



**Center for the
Study of
Social Policy**
Ideas into Action

Progress of Kansas Department of Children and Families, Kansas Department of Aging and Disability Services, and Kansas Department of Health and Environment

McIntyre v. Howard



NEUTRAL

Judith Meltzer

NEUTRAL STAFF

Martha L. Raimon Nico'Lee Biddle
Steve Cohen Sarah Esposito
Gayle Samuels

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McIntyre v. Howard

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Introduction

This report provides an assessment of the State of Kansas' progress towards achieving the Performance Goals, Practice Improvements, and Outcomes of the *McIntyre v. Howard*¹ Settlement Agreement (referred to herein as the Settlement Agreement) for calendar year 2021 (CY 2021), as well as State data,² as validated by Judith A. Meltzer and the Center for the Study of Social Policy, the Neutral.³ This report also includes a summary of efforts made by the Kansas Department for Children and Families (DCF), the Kansas Department of Health and Environment (KDHE), and the Kansas Department for Aging and Disability Services (KDADS) to meet the Settlement Agreement commitments.

The report is structured as follows:

- Section I outlines the *McIntyre v. Howard* complaint, resulting Settlement Agreement and the definition and role of the Neutral.
- Section II briefly describes how the Kansas child welfare system is structured, including the role of each Defendant in the lawsuit.
- Section III provides an overview of the demographics of children in DCF custody in Kansas for CY 2021.
- Section IV outlines various sources of information, activities completed, and data validation methods used by the Neutral to prepare and compile this report.
- Section V provides a summary of performance on each of the Performance Goals, Practice Improvements, and Outcomes in the Settlement Agreement as of December 31, 2021, including a summary table of CY 2021 performance.

¹ This lawsuit was filed as M.B. and S.E., through their next friend Katharyn McIntyre, et. al, v. Laura Howard; Laura Howard is the Secretary of DCF and KDADS, and Dr. Lee A. Norman is the Secretary of KDHE.

² This report provides an analysis of available State data relevant to Settlement Agreement commitments for CY 2021. In some instances, the State was unable to provide data necessary for validation. These data limitations are detailed in Section IV.

³ As defined in Section 1.15 of the Settlement Agreement, the term "Neutral" means Judith Meltzer and the Center for the Study of Social Policy (CSSP). Judith Meltzer is the President of the Center for the Study of Social Policy, a national non-profit policy organization that connects community action, public system reform, and policy change to create a fair and just society in which all children and families thrive. The Neutral contracts with Action Research, a child welfare research organization that provides data analysis, program evaluation, systems analysis, performance management to assist with the data analytics.

- Section VI provides a more detailed discussion of the State’s performance on each of the Settlement Agreement commitments as of December 31, 2021, unless otherwise noted, in the order in which they appear in the Agreement.

I. Summary of McIntyre v. Howard

The *McIntyre et al. v. Howard et al. (McIntyre v. Howard)* lawsuit was filed in the U.S. District Court of Kansas in November 2018 on behalf of a class of children in the custody of Kansas’ child welfare system by advocates alleging repeated and ongoing placement instability and lack of adequate access to mental health services for children in care.^{4,5} Following months of negotiations, on July 8, 2020, Parties agreed to a settlement plan (the Settlement Agreement) that was approved by the federal court in Kansas City on January 28, 2021. The State began working to change policies and practices to meet the Agreement’s requirements, despite the ongoing threat of COVID-19, which intensified stresses on its workforce, Kansas families, children and youth, and mental health systems nationwide.

The Settlement Agreement is organized into three main sections. Section One defines terms and general principles that govern the Settlement Agreement. Section Two defines Performance Goals requiring structural changes and measurable outcomes intended to significantly improve placement stability and mental health supports for children and youth in DCF custody. Section Two is divided into three parts:

Accountability, Reporting and Implementation:

This portion of the Settlement Agreement requires DCF to:

- amend contracts with foster care provider agencies to be consistent with the mandates of the lawsuit, establish performance-based metrics, and address corrective action measures for non-performance;
- develop a community advisory group – one third of whom are to be stakeholders, such as foster care providers, relative care providers, parents and youth with DCF involvement (at least 50 percent of the

⁴ Case No. 18-CV-02617-DDC-GEB

⁵ Counsel for Plaintiffs’ are Kansas Appleseed Center for Law and Justice, the Law Office of Lori Burns-Bucklew, the National Center for Youth Law, Children’s Rights, and the DLA Piper. Defendants in the settlement include Secretary Laura Howard of the Kansas Departments for Children and Families (DCF) and Aging and Disability Services (KDADS), and Dr. Lee A. Norman, the former Secretary of the Kansas Department of Health and Environment (KDHE).

members to be professionals working directly with families) to inform action planning, program improvement, and to assist in the implementation of the Settlement Agreement;

- on an annual basis, track and report all children in care in detention or other juvenile justice placement facilities and how long they spent there, as well as the caseloads of all placement caseworkers and placement caseworker supervisors.

Practice Improvements⁶

There are five areas of practice change the Settlement Agreement requires. For each, DCF must maintain substantial compliance for 12 successive months in order to exit court oversight.⁷ These improvements are:

- end the practice of temporarily housing children overnight in inappropriate settings, like offices, hotels, cars, or other non-foster care locations;
- ensure placements do not exceed their licensed capacity without an approved exception;
- end delays in the provision of mental health services due to placement moves, thereby linking medically necessary mental health treatment services to placement stability;
- provide accessible statewide crisis intervention services;

⁶ Section 2.2 of the Settlement Agreement defines the period under review for the Practice Improvements as November 1, 2020 to October 31, 2021. The Parties agreed, and the Neutral approved, to change the period under review for all Practice Improvements to align with the periods prescribed in Section 2.6 of the Settlement Agreement Outcomes, January 1 to December 31.

⁷ Section 1.27 of the Settlement Agreement defines substantial compliance as “performance sufficient to conclude that the specific obligation has been achieved. Parties reserve the right to argue whether performance with respect to any specific obligation meets this standard.” Section 2.4 of the Settlement Agreement specifies “once a Practice Improvement is achieved based on agreement of Parties or validation by the Neutral, Defendants must maintain Substantial Compliance for one successive twelve (12) month period. Once Defendants have maintained Substantial Compliance for one successive twelve (12) month period for any of the Practice Improvements, all reporting and monitoring of that Practice Improvement will cease and that Practice Improvement is no longer enforceable under this Settlement Agreement.”

- end the practice of night-to-night and short-term placement of Class Members.⁸

Outcomes

The Settlement Agreement also mandates five measurable outcome improvements for Class Members, phased in over four one-year periods.⁹ Once each final outcome is achieved, DCF is required to maintain substantial compliance for 12 successive months in order to exit court oversight for that outcome.¹⁰ Performance on the outcomes is determined using the Round 3 definitions and measurements of the federal Child and Family Services Reviews (CFSR).¹¹ The five Outcomes required by the Settlement Agreement are:

- achieve a low rate of placement moves, ultimately 4.44 moves or less per 1,000 days in care;
- address the mental and behavioral health treatment needs of children in care, ultimately for at least 90 percent of Class Members;
- ensure that placements are stable, ultimately for at least 90 percent of Class Members;
- limit placement moves to one or fewer per 12 months, ultimately for 90 percent of Class Members;

⁸ Section 1.17 of the Settlement Agreement defines a night-to-night placement as “one calendar day placement that is not the same residence address for consecutive days.” Section 1.24 of the Settlement Agreement defines short-term placements as a “placement duration of fourteen (14) calendar days or fewer.”

⁹ The Settlement Agreement defines Outcomes to be achieved over four one-year periods, with each period commencing January 1, 2021, January 1, 2022, January 1, 2023 and, if applicable, January 1, 2024.

¹⁰ Section 2.8 of the Settlement Agreement specifies, “once a Final Outcome target is achieved based on agreement of Parties or validation by the Neutral, Defendants must maintain Substantial Compliance for one successive twelve (12) month period. Once Defendants have maintained Substantial Compliance for one successive (12) month period for any of the Outcomes, all reporting and monitoring of that Outcome will cease and that Outcome is no longer enforceable under this Settlement Agreement.”

¹¹ The federal Child and Family Services Reviews (CFSR) are periodic reviews of State child welfare systems conducted by the federal Children’s Bureau under the Administration for Children and Families (ACF). Each of the CFSRs are conducted with specific question guidance to ensure reviews are completed uniformly across States. The Settlement Agreement requires the Neutral to utilize Round 3 instructions, as this was the most current version of the CFSRs guidance published at the time the Settlement Agreement was drafted. Since then, the Children’s Bureau has released Round 4 guidance. For additional information on the CFSRs, see: <https://www.acf.hhs.gov/cb/monitoring/child-family-services-reviews>

- provide an initial mental health and trauma screen by trained professionals within 30 days of entering foster care, ultimately for 90 percent of Class Members.

Section Three of the Settlement Agreement defines the role of the Neutral and outlines the processes required of each party in order to meet their respective obligations and exit the lawsuit.

Implementation of the State's obligations within the Settlement Agreement are validated and monitored by the Neutral.¹² The Neutral functions in an impartial capacity, and has the authority to validate, evaluate, and assess progress toward achievement of the commitments in the Settlement Agreement. Each year, the Neutral is to issue a public report that assesses the State's progress in the previous calendar year (CY) and describes the State's efforts to achieve each designated commitment in the Settlement Agreement. This is the first such report. According to the terms of the Settlement Agreement, the State is required to provide the Neutral with all data and other information necessary to produce the annual reports.

II. The Kansas Child Welfare System

The Kansas child welfare system is administered by the Department of Children and Families (DCF). A child may enter the system through a report made to the DCF child abuse and neglect hotline, or through Police Protective Custody (PPC).¹³ DCF staff are responsible for investigating allegations of abuse or neglect and determining when to recommend to a court that a child be placed in foster care. If a child is determined to be a Child in Need of Care (CINC), the District Court places the child in DCF custody.

Foster care in Kansas is substantially more privatized than in most other states. DCF contracts with four private Case Management Providers (CMPs) who are responsible for providing all foster care and adoption services, including arranging placement in a foster home or congregate setting; developing a case plan; providing services to children/youth in care and to their parents; determining when a child/youth needs to move to a different placement; and making recommendations to the Court about changes in case goals, discharge, and adoption. The four CMPs that cover services in the entire State include: St. Francis Ministries (SFM), TFI Kansas (TFI), Cornerstones

¹² See FN 3

¹³ Pursuant to K.S.A. Section 38-2231 a law enforcement officer has the authority to place a child in Police Protective Custody (PPC), and DCF is authorized to take physical custody of a child only with a written court order placing the child in DCF custody.

of Care (COC), and KVC Kansas (KVC). Each CMP is assigned one or more of DCF's eight catchment areas¹⁴, and is responsible for providing services to all children/youth who enter care from that area. DCF also contracts with various private Child Placement Agencies (CPAs) that recruit and train foster parents and assist them through the licensure process.¹⁵

DCF is responsible for overseeing all foster care contracted provider agencies. To achieve this goal, DCF divides the state into six regions¹⁶ as shown in Figure 1, and each of the six DCF regional offices oversees the CMPs that serves that designated region. Importantly, some DCF regions encompass multiple catchment areas (e.g., the Wichita region includes catchment areas 7 and 8), while some catchment areas are served within multiple regions (e.g., catchment areas 1 and 2 are included in both the Northwest and Southwest regions). The DCF regional staff work with the CMPs to ensure they provide services in accordance with their designated contracted responsibilities. The private CMP agencies have limited access to enter data, such as the child/youth's name and address, into the Families and Children Tracking System (FACTS), the state's system of record for children in foster care. CMP data is tracked and collected by CMP staff, and then provided to DCF regional staff who input the data into FACTS. The CMPs and DCF conduct data reconciliation to ensure accuracy. Kansas does not currently have a uniform statewide data collection system, such as a Statewide Automated Child Welfare Implementation System (SACWIS)¹⁷ or its next iteration, a Child Welfare Information System (CWIS), although DCF has plans to move in that direction. Now however, DCF collects and tracks data using a number of internal DCF systems¹⁸, with some of them reliant on data reported by each CMP to track compliance with DCF contracts. A more detailed discussion of the State's data systems can be found in Section IV.

¹⁴ For a map of DCF's catchment areas, see: <http://www.dcf.ks.gov/services/Pages/MapFosterCare.aspx>

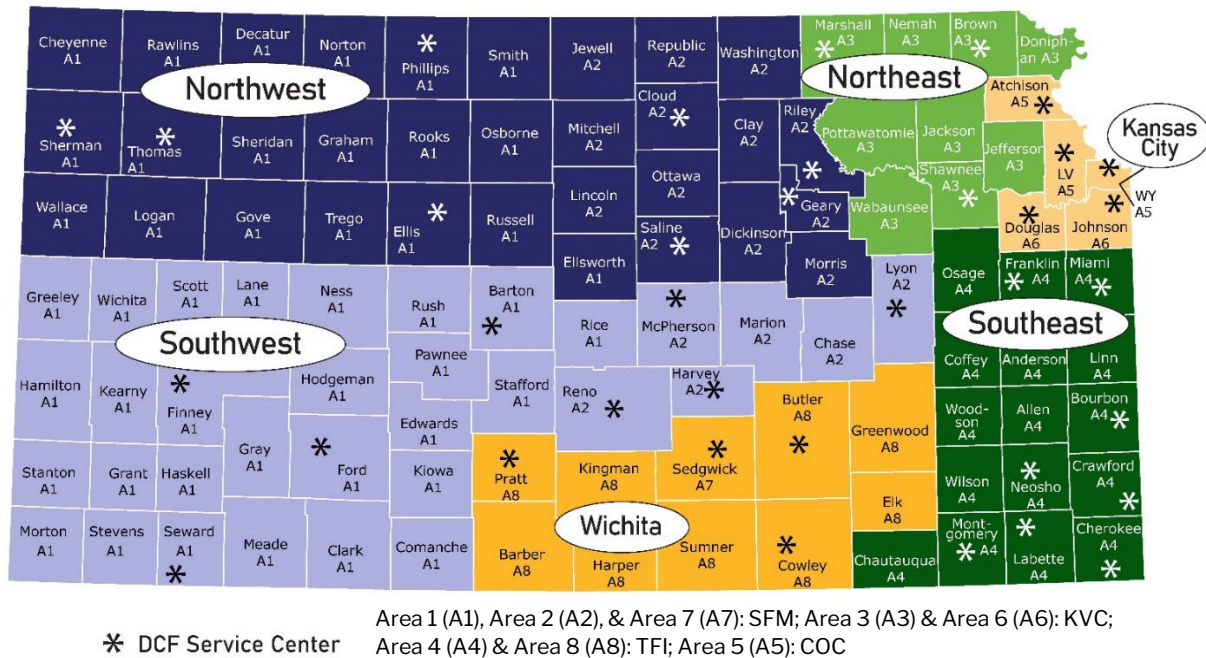
¹⁵ While DCF maintains the final decision on whether to officially license a foster home placement, the CPAs "sponsor" and support foster homes through the licensure process, as well as before, during, and after a child is placed in the foster home.

¹⁶ The DCF regions are Northwest, Southwest, Northeast, Southeast, Wichita, and Kansas City, as shown in Figure 1.

¹⁷ Kansas does not currently have a Statewide Automated Child Welfare Information System (SACWIS). SACWIS was an initiative of the federal Children's Bureau that provided federal funding for states to build statewide data systems that provide statewide data to ACF as well as automated, comprehensive case management tools for state agencies. For additional information on SACWIS systems, see: <https://www.acf.hhs.gov/cb/training-technical-assistance/state-tribal-info-systems/historical-info>

¹⁸ DCF uses multiple data systems to maintain data on the children and families it serves. DCF's main database is the Families and Children Tracking System (FACTS) which maintains information on children in DCF custody. CareMatch is the system DCF and the CMPs use to track licensed foster homes and children's placements. Kansas uses a system called CLARIS (Childcare Licensing and Regulation Information System) to track foster home and non-clinical facility licenses. Importantly, these systems do not automatically interact with one another and require additional data entry steps.

Figure 1: DCF Regions with Area



Privatization

Kansas is one of two states¹⁹ that have privatized virtually all child welfare services, with the exception of child abuse and neglect investigations. Kansas opted for privatization after years of concerns that children in DCF custody were not being provided with appropriate or timely services, which culminated in a 1989 class action lawsuit against the Kansas Department of Social and Rehabilitation Services (SRS).^{20, 21} In 1993, a Settlement Agreement was reached in *Sheila A. v. Finney*, which required the State to improve services to all children/youth who had been placed in the Child in Need of Care (CINC) program of SRS. In 1996, after the State did not meet the requirements of the lawsuit, the State began contracting with private agencies for all adoption case management services. In 1997, the State entered into contracts with private providers for all foster care case management services.

¹⁹ While other States have child welfare systems in which some services are privatized, only Kansas and Florida have systems where everything except the initial investigations is performed by a contracted provider.

²⁰ SRS is now the Department of Children and Families (DCF).

