



Commonwealth of Massachusetts  
Office of the State Auditor  
Suzanne M. Bump

*Making government work better*

Official Audit Report-Issued March 26, 2014

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## Department of Children and Families

For the period July 1, 2010 through September 30, 2012





Commonwealth of Massachusetts  
Office of the State Auditor  
Suzanne M. Bump

*Making government work better*

March 26, 2014

Commissioner Olga I. Roche  
600 Washington Street  
Boston, MA 02111

Dear Commissioner Roche:

I am pleased to provide this performance audit of the Department of Children and Families. This report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, July 1, 2010 through September 30, 2012. My staff discussed the contents of this report with management of the agency, and their comments are reflected in this report.

I would also like to express my appreciation to the Department of Children and Families for the cooperation and assistance provided to my staff during the audit.

Sincerely,

A handwritten signature in blue ink, appearing to read "SMBump".

Suzanne M. Bump  
Auditor of the Commonwealth

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## EXECUTIVE SUMMARY

The Department of Children and Families (DCF), established by Chapter 18B, Section 1, of the Massachusetts General Laws, provides services to children (from birth up to 21 years of age) and their families who are at risk of or have been victims of abuse or neglect. According to its website, DCF “is charged with protecting children from abuse and neglect and strengthening families.” DCF’s services include adoption/guardianship, foster care, housing stabilization, family support and stabilization, adolescent services, protective services, and other in-home supports to reduce risks to children. The department administers its services from a central office located in Boston and four regional offices administered by regional directors who oversee 29 local area offices throughout the Commonwealth. During our audit period, there were an average of more than 7,000 children under the age of 18 in foster care across Massachusetts at any one time and a total of more than 40,000 children served by the department. During fiscal year 2012, DCF administered approximately \$753 million, of which federal funds totaled approximately \$16 million.

In accordance with Chapter 11, Section 12, of the General Laws, the Office of the State Auditor (OSA) has conducted an audit of certain administrative activities of DCF covering the period July 1, 2010 through September 30, 2012. The objectives of our audit were to determine (1) whether DCF was ensuring that all of the required medical screenings and examinations of children placed in its care were being conducted, (2) whether DCF was conducting the required Criminal Offender Record Information (CORI) checks on its employees, (3) whether DCF was ensuring that all of its service providers had the required background record checks (BRCs), (4) whether DCF was complying with applicable laws and regulations when granting waivers to individuals who have criminal records to allow them to participate in foster care, (5) whether DCF was properly safeguarding and disposing of documents such as client records that contain personally identifiable information (PII), and (6) whether DCF was using information available from the state’s Sex Offender Registry Board (SORB) to further ensure the safety of children placed in its custody.

### *Summary of Findings*

- DCF is not ensuring that children are receiving required medical screenings within 7 days of being placed in its custody and more comprehensive medical examinations within 30 days of being placed in its custody. The effect of this is that DCF’s management cannot effectively ensure that children in DCF custody are not continuing to suffer from undetected health issues, trauma, and injury from abuse and neglect.

- DCF does not have adequate documentation to substantiate that it has conducted all required BRCs on individuals living in some of its foster homes. Therefore, DCF cannot substantiate that these BRCs were performed before DCF placed children in foster homes.
- DCF has not established adequate internal controls over the storage of PII. Access to this information by unauthorized individuals may result in criminal activities such as identity theft.
- Although DCF has established an internal control plan (ICP), the plan is not fully compliant with Chapter 647 of the Acts of 1989 and guidelines established by the Office of the State Comptroller (OSC). DCF's department-wide risk assessment had not been revised since 2008 and did not contain an up-to-date high-level, department-wide summary of risks and controls for all its divisions, programs, and functions with cross-references of risks identified to internal controls (e.g., departmental policies and procedures) established to mitigate them. This could hinder or prevent DCF from fulfilling its responsibilities, achieving its goals and objectives, and ensuring the integrity and effectiveness of its internal control system.

### ***Other Matters***

Massachusetts regulations require state childcare agencies such as DCF to ensure that CORI requests are completed for foster, adoptive, and relative caregivers. However, there is no requirement that state childcare agencies perform other analytical procedures such as periodically matching Massachusetts registered sex offender addresses to the addresses of children in DCF placements. During our audit, we compared the most recently reported home addresses of all Level 2 and Level 3 registered sex offenders to the addresses of DCF family and relative caregivers, foster homes, adoptive homes, and independent living residences during the 27-month period July 1, 2010 through September 30, 2012 and found 25 address matches. OSA immediately brought these to the attention of DCF, which investigated these incidents. DCF officials told us that none of the 25 individuals were actually living in the same home as a child and that they could not substantiate that the children living at the 25 residences had experienced any abuse. However, OSA believes that some of the situations we identified during our matching process represent a significant risk to a child, and therefore, DCF should consider using this SORB information, which is readily available, as another means to ensure the safety of children placed in its custody.

Examples of the matches and the results of DCF's investigations that appeared to OSA to be high-risk placements include the following:

- The Salem home address of a 3-year-old child under DCF care matched the address of an adult Level 3 sex offender who had been convicted of rape of a child by force. SORB address information indicated that the child and the offender were residing in different units of the same eight-unit building.

- The home address of a 12-year-old child and a 9-year-old child under DCF care at the same Salem address matched the address of an adult Level 3 sex offender who had been convicted of rape of a child by force. SORB address information indicated that the child and the offender lived in the same building until October 2012.

### ***Recommendations***

- DCF should strengthen its current medical-examination policy (Policy 2010-001) to include control activities that will ensure and verify that foster parents/custodians obtain 7-day medical screenings and 30-day medical examinations for children within the required timeframes. DCF should also retrain caseworkers to ensure that information related to these screenings and examinations is properly documented, retained in case files, and recorded accurately in FamilyNet. We also recommend that DCF consider a data-sharing feature with MassHealth as an additional means of ensuring compliance.
- DCF should ensure that BRCs are performed and documented, for all individuals for whom they are required, before placing children in a substitute/foster home. Documentation related to these individuals should be maintained and available when requested in accordance with the Commonwealth's record-retention schedule. DCF should also retrain staff members responsible for the ongoing monitoring to ensure compliance with all requirements and that prompt action will take place should exceptions occur.
- DCF should consider developing the ability to produce a list of all individuals living in its foster homes who have been granted BRC waivers, since this could be an effective tool for monitoring this process centrally, when used in conjunction with other information, as part of the department's ICP.
- DCF should establish and implement the necessary monitoring controls to ensure compliance with Executive Order 504 and its own policies. In addition, DCF's central office staff should perform periodic site visits to area offices to monitor compliance with these requirements. DCF should also ensure that PII data storage and security is accurately represented in its annual Internal Control Questionnaire submitted to OSC.
- DCF should comply with OSC's Internal Control Guide and take the steps necessary to ensure that its ICP (1) includes an up-to-date department-wide risk assessment that identifies the most significant areas (risks) that could prevent the department from attaining its mission, goals, and objectives, with cross-references of identified risks to internal controls; (2) incorporates all eight components of enterprise risk management; and (3) is updated as needed, but at least annually.

### ***Post-Audit Action***

DCF officials told us that the department currently does not have what it would consider streamlined access to the Sex Offender Registry database maintained by SORB but is working on obtaining this access. These officials also stated that they are taking measures to address the issue of the untimely child medical screenings and examinations.

## OVERVIEW OF AUDITED AGENCY

### *Background*

The Department of Children and Families (DCF), established by Chapter 18B, Section 1, of the Massachusetts General Laws, administers a comprehensive child welfare program for children and families. According to its website, DCF “is charged with protecting children from abuse and neglect and to strengthen families. . . . where child abuse or neglect has occurred.” DCF seeks to strengthen families by assisting parents in meeting their parental responsibilities and, when necessary (through court orders or voluntary agreements), by placing the child with foster parents or in group homes to provide safety from abuse and neglect. DCF operates from a central office in Boston located at 600 Washington Street and four regional offices administered by regional directors who oversee 29 local area offices throughout the Commonwealth. Chapter 18B, Section 6, of the General Laws places DCF under the direction, supervision, and control of the Commissioner of Children and Families, who is appointed by the Secretary of Health and Human Services with the approval of the Governor.

Children are referred to DCF for services in several ways. Chapter 119, Section 51A, of the General Laws requires professionals whose work brings them into contact with children to notify DCF if they suspect that a child is being abused and/or neglected. This law defines these professionals as “mandated reporters,” and they are required to immediately make an oral or written report to DCF when, in their professional capacity, they have reasonable cause to believe that a child under the age of 18 years is suffering from abuse and/or neglect. DCF’s guide “Child Abuse and Neglect Reporting: A Guide for Mandated Reporters” states, “When DCF receives a report of abuse and/or neglect, called a ‘51A report,’ from either a mandated reporter or another concerned citizen, DCF is required to evaluate the allegations and determine the safety of the children.” DCF does not move forward with an investigation if the issues reported are not considered abuse or neglect or if the child is not currently in the care of the accused abuser. DCF also may not move forward with a new investigation if it is already aware of issues with the family in question. If the report is considered substantiated, DCF conducts a “51B” investigation. If DCF determines that the child is or has been abused or neglected, the 51A report is considered “supported” or “substantiated.” For children who are in immediate danger of harm, DCF can file a Care and Protection order with a judge asking for the child’s immediate removal from the household. In addition to 51A reports, children/families come to DCF’s attention from other sources, including cases referred by the Juvenile Court, cases

referred by the Probate Court, babies surrendered under the Safe Haven Act,<sup>1</sup> and parents' or other relatives' requests for DCF services.

When a child is removed from a household, DCF develops a service plan to provide a long-term stable resolution as soon as possible. DCF develops and works with three types of families to provide foster care:

- **Kinship Family:** A licensed family setting that includes relatives or those adults to whom a child and the child's parents and family members ascribe a "family" relationship. Kinship families are persons related by blood, marriage, or adoption.
- **Child Specific Family:** The home of an adult who is known, but not related, to the child (e.g., a coach, teacher, or friend).
- **Unrestricted Family:** An individual(s) who has been licensed by the DCF as a partnership resource to provide foster/pre-adoptive care for a child.

During fiscal year 2012, approximately 7,467 children under the age of 18 were living in foster care or some type of residential facility.

### ***FamilyNet***

DCF's website describes the FamilyNet system as follows:

*FamilyNet is a statewide automated child welfare information system that was implemented in February 1998. This management information system is used for virtually all DCF activities, including intake, investigation, assessment, clinical/case management, adoption, financial, legal and provider services.*

FamilyNet files include information about the nature and extent of a child's abuse and neglect and the child's foster-care family history. For example, FamilyNet retains a history of addresses for both children and adults involved with the agency and maintains a placement history for all children in out-of-home placement. The aggregate and case-specific data available from this database can be accessed through reports, through extracts, and directly online by DCF personnel. The Data Management Unit of the state's Information Technology Division within the Executive Office for

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<sup>1</sup> The Safe Haven Act of Massachusetts (2004) allows a parent to legally surrender a newborn infant seven days old or younger at a hospital, police station, or manned fire station without facing criminal prosecution. The Safe Haven Act amended Chapter 119 of the Massachusetts General Laws by adding Section 39½, Placement of a Newborn into Foster Care, effective October 28, 2004.



Administration and Finance produces various analytical and statistical reports that DCF uses in its administration of services. Examples of these reports include the following:

- DSSRP 221, Compliance for Medical Screenings—This report identifies by region the 7-day medical screenings and 30-day medical examinations that are due, done on time, completed late, or not completed at all. The report captures the evaluation/assessment history, by DCF region and area office, of all medical visits by type and date. It is updated on the 15th day of the month from data entered in FamilyNet by the area-office caseworkers.
- DSSRP 210, Children in Placement—This report identifies all children currently in Kinship, Child Specific Family, or Unrestricted Family placement. The report is updated on the 1st day of the month, categorized by DCF region and area office, from data entered in FamilyNet by the area office caseworkers.
- DSSRP 225, Available Unrestricted Homes—This report identifies all foster homes, their associated background record checks (BRCs), and their final classification based on the BRC results. This report also denotes any outstanding BRC waivers (waivers enabling individuals who have criminal records to participate in foster care) that are in need of completion. The report is updated on the 2nd of the month from data entered in FamilyNet by the area-office caseworkers.

## **AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY**

In accordance with Chapter 11, Section 12, of the Massachusetts General Laws, the Office of the State Auditor (OSA) has conducted an audit of certain administrative activities of the Department of Children and Families (DCF) covering the period July 1, 2010 through September 30, 2012. The objectives of our audit were to determine (1) whether DCF was ensuring that all of the required medical screenings and examinations of children placed in its care were being conducted, (2) whether DCF was conducting the required Criminal Offender Record Information (CORI) checks on its employees, (3) whether DCF was ensuring that all of its service providers had the required background record checks (BRCs), (4) whether DCF was complying with applicable laws and regulations when granting waivers to individuals who have criminal records to allow them to participate in foster care, (5) whether DCF was properly safeguarding and disposing of documents such as client records that contain personally identifiable information (PII), and (6) whether DCF was using information available from the state's Sex Offender Registry Board (SORB) to further ensure the safety of children placed in its custody.

Except for the scope limitation noted below, we conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence that provides a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

To achieve our audit objectives, we first reviewed all state and federal laws, regulations, policies, and procedures applicable to our audit objectives. We also gained an understanding of the internal controls we deemed to be significant to our audit objectives and evaluated the design and effectiveness of those controls. We conducted interviews with DCF management and other staff members, reviewed DCF case-management records and supporting source documents, and performed necessary tests of these records. For the purposes of this audit, we relied upon electronic data files extracted from the FamilyNet case-management application. FamilyNet contains case information including placement and profiles of children currently in DCF care. To assess the reliability of these data, we reviewed available documentation, interviewed DCF officials responsible for compiling the data, and performed basic reasonableness checks by tracing FamilyNet data records to source documents in case files to determine the accuracy and completeness of stored

data. Accordingly, for the purposes of this report, we determined that the data were sufficiently reliable.

To determine whether DCF was ensuring that the required 7-day medical screenings and 30-day medical examinations were being conducted, we analyzed a judgmental sample of 81 foster-child case files that were active during our audit period. We reviewed the documentation in these files that was related to the medical examinations and also obtained and analyzed claims information contained in the Massachusetts Medicaid Management Information System (the automated claims processing system used by MassHealth, the state's Medicaid agency, to pay healthcare claims for Medicaid recipients, including children in DCF's custody). We then interviewed responsible DCF officials regarding any undocumented screenings and/or examinations.

To determine whether DCF was ensuring that required CORI checks were being conducted on its staff, we reviewed a judgmental sample of 24 personnel files for DCF employees who were employed by the agency during our audit period and reviewed these files to see if the required CORI information was present. We then interviewed responsible DCF officials regarding any undocumented CORI checks.

To determine whether DCF was conducting the required BRCs for individuals living at residences where DCF was placing children, we judgmentally sampled 60 case files from a non-duplicative list of all DCF-operated and DCF-contracted foster homes available for the placement of children during our audit period and reviewed the documentation in these files. We then interviewed responsible DCF officials regarding any undocumented BRCs.

To assess the adequacy of the measures taken by DCF to ensure the protection of PII, we toured 16 DCF area offices and observed how client folders were being stored, secured, and disposed of in these offices. We then interviewed responsible DCF area-office personnel regarding the security and disposal of these records.

To determine whether DCF was using SORB information in monitoring its child placements, we matched the addresses of registered sex offenders to selected categories of homes and facilities that provide care and placements for foster children. The following types of homes and facilities were included in the matching process:

- State-placement foster homes;
- Private-placement foster homes;
- Children in Need of Services foster homes;
- Approved Kinship Care homes / relative caregivers;
- Specialized foster homes for children with special needs;
- Residential care homes for children with special needs who are not suited for foster family care or specialized foster family care; and
- Emergency shelter and assistance facilities.

In addition, once these matches were determined and reported, we evaluated the process undertaken by DCF to investigate and determine whether sex offenders were working or living at the locations where the child-placement address matched that of a Level 2 or Level 3 sex offender.

Although we were able to complete most of our planned testing, during our audit we encountered a scope limitation that prevented us from applying all of the audit procedures we considered necessary. Specifically, DCF licenses some foster homes by issuing a waiver of BRC findings, which can place foster children in the same home as accused and convicted criminals or persons with prior involvement with DCF that would have otherwise disqualified the home from being a foster home. One of our audit objectives was to determine DCF's compliance with the requirements of this BRC waiver process. Although DCF was able to provide us with some files related to placements where waivers had been authorized, its database was not set up in a manner that allowed it to provide a complete list of all individuals with disqualifying criminal convictions living in foster homes to which it had granted a BRC waiver. Without this list, OSA was unable to perform the testing we deemed necessary to adequately evaluate the effectiveness of the department's BRC waiver process, including its compliance with established regulations and procedures.

Given the significance of this issue, OSA has initiated a separate limited-scope audit of DCF to further examine its waiver process.

At the conclusion of our audit, we provided a copy of this report to DCF officials for their review and comment. In response, DCF provided OSA with written comments and other electronic data, which we considered in drafting this report.

## DETAILED AUDIT RESULTS AND FINDINGS WITH AUDITEE'S RESPONSE

### 1. Children entering the custody of the Department of Children and Families are not receiving required medical screenings and examinations within the prescribed timelines.

The Department of Children and Families (DCF) is not ensuring that children are receiving required medical screenings within 7 days of being placed in its custody and more comprehensive medical examinations within 30 days of being placed in its custody. Because it does not ensure that required medical screenings and examinations are being conducted, DCF has inadequate assurance that children placed in its custody are receiving proper medical attention. The effect of this is that DCF's management cannot effectively ensure that children in DCF custody are not continuing to suffer from undetected health issues, trauma, and injury from abuse and neglect.

DCF was only able to substantiate that 32 of the 81 children in our sample had 7-day medical screenings and that 37 of the 81 had the required 30-day medical examinations required by its policies. We also found insufficient documentation of these medical screenings and examinations in DCF's FamilyNet system. DCF caseworkers do not always document follow-up actions they take with foster parents / healthcare providers to ensure that these screenings and examinations are performed and that the appropriate documentation is obtained and included in each child's case file.

#### ***Authoritative Guidance***

According to Chapter 119, Section 32, of the Massachusetts General Laws, DCF "shall insure that every foster child upon entry into the foster care system shall be screened and evaluated under the early and periodic screening, diagnostic and treatment standards established by Title XIX of the Social Security Act." In order to meet this requirement, DCF established a policy that states that DCF is responsible for ensuring that children entering its custody receive a medical screening within 7 days and a comprehensive medical examination within 30 days.

DCF Policy 2010-001, "Medical Examinations for Children Entering DCF Placement or Custody," defines the 7-day medical screening as "a medical examination to check for life threatening conditions, communicable diseases, serious injuries or indications of physical or sexual abuse, and to provide appropriate treatment." It states that the medical screening must include the following elements:

- *Assessment for signs of recent or past physical trauma;*

- *Screening for a serious emotional disturbance;*
- *Screening for the potential for the child to harm self or others and for violent behavior;*
- *Laboratory tests for HIV and other sexually transmitted diseases when indicated medically or by history. . .*
- *Assessment for indications of infections and communicable diseases;*
- *Screening for any known chronic illnesses and allergies;*
- *Review and clarification of current prescribed medications and prescription renewal if necessary; and*
- *Explanation of any specific care instructions by the medical practitioner directly to the foster/pre-adoptive parents or other substitute care provider and the Social Worker.*

The policy states that a comprehensive medical examination “focuses on the presence of any acute or chronic medical or behavioral health issues that may require treatment, additional evaluation or referral to other medical practitioners” as outlined in 130 Code of Massachusetts Regulations (CMR) 450.140 – 450.149.

According to DCF’s policy, its caseworkers are responsible for gathering each child’s medical records from the child’s prior healthcare providers and forwarding this information to the child’s current healthcare provider. Caseworkers are also responsible for ensuring that the foster parent / healthcare provider performs the required medical examinations and that these are documented in the child’s case file using a standard form called a Medical Encounter Form. A blank Medical Encounter Form must be taken to every medical appointment and filled out by the child’s healthcare provider. The foster parent / healthcare provider is required by DCF policy to schedule the required examinations and follow-up visits and care, transport the child to scheduled appointments, and keep the child’s caseworker advised of the child’s physical and emotional health and any other health-related needs. Should the caseworker have any difficulties accessing healthcare information for the child, DCF staff can contact DCF’s Health and Medical Services Team for assistance.<sup>2</sup> The policy states,

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<sup>2</sup> The Health and Medical Services Team comprises the central office staff, which includes the director of Medical Services, a part-time registered nurse, and a full-time medical caseworker. In addition, one regional nurse is located at each of the four DCF regional offices and two DCF nurse liaisons are located at Boston Children’s Hospital. This team is responsible for, among other things, assessing the healthcare needs of children in DCF care or custody and providing assistance and consultation to DCF personnel, parents, and substitute caretakers.

*The information that [the caseworker] documents in [FamilyNet] includes, but is not limited to:*

- *name, address and telephone number of the primary medical practitioner;*
- *names and dates of medical or oral health examinations or tests, the practitioner who completed the examinations or tests and any recommendations, findings or treatments;*
- *medical, oral health and behavioral health conditions that have been observed or diagnosed;*
- *medications that are prescribed;*
- *known allergies;*
- *immunizations that have been given; and*
- *health-related equipment that is being used.*

### ***Audit Testing and Results***

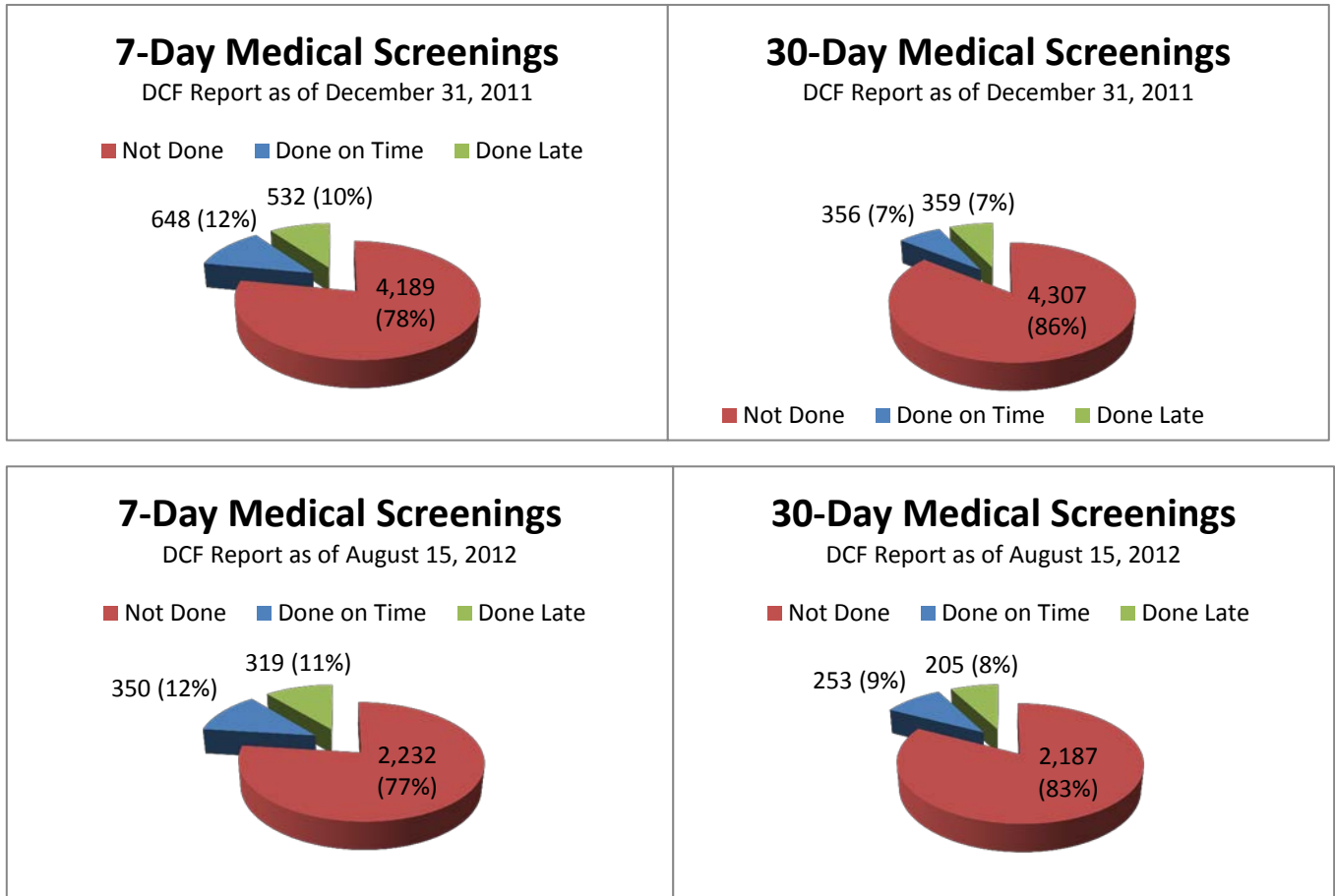
According to DCF's records, as of September 20, 2012, there were 8,718<sup>3</sup> active foster-care cases that required medical screenings and examinations administered through its 29 area offices.

DCF uses a monthly report, DSSRP 221—Compliance for Medical Screenings (the DCF Report), that is generated from information in FamilyNet to monitor and assess compliance with its medical screening/examination requirements. This report captures the history of all medical visits by type and date for each child and is updated on the 15th day of the month from data entered in FamilyNet by area-office caseworkers. DCF regional directors and managers, including clinical managers, are responsible for reviewing this report each month to monitor compliance with DCF's policies in this area. Regional directors' managers must review this information with caseworkers and go over the medical information that has not been submitted in an effort to ensure that required reports are returned by foster parents and documented in each child's case file.

During our audit, we reviewed the DCF Report as of August 15, 2012, which showed that as of this date, between 77% and 83% of required screenings had not been completed, as shown below.

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<sup>3</sup> This figure includes all active foster-care cases for those under age 18 as well as those for young adults.



In order to confirm that a significant number of medical screenings and examinations were not being conducted within the prescribed timeframes, as indicated by the DCF Reports we reviewed, we selected a judgmental sample of 81 case files from 16 of DCF's area offices (Dimock Street, Harbor, Park Street, Coastal, Lawrence, Lowell, Lynn, Brockton, Cape Cod, Fall River, New Bedford, Plymouth, Robert Van Wart, Springfield, Worcester East, and Worcester West). These area offices were responsible for approximately 58% of DCF's 8,718 active foster-care cases. We reviewed these files to determine whether, as of September 20, 2012 (the most recent date that data were available for our audit period), there was documentation to substantiate that the required 7-day medical screenings and 30-day medical examinations had been conducted. While only 6 (7%) of the case files we reviewed contained the required Medical Encounter Form, the Office of the State Auditor (OSA) accepted other completed medical forms as sufficient documentation that the required medical screenings and examinations had been performed. Our initial analysis revealed that only 13 (16%) of the 81 files had documentation that the required 7-day screenings and 30-day



examinations had been completed. We brought this matter to the attention of DCF officials, and they told us that although some of the documentation might be missing for these case files, the screenings and examinations might have actually been performed. They suggested that we look at MassHealth's payment records, which would show the various healthcare services—including medical examinations—provided to the 81 children in question, to determine whether or not these services were actually provided.

To perform this test, we used data analytic software to access and examine MassHealth medical payment records for the 81 children in our sample. During our testing, we considered any visit to a physician or emergency room within the prescribed 7- and 30-day time frames, regardless of the procedure code billed by the healthcare provider, as sufficient evidence. We still found that only 32 of the 81 files had any payment records or other documentation that a 7-day medical screening had been conducted. We also found that only 37 of the 81 files had a documented physician or emergency-room visit to substantiate that a 30-day medical examination had been performed.

We also found problems with the information related to these screenings and examinations in FamilyNet. Specifically, in two instances related to 7-day screenings and one instance related to a 30-day examination, FamilyNet showed that the screenings and examination were performed. However, there was no documentation either in the child's case file or in MassHealth's payment information that indicated that these screenings or examination had been conducted.

### ***Reasons for Delay and Omission of Medical Screenings***

OSA interviews with DCF case managers and caseworkers indicated that many caseworkers believe the exams are not always necessary, or they do not consider entering this information in FamilyNet a high priority. A DCF area administrator stated that many exams might not be recorded in FamilyNet or case records, but could be documented in MassHealth's records. However, as noted above, our testing indicated that this was not always the case. Moreover, DCF caseworkers do not have access to MassHealth data and therefore cannot use those data to ensure that these screenings and examinations have been performed.

DCF officials acknowledge that some of the medical screenings and examinations are not being conducted within the prescribed timelines because it is difficult for parents/guardians to be able to schedule these appointments with their healthcare providers.

**Recommendations**

- DCF should strengthen its current medical-examination policy (Policy 2010-001) to include control activities that will ensure and verify that foster parents/custodians obtain 7-day medical screenings and 30-day medical examinations for children within the required timeframes. DCF should also retrain caseworkers to ensure that information related to these screenings and examinations is properly documented, retained in case files, and recorded accurately in FamilyNet.
- We also recommend that DCF consider a data-sharing feature with MassHealth as an additional means of ensuring compliance.

**Auditee's Response**

*We appreciate that the OSA has agreed to use MassHealth documented evidence of medical care in this report. While the Department acknowledges that system and data improvements are necessary, an analysis of MassHealth data demonstrates that the rate of compliance is much higher than suggested by the Office of the State Auditor (OSA).*

*A review by MassHealth of the medical care provided to the children in the audit sample demonstrates that children in DCF custody are receiving medical care, including behavioral health services. . . . MassHealth found that 50% of children received a medical visit within 7 days of custody and 77% received a medical visit within 30 days of custody. In addition over 90% of youth had medical care within a 30 day window of their DCF placement.*

*There are a number of reasons for the variance between OSA's assessment of the MassHealth medical visits and MassHealth's findings for the sample population. The primary cause for the variance is that OSA limited its view of Medicaid claims to the Medicaid Management Information System (MMIS) system which does not include claims for children enrolled in a managed care organization, children who are hospitalized, or children who have private insurance in addition to MassHealth. The sample also included some children who were in DCF custody for less than 7 or 30 days, meaning the policy would not have been triggered. MassHealth excluded those cases from their review.*

*Recognizing that system and data improvements are necessary to ensure that children in placement are receiving appropriate medical screenings and care, DCF is reviewing its policy in collaboration with two pediatricians to identify clear medical priorities to ensure that children with the highest medical needs receive priority for screenings and comprehensive medical assessments. In addition, DCF will implement a comprehensive training for social workers and foster parents focused on the need for medical screens and complete medical examinations.*

*. . .*

*DCF had access to MMIS during the audit period and agrees with OSA's recommendation to implement this feature to strengthen the data-sharing. Effective February 7, 2014, DCF has begun receiving medical claims data from MassHealth on a monthly basis, including data for children in DCF custody receiving medical care through a Managed Care Organization.*

***Auditor's Reply***

As noted in our report, DCF officials told OSA that DCF uses a monthly report, DSSRP 221—Compliance for Medical Screenings, to monitor compliance with its medical screening/examination requirements. Based on our review of some of these management reports, many of the medical screenings and examinations for the periods reviewed had not been completed within the prescribed timeframe. While we do not dispute DCF's contention that, based on additional information it obtained from MassHealth, it found the compliance rates for the required medical screenings and medical examinations to be higher than what we found for the reasons it mentions, the results of both our and DCF's analysis demonstrate a significant problem with DCF's ability to ensure that these medical screenings and examinations are conducted within the prescribed timeframe once a child is placed in its custody. Further, as noted in our report, although DCF was able to obtain additional data regarding these screenings and examinations from MassHealth, this information is not useful in terms of managing this process, as DCF caseworkers do not have access to this information and therefore cannot use it to ensure that these screenings and examinations have been performed.

Based on its response, DCF is taking measures to address our concerns on these issues.

**2. DCF does not have adequate documentation to substantiate that all required background record checks are being performed.**

In some instances, DCF could not provide documentation that it had performed background record checks (BRCs) for individuals in foster homes. Without such documentation, DCF cannot substantiate that these checks were performed before DCF placed children in foster homes. During our audit, although we were able to locate 98% of the completed BRCs performed at DCF's central office, our judgmental selection of 29 case files from eight of DCF's area offices found that of the 63 BRCs that were required, 48 (76%) could not be located.

DCF management stated that although they could not provide OSA with the BRCs for the period tested, they were able to provide the most recent BRCs for the associated case files. (BRCs are conducted annually.) However, DCF is still not in compliance with the state's record-retention policy, and without proper supporting documentation, although the agency can provide the most recent BRCs, there is inadequate assurance that the required BRCs were performed before DCF placed children in these homes.

### ***Authoritative Guidance***

Under 110 CMR, DCF is required to reevaluate foster parents and foster homes annually and conduct BRCs for adult household members. These reassessments are in accordance with the procedure set forth in 110 CMR 7.113(1)(a), which requires the department to perform the following actions:

- *interview the foster/pre-adoptive parents and other household members in the foster/pre-adoptive home;*
- *obtain information from any Department social worker who has had a child in his/her caseload placed in the home in the previous year, and include information from any foster child then placed in the home, and thereafter enter a written summary of the interview results in the foster/pre-adoptive parent file;*
- *...*
- *request criminal record and Central Registry checks and other background checks as required by Department Background Record Check Policy and 110 CMR 18.00 et seq. for all household members, other than foster children;*
- *...*
- *contact references seen by Department staff as useful to the re-assessment;*
- *...*

The same policy states, “Every two years a license renewal will be conducted in place of the annual reassessment. . . . License renewal studies shall be conducted in accordance with the procedures set forth in 110 C.M.R. 7.113(1)(a) and (b) and Department Family Resource Policy #2006-01. . . .”

In addition, DCF Family Resource Policy #2006-01 (Standards for the Licensure or Approval of Family Childcare) and the Massachusetts Statewide Records Retention Schedule 02-11, Section K, Part 4, require permanent retention of documents concerning child placement in substitute-care facilities.

### ***Reasons for Inadequate Documentation of Foster-Home Background Checks***

DCF staff members in these offices told us that the required BRCs were performed on these individuals but that the results were destroyed once they were reviewed unless there was a problem. We brought this matter to the attention of DCF’s general counsel, who acknowledged that according to the Massachusetts Statewide Records Retention Schedule, foster home licensing

records that include BRC information are part of the agency's permanent family resource record and should be retained permanently.

### ***Audit Testing Issues***

DCF could not provide OSA with a complete list of foster homes that had disqualifying criminal convictions for which a BRC waiver was granted, because according to DCF officials, its FamilyNet database lacked the capability to summarize this information. As a result, DCF could not readily ascertain the number of homes (population) that it licensed and approved by way of a BRC waiver or report the number of waivers granted for each category of crime.

DCF licenses some foster homes by issuing a waiver of BRC findings, which can place foster children in the same home as accused and convicted criminals or persons with prior involvement with DCF that would have otherwise disqualified the home from being a foster home. Under 110 CMR 18.11, DCF establishes the conditions under which an individual with a criminal record can be a foster parent. For example, 110 CMR 18.11(9) states,

*In reviewing a request for an individual to serve as a kinship foster/pre-adoptive parent pursuant to 110 CMR 18.10(1) the Commissioner, Deputy Commissioner for Field Operations and General Counsel must find:*

- (a) That the prospective foster/pre-adoptive parent, or any household member, does not present a risk of harm to the child based on the existence of a criminal conviction;*
- (b) That the conviction did not involve a crime against or involving a child;*
- (c) That the foster/pre-adoptive parent has a pre-existing relationship and bond with the child;*
- (d) That the foster/pre-adoptive parent agrees to submit to an assessment by a qualified mental health professional within 30 days of placement; and*
- (e) That the Department has reviewed the enumerated factors set forth in 110 CMR 18.11(1) in determining that it is in the best interests of the child to be placed with the kinship foster/pre-adoptive parent notwithstanding the existence of a criminal conviction that would otherwise disqualify them.*

DCF history check disqualification findings can fall into two categories:

- Category I, DCF History Presumptive Disqualification: Disqualification due to the individual or a household member having a DCF case open currently or having had one open during the prior 12 months.
- Category II, DCF History Discretionary Disqualification: Disqualification due to the individual or a household member being listed as an alleged abuser.

Criminal Offender Record Information (CORI) disqualification findings can include the following categories:

- Table A, CORI Presumptive Disqualification: Disqualification based on a criminal conviction or pending charge regarding an offense listed in 110 CMR 18.16 Table A.
- Table B, CORI Discretionary Disqualification: Disqualification based on a criminal conviction or pending charge regarding an offense listed in 110 CMR 18.16 Table B.

In order to obtain a waiver, Appendix B of DCF Policy #86-014 establishes a formal waiver process for both CORI and DCF history outcomes: “Within 10 working days after receiving notification from the BRC Unit indicating disqualification, the [caseworker and/or his or her supervisor], or the prospective or current foster/pre-adoptive family, may submit a written waiver request for approval.” CORI and DCF history waiver requests need to include the following documentation:

- The printed CORI record.
- A written statement from the recommending caseworker and/or his or her supervisor.
- A copy of DCF’s most recently completed study of the home environment.
- A written statement from the individual / household member with the disqualifying CORI that demonstrates what was done to ameliorate the problem(s), e.g., treatment, support groups.

Other information such as drug-screen results, verification of participation in or completion of treatment, verification of participation in or completion of training, employer references, and therapist or medical statements may also be requested.

The approval level for DCF’s waiver process (i.e., whether the waiver needs to be approved by a director, the commissioner, general counsel, or deputy commissioner) depends on the type and disposition of criminal charges. Any of these individuals can deny the waiver, terminating further placement review.

Because of the heightened risk associated with placing children in households with candidates granted a BRC waiver, OSA originally intended to perform testing to determine DCF’s compliance with its regulations for the waiver process. Accordingly, OSA requested from DCF a complete list of all individuals living in its foster homes who had disqualifying criminal convictions for which a BRC waiver was granted. DCF gave us what it represented as a non-duplicative list of individuals who had

been granted a waiver during our audit period. We reduced the list to include only waivers associated with the most serious crimes using the BRC policy criteria, which included Table A (Felonies), Table B (Felonies and Misdemeanors), and DCF Category I (Open Cases with DCF). From this reduced waiver population, we judgmentally selected our Table A sample of approved waivers and submitted it to DCF's Deputy Commissioner for Field Operations, the custodian of the records, in order for him to provide us with the completed Background Record Check Waiver Request for each file as well as all of the associated and necessary supporting documentation. However, the Deputy Commissioner told us that many of the waiver files we had requested did not exist and were in fact for individuals who had not been given a waiver. He stated that he would follow up with the chief financial officer for any additional information he could provide to us on the matter.

Although DCF officials could not provide a complete agency-wide list of waivers, they did identify, and provide us with, several foster-home files of households with waivers according to a list maintained by one of DCF's employees that included 5 Table A waivers and 11 DCF Category I waivers. Our examination of these files showed that DCF's waiver regulations were properly carried out. Nonetheless, because DCF could not assure us that the files provided represented its entire waiver population, our test of these files cannot be used as sufficient evidence to conclude that the results accurately reflect DCF's compliance with its waiver process.

DCF officials also told us that they could provide us with copies of a report the agency generates called DSSRP 225—Available Unrestricted Homes. This report shows any outstanding BRC waivers that are in need of completion and is used to monitor BRC waiver and other placement information. However, because the information in this report only identified outstanding BRC waivers in need of completion and not the complete list of all individuals living in its foster homes who had been granted BRC waivers during our audit period, OSA could not use it to conduct the testing we deemed necessary.

Given the significance of this issue, OSA has initiated a separate limited-scope audit of DCF to further examine its waiver process.

### ***Recommendations***

- DCF should ensure that BRCs are performed and documented, for all individuals for whom they are required, before placing children in a substitute/foster home. Documentation related to these individuals should be maintained and available when requested in accordance with the

Commonwealth's record-retention schedule. DCF should also retrain staff members responsible for the ongoing monitoring to ensure compliance with all requirements and that prompt action will take place should exceptions occur.

- DCF should consider developing the ability to produce a list of all individuals living in its foster homes who have been granted BRC waivers, since this could be an effective tool for monitoring this process centrally, when used in conjunction with other information, as part of the department's internal control plan (ICP).

### ***Auditee's Response***

In response to this finding, DCF stated, in part,

*DCF disagrees with this finding. . . . Since 1996, DCF has followed the EOHHS policy which mandates that BRCs be kept indefinitely. In February 1998, DCF began to use its FamilyNet system to request and record BRCs prior to hire, while still keeping a hard copy on file.*

*. . .*

*DCF disagrees with this finding, which is about paper retention, not about whether BRCs were performed. DCF has electronic documentation that the required background checks for individuals in DCF foster homes were conducted prior to the homes being approved. DCF utilizes its FamilyNet to track and record the results of all BRC requests for each household member 14 and older. The FamilyNet system has built-in safeguards to prevent the approval of a foster or adoptive home until a BRC is completed and the results are entered into FamilyNet. . . .*

*DCF conducts a BRC on each foster care and adoption applicant, and the respective members of the household, aged 14 and older. A resource home cannot be approved and a child may not be placed in a home until the required BRCs are completed. DCF conducts BRCs annually of all approved foster and adoptive resources, and their household members age 14 and up, as part of its reevaluation and relicensing process.*

*DCF already complies with this recommendation. Currently, the Department produces a monthly report of all of its active homes, which includes homes that have recently applied to be foster homes. The report details: the date and result of the most recent BRC the household; the status of the disposition review, if required; and the number of foster children placed in the home. The report allows DCF to track homes which have BRC results requiring a review/waiver; evaluate the current status of that review/waiver; and efficiently manage its review/waiver process.*

### ***Auditor's Reply***

Regarding the BRCs, DCF's general counsel acknowledged that according to the Massachusetts Statewide Records Retention Schedule, foster home licensing records that include BRC information are part of the agency's permanent family resource record and should be retained permanently. While DCF may have an electronic record such as those in FamilyNet that indicates that a BRC was conducted, OSA believes that this documentation is inadequate, since DCF does not maintain the



actual results of the BRC to substantiate the fact that it was actually performed and adequately evaluated based upon the result.

Regarding the BRC waivers, as stated in our report, we made several unsuccessful attempts to obtain information related to these waivers from DCF. Specifically, we asked DCF for a complete list of all individuals living in its foster homes who had disqualifying criminal convictions for which a BRC waiver was granted. DCF gave us what it represented as a list of individuals who had been granted a waiver during our audit period. However, in this and every instance in which DCF provided us with information about its waivers, it was not able to substantiate that the information was complete and accurate; this limited our ability to use the information to design and conduct the testing we deemed necessary in the circumstances. Consequently, OSA has initiated a separate audit of DCF's waiver process.

### **3. DCF is not adequately safeguarding personally identifiable information.**

DCF has not established adequate internal controls over the storage of personally identifiable information (PII). Access to this information by unauthorized individuals may result in criminal activities such as identity theft.

DCF's Internal Control Questionnaires (ICQs)<sup>4</sup> for fiscal years 2011, 2012, and 2013 all reported to the Office of the State Comptroller (OSC) that PII was properly being safeguarded. However, during our audit we found that DCF did not take adequate measures to ensure the proper storage of PII, including BRC records. Specifically, as shown in the photos below, at 13 of the 16 DCF area offices we visited, we observed numerous unsecured storage boxes containing case file documents stacked in hallways and other unsecured areas. The documents included PII such as names, addresses, and Social Security numbers.

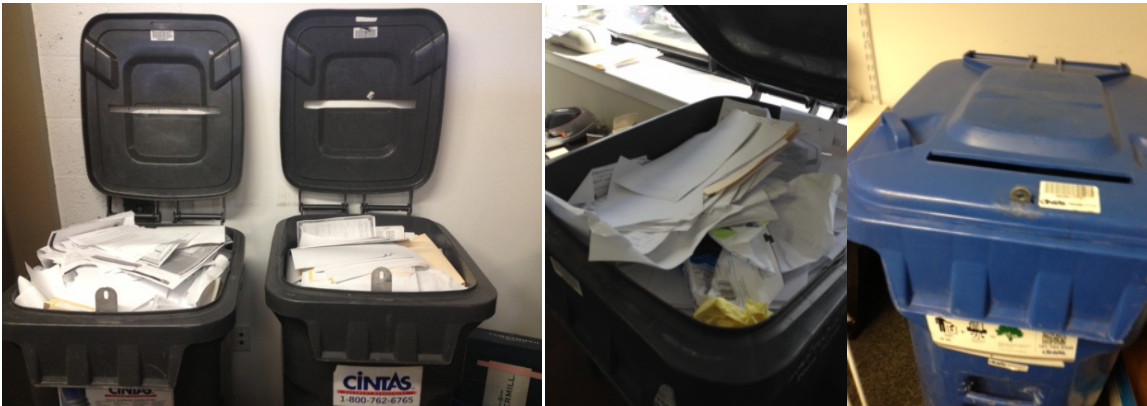
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<sup>4</sup> Each year, OSC issues a memo (Fiscal Year Update) to internal control officers, single audit liaisons, and chief fiscal officers instructing departments to complete an Internal Control Questionnaire designed to provide an indication of the effectiveness of the Commonwealth's internal controls. In the Representation section of the questionnaire, the department head, chief financial officer, and internal control officer confirm that the information entered into the questionnaire is accurate and approved.



We also observed CORI reports in foster/pre-adoptive family case files; unlocked file cabinets; and unsecured, unlocked rooms.

During our site visits to DCF area offices, staff members explained that unwanted documents are supposed to be placed in bins within designated areas of the office. These documents are then picked up and shredded by a private contractor. However, OSA observed that many of the bins that contained records with PII information were unlocked and not necessarily placed in secure areas, as shown in the pictures below.



Although each building had security staff, we observed individuals walking in the corridors who did not appear to be employees, since they were not wearing DCF employee identification badges. Since it is not uncommon to have people other than employees visit DCF area offices, unsecure storage of these documents creates a high risk of access to PII by such individuals that may lead to criminal activities such as identity theft.

### ***Authoritative Guidance***

Executive Order 504 (EO504), an “Order Regarding the Security and Confidentiality of Personal Information,” issued on September 19, 2008, states,

*Section 2. It shall be the policy of the Executive Department of the Commonwealth of Massachusetts to adopt and implement the maximum feasible measures reasonably needed to ensure the security, confidentiality and integrity of personal information, as defined in Chapter 93H, and personal data, as defined in Massachusetts General Laws Chapter 66A, maintained by state agencies. Each executive officer and agency head serving under the Governor, and all state employees, shall take immediate, affirmative steps to ensure compliance with this policy and with applicable federal and state privacy and information security laws and regulations.*

*Section 3. All state agencies shall develop, implement, and maintain written information security programs governing their collection, use, distribution, storage, retention, and destruction of personal information.*

EO504 requires each agency's written information security plan to include provisions for protecting personal information in both hardcopy and electronic form.

The state's Department of Criminal Justice Information Services' regulation 803 CMR 2.11 states, in part, "Hard copies of CORI shall be stored in a separate locked and secure location, such as a filing cabinet." DCF addresses the need to properly secure confidential information in Policy 086-14, Appendix C, "BRC Request and Waiver Procedures for Contracted Foster/Pre-Adoptive Family Providers." The policy requires each DCF area office to have a CORI liaison to ensure that all printed CORI records received by the area office are stored in a secure cabinet separate from case and foster/pre-adoptive family records.

In terms of the disposal of records containing PII, EOHHS's Confidentiality Procedures state,

*Bureaus shall take steps to ensure the proper destruction of paper records containing Confidential Information. This includes purchasing:*

- *Shredders and place them near recycling and trash bins; or*
- *Secure bins with locked tops and contracting with vendors to ensure secure disposal.*

*Redaction of Confidential Information so that it can no longer be read is also an acceptable method of disposal.*

### ***Reasons for Inadequate Safeguards on PII***

Although each area office we visited had a CORI liaison, these liaisons and DCF area office managers were not making sure that case files and CORI records were being maintained and disposed of in accordance with applicable standards.

In addition, DCF personnel in area offices told us that there is not enough secure storage space in the offices to properly store these records and that the State Archives, the state's repository for

inactive records, was no longer accepting closed DCF case files. DCF management acknowledged that the insecure conditions exist because of a lack of sufficient storage space at area offices and said that they are working to address this problem.

### ***Recommendations***

DCF should establish and implement the necessary monitoring controls to ensure compliance with EO504 and its own policies. In addition, DCF's central office staff should perform periodic site visits to area offices to monitor compliance with these requirements. DCF should also ensure that PII data storage and security is accurately represented in its annual ICQ submitted to OSC.

### ***Auditee's Response***

*DCF accepts the Auditor's Recommendation, has corrected the problem and has taken steps to ensure this does not recur.*

*DCF has reiterated the requirement to all staff that confidential data must be secured to comply with all confidentiality rules and that boxes are maintained in secure areas. DCF has assigned the responsibility for ensuring that confidential paperwork is stored securely to the Area Administrative Managers (AAM). AAMs meet monthly with their Regional Administrative Managers (RAM), who in turn meet monthly with the DCF Chief Financial Officer (CFO). Records management/security is now a standing meeting agenda topic at all of these meetings. The RAMs are required to do "random" or "periodic" site visits to the Area Offices to ensure that security procedures are followed. RAMs will report to the CFO that site visits have been conducted and the results of the visits. DCF also works closely with EOHHS and ITD to ensure electronic data security protocols are maintained.*

*As a long term solution, DCF is exploring Electronic Data Management (EDM) for storing and retrieving records. The Department is aware that certain records will still need to be stored in a hard copy, so in parallel, DCF is reviewing its records retention policy/timeframes. The electronic copy of the record would be available to fulfill a request for a copy of the record during the retention period. This will allow DCF to store the hard copy of the record at a less expensive off-site facility as access to the hard copy document would no longer be needed on a regular or timely basis.*

### ***Auditor's Reply***

Based on its response, DCF is taking measures to address our concerns in this area.

#### **4. DCF's ICP needs improvement.**

We reviewed DCF's ICP in order to evaluate controls relative to our specific audit objectives. Specific recommendations are included, where necessary, in the individual findings. However, in looking at the internal controls, we noted that although DCF has established an ICP, the plan was not fully compliant with Chapter 647 of the Acts of 1989 and guidelines established by OSC.

Specifically, contrary to OSC guidelines, DCF's entity-wide risk assessment had not been revised since 2008 and did not contain an up-to-date high-level, department-wide summary of risks and controls for all its divisions, programs, and functions with cross-references of risks identified to internal controls (e.g., departmental policies and procedures) established to mitigate them. As mentioned above, the risk assessment is an integral part of an ICP because it identifies and analyzes risks and assists management in prioritizing the activities where controls are most needed to mitigate risk. DCF's lack of a department-wide risk assessment, with cross-references of risks to controls established to mitigate them, may hinder or prevent it from fulfilling its responsibilities, achieving its goals and objectives, and ensuring the integrity and effectiveness of its internal control system.

Throughout our report, we have identified internal control weaknesses that have resulted in problems such as (1) noncompliance with requirements for 7-day medical screenings and 30-day medical examinations for children; (2) a lack of documentation to substantiate that all required BRCs are being performed; and (3) inadequate controls over storage of PII, including CORI reports. These conditions were due in part to DCF's inadequate system of internal controls and in part to weaknesses in DCF's monitoring and evaluation of its operations. Without an adequately documented system of internal controls, DCF cannot be assured of achieving its mission and objectives effectively, efficiently, and in compliance with applicable laws, rules, and regulations.

We also found that DCF's ICP had not been updated to include and identify all eight components of enterprise risk management (ERM). In its document *Enterprise Risk Management – Integrated Framework*, or COSO II, the Committee of Sponsoring Organizations of the Treadway Commission defines ERM as “a process, effected by the entity's board of directors, management and other personnel, applied in strategy setting and across the enterprise, designed to identify potential events that may affect the entity, and manage the risks to be within its risk appetite, to provide reasonable assurance regarding the achievement of entity objectives.” Its eight components are Internal Environment, Objective Setting, Event Identification, Risk Assessment, Risk Response, Control Activities, Information and Communication, and Monitoring. DCF's ICP did not include the following components: Risk Response, Information and Communication, and Monitoring.

### ***Authoritative Guidance***

The OSC Internal Control Guide stresses the importance of internal controls and the need for departments to develop an ICP, defined as follows:

*The Office of the Comptroller defines an internal control plan as a high level department-wide summarization of the department's risks and the controls used to mitigate those risks. This high level summary must be supported by lower level detail, i.e. departmental policies and procedures.*

The Internal Control Guide also requires risk assessments to be updated each year.

### ***Reasons for Issues with ICP***

DCF personnel indicated that, although they were aware of the need to update the ICP by performing a department-wide risk assessment, staffing constraints have hindered updating the plan.

### ***Recommendations***

DCF should comply with OSC's Internal Control Guide and take the steps necessary to ensure that its ICP

- includes an up-to-date department-wide risk assessment that identifies the most significant areas (risks) that could prevent the department from attaining its mission, goals, and objectives, with cross-references of identified risks to internal controls;
- incorporates all eight components of ERM; and
- is updated as needed, but at least annually.

### ***Auditee's Response***

*DCF accepts the Auditor's Recommendation. Although DCF reviews and evaluates its ICP each spring, prior to the start of the annual Single State Audit, DCF has not recently updated the risk assessment component of the ICP.*

*DCF appreciates the Auditor's recommendations and is taking steps to:*

- *Incorporate the three additional components of enterprise risk management (ERM) not already included in our risk assessment (Risk Response, Information and Communication and Monitoring);*
- *Revise the risk assessment to include cross-references of identified risks to internal controls and policies; and*
- *Ensure that the risk assessment section of the internal control plan is specifically evaluated on an annual basis and that updates are incorporated as needed.*

### ***Auