody;
- Development of foster homes and therapeutic treatment foster homes (TFCs);
- Regular and consistent visitation of caseworkers with children in the state's legal custody;
- Reduction in the number of children in shelters;
- Placement stability, reducing the number of moves a child experiences while in the state's legal custody;
- Child permanency, primarily through reunification, adoption or permanent guardianship; and,
- Manageable caseloads for child welfare staff.

After review and modification, and as required by the CSA, the Co-Neutrals established the metrics, benchmarks and targets (the "Metrics Plan") on March 7, 2013. In July 2013, DHS issued its first monthly progress report based on the established Metrics Plan. In response to DHS' first report, the CSA requires the Co-Neutrals to provide comments and issue a finding, "stating whether or not the [DHS' first] report provides sufficient information to measure accurately the Department's progress[.]"

Following this initial commentary, the Co-Neutrals are required to provide commentary twice annually regarding DHS' overall progress and whether the state is making "good faith efforts to achieve substantial and sustained progress toward each Target Outcome" within the seven performance categories. As reported to DHS and Plaintiffs in a joint meeting with the parties in August 2013, the Co-Neutrals interpret "good faith" to mean not simply the subjective intention of the state (its leaders and staff) but also a conclusion that is drawn based on an objective analysis of the activities undertaken by the state to accomplish a target or goal. In other words, the Co-Neutrals will judge good faith from the activities and decisions of the state, and not just its intention to do better or improve.

As contemplated by the CSA and re-affirmed in the same meeting with the parties in August 2013, the Co-Neutrals will not draw any conclusions with regard to DHS' good faith efforts until their next report to be released in the first half of 2014.

### **Performance Metrics and Reporting Schedule**

For each of the seven performance categories, the Metrics Plan establishes: the methodology for the performance metrics and measuring progress; parameters for setting baselines, interim and final performance targets and outcomes; and the frequency by which DHS must report data and information to the Co-Neutrals and the public.

The Co-Neutrals recognize that reporting on such a broad range of metrics can be challenging and requires multiple levels of verification by DHS before accurate data can be submitted to the Co-Neutrals. This is true not only for reporting progress but also for establishing baselines of current performance and setting target outcomes. Given this, the Co-Neutrals and DHS have been using an iterative process to establish baselines and targets. This is an ongoing process for some metrics due to DHS' need to further refine and ensure accuracy and consistency in its data collection and reporting. In other areas, changes in policy and practice under the Pinnacle Plan will also shift the state's performance and consequently the parameters for setting baselines and measuring progress in the future.

The Metrics Plan includes the full schedule by when DHS agreed to submit data to the Co-Neutrals in order to set remaining baselines and targets.

With respect to the frequency of DHS' progress and data reports, DHS will issue standardized monthly, quarterly and semi-annual reports for the seven performance categories.

### DHS Standardized Reporting<sup>1</sup>

Monthly	Quarterly	Semi-Annually
Maltreatment in Care (MIC)  Foster Homes & TFCs  Caseworker Visitation  Shelters	Caseloads	Placement Stability  Permanency
<b>1<sup>st</sup> Report Issued</b> July 2013	<b>1<sup>st</sup> Report Issued</b> October 2013	<b>1<sup>st</sup> Report Issued<sup>2</sup></b> January 2014

DHS' first monthly report, issued in July 2013, includes data for four of the performance areas for June 2013: newly developed foster homes and therapeutic foster care homes (TFC), caseworker visits, shelter usage, and child maltreatment in care (MIC).<sup>3</sup> This commentary reports on the sufficiency of data for these performance areas only.

As summarized in the table above and established by the Metrics Plan, DHS will begin reporting on the other three performance areas in the coming months (between October 2013 and January 2014). The Co-Neutrals will comment on the adequacy of DHS' data for these additional performance areas (caseloads, placement stability and permanency) in their next report.

The remainder of this report includes:

- Findings on Adequacy of Data to Assess Progress (Section II); and
- Summary of Progress and Challenges for DHS (Section III).

<sup>1</sup> In its semi-annual data reports, DHS will include the standard monthly and quarterly data, and provide aggregated, semi-annual data with deeper, trend-line, and cross-metric analysis.