²¹ For a Legislative report on Kansas' child welfare privatization, see:

http://kslegislature.org/li_2016/b2015_16/committees/misc/ctte_spc_2015_special_committee_on_foster_care_adequacy_1_20151112_10_other.pdf

DCF Partners

While DCF has primary responsibility for ensuring that children, youth, and families receive services and supports when children are placed in foster care, it relies on its collaboration with other departments in the state to accomplish this goal, specifically KDHE and KDADS.²² KDHE is responsible for administering the state's Medicaid program, including KanCare, Kansas's Medicaid managed care program, and ensuring that Medicaid and all mental health services are appropriately administered.²³ KDADS is responsible for overseeing all state hospitals and institutions and coordinating and providing all mental health services in Kansas. KDADS is responsible for administering Medicaid waiver programs for disability services, mental health, and substance use disorders.²⁴ These systems are reportedly in regular communication with each other and with DCF given their shared responsibilities to ensure that children, youth, and families receive necessary services and supports.

III. Children and Youth in DCF Custody²⁵

Demographic data provided by DCF on children and youth in foster care show that 10,241 children and youth were in DCF custody at any point during CY 2021. There were 3,185 entries into care during CY 2021 (representing 3,167 unique children/youth), and 3,431 exits (representing 3,426 children/youth).

Table 1: Children and Youth Entering and Exiting DCF Custody in CY 2021²⁶

Children/Youth in DCF custody on January 1, 2021	7,134
Children/youth in DCF custody during CY 2021	10,241
Entries (3,167 unique children/youth)	3,185
Exits (3,426 unique children/youth)	3,431
Children/Youth in DCF custody on December 31, 2021	6,884

Source: DCF

²² KDHE and KDADS are also named Defendants in *McIntyre v. Howard*.

²³ Children/youth in DCF custody are enrolled in the KanCare Medicaid managed care program. For additional information see: www.kancare.ks.gov

²⁴ For additional information on KDADS, see: <https://kdads.ks.gov/about-kdads/>

²⁵ The Neutral team analyzed data submitted by DCF on children in DCF custody as of December 31, 2021.

²⁶ The number of children/youth in DCF custody on December 31, 2021, excludes three children/youth in care in the January 2021 data who did not exit care and do not appear in the December 31, 2021 data, and one child/youth who entered care during 2021, did not exit, and does not appear in the December 31, 2021 data.

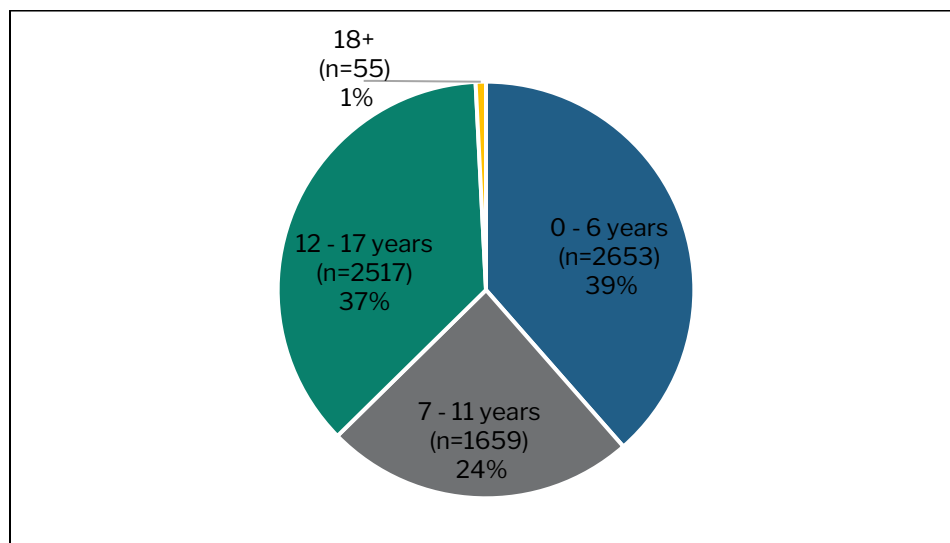
The information below provides additional information on the characteristics of the 6,884 children and youth in DCF custody on December 31, 2021.

A. Age, Gender, and Race

As of December 31, 2021, children aged birth to six years old made up the largest portion (39%) of children in DCF custody, followed by youth aged 12 to 17 years (37%), children aged seven to 11 years (24%), and youth 18 years and older (1%).²⁷ In 2021, there were slightly more male (51%) than female (49%) children/youth in DCF custody.²⁸

Figure 2: Age of Children/Youth in DCF Custody on December 31, 2021

N = 6,884



Source: DCF

²⁷ Percentages do not add to 100 percent due to rounding.

²⁸ DCF currently only collects information on children and youth in care as “male” or “female.”

As shown in Table 2, the race and ethnicity of the 6,884 children/youth in DCF custody on December 31, 2021, was as follows: 5,409 (79%) children/youth were White and 1,348 (20%) were Black. Of the remaining 127 (2%) children/youth, 90 were American Indian/Alaskan Native, 27 were Asian, and eight were Native Hawaiian/Pacific Islander. Of the 6,884 children, 993 (14%) identified as Hispanic.²⁹ There are notable disparities between the demographic composition of children and youth in DCF custody compared to the overall demographics of children and youth in Kansas. For example, in CY 2020 Non-Hispanic Black children made up six percent of the total number of children and youth in Kansas.³⁰

Table 2: Race and Ethnicity of Children in DCF Custody on December 31, 2021
N=6,884 children

Race	Total (%)	Non-Hispanic	Hispanic
American Indian/Alaskan Native	90 (<1%)	75	15
Black/African American	1,348 (20%)	1,289	59
Native Hawaiian/Pacific Islanders	8 (<1%)	8	0
Asian	27 (<1%)	25	2
White	5,409 (79%)	4,492	917
Unable to Determine	2 (<1%)	2	0
Total	6,884	5,891	993

Source: DCF

²⁹ DCF currently collects data on Latinx children and youth defined as Non-Hispanic or Hispanic.

³⁰ Kids Count data by demographic composition for CY 2021 is not available at the time of release of this report, however it is likely to not have substantively changed. For additional information, see <https://datacenter.kidscount.org/data/tables/103-child-population-by-race?loc=18&loct=2#detailed/2/18/false/574,1729,37,871,870,573,869,36,868,867/68,69,67,12,70,66,71,72/423,424>

B. Living Arrangements

On December 31, 2021, 93 percent of the children/youth in DCF were placed in family settings. The majority of children and youth resided in either family foster homes (39%) or relative homes (35%). Approximately nine percent were in DCF custody but placed at home with their families (“placed at home”).

**Table 3: Living Arrangements of Children/Youth in DCF Custody
on December 31, 2021³¹**
N=6,883³²

Living Arrangements of Children/Youth	Number (%)
All Children/Youth in Placements on December 31, 2021	6,696 (97%)
Family Foster Homes	2,613 (39%)
Relative Home	2396 (35%)
Placed at Home	588 (9%)
Non-Related Kin	373 (5%)
Pre-Adoptive Home	268 (4%)
Total Children/Youth in Home or Family Settings	6238 (93%)
Residential (Congregate Care) ³³	386 (6%)
Independent Living	58 (1%)
Group Home (Emergency Shelter)	12 (<1%)
Maternity Home	2 (0%)
Total Children/Youth in Congregate Settings	458 (7%)
Institutional and Detention ³⁴	106 (2%)
Runaway	81 (1%)
Other Children/Youth in Care on December 31, 2021³⁵	187 (3%)

Source: DCF

³¹ Data provided by KDCF on children in care on December 31, 2021

³² This number excludes one child in care on December 31, 2021, who does not appear in the CY 2021 placement data.

³³ Includes placements in QRTP, Secure Care, and Youth Residential Center II

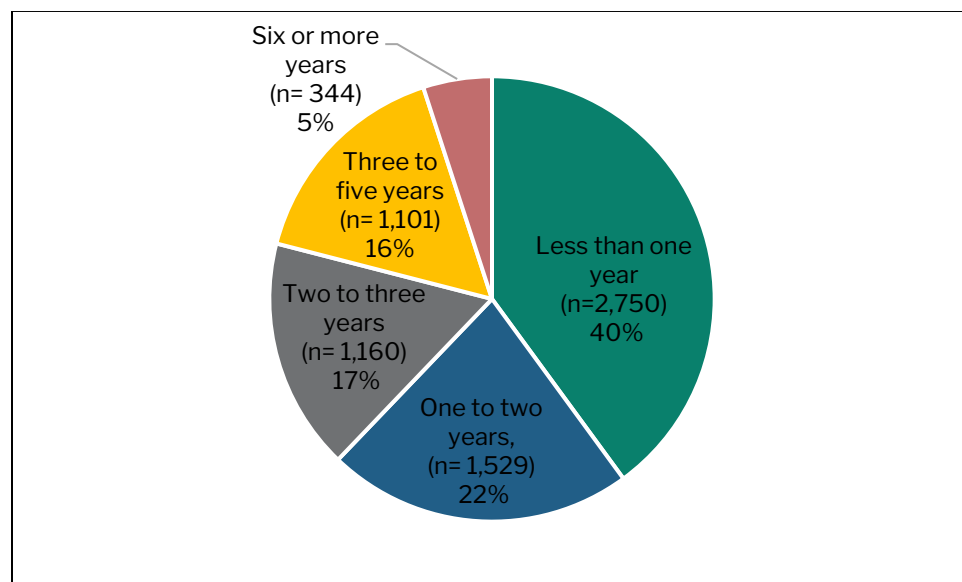
³⁴ Includes youth residing in Detention, Jail (Adult), Medical Hospital, Mental Health Treatment Facility, Parsons State Hospital, Psychiatric Residential Treatment Facility, and Youth Center at Topeka Placements.

³⁵ Other children/youth in care refers to youth experiencing temporary absences including runaways (placement type F001N), hospitalizations (placement subtypes Drug / Alcohol Treatment Facility (DAT)), Medical Hospital (initial) (MDH), Mental Health Treatment Facility (initial) (MTF), Parsons State Hospital (PSH), Psychiatric Residential Treatment Facility (PTF)), and Incarceration stays (placement subtypes Detention (DET), Jail (Adult) (JAL), and Youth Center at Topeka (YCT). Consistent with federal definitions, these temporary absences are not counted as formal foster care placements.

C. Length of Time in DCF Custody

Of the 6,884 children/youth in DCF custody as of December 31, 2021, 40 percent (2,750) had been in DCF custody less than one year, 22 percent (1,529) for one to two years, 17 percent (1,160) for two to three years, and 21 percent (1,445) had been in DCF custody for three or more years.

Figure 3: Length of Stay in Care of Children/Youth in DCF Custody as of December 31, 2021
N=6,884



Source: DCF

D. Geography

As discussed in Section II, Kansas tracks data on children/youth in foster care by CMP, region, and catchment area. On December 31, 2021, the greatest number of children/youth in care were placed with Saint Francis Ministries (SFM) (45%). Twenty-six percent were placed with KVC Kansas, while 20 percent were placed with TFI Family Services, and nine percent of children/youth were placed with Cornerstones of Care(COC), as shown in Table 4.

Table 4: Children/Youth in DCF Custody, by CMP, on December 31, 2021

Case Management Provider	Number (%) of Children/Youth
Cornerstones of Care	645 (9%)
KVC Kansas	1,784 (26%)
Saint Francis Ministries	3,066 (45%)
TFI Family Services	1,389 (20%)
Total	6,884 (100%)

Source: DCF

On December 31, 2021, nearly half of all children/youth in the Kansas foster care system were placed in the Wichita (27%) and Kansas City (20%) regions. As shown in Table 6, the largest numbers of children/youth were placed in catchment areas 1, 2, and 7 with SFM, and in catchment areas 3 and 6 with KVC.

Table 5: Children/Youth in DCF Custody, by Region, on December 31, 2021

DCF Region	Number (%) of Children/Youth
Kansas City	1,379 (20%)
Northeast	1,050 (15%)
Northwest	697 (10%)
Southeast	857 (12%)
Southwest	1,060 (15%)
Wichita	1,841 (27%)
Total	6,884 (100%)

Source: DCF

Table 6: Children/Youth in DCF Custody, by Catchment Area, on December 31, 2021

Catchment Area	Number (%) of Children
Area 1 (SFM)	835 (12%)
Area 2 (SFM)	922 (13%)
Area 3 (KVC)	1,050 (15%)
Area 4 (TFI)	857 (12%)
Area 5 (COC)	645 (9%)
Area 6 (KVC)	734 (11%)
Area 7 (SFM)	1,309 (19%)
Area 8 (TFI)	532 (8%)
Total	6,884 (100%)

Source: DCF

E. Exits³⁶ from DCF Custody

Over half of the 3,431 exits from DCF custody in 2021 (52%) were to reunification with a parent or primary caretaker, while 891 (26%) exits were to adoption, 496 (15%) exits were to emancipation (age out of care),³⁷ and 172 (5%) exits were to guardianship, as shown below.

Table 7: Exits from DCF Custody by Exit Type, 2021³⁸

Exit Type	Number (%) of Children/Youth
Reunification with Parent or Primary Care Giver	1,774 (52%)
Adoption	891 (26%)
Age-Out	496 (15%)
Guardianship	172 (5%)
Living with Other Relative(s)	40 (1%)
Other ³⁹	58 (2%)
Total	3,431 (100%)

Source: DCF

IV. Methods Used to Review Compliance

Activities Utilized by Neutral to Complete this Report

Under the terms of the Settlement Agreement, the Neutral is responsible for independently validating data and reporting annually on the State's performance. In preparation for this first report, the Neutral undertook various activities to gather and understand information about the Kansas child welfare system. These activities included briefings with State staff, meetings with stakeholders, reviewing documents, and working to understand the complex ways in which Kansas collects and reviews data, completes case record reviews, and manages its data on the children and youth in its care.

Briefings with State Staff

State staff provided the Neutral with a series of briefings; while most were led by the Department for Children and Families (DCF), staff from the Kansas Department of

³⁶ One individual child or youth can exit DCF custody more than one time in a period.

³⁷ Children/youth can exit DCF custody on their 18th birthday, or they may remain in care until age 21 through Kansas Extended Foster Care.

³⁸ DCF reports that some children/youth exit care more than once; this table reports 3,431 exits by 3,426 unique children/youth.

³⁹ Other" includes 58 children/youth reported by DCF to have transferred to other agencies (41), transferred to Tribal foster care (1), died while in care (11), or run away from placement (5).

Health and Environment (KDHE) and the Kansas Department for Aging and Disability Services (KDADS) also provided the Neutral with insight into how each of these systems provides services to children and youth in DCF custody. Information provided by the State included the legal process associated with placement in foster care; the organization of DCF and the responsibilities carried out by State employees; the types of services for which DCF contracts with private providers and the means by which DCF oversees provider performance; the way in which Kansas manages its Medicaid system and oversees contracted mental health services; and activities underway to address the concerns reflected in the Settlement Agreement.

Meetings with Stakeholders

The Neutral supplemented the State staff briefings with a series of meetings with stakeholders to hear their perspectives and understand their concerns and suggestions. Stakeholders included administrative and front-line case management staff of foster care provider organizations, referred to herein as Case Management Providers (CMPs); Community Mental Health Center (CMHC) provider staff; each of the lawsuit plaintiffs; and the newly established Office of the Child Advocate.⁴⁰ The Neutral also regularly attended the Kansas Foster Advisory and Accountability Board⁴¹ (KFAAB) meetings, a group which is composed of a variety of stakeholders from different backgrounds in accordance with the Settlement Agreement.

Document Review

The Neutral conducted a review of essential documents to gain understanding of the Kansas foster care and partner systems. Reviewed documents include updated CMP and CMHC provider contracts, previous DCF data reports⁴², various DCF forms (e.g., forms to request an ex parte removal order from the Court, incident report forms), the Kansas Guide to Reporting Abuse and Neglect⁴³, and various legislative reports⁴⁴ related to Kansas' child welfare and mental health systems.

Data Review

The Neutral met with various DCF staff and attended presentations on how DCF collects and manages data for children and youth in DCF custody. These meetings

⁴⁰ For additional information on the Office of the Child Advocate, see: <https://childadvocate.ks.gov>

⁴¹ For more information on the KFAAB, see Section VI of this report

⁴² DCF's data reports can be found at: <http://www.dcf.ks.gov/services/PPS/Pages/PPSreports.aspx>

⁴³ To view the guide, see: <http://www.dcf.ks.gov/services/pps/documents/guidetoreportingabuseandneglect.pdf>

⁴⁴ The Kansas' Child Welfare System Taskforce 2019 Legislative report can be found at: <http://www.dcf.ks.gov/Agency/CWSTF/Pages/default.aspx>; the Kansas Mental Health Task Force Legislative reports can be found at: <https://kdads.ks.gov/kdads-commissions/behavioral-health/mh-task-force>

provided information on the way in which DCF collects and reconciles the data it receives from the CMPs.

For CY 2021, DCF provided the Neutral with data to validate performance either digitally in the form of Excel workbooks, mostly at the child level, or through scanned copies or electronic extracts of case files. Where DCF provided case files, the Settlement Agreement requires DCF to conduct case reviews of a sample of children in foster care during the period under view (CY 2021) and report the State's performance.

Metrics Plan

To ensure that the Neutral and DCF agreed on the methodology for determining performance on each of the Settlement Agreement commitments, the Neutral drafted a proposed metrics plan in August 2021. This plan included an "ideal-world" methodology for measuring all commitments. Over the next several months, the Neutral frequently met with DCF for their input on the metrics plan. At the same time, the Neutral analyzed sample data from DCF on several commitments and discussed with DCF limitations to the data and potential solutions and reporting methods. The Neutral also consulted with Plaintiffs for insight and additional concerns.

DCF and the Neutral agreed upon a revised metrics plan in December 2021, with the understanding that further modifications may be necessary as data are received and analyzed. Because this report provides data collected beginning January 1, 2021 (prior to the completion of the metrics plan), there are various data limitations in the CY 2021 data, noted herein, that are anticipated to be resolved in future reports.

Case Reviews and Samples

The Settlement Agreement requires that cases selected for the case reviews to be drawn from a statistically significant, representative, random sample, which must be approved by the Neutral. DCF and the Neutral jointly designed the sampling methodology for each sample, which the Neutral reviewed, in order to confirm that all samples were representative of children and youth in DCF custody for CY 2021.⁴⁵ Table 8 provides definitions of the different samples required by the Settlement Agreement.

⁴⁵ Samples are statistically representative of the larger universe of children in DCF custody on the following characteristics: age, race, ethnicity, gender, year of removal, catchment area, and permanency goal.

Table 8: Case Review Samples⁴⁶ for Case Reads and Corresponding Settlement Agreement Commitments for CY 2021

Sample Name	Corresponding Commitments
Specialized	2.5.3 Authorization of Mental Health Services 2.9.2 Addressing Mental Health Needs 2.9.3 Stable Placements
Targeted	2.9.5 Initial Mental Health and Trauma Screens
Extended	2.5.5 Ending the Practice of Night-to-Night and Short-Term Placements

As required by the Settlement Agreement, DCF completed case reviews of the randomly selected sample, and the Neutral then completed case reviews of 50 percent of DCF's completed case reviews for validation. All case reviews were completed utilizing specific case review questions and guidelines as required by the Settlement Agreement.^{47,48} All case read tools were approved by the Neutral.

To complete their case reviews, DCF requested and each CMP provided case files for every case selected in the sample for review. DCF has trained Continuous Performance Improvement (CPI) staff who complete case reads each quarter. To complete the case reviews required under the Settlement Agreement, DCF trained CPI staff to conduct these case reviews. The Neutral then read 50 percent of the case reviews completed by CPI staff, using documents that DCF uploaded to a secure website. The Neutral subsequently analyzed for interrater reliability between the Neutral and DCF's case review findings to further validate the results.⁴⁹

⁴⁶ The Specialized sample is composed of all children who were in DCF custody during CY 2021, and pertains to commitments 2.5.3, 2.9.2, and 2.9.3. The Targeted sample is composed of all children who entered DCF custody in CY 2021 and pertains to commitment 2.9.5. The Extended sample is composed of all children who were in DCF custody who experienced a night-to-night or a short-term placement during CY 2021 and pertains to commitment 2.5.5.

⁴⁷ Settlement Agreement sections 2.5.5 (ending the practice of night-to-night and short-term placements), 2.9.2 (meeting Class members mental health needs), and 2.9.3 (stable placements) require use of the CFSRs Round 3 case review guidance as detailed in Section I of this Report.

⁴⁸ To assess performance as to whether mental health and trauma screens were appropriately conducted according to Section 2.9.5 of the Settlement Agreement, the Neutral and DCF collaborated to create a measurement tool based on DCF's own Continuous Performance Improvement case read tools. DCF completes State case reviews on a quarterly basis to assess DCF and each CMP's performance. For additional information, see <http://www.dcf.ks.gov/services/PPS/Pages/ChildWelfareMonitoring.aspx>

⁴⁹ The Neutral found strong interrater reliability for four questions, acceptable for two questions, and low on one question in the case reviews. The question with low interrater reliability pertained to commitment 2.9.5 (Initial Mental Health and Trauma Screens), and specifically the question of whether the screen was conducted by a Qualified Mental Health Professional as outlined in the Settlement Agreement. During the reconciliation process, DCF determined key information had been unintentionally omitted in the data provided to the Neutral, which greatly impacted initial case review results for this question. During the reconciliation process, DCF provided the relevant information to the Neutral, which allowed DCF and the Neutral to reach consensus and establish acceptable interrater reliability.

After the case reads were complete, a reconciliation process occurred, during which the Neutral provided DCF with an opportunity to respond to all situations in which the Neutral had reached a different conclusion than the CPI reviewer. In a small number of these situations, DCF provided additional evidence or justifications of their findings, for example situations in which workers' credentials to administer the mental health screen had not been provided but could be documented. In those situations, on second review the Neutral concluded the CPI findings were correct. For all other disagreements, DCF agreed with Neutral's determinations and altered their findings. After the reconciliation process was completed and both DCF and the Neutral's results finalized, the Neutral completed an analysis of the results, as specified in the metrics plan, to quantify and report performance.

Data Validation and Limitations

The metrics plan that DCF and the Neutral jointly developed requires the State to produce sets of cohort data⁵⁰ by which to validate data and assess performance for CY 2021. The cohort datasets each include a child/youth's date of birth, race, ethnicity, most recent removal date, permanency goal, and other information. When possible, the Neutral analyzed the cohort and CY 2021 data to validate CY 2021 performance. Through this process, the Neutral was able to determine whether DCF provided sufficient data to accurately assess performance for each commitment required by the Settlement Agreement. When requested, DCF resubmitted data or clarified quality issues or calculations. The Neutral validated the State's performance on each metric for which DCF provided sufficient data.

For some measures, DCF was unable to provide sufficient data, due largely to the limitations in their data systems, which significantly affected the extent to which the Neutral could validate data for CY 2021. As previously mentioned, DCF relies on a system called FACTS,⁵¹ which keeps track of basic details of children and youth in DCF custody, such as their placement dates and legal status, as obtained from the CMPs. However, the FACTS system does not provide substantive information, such as specific placement details, details on parent-child or caseworker visits, mental health information, or other necessary data for DCF to follow the day-to-day activities of children/youth in foster care at any point in time. Instead, this information is maintained in each of the four CMP's records. Each CMP has its own information

⁵⁰ The six cohorts for CY 2021 are: (1) all children/youth in care on January 1, 2021; (2) all children/youth in care on December 31, 2021; (3) all children/youth who entered care in calendar year 2021 ("CY 2021"); (4) all children/youth who exited care in CY 2021; (5) all /youth served in care in CY 2021; and (6) a list of all placements and other temporary stays experienced by all children/youth in care in CY 2021.

⁵¹ See FN 18

system for maintaining case details and data necessary to manage each child's case record; each CMP provides data to the appropriate DCF regional office, where DCF employees then manually enter applicable information into FACTS. DCF and the CMPs regularly reconcile these data in an effort to ensure the data's accuracy.

The limited ability to integrate data among Kansas' multiple data systems affected the Neutral's ability to assess performance on certain commitments. One example of DCF's data limitations concerns Settlement Agreement Section 2.5.2 regarding the licensing capacity of foster homes. DCF's FACTS system does not collect data on the number and availability of DCF foster homes; instead, these data are managed by the State's Child Placing Agencies (CPAs).⁵² The CPAs, CMPs, and DCF use a system called CareMatch to maintain data on all children and youth in out-of-home placements. CareMatch does not integrate its data with FACTS or with any of the CMPs' data systems. A third system, CLARIS, maintained by KDHE, is the system used by DCF for tracking all licensed facilities providing 24-hour care and for all licensed foster parent and "Non-Relative Kin" (NRKin).⁵³ The data in CLARIS does not automatically integrate with either the CareMatch, FACTS, or CMP systems. Although the Neutral was able to manually integrate the CLARIS and CareMatch reports, this lack of integration caused substantial challenges to the Neutral's data analyses, as no report could provide a full historical summary of the capacity of licensed foster homes and licensed capacity exceptions for CY 2021. These challenges are noted for each commitment in Section VI.

DCF's data limitations also presented challenges for Settlement Agreement commitments measured by case reviews. Because each CMP maintains their own individual data systems, DCF staff and the Neutral relied on scanned copies of PDF documents provided by the CMPs. As a result, information was often difficult to locate and assess. In instances where information was unable to be located, the Neutral, DCF, and each CMP held discussions to ensure that, to the extent possible, the case read results reflected actual case practice.

DCF's data capabilities also limited the data reports DCF was able to provide. As indicated in Section I, the Settlement Agreement requires that the CFSR Round 3 Statewide Data Indicator for Placement Stability and its Syntax Revisions are used to

⁵² See FN 15

⁵³ Non-relative kin (NRKin) are defined in Kansas as a foster home in which the foster parent has some type of familiarity and relationship with the child/youth, such as a coach, teacher, or neighbor, but who is not formally related to the child or youth.

assess performance for commitments 2.9.1 and 2.9.4.⁵⁴ Importantly, DCF already produces reports using this syntax for its federal reporting requirements. However, those reports are run on the federal fiscal year schedule (October 1 to September 30), rather than by calendar year. DCF was unable to meet the requirement of the Settlement Agreement as written to complete the requisite reports for these commitments for the period under review (CY 2021). Therefore, Parties, with support of the Neutral, agreed to change the period of measurement for these two commitments to correspond with the federal fiscal year.⁵⁵

V. Summary of Performance

This is the Neutral's first *McIntyre v. Howard* report regarding the State's progress in achieving the Settlement Agreement commitments related, among other things, to increasing placement stability for children and youth in DCF custody and improving their access to mental health services.

Children and youth who experience high rates of placement instability are less likely to have educational continuity, maintain meaningful relationships with their families and support systems, or consistently access services. Changes in living arrangements, schools, and social networks add to the initial trauma children and youth experience after being removed from their homes.

In addition to multiple moves, many children and youth in foster care have experienced trauma and experience additional trauma when they are removed from their homes and support networks. To respond to their trauma, children and youth must have access to screenings and services to meet their mental and behavioral health needs. However, shortages, delays, and waitlists too often prevent children and youth from receiving the mental and behavioral health care they need.

To address the harm children in DCF custody experience related to placement instability, Kansas is attempting to limit the number of moves a child/youth has while in care. Kansas is also working to improve access to mental health services for children and youth in DCF custody by ensuring these children/youth have timely

⁵⁴ 2.9.1 on placement moves rate per 1,000 days in care and 2.9.4 on number of placement moves in a one-year period are both required to be measured using the CFSR Round 3 Statewide Data Indicator for Placement Stability and its Syntax Revisions.

⁵⁵ By agreement, Parties will use the Adoption and Foster Care Analysis and Reporting System (AFCARS) for source file submissions that are produced every six months by DCF to AFCARS and that are based on the federal fiscal year (October 1 to September 30). Therefore, federal fiscal years will be used for Settlement Agreement items 2.9.1 and 2.9.4, commencing October 1, 2020, October 1, 2021, October 1, 2022, and, if applicable, October 1, 2023. Calendar years are used for all other provisions in the Outcomes portion of the Settlement Agreement, including 2.9.2, 2.9.3 and 2.9.5, commencing January 1, 2021, January 1, 2022, January 1, 2023 and, if applicable, January 1, 2024.

assessments, statewide available mental health crisis services, and access to mental health services regardless of where they are placed.

Highlighted below are some accomplishments and challenges the State experienced in areas related to Settlement Agreement commitments for Period 1, covering January 1 to December 31, 2021.

Accountability and Reporting

One core element of the Settlement Agreement obligates DCF to amend its contracts with each of the four CMPs to clarify responsibilities arising from the lawsuit within 30 days of the date on which the Judgement and Order to the Settlement Agreement were signed.⁵⁶ The Neutral reviewed the eight amended CMP contracts – one for each Catchment Area – and determined that all eight were signed by the designated due date.

A second core element of the Settlement Agreement requires the State to develop an “independent advisory group” to “inform action planning and program improvement and to assist in the implementation of the Settlement Agreement.”⁵⁷ The Settlement Agreement establishes who is to comprise the membership of this body, which is charged with developing recommendations to send to DCF. DCF is required to respond to the advisory group’s recommendations within 30 days. Beginning in April 2021, Parties worked together to select 20 advisory board members and finalized membership of the new “Kansas Foster Accountability Advisory Board” (KFAAB) in June 2021. The KFAAB has met approximately monthly since then and is in discussions about prioritizing recommendations to send to DCF, including recommendations related to the need for a statewide automated child welfare information system (SACWIS) to more effectively collect and report data and the need to increase access to mental health assessments and services. The Neutral looks forward to highlighting the KFAAB’s recommendations in future reports.

Improving Access to Mental Health Services

Five key commitments of the Settlement Agreement focus on improving access to mental health services for children and youth involved with DCF. Central to achieving increased access are ready and available mental health crisis services. One commitment⁵⁸ requires the State to “ensure that Crisis Intervention Services are available to Class members statewide.” To meet this mandate and to enhance

⁵⁶ Settlement Agreement 2.1.1 – Contract Oversight and Accountability

⁵⁷ Settlement Agreement 2.1.2 – Community Accountability Structure

⁵⁸ Settlement Agreement 2.5.4 – Availability of Crisis Intervention Services

services of the 26 licensed Community Mental Health Centers (CMHCs) responsible for providing mental health services to every child/youth in every county of the state, DCF collaborated with the Kansas Department for Aging and Disability Services (KDADS), all three Kansas Medicaid-managed Care Organizations (MCOs), and every CMHC, to launch a statewide mobile crisis hotline operated by Beacon Health Options of Kansas (“the Beacon helpline”) on October 1, 2021. The Beacon helpline aims to connect children and youth aged 20 or younger anywhere in the State with free mental health supports and services in crisis situations and to mitigate the need for more restrictive or institutional interventions. The helpline provides over-the-phone, 24/7 support from licensed mental health professionals, linkages to community resources, and/or in-person support if the crisis cannot be resolved over the phone.

Three additional Settlement Agreement commitments related to improving access to mental health services include: eliminating delays in the provision of medically necessary mental health treatment services (2.5.3); addressing the mental and behavioral health needs of children/youth in DCF custody (2.9.2); and administering initial mental health and trauma screens to children/youth entering custody within 30 days of placement (2.9.5).

Although DCF has not yet met these commitments, they made steps towards improving access to mental health services for children and youth in CY 2021. DCF was one of the first states to respond to the federal government’s Family First Prevention Services Act⁵⁹ (FFPSA), which provides, among other things, funding for Quality Residential Treatment Programs (QRTPs) that meet certain requirements. QRTPs are required to use a trauma-informed treatment model that provides residents with 24/7 access to medical staff, and to maintain connections with residents’ family members in their treatment and discharge planning. As part of its FFPSA plan, Kansas increased its QRTP capacity to 159 beds.

In addition, in CY 2021 DCF, together with the KanCare, the program through which Kansas administers Medicaid, and the Children’s Mental Health team, began the development of an additional level of care: therapeutic foster care (TFC), which are specialized family foster homes that provide 24-hour care for children with serious emotional, behavioral, and medical needs. TFC foster homes are supported by TFC case teams⁶⁰ who provide services and guide interventions for children/youth as they

⁵⁹ The Family First Preventions Services Act (FFPSA), Public Law (P.L.) 115–123

⁶⁰ The TFC case team is comprised of the following, but not limited to: the therapeutic family foster parent(s), biological parent(s), reintegration home, adoptive parent(s), CPA workers, CMP workers, therapist, psychiatrist, Tribal staff, child/youth’s network and any other specialized providers involved in the child’s life.

work to achieve stability and timely permanency. The Neutral will report on the State's progress in this area in the monitoring report covering CY 2022.

Kansas has also begun implementing Certified Community Behavioral Health Clinics (CCBHCs), which are certified specialized behavioral health clinics that provide a comprehensive array of behavioral health services including 24/7 crisis services, screening and assessment, care coordination, and substance abuse services among other services.⁶¹ This work is implemented by KDADS, and supported by SAMHSA⁶² and KanCare. Ultimately, Kansas plans to have its CMHCs all certified as CCBHCs by July 2024.

Increasing Placement Stability

The other key focus area of the Settlement Agreement is increasing placement stability for children and youth in DCF custody. This includes requirements to limit the number of placement moves a child/youth experiences while in DCF's custody, ending night-to-night and short-term placements, and ending the placement of children and youth in inappropriate settings, including offices and other temporary housing arrangements.

Section 2.9.1 of the Settlement Agreement requires "all Class Members entering DCF custody in a twelve-month period" to have a specified rate of placement moves as determined by the schedule in the Settlement Agreement. The Settlement Agreement requires the Department to reduce the number of placement moves for children and youth in care to no more than seven per 1,000 days in care for CY 2021, and then to further reduce it in later years. DCF met this commitment: for CY 2021, the Neutral calculated 5.84 moves per 1,000 days in care.

Sections 2.5.1 and 2.5.5 require DCF to end the practice of placing children in offices or night-to-night placements by December 31, 2021. For CY 2021, DCF had 69 office placements (termed "Failure to Place") experienced by 53 unique children; none of these placements met DCF's definition of extraordinary circumstances that would have warranted those placements. Similarly, DCF had a total of 1,501 night-to-night placements experienced by 801 unique children. Thus, DCF did not meet these commitments for CY 2021.

⁶¹ For additional information about CCBHCs, see <https://www.samhsa.gov/certified-community-behavioral-health-clinics>

⁶² Substance Abuse and Mental Health Services Administration (SAMHSA). For additional information, see <https://www.samhsa.gov/>

DCF has yet to meet the remaining four Settlement Agreement commitments related to placement stability, which include: ensuring that no placement exceeds its licensed capacity without an approved exception (2.5.2); ending the practice of temporarily placing children/youth in short-term placements except in cases of an emergency (2.5.5); increasing stable placements of children/youth in DCF custody (2.9.3). For one commitment (2.9.4, limiting the number of placement moves in the 12 months preceding the period under review), data limitations prevented the Neutral from validating the State's performance for CY 2021.⁶³ However, the Neutral expects to be able to validate the State's performance on this commitment in CY 2022.

DCF is making practice changes that are intended to reduce placement disruptions. One such change is the implementation of two forms of Team Decision-Making (TDM), a research-based model intended to engage families and stakeholders in critical decisions about out-of-home placements. The goal of TDMs is to limit placements in foster care, increase reunifications and achieve permanency for more children/youth. DCF launched Initial TDMs in August 2019, which involve facilitated meetings that occur in the investigatory phase of a case to determine if a removal from the home is necessary for the child/youth's safety. Kansas initiated Placement Stability TDM (PS TDM) in August 2021, which are facilitated meetings held for all placement-related decisions to determine (1) whether a child/youth can remain in their current placement or needs to be moved; and/or (2) what services are needed to promote stability and permanency. Kansas is still in the early stages of implementation of PS TDMs, and the Neutral anticipates being able to report on performance in the next monitoring report covering CY 2022.

⁶³ See Section VI.

Summary Table of All Settlement Agreement Commitments

<i>Performance Goals</i>		
Settlement Agreement Commitment	CY 2021 Performance	Commitment Fulfilled (Yes/No) ⁶⁴
2.1.1 Contract Oversight and Accountability Within thirty (30) days of entry of the Court's Judgment and Order, Defendants will amend provider grants for foster care case management to include a set of immediate mandates, with the Outcomes and Practice Improvements in Section 2, Parts II and III herein incorporated into the grant agreements.	The amended contracts were all completed prior to the final Judgment and Order.	Yes
2.1.2 Community Accountability Structure Within six (6) months of the entry of the Court's Judgment and Order, Defendants with input from Plaintiffs shall develop an independent advisory group to inform action planning and program improvement and to assist in implementation of this Settlement Agreement.	Beginning in April 2021, the Parties worked together to select 20 advisory board members, finalizing membership of the new "Kansas Foster Accountability Advisory Board" (KFAAB) in June 2021. The KFAAB's first formal meeting was held on June 21, 2021, and it has met approximately monthly since then.	Yes

⁶⁴ "Yes" indicates that, in the Neutral's judgment, based on presently available information, DCF has fulfilled their obligations regarding the Settlement Agreement. "No" indicates that, in the Neutral's judgment, DCF has not fulfilled their obligations regarding the Settlement Agreement. "Unable to Determine" means the Neutral did not have sufficient information to make a determination.

<p>2.1.3a Incarceration Reporting</p> <p>Defendants shall track and report for each twelve (12) month period, aligned with the four (4) one-year periods specified in Section 2.6, and every twelve (12) months thereafter until settlement termination, validated by the Neutral, all Class Members placed in a jail, correctional facility, detention facility, or other juvenile justice system placement, and the duration of time Class Members were or have been placed in such placements.</p>	<p>DCF reported data on incarcerated youth as required by the Settlement Agreement.</p>	<p>Yes</p>
<p>2.1.3b Caseload Reporting</p> <p>Defendants shall track and report for each twelve (12) month period, aligned with the four (4) one-year periods specified in Section 2.6, and every twelve (12) months thereafter until settlement termination, validated by the Neutral, caseloads of all placement caseworkers and placement caseworker supervisors.</p>	<p>DCF reported data for caseworker and caseworker supervisor caseloads for CY 2021 that the Neutral was unable to validate due to inconsistencies in reporting methods among the CMPs. The Neutral and DCF have developed a uniform reporting template for use in CY 2022.</p>	<p>No</p>

*Practice Improvements*⁶⁵

Settlement Agreement Commitment	CY 2021 Performance	Commitment Fulfilled (Yes/No)
<p>2.5.1 Temporary Overnight Placements (Failure to Place)</p> <p>DCF shall end the practice of utilizing any of the following to temporarily house or otherwise maintain Class Members overnight.</p>	DCF reported that 53 children experienced 69 episodes of Failure to Place, ⁶⁶ none of whom met DCF's definition of extraordinary circumstances. ⁶⁷	No
<p>2.5.2 Licensed Capacity</p> <p>DCF shall ensure that no placement exceeds its licensed capacity without an approved exception to DCF's "Policy: Exception Requests for Foster Homes, 6/20/18 Rev. 10/21/2019."</p>	Although foster, NRKin and licensed relative homes overwhelming were either below capacity or were above capacity with an approved exception (at least 97% for family foster homes and at least 99% for NRKin and licensed relative homes), the Settlement Agreement requires DCF to "ensure that no placement exceeds its licensed capacity without an approved exception."	No
<p>2.5.3 Provision of Mental Health Treatment Services</p> <p>Defendants shall not delay authorization and provision of medically necessary mental health treatment services until placement stability is achieved or otherwise link access to medically necessary mental health treatment services with placement stability.</p>	For CY 2021, DCF case reviews found that in 76 percent of cases where there was a delay in authorization in mental health services, it was caused by a factor other than placement instability. In 24 percent of cases where a delay in authorization of mental health services was found, placement stability was a factor in the delay.	No

⁶⁵ See FN 6

<p>2.5.4 Crisis Intervention Services Defendants shall ensure that Crisis Intervention Services are available to Class Members statewide.</p>	<p>On October 1, 2021, DCF launched a statewide mobile crisis hotline operated by Beacon Health Options of Kansas (“the Beacon helpline”), in collaboration with the Kansas Department for Aging and Disability Services (KDADS), all three Kansas Medicaid-managed Care Organizations (MCOs), and all 26 CMHCs statewide. While this is a significant accomplishment, data are not yet available to determine if crisis intervention services are currently available to Class members statewide.</p>	<p>In Process</p>
<p>2.5.5 Night-to-Night and Short-Term Placements DCF shall end the practice of Night-to-Night Placements of Class Members by the end of Period 1 (CY 2021) and end the practice of Short-Term Placements of Class Members by the end of Period 3 (CY 2023).</p>	<p>DCF had a total of 1,501 night-to-night placements experienced by 801 unique children/youth, and a total of 1,680 children/youth who experienced at least one short-term placement in CY 2021. In a sample of children and youth who experienced night-to-night and short-term placements for CY 2021, 33% of night-to-night placements were made to meet the child/youth’s case goal, and 46% of short-term were made to meet the child/youth’s case goal.</p>	<p>No</p>

⁶⁶ DCF classifies temporary overnight placements as “Failure to Place”, where a child or youth to be temporarily housed or maintained overnight in an inappropriate placement when that child has arrived at a case management agency office before 12:00 a.m. of one day and the child/youth has not been placed in an appropriate placement before 6 a.m. of the following calendar day, absent extraordinary circumstances.

⁶⁷ DCF defines extraordinary circumstances as an immediate or imminent crisis whereby measures must be taken to protect the safety and security of the child. A lack of safe and/or appropriate placement options does not constitute extraordinary circumstances. Examples of extraordinary circumstances may include weather or road conditions that create hazardous or unsafe travel conditions, public health advisories (shelter in place orders), or similar emergency situations.

Outcomes			
Settlement Agreement Commitment	CY 2021 Performance	Period 1⁶⁸ Target	Commitment Fulfilled (Yes/No)
2.9.1 Placement Moves per 1,000 Days All Class Members entering DCF custody in a twelve (12) month period shall have a rate of Placement Moves that does not exceed the specified number of moves per 1,000 days in care during their current episode.	Children and youth in DCF custody had a rate of 5.84 moves per 1,000 days for Period 1.	7 moves per 1,000 days in care	Yes
2.9.2 Addressing Mental and Behavioral Health Needs At least the following percentages of a statistically significant, representative, random sample of all Class Members in DCF custody during a twelve (12) month period shall have had their mental and behavioral health needs addressed.	DCF provided appropriate mental and behavioral health services for children and youth in 65% of case reviews.	80%	No
2.9.3 Placement Stability At least the following percentages of a statistically significant, representative, random sample of all Class Members in DCF custody during a twelve (12) month period shall be in a placement setting that at the time of the review is stable.	The State's case record review established that 86% of children and youth were in a stable placement as of December 31, 2021 (or their last date of placement if they were discharged prior to the end of the calendar year).	80%	Yes

⁶⁸ See FN 9

<p>2.9.4 Placement Moves</p> <p>At least the following percentages of all Class Members in DCF custody at any point during the twelve (12) month reporting period shall have one (1) or fewer Placement Moves in twelve (12) months immediately preceding the last date of that reporting period.</p>	<p>In analyzing data for this commitment, the Neutral identified multiple data issues which hindered the ability to validate performance for this commitment.</p>	<p>75%</p>	<p>Unable to Determine</p>
<p>2.9.5 Initial Mental Health and Trauma Screens</p> <p>At least the following percentages of a statistically significant, representative, random sample of all Class Members entering DCF custody during twelve (12) month period shall have received a timely Initial Mental Health and Trauma Screen conducted by a Qualified Mental Health Professional within thirty (30) days upon each entry into the foster care system.</p>	<p>34% of children and youth in DCF custody received timely Mental Health and Trauma Screens completed by a Qualified Mental Health Professional as defined in the Settlement Agreement.</p>	<p>80%</p>	<p>No</p>

VI. Discussion of Performance

a. Part I: Accountability, Reporting, and Implementation

i. 2.1.1 Contract Oversight and Accountability

2.1.1 Contract Oversight and Accountability
Within thirty (30) days of entry of the Court's Judgment and Order, Defendants will amend provider grants for foster care case management to include a set of immediate mandates, with the Outcomes and Practice Improvements in Section 2, Parts II and III herein incorporated into the grant agreements.
Due Date: March 1, 2021

Section 2.1.1 of the Settlement Agreement requires the Department to amend the contracts between DCF and the four CMPs to clarify responsibilities arising from the lawsuit. Specifically, the Settlement Agreement requires the amendments to incorporate immediate mandates regarding Outcomes and Practice Improvements into the provider contracts, and to “...address performance-based metrics and applicability of DCF discretionary corrective action for non-performance or inadequate performance.” The amendments were to be implemented within 30 days of the entry of the Court’s Judgment and Order.

The United States District Court in Kansas entered its Judgment and Order to the Settlement Agreement on January 28, 2021. The Neutral reviewed the eight amended CMP contracts (one for each Catchment Area). Dates by which the amendments were completed are outlined in Table 9.

Table 9: List of Signed Contracts Amendments, by Catchment Area and CMP

Catchment Area	Date of Signed Contract Amendments
Area 1 - SFM	October 6, 2020
Area 2 - SFM	October 6, 2020
Area 3 - KVC	September 28, 2020
Area 4 - TFI	October 9, 2020
Area 5 - COC	October 12, 2020
Area 6 - KVC	September 28, 2020
Area 7 - SFM	October 6, 2020
Area 8 - TFI	October 9, 2020

Source: DCF

The amended contracts were substantively identical among each Catchment Area, and included all required content as outlined by the Settlement Agreement. The amended contracts were all completed prior to the final Judgment and Order. Thus, the Neutral has determined that the State met this provision of the Settlement Agreement.

ii. 2.1.2 Community Accountability Structure

2.1.2 Community Accountability Structure
Within six (6) months of the entry of the Court's Judgment and Order, Defendants with input from Plaintiffs shall develop an independent advisory group to inform action planning and program improvement and to assist in implementation of this Settlement Agreement.
Due Date: July 28, 2021

Section 2.1.2 of the Settlement Agreement requires the State to develop an independent advisory group intended to “inform action planning and program improvement and to assist in the implementation of the Settlement Agreement.” A cross section of stakeholders is to comprise the advisory board, with at least one-third to be foster care providers, relative care providers, parents, and youth. The State is required to respond to any recommendations developed by the advisory group within thirty days of receipt, advising of anticipated actions.

Beginning in April 2021, Parties worked together to select 20 advisory board members, finalizing membership of the new “Kansas Foster Accountability Advisory Board” (KFAAB) in June 2021. Board members developed a mission statement and an agreement describing the structure, function, and purpose of the KFAAB. DCF established a process to provide stipends for Board members who are not reimbursed by their employer for their participation.

The KFAAB’s first formal meeting was held on June 21, 2021, and it has met approximately monthly since then. Certain Board members hold additional meetings following the monthly meetings to review minutes, confirm agendas, and address any follow-up actions required. The KFAAB has invited guest speakers to attend its monthly meetings to respond to questions and concerns and has formed various work groups to better focus on areas identified as needing attention. Areas of particular interest to the KFAAB are the need for more in-home supports to kinship and licensed foster care families, and the accessibility of mental health services for children and youth in out-of-home placement.

The KFAAB is establishing processes to monitor and respond to inquiries from the public and/or the media, and to assist DCF in disseminating key information and updates. For example, individual Board members assisted in distributing informational flyers announcing the launch of DCF's Mobile Crisis Response Unit (the Beacon helpline) in October 2021. The KFAAB has also discussed developing recommendations to send to DCF, including recommendations relating to the need for a statewide automated child welfare information system to more effectively collect and report data, and the need to increase access to mental health assessments and services. Thus, the Neutral determined DCF met this provision of the Settlement Agreement.

iii. 2.1.3 Reporting

a. Incarceration

2.1.3a Incarceration Reporting
Defendants shall track and report for each twelve (12) month period, aligned with the four (4) one-year periods specified in Section 2.6, and every twelve (12) months thereafter until settlement termination, validated by the Neutral, all Class Members placed in a jail, correctional facility, detention facility, or other juvenile justice system placement, and the duration of time Class Members were or have been placed in such placements.
Due Date: December 31, 2021

Section 2.1.3 of the Settlement Agreement requires DCF to track and report annually on all Class Members placed in a jail, correctional facility, detention facility, or other juvenile justice system placement, and the duration of such placements.⁶⁹

During CY 2021, a total of 238 Class Members were incarcerated in Kansas 326 times;⁷⁰ 304 (93%) episodes took place in detention facilities and 22 (7%) in jails.⁷¹

⁶⁹ For the purposes of this report, the Neutral defines "jail" as a facility that traditionally serves incarcerated adults aged 18 and older, while "detention facility" is defined as one that traditionally serves incarcerated youth up to age 18.

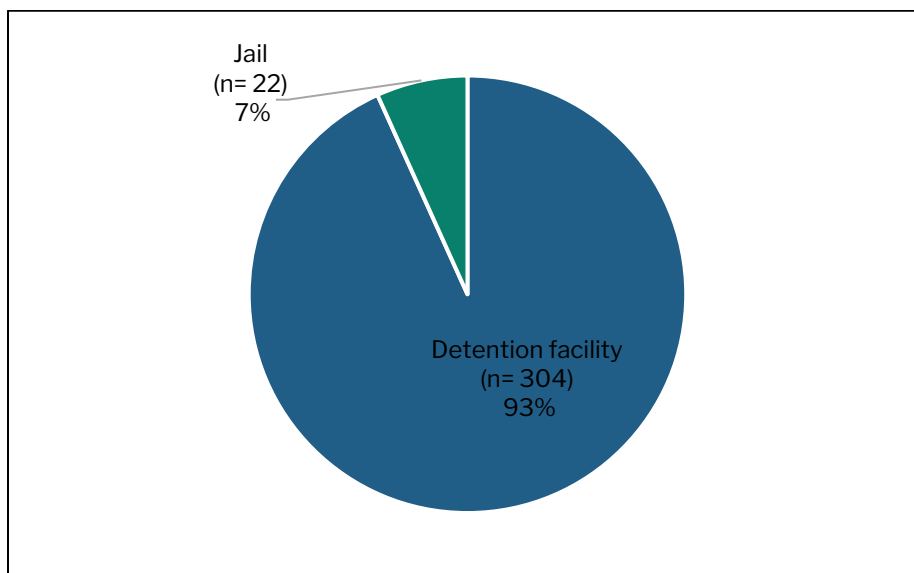
⁷⁰ Children and youth may be incarcerated more than once during the monitoring period.

⁷¹ The Neutral encountered data discrepancies between the incarceration and the cohort data files for CY 2021 as follows: In the incarceration data, some children/youth in DCF custody who were incarcerated remained in custody after the age of 18. Those children/youth were not counted in the cohort data, as youth over 18 are not considered members of the Class as defined in Section 1.2 of the Settlement Agreement. In addition, 14 children/youth are in the incarceration file that are not in the placement file: in each case, the cohort file shows the child as discharged prior to incarceration, while the incarceration file shows the out- of-home placement start date as on or after the exit date in the cohort file.

Ten facilities accounted for 80 percent of all incarceration episodes, and four of those ten accounted for 50 percent of all incarceration episodes.⁷²

Figure 4: Facility Type of Class Members Incarcerated in CY 2021

N=238 children/youth, 326 episodes



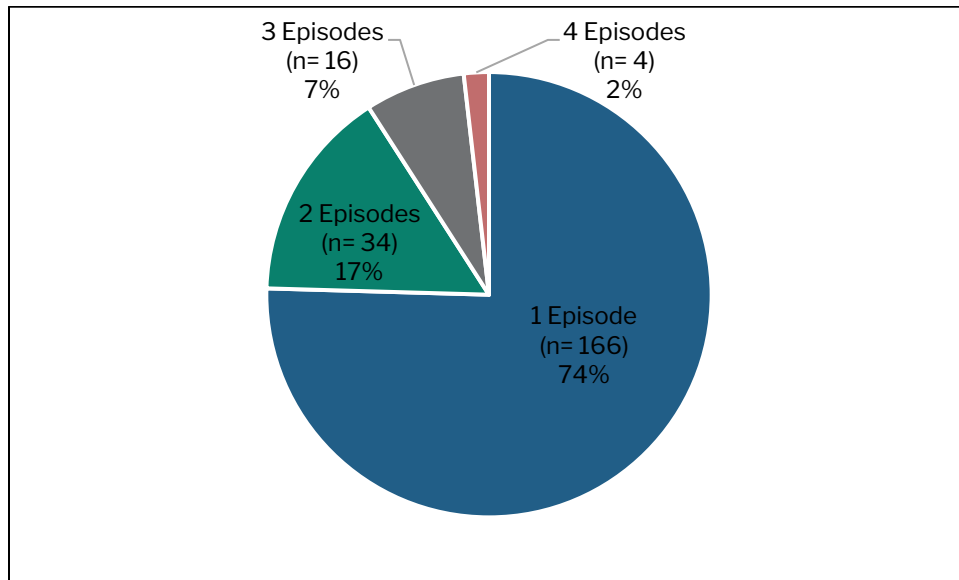
Source: DCF

The majority of the 238 Class Members incarcerated in CY 2021 (175 or 74%) were identified as White, and 58 (24%) as Black/African American. Nearly two-thirds (155 or 65%) were male and just over one-third (83 or 35%) were female. Children as young as 10 were incarcerated in 2021, with 49 (21%) aged 10 to 14, 161 (68%) aged 15 to 17 years old, and 28 (12%) aged 18 years or older.

Nearly three quarters (74%) of the youth in juvenile detention facilities experienced a single episode, while a significant number (17%) experienced two, as shown in Figure 5.

⁷² Children and youth were most frequently incarcerated at Shawnee County JDC, Sedgwick County JDC, Reno County JDC, Johnson County JDC, followed by Douglass County JDC, N. Central JDC, Southeast JDC, Wyoming County JDC, Southwest JDC, Sedgewick County Jail.

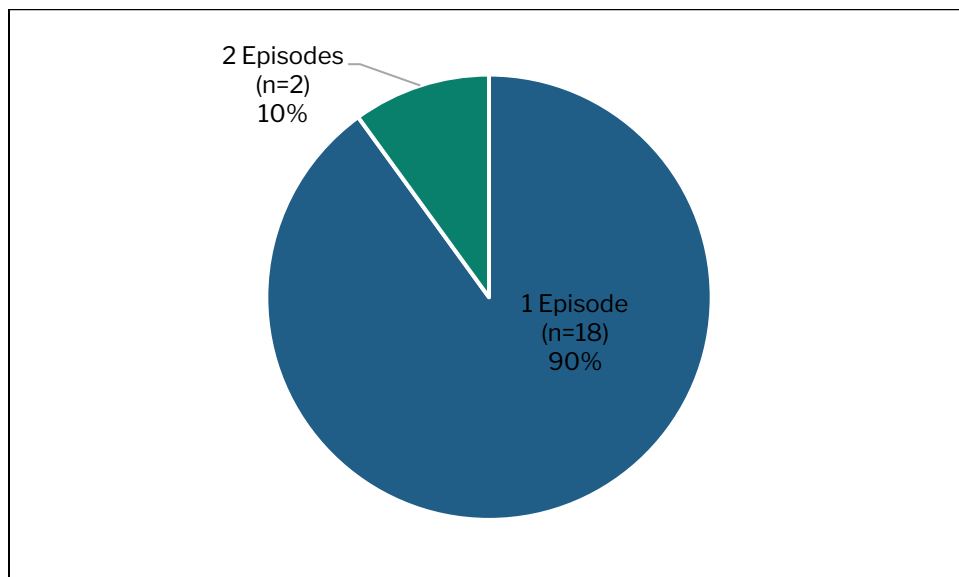
Figure 5: Class Members in Juvenile Detention in CY 2021
N=223 children/youth, 304 episodes⁷³



Source: DCF

Eighteen (90%) of 20 youth in jail experienced one episode, and two (10%) experienced two episodes.

Figure 6: Class Members in Jail in CY 2021
N=20 youth, 22 episodes⁷⁴



Source: DCF

⁷³ A single youth can be involved in both juvenile and jail episodes.

⁷⁴ A single youth can be involved in both juvenile and jail episodes.

As shown in Table 10, just over half (176 or 54%) of incarceration episodes in CY 2021 lasted 14 days or less.⁷⁵ There were 133 episodes (41%) that lasted seven or fewer days, 43 (13%) that lasted 8 to 14 days, and 66 (20%) that lasted 15 to 30 days. Eighty-three (25%) lasted 31 days or more, and 29 (9%) episodes lasted 91 days or more.

Table 10: Length of Incarceration Episodes in CY 2021
N=238 children/youth, 326 episodes⁷⁶

Length of Incarceration Episodes	Number (%) of Children/Youth
0 to 7 Days	133 (41%)
8 to 14 Days	43 (13%)
15 to 30 Days	66 (20%)
31 to 60 Days	40 (12%)
61 to 90 Days	14 (4%)
91 Days or More	29 (9%)
Data error	1 (0%)

Source: DCF

Table 11 shows the total number of days each child spent incarcerated. Approximately one-third of the 238 Class Members (82 or 34%) were incarcerated up to seven days, and almost another third were incarcerated for up to 30 days (70 or 29%).

Table 11: Total Days Incarcerated (Jail and Detention) in CY 2021
N=238 children/youth, 326 episodes

Total Incarceration Days in Period	Number (%) of
0 to 7 Days	82 (34%)
8 to 14 Days	24 (10%)
15 to 30 Days	46 (19%)
31 to 60 Days	34 (14%)
61 to 90 Days	22 (9%)
91 Days or More	29 (12%)
Data error	1 (0%)

Source: DCF

Of the 326 incarceration episodes in CY 2021, 304 were in juvenile detention facilities. As shown in Table 12, over half of these episodes lasted up to two weeks; 120 (39%) lasted up to 7 days, and 40 (13%) lasted eight to 14 days.

⁷⁵ Of the 326 episodes, 25 started prior to January 1, 2021, and 27 continued after December 31, 2021. This table only counts days incarcerated in calendar year 2021. One episode had an end date after the entry date, attributed to data error.

⁷⁶ A single youth can be involved in both juvenile and jail episodes.

Table 12: Length of Incarceration Episodes in CY 2021 for Children and Youth Entering Juvenile Detention
N=223 children, 304 episodes

Length of Incarceration Spell ⁷⁷	Number (%) of Children/Youth
0 to 7 Days	120 (39%)
8 to 14 Days	40 (13%)
15 to 30 Days	64 (21%)
31 to 60 Days	37 (12%)
61 to 90 Days	12 (4%)
91 Days or More	31 (10%)

Source: DCF

Table 13 shows the number of Class Members and the length of time they were incarcerated in juvenile detention facilities. Of the 223 children incarcerated in juvenile detention facilities, almost half (103 or 46%) were incarcerated for 14 days or less. Twenty-eight (13%) were incarcerated for 91 days or more, with five of the 223 Class Members spending all of 2021 in a juvenile detention facility.

Table 13: Total Days Class Members Were Incarcerated in Juvenile Detention in CY 2021
N=223 children/youth, 304 episodes

Total Incarceration Days in Period	Number (%) of
0 to 7 Days	79 (35%)
8 to 14 Days	24 (11%)
15 to 30 Days	43 (19%)
31 to 60 Days	29 (13%)
61 to 90 Days	20 (9%)
91 Days or More	28 (13%)

Source: DCF

Of the 238 children who were incarcerated at any time during 2021, 162 (68%) remained in the custody of DCF at the end of the year on December 31, 2021. Most of the others had aged-out of care (36 or 15%) or reunified with a parent or other relative (24 or 10%). Twelve (5%) had been transferred to the Kansas Department of Corrections.

⁷⁷ 21 episodes started prior to January 1, 2021, and 26 episodes continued after December 31, 2021. This table only counts days incarcerated in CY 2021. One child entered and left juvenile detention the same day.

Table 14: Foster Care Status at End of Last Episode for Children/Youth Incarcerated in CY 2021
N=238 children/youth

Foster Care Status, End of Last Episode ⁷⁸	Number (%) of Children/Youth
In Foster Care	162 (68%)
Aged-out of Care	36 (15%)
Custodianship/Guardianship with Non-relative	2 (1%)
Reunify with Caretaker	24 (10%)
Transfer to Another Person/Agency	1 (0%)
Transfer to Kansas Department of Corrections	12 (5%)
Other	1 (0%)

Source: DCF

DCF reported data on incarcerated youth and therefore met this commitment for CY 2021.

b. Caseloads

2.1.3b Caseload Reporting
Defendants shall track and report for each twelve (12) month period, aligned with the four (4) one-year periods specified in Section 2.6, and every twelve (12) months thereafter until settlement termination, validated by the Neutral, caseloads of all placement caseworkers and placement caseworker supervisors.
Due Date: December 31, 2021

Section 2.1.3 of the Settlement Agreement requires DCF to report, for every twelve-month period, caseloads of all placement caseworkers and placement caseworker supervisors, as validated by the Neutral. For CY 2021, each of the four CMPs provided different reporting formats and points of data collection, limiting the analysis the Neutral could perform. For example, aftercare cases were not uniformly disaggregated in all CMP data; therefore, to keep reports comparable, all CMP caseload numbers in this analysis are assumed to include aftercare cases. Given the challenges of collecting caseload data, the Neutral analyzed point in time caseload data by CMP for four dates determined by the Neutral, one in each quarter.

The Neutral, DCF, and CMPs collaboratively developed a uniform reporting format all CMPs will use for CY 2022, which will allow for a more robust caseload analysis, including an analysis of caseloads by reunification, aftercare, and adoption. This report provides a limited analysis of caseload data from the last day of the month of each quarter, for caseworkers in each of the four CMPs, and whether the CMP maintained the required caseworker caseload standard. Because of the

⁷⁸ Includes children and youth still incarcerated as of 12/31/2021.

inconsistencies in reporting methods among the CMPs, the Neutral was unable to validate caseworker and caseworker supervisor caseloads for CY 2021.

Caseworker Caseloads

As discussed earlier, DCF contracts with four Case Management Providers (CMPs) to provide foster care and adoption services in the six designated regions across the state. According to DCF's contracts with the CMPs, permanency caseworkers are required to maintain a caseload of between 25 and 30 children.

As shown in Table 15, performance varied by CMP: whereas no TFI caseworkers had caseloads of over 30 cases in any of the four dates reported, SFM exceeded the caseload standard in each quarter; in CY 2021, the number of SFM caseworkers with caseloads above 30 ranged from 34 to 42 percent.

Table 15: Caseworkers Carrying 30 or More Cases on Four Dates in CY 2021,⁷⁹ by CMP

CMP	Percentage of Caseworkers Carrying 30 or More Cases on March 31, 2021	Percentage of Caseworkers Carrying 30 or More Cases on June 30, 2021	Percentage of Caseworkers Carrying 30 or More Cases on September 30, 2021	Percentage of Caseworkers Carrying 30 or More Cases on December 31, 2021
COC	0% N=0	6% N=3	5% N=3	5% N=4
KVC	32% N=26 ⁸⁰	23% N=21	23% N=21	24% N=22
SFM	35% N=54 ⁸¹	34% N=49 ⁸²	39% N=53 ⁸³	42% N=53 ⁸⁴
TFI	0% N=0	0% N=0	0% N=0	0% N=0

Source: DCF

⁷⁹ Percentages in this table have been rounded to the nearest whole number, and therefore may not add up to 100 percent.

⁸⁰ This data excludes case-carrying supervisors from the total number reported.

⁸¹ SFM had 104 additional children who were not assigned a case manager in the data.

⁸² SFM had 5 additional children who were not assigned a case manager in the data.

⁸³ SFM had 2 additional children who were not assigned a case manager in the data.

⁸⁴ SFM had 8 additional children who were not assigned a case manager in the data.

Supervisor Caseloads

The CMP contracts do not specify a caseload standard for casework supervisors. However, because it is common practice for supervisors to be assigned cases in situations where staff may be absent, such as for vacations or otherwise on leave, supervisors may sometimes carry a limited caseload. Kansas, like systems in other states, works to limit the number of cases a supervisor carries because supervision itself is a full-time responsibility.

Similar to the caseworker caseload data, there was a wide discrepancy as to how CMPs reported supervisor caseload data for CY 2021, and thus this report can only provide limited information about caseworker supervisor caseloads.⁸⁵ As Table 16 illustrates, every CMP who provided supervisor caseload data had supervisors who carried their own caseload in at least three out of four months in CY 2021. Of note, SFM provided data which identified multiple supervisors carrying more than 30 cases in June, September, and December 2021.⁸⁶ Importantly, the CY 2021 data do not identify the number of staff each supervisor was responsible for supervising while also carrying their own cases. Going forward, the uniform format developed collaboratively among the Neutral, DCF, and the CMPs will permit the Neutral to conduct a robust caseload analysis and report on casework supervisors' caseloads, including their supervisee caseload, in the report covering the monitoring period January to December 2022.

Table 16: Number of Caseworker Supervisors Carrying Cases on Four Dates in CY 2021, by CMP

CMP	Number of Supervisors Carrying Cases on March 31, 2021	Number of Supervisors Carrying Cases on June 30, 2021	Number of Supervisors Carrying Cases on September 30, 2021	Number of Supervisors Carrying Cases on December 31, 2021
COC	3	9	13	13
KVC	10	6	5	3
SFM	7	8	9	14
TFI	5	2	3	3

Source: DCF

⁸⁵ COC and KVC have missing supervisor caseload data for March 2021, TFI has missing data for all four quarters, and the format in which data from each CMP was submitted to the Neutral was not sufficient to provide a robust analysis.

⁸⁶ SFM reported one supervisor with a caseload above 30 children in June, four supervisors with caseloads above 30 children in September, and three supervisors with caseloads above 30 children in December.

Although DCF reported caseworker and caseworker supervisor caseloads for CY 2021, the commitment requires the Neutral to validate these data. Thus, DCF has not met this commitment for CY 2021.

b. Part II: Practice Improvements

i. 2.5.1 Temporary Overnight Placements (Failure to Place)

2.5.1 Temporary Overnight Placements (Failure to Place)
DCF shall end the practice of utilizing any of the following to temporarily house or otherwise maintain Class Members overnight.
Due Date: December 31, 2021⁸⁷

Section 2.5.2 of the Settlement Agreement requires DCF to end the practice of temporarily housing⁸⁸ children and youth in “(a) any public or private provider agency offices or annexes absent extraordinary circumstances;⁸⁹ or (b) any non-child welfare housing or temporary accommodations, including but not limited to: (i) hotels or motels, (ii) other commercial non-foster care establishments, (iii) cars, (iv) retail establishments, and (v) unlicensed homes of DCF’s or its Contractors’, Grantees’, or Subcontractors’ employees.” Because these settings are not licensed child welfare placements, DCF refers to these situations as reflecting a “Failure to Place.” According to the Settlement Agreement, DCF was to achieve substantial compliance with this requirement by December 31, 2021.⁹⁰

DCF uses a Critical Incident Protocol⁹¹ to help ensure that it is made aware of and can review situations in which a child or youth experiences a Failure to Place. According to the Protocol, CMP staff are to file a critical incident report⁹² when a youth experiences a Failure to Place incident. To assist in assessing DCF’s progress toward reaching this commitment, DCF aggregated these reports and produced a file identifying every Failure to Place episode⁹³ that occurred in CY 2021, with information including the child’s name, identifying number, the date(s) on which the

⁸⁷ See FN 6

⁸⁸ See FN 67

⁸⁹ See FN 9

⁹⁰ See FN 6

⁹¹ To view DCF’s Critical Incident Protocol, see:

http://www.dcf.ks.gov/services/PPS/Documents/PPM_Forms/Policy_and_Procedure_Manual_February2022Updated4182022.pdf, p. 38

⁹² To view DCF’s Critical Incident Form, see:

http://www.dcf.ks.gov/services/PPS/Documents/PPM_Forms/Section_0000_Forms/PPS0550.pdf

⁹³ The term “episode” refers to a period of time when a child/youth in care experienced Failure to Place. An episode ends when the child/youth is placed. A child/youth can therefore have more than one episode during a year, and an episode can last more than one night.

Failure to Place incident occurred, the agency involved, and the child/youth's previous placement setting. The Neutral then validated this information as agreed upon in the metric plan.⁹⁴

The majority of instances of Failure to Place occur when a child/youth in foster care experiences a placement disruption, and the CMP is not able to find a new placement on the same day. In order to better understand these situations, the Neutral analyzed episodes by provider agency and region; age of child/youth; and prior placement location. The Neutral also examined the occurrence of Failure to Place episodes by month, to determine whether there was a pattern of increasing or decreasing Failure to Place episodes over the course of the period under review.

As shown in Table 17, for CY 2021, 53 children/youth experienced at least one Failure to Place episode in CY 2021. A majority of these children/youth (38 or 72%) experienced one single Failure to Place episode lasting one night. DCF reported all children/youth who experienced a Failure to Place episode in CY 2021 were housed overnight in a CMP office.

Table 17: Number of Failure to Place Episodes Among Children/Youth in CY 2021
N=53 Children/Youth

Failure to Place Episodes	Number (%) of Children/Youth
Children/youth who had a single Failure to Place episode that lasted one night	38 (72%)
Children/youth who had a single Failure to Place episode lasting more than one night	4 (8%)
Children/youth who had more than one Failure to Place episode, and each episode lasted one night	6 (11%)
Children/youth who had more than one Failure to Place episode, and at least one of the episodes lasted more than one night	5 (9%)

Source: DCF

As shown in Table 18, these 53 children/youth experienced a total of 69 Failure to Place episodes in CY 2021. Forty-two children/youth had one such episode; seven

⁹⁴ In order to validate these reports, the Neutral compared them to the cohort file showing all placements for all children who were in DCF custody at any time during CY 2021. The Neutral verified that all Failure to Place episodes appear with a code designating that the child stayed in an office or similar location, and that there were no other instances of those codes in the placement file. In examining the placement file, the Neutral identified 57 other instances in which there was a gap in placement not associated with discharge and re-entry. For example, a child/youth may have been in placement on January 4 and January 7, but no placement is shown for January 5 or 6, and the child/youth did not leave care and re-enter during this period. In order to determine whether some or all of these instances represented additional, unrecorded episodes of Failure to Place, the Neutral asked DCF to review and provide information derived from Care Match, FACTS, and where necessary CMP records. The Neutral concluded that these situations did not involve Failure to Place.

had two; three had three; and one had four. Of the 69 episodes, 58 lasted one night; six lasted two nights; and there were single episodes lasting four, seven, 14, 18, and 54 nights. The total number of nights spent by children/youth in care in provider offices was 167.

Table 18: Frequency and Duration of Failure to Place Episodes in CY 2021
N=69 Failure to Place Episodes

Duration of Failure to Place Episodes	Frequency of Failure to Place Episodes	Total Number of Failure to Place Episodes
1	58	58
2	6	12
4	1	4
7	1	7
14	1	14
18	1	18
54	1	54
Total	69	167

Source: DCF

As shown in Table 19, the largest number of Failure to Place episodes occurred with children/youth served by COC in the Kansas City region (41 or 59%). KVC had the second highest number of children/youth who experienced a Failure to Place (16 or 23%).

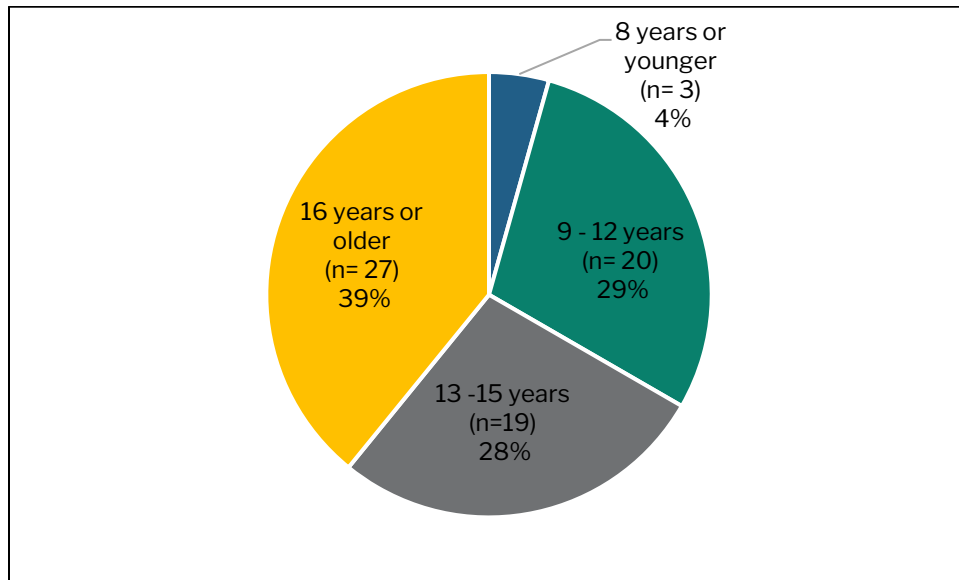
Table 19: Failure to Place Episodes by CMP and Region in CY 2021

Provider	Region	Number of Episodes	Provider Total	Percent of All Episodes
COC	Kansas City	41	41	59%
KVC	Kansas City	6	16	23%
	Northeast	10		
SFM	Wichita	2	6	9%
	Southwest	3		
	Northwest	1		
TFI	Wichita	5	6	9%
	Southeast	1		
Total		69	69	100%

Source: DCF

Adolescents aged 13 or older account for two-thirds of the Failure to Place episodes (46), and children aged 12 or younger account for one-third of the episodes (23), as shown in Figure 7.

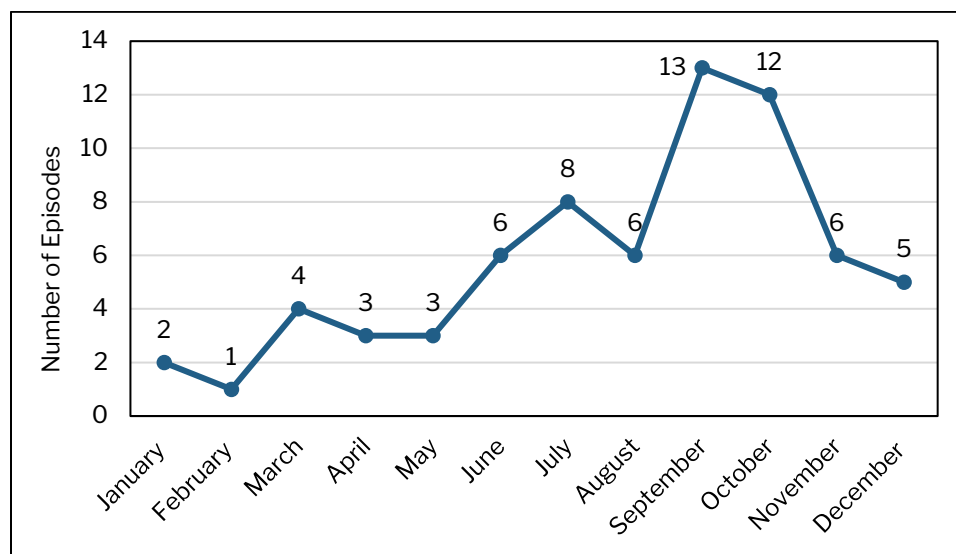
Figure 7: Failure to Place Episodes by Age of Child/Youth CY 2021
N=69 episodes



Source: DCF

As shown in Figure 8, the number of Failure to Place episodes peaked in the fall, with 25 (36%) taking place in September and October alone. The lowest number of Failure to Place episodes occurred in January and February 2021.

Figure 8: Failure to Place Episodes in CY 2021, By Month
N=69 episodes



Source: DCF

For CY 2021, DCF reported that none of the 69 episodes of Failure to Place met DCF's definition of extraordinary circumstances. The Neutral will continue to review episodes of Failure to Place, including any incidences of extraordinary circumstances in the next monitoring period (CY 2022). The Neutral has determined DCF did not meet the standard for CY 2021.

ii. 2.5.2 Licensed Capacity

2.5.2 Licensed Capacity
DCF shall ensure that no placement exceeds its licensed capacity without an approved exception to DCF's "Policy: Exception Requests for Foster Homes, 6/20/18 Rev. 10/21/2019."
Due Date: December 31, 2021⁹⁵

Section 2.5.2 of the Settlement Agreement requires DCF to ensure that no placement exceeds its licensed capacity unless an exception has been granted pursuant to DCF policy. DCF was to achieve substantial compliance with this requirement by December 31, 2021.

Kansas requires all traditional family foster homes ("family foster homes") to be licensed for a designated number of children/youth prior to placement, based on factors such as the size of the home and the number of people living there. By contrast, relative foster homes in Kansas (in which the foster parent is a relative of the child or youth in their care) are not required to be licensed, but can become licensed if the relative parent chooses to complete the process. Kansas designates Non-Relative Kin (NRKin) homes as homes in which the foster parent has some type of familiarity and relationship with the child/youth, such as a coach, teacher, or neighbor, but who is not formally related to the child or youth. These NRKin homes are required to be licensed, but they are permitted to have children and youth placed in their home before they complete the licensure process. Relative and NRKin homes are typically licensed for the number of children placed in the home. NRKin licenses may change if additional family members are placed in the home, but otherwise would not be expected to change. Licenses for family foster homes, on the other hand, may change if the number of children in the home changes for any reason.

Kansas grants exceptions to its licensure limits⁹⁶ in situations involving siblings, prior relationships, or if the foster home has special training for medical needs, termed

⁹⁵ See FN 6

⁹⁶ Kansas statute K.A.R. 28-4-804(e) states, "Any applicant or licensee may request an exception from the secretary. Any request for exception may be granted if the secretary determines that the exception is in the best interest of a child(ren) in foster care and the exception does not violate statutory requirements."

“overcapacity exceptions.”⁹⁷ In those situations, the Child Placing Agency (CPA) that supports the foster home submits a form⁹⁸ to the DCF’s Foster Care Licensing Division, who reviews and either approves or denies the request. Licensing exceptions are valid for six months, or until the child/youth leaves the home, whichever comes first. Overcapacity exceptions are made for a specific child or youth, which means that a home with an exception for one child/youth cannot use the same exception for a new child/youth entering the home at a later time, even if the first exception has not yet expired.

As outlined in the metric plan, the Neutral analyzed reports from various DCF data systems⁹⁹ to assess whether there were licensed foster homes operating at overcapacity without an approved exception. Unfortunately, due to limitations with the manner in which DCF collects and reports on data for this commitment, the Neutral was unable to verify the number of overcapacity foster homes for each month in CY 2021. This report instead provides an analysis based solely on three randomly selected days in May, July, and September 2021.¹⁰⁰

As shown in Table 20, there were family foster homes at or above licensed capacity without an approved exception on each of the dates reviewed. On September 30, 2021, there were 17 overcapacity foster homes that did not request exceptions, representing approximately one percent of active, licensed family foster homes on that date. With a single exception, all instances in which a home was overcapacity without approval, across these three dates, were ones for which no request was submitted. The exception was one home for which an exception was requested but not yet approved at the time that the data was retrieved in May 2021.

⁹⁷ For additional information on foster care licensing exceptions, see: [Exception Guidance.pdf \(ks.gov\)](#)

⁹⁸ To view the Family Foster Home Exception Request form, see: [FCL 408 Foster Family Home Exception Request.pdf \(ks.gov\)](#)

⁹⁹ The Neutral requested data from the CareMatch, and CLARIS systems to validate this data. CareMatch is able to produce a point-in-time report on children/youth placed in foster homes, but it unable to provide a cumulative report for where children/youth are placed for a period of time. Similarly, CLARIS is able to provide a point-in-time report on foster home licenses and exceptions, but is unable to provide a cumulative report on foster home licenses and exceptions for a period of time. CareMatch and CLARIS do not automatically interface with one another, and so comparing point-in-time data between the two systems had to be completed manually.

¹⁰⁰ DCF provided point-in-time data for May 4, 2021, July 21, 2021, and September 30, 2021.

Table 20: Compliance Status of Family Foster Homes on May 4, July 21, and September 30, 2021

Compliance Category	May 4, 2021	July 21, 2021	September 30, 2021
	Number (%)	Number (%)	Number (%)
Compliant - Family Foster Home is at or under capacity	1,473 (91%)	1,403 (90%)	1,350 (91%)
Compliant - Family Foster Home is overcapacity and was granted an exemption	110 (7%)	123 (8%)	124 (8%)
Compliant - Family Foster Home has missing licensed capacity data and was granted an exemption	1 (<1%)	0 (0%)	1 (<1%)
Total Compliant – Family Foster Homes	1,584 (97%)	1,526 (98%)	1,475 (98%)
Noncompliant - Family Foster Home is overcapacity and was denied an exemption or exemption is still in process	1 (<1%)	0 (0%)	0 (0%)
Noncompliant - Family Foster Home is overcapacity and did not request an exemption	42 (3%)	36 (2%)	17 (1%)
Total Noncompliant – Family Foster Homes	43 (3%)	36 (2%)	17 (1%)
Total Compliant and Noncompliant Family Foster Homes	1,627 (100%)	1,562 (100%)	1,492 (100%)
Nonapplicable ¹⁰¹	9	14	13
Total Family Foster Homes	1,636	1,576	1,505

Source: DCF

¹⁰¹ These are homes that were in the process of being licensed and did not yet have an assigned licensed capacity.

Table 21 illustrates that the number of licensed relative and NRKin homes that were at or above licensed capacity without an approved exception was much smaller, with fewer than three overcapacity homes without an exception on either of the three dates for which DCF provided data. For each overcapacity home without an exception, none had submitted an exception request.

Table 21: Compliance Status of NRKin and Licensed Relative Homes on May 4, July 21, and September 30, 2021

	May 4, 2021	July 21, 2021	September 30, 2021
	Number (%)	Number (%)	Number (%)
Compliant – Licensed relative and NRKin is at or under capacity	139 (95%)	137 (98%)	136 (97%)
Compliant – Licensed relative and NRKin Home is overcapacity and was granted an exemption	5 (3%)	2 (1%)	4 (3%)
Compliant – Licensed relative and NRKin has missing licensed capacity data and was granted an exemption	1 (1%)	0 (0%)	0 (0%)
Compliant – Licensed relative and NRKin Homes	145 (99%)	139 (99%)	141 (99%)
Noncompliant – Licensed relative and NRKin Home is overcapacity and was denied an exemption or exemption is still in process	0 (0%)	0 (0%)	0 (0%)
Noncompliant – Licensed relative and NRKin Home is overcapacity and did not request an exemption	2 (1%)	1 (1%)	1 (1%)
Noncompliant – Licensed relative and NRKin Homes	2 (1%)	1 (>1%)	1 (>1%)
Total Compliant and Noncompliant Relative and NRKin Homes	147 (100%)	140 (100%)	141 (100%)
Nonapplicable ¹⁰²	103	118	126
Total Relative and NRKin Homes	250	258	267

Source: DCF

Although foster, NRKin and licensed relative homes overwhelming were either below capacity or were above capacity with an approved exception (at least 97% for family foster homes and at least 99% for NRKin and licensed relative homes), the

¹⁰² These are homes that were in the process of being licensed and did not yet have an assigned licensed capacity.

Settlement Agreement requires DCF to “ensure that *no* placement exceeds its licensed capacity without an approved exception.” Thus, DCF did not meet this commitment for CY 2021.

iii. 2.5.3 Authorization of MH Services

2.5.3 Provision of Mental Health Treatment Services
Defendants shall not delay authorization and provision of medically necessary mental health treatment services until placement stability is achieved or otherwise link access to medically necessary mental health treatment services with placement stability.
Due Date: December 31, 2021¹⁰³

As discussed in Section II, the mental health needs of children and youth in foster care have traditionally been served by the Kansas Department for Aging and Disability Services’ (KDADS) 26 Community Mental Health Centers (CMHCs). For children and youth in DCF custody, CMPs are responsible for ensuring that children and youth receive timely and appropriate screenings, referrals, and services necessary to their well-being, such as mental health services provided by CMHCs.

Section 2.5.3 of the Settlement Agreement requires the State to provide children and youth with medically necessary mental health services without delay once they are placed in DCF custody, regardless of whether they are living in a stable placement. This commitment was to be met as of December 31, 2021.

To measure the State’s progress in meeting this commitment, the Neutral utilized the case read protocol as discussed in Section IV. To assess the extent of delays in the provision of mental health services, reviewers answered the question “*during the period under review, for any mental health service(s) not provided timely, was the delay caused by a factor other than placement stability?*”¹⁰⁴

For CY 2021, DCF case reviews found that in 76 percent of cases where there was a delay in authorization in mental health services, it was caused by a factor other than placement instability. In 24 percent of cases where a delay in authorization of mental health services was found, placement stability was a factor in the delay. DCF did not meet the standard for CY 2021

¹⁰³ See FN 6

¹⁰⁴ Case reviewers were instructed to score this question as a “yes” in cases where “there was a delay in mental/behavioral health services, and the reason for the delay was not due to placement stability”, a “no” in cases where “there was a delay, and it was due to placement stability,” and as “N/A” in cases where “there was no delay in services or there were no mental/behavioral health needs identified during the period under review.” The Neutral excluded all case reviews scored as “N/A” for validation purposes.

Table 22: Authorization of Mental Health Services Performance for CY 2021

Case Read Question	Percent of Case Reviews Where a Delay was Found, and the Delay was Due to Placement Stability	Percent of Case Reviews Where a Delay was Found, and the Delay was Not Due to Placement Stability
During the period under review, for any mental health service(s) not provided timely, was the delay caused by a factor other than placement stability?	24% ¹⁰⁵	76% ¹⁰⁶

Source: DCF

iv. 2.5.4 Availability of Crisis Intervention Services

2.5.4 Crisis Intervention Services
Defendants shall ensure that Crisis Intervention Services are available to Class Members statewide.
Due Date: December 31, 2021¹⁰⁷

Section 2.5.4 of the Settlement Agreement requires the State to “ensure that Crisis Intervention Services are available” to children/youth involved in foster care in Kansas. For CY 2021, DCF provided crisis intervention services in two ways: (1) those provided by the state's network of CMHCs, and (2) those provided by a new state-wide crisis intervention helpline launched on October 1, 2021.

There are 26 licensed CMHCs in Kansas, with a total staff of approximately 4,500 who are responsible for providing mental health services in every county of the state in over 120 locations. In addition to providing community level mental health treatment and rehabilitation services, CHMCs are also responsible for intervening in mental health crisis situations with children, youth, and families.

On October 1, 2021, in collaboration with the Kansas Department for Aging and Disability Services (KDADS), all three Kansas Medicaid-managed Care Organizations (MCOs), and all 26 CMHCs statewide, DCF launched a statewide mobile crisis hotline operated by Beacon Health Options of Kansas titled the Family Crisis Response Helpline. (“the Beacon helpline”). The Beacon helpline is intended to connect children and youth aged 20 or younger with free mental health supports and services in crisis situations in order to mitigate the need for more restrictive or institutional interventions. Examples of behavioral health crisis situations may include substance

¹⁰⁵ There was sufficient interrater reliability between the Neutral and DCF’s case review results.

¹⁰⁶ There was sufficient interrater reliability between the Neutral and DCF’s case review results.

¹⁰⁷ See FN 6

use disorders, suicidal ideation, changing or refusing medication, and/or stressors at home, school, or work. The Beacon helpline services include:

- Over the phone 24/7 support and problem solving from licensed mental health professionals to help resolve a child’s behavioral health crisis;
- Over the phone support with referral to community resources or a recommendation to engage in stabilization services;
- In-person support via mobile crisis response if the crisis cannot be resolved over the phone.

The Beacon helpline is intended to be utilized at any location statewide where a child/youth is experiencing a crisis. When a call is made to the Beacon helpline, trained mental health professionals respond to assist in stabilizing the situation; time frames for responses are based on an assessment of the circumstances.¹⁰⁸ For example, in cases of emergencies, a response is required within 60 minutes, and urgent situations require a response within 24 hours. Stabilization services are provided for up to eight weeks and can include work with the individual, family members, caregivers, and/or other support networks. These services often involve referrals and connections to CMHCs in the area. The CMHCs are charged by statute with providing the full range of outpatient community-based public mental health services.

Data provided by DCF on the Beacon helpline for CY 2021 do not identify which children/youth were in foster care and which were not, so this report does not include an analysis of the use of the helpline for children and youth in foster care. DCF’s unvalidated data show that between October 1, 2021 – when the Beacon helpline launched – and December 31, 2021, the helpline served a total of 75 children/youth. According to DCF, of the 75 children/youth served by the Beacon helpline, 34 (45%) were aged 0 to 12, 33 (44%) were aged 13 to 17, and eight (11%) were aged 18 to 20 years old. Thirty-seven percent of the youth were reported as female, and 63 percent reported as male. Ninety-eight calls were considered “crisis calls” and 15 calls required mobile interventions.¹⁰⁹ DCF reports that 27 (28%) calls were from the East

¹⁰⁸ For CY 2021, data on response time frames was not available. The Neutral expects to report on these time frames for CY 2022. For Frequently Asked Questions about the Family Crisis Response Helpline, see <http://www.dcf.ks.gov/FCR/Pages/default.aspx>

¹⁰⁹ Of these 98 calls, 73 were about unique children (15 children had more than one call to the helpline). DCF defines a crisis call as a call to the helpline number. Once contact with the caller is made a risk rating is assigned and the service provided is based on the risk rating and the caller’s needs. The risk rating may be routine, urgent,

region, 35 (37%) were from Wichita, 16 (17%) from the West region, and 15 (16%) from Kansas City.¹¹⁰ The Neutral expects to report on validated Beacon helpline data in CY 2022.

Prior to the Beacon helpline launch in October 2021 and continuing to the present, the CMHCs are the entities that provide crisis intervention services for children and youth in foster care, especially where children/youth are already receiving behavioral health services. For instances in which children/youth were served by CMHCs, the Neutral reviewed data drawn from Medicaid claim information, wherein each unit represents a service provided by CMHCs in 15-minute increments.¹¹¹ The data show that 1,888 units of crisis services were provided to children and youth in foster care in CY 2021, made up of 1,875 (99%) 15-minute crisis intervention service units, 10 instances of 60-minute “initial” crisis psychotherapy sessions, and three instances of “additional” 30-minute crisis psychotherapy sessions.

Most crisis intervention services provided to children and youth in foster care were to those aged 6 to 12 (38%), followed by those aged 13 to 17 (32%).

Table 23: Ages of Children/Youth in Foster Care Provided Crisis Intervention Services, by Units of Service¹¹² in CY 2021

N=1,888 units of crisis intervention services provided

Age Group	Number (%) of Children
2 to 5 years old	284 (15%)
6 to 12 years old	716 (38%)
13 to 17 years old	597 (32%)
18 years old or older	291 (15%)

Source: DCF

Fifty-seven percent of crisis intervention services were provided to children and youth in foster care who were reported as female, and 43 percent were reported as male. Crisis intervention services were provided to children and youth in 57 counties in Kansas. Almost two-thirds (63.2%) of all crisis intervention services were provided

etc., and the mobile intervention service ranges from resources provided to a mobile crisis unit dispatched to the caller.

¹¹⁰ One percent was determined to be NA where the caller’s county was not reported.

¹¹¹ DCF’s data provides a list of services billed for CY 2021 but does not include a list of requests made to crisis services, so the Neutral is unable to verify the percent of crisis requests that were responded to, or whether the requests were responded to in a timely manner. Additionally, this analysis only includes the Medicaid data provided by DCF.

¹¹² This analysis only includes the Medicaid data provided by DCF. Data regarding the Beacon Mobile Response Crisis Unit provided by DCF did not disaggregate by children in foster care and those who were not, so they are not included in this table.

in Shawnee County (23.5%), Sedgwick County (21.2%), or Reno County (18.5%). See Appendix A for a table of counties where children/youth in care were provided with crisis intervention services as according to DCF's Medicaid claims data.

DCF has been working to publicize the Beacon helpline statewide in order to best serve the needs of children and youth in rural and urban areas alike. The Department continues to work with Beacon to address operational challenges experienced during the first few months of implementation and those that are ongoing at the CMHCs, which include low utilization rates, workforce issues, and limited capacity and training to manage special populations, such as children/youth with intellectual disabilities and/or autism.

Although launching the Beacon helpline in the midst of a pandemic was a key accomplishment, the Neutral was unable to determine whether DCF met the standard for CY 2021, and will be further examining the statewide accessibility of crisis intervention services in Kansas and will be reporting its findings in the monitoring period covering January 1 to December 31, 2022.

v. 2.5.5 Night-to-Night and Short-Term Placements

2.5.5 Night-to-Night and Short-Term Placements
DCF shall end the practice of Night-to-Night Placements of Class Members by the end of Period 1 and end the practice of Short-Term Placements of Class Members by the end of Period 3. ¹¹³

As described above, children and youth who experience multiple moves while in foster care often struggle. When placements last for only a few days, or if there are multiple short placements, the trauma that children/youth experience can be exacerbated as they cycle through foster homes, institutions, and group placements. DCF is working to end the practice of night-to-night and short-term placements through a number of initiatives, including improving recruitment and retention of relative and non-relative foster homes, team decision-making during the investigation phase of a case and beyond, and increasing access to mental health services and supports to limit placement disruptions.

¹¹³ The Settlement Agreement defines periods as one calendar year, with Period 1 commencing January 1, 2021, and Period 3 commencing January 1, 2023.

Section 2.5.5 of the Settlement Agreement requires DCF to end the practice of utilizing night-to-night¹¹⁴ and short-term¹¹⁵ placements for all children in DCF custody except in cases of “emergency care or placements if appropriately time-limited and utilized in true emergency situations,” and “placements deemed appropriate¹¹⁶ using Item 4 of the Round 3 CFSR Onsite Review Instrument and Instructions.”¹¹⁷ The Settlement Agreement also specifies that “the lack of safe and appropriate placement options cannot justify the use of emergency or respite¹¹⁸ care. All Placement Moves, regardless of the reason, must be separately tracked and recorded.” The Settlement Agreement provided that DCF was to end the practice of all night-to-night placements by December 31, 2021, and all short-term placements by December 31, 2023.

To measure the State’s progress in meeting this commitment, the Neutral analyzed DCF’s placement data and utilized the case read protocol outlined in Section IV. This commitment requires two different samples: one composed of only children who experienced a night-to-night placement, and a second composed of only children who experienced a short-term placement.

Night-to-Night Placements

As Table 24 illustrates, 801 children in DCF custody experienced 1,501 night-to-night placements in CY 2021. This accounted for approximately 11 percent of all placements made in CY 2021.¹¹⁹

¹¹⁴ Section 1.17 of the Settlement Agreement defines a night-to-night placement as “one calendar day placement that is not the same residence address for consecutive days.”

¹¹⁵ Section 1.24 of the Settlement Agreement defines short-term placements as a “placement duration of fourteen (14) calendar days or fewer.”

¹¹⁶ The CFSR Round 3 guidance defines “appropriate” reasons for placement moves as: moves from a foster home to an adoptive home; moves from a more restrictive to a less restrictive placement; moves from non-relative foster care to relative foster care or non-related kinship foster care (NRKIN); moves that bring the child closer to family or community; and if a child/youth’s goal is Other Planned Permanent Living Arrangement (OPPLA), and the move is to an Independent Living (IL) placement.

¹¹⁷ See FN 10

¹¹⁸ Section 1.23 of the Settlement Agreement defines “respite” as “the assumption of daily caregiving responsibilities on a temporary basis, designated as approved twenty-four (24) hour-a-day family-based care, to provide parents or other caregivers with temporary relief from their responsibilities to a child. Such temporary care shall not be considered a Placement Move if it is requested by the child’s current parent/caregiver, and the foster child returns to the same placement upon completion of the Respite care.”

¹¹⁹ DCF data shows a total of 13,583 placements for CY 2021. Of those, 1,501 (11%) were night-to-night placements as defined by the Settlement Agreement. This total does not include 1,545 movements that are temporary absences. Consistent with federal definitions, temporary absences include runaways, hospital stays, mental health treatment facilities and incarceration stays. Also excluded were 6,883 placements with a missing placement end date. All the 6,883 children with a missing placement end date appeared in the Dec 31, 2021 cohort file, indicating they were still in care at the end of CY 2021 and their placement had not ended.

Table 24: Number of Night-to-Night Placements Experienced by Children/Youth in CY 2021

N=801

Number of Night-to-Night Placements	Children in Night-to-Night Placements
1	532
2	129
3	55
4	21
5	18
6	15
7	12
8	4
9	9
10 to 20	6
Total Number of Children/Youth who Experienced Night-to-Night Placements	801

Source: DCF

As shown in Table 25, a majority (72%) of night-to-night placements occurred in foster home settings, and 15 percent occurred in residential/institutional placement, such as a Qualified Residential treatment Programs (QRTPs) and other secure facilities.

Table 25: Night-to-Night Placements Experienced by Children/Youth in CY 2021, by Placement Setting

N=1,501

Placement Type	Frequency of Night-to-Night Placement
Foster Family Placement	1,076 (72%)
Group Home Placement	135 (9%)
Independent Living Placement	24 (2%)
Placed at Home	5 (>0%)
Relative Home Placement	37 (2%)
Residential/Institutional Placement	224 (15%)
Total	1,501

Source: DCF

To assess night-to-night placements, reviewers answered the question, “were all placement changes during the period under review planned by the agency in an effort to achieve the child’s case goal or meet the needs of the child?” The case reviews showed that in 33 percent of cases reviewed, the child/youth experienced an appropriate night-to-night placement in accordance with the Settlement Agreement definition.

Table 26: Case Read Results - Night-to-Night Performance for CY 2021

Case Read Question	DCF Measure of Performance
Were all placement changes during the period under review planned by the agency in an effort to achieve the child’s case goal or meet the needs of the child?	33% ¹²⁰

Source: DCF

The Settlement Agreement required DCF to end the practice of night-to-night placements by the end of CY 2021. In CY 2021, there were 1,501 night-to-night placements experienced by 801 children and youth. Thus, the Neutral determined DCF did not meet the standard for CY 2021.

Short-Term Placements

As Table 27 illustrates, 1,680 children in DCF custody experienced at least one short-term placement in CY 2021. This accounted for approximately 46 percent of all placements made in CY 2021.¹²¹

¹²⁰ There was sufficient interrater reliability between the Neutral and DCF’s case review results.

¹²¹ DCF data shows a total of 13,583 placements for CY 2021. Of those, 4,446 (33%) were short-term placements as defined in the Settlement Agreement. This total does not include 1,545 movements that are temporary absences. Consistent with federal definitions, temporary absences include runaways, hospital stays, mental health treatment facilities and incarceration stays. Also excluded were 6,883 placements with a missing placement end date. All the 6,883 children with a missing placement end date appeared in the Dec 31, 2021 cohort file, indicating they were still in care at the end of CY 2021 and their placement had not ended.

Table 27: Number of Short-Term Placements Experienced by Children/Youth in CY 2021

N=1,680

Number of Short-Term Placements	Children (%)
1	958 (57%)
2	288 (17%)
3	124 (7%)
4	90 (5%)
5	43 (3%)
6	34 (2%)
7	31 (2%)
8	18 (1%)
9	6 (<1%)
10 to 15	57 (3%)
16 to 20	22 (1%)
21 to 45	9 (<1%)
Total	1,680

Source: DCF

To assess short-term placements, reviewers answered the question, “were all placement changes, 14 days or less, during the period under review planned by the agency in an effort to achieve the child’s case goals or to meet the needs of the child?” The case reviews showed that in 46 percent of cases reviewed, the child/youth experienced an appropriate short-term placement in accordance with the Settlement Agreement requirement.

Table 28: Short-Term Performance for CY 2021

Case Read Question	CY 2021 Performance
Were all placement changes, 14 days or less, during the period under review planned by the agency in an effort to achieve the child’s case goals or to meet the needs of the child?”	46% ¹²²

Source: DCF

¹²² There was sufficient interrater reliability between the Neutral and DCF’s case review results.

The Settlement Agreement requires DCF to end the practice of short-term placements by the end of Period 3, except in cases of emergency or instances deemed appropriate by the CFSR Round 3 guidelines. For CY 2021 (Period 1), 1,680 children in DCF custody experienced at least one short-term placement.

c. Part III: Outcomes

i. 2.9.1 Placement Moves Rate

2.9.1 Placement Moves per 1,000 Days
All Class Members entering DCF custody in a twelve (12) month period shall have a rate of Placement Moves that does not exceed the specified number of moves per 1,00 days in care during their current episode.
Period 1 Target: 7 moves per 1,000 days in care

Section 2.9.1 of the Settlement Agreement requires DCF to limit the rate of a child/youth's placement moves. The Settlement Agreement further specifies that this rate is to be determined using the definitions and measurements utilized by the CFSR Round 3,¹²³ and provides a schedule by which the State is to reach a placement move rate at or below 4.44 moves per 1,000 days in foster care in order to fully meet this commitment. For Period 1, the Settlement Agreement requires that the placement move rate not exceed seven moves per 1,000 days in care.

The Neutral team reviewed and compared DCF's foster care data files for October 1, 2020, to September 30, 2021,¹²⁴ representing 3,127 children who entered custody during that time. These children and youth collectively experienced 3,044 placement moves during 521,417 days in care, or a rate of 5.84 moves per 1,000 days in foster care.

¹²³ See FN 11

¹²⁴ See Section IV

Table 29: Total Placement Moves Per 1,000 Days in Foster Care¹²⁵

Number of Children/Youth Entering Care	Number of Placement Moves	Total Days in Care	Placement Move Rate per 1,000 Days in Care Days
3,127	3,044 ¹²⁶	521,417	5.84 ¹²⁷

Source: DCF

The Neutral determined that DCF has met this commitment for Period 1, covering January 1 to December 31, 2021.

ii. 2.9.2 Addressing MH Needs

2.9.2 Addressing Mental and Behavioral Health Needs
At least the following percentages of a statistically significant, representative, random sample of all Class Members in DCF custody during a twelve (12) month period shall have had their mental and behavioral health needs addressed.
Period 1 Target: 80%

Most children and youth in foster care experience some form of trauma, and/or are otherwise in need of timely mental health services. In Kansas, the mental health needs of children and youth in foster care are served by the Kansas Department for Aging and Disability Services' (KDADS) 26 Community Mental Health Centers (CMHCs), the newly launched Beacon helpline, and mental health services provided by the CMPs, if available. To meet children and youth's mental and behavioral health needs in a more timely manner, DCF recently amended contracts with the CMHCs to require that services be initiated within 72 hours of a referral. The CMHCs are also now required to use a new referral process intended to accelerate service delivery.¹²⁸

¹²⁵ Thirteen children in the AFCARS 2021AB file had a value of -1 for their number of placements. A comparison to the FACTS placement file sent by KDCF indicates that these children's only placement during that period was as a "runaway." In all 13 cases, the KMT recoded these children with a placement value of 0 for the analysis.

¹²⁶ The Neutral found nine children in the AFCARS 2021AB file had a pre-adoptive placement during Federal Fiscal Year (FFY) 2021 that DCF did not count in its AFCARS submission. After consulting with the National Data Archive on Child Abuse and Neglect and other experts, the Neutral added one additional placement to the total number of placements for each of these children.

¹²⁷ The rate reported by the Children's Bureau in the CFSR 3 Data Profile is 5.83, while the rate calculated by the Neutral is 5.84. The number of statewide placement moves of 3,044 is nine higher than the number reported by the Children's Bureau, reflecting the nine children/youth whom the Neutral found had a pre-adoptive placement during FY 2021 that DCF did not count in its AFCARS submission, based on the Children's Bureau's 2007 guidance. After consulting the National Data Archive on Child Abuse and Neglect and other experts, the Neutral added one additional placement to the total number of placements for each of the nine children. The numbers for the statewide days in care reported by the KMT and the Children's Bureau differ by 1,014 days, a difference of 0.2%.

¹²⁸ The CMHCs are required to use a universal packet, which is an electronic referral form that includes historical and current information about the child/youth so that each provider does not need to complete a separate referral form.

These improvements are intended to better and more timely meet the mental health needs of children and youth in DCF custody.

Section 2.9.2 of the Settlement Agreement requires DCF to provide needed mental health care to all children and youth in foster care. To measure the State's progress in meeting this commitment, the Neutral utilized the case read protocol as discussed in Section IV. To assess whether children/youth had their mental and behavioral health needs met during the period under review, reviewers answered the question *"during the period under review, did the agency provide appropriate services to address the child's mental/behavioral need?"*

Table 30: Addressing Mental and Behavioral Health Performance for CY 2021

Case Read Question	CY 2021 Performance	Period 1 Standard
During the period under review, did the agency provide appropriate services to address the child's mental/behavioral need?	65% ¹²⁹	80%

Source: DCF

As shown in Table 30, in CY 2021 DCF provided appropriate mental and behavioral health services for children and youth in 65 percent of cases reviewed. DCF did not meet the standard for Period 1.

iii. 2.9.3 Stable Placements

2.9.3 Placement Stability
At least the following percentages of a statistically significant, representative, random sample of all Class Members in DCF custody during a twelve (12) month period shall be in a placement setting that at the time of the review is stable.
Period 1 Target: 80%

Too many children and youth in foster care in Kansas, as in many other states, have historically experienced multiple placements, as recognized by the Parties to the lawsuit. When children and youth are removed from their homes, they are entitled to a stable, secure placement where they can experience consistency and develop trust and connection with caretakers.

¹²⁹ There was sufficient interrater reliability between the Neutral and DCF's case review results.

Section 2.9.3 of the Settlement Agreement specifies the percentage of children who are to be “in a placement setting that at the time of the review is stable.” The Settlement Agreement requires that for Period 1, 80 percent of children and youth are to be in stable placements at the time of the review. By Period 3, 90 percent are required to be in stable placements.¹³⁰ To measure the State’s progress in meeting this commitment, the Neutral utilized the case read protocol outlined in Section IV. Reviewers answered the question “*is the child’s current placement setting (or most recent placement if the child is no longer in foster care) stable?*”¹³¹

Table 31: Stable Placement Performance CY 2021

Case Read Question	CY 2021 Performance	Period 1 Standard
Is the child’s current placement setting (or most recent placement if the child is no longer in foster care) stable?	86% ¹³²	80%

Source: DCF

The State’s case record review established that 86% of children and youth were in a stable placement as of December 31, 2021 (or their last date of placement if they were discharged prior to the end of the calendar year). DCF met this commitment for CY 2021.

iv. 2.9.4 One or Fewer Placement Moves

2.9.4 Placement Moves
At least the following percentages of all Class Members in DCF custody at any point during the twelve (12) month reporting period shall have one (1) or fewer Placement Moves in twelve (12) months immediately preceding the last date of that reporting period.
Period 1 Target: 75%

Section 2.9.4 of the Settlement Agreement requires DCF to limit the number of moves a child/youth makes to one or fewer during the period under review.¹³³ The Settlement Agreement further specifies that this rate is to be determined using the definitions and measurements utilized by the CFSR Round 3.¹³⁴ For Period 1 the

¹³⁰ See FN 9

¹³¹ “Current” is defined as of December 31, 2021, the end of the review period for children in placement, or at the time of discharge if the child left care prior to the end of 2021.

¹³² There was sufficient interrater reliability between the Neutral and DCF’s case review results.

¹³³ See Section IV

¹³⁴ See FN 11

Settlement Agreement requires that no less than 75 percent of children/youth in care have one or fewer moves.¹³⁵

In analyzing data for this commitment, the Neutral identified multiple data issues¹³⁶ which hindered the Neutral's ability to validate performance for this commitment. The Neutral will continue to work with DCF to resolve the data issues moving forward and will be reporting on this commitment in Period 2.

v. 2.9.5 Initial MH and Trauma Screens

2.9.5 Initial Mental Health and Trauma Screens
At least the following percentages of a statistically significant, representative, random sample of all Class Members entering DCF custody during twelve (12) month period shall have received a timely Initial Mental Health and Trauma Screen within thirty (30) days upon each entry into the foster care
Period 1 Target: 80%

Research shows that many children and youth entering foster care have experienced a measurable degree of trauma and/or are otherwise in need of mental health treatment services. An authorized mental health screen is required in order to determine what services are appropriate for each child/youth in each circumstance. The Settlement Agreement requires the State to conduct a mental health and trauma screen within 30 days of a child/youth entering DCF custody. The screen must be from a list of approved assessments¹³⁷ and completed by a qualified mental health professional¹³⁸ or their functional equivalent, as outlined in the Settlement Agreement.

¹³⁵ Section 2.9.4 of the Settlement Agreement clarifies that "only moves occurring during the reporting period will be considered for this measure."

¹³⁶ The Neutral identified a number of data issues with DCF's data submission that were unable to be resolved, including the way in which DCF counts pre-adoptive placements. The Neutral found 469 instances where children's placements may have been incorrectly counted, and was able to adjust for 383 of these using cohort data provided by DCF for CY 2020 and CY 2021. This resulted in 86 instances where children's placements were unable to be resolved. The Neutral found 20 additional children missing placement information that was unable to be resolved, totaling 106 children for which the Neutral cannot verify the number of placement moves. While this total is relatively de minimis relative to DCF's progress in meeting this commitment, the Neutral was unable to verify the accuracy of these data.

¹³⁷ The Settlement Agreement specifies the following assessments and screens can be used: DCF's Placement Stability & Mental Health Case Review Guide permits five assessments: (1) Ages and Stages Questionnaire – Social Emotional (ASQ-SE) for ages 0-2; (2) Child Stress Disorder Checklist-KS (CSDC-KS) for ages 0-18; (3) Preschool and Early Childhood Assessment Scale (PECFAS) for ages 3-6; (4) Child and Adolescent Functional Assessment Scale (CAFAS) for ages 5-18; and (5) Child Report of Post-Traumatic Symptoms (CROPS) for ages 6-18.

¹³⁸ Section 1.21 of the Settlement Agreement defines a qualified mental health professional as "a physician or psychologist, a licensed masters level psychologist, a licensed clinical psychotherapist, a licensed marriage and family therapist, a licensed clinical marriage and family therapist, a licensed professional counselor, a licensed clinical professional counselor, a licensed specialist social worker or a licensed master social worker, or a registered nurse who has a specialty in psychiatric nursing."

To measure the State’s progress in meeting this commitment, the Neutral utilized the case read protocol as discussed in Section IV. Reviewers answered two questions to determine whether children/youth were receiving timely mental health screens, and whether they were performed by qualified personnel: (1) *“during the period under review,¹³⁹ did the agency provide an Initial Mental Health and Trauma Screen within thirty (30) days upon the child’s entry into the foster care;”* and (2) *“was the assessment performed by a person who has been trained to reliably administer the Screen, and who is either a Qualified Mental Health Professional or a professional who holds a bachelor’s degree in the field of human services or a related field?”* Both questions require a “yes” answer to meet this commitment.

Table 32: Initial Mental Health and Trauma Screens Performance for CY 2021

Case Read Question	CY 2021 Performance	Period 1 Standard
Total percent of case reviews where an Initial Mental Health and Trauma Screen was conducted timely and by a Qualified Mental Health Professional	34%	80%
During the period under review, did the agency provide an Initial Mental Health and Trauma Screen within thirty (30) days upon the child’s entry into the foster care?	56% ¹⁴⁰	
Was the assessment performed by a person who has been trained to reliably administer the Screen, and who is either a Qualified Mental Health Professional or a professional who holds a bachelor’s degree in the field of human services or a related field?	60% ¹⁴¹	

Source: DCF

For CY 2021, 56 percent of children/youth received timely Mental Health and Trauma Screens. Of the children/youth who received timely screens, 60 percent were screened by a Qualified Mental Health Professional as defined in the Settlement Agreement, resulting in an overall performance of 34 percent. DCF did not meet the standard for CY 2021.

¹³⁹ The PUR for this commitment was January 1 December 31, 2021.

¹⁴⁰ There was sufficient interrater reliability between the Neutral and DCF’s case review results.

¹⁴¹ Initially, there was low interrater reliability between the Neutral and DCF’s case review results. During the reconciliation process, DCF determined key information had been unintentionally omitted in the data provided to the Neutral, which greatly impacted initial case review results for this question. During the reconciliation process, DCF provided the relevant information to the Neutral, which allowed DCF and the Neutral to reach consensus and validate DCF’s case review results for this commitment.

IX. Appendices

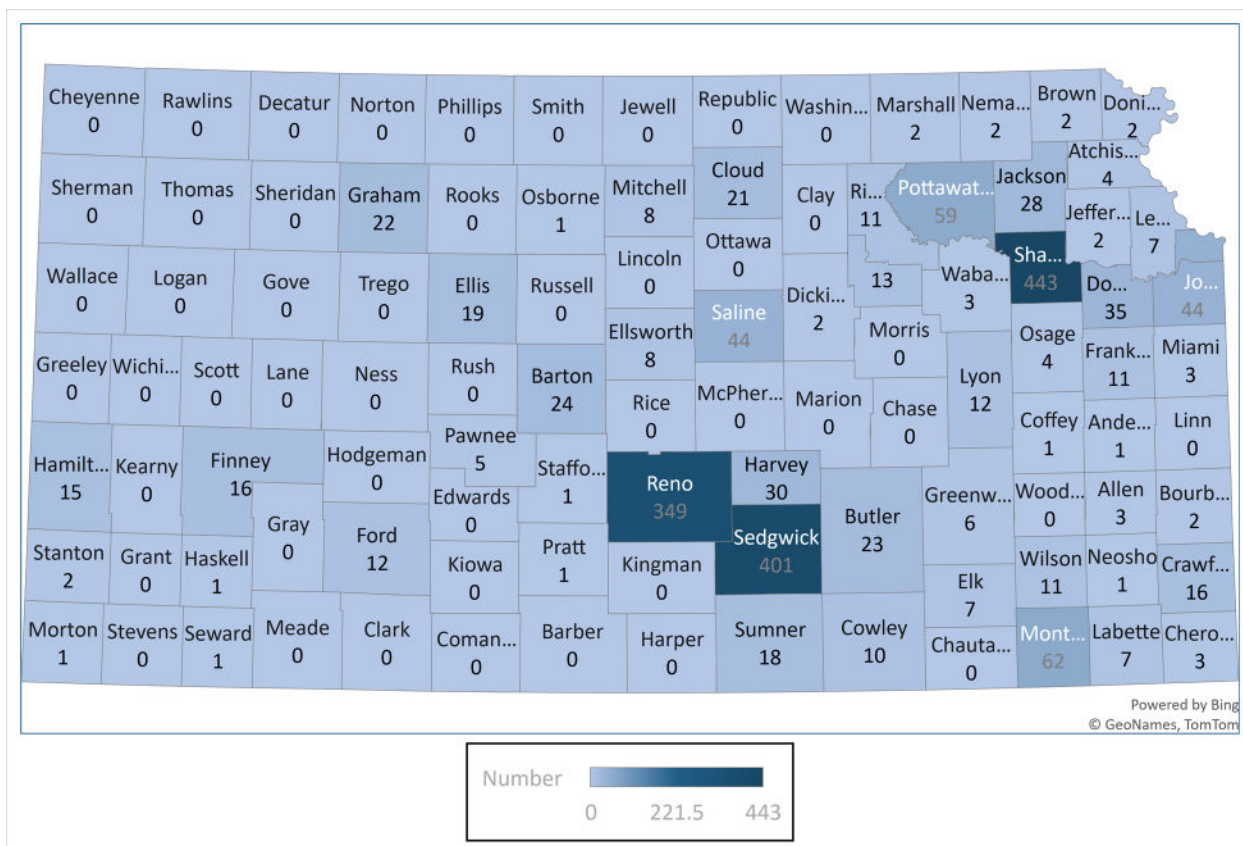
Appendix A: Glossary of Acronyms

- **CCBHC:** Certified Community Behavioral Health Clinic
- **CFSR:** Child and Family Service Review
- **CINC:** Child in Need of Care
- **CLARIS:**
- **CMHC:** Community Mental Health Center
- **CMP:** Case Management Provider
- **COC:** Cornerstones of Care
- **CPA:** Child Placing Agency
- **CPI:** Continuous Performance Improvement
- **CSSP:** Center for the Study of Social Policy
- **CWIS:** Child Welfare Information System
- **CY:** Calendar Year
- **DCF:** Kansas Department for Children and Families
- **FACTS:** Families and Children Tracking System
- **FFPSA:** Family First Prevention Services Act
- **KDADS:** Kansas Department for Aging and Disability Services
- **KDHE:** Kansas Department of Health and Environment
- **KFAAB:** Kansas Foster Accountability Advisory Board
- **KVC:** KVC Kansas
- **MCO:** Managed Care Organization
- **NRKin:** Non-Relative Kin
- **PPC:** Police Protective Custody
- **PS TDM:** Placement Stability Team Decision-Making
- **QRTP:** Quality Residential Treatment Program
- **SACWIS:** Statewide Automated Child Welfare Information System
- **SAMHSA:** Substance Abuse and Mental Health Services Administration
- **SFM:** St. Francis Ministries
- **SRS:** Department of Social and Rehabilitation Services
- **TDM:** Team Decision-Making
- **TFC:** Therapeutic Foster Care
- **TFI:** TFI Family Services

Appendix B: Counties Where Children/Youth in Foster Care Received Crisis Intervention Services in CY 2021

Counties Where Children/Youth in Foster Care Received Crisis Intervention Services¹⁴² in CY 2021

N = 1,888 units of crisis intervention services delivered



Source: DCF

¹⁴² This analysis only includes the Medicaid data provided by DCF. Data regarding the Beacon Mobile Response Crisis Unit provided by DCF did not disaggregate by children in foster care and those who were not, so they are not included in this table.