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Health and Human Services and LR29 Committees July 9, 2021
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ARCH: Well, good morning and welcome to today's briefings to the Health and Human Service Committee and the LR29 Committee. My name is John Arch. I represent the 14th Legislative District in Sarpy County and I serve as Chair of the HHS Committee and the LR29 Committee. Members of the Health and Human Services will be here on my left and members of the LR29 Committee are sitting to my right. I'd like to invite the members to please introduce themselves starting on my right with Senator Geist.

GEIST: Good morning. I'm Senator Geist. I represent District 25, which is the east side of Lincoln and Lancaster County.

CLEMENTS: I'm Rob Clements, from Elmwood. I represent District 2, which is Cass County and parts of Otoe and Sarpy.

M. HANSEN: Matt Hansen, District 26, which is Northeast Lincoln.

KOLTERMAN: Mark Kolterman, District 24, which is Seward, York, and Polk Counties.

ARCH: Thank you. Assisting the committee today is our committee counsel, Paul Henderson and T.J. O'Neill, which are seated behind us, as well as our committee clerk, Geri Williams. We've had two briefings scheduled this summer. The first focused on the area of procurement and contracting, and today's briefing to the committees is going to be focused on the financial aspects of the Eastern Service Area child welfare contract, as well as the quality of services provided under that contract. These briefings were intended to provide some background information to make sure that everybody had the-- the basic information in front of them. Testimony is by invitation only. And first this morning, we're going to hear from Liz Hruska, fiscal analyst with the Legislative Fiscal Office, on the financial aspects of child welfare privatization since 2009 and the state's current contract with Saint Francis Ministries. Following Liz, we're going to hear from Jennifer Carter, the Inspector General of Nebraska Child Welfare, and then from Monika Gross, executive director of the Foster Care Review Office. Both Inspector General Carter and Ms. Gross will be briefing us on the quality of the services provided by Saint Francis based on the information that's coming into their offices and their respective oversight duties related to child welfare in the Eastern Service Area. And finally, I'll remind the committee members, anyone else in the room, to please silence your cell phones. With that, we will begin today's briefing with Liz Hruska. And we welcome Liz. I think you're well known to the committees, to the Legislature.

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Thank you for all the work you've done to prepare for today's briefings.

LIZ HRUSKA: Thank you, Senator Arch, and good morning. And good morning to the members of the special Investigative-- Investigative Committee and the Health and Human Services Committee. My name is Liz Hruska. That's L-i-z H-r-u-s-ka. I'm an analyst in the Legislative Fiscal Office and I appreciate the opportunity to brief you this morning. I'll first give a-- a history of privatization and then I'll go into the Saint Francis contract. Child welfare privatization had a rough start from the beginning. The state had good intentions in moving to the privatization model, as former Senator Campbell discussed at the last meeting. Nebraska was leading in the rate of children removed from their homes. We were among the highest in the country. Also, the department had failed the most recent children and-- federal Children and Family Services review. The agency began a multi-year process of improving the child welfare system. Department staff studied other states and looked at best practices. As former Senator Campbell mentioned the last time, there were six agencies that signed short-term implementation contracts before signing the full 20-month contracts. However, only five ended up signing the contracts, which went-- went into effect in November of 2009. The Alliance for Children and Family Services and the Central Service Area declined, citing fiscal concerns. The contracts were always intended to be public-private partnerships. Although the contracts gave the service coordination responsibility-- that is, setting up treatment and nontreatment services-- to the lead agencies, no funding was provided for this function. Funding was only for nontreatment services and treatment services ordered by the courts but not funded by Medicaid. Additionally, the contracts were always intended to be handled within existing resources. The agency did not ask for additional funding for any part of the welfare reform effort in their budget request. Todd Landry, Children Service-- Children and Family Services director at the time, stated that no state employees would be laid off. According to Mr. Landry, caseloads were too high, which delayed movement towards permanency as ca-- caseworkers did not have adequate time to perform the work. By removing the day-to-day activities of obtaining services for children, the state-- state's case managers' time was freed up to move the-- the cases towards permanency. Contractors were offered the amount appropriated for services only, even though, as I mentioned previously, they were required to hire staff and pay operating expenses. Those costs had to be paid from other funding sources. In addition, for 12 months after children left the sy-- system, the lead agencies had to cover the cost of aftercare, which had not previously

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been offered by the state and, therefore, was not included in the amount that was the basis for the contract amounts. The contracts were global trans-- transfer contracts, which is the most at-risk type. Under a global transfer contract, the contractor receives a set amount, regardless of the number of children served or the level or cost of the services. The le-- lead agencies were required to serve all children assigned to them and had no control over the number of children or the-- or their level of needs. The state, however, did maintain final decision-making control. The original contact-- contract amount for the 20-month period starting in November of 20-- in 2009 through June of 2011 was \$100-- \$145 million for all five agencies. Two months later, in January 2010, the total was increased by \$18.3 million. The January 2020 amendment contract changed it from a completely at-risk contract to one where the agencies would be held harmless at a certain level of loss and kept the amount over the cost the agencies could retain. In reality, this was never fully implemented as lead agencies began to terminate their contracts or have them terminated and the additional funding was give-- with-- and additional funding was given to those that remained. In March of 2010, D-- the department terminated the contract with Visinet when it became apparent the agency was not fiscally sound and could not meet the terms of the contract. Shortly after the Visinet contract was canceled, CEDARS gave notice to the department that they would terminate their contract as of June 30, 2010, citing a cost of \$5.5 million if they continued the contract. At the end of September 2010, Boys & Girls Home terminated their contract with the state effective on October-- October 15. Claims totaling \$2.5 million went through the State Claims process in 2012 solely to pay subcontractors of Boys & Girls home. In less than one year after the initial contracts went into effect, only two lead agencies remained: NFC, later named-- renamed PromiseShip, and KVC Behavioral Healthcare. On October 15 of 2010, the department announced that an additional \$6.3 million would be provided to the-- to the two remaining lead agencies. Those funds were primarily freed up General Funds from one-time Federal Emergency Assistance for Needy Family, or TANF, funding. The model of the state having the final authority to make decisions with the lead agencies paying for the services did not prove workable. In January of 2011, case management was given to the lead agencies. This was a confusing time. Although case management became the responsibility of the lead agency, in a required report to the Department of Administrative Services, DHHS stated that no funding would be provided for case management. Even though in theory no funding was provided for case management, the two contracts were increased by a total of \$19 million. And the-- that funding was the remaining emergency TANF

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funds, savings from laying off state employees, the agency's carryover balance and a fund mix change to utilize more federal funding. So they did not have to come to the Legislature to re-- re-- request a deficit at that time. Even with the increased funding, both NFC and KVC continue to pro-- provide millions of dollars from private funding. At the time KVC terminated their contract in March of 2012, the Lincoln Journal Star reported that they had contributed \$14 million from private sources and NFC had contributed \$7.5 million in anticipated spending, an additional \$2 million in private funds. A little more-- after the infusion of the \$19 million and the transfer of case management, NFC in the Eastern Service Area was the only lead agency remaining. At this point, what had started as a statewide effort to privatize child welfare was narrowed to a pilot. In the years that followed, NFC/Promise-- PromiseShip had increases in their contracts. The additional funding was the result of increases in the number of children served for various reasons. At one point, the juvenile justice po-- population was added to their responsibility. They also-- NFC also picked up the caseloads from KVC when they terminated their contract. And during this period of time, there was an overall increase in the child welfare population, not only in the Eastern Service Area but-- but statewide. In anticipation of rebid-- rebidding the lead agency contract in the Eastern Service Area, the department contracted with the Stephen Group to perform an assessment of whether the lead agency contract should continue. As part of their report in May 2019, they stated that after reconciling case counts and expenditures with the Division of Children and Family Services and Promise-- PromiseShip, formerly called NFC, they found that the cost per case in the Eastern Service Area to be in alignment with the cost per case in the other four service areas that were managed by the state. This information was available to the evalu-- evaluation teams which reviewed and scored the bids to determine the lowest responsible and reasonable bid in the Eastern Service Area contract. The-- the key factor in Saint Francis scoring higher than PromiseShip was the difference in the amounts between the two bids. In the cost category, Saint Francis was 373 points higher than PromiseShip, but overall Saint Francis outscored PromiseShip by 192 points, as shown in the chart that you have before you. Now I will review the Saint Francis contract. The Department of Health and Human Services-- Services signed a five-year contract with Saint Francis Ministries on July 2, 2019, to handle child welfare case management in the Eastern Service Area. Saint Francis' bid of \$196.4 million, was 64 percent of the bid submitted by PromiseShip, which was \$305.3 million. And you have two handouts. The first handout, this chart, this is shown on the very first chart. These initial bids, for purposes of comparison, I made

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two adjustments. The PromiseShip bid was for 12 months and the Saint Francis Ministries one was for six months. The PromiseShip bid was reduced to six months to be comparable, and that was because since PromiseShip was the current provider, they would not have had a gap in service, where Saint Francis Ministries, being a new provider, needed a lead time in order to develop their infrastructure. So for comparisons, I just assumed both contracts started January 1 of 2010. The other adjustment I made was regarding startup costs. Both con-- both bids included startup cost, but Saint Francis Ministries, again, since they were a new provider, had a substantially higher cost. So I did not use those in the calculation because it would not have been comparable. Further contract amendments accelerated the transfer of cases and also provided additional funding for Saint Francis and the amount paid to PromiseShip was adjusted to-- to reflect the acceleration. On these charts, I did not try to reconcile with the acceleration because the cases were transferred over-- slowly over a two-month period of time, would have just been too-- too difficult to accurately make a comparison. So these charts always assume a January 2020 start date. The bid submitted by Saint Francis assumed a higher caseload ratio than state statute allows. The bid assumed a caseload ratio of 25:1. State law caps the caseloads, depending on the type of case, at a maximum of 17 cases per worker. Before the contract was signed, Saint Francis requested an additional \$15 million to comply with the statutory caseload requirement. Had the additional 15 million been included in the original bid, Saint Francis would-- would have been 69 percent of PromiseShip's bid. The-- the request was denied by the Department of Administrative Services. As Tyler Mahood testified in the previous briefing, bylaw adjustments to a bid, once opened, cannot be materially altered. Written into the contract was a provision that Saint Francis would comply with the statutory provisions for caseloads without additional cost. In the first fiscal year, Saint Francis reached the "do not exceed" amount in May 2020, and they were not paid again until the new contract year started in July. The drawdown rate in the second year of the contract would have reached the "do not exceed" limit in early February. On January 22, the interim CEO of Saint Francis, William Clark, testified at a hearing before the Health and Human Services Committee that Saint Francis would be out of funding on February 12. On January 29, 2021, the department signed a new 25-month contract with the Saint Francis Ministries for \$158.8 million, which is \$82.9 million higher than the original contract for the same period. And just as I had with the original PromiseShip-Saint Francis comparison, I had-- had to do some conversions. The new contract started February 1 of 2021 and it terminates on February 28, 2023, which is a shorter period of time. So

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the second chart on your handout shows that 54-month contract converted to 38 months. So I used the initial contract from January of 2020 to the end of January '21 plus the projected amount in the new contract through February 28 of 2023. The Saint Francis contract now exceeds the PromiseShip bid by \$3.7 million when-- when both are converted to the same 38-month period. And that is shown on the third chart in your handout. For a January 29, 2021, press release issued by the department, the estimated contract is \$68.9 million in the first 12 months and \$78.4 million in the second 13 months. Program costs are reimbursed at 100 percent and administrative costs are capped each year. Program costs are all costs incurred and paid to a three-- third party and are projected to be \$95.2 million over the term of the contract. These costs will be higher or lower as program costs are fully reimbursed for actual and allowed-- allowable contracted costs. Since we don't know how many children there will be or what services they will use, they will get full reimbursement, and that's why these figures are-- are an estimate. The only caps are administrative caps. Per the contract, administrative cap-- administrative costs are defined as those not included in program costs. Those caps are \$24.3 million in the first year, which was 12-- which is 12 months, and 27.7 in the second year, which is 13 months. Those costs must be within 5 percent of the out-of-home cost in the balance of the state. The average cost per child is to be reviewed every six months, with the first review occurring by November 1st of 2021 and then every six months thereafter. The contract-- the January-- January 29 contract also included \$10.5 million to cover costs incurred but not reimbursed under the previous contract for May and June of 2020. The contract is silent on how often payments are made. From February through June, payments have been made approximately twice a month. Based on the estimate the department-- based on the estimate the department provided on the new contract, average monthly cost in the first 12 months would be about \$5-- \$5.7 million. To date, since February, payments have averaged \$5.6 million a month, which is very close to the amount projected in the contract. I know this committee had some questions as to how the additional contract costs were funded. The department did not request a deficit to cover the additional contract cost in 2021, nor an adjustment in the fiscal year '22 through 4'23 biennium. There are two primary reasons: a decline in cases and budget decisions. Cases rose 11 percent in the two years between 2015 and 2017, and they continued to increase but at a lower rate over the next year or to year and a half. Because of this increase in FY 2018, child-- child welfare had a deficit of 2. point-- \$24.7 million dollars, with an annualized cost of \$31 million in fiscal year '19. The higher costs were in the base of the child welfare budget when the

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FY '20 and '21 appropriations were set. But subsequent to the increase through fiscal year '19, cases started to decline. Additionally, although the bid by Saint Francis was lower than PromiseShip's, the full amount of the difference between the two bids was not removed from the appropriation. The difference between the two bids was \$42 million over the biennium, but the appropriation was only reduced by \$33 million, leaving \$9 million left in the budget. Senator Arch had made a request that I review the various payment structures over the course of privatization. I'll do a-- a review of those now. In November of 2009, which I discussed earlier, the contracts were full-risk contract-- contract with no payment for stopped-- staff or operations, only a "do not exceed" amount for direct services paid in predetermined monthly installments. Two months later, in 2010, a floor and a ceiling were added to the contracts, placing limits on the potential losses or gains by the lead agencies. In January 2011, as I also previously discussed, case management was added to service coordination and an additional \$19 million was split between NFC and KVC. However, because lead agencies were already doing ser-- service coordination, no additional funding was added due to the case management responsibility. In August of 2011, at this point, the contracts were written to be reimbursement contract for actual costs with annual limits. In June of 2012, at this point, there is only one contractor, NFC, or PromiseShip, and the reimbursement structure was a combination of a fixed monthly payment plus a case management rate on in-home and out-of-home placement. So performance-based criteria was added. In April of 2016, the variable rate change to a flat daily rate per child, regardless of their type of placement. In October of 2016, a stop-loss provision was added, limiting losses to a flat amount of \$400,000 over the term of-- term of the contract, and it changed the method to a cost reimbursement payment. And finally, in May of 2017, reimbursement was based on a fixed monthly payment and a daily variable rate with monthly prepayments and annual reconciliation, and also written into the contract was approval must be given for certain expenditures. So in closing, as you can see, it-- it's difficult to predict child welfare costs. As the state is responsible for any child in need of protection and a safe living environment, the department does not control entry into or exits out of the system, and needs may vary from child to child. If you have any questions, I would be happy to answer them.

ARCH: Thank you, Liz. That's a lot of information. Appreciate-- appreciate the work that you did. At this time, we'll open it up-- we'll open it up for questions, if there are any, from the senators. Senator Cavanaugh.

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M. CAVANAUGH: Thank you. Thank you, Liz. This was really, really informative. on page 7, you talked about where the funding-- that extra funding came from, the \$31 million. And if this isn't a question you can answer, I can speak to our Appropriations Committee members. But it looks like it was the intent of the Appropriations Committee to sort of claw back that \$31 million that had been unutilized by cutting that. Is that-- would that be your understanding or you're not sure?

LIZ HRUSKA: The \$31 million on page 7 refers to a deficit that the agency had, so that was actually funded with General Funds.

M. CAVANAUGH: OK.

LIZ HRUSKA: That became part of their base, which is why in January of this year, when the contract for Saint Francis was increased, that was part of their base.

M. CAVANAUGH: OK.

LIZ HRUSKA: But because we had seen cases climbing for four years, but then cases started to decline, so the base in the-- in fiscal year '21 was higher than what-- what was needed because we had been basing the appropriation of the higher caseloads, which you kind of never know why caseloads go up or why they decline.

M. CAVANAUGH: Sure.

LIZ HRUSKA: The state is just responsible for serving all children that enter the system.

M. CAVANAUGH: Appreciate that. I have one other question, and-- and I apologize if I missed this. Did you touch on, at all, the IV-E funds in your--

LIZ HRUSKA: No, I did not.

M. CAVANAUGH: OK. Do you happen to know the status of our drawing down IV-E funds for these programs? Because-- I ask that question because that was part of the-- the bid, saying that that was explaining some of the financial variance.

LIZ HRUSKA: IV-E--

M. CAVANAUGH: Putting-- putting you on the spot.

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LIZ HRUSKA: IV-E have changed. For a while, we were under a multiyear agreement with the feds and it was a capped amount where certain adjustments could be made and now it's back, changed. I did not look into that for this. Throughout the pandemic, some additional funding-- federal funding has been available. So I-- I didn't focus on this--

M. CAVANAUGH: OK.

LIZ HRUSKA: --for this presentation.

M. CAVANAUGH: Thank you.

ARCH: Thanks. That'll be a question we'll pose to the department, certainly. Senator Clements.

CLEMENTS: Thank you, Mr. Chairman. Thank you, Liz. When you're talking about Saint Francis bid now exceeding \$3.7 million over PromiseShip, did you factor any inflation into what the PromiseShip bid would be now or did you use the original amount?

LIZ HRUSKA: I used the original amount. So the-- whenever I make these comparisons, they are a static figure. I am using the initial bid from Saint Francis and the initial contract amounts-- or the initial bid at PromiseShip and the initial contract amounts from Saint Francis, which were based on their bid. And then because Saint Francis got a new contract in January, I-- I used the contract period from January of 2020 to the end of January '21, plus the projected amounts of the new contract, because we're just in-- into that contract a few months. And unlike the prior contracts, which had yearly caps, the new contract is an actual reimbursement contract for their program cost, so those are just projected costs, and I used that from their press release.

CLEMENTS: All right. Well, I was thinking after two years, that PromiseShip likely would have had a higher cost amount or payment amount too.

LIZ HRUSKA: Well, their-- their bid showed inflation in the bid. It was a five-year contract.

CLEMENTS: Oh.

LIZ HRUSKA: And so I had their-- the two-- two bids were comparable in that they showed, year by year, an amount.

CLEMENTS: OK, so the top chart on your comparison would have had some inflation with PromiseShip?

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LIZ HRUSKA: Yes.

CLEMENTS: Thank you.

LIZ HRUSKA: Yes.

CLEMENTS: That helps.

LIZ HRUSKA: Sorry, I should have been more direct on that.

CLEMENTS: That's OK.

ARCH: Liz, I have just a question of clarification. We use the term "bid," you know, and that-- and that, in some of our minds, it's like you're going to go out and build a building and here's the bid, and it's-- it's not-- it-- you know, that's what you're going to pay, assuming then they build it according to the specifications. In this case, though, you've also interchanged this term "estimate" because-- because the estimate is a cost. We-- we-- we-- when they bid, they estimate a number of children, they estimate the type of services that those children will receive, and they-- and that is what their "bid" is. But because it's a cost-based "bid," it-- it-- like you say, it's hard to know how many cases you're going to have, how many children are going to need these services, what kind of services exactly will they be needing. All of those questions are-- when you're projecting five years out, become more difficult in the fourth and fifth year. And so-- and so that's an estimate. We may pay less, but we may pay more, as well. Is that-- is that-- no?

LIZ HRUSKA: The initial bids by PromiseShip and Saint Francis both had annual "do not exceed" limits in them. The January 29 contract, which was a negotiated contract, it did not have a bid. That is the one that went to a reimbursement-based contract. So if you look at both the Saint Francis bid and their contract, there are specific amounts each year that said "do not exceed," which is why in the first year of their contract, they threw down all their funding by May, even though they still had two months left, and they were not paid because at that point it wasn't a reimbursement contract. The current one is.

ARCH: OK, that's helpful. Thank you. And-- and is that true of administrative costs as well? And my question specifically there is regarding case managers. We understand Saint Francis is struggling to hire enough case managers to get that case ratio to where it-- where it belongs in statute. And-- but we-- we talk-- in your presentation, you referenced administrative cost differently than service cost. Are we obligated to pay Saint Francis administrative cost even though they

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are-- and-- and do the case managers fit into administrative cost even though they may not have been able to fill all of those positions?

LIZ HRUSKA: The contract is based on allowable and actual cost, but the administrative section of the contract-- and maybe the agency needs to clarify this more, or probably an attorney. I tried to be very careful when I was analyzing this. It says there are annual caps and administrative costs, and then it also says administrative costs must be within 5 percent of the comparable per-child cost in the balance of the state. I still have some questions about that provision. I don't completely understand it, but the contract does handle program costs, which are contracted costs. And it identifies administrative costs, which it doesn't define; it just says that it isn't program cost, so obviously the case managers and all their operating costs would be in there. Also, I believe, and I sent an email to the department but didn't hear a response back yet, any of their internally provided services would be under that administrative cap. But I need-- need further clarification on that.

ARCH: Well, that's a-- that's-- again, we can-- that's a question we can pose to the department, as well, but thank you.

LIZ HRUSKA: Yes.

ARCH: Senator Kolterman, did you have a question?

KOLTERMAN: Yeah, I did. Thank you, Senator Arch. Liz, thanks for being here. When we look at these contract comparisons, I mean, at the end of the day, there's a \$3 million, almost a \$4 million difference that we're now paying to Saint Francis, a little higher than what the PromiseShip bid would have been. But help me understand. The bid that we're talking about here is strictly for the case management, the administrative costs and the cost to outsource and just take care of these children. Is that not correct?

LIZ HRUSKA: That's correct.

KOLTERMAN: It-- it doesn't take into account, and-- and here's where I'm going to-- is it-- does it take into account what it actually costs? Things like their housing that the parents that get reimbursed, does it take into account things like the Medicaid cost that these kids are all covered under? That's all in addition to what we're looking at here,

LIZ HRUSKA: Foster care payments would be under the-- the contract.

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KOLTERMAN: OK.

LIZ HRUSKA: Medicaid is not. Any Medicaid service paid-- is paid directly out of the Medicaid program, no matter who's providing the service.

KOLTERMAN: Do you know-- and-- and I'm just asking this because I'd like to have a better picture of what child welfare is really costing us. Do you know, do we keep track of how much it's costing per child when we include all of this, plus the Medicaid reimbursements and things of that nature?

LIZ HRUSKA: Over the course of the time that I've lived-- worked here, there have been studies that address that. I don't know-- I don't have that-- that figure and I don't know if it's currently read-- readily available. Managed care is now pretty much-- or Medicaid now for this population would be under managed care, which that it's paid on a per-month-- per-member, per-month basis. So--

KOLTERMAN: So we could break it out if we-- if we really wanted to study that.

LIZ HRUSKA: I think it could be done. Like I said, I-- I'm not aware of anybody that has that at this point. I know I don't, and I know when we've tried to do it in the past, it was kind of a focused effort. Could ask the department to see what they have available to do that.

KOLTERMAN: OK, thank you. This has been very helpful, This is terrific information.

ARCH: Senator Geist.

GEIST: Yes. Thank you. Thank you, Liz. And I have an odd question. On the administrative costs, when we're looking at case management, is that paid assuming the case managers that-- are we paying for every FTE that is needed, assuming they have 17 cases per case management individual, or-- so are we paying for all of those spots whether they're filled or not or just paying for the ones that are filled?

LIZ HRUSKA: Think we're just paying for the ones that are filled because the language in the contract said all costs must be allowable and incurred.

GEIST: OK.

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LIZ HRUSKA: So at some point there's some rec-- reconciliation, so it's not like they can profit from leaving positions open and-- and get the money, from-- from my understanding of the wording of the contract.

GEIST: But if they continue to fill those slots, then we're obligated to pay those that are actually there.

LIZ HRUSKA: Right.

GEIST: OK.

LIZ HRUSKA: And then again there, on the administrative cost, the contract identifies yearly caps and then says, but it has to be within 5 percent of-- of the state-- what the state is paying in the balance of the state.

GEIST: OK.

LIZ HRUSKA: So it was kind of a two-- two-pronged control on the ad-- what they call administrative cost.

GEIST: OK. Thank you.

ARCH: Senator Geist, I would say we'll-- we were-- we're going to pursue more clarification on that question, because what's puzzling is, is your-- your statement that \$5.7 million per month, \$5.6 million per month, we're right about where the estimate was, and yet we know for a fact that they-- that Saint Francis is not fully staffed up with case managers. So that's that to me is a disconnect. But we'll-- we'll pursue that question further.

GEIST: Yeah, um-hum. Thank you,

ARCH: Senator Hansen.

M. HANSEN: Thank you, Senator Arch. And thank you for being here, Liz. I wanted just to make sure I have it in my head right. These two cost comparison charts, the first one goes year one, two, three, four, and the second one's by date. Do those line up that the first line in the-- in the bottom one, January 1, 2020, through June 30, 2020, counts as a year one? It seems like those amounts line up. This is leading up to my next question, but-- so, for example, the PromiseShip bid is listed as \$35.6 million in both and so I--

LIZ HRUSKA: Right.

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M. HANSEN: So I just wanted to make sure those line up right.

LIZ HRUSKA: Right.

M. HANSEN: OK.

LIZ HRUSKA: So that is the PromiseShip bid and the Saint Francis bid, which then was also their initial contract, which had annual "do not exceed" limits. I know this information is kind of confusing because the contracts didn't-- as I had mentioned, I had to make some adjustments to make them comparable.

M. HANSEN: No, no, of course, and I appreciate that. This leads up to my next question. So now we would be in the comparison of year three, which Saint Francis in their bid said was about \$43.4 million, and now with the new contract and the updates, it's now at \$68.8 million, so just in this year alone?

LIZ HRUSKA: Well, again, the second year of the Saint Francis--

M. HANSEN: Right.

LIZ HRUSKA: contract did not go for a full year. It was only paid through-- for seven months and then the new contract started.

M. HANSEN: Sure.

LIZ HRUSKA: So the original Saint Francis contract was a 54-month contract.

M. HANSEN: Sure.

LIZ HRUSKA: But now it will only extend to 38 months. We're-- we've lopped off the entire fifth year and even part of the fourth year, so--

M. HANSEN: I guess-- I appreciate that. OK. I guess what I'm trying to say is, for this year, I'm trying to find that-- the-- a year-to-year comparison of what they expected it to cost and what they actually are costing.

LIZ HRUSKA: That's--

M. HANSEN: And I know that's why it's difficult, because we don't have-- the bid didn't line up with what actually happened.

LIZ HRUSKA: It didn't line up--

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M. HANSEN: Yeah.

LIZ HRUSKA: --month by month.

M. HANSEN: Sure.

LIZ HRUSKA: But they didn't go to a full fiscal year, so I just had--
I-- I'm just giving you a picture of--

M. HANSEN: Sure.

LIZ HRUSKA: --38 months, how it initially would have run had they
stayed with the first 38 months--

M. HANSEN: Sure.

LIZ HRUSKA: --and how it will run under the new contract. I had to
combine the initial contract through January of this-- this year and
then the new contract through February of '23. And I'm still probably
confusing you.

M. HANSEN: No, and I guess I appreciate that you can't-- that the bid
doesn't exist or the bid didn't lead to a contract that was able to
bid ultimately with the-- with the update and some of the back pay. Is
that kind of correct? That's why we're having difficulty comparing it
to Saint Francis' bid?

LIZ HRUSKA: I couldn't hear the first part of your question.

M. HANSEN: Sorry. I guess we've changed the contract so much from
Saint Francis' initial bid, it's hard to compare to their initial bid.
Is--

LIZ HRUSKA: Correct. Correct.