<sup>2</sup> In its first report only on placement stability and permanency issued in January 2014, DHS will provide a quarterly report of data from July-September 2013 on these and all other metrics. All future semi-annual reports on placement stability and permanency, as well as the aggregated six-months data for the other five performance categories, will align with the federal six-month reporting periods of October - March and April – September.

<sup>3</sup> There is a 90 day lag in the MIC data DHS reports to allow for the standard program review that occurs after a final determination is made in the investigation of a referral of abuse/neglect.

## **II. Adequacy of Data to Assess Progress**

In this section of the commentary, the Co-Neutrals discuss the sufficiency of data reported in DHS' first monthly data report for four performance categories. For each category, we also provide, as needed, context of ongoing data and practice issues.

### **A. Foster Care and Therapeutic Foster Care Homes**

#### ***Year One (SFY13) Baselines, Targets and New Foster Homes Developed***

The Co-Neutrals have done extensive analysis and verification of the foster homes approved by and available to DHS. In 2012, DHS submitted data to the Co-Neutrals indicating the number of resource<sup>4</sup> homes approved during SFY11.<sup>5</sup> Based on DHS' initial data submission, the Co-Neutrals accepted 1,543 as the SFY11 baseline representing the number of new resource homes (non-therapeutic) approved by DHS in that year. The Co-Neutrals thereafter undertook initial verification work on the baseline data submission. This review revealed that DHS and the Co-Neutrals used substantively different definitions of new resource homes. As a result, the Co-Neutrals requested that DHS analyze, verify and resubmit the details related to the baseline data. The Co-Neutrals also requested that DHS clarify how many homes in the baseline were adoptive versus foster homes.

DHS' resubmission reduced the number of newly approved homes (non-therapeutic) in SFY2011 to 1,398. The Co-Neutrals reviewed the resubmission and found numerous duplications, as well as homes that had previously been approved as a foster home being re-counted as an adoptive home. This further reduced the baseline to 1,169. Of the baseline number of new homes, 738 were adoptive and 431 were foster (non-therapeutic) homes. With the reduced baseline and through additional analysis and verification work, the SFY13 target was established as 1,669 new homes. Within this target, 781 were to be newly approved foster homes and 888 newly approved adoptive homes not already opened as a foster or therapeutic home.<sup>6</sup>

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<sup>4</sup> DHS included in their baselines and targets data for "resource homes" which the state defined to include both adoptive and foster homes. The CSA only refers to the development of foster homes. The Co-Neutrals' targets for new homes in Year Two define these homes as only foster homes, emergency foster homes, contracted foster care homes, supported foster homes, and shelter host homes with a separate target set for TFCs.

<sup>5</sup> DHS used SFY11 data to set the baseline for new homes for SFY13 and did not use SFY12 data for the baseline because the target was set while SFY12 was still in progress.

<sup>6</sup> The SFY13 target and SFY11 baseline numbers include foster homes, emergency foster homes, contracted foster care homes, supported foster homes, and shelter host homes, along with newly approved unique adoptive homes. The Co-Neutrals approved these criteria for SFY13 only.

DHS then agreed to work with the Co-Neutrals: to establish new criteria for counting foster homes (non-therapeutic) and therapeutic foster homes (TFC) (see attachment); to refine its data, based on the new criteria, to eliminate duplicates and other elements that skewed an accurate count of newly developed homes; and, by May 30, 2013 to submit new, accurate data of existing foster homes and propose a target for new foster home development for Year Two of the Pinnacle Plan (July 1, 2013 – June 30, 2014).

DHS submitted to the Co-Neutrals two foster home data sets related to: 1) all homes newly developed during Year One (SFY13); and 2) the total number of open foster homes on June 30, 2013, data that would be used to establish a baseline for Year Two (SFY14) targets. DHS reported that during SFY13, the state approved 796 new foster homes using the agreed upon criteria, thereby exceeding the modified target of 781 new foster homes for Year One of the Pinnacle Plan.

However, even in these data sets, the Co-Neutrals found that data inaccuracies remained, including 53 foster homes that had duplicate entries in the June 30, 2013 data. Additionally, among the 1,744 homes DHS reported as open on June 30, 2013, 456 homes (26 percent) had no children placed with them. Recognizing that some foster homes will not have children placed for short periods of time, the Co-Neutrals looked at homes without any children for more than three months. The Co-Neutrals found 171 of the 456 foster homes (38 percent) fell into this category, including 28 homes with no placements for over a year, raising serious questions about DHS' foster home practices, which of course affect the accuracy of its data. It also raises questions about DHS' process for closing homes that are no longer accepting child placements so that the state has an accurate picture of its available homes.

### ***July 2013 Monthly Report of New Foster Homes Developed***

In July 2013, DHS issued its first standardized monthly report for foster homes (non-therapeutic) and TFCs, presenting the total number of new homes developed and licensed during the month of June 2013. DHS reported that it approved 65 new foster homes in June 2013, the last month of SFY13.

The Co-Neutrals conducted file reviews of the 65 new foster homes approved in June 2013 to verify both the monthly data and the total new homes reported (796) for SFY13. The Co-Neutrals also reviewed the files of 74 additional homes reported newly approved in SFY13.

In the review of the 65 new foster homes reported for June 2013, the Co-Neutral team found that one home was counted twice, being listed under two resource IDs as a contracted foster home and an emergency foster care (EFC) home. The Co-Neutral team reviewed all 64 of the remaining unique homes, examining each home's record in DHS' data system (KIDS) and the

paper files for all homes developed in Oklahoma and Tulsa counties. This review, as well as discussions with field staff and supervisors, revealed that DHS has focused a significant amount of its recruitment efforts on encouraging kinship homes in their system to become traditional foster homes and accept non-kinship children.

Twenty-one of the 64 homes involved relatives who were also approved as traditional homes. Some of the homes that DHS converted from kinship to traditional, or which became “joint approved,” appear to be stable resources for non-kinship children who have been placed in their care. However, the Co-Neutrals found various cases throughout their files reviews that raised questions about the process and practice used to establish kinship homes as traditional foster homes, including homes that were approved to accept non-kinship homes but the records indicate the family was only interested in caring for kinship children.

Other kinship families did not appear to be fully prepared to take on the responsibility of providing foster care for non-kinship children, with some asking that children placed in their care be moved within short periods and subsequently requesting that their homes be closed. The Co-Neutrals also confirmed through discussions in the field that some kinship homes were asked to take non-kinship children on an emergency basis, with no prior approval as a traditional home. Kinship homes in these cases were established as traditional foster homes and given new resource identification numbers on the day non-kinship children were placed in their homes. One other home appears to have only been approved as a kinship home, with approval as a traditional home still pending at the time of the file review in September 2013, months after DHS reported it as approved in June 2013 for non-kinship placements.

The criteria established for newly developed foster homes includes a provision that a kinship home can be “converted” to a new regular foster home after a reassessment of the family’s willingness and capacity to parent non-kin children has been completed. DHS agreed that the conversion process would be planful and intentional. However, the Co-Neutrals are concerned that the criteria and process for converting kinship families is not being implemented as intended.

The Co-Neutrals have presented their concerns to DHS leadership about their process for jointly approving or converting kinship homes to traditional homes and requested that DHS propose a protocol for the conversion process for the Co-Neutrals’ review and approval. DHS has since developed and the Co-Neutrals approved new protocols designed to support and guide staff in assessing a kinship family’s readiness and capacity to provide care for non-kinship children before converting the kinship home to a traditional foster home.

### ***Therapeutic Foster Home Baselines and Targets***

In order to set a target for the development of TFCs in SFY13, DHS submitted baseline data to the Co-Neutrals that identified 64 TFCs approved in SFY11. For SFY13, the Co-Neutrals approved the target of establishing 150 new therapeutic foster homes, 86 more homes than DHS developed in the baseline year of SFY11. The Co-Neutrals then met with DHS and established definitions, tracking processes and verification work necessary for future target setting and performance. For SFY14 and in future years, DHS is required to conduct an analysis of the children in placement who are in need of TFC care as compared to the available TFC homes to assess how existing capacity meets the projected need for such homes and identify the need for additional homes for the upcoming year. Based on the analysis for SFY14, DHS identified that at the beginning of SFY13 (July 1, 2012) there were 615 available TFCs. Throughout the year, DHS reports that 86 new TFCs were approved, falling short of the target to license 150 new therapeutic foster homes during Year One. By the end of SFY13, there was a net loss of 29 TFCs with 586 homes remaining open as of June 30, 2013.<sup>7</sup>

DHS reports that some of the homes closed during the year were inactive but there is no reliable data source to identify the reasons homes close. Additionally, of the 586 TFC homes registered as open on June 30, 2013, almost 50 percent (282 homes) had no children placed in them. DHS reported that at the same time there were approximately 187 children on waiting lists for TFC placement.