M. HANSEN: OK.

LIZ HRUSKA: So I did my best to compare, which I had to do that by
taking specific time periods--

M. HANSEN: Sure.

LIZ HRUSKA: --and comparing to other specific time periods. But some
of this is frozen in time. PromiseShip's bid is frozen in time.

M. HANSEN: Right.

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LIZ HRUSKA: What I don't know is, had they gotten the contract, would there have been an adjustment? They were already providing the service. They had pretty much stabilized, so I would think that probably wouldn't have been the case. But we know-- that-- that doesn't exist, and so I just really have to use averages, month by month, of-- and with the current contract is written so differently than the initial contract, I just have to go with the estimates, and those estimates were provided in a press release. They do not exist anywhere in the contract.

M. HANSEN: Gotcha. OK. And that's just what I was trying to get to, is just kind of looking at a single-year snapshot. Based on the kind of numbers you're providing. I'm getting like a \$25 million difference between the 68 that it's actually costing now from February 1, 2021, to January 30, 2022, versus kind of the year three estimate for Saint Francis of \$43 million? Using your numbers, is that a fair comparison?

LIZ HRUSKA: Off the top of my head, I don't know.

M. HANSEN: I-- I--

LIZ HRUSKA: I would have to look at it month by month.

M. HANSEN: OK.

LIZ HRUSKA: Yeah, at this point, I guess I can't-- I know--

M. HANSEN: I'm just trying to compare the two charts you provided with us and make sure the time periods-- and if the time periods in the two charts don't line up well, I guess that kind of--

LIZ HRUSKA: So in the third chart, that-- I guess what you're asking about is actually the third chart--

M. HANSEN: Yes.

LIZ HRUSKA: --which is looked at PromiseShip converted to 38 months--

M. HANSEN: Yes.

LIZ HRUSKA: --compared to Saint Francis. So the contract running from the beginning to the anticipated end is \$82 million higher than what they originally said. How that translates into a 12-month period, I would have to, you know, do additional calculations or look at some spreadsheets that I have with more detail.

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M. HANSEN: OK, appreciate that.

LIZ HRUSKA: But it's now \$82 million higher if both contracts were for the same period of time, the-- the original one and the current Saint Francis contract.

M. HANSEN: Gotcha. So we're-- we're-- if you compare their original contract or the original-- is it the original contract or the original bid that's \$82 million different over the same period?

LIZ HRUSKA: Right, the 38-month period versus the 54--

M. HANSEN: OK.

LIZ HRUSKA: --so when-- when I did the comparison, there is no year-- year five. There's not in the current contract and I didn't use a year five--

M. HANSEN: Right.

LIZ HRUSKA: --in-- when I looked at the initial contract either.

M. HANSEN: Gotcha. So they're both on a shorter and more expensive contract.

LIZ HRUSKA: Correct, yes.

M. HANSEN: All right, that-- that's--

LIZ HRUSKA: Yes. Yes.

M. HANSEN: --to put a fine point on it, that's what I was going for.

LIZ HRUSKA: Thank you. Thank you.

M. HANSEN: Thank you.

ARCH: Other questions? Senator Clements.

CLEMENTS: Thank you, Mr. Chairman. Thank you, Liz. Are you aware of-- on the PromiseShip bid, was it substantially higher than what they had previously been paid?

LIZ HRUSKA: No, it was very comparable to what they had been paid prior.

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CLEMENTS: All right. So they-- their-- their bid was similar to what they'd already bid. About the-- that \$24 million deficit, though, that was funded, that was added into-- let's see, PromiseShip was the provider at that time.

LIZ HRUSKA: Correct. The--

CLEMENTS: And so are you including the \$24 million as what they had previously been paid?

LIZ HRUSKA: The \$24 million and then the annualization to \$31 million, that was the entire child welfare deficit. So that wasn't just PromiseShip.

CLEMENTS: Oh.

LIZ HRUSKA: That was statewide--

CLEMENTS: OK.

LIZ HRUSKA: --the deficit. And caseloads state-- statewide had increased, so PromiseShip would have seen an increase in the number of children and an adjustment to their contract and the balance of the state with paying out more.

CLEMENTS: All right.

LIZ HRUSKA: So that-- those numbers aren't-- and I probably should have made that clear. Those numbers were not specific to the PromiseShip contract.

CLEMENTS: Thank you. Yeah. I was confused by that. But the main question was whether PromiseShip had tried to-- was so much higher because they had increased their cost request, but evidently not, so thank you. That answered my question.

ARCH: Other questions? Senator Cavanaugh.

M. CAVANAUGH: Thank you. So in the bidding process, you have on your testimony-- or your statement, page 4, the Stephen Group report. And it talks about how they reviewed, in anticipation of this contract-- or this bidding happening, they reviewed the costs and found the costs comparable to-- in the Eastern Service Area, cost per case to the rest of the state. But then you also state that the information was available to the evaluation teams which reviewed the bids and scored the lowest response-- responsible and reasonable bid. So it's not

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really a question for you to answer. it'll be a question for somebody else in the future, but that they had that information as they were doing the cost scoring.

LIZ HRUSKA: Yes.

M. CAVANAUGH: OK. Thank you.

ARCH: Other questions? I have-- I have one final observation, I guess, and-- and-- and I want you to-- I'd like you to respond to it. One of the-- one of the goals of these first two briefings is to provide the committees with some context. And I know in our procurement briefing, we-- we talked about the history and we saw some similar struggles with contracts in the past on-- on unrelated-- unrelated topics. And-- and your-- your early briefing to us here, in the early part of your briefing, you gave us that-- you gave history. And-- and I would say that what I see in context here is we've-- we've had a history, one, of doing a lot of changes in the methodology of contracting from full-out risk to modify, to modify, to modify, to add some dollars, to add some more dollars, and, you know-- and that has been the history of it. And-- and I would also say that we've also had a history, and this is-- this is what I-- and this is an opinion of yours, I know, but we've also seemed to have had a history of underfunding where-- where we have gone in frequently believing that we-- we have some-- some-- something new that will reduce costs and we find out that that doesn't-- doesn't play out. Is-- am I-- am I understanding your briefing correctly?

LIZ HRUSKA: That would be a good summary, especially throughout the early days of that-- the contract. I mean, from the very beginning, any lead agency had to pay a fairly substantial amount in that they had-- had to absorb all staff and operating cost, plus some additional service cost with the aftercare. And then over time, yeah, we tried different payment structures to see if that would work. There were adjustments and some of the latter adjustments were understandable because the lead agencies started out with basically a deficit, which is why three of them dropped out; three out of five dropped out before the-- they reached the first year of implementation. And as I said in my closing, child welfare, and somewhat similar to Medicaid, costs are difficult to project. In case of child welfare, the state doesn't control who comes into the system, they don't control what level of need the kids are, and they don't control the exit. But those kids need a certain level of service in order to protect-- pro-- protect them. Medicaid is an entitlement program and we're going to pay for any allowable service to any eligible individual, and those can vary

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as the economy will-- will vary, or other factors. So, yes, to answer your question, yeah, a lot of the adjustments to the cost were either to be expected or were reasonable. If you have more kids in the system or the kids that come into the system have higher needs, there needs to be a payment source.

ARCH: I think one of the-- one of the findings of the Stephen report that you pointed out in the comparison of cost in the Eastern Service Area versus cost in the rest of the state, pretty comparable. I-- you know, I think the-- the conclusion of the Stephen report, if I could summarize that-- in that aspect, was it-- it is what it is; it costs what it costs. If-- if you're going to provide these services, then-- then there's-- then there's a recognition of-- of those costs.

LIZ HRUSKA: Right. Right.

ARCH: And so-- OK. All right. Any other questions from the committee members? Seeing none, thank you very much. I know you spent weeks diving into this, making sure that you had accurate numbers. And as-- as you explained, trying to compare time periods has been a challenge, but we really appreciate your effort. This has been very helpful to us.

LIZ HRUSKA: Thank you.

ARCH: Thank you. The next testifier of the morning is-- is Jennifer Carter, Office of Inspector General for HHS. She's going to be briefing us on quality and the work of her office.

JENNIFER CARTER: Good morning.

ARCH: Welcome.

JENNIFER CARTER: Thank you. Good morning, Chairperson Arch and members of the Health and Human Services and LR29 Committees. As Senator Arch stated, for the record, my name is Jennifer Carter, J-e-n-n-i-f-e-r C-a-r-t-e-r, and I serve as the Inspector General of Nebraska Child Welfare. Thank you for having me here today. I was asked to provide some background on our office and our role in the child welfare system and to provide an overview of the Department of Health and Human Services oversight of the Eastern Service Area contract and Saint Francis' performance under the contract. To give a little background on us, the Office of Inspector General of Nebraska Child Welfare Act, and then our office, was created in 2012 by the Legislature. We provide accountability and oversight for the child welfare and juvenile justice systems through independent investigations,

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identification and monitoring of systemic issues, and recommendations for improvement. We actually grew out of the recommendations of the LR37 Committee, which you heard about last time from Senator Kathy Campbell. That was an extensive and thorough review of Nebraska's attempt to privatize the child welfare system and lots of legislation came out of that. And as former Senator Kathy Campbell mentioned the last time, one goal of creating the Office of Inspector General was to provide--because we sit within the Legislature, was to provide some institutional knowledge and to have one person or one office who had sort of the-- could hold the history of the system and what has happened legislatively, even as there's term limits for senators. We have a variety of tools for doing our monitoring. One of the key ones is that we receive, usually in the form of critical incident reports, notifications any time there's a death, serious injury, or sexual abuse of a child within the system, and we are mandatorily required to investigate those deaths. We also receive complaints from members of the public by phone and email and our website and actually, oftentimes, information relayed from senators' offices. In addition, we rely on public information, all of the information that the department puts out on the system, and we have appreciated the working relationship with the department and ongoing conversations there as well. When necessary, our office can also open an investigation to look more deeply into an issue, a systemic issue, and in the course of that investigation we by statute are allowed to make document requests. We do have subpoena power. We've not actually had to use it because people have complied very well. And then we can conduct interviews as well. All of what we do is confidential in those investigations. Because we were-- are the OIG, and I'll refer to us as the OIG-- was created out of concerns regarding privatization, we obviously monitor and pay attention to the Eastern Service Area contract. Our focus in that is looking at overall performance, how and whether the lead agency is meeting the terms of the contract and meeting the state's legal obligations to children and monitoring how the department is providing oversight for that contract. We do not-- just to clarify, we don't go in and do-- conduct file reviews of the vendor. We just sort of are looking at it more from a systemic point of view. As the committees are aware, in late 2020, an internal investigation of Saint Francis Ministries Incorporated substantiated allegations of fraud and financial mismanagement by the then CEO and COO. As a result, the OIG opened an investigation into the Eastern Service Area contract to assess the stability of the contract in light of Saint Francis' financial difficulties and to review the administration performance and contract monitoring of the Eastern Service Area contract. That report from that investigation is still

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forthcoming. But today we were asked to talk about the oversight that's provided by DHHS and how Saint Francis has been performing under the contract. And I will probably often say "ESA," because we've just gotten used to that so hopefully that won't be confusing, for the contract. So in terms of oversight by the department, it has actually been, as we can tell from the public information, fairly robust throughout the term of the contract. There is an oversight team that includes the CEO, CFO, general counsel, CFS directors, CFS deputy directors, Central Office staff, and the contract monitoring team. The contract monitoring team is a-- the service area administrator in the-- in the Eastern Search Area contract manager-- monit-- managers-- contract monitors, a CQI director and team, and a finance administrator and team. And in July of 2020, one HH-- HHS administrator, their responsibilities were changed to really become-- provide technical assistance and support and be a liaison between Saint Francis and HHS. So according to information that's already been provided to the committee, DHHS holds daily, weekly, biweekly, monthly, and quarterly meetings with Saint Francis in a variety of different ways and different combinations of their teams. They started daily huddles in April 2020, really related to COVID because that was obviously a difficult time. But as we understand it, and as DHHS has testified, those have continued to be a helpful management tool, so the daily huddles between the contract monitor and the director of operations for Saint Francis has remained. There are weekly conversations between DHHS and Saint Francis about complex case staffings. I believe starting in January 2021, biweekly meetings began, and I'm not totally clear if these sort of were happening but weren't biweekly until January, but senior leadership, one of the-- the CFS deputy director, I believe it's Alger Studstill in that position, and one of the-- and the Saint Francis regional vice president discussed performance measures, troubleshoot issues, and there are also higher-level monthly meetings between the executive leadership at both the department and Saint Francis, so there's quite a bit of contact between the lead agency and the department. As part of the contract oversight, DHHS conducts case reviews, on-site visits, personnel file reviews, and reviews monthly financial reports. And so they do provide-- HHS provides a quarterly report that tracks Saint Francis' performance in 12 different areas. And I have just provided an example of the latest one. And so they're usually fairly detailed in how those performance measures, how Saint Francis is doing. They are things like how are we doing when we're transferring cases from HHS to Saint Francis; obviously, the heart of it, case management and supervision is analyzed; service array, meaning how is Saint Francis doing in subcontracting and finding providers to assure that the

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children they're serving have the services that they need; service monitoring to make sure Saint Francis knows how their subcontractors are doing; educational opportunities for children, making sure they're paying attention to that for the children they serve; community engagement; foster care capacity, so that Saint Francis has enough homes and the kinds of homes they need for the children they're serving; workforce documentation, which is really about staff training; the use of public and private funds, which is often focused on making sure Saint Francis is helping families get Medicaid coverage, SNAP if they need it, food assistance, those types of things; and administrative review focused on budget and expenses and tracking their information systems because there's a lot-- Saint Francis uses N-FOCUS, which is the tracking and case management system that DHHS uses, and so-- and there are other systems, as well, as I understand it, so making sure everyone's got that secure and confidential and it's working. The quarterly reports are publicly available on DHHS's website and also with-- in March 2020 the department started putting out what I-- our office personally finds very helpful is a scorecard, which you also have attached, and that is monthly and focuses on certain of the outcomes that they are tracking. So there is quite a bit of information available about how the contract is going. So to talk-- to transition a little bit into Saint Francis' performance measures, you know, they did-- Saint Francis faced challenges as it tr-- transitioned into the role of lead agency, which, you know, some of those issues are to be expected as you transition into this type of role. However, about six months after the start of the contract, which began in the fall of 2019, when cases started being transferred, and about three months after all cases had been transferred from PromiseShip, so the-- late in the first quarter of 2020, DHHS began asking Saint Francis for corrective action plans to address performance issues that were not improving at that time. And to explain the process, a corrective action plan, or as I will probably refer to it several times as a CAP, the cap is an opportunity for the lead agency to sort of cure problems, performance issues that may otherwise result in a breach of the contract. So DHHS requests the CAP. Saint Francis then puts together a plan to say here's how we intend to improve performance and meet the contractual terms. There can be negotiations. HHS can say, no, you need to do it sooner or I'd like to see you do it this way. Once a CAP is approved, then Saint Francis is implementing that CAP, essentially, and the department is monitoring that, monitoring their progress under that. And then at some point, if they have reached-- they're engaging and-- and operating at the contract-- under the contractual requirements, then the CPA can be closed essentially. I haven't actually figured out

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exactly what the terminology is. It might be "successful completion" or-- for when it's done. So at the end of the first quarter, HHS requested two CAPs, and this is an early 2020, one for failure to complete case plans within 60 days and a failure to document a child's placement change within 72 hours in N-FOCUS. Over the next few weeks, two additional CAPs were requested, one related to court performance issues and one to ensure Saint Francis was utilizing E-Verify, which is a federal electronic verification process necessary for new hires. In the fall of 2020, DHHS requested another CAP to ensure background checks were being conducted on all new employees. And in January 2021, DHHS requested two more CAPs from Saint Francis, this time related to caseload ratios and monthly face-to-face visits with children. I did want to say these are important because involvement in the child welfare system carries trauma with it, particularly when a child is removed from their home. So as a result, a lot of the practices and the performances that are measured are really directed at focusing on how can families receive the help they need quickly so that they are moving towards permanency; there's a resolution as quickly as possible and with sort of as little trauma as possible. So unnecessary delays can sort of prolong the trauma, and the areas in which DHS has requested a CAP can have a direct effect on child safety and well-being. And actually, in the monthly scorecard, several of the CAPs, you can find their progress under the activities and output section, which DHHS defines as measurements of actions and standards of quality case management that contribute to positive outcomes for children and families. I wanted to provide just a little more context for each of these CAPs. On the core performance CAP that was requested, Saint Francis was required to provide documents and communicate legal-- to legal parties in a timely manner, attend court, be prepared, and follow court orders and court procedures. This is the one CAP that has been closed and was closed fairly quickly. However, some core performance issues have continued. For example, in early 2021, a judge in the Eastern Service Area found DHHS in contempt of court based on a Saint Francis employee not following court orders. DHHS was fined \$5,000 and has sought restitution for that from Saint Francis. In two cases, as I think the committees are aware, the judges removed Saint Francis workers as case managers and the HHS-- there are HHS workers, a few in the Eastern Service Area, who have taken over those two cases. The latest quarterly report mentioned that there have been some findings of not finding reasonable efforts by judges, which that's important because the state is required to make reasonable efforts to reunite families. If you don't have that, you've essentially delayed the case, so-- and so there's no active CAP right now for core performance issues, but there are weekly meetings between

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Saint Francis and HHS, as we understand. There is a report that is given from HHS to Saint Francis with a list of any issues judges have identified from the previous week. And Saint Francis was asked to create a plan to address core issues that they submitted in late April. The CAP regarding case plans within 60 days, a case plan is required once-- 60 days after a child becomes a state ward or 60 days after the start of a non-court-involved case. The case plan really identifies the family's goals, what services do they need, and what are the expectations of the parents in order to be reunited-- reunited with their children. The goal of this originally was to meet a statewide target of 95 percent of case plans being filed within 60 days. And Saint Francis' performance, as with a lot of these CAPs, has sort of ebbed and flowed. So it started at 48 percent compliance in April when the CAP was requested. By September, that had gone up to 93 percent compliance, dipped again in December to 77 percent, and then according to the core scorecard, since March, they were at 93.9 percent in March but dipped to 87.3 percent in April and dipped further in the latest one to 78.4. So in terms of the documentation of placement changes within 72 hours, this is really-- so N-FOCUS has all the information for each case and when a child moves from one foster home to another, the requirement is you document that within N-FOCUS within 72 hours, so that anybody who's involved with the case is aware of where the child actually is. Saint Francis' goal was to meet that initially at 95 percent in cases, and that was actually raised to 98 percent for the goal. Saint Francis started at 61 percent compliance. By September, they had gone up to 80 percent, dropped again in December to 67 percent, had gotten almost to 90 percent in March and April with the scorecards, but it's now dipped again to 85.3 percent compliance in May. The use of E-Verify, a personnel file review was conducted in December of 2020 that showed that Saint Francis was not actually using E-Verify but was using a different system under the Social Security Administration, and this has come close to being corrected. So other file audits have been done and the most recent one showed that 100 percent of new hires Saint Francis had used E-Verify for those. So I don't believe that CAP is closed yet. I think generally speaking, with CAPs, you want to make sure this has truly been operationalized, so they'll wait for a few months and make sure that's consistent. Similar progress has been made with the background checks. Again, when a personnel file review was done, it was discovered that some of the background checks that are required-- sex offender registries, childhood abuse and neglect registries, motor vehicle, criminal background checks-- those have to be done in every state in which the worker has-- has lived or worked, and so some of those had not been completed and several staff members had to sort of

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be taken off of direct contact with clients until that could be corrected. They're not at-- quite at 100 percent compliance. Well, they were for new staff, and then in terms of files that had been reviewed previously, they were able to correct most of those in the most recent audit, so, again, there's been some progress there. The CAP for monthly face-to-face contact is important because, for ensuring a child safety while in care and ensuring progress in a case, visiting on a regular basis is the way the case manager can actually see the environment that the child is living in, whether at home or in out-of-home care, and it's a chance for a direct conversation if the child is old enough and an opportunity to ensure the child is safe, receiving appropriate care and treatment, and check on any progress or issues in the case. Initially, HHS's expectation was that Saint Francis would meet this goal 100 percent of the time. It was adjusted to 95 percent, which I think is in line with federal measures. In December, there was monthly face-to-face contact with state wards at 87 percent of the time, and in March, at 92.8 percent of the time. In April, that fell a little bit to 89 percent and in May has fallen further to 84.5 percent of cases. Caseload ratios have continued to be a problem. They are required by law and required by the contract to meet those caseload ratios 100 percent of the time, meaning 100 percent of case managers will have caseloads within the statutory requirements. The point of the caseload standard is to limit the number of cases and children that a caseworker must manage so that they can meet all the key and necessary duties, many of which we've already discussed, like time the case plans, being able to visit, being able to get to court and-- and provide them, the court, with any updates, documenting where the child is placed, all of that. If the caseworker has too many cases, it is not always possible for them to complete all these tasks in a timely manner for each case and each child. Saint Francis has not been able to come close to meeting the caseload ratio at any point during the contract. The highest compliance rate Saint Francis has achieved is 54 percent of workers in compliance. The March scorecard showed only 44 percent of Saint Francis case managers were in compliance. That remained somewhat steady in April and the-- but the May scorecard showed a decline to 38 percent most recently. This-- the caseload standard and a failure to meet it really reflects the-- the staffing challenges that I think they are having, which is also a key factor, I think, in some of the other performance issues. One important additional issue to mention that is not related to a CAP but I think is an important one, Saint Francis has to maintain a child-placing agency license through the Di-- Division of Public Health under HHS because they license, approve, and place in foster homes. Prior to the ESA contract, Saint

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Francis was actually already doing this work and had a child-placing agency license in the Western and Central Service Areas where they are still operating and doing that-- that work. On September 24 of 2020, the Division of Public Health conduct-- conducted a renewal inspection on the child-placing agency license just at the ESA office in Bellevue, and a follow-up compliance check was done on December 1. On December 15th, Public Health notified Saint Francis that it had found violations of multiple regulations and listed 25 correction corrective action items that needed to be completed. In-- on February 25, 2021, Public Health sent another letter to Saint Francis informing them that the information Saint Francis had submitted to correct the violations was insufficient in 20 out of 25 of those corrective action items. And on June 4, Public Health imposed disciplinary probation on Saint Francis' child-placing agency license. They have until October 1 to come into full compliance-- August 1, sorry, August 1. Without the child-placing agency license, Saint Francis will not be able to perform the Eastern Service Area contract, and the additional concern is the work that's being done in the Western and Central Area is actually under the same legal entity that holds the child-placing agency license. So if they were to lose that license, it would also affect their work in the Western and Central Areas. So in summary, since the start of the contract, Saint Francis has been put on seven corrective action plans. One has been resolved, as mentioned, on core performance, although the problems persist. Two other CAPs, the use of E-Verify and the completion of required background checks, appear to be near successful completion, assuming that that progress is maintained. But Saint Francis has not made progress and is unfortunately moving in the wrong direction with four other CAPs related to timeliness of case plans, timeliness of documentation of placement changes, monthly face-to-face contacts with children, and caseload ratios. Two of these CAPs have been active for over a year and two have been active for six months, and it's our understanding that Saint Francis has been out of compliance with these measures for the entirety of the contract. So I am happy to take any questions. Thank you for your time.

ARCH: Thank you, Jennifer. OK, lots of questions here. Senator Hansen, we'll start with you.

M. HANSEN: Thank you, Senator Arch. And thank you for being here. On these-- on these CAPs, these corrective action plans, is there a limit for how long an agency and a contractee can be in one?

JENNIFER CARTER: No. So a deadline is set in each CAP, or sometimes there's a deadline set. Sometimes it's just looking for ongoing

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progress. Sometimes-- these-- these CAPs were actually revised after the emer-- new emergency contract was signed and some of them had deadlines, I think, and several of them were past the deadline. So because it relates to their performance and-- and whether or not it is really a breach of the contract, it's really within the department's discretion to decide when they're going to say, now we're considering this a breach, so.

M. HANSEN: OK, I guess that was leading to my next question. So is there-- is there a mechanism or some sort of review outside of the agency? Because, you know, for example, in the percentage of case ratios in there, it's required by state law to be 100 percent, they've been less than 50 most of the time, you know, at what point is there a step or a trigger that somebody comes in and says this is just patently a breach of contract to a whole time, you know, or can a CAP just be extended through the length of the whole contract?

JENNIFER CARTER: I don't believe there's any sort of self-executing mechanism. I think part of that is our job for oversight to let you all know that. And part of that is ob-- I mean, obviously, I'm not-- we're not-- I'm not suggesting or promoting this, but there's-- there-- there could be a potential lawsuit if something were to happen, something like that.

M. HANSEN: Sure.

JENNIFER CARTER: But I-- I-- my understanding is those are really the only mechanisms, other than the department's own oversight and monitoring, to see whether they think it's reached a point where it needs to be addressed.

M. HANSEN: So kind of in theory, if the department is able or willing to, they could basically execute a CAP for the length of an entire contract that would basically essentially rewrite a contract provision?

JENNIFER CARTER: Actually, in theory, I guess you're right. Yeah.

M. HANSEN: OK. Great. Thank you.

ARCH: Other questions? Senator Geist.

GEIST: Thank you. And thank you for this information. It's helpful. There is kind of a trend of getting better in compliance and then dropping off.

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JENNIFER CARTER: Right.

GEIST: And you indicated that that might be due to their staffing issues?

JENNIFER CARTER: Yes.

GEIST: Is it also due to the number of children that are coming in and out of the system, or are you seeing that specifically as a staffing problem?

JENNIFER CARTER: That is a very good question, and I'm not sure I have enough of the data to know. And I don't know if-- if anybody who follows would-- would know, because I'm not aware of any particular spike in ca-- in the number of children in the Eastern Service Area. Certainly that would affect your ratio. If you have more cases and your-- your staffing is held static, that would make it more difficult to meet the caseload ratio for sure. So I do think that plays a role in it, but I think we've seen, and I believe there was a recent public report, there is a-- the turnover at Saint Francis has been inching up, so I think that's also why we're thinking some of it is staffing. And staffing can be a challenge everywhere. The state is also, in their other service areas, I know, experiencing difficulty hiring as well. So that, I think, is why that is on top of mind for us in terms of that is just a real challenge.

GEIST: And then just additionally, for my information, I'm so focused on Saint Francis dealing with the Eastern Service Area. Do-- you indicated something about in-- it affects in the West. So is this-- is Saint Francis serving our children across the entire state or just in the Easter Service Area?

JENNIFER CARTER: So what-- sort of a little bit of both, but what I've been talking about here is just the specific contract in the Eastern Service Area--

GEIST: OK.

JENNIFER CARTER: --for case management services. Saint Francis has a separate contract that I don't frankly know very much about. They've been operating it for a while in the Western and Central Service Areas, and that is more-- that is not case management.

GEIST: OK.

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JENNIFER CARTER: That is just I have foster homes available when the department, who's doing case management there, needs a place to put a youth or, you know, so-- so that it's-- they operate sort of--

GEIST: They're--

JENNIFER CARTER: --totally separately, as I understand it--

GEIST: OK.

JENNIFER CARTER: --so, yeah.

GEIST: OK, thank you for that.

JENNIFER CARTER: Yeah.

GEIST: That's all. Thank you.

ARCH: Thank you. Other questions? Senator Murman.

MURMAN: Yes, thanks a lot, Senator Arch. Are there any way to-- or is there any way to compare Saint Francis' performance in the Eastern Service Area with like other foster care agencies across the state or-- or even HHS, how--

JENNIFER CARTER: Yeah.

MURMAN: --how-- how well they are performing across the state?

JENNIFER CARTER: Yeah, so that is a great question, and I think yes. And I think the-- the comparison with the state and how the state is handling case man-- the department's handling case management in the other service areas is-- is the great comparison. The only comparison that I'm aware of right now that's publicly available are the caseload ratios that come out every month. And the state is struggling in a few other service areas, not-- not as-- their levels are not where Saint Francis' levels are. They're doing better, but they're certainly-- they have run staffing problems in other service areas. And so we have seen a dip statewide in caseload standards. I-- the last time I saw a comparison between-- on a bunch of different performance measures between the Eastern Service Area and the other service areas is 2019, and at that time it was sort of a mixed bag. There were a few areas where the Eastern Service Area may have been doing a-- a little bit better than some of the other service areas and other measures in which they were not doing as well, but that is a-- I believe is a CQI, continuous quality improvement, report that we haven't seen publicly

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posted since 2019. So that might be a great-- the-- we'd love to see that information, too, so I think that could be a great question for the Health and Human Services, because we're not clear entirely how they're comparing. We have just been focusing on what their contract requirements are and what we're finding, how they're meeting those.

MURMAN: OK. Thank you. And I do have another question. There was a change of management with Saint Francis.

JENNIFER CARTER: Yes.

MURMAN: I don't remember exactly when it was, end of 2019 or start of 2020, I think, but do-- do you know if there was a change-- a change in performance after or before-- before or after the change of management?

JENNIFER CARTER: So that is a good question that the report came-- that-- of the internal investigation was in late 2020. And I'm forgetting the date when the ori-- the CEO and COO, who were found to have conducted some financial mismanagement, left the company and-- and the interim, Bill Clark, came in and he testified in front of the committee in January of this year. What-- it's interesting. I'm just thinking about this now. There was a real dip in some of these performance measures in December of 2020, and then it did seem to come back and now it is declining again. So it's-- I mean, there may be some connection between the sort of transition that they had to go through at the end of 2020 in the-- in the corporate office and the performance in the ESA. But I-- I couldn't say for sure, but circumstantially, those timings are the same. But we are still on the scorecard seeing a downward trend in the-- in the-- certain contract measures.

MURMAN: OK. Thank you. I guess I was a year off on-- on--

JENNIFER CARTER: Oh, yes, yeah. Well, we've all lost 2020.

MURMAN: --late 2020 or early 2021. OK, thank you.

JENNIFER CARTER: Yeah, exactly.

ARCH: Thank you. Other questions? Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thank you for-- Jennifer, for being here. To one of Senator Murman's questions, I believe, and maybe you can verify this, but this document that you gave us, they actually have the scorecard for all of the service areas on the website, I think.

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JENNIFER CARTER: Oh.

M. CAVANAUGH: I could be wrong.

JENNIFER CARTER: And, well, I'll be embarrassed if I am wrong because we've only seen this-- this score-- when we-- when I look on it, I only see the one for--

M. CAVANAUGH: OK.

JENNIFER CARTER: --Eastern Service Area, but that would be great to see.

M. CAVANAUGH: I feel like I've looked at something on their website. I will look at it and if it is there, I will share it with the committee.

JENNIFER CARTER: They definitely do for caseloads and they do for--

M. CAVANAUGH: Maybe that's--

JENNIFER CARTER: --turn-- for turnover. Now they've got a new report up for a case turnover--

M. CAVANAUGH: That-- that is what I was thinking of, yes.

JENNIFER CARTER: --staff turnover. So they do have the-- both of those do the whole state, yes.

M. CAVANAUGH: OK. So to my questions, first, do you know how Saint Francis Ministries is categorizing caseloads? Are they doing it the same way that the state has done it, or is there a change to how they are qualifying or-- or quantifying or defining what a case is?

JENNIFER CARTER: I would have to confirm with the department. My understanding, from hearing, you know, testimony prior, is that Saint Francis has-- is measuring it as required under the statute, and that was part of the original bid. The model that Saint Francis was used to using did not sort of match up with Nebraska's model and laws just because there are certain workers who can do certain things in Kansas that they can't do in Nebraska. And so when they were relying on that, it sort of changed the-- but my understanding was they were counting them in the same way, but I would have to confirm that.

M. CAVANAUGH: OK, because I've had-- some people have raised that as a concern.

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JENNIFER CARTER: OK.

M. CAVANAUGH: And so I just was curious if you had-- were able to verify that. Are you aware of something that happened in May? Because when I'm looking at the scorecard here or the perform-- yeah, the performance scorecard, it-- it looks like May is where everything dipped. Is-- are you aware of any major change or anything that happened within the Eastern Service Area in the month of May?

JENNIFER CARTER: We are not. I just-- I mean, turnover has continued to increase, and so I think there could be some correlation there, just if you-- losing staff, it's much harder to meet these requirements.

M. CAVANAUGH: So was it-- it was my understanding, and I don't know because they don't have their staff, like, leadership posted. But it was my understanding that they had a large amount of the leadership team depart, and I don't know if that--

JENNIFER CARTER: Yes.

M. CAVANAUGH: --was in May. I have no idea when that was, but--

JENNIFER CARTER: I-- I-- we not-- we did not receive any official notice of that. But I have heard that, as well--

M. CAVANAUGH: OK.

JENNIFER CARTER: --that several longstanding administrators left. And as is often the case, sometimes they may take workers they like working with-- with them to other places.

M. CAVANAUGH: OK.

JENNIFER CARTER: And so that is true. Sorry, I was not thinking about that because it wasn't a sort of--

M. CAVANAUGH: OK.

JENNIFER CARTER: --an official notice we got, but I have heard that as well.

M. CAVANAUGH: And then are you aware if the-- the title of some of the staff that were in management positions have been changed to casework managers?

JENNIFER CARTER: I have not heard if the title has, but I thought--

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M. CAVANAUGH: Or just the work [INAUDIBLE]

JENNIFER CARTER: I'm trying-- I-- I don't want to speak out of turn. I mean, I do think in-- my understanding is, in general, and this goes for the state as well, if they are really overwhelmed, then supervisors start taking on case management duties--

M. CAVANAUGH: OK.

JENNIFER CARTER: --you know, so it wouldn't be surprising to me if that is happening, because I think that's sort of a standard thing.

M. CAVANAUGH: But they would still be individuals who are trained in case management.

JENNIFER CARTER: I have not heard any concerns that-- that employees who are not trained-- I have not heard that issue at all, either way, so it's certainly something we can look into.

M. CAVANAUGH: I have just one more question. Sorry. And I apologize. I probably should know the answer to this myself, but do we have a caseworker training requirements in statute?

JENNIFER CARTER: That is actually a great question. I just reread all the statutes recently, and I'm trying to re-- I mean just like last week--

M. CAVANAUGH: I-- yeah.

JENNIFER CARTER: --and I'm trying to remember if they are actually in statute or if they are part of the regulations.

M. CAVANAUGH: Right.

JENNIFER CARTER: I mean, certainly I know there are requirements. There's requirements within the contract that the workers of the Eastern Service Area have to go through case manager training, so--

M. CAVANAUGH: So when Senator Hansen was asking about the CAPs, there's a CAP on the, you know, training and like that.

JENNIFER CARTER: Right.

M. CAVANAUGH: Or I-- there might not be one on the training.

JENNIFER CARTER: Not on the-- right.

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M. CAVANAUGH: But I was just wondering if we are in compliance with whatever the training requirements are, because I know that they have truncated the training significantly to try and get caseworkers--

JENNIFER CARTER: Right. Yes.

M. CAVANAUGH: --up and running, so.

JENNIFER CARTER: And I-- I would assume that that is if the department-- I don't think it's in statute in a way that the department doesn't have discretion to modify the training.

M. CAVANAUGH: Sure.

JENNIFER CARTER: And so I-- my understand is that has happened, too, that the focus is on your key responsibility, for example, if you're an ongoing worker versus an assessment worker, and then you complete the training as you're sort of in the field for the other work that is related to your work but not your core responsibility. So I do think that that has happened. I-- I don't think that there's anything to prevent the department from doing that. But in the-- in the quarterly report, it does appear from the documentation-of-workforce piece that they are-- that Saint Francis is-- the focus and-- of concern has been on background checks and those types of things, but not an issue necessarily in getting the training done, which I believe they are doing through the Center for Children, Families, and the Law, like the department does.

M. CAVANAUGH: The-- so the training, if it were that in the rules and regulations, that if they were to change it, it would go through the same public process--

JENNIFER CARTER: It should, yes.

M. CAVANAUGH: OK. Thank you.

JENNIFER CARTER: Sorry I don't know more of that in detail.

M. CAVANAUGH: That's all right.

ARCH: Senator Walz.

WALZ: Thank you, Senator Arch. Thank you for being here today. My question relates to page 7, where you mention the additional issues. And I'm just wondering, when the Division of Public Health conducts a renewal inspection, what kinds of things are they looking for? Is it

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facility, health and safety, or does it include programmatic? What-- can you give some examples of what they're looking at?

JENNIFER CARTER: And I may have to get back to you with some detail, because this is an area that we don't work in very often. We do cover childcares' licenses in the sense that if a child is hurt at childcare, we're monitoring to make sure the department is doing an investigation or looking at that childcare. But we don't sort of oversee the specifics of the licensing process. But my understanding is that it's sort of a mix. Some of the-- they look at small, smaller, or I guess you would say more administrative-type issues, have you-- do you have this kind of documentation in your file, those types of issues, to things that would be more concerning to them that they feel would affect children's safety, are-- are you properly inspecting the foster homes that you're placing child-- children in, those types of issues, as-- as my loose understanding is, but I can certainly-- I don't-- and I have read but I do not have in front of me, there is a-- it was-- it used to be publicly available, anyway-- a letter from Public Health sort of detailing the issue, so I'm very happy to go back and look at that. And if it's something that I can share with you, I can share it; otherwise, I'll summarize what I think the key issues are.

WALZ: Thank you.

JENNIFER CARTER: Yeah.

ARCH: Other questions? Senator Kolterman.

KOLTERMAN: Thank you, Senator Arch. Jennifer, thank you for coming today. I-- I'm going to focus a little bit-- I'm going to take a little bit different road here. When you opened up your testimony, you talked about how you're the eyes and ears for this body, for the Legislature. If-- if I'm correct, Julie Rogers was the first person and you're the-- only the second person in your job.

JENNIFER CARTER: Correct.

KOLTERMAN: And-- and it's only-- the job's only been around since 2012, so we don't even have a-- a decade of information behind us.

JENNIFER CARTER: Right.

KOLTERMAN: As-- as we evaluate, I think there's a twofold approach that we need to be looking at, and I know that's not the job of this body, but we're supposed to be looking at the contract with Saint

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Francis. But at the same time, the kids are the people that we need to really protect here.

JENNIFER CARTER: Right.

KOLTERMAN: And so as we focus on Saint Francis and their contract, it brings some heartburn to me that we're really not even doing our job where we're doing it in-house, I mean, based on what I'm hearing here today and the fact that we have-- you know, we're not meeting 50 percent of our goals in many cases. And-- and you look at this plan that you-- you-- you gave us here and-- and you look at how many things that they're meeting their goals and how many things that they're really out of compliance with. I guess my question to you, being our eyes and ears, is, is this: Do you think in your opinion, have-- and you've only been in the job now for, what, less than a year?

JENNIFER CARTER: Yeah.

KOLTERMAN: In your opinion, is the whole system broken from the perspective of we have a state management system for the western part of the state and Lincoln, and then we have out-- we outsource this in Omaha? I don't sense that either one of them are doing a bang-up job of taking care of these kids. The second point I would make that I'd like your opinion of is, do you know of any plan B that the department is looking at in the event that-- let's say Saint Francis does lose their license and they're not in compliance and they can't perform. Do you know of anything, a plan B that they have on the table as HHS, Health and Human Services, to correct all these deficiencies, both within the department as well as outsourced? Those are major concerns of mine. And-- and we're-- we're dumping millions of dollars into a program that doesn't seem to be working. I just-- because you're our eyes and ears--

JENNIFER CARTER: Yes.

KOLTERMAN: --I want your opinion. And-- and if we have to get it from Julie, Julie's been around a long time as well.

JENNIFER CARTER: Right.

KOLTERMAN: I wouldn't be objected to having her come and substantiate what she knows as well as what she-- and we're going to hear some here in a little bit as well.

JENNIFER CARTER: Yeah.

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KOLTERMAN: So could you comment a little bit? I know that's a lot to ask, but--

JENNIFER CARTER: Sure. I'll-- I'll do my best.

KOLTERMAN: OK.

JENNIFER CARTER: So I would say to the-- your sort of last question and the immediate concern, our understanding is, yes, there is a plan B, and there-- in a sense, there always is, because there can be floods, there can be, you know, other natural disasters and that they've worked-- this sort of falls into that piece or could be used in the same way. So my understanding is there is a plan B. So that-- take some comfort in that. Any transition, especially a quick transition, would be difficult, but-- which I think in the new contract they've built in more time so that if it's actually sort of a contractual issue, there may be time to have a transition go smoothly. But there is a plan B if it was truly like an overnight situation. In terms of the general state of the child welfare system, I think you're right. We have put a lot of our attention into the Eastern Service Area. And part of the challenge for us is, in terms of our office, is we are always getting the bad news, like statutorily required to get the worst news. And so-- and often having to look at that and put our resources in that direction. So in that sense, I don't know that I can fully give a sense of the health of the system in general, but I will say this. I have really appreciated Director Stephanie Beasley has included us in a lot of committee work and groups that she's pulling together. And so my sense from sort of the information that we get in terms of critical incident reports and complaints, my sense is that the rest of the service areas are pretty stable. There is a recent concern that we've seen a drop in caseload ratios and staffing in other service areas, as well, not just in the Eastern Service Area, so that is a real concern that we are keeping our eyes on. But I-- we don't get a whole lot of complaints from other service areas in ways that make me worried about the system in general. And I think Director Beasley is doing a good job trying to pull all the stakeholders together to really look at ways to innovate and make sure we're not duplicating things and sort of leverage everyone's work. So I'm feeling some comfort about the system in general as a result of that and the staff that she has put together. We have been more focused on the Eastern Service Area. And in terms of our ultimate judgment on the Eastern Service Area and what might make sense for the system as a whole, I-- I hate to say it, but I have to wait by statute until our report comes out when we have our official recommendations, because by statute we have to give the department and actually Saint Francis a

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chance to look at it. And if they have, you know, things they want us to look at or correct or something that our recommendations were based on that we might adjust, I can't speak to it until it's actually released publicly. But we do plan. We're working very hard on that and-- and are mindful of this committee's work and so hope to have that as something that would be publicly available by early fall, so just a couple months.

KOLTERMAN: Thank you. The-- and in conclusion, I guess I-- I appreciate the fact you have a broad background working in this arena, as well--

JENNIFER CARTER: Yeah.

KOLTERMAN: --having served as legal counsel for HHS Committee, and now you're Inspector General. I have a lot of confidence in what you and Julie--

JENNIFER CARTER: Thank you.

KOLTERMAN: --have done and what you're continuing to do. And I'm really happy to hear that they're including you--

JENNIFER CARTER: Yes.

KOLTERMAN: --in their conversations as they meet with Saint Francis, as they meet with these different teams, because it is important. We-- none of us are there on a daily basis. I know Senator Arch is probably briefed a little more than most of us, but you are our eyes and ears--

JENNIFER CARTER: Yeah.

KOLTERMAN: --and it's important that we get accurate information. So if you're feeling better about what's going on, I appreciate that.

JENNIFER CARTER: Yeah.

KOLTERMAN: But I-- I-- I'm really concerned when I see these reports that show us--

JENNIFER CARTER: Yeah.

KOLTERMAN: --really where they're at and what's going on, and--

JENNIFER CARTER: Yeah.

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KOLTERMAN: --it's-- it's disheartening to think of the millions and millions and millions of dollars that we're dumping into this program and still not getting the results that we need.

JENNIFER CARTER: Right.

KOLTERMAN: That-- that's very bothersome.

JENNIFER CARTER: Yes. And I should clarify, we are very concerned about the Eastern Service Area. But in terms of the other service areas, we haven't seen as much turmoil or-- or systemic-level concerns there, so-- and so much of our energy has been directed to the Eastern Service Area that I don't want to say I-- I can-- I've had a complete look at the other places, but so much of the work that we've been included in, you know, sort of affects the whole state [INAUDIBLE]

KOLTERMAN: And you really didn't have any ex-- I mean, in your position, you really never had any experience with PromiseShip when they were in the-- in the lead role.

JENNIFER CARTER: No. By the time I came into this role, Saint Francis was the lead agency in the Eastern Service Area, so it's only-- any knowledge I had, having been legal counsel to the Health and Human Services Committee, so.

KOLTERMAN: OK. Thank you for your help--

JENNIFER CARTER: Yeah, you're welcome.

KOLTERMAN: --and being here today.

JENNIFER CARTER: Sure.

ARCH: Senator Geist.

GEIST: I have just one more short question.

JENNIFER CARTER: Yeah.

GEIST: In my district, and I'm sure probably in every single senator's district, employ-- employment is a problem and finding good workers and all of that, so I'm not surprised to hear that they're having trouble staff-- finding staff.

JENNIFER CARTER: Yep.

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GEIST: However, in your opinion, is the Saint Francis problem with staffing greater than what you're seeing with staffing across the other service areas?

JENNIFER CARTER: At the moment, from the caseload standard data, yes.

GEIST: OK.

JENNIFER CARTER: And, you know, to be fair, there's been a lot of rough media around this, and so-- so I think that's likely another challenge. I don't know that for sure, but that would be my guess. And so-- but, yeah, I mean, just-- I mean, the data shows that they are having a harder time and it is a big service area, so that may complicate it also.

GEIST: But a place the employment is it should be avail-- at least employees available.

JENNIFER CARTER: Right, right. That's true.

GEIST: It's a highly populated area.

JENNIFER CARTER: Yes, exactly.

GEIST: So-- OK.

JENNIFER CARTER: Yeah, so it should be maybe easier than in Chadron or [INAUDIBLE]

GEIST: Right, right. OK, thank you.

KOLTERMAN: John?

ARCH: Sure. Senator Kolterman.

KOLTERMAN: Thank you, Senator. One-- one last question: Jennifer, do you know when-- when Saint Francis loses a staffer, do they do exit interviews to find out why they're leaving? In other-- and I guess part of my concern is, if-- if they don't have the financial wherewithal to take care of these people, are they looking at the future and saying, hey, I can get a job here and these people are financially stable and--

JENNIFER CARTER: Right.

KOLTERMAN: --even though the state's dumping money into it, is-- is-- do you think that's one of the reasons or do you know?

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JENNIFER CARTER: I don't know if they do any exit interviews. I do think probably concerns about financial stability have likely played into it. And-- and you are a contractor, so there is always that, you know, sense of whether you're going to lose the contract or not, I think, if people are paying attention to that. But I don't know about exit interviews, although that would be a--

KOLTERMAN: OK.

JENNIFER CARTER: --really helpful idea. Whether the department has recorded them or anything, I'm not sure, so.

KOLTERMAN: OK. Thank you.

ARCH: Thank you. Other questions? Senator Murman.

MURMAN: Yes, thank you. As Senator Kolterman mentioned, I've got a lot of empathy for these kids, you know, and the-- so the most important thing is-- is the outcomes and-- and the measures of performance, are they being treated as well as we can.

JENNIFER CARTER: Right.

MURMAN: Is-- do you have any statistics or ideas about like how Saint Francis is performing in Kansas as compared to Nebraska? And then also a follow-up question: Like the surrounding states that measures the performance that you use, does Nebraska compare, you know, about the same, better or worse or-- than the surrounding states, especially the-- or-- or nationwide, even, too?

JENNIFER CARTER: I don't have that information, particularly in terms of Kansas. We-- there are federal measures that the department would likely have in terms of-- I-- I don't-- I don't actually know for sure if they do a comparison of the surrounding states. But I do know there are federal measures that the state has to meet, and-- and Saint Francis' performance in the Eastern Service Area affects, you know, how the state is doing overall in those federal measures. My understanding is that we have been-- the state has been on a program, a performance improvement plan for the feds for a while, and it-- and has resolved a lot of-- has met a lot of those requirements, so I-- to the extent that's a measure that says we must be doing OK, because I think we're only addressing one or two issues remaining in terms of meeting our federal measures. But that would-- that's another piece that I don't know-- I've never seen a comparison to other states in the way that they compare sometimes the service areas within Nebraska,

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but that might be something, information that the department would have. It's not publicly available information right now, so.

MURMAN: OK. Thank you.

ARCH: Other questions? Senator Clements.

CLEMENTS: Thank you, Mr. Chairman. Thank you, Ms. Carter. You mentioned in one case where the department took over a couple of judicial cases. With the Eastern Service Area ratio with caseload being so poor, does HHS take over some cases or are they-- are they to supply any workers?

JENNIFER CARTER: I-- I'm not aware of a plan to-- to do that. I think that would likely only happen if the contract had actually been terminated. But there are the-- so the way it actually-- and I-- I meant to explain this a little better earlier. The way the contract is set up, HHS maintains the child abuse and neglect hotline. It's the department who gets the phone calls in and the department who has the workers who go out and investigate and determine if there's been abuse and neglect. And so do-- the workers who do that kind of assessment work, those are one or two of them have handled-- are handling the case management in those very specific cases where the judge required case management to go back to the state. But otherwise, the state is not providing-- they don't have ongo-- what they refer to as ongoing case management. The work that Saint Francis is doing, they're not staffed in the department, in the Eastern Service Area, any longer to do that. They have their initial assessment workers and some other workers who do the investigations, but-- so-- but they're trained, so they were able to pick up those two cases. But my-- we-- my understanding is there's not any plan to move state workers into the ca-- the Saint Francis case management.

CLEMENTS: All right, then in the case of losing their child-placing license, you say they would not be able to operate, but they're operating in violation of a lot of other terms of the contract. Why does that make a difference?

JENNIFER CARTER: If they actually lost their-- their license, they wouldn't be able to have any foster homes or place children in any foster homes. And that's like a really core part of-- of the case management.

CLEMENTS: Is that because of federal law or state?

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JENNIFER CARTER: It would-- no, it would be because under the contract, that's one of their core-- Saint Francis' core responsibilities. And just a core responsibility of case management is when you receive the case and the child into your care, you're deciding where to place them, and so you have to either have your own foster care homes that you license, which is relevant to that child-placing agency license, or you subcontract to folks like-- who also provide foster homes. So if they lost that license, which is also required that they have contractually, they would not be able to do a very key function of actually finding the homes to pla-- or ha-- to-- they would lose a lot of their foster homes to place the children because they wouldn't actually have licensed homes then available. But that's a state licensing requirement. And so we can see what happens on October 1, but I think Public Health has some discretion, like the CAPs, to extend the disciplinary probation, find them, help them; you know, maybe they will have corrected a lot of it, so if it's just a few, they'll just extend it for a little while and then--

CLEMENTS: You said October. This says Au-- August.

JENNIFER CARTER: I'm sorry I keep saying "October." August, August-- it's August.

CLEMENTS: August 1-- that was my next question is--

JENNIFER CARTER: Yeah.

CLEMENTS: --the state does have ability to-- the state sets the August 1 date and could extend it--

JENNIFER CARTER: Yes.

CLEMENTS: --based on maybe progress.

JENNIFER CARTER: Yes.

CLEMENTS: All right, thank you.

ARCH: Other questions? Senator Cavanaugh.

M. CAVANAUGH: Thank you. Senator Clements spurred a-- reminded me of a question I had on that very issue. So your statement says that if they were to lose their license because they are part of a broader statewide licensing, is there-- that kind of puts a little tension in my stomach about is there anything that they can do to prepare to

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separate that so that we don't lose that licensing for the rest of the state?

JENNIFER CARTER: That is a really good question and-- and I feel like that'd probably be a question for Saint Francis in terms of how they've struc-- le-- how they are legally structured--

M. CAVANAUGH: Sure.

JENNIFER CARTER: --to figure out how the work under that contract could sort of have a separate license from the work that's being done in the Eastern Service Area.

M. CAVANAUGH: And is there anyone in the Eastern Service Area that could take up that piece that's licensed currently in the Eastern Service Area? That might be a question for Ms. Gross coming up.

JENNIFER CARTER: Yes. I mean, I guess I'm assuming, based on the structure, if you had enough subcontractors with foster care homes to meet your needs, I don't-- that'd also be a question for the department. If they were to lose this license, is this an area in which--

M. CAVANAUGH: OK.

JENNIFER CARTER: --does that create a breach of the contract or not?

M. CAVANAUGH: Sure.

JENNIFER CARTER: And if it does, or even if it does--

M. CAVANAUGH: Right.

JENNIFER CARTER: --do you still work with it? And if it doesn't, you just have to make sure that they have the homes that they need. So in theory, if-- I guess if they didn't have their own, meaning Saint Francis' licensed homes, maybe they could still have enough homes to meet. I just don't know that we have enough in the Eastern Service Area or not to know if that can be worked around, so.

M. CAVANAUGH: OK, thank you.

JENNIFER CARTER: You're welcome.

ARCH: Other questions? I-- I guess I-- I have a couple-- a couple of comments listening to all of this. We talked about recruitment and retention and Saint Francis, frankly, has been very clear they are

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struggling with recruitment and retention of staff, period, some of that having to do with the market itself, we understand, some of that having to do with there's been some certainly negative publicity surrounding Saint Francis and that may cause some reluctance of workers. I think there's-- I think another factor that's in there, and-- and just for the committee to understand, the contract that was signed, this emergency contract that was signed beginning with February, from what-- from what Liz Hruska presented to us, dates of-- of February 1, '21, really to the end of February of '23 is a 25-month contract. In reading that contract, I think I also recognize that there's no option for extension. It--

JENNIFER CARTER: There is an option by law for half the term of the contract extension, so--

ARCH: OK.

JENNIFER CARTER: --they could extend it for one year.

ARCH: OK, so there's that-- that is-- there is that possibility. But there's also a six-month, no-cause termination clause--

JENNIFER CARTER: Correct.

ARCH: --in the contract at the option of the state, which, again, I-- I-- I point to recruitment and retention. That uncertainty, as well, may make it-- may make it difficult. I mean, we're-- we as oversight are-- are watching and saying we're very concerned about recruitment and retention and understandably so. There are some-- there are some things in our system, I think, that are-- are-- have some barriers, as well, built in that we're dealing with.

JENNIFER CARTER: Yeah. No, I-- I think it's a large challenge and I think a lot of-- my understanding is a lot of workers also at the state also get sort of--

ARCH: Yeah.

JENNIFER CARTER: --poached sometimes by other state agencies that might pay more.

ARCH: Sure, yeah.

JENNIFER CARTER: So that's a challenge as well.

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ARCH: But in-- instability in-- in any industry makes it very difficult--

JENNIFER CARTER: Yes.

ARCH: --to recruit and retain--

JENNIFER CARTER: Yeah.

ARCH: --and when we certainly have instability right now.

JENNIFER CARTER: I'm sure. Yes.

ARCH: Yes. Any other final questions? All right, well, thanks very much--

JENNIFER CARTER: Yeah, thank you.

ARCH: --and appreciate all the work you've done. We look forward to your investigation report.

JENNIFER CARTER: Yes.

ARCH: And have a nice vacation.

JENNIFER CARTER: Thank you. I really appreciate it.

ARCH: Next we've asked Monika Gross to join us for our last testifier this morning, and Monika is the executive director of the Foster Care Review Office. And Monika has a great insight into day-to-day issues that foster care children are experiencing, not only in the Eastern Service Area, but Monika's responsibilities are statewide as well, so she can help us understand issues across the state and how they might compare to the Eastern Service Area. So welcome-- welcome, Monika.

MONIKA GROSS: Thank you, Senator Arch and members of the Special Investigative and Oversight Committee and members of the HHS Committee. Thank you for inviting me to speak with you today. My name is Monika Gross. That's spelled M-o-n-i-k-a G-r-o-s-s, and I'm the executive director of the Foster Care Review Office that I will refer to sometimes as the FCRO. I'm here today to provide testimony about the child welfare system in Nebraska, with particular emphasis on the Eastern Service Area. And for full disclosure to the committees, I previously served as the general counsel of Nebraska Families Collaborative, which became PromiseShip for nine years, and during my final six months there I served as the interim president and CEO. I'm

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here today, though, in my capacity as director of the Foster Care Review Office. I'll provide some background on foster care and child welfare case management, a history of the Foster Care Review office and a summary of the oversight that our office provides, and then I'll share some of the data that the FCRO has collected comparing the Eastern Service Area to the rest of the state. And finally, I will share some of the observations of the FCRO from our reviews of Eastern Service Area child welfare cases, and I'm actually going to start with one of those observations. During-- and-- and as I go through this, it-- some of it might not make sense to you, but hopefully by the time I finish today, it will make sense. During a case file review conducted early in 2021, FCRO staff learned that a home study that was done on a relative foster home did not mention the relative's significant other who was living in the home and who was a caregiver for the foster child, nor did it mention the-- their infant child who also resided in the home. The foster father did not pass a background check, and so a hold was placed on the home so that no other children could be placed there, but the young child who was already placed there was not moved at that time. Foster Care Review Office determined that-- at some point, that the foster father was in jail and that there was a warrant out for the arrest of the relative foster mother. Upon notifying the case manager, and this was a Saint Francis case manager, of this discovery, FCRO staff was told that we had it wrong, that it was the biological parents who had pending charges. In response, our staff person sent a screenshot of the pending charges and warrant against the foster parents to the case manager and then didn't hear back for three days and, only because our staff reached out again after three days, was then informed by the case manager that she had discussed the case with her supervisor and that they would be moving the child from the relative home by the end of the next day. This did, in fact, happen. The child was moved, but the child had been placed there from July of 2020 until April of 2021. And some of these-- the-- some of these charges, warrants, etcetera, occurred, were issued while the child was in the home. And so this is a rather egregious example of lack of monitoring and lack of awareness of what was going on in the foster home and a lack of ability to recognize or identify issues. So we've been talking a lot about child welfare, so I thought I would just kind of take a step back and talk about what is child welfare. Child welfare is a system of caring for children by government and private agencies who are charged with protecting children who are at risk of or have experienced child abuse, neglect or abandonment, or have some other immediate need. And the system works within a framework of safety, permanency, and well-being. Child welfare practice involves a unique set of core competencies, including

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investigation of child maltreatment, family preservation strategies, the skills necessary for placement of children in out-of-home care, foster care supervision and monitoring, transitioning from foster care to adulthood, and adoption. Among-- among many other things, those are core competencies that were identified by the Child Welfare League of America. The Department of Health and Human Services is responsible for administering all public child welfare programs in the state of Nebraska. In addition, the state of Nebraska is legally responsible for children in its custody, regardless of who is doing the work of providing the direct services to the children and families. Child welfare case managers are also known as-- I'm sorry. Child welfare caseworkers are also known as case managers, and I'll use those terms interchangeably throughout my testimony. Child welfare case managers are responsible for and directly oversee case planning, service authorization, investigation of compliance, monitoring and evaluation of the care and services provided to children and families, and decision making regarding visitation, care, placement, medical services, psychiatric services, training and expenditures on behalf of the children in the department's custody. The case manager is also responsible for decision making and actual preparation of a case plan that is submitted to the court having jurisdiction over the child. The case plan includes the plan of care, placement, services, and permanency for the child. And those requirements, responsibilities are taken from our statutes. This was part of the reform legislation that Senator Campbell discussed in her briefing a few weeks ago. The Department of Health and Human Services is permitted by law to contract with the lead agency for a case management lead agency model pilot project in the Eastern Service Area. The same statute also sets forth the requirements of a lead agency that contracts to provide community-based care, and those requirements include a board of directors which is composed of at least 51 percent Nebraska residents who are not employed by the lead agency or a subcontractor of the lead agency. In addition, they must complete a readiness assessment, have the ability to provide all the services required of a lead agency, either directly or through a network of local providers, and be accountable for meeting outcomes and performance standards. If providing direct services, a lead agency is limited to 35 percent, to providing 35 percent of those direct services in-house. The lead agency must meet all of these requirements before providing services. And again, this was part of the package of reform legislation that Senator Kathy Campbell discussed. You may want to inquire of DHHS and Saint Francis Ministries whether they complied with all of the requirements of 6-- Section 68-1212, subdivision (3) and (4), before they began providing services to the ESA. For purposes of licensure in

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Nebraska, foster care is defined as a service that-- a service of exercising 24-hour daily care, supervision, custody and control over children for compensation or hire in lieu of the care and supervision normally exercised by parents in their own home. The Foster Care Review Act, which is how we determine which cases we review, defines foster care placements more broadly to include all types of placements of juveniles described in the juvenile code, all types of placements of neglected, dependent or delinquent children, including those made by the Department of Health and Human Services, by the court, by parents, or by third parties, all types of placements of children who have been voluntarily relinquished to the department or any child-placing agency, and all types of placements that are considered to be a trial home visit. So it's a-- it's-- it's broader than just children who are living in foster homes, so it can include more residential, institutional-type settings, and actually voluntary placements that parents make as well. In Nebraska, foster care-- with-- you-- you got into this a little bit in some of your questions and answers with-- with Jennifer. But in Nebraska, most foster care is provided, administered by private agencies, and there are a number of those agencies across the state and they would include agencies such as Nebraska Children's Home Society, Boys Town, Apex, Christian Heritage, KVC. So there's a number of them that-- and you-- and you can see a list on the department's licensure website. If you're interested, you can go there. And so each of those agencies have to have their license renewed annually, so that's an annual renewal process. In-- so now a little bit of the history of the FCRO and why we exist. In response to federal legislation in 1981, a group of Nebraska advocates put together a set of statistics and graphs on foster care in Nebraska and shared that with the Legislature. In 1981, no one knew how many children were in foster care in Nebraska. The Department of Social Services estimated at that time that they had approximately 1,800 state wards, but children were also in foster care as wards of counties, the Department of Corrections, the Department of Public Institutions, the Department of Education, and private agencies. By the end of 1982, 4,100-- 4,071 children were on the foster care tracking system, so the-- the estimate was well off the mark. The advocates who put this all together also reviewed a sample of cases of children in foster care and developed some startling facts, which include: a 17-year-old boy who came into foster care when he was 4, had 10 placements and no court hearings in 13 years; a 16-year-old child who had parental rights terminated at the age of one month was never placed for adoption and had not had a court hearing for 15 years; a 12-year-old girl had been in foster care 8 years before parental rights were terminated, freeing her for adoption. At

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that time, in 1982, when the Legislature created the Foster Care Review Board, it was known as the Foster Care Review Board; 2012 legislation change the name to the Foster Care Review Office and changed the governance structure, but our mission remains the same. The FCRO exists so that children don't languish in foster care, forgotten by the adults who put them there. The FCRO is an independent state agency not affiliated with the Department of Health and Human Services, the courts, or any other child welfare entity. Our role under the Foster Care Review Act is to independently track children in out-of-home care-- or foster care, review children's cases utilizing local volunteer citizen review boards, collect and analyze data related to the children, and make recommendations on conditions and outcomes for Nebraska's children in out-of-home care. The FCRO is governed by a five-member Foster Care Review Office Advisory Committee appointed by the Governor and confirmed by the Legislature. We have 53 local review boards made up of approximately 300 citizen volunteers from across the state, consisting of professionals in various fields, and in addition to experienced foster and adoptive parents, CASA volunteers, and military retirees. Prior to the pandemic, our local boards met in person in Bellevue, Columbus, Fremont, Grand Island, Kearney, La Vista, Lincoln, Norfolk, North Platte, Omaha, Papillion, Scottsbluff, Gering, and York. And we have two virtual statewide boards that review only probation-related cases. So our oversight takes place on two levels. One is the individual case level, and that's what Senator Arch talked about being day-to-day in the-- at the individual case level and then also at the systemic level. Individual case file reviews, case files are reviewed with the needs of each specific child in mind. If the system is not meeting those needs, then the FCRO advocates with the court for the best interests of the individual child. Simultaneously, the data collected from every case file review is used to create a systemwide view of trends, successes, and challenges in this complex world of child welfare. And we want to ensure that children are better off when they leave out-of-home care than when they enter. In fiscal year '19-20, the FCRO tracked information regarding the experiences of over 7,000-- over 7,000 children who were removed from their homes and put into state custody or care through the child welfare or juvenile probation systems. We-- in order to do that, our tracking system, we-- we get daily information, daily data from the Department of Health and Human Services related to children in care placement changes, worker changes. We also get relevant court information for each child in out-of-home care through the court system, through-- through a different mechanism. And all of that data is then entered, either electronically or manually, by our staff into our data system, and

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that allows us to analyze large-scale system changes as well as individual case information. We talked a little bit earlier about safety, permanency, and well-being. State and federal law establishes three unequivocal outcomes for children in out-of-home care and that's safety, permanency, and well-being. And during our case file review process, our emphasis is also on safety, permanency, and well-being. In conducting a case file review, the FCRO staff reviewed the DHHS case file, or the Saint Francis Ministries case file in the Eastern Service Area, and that is contained in the DHHS statewide database known as N-FOCUS. We also used the court's JUSTICE system to look up court information such as pleadings, motions, court orders and court scheduling. Contacts are made with case managers, probation officers, foster parents, the child's guardian ad litem, and others as required. Notifications are sent out for the date, time, and location of the local board meeting, and questionnaires are sent to all legal parties, parents, youth, and other interested parties prior to the local board meeting so they can fill out the questionnaires and return them to our office to be included in the final report. Information that's gathered by the staff is then summarized in a document which is shared with local board members prior to the local board meeting. At the local board meeting, board members discuss the case, hear from participants, identify top concerns and barriers, and make required findings and recommendations regarding next steps. And then a final report is prepared and sent to the court and all the legal parties involved in the child's case by FCRO staff. As part of that review process, staff also complete an electronic data form directly into our database, which is known as FCTS. And that data can then be drawn on at-- at a later date and extracted and analyzed. So as part of your packet, I included some data from our most recent quarterly report. And I'm not going to go through the whole-- the whole packet that you have, but there are some key points that I-- that I wanted to point out for you to get you-- give you some perspective and so you have some idea of the data that we collect. Our annual report will be published in September, on September 1. So when that gets submitted to the Legislature, I will send each of you a link to that report so that you have it, and I would encourage you all to read it. It-- it does tend to be on the lengthy side because we do analyze lots of different data points for the entire fiscal year. This report, this quarterly report is a point-in-time report as of March 31, 2021. And if you turn to page 3, which has the map of Nebraska on it, it-- it will give you some perspective. That shows all of the children who were in out-of-home care on March 31, 2021, and that includes both state wards under HHS and youth who are out of home under the probation-- under a probation docket. So you can see the number of youth from each county.

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That's the county of court jurisdiction. And then of those 4,078 youth, 3,427 of them are CFS wards, or those would be the child welfare population. So that's-- that's the number of youth that we are-- we're dealing with today. And I think Senator Geist might have had a question earlier about whether there's been an increase. Our data shows slight-- slight increases, 1 to 2 percent year over year for the fa-- the last couple of years. The child welfare population actually did not decrease during COVID. The decrease statewide in out-of-home population is mainly attributable to probation youth.

GEIST: OK. Decrease in probation youth?

MONIKA GROSS: Yes, yes. Yeah. CFS wards actually showed a slight increase, with 2 to 2 percent.

GEIST: OK. Thank you.

MONIKA GROSS: And then, if you will look on page 6, that just shows-- breaks down the population by service area, so you get some idea, again, for perspective: 46.5 percent of the state wards are in the Eastern Service Area, so it's almost half and it's-- it's a significant portion of the child welfare population. And then you can see the other service areas have fewer. In some areas, the state is pretty-- it's pretty stable across the state as far as children being placed in a family-like, least-restrictive setting. Nebraska does really well at that, so we've got 96, 97 percent in-- across the state, across the board, placed in a family-like setting. So we don't tend to use institutional settings or group home settings or residential settings for-- for our youngsters in care. Now the-- on page 14, that graph-- and-- and there-- I'll have some more discussion about these issues, but that graph shows the percent of wards in the Eastern Service Area that experienced more than one court-involved removal from their parental home, and that's 25 percent of the youth. And 34.4 percent of the youth experienced four or more placements in their lifetime. And-- and then we have it further broken down by age, but that is-- if you turn the page to page 15, it shows the rest of the state, and so that percentage experiencing four or more placements in their lifetime is-- is a good bit higher in the Eastern Service Area than in the rest of the state, as-- outside the Eastern Service Area, where you only have 23 percent of those children with four or more placements. So placement stability tend-- tends to be a little bit more unstable in the Eastern Service Area than in the rest of the state. And then the last page, the last graph shows the number of caseworkers that-- that children have had in their most recent episode in care, so not across their lifetime but just since their most recent

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removal. And you'll see the Eastern Service Area has the greatest percentage of children, almost 32 percent, with five or more workers since their most recent removal. And that's compared-- the lowest region in the state as the Western Service Area, with only 6.5 percent of the children that have had five or more caseworkers. So that's significant. The FCRO is concerned about case manager and staff turnover at Saint Francis Ministries. Case manager turnover and caseload compliance are two sides of the same coin. High turnover results in high caseloads for the remaining staff. The high caseloads, in turn, lead to more staff turnover. And high caseloads also lead to sloppy casework, exhaustion, physical and mental exhaustion, and ultimately burnout, and then that starts the cycle all over again. And so it's-- it's a downward spiral. The key to a successful child welfare system is a well-trained, stable workforce. And how do you achieve that? Well, recruiting the right individuals; making sure the employee is a good fit for the job; providing comprehensive training consisting of classroom training and field training provided by qualified trainers; pair each new worker with a seasoned mentor; provide appropriate supervision, support, and ongoing training for staff; make sure staff are practicing self-care, unplugging after hours and taking time off as needed; keeping caseloads and workloads manageable; and provide opportunities for professional development. I think, of those, the most important ones are manageable caseloads and skilled supervision. Those are key to retaining the workforce. Why is this important? I want to reiterate a point that former Senator Kathy Campbell made during the last briefing. A study in Milwaukee County, Wisconsin, found that children who had only one caseworker achieved timely permanency in 74.5 percent of the cases, as compared with 17.5 percent of those with two caseworkers and 0.1 percent of those with six caseworkers. The University of Minnesota also found that caseworker turnover correlated with increased placement disruptions, so you see-- you see that increase in the number of placements, increase in the number of workers leads to delayed permanency, which is not good for children. Frequent caseworker changes can have various negative impacts, including caseworkers having infrequent physical contact with the children on their caseload, and, therefore, they cannot adequately monitor child safety in the foster homes. There are gaps in information transfer and documentation, sometimes on more than one transfer. And-- and our staff see that a lot in the Eastern Service Area where there are gaps in documentation in the case files; sometimes for months at a time they lack documentation. Newly assigned workers lack knowledge of the case history that's needed to determine service provision and make recommendations for case planning. New workers are unfamiliar with the quality and availability of services.

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Permanency is delayed. Supervisor time is spent hiring, onboarding, and training staff, and repeated recruitment, hiring, and training is expensive. And so, finally, I would just like to highlight for you a few cases that illustrate many of these negative impacts. In one case reviewed by the FCRO, five children were placed in a relative foster home in another state and the plan is adoption. The family moved to a new home in October 2020, but as of last week the foster parents' address had not been updated in the case file. The adoptive home study has not been completed. Medical, dental, vision, and mental healthcare have not been updated in the case file. The children went without their medications for nearly a year because Medicaid was terminated in the other state during-- during the pandemic and while the children were homeschooled. There have been three different case managers assigned to this family since the first of this year. There appear to be communication breakdowns within Saint Francis, especially when case managers or supervisors change. And there's a steep learning curve with each new case manager, which delays service provision and delays permanency. In another scenario, a four-year-old child was placed with his grandmother three years ago and the plan is for her to adopt the child, yet as far back as March 2020, the judge acknowledged concerns about the placement. When referred for an adoptive home study, the child-placing agency that was tasked with completing the home study declined to approve it. Additional concerns surfaced from time to time, including the power being cut off at the foster home due to nonpayment. Workers assigned to the case expressed concerns about the adoption but were directed by their administration to recommend finalization to the court. During an April 2021 case file review, a narrative in the case file indicated that the child had disclosed domestic violence between the foster parents in the foster home. This was never reported to the CPS hotline. There was no evidence of any rehabilitative services or supports offered to the family to improve parenting skills or to support and strengthen the family. I received the following message from one of my staff on another case. She said, quote: My takeaway from the meeting was that we have a kinship care provider who has yet again been failed by the system. The constant change in case managers and inexperience of the kinship support specialist has left this family unsupported and fending for themselves on how to address trauma, safety, and permanency, end quote. This staff person also went on to say that they believe the kinship foster parents loved the children, but raising three adolescent girls with a history of past trauma and attachment issues had become overwhelming with no support. A Saint Francis-- Saint Francis Ministries case manager informed one of our staff members that the case in question would be transferred to their adoption unit, but there was a waiting

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list and they didn't know how long. Meanwhile, the current case manager would continue on the case but couldn't do anything to move the case towards permanency. In another case involving two brothers who were separated but wanted to be reunited in the same foster home, there appeared to be no sense of urgency on the part of the case manager, even though there was a long list of tasks that hadn't been completed. The judge had to remind the case manager several times during a review hearing that she needed to send a seven-day notice-of-placement change to all the parties before changing a child's placement. This should be a well-understood rule by any case manager who's completed training. When the FCRO reviewed a case in September 2020, there were concerns regarding an active, outstanding arrest warrant for the foster mother. As a result, approval for the placement could not be renewed, so for homes that are not licensed, the department has an approval process and it includes having a home study completed, background checks completed, and then the department is-- it's their responsibility to approve or not approve that home. And emergency approvals are good for 60 days and within that time, home studies are expected to be completed so that a more permanent approval can be made. During the review, FCRO discovered a second warrant out for the foster mother for a violent felony. The case manager was not concerned because the foster mother had denied knowledge of the warrant and indicated-- the case manager indicated they would deal with it when this became a reality. Ultimately, the youth's guardian ad litem sought a court order moving the youth from the home, which was granted by the court. When the case was reviewed again recently, the youth was in a new kinship placement, but, again, the emergency approval had expired on that home and there was no home study in the file. So placement-- these placement concerns spanned three case managers, two supervisors, and two resource developers at DHHS, and no lessons were learned about completing timely home studies from the first experience. So these examples illustrate a pattern of failing to appropriately monitor and supervise foster care placements, of failure to adequately address issues of concern in foster homes in a timely manner, if at all. And I think the child-placing agency license is important to consider here because part of that is the supervision of the placements in the foster homes. Workers seem to lack an understanding of their roles and responsibilities. They also illustrate a failure to adequately train and support workers to even identify concerns, let alone address them. Workers lack skills in having difficult conversations with families in-- leading to unmet needs in foster homes and lack of accountability among-- among the parents and the-- and the providers. And so, you know, it-- it leads me to ask, well, what if there was no FCRO? What if there was no

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Court-Appointed Special Advocate? What if there was no guardian ad litem? These are all external third parties who have visibility into the individual cases and are also looking out for the best interests of the child. But currently, there's a lot of-- there's a lot of gap. Thank you for allowing me to share my thoughts with you today, and I would be glad to answer any questions.

ARCH: Thank you, Monika. Questions for Monika? Senator Geist.

GEIST: Yeah. Hopefully, I won't ramble on it to a comment, but who knows? OK, I think this was the case on the back that you started with at the beginning.

MONIKA GROSS: Yes, um-hum.

GEIST: So did the charges that were filed on that foster father while the child was placed in his home from-- for almost a year, did those actions that he was charged for, were they actions that affected that child, like--

MONIKA GROSS: They did not occur in the foster home.

GEIST: OK.

MONIKA GROSS: So it-- it was outside the foster home, but it was during the time of placement.

GEIST: All right. And I'm kind of just wanting to draw a connection to that with some of the policies that are in place about drug testing or lack of drug testing for-- and I know that's not a direct correlation, but if-- if we're not-- and you could maybe want to comment on this. If we can't randomly drop in on a home where a parent may be a known addicted individual and we can no longer test the child unless by a court order, aren't things like this happening, like a-- a parent being arrested for a charge that may not directly affect the child but does affect the child because of some of the policies we have set in place?

MONIKA GROSS: Well, it's possible. I guess, you know, and this is--- this is a hypothetical situation, so it's hard to draw a direct line, you know, from--

GEIST: Right

MONIKA GROSS: [INAUDIBLE] to. But in this case, this was a foster home. It was a relative foster home. So actually, the department,

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Saint Francis, the guardian ad litem could actually knock on that foster home door at any time with a reasonable expectation to be admitted to walk through.

GEIST: So they can do a random--

MONIKA GROSS: Yes. Yes. Typically, that is also included in the court's initial order--

GEIST: OK.

MONIKA GROSS: --in the case that that allows those various case parties to-- to check in on the child at any time.

GEIST: So is that across foster care? Is that allowable now that they can do random drop-ins?

MONIKA GROSS: In the foster homes, yes.

GEIST: OK.

MONIKA GROSS: Yes.

GEIST: Where is that not allowable, or do you know?

MONIKA GROSS: I'm not sure that it's--

GEIST: And why have I been misinformed that that's not allowable?

MONIKA GROSS: I don't-- I don't-- if the child is in the home and the child is a ward of the state, then it's allowable.

GEIST: OK. Well, I'm glad. Good. All right, thank you.

MONIKA GROSS: Sure.

ARCH: Other questions? Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thank you for this review. So I want to in no way diminish these harrowing stories that you shared with us today, but I-- I thought it would be useful to know, how does this compare with what you are seeing across the other service areas in the state?

MONIKA GROSS: Well, much like Jennifer said, I don't hear from my staff in the other parts of the state, rarely with situations that are comparable to this.

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M. CAVANAUGH: OK. And so it looks like this is about over the course of 16 months that these cases are-- are from. Obviously they're all within the current provider, Saint Francis Ministries, is that correct?

MONIKA GROSS: Yes. And most of them have been reviewed within the last six months or since the first of the year.

M. CAVANAUGH: Are these a sampling of what is happening? Are there more? Again, this is more than enough, but I'm just wondering how much more there is or is-- are we now aware of what there is?

MONIKA GROSS: No, this-- this is just a few. I-- I tried to take maybe one from each of our staff people in Omaha that--

M. CAVANAUGH: OK.

MONIKA GROSS: --that they have sent me. Some of these I have been involved in myself. Some-- some of these cases have been staffed with the department and with Saint Francis.

M. CAVANAUGH: OK. Thank you.

ARCH: Other questions? I-- you-- you provide a unique perspective because you see individual-- you see individual children in individual homes in addition to system issues, but-- but very individual, and-- and 300 volunteers, I think you referenced, serving on these foster care review boards, lots of involvement on the individual level of-- of these-- of these children. And then you connect into the court system. How would you describe the relationship of the FCRO to the juvenile courts? I guess it's juvenile courts. Maybe it isn't juvenile courts. Courts in--

MONIKA GROSS: In the Eastern Service Area, yes, it would be the juvenile courts.

ARCH: OK.

MONIKA GROSS: Yeah.

ARCH: OK. How would you describe that FCRO relationship to the courts?

MONIKA GROSS: Well, under our statutes, our reports, we prepare a report to the court for every case that we review. So under our statutes, our reports are admissible in court. And so the-- the report is sent to the court for-- to be filed and it's also sent to all the

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legal parties. And so our hope is that those reports are received into evidence and reviewed by the judges. Feedback we receive from the judges are that they do rely on those reports, that they get good information in those reports. In addition to FCRO reports, there are-- if there's a CASA volunteer on the case, CASA provides a report to the court. The guardian ad litem report provides a report to the court. Otherwise, the court would only be getting information from the case management agency. And so having these other external oversight entities provides the court with a more well-rounded view of what's going on in-- in the case. And in our reports, we report the good things along with the bad and, you know, much like Jennifer said, we tend to hear more about the bad things than the good things because we need to raise the alarm bell if something is going wrong in a case. So that's-- that's kind of our role; that's our oversight role. And going back to that history and why we were created, that's still very much the focus, is the safety, permanency, and well-being of the children.

ARCH: In-- in listening to your response to that question, you-- I think you made a-- a distinction: if-- if entered into evidence, right? In other words, not-- not really required to be part of the process, the report that comes out of FCRO, not really required, is that-- am I understanding that correctly?

MONIKA GROSS: Well, there-- there-- there was-- the statutes were amended maybe five or six years ago to allow Foster Care Review Office reports to be admitted without having the author of the report present in the court, without foundation, you know, just as a report provided by a state agency. We hear from our staff that different judges across the state treat it differently. I believe in-- in Douglas County, they are received and they are made part of the record. We don't have a good way of tracking that through the-- through the court's data system.

ARCH: OK.

MONIKA GROSS: That's on our wish list.

ARCH: OK, thank you. Any other questions? Senator Cavanaugh.

M. CAVANAUGH: Thank you. I wanted to just ask a few questions about some of the data that you shared with us. And in this executive summary, it talks about that DHHS, CFS wards continue to be placed at the least restrictive, most family-like settings at very high rates. And I believe that's something that's in here, the kinship or the

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relative-- the nonrelative home, the relative home, and the kinship home, those are all the least restrictive. Correct?

MONIKA GROSS: Those are the family foster homes, yes.

M. CAVANAUGH: And are those-- I have-- I have kind of layered questions here. So are those also-- in addition to being the least restrictive, do they not provide reimbursements the same as other placements?

MONIKA GROSS: All of those-- so the nonrelative home would be your agency-based, licensed home.

M. CAVANAUGH: OK.

MONIKA GROSS: So those would be strangers to the children--

M. CAVANAUGH: OK.

MONIKA GROSS: --but they would be licensed homes--

M. CAVANAUGH: OK.

MONIKA GROSS: --supported by one of those child-placing agencies that we talked about. The relative homes and the kinship homes would not necessarily be licensed. They're not required to be licensed, but they are treated just like any other foster parent, so they would get a foster care payment.

M. CAVANAUGH: And they would also do a background check?

MONIKA GROSS: Yes.

M. CAVANAUGH: OK.

MONIKA GROSS: Yes. Yeah, they would have to go through that approval study or go through the licensing process, one or the other.

M. CAVANAUGH: Thank you.

ARCH: Other questions? Senator Walz.

WALZ: Thank you, Senator Arch. And thank you for being here today. I have a question regarding the board of directors. Nebraska residents who are not employed by the-- I'm sorry-- they-- the lead agency must complete a readiness assessment, have the ability to provide the services required of a lead agency, and, either directly or through a

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local network providers, be accountable for meeting outcomes. Is that the board of directors' responsibility to make sure that those things are happening prior to them starting services?

MONIKA GROSS: It would-- I mean, certainly that-- I-- I think that that would be a responsibility of a board of directors, that they are operating within the law. But I think it's-- it's the Department of Health and Human Services' responsibility to make sure that the lead agency that they're contracting with meets those statutory requirements. And I-- and I believe those were all requirements in the-- in the original request for proposal.

WALZ: Do you-- do you know if there was a board of directors in place prior to them starting services providing?

MONIKA GROSS: I don't believe there was a Nebraska board of directors in place.

WALZ: OK.

MONIKA GROSS: It was somewhat confusing about originally which entity was-- made the proposal and which entity was entering into the contract. There were some different entities and they weren't all Nebraska entities.

WALZ: OK. Thank you.

ARCH: Thank you. Other questions? Seeing none, thank you very much, Monika, for your work and-- and the-- and the briefing today and the effort you put in to prepare for this as well. With that, with Monika's conclusion, that will conclude our briefing for the day for the-- the two committees. And thank you to all senators that attended today.