**Because of the data quality issues previously discussed as well as the practices regarding kinship conversions found in the file reviews, the Co-Neutrals are not able to confirm that DHS achieved the SFY13 target to approve 781 regular foster homes. Further, in order for the Co-Neutrals to certify the sufficiency of the foster home and TFC data sets, these and other data issues will need to be resolved by DHS.**

Despite the complexities of this issue and the challenges that remain, the Co-Neutrals recognize that the DHS data team has been working through long standing data management practices that have made it difficult to obtain an accurate accounting of its foster homes. A significant challenge has been DHS' practice of assigning multiple resource identification numbers to the same home based on multiple uses of the home.

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<sup>7</sup> Of the 586 TFCs considered open on June 30, 2013, the Co-Neutrals found that 110 were "joint approved" meaning they were approved to provide some type of regular foster care as well as therapeutic foster care. As such, 476 of the open TFCs are approved for TFC placements only.



### ***SFY14 Targets***

For Year Two of the reform (SFY14), the Co-Neutrals accept 1,197 as the state's target for new foster home development. This is the total number of homes DHS targeted for development in the contracts it finalized in July 2013 with four private agencies that will now recruit, train, and recommend new foster homes (non-kinship) to DHS for final approval. This target is substantially higher than the number of new foster homes DHS developed in the previous two years. Further, the Co-Neutrals are setting a target for a net gain of 615 new foster homes in SFY14, which, if met, would represent a significant expansion of the state's available pool of foster homes. DHS' data shows that the state closed 582 foster homes in SFY13 and the Co-Neutrals used this closure number from the previous year as a baseline to establish a net target for SFY14. For TFCs, the Co-Neutrals are maintaining the target at 150 for SFY14.

### **B. Shelter Use**

The state of Oklahoma and Plaintiffs agree that children should not be placed in shelters. In the Pinnacle Plan, Oklahoma committed to eliminating the use of shelters for children under 13 years old by June 30, 2014, with interim targets to eliminate shelter use for children of younger age groups, and strict limits on the use of shelter care for adolescents. DHS reports to the Co-Neutrals the number of children with at least one child-night, defined as one child in a shelter at midnight, and the total number of child-nights presented by the following age groups: under two; two to five; six to 12; and over 12.

#### ***July 2013 Monthly Report of Shelter Overnight Stays***

In its first standardized monthly report of shelter use, DHS reported the number of children of all ages who spent at least one night in a shelter and the total number of nights these children stayed in a shelter during the month of June 2013. The Co-Neutrals focused their verification of the June 2013 shelter data on reviewing the shelter stays of children under 2 years of age, which DHS committed to end with limited exceptions by December 31, 2012. DHS reported that 17 children under age 2 spent a total of 150 nights in a shelter during the month of June 2013. Five of these 17 children were placed in a shelter with a sibling group of four or more children. The Pinnacle Plan provides for exceptions for shelter placements, allowing DHS to place children of a restricted age group in a shelter if placed with a sibling group of four or more in order to keep siblings together.

The Co-Neutrals reviewed and compared a variety of data sources, including the KIDS database, available shelter logs recorded by individual shelters, and DHS' monthly shelter report. This

review showed that two additional children, each with a one-night stay, were listed on other shelter logs maintained by DHS but not included in DHS' monthly report.

In its August 2013 report, DHS included these two additional children in its revised June 2013 shelter data and reports they previously were not counted due to delays in data entry. In fact, the August report reflects revisions for every shelter number reported in the July 2013 report: the total number of shelter nights for children under age 2 increased from 150 to 182; the total number of shelter nights for children ages 2 to 5 decreased from 747 to 719, with the number of children with overnight stays in this age group decreasing from 85 to 76; for children ages 6 to 12, the total number of children decreased from 235 to 213, with the total number of nights decreasing from 3,454 to 3,446; and, for children over 12, the number of children decreased from 258 to 215 while the total nights increased from 3,870 to 3,873. DHS reports that these changes are primarily due to duplicate counts identified in its first report in July, and pledges that future data reports will not reflect duplications in the data.

**The Co-Neutrals recognize DHS' work to refine and update previously reported data. Given the revisions to the June 2013 data and the importance of this issue under the CSA and in the Pinnacle Plan, the Co-Neutrals have concluded that it is necessary to track and verify this data at least through December 2013 before rendering a sufficiency determination.**

### **C. Maltreatment in Care (MIC)**

To assess the safety of children in DHS custody, the state is tracking and reporting the number of children abused or neglected in two categories based on the type of perpetrator. The first are alternative caregivers: a foster parent, kinship parent, or institutional staff person (all referred to as resource caregivers). The second is abuse or neglect by a parent while the child is in custody.

With regard to the first, DHS and the Co-Neutrals agreed to use both the number of children abused or neglected by an alternative caregiver, to be reported on a monthly basis, as well as the widely accepted federal metric "Absence of Child Abuse and/or Neglect in Foster Care," which includes the percent of all children in foster care during a 12-month reporting period<sup>8</sup> who were not victims of substantiated abuse or maltreatment by a foster parent or facility staff.

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<sup>8</sup> The 12-month period coincides with the federal fiscal year, October 1 to September 30.

DHS, along with all other state child welfare systems, annually submit (in January) a Child Maltreatment Report to the federal government, which is aggregated with other states' data in the National Child Abuse and Neglect Data System (NCANDS). For the first time, in January 2014, DHS intends to include in its FFY13 report to the federal government maltreatment of all children in custody substantiated by DHS' Office of Client Advocacy (OCA). OCA investigates reports of suspected abuse and neglect of children who are in higher levels of care, such as group homes, inpatient facilities, and DHS and privately-operated shelters.

DHS and the Co-Neutrals also agreed that DHS would track and report maltreatment by a parent while a child remains in the state's custody, which could occur during a trial reunification or parental visit, reporting the number of children maltreated by month.

### ***Integration of Child Protective Services and Office of Client Advocacy Investigations***

Two separate units within DHS investigate reports of abuse and neglect of children in out-of-home care. As noted above, OCA investigates such reports when children are in higher levels of care or institutional settings. Child Protective Services (CPS) staff investigates abuse or neglect reports when children are placed in family settings, which includes non-relative care, kinship care, emergency foster care, and TFC. OCA and CPS have historically utilized different screening and investigative processes, timelines for initiation and completion of an investigation, and evidentiary standards or burdens of proof to determine the appropriate findings. Further, DHS has reported child abuse substantiation data to the federal government for children abused or neglected in family settings but not for children abused in higher levels of care.

As outlined in the law established through House Bill 2300 and the Pinnacle Plan, DHS committed to conform the standards, processes and timelines that OCA uses to screen, respond to and investigate reports of abuse and neglect of children in higher levels of care to be consistent with those established for DHS CPS. As such, OCA now uses the CPS standard of proof to substantiate maltreatment, which is "some credible evidence," and has established definitive time periods by when it must initiate and complete investigations of suspected child maltreatment.

In November 2012, DHS began recording in its statewide automated child welfare information system (KIDS) all reports of abuse/neglect in higher levels of care referred to OCA field investigators. Each referral is assigned an identification number with a "referral/investigation" record opened in KIDS. Starting July 2013, DHS completed modifications to its KIDS system that provide OCA field investigators direct access to this data system to input and manage information gathered during their investigations and to record their investigation findings. This modification to KIDS is essential to allow DHS and OCA to track the timeliness of OCA's initiation

and completion of abuse/neglect investigations and to report maltreatment substantiated by OCA in its federal reporting.

### ***July 2013 Monthly Report of Maltreatment in Care***

DHS agreed to report to the Co-Neutrals and the public the actual number of children maltreated every month. DHS reported that of all the maltreatment in care investigations completed in March 2013, the state substantiated that 44 children were maltreated by a resource caregiver (31 substantiated by CPS and 13 by OCA) and 24 children in custody experienced maltreatment by a parent. Since the federal measure is based on assessing 12-months of data, a percent or rate of the absence of maltreatment cannot appropriately be measured at this time with only one month of data. As such, under the Metrics Plan, DHS will report on the rate in its semi-annual reports only.

Given the new structure and integration of OCA investigations into KIDS, the Co-Neutrals focused their review on the KIDS records for each of the referrals OCA substantiated for maltreatment in March 2013. The Co-Neutral team reviewed DHS' files of all 49 investigations OCA completed in March 2013 and found that all findings of substantiated MIC were included in the state's first monthly report and recorded in KIDS.

However, because OCA did not have access to KIDS to record the findings of its investigations prior to July 1, 2013, OCA did not record the final determinations of its investigations directly into KIDS for any of its FFY13 referrals. As it did for OCA's March 2013 substantiations, DHS' data team is working to input retroactively all OCA investigation findings for FFY13 into the OCA referral/investigation records that were opened in KIDS starting November 2012.<sup>9</sup>

Before reporting or recording the findings in KIDS, DHS' data team, as observed by the Co-Neutral team, is conducting a detailed review of OCA's FFY13 investigation findings. This includes extensive cross referencing of OCA records with individual records in KIDS of children involved in an investigation and the original referral record in KIDS. For now, DHS is doing a hand count of the OCA substantiations of MIC for its monthly reports.

As with the shelter use data, DHS' August 2013 report includes revisions of the MIC data included in the July 2013 report. The number of MIC substantiations by a resource caregiver decreased from 44 to 38 and the MIC substantiations by a parent increased from 24 to 28.

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<sup>9</sup> October 2012 is the only month of the FFY13 during which OCA investigation referrals were not recorded in KIDS. DHS is retroactively establishing a record in KIDS for these referrals and will supplement its FFY13 NCANDS report with a hand count, as contemplated by the Pinnacle Plan, and commentary for OCA MIC substantiations determined this month.

Although the Co-Neutrals agreed to allow a 90-day lag in reporting MIC substantiations to allow time for any possible finding changes due to appeals or a program review, the state reports that the difference in the MIC substantiations reported for March 2013 is primarily due to changes in the findings, even after 90 days<sup>10</sup>. Once an investigation finding is changed in the KIDS record, a new data report will automatically account for the reversed finding.

**Because the integration of the two investigation report systems is not yet complete and the maltreatment in care metric is based on a 12-month reporting period, the Co-Neutrals cannot fully assess the sufficiency of DHS' maltreatment in care data (for CPS and OCA investigations) until the state submits its Child Maltreatment Report to the federal government in January 2014 and the state begins to report both OCA and CPS findings directly from KIDS.**

#### **D. Caseworker Visitation**

For the performance category of caseworker visits with children in care, the CSA requires DHS to report on two measures: the frequency of caseworker visits, which is defined as the number of required monthly visits completed with children in care; and, continuity of visits by the same caseworker. At this time, DHS is only required to report on the frequency of caseworker visits.

DHS and the Co-Neutrals agreed that it would not be reasonable at this early stage of the reform to establish a baseline and measurable targets for continuity of visits as the state is phasing out the use of secondary workers whose responsibilities include conducting the required monthly child visits. Because DHS is transitioning the responsibility for child visits to the primary caseworker in all permanency cases, with minor exceptions allowed, there will be a lack of continuity of caseworker visits until this transition is complete. This change in practice is not due for completion until January 1, 2014, and DHS and the Co-Neutrals are currently working to establish a baseline and target for the first of two continuity measures outlined in the Metrics Plan.

For frequency of visits, DHS is reporting in two parts: the percentage of the total minimum number of required monthly face-to-face contacts that took place during the reporting period between any caseworker and children in care for at least one calendar month during the reporting period and the same percentage of face-to-face visits with primary caseworkers only.

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<sup>10</sup> As of July 1, 2013 all persons DHS substantiates for abuse or neglect have 120 days to appeal from the date of the finding.

### ***July 2013 Monthly Report of Caseworker Contacts – Frequency Measure***

DHS reported that of the 9,580 individual child monthly visits required in June 2013, caseworkers of any designation completed 94.7 percent (9,072) and primary caseworkers 72.3 percent (6,929). DHS agreed to the targets of completing 95 percent of monthly visits by all workers and 65 percent by primary workers.

As referenced throughout this report, the Co-Neutrals' team has access to KIDS and can review records, with some limitations<sup>11</sup>. The Co-Neutrals' team reviewed a sample of individual child case records for information on the June 2013 monthly caseworker visits. For each visit with a child in care, a caseworker must document details of the visit following DHS established policy. In the process of entering contact notes in a child's case record, caseworkers are prompted to enter narrative in a "Contact Guide," which includes numerous categories of open text fields, including: adjustment/behavior; personal care/environment/clothing/diet; and, safety issues/requests/followup.

The majority of the contacts the Co-Neutrals' team reviewed in KIDS had sufficient narrative and detail to support the conclusion that a face-to-face contact had occurred, though some of the visits and cases were restricted and could not be viewed. The Co-Neutrals will work with DHS to access restricted records as needed for future verification work.

**Based on their access to review contact notes, as well as the sample review conducted, the Co-Neutrals believe that DHS' data is sufficient to assess DHS' progress for the frequency measure of this performance area.**

### **III. Summary of Progress and Challenges**

In this section, the Co-Neutrals offer preliminary observations of DHS' Year One reform efforts, including progress and challenges, in implementing the Pinnacle Plan. This section is not intended to imply a final judgment by the Co-Neutrals on any of these issues.

#### **Progress**

- *Reorganization* – DHS invested a great deal of time and effort during Year One (July 1, 2012 – June 30, 2013) to restructuring its child welfare services by creating the DHS Child Welfare Division. Doing so created an integrated reporting and leadership structure consistent with

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<sup>11</sup> Some records in KIDS are restricted for various reasons, including there being some relationship between a particular child or family and a DHS employee. Adoption records are also restricted.

commitments in the Pinnacle Plan and the law established through House Bill 3134. The reorganization creates an agency framework DHS believes is needed to achieve sustained progress, greater accountability, more effective and efficient communication and implementation of DHS policies, services and reform goals.

- *Leadership and Management Team* – As an extension of the restructuring effort, DHS dedicated much of the first half of Year One to setting in place a new management team, extending from the highest level appointments of a new DHS Director and the first Child Welfare Services Director to regional and district directors and front line supervisors and field managers. With the need to hire and substantially increase the number of new caseworkers, DHS understandably placed great stock in solidifying its management team so that new and current workers could have the necessary leadership and supervisory guidance and support to carry out their child welfare responsibilities and understand their role in DHS' overall reform plan and goals.
- *Office of Client Advocacy Investigations* – The integration of OCA and CPS investigation protocols, standards and reporting systems not only positions DHS to provide more complete reports to the public on all child maltreatment but, more importantly, it allows DHS to ensure more timely initiation and completion of investigations of suspected maltreatment and enhance its ability to protect vulnerable children who may be victims of abuse and neglect.

## **Challenges**

- *Caseloads* – DHS' ability to achieve progress in the most critical areas of the reform hinges on reducing worker caseloads. During SFY13, DHS reports it established new positions for 230 caseworkers and 85 supervisors. However, the Department has faced an immense challenge of retaining both new and seasoned caseworkers and stemming exceptionally high staff turnover. Despite the efforts to reduce caseloads with new positions, the high turnover rate creates a constant stream of vacant positions and adds additional pressure on an unstable and new workforce that is trying to manage a CPS backlog of 1833 cases as of mid-October and provide quality care for the increasing number of children in custody.

The Co-Neutrals are concerned that the final SFY14 budget did not fully fund the Pinnacle Plan, apparently undercutting at least one of the core strategies DHS committed to implement in order to attract and retain staff to protect vulnerable children: an annual compensation increase. The Co-Neutrals have been advised by numerous stakeholders and child welfare leaders across Oklahoma that absent the raises promised to child welfare

staff, many of whom now work in parts of Oklahoma under very difficult working conditions – DHS will find it increasingly difficult to attract and retain qualified staff to protect Oklahoma’s children. To be clear: the Co-Neutrals expect DHS to implement the Pinnacle Plan as approved, including the state’s commitment to raise the salaries for child welfare workers after many years of stagnancy. Because the state characterized the raises to the Co-Neutrals as a fundamental strategy when it developed the Pinnacle Plan, and because the agency’s problems with staff turnover is fast forging a new crisis on the frontlines of the organization, the Co-Neutrals are committed to monitor and evaluate the steps the state takes to secure the necessary funds. We expect the state to determine whether the Department can find the necessary resources within its existing appropriation to fund the salary raises, or to use other options available - at this time - to fully fund the Plan.

- *Foster Care Homes* – For more than a year, the Co-Neutrals have held meetings across the state with caseworkers, supervisors, and DHS senior managers who have consistently highlighted that DHS’ pool of available foster homes is not sufficient to provide home-based placements for the number of children in DHS custody. This shortage appears to present one of the greatest stresses for caseworkers and managers alike. As with caseloads, DHS’ ability to develop a robust and diverse pool of foster homes that can meet the individual needs of children in custody directly affects its ability to make progress in other critical areas, including increasing children’s stability, permanency and well-being. The lack of foster homes contributes to DHS’ ongoing dependence and use of shelters for children of all ages. In the Pinnacle Plan, the state articulated a set of strategies designed to grow the number of safe, appropriate homes for children, but one of these strategies – annual increases in the board payment to foster parents – is at risk by virtue of the state and legislature having not ensured the availability of funds to cover the costs of this increase in Year Two. Again, the Co-Neutrals urge the state to take every available step to seek and identify funding to fully and timely implement the Pinnacle Plan.

During SFY13 (Year One), DHS planned to transfer the recruitment, training, approval and retention of new foster homes to private providers but did not complete that transition. After a delay in issuing its first Request for Proposals (RFP) for contracted support in this area, DHS decided --after choosing vendors-- to nullify the RFP and contracts. This decision was based on numerous concerns raised by a wide range of stakeholders, some shared by DHS leadership and the Co-Neutrals. DHS decided to issue a second RFP, which took a different approach to vendor selection. A new round of contracts was finalized by DHS in July 2013 with four providers. The contracts transfer the responsibility of all new foster home recruitment, approval and retention activities, except for kinship homes, from DHS to these private agencies. This process is over a year late which has created significant stress



for children, families and staff who need quality, home-based placements. The Co-Neutrals will monitor this critical issue over the coming months and provide additional observations in our next report.

- *Increasing Number of Children in DHS Custody* – During SFY13, the number of children in DHS custody increased from 9,132 to 10,234, a 12 percent increase. DHS reports that it is working to better understand the reasons for this substantial increase. This trend, which does not appear to be waning, places a tremendous strain on DHS' caseworkers and foster homes. The surge in children requires the state to redouble its efforts to address its recruitment and retention challenges for staff and foster homes, as the need for both is growing fast.
- *Shelters* - While DHS reported its initial success in reducing the use of shelters for children under age 2 after the December 31, 2012 deadline, the most recent data from DHS unfortunately shows the state has not been able to sustain its diversion from using shelters for the youngest children in its custody.

Over the past year, the Co-Neutrals visited public and private shelters across the state and made repeated visits to the two state shelters, Pauline Meyer and Laura Dester, before the December deadline. The Co-Neutrals continued to make several visits, some on very short notice, after the deadline. We observed first-hand the steep reduction in the number of infant and toddler children in shelters right before and right after the December 2012 deadline.

Given accounts from the field regarding a significant shortage of foster homes, the Co-Neutrals conducted a case file review of children under age 2 who entered the state's custody after the December 2012 deadline to understand where these youngest children who were diverted from shelters were being placed. The Co-Neutrals found that DHS, in many cases, was able to avoid shelter placement only by using Emergency Foster Care (EFC) which are temporary foster care homes, as well as respite homes. Neither of these placement options are intended to be long-term placements. Given this, many young children experienced multiple placement moves in a short period of time.

The Co-Neutrals recognize and commend DHS for its commitment to reduce the use of shelters and to shift its practice norm away from shelter placements, particularly for the youngest children. An example of this shift is DHS' new practice to establish 24/7 caseworker coverage to assist with identifying kinship and foster care placement options during after-work hours and weekends to help avoid shelter placements. However, until the State can develop a stable, robust and diverse pool of foster homes, it will continue to face

a significant challenge in its effort to reduce and eliminate shelter use in a manner that provides stability and permanency for children in its custody.

A closing note: the Co-Neutrals would like to acknowledge the assistance provided by DHS staff in the production of information for the preparation of this report, particularly the DHS data team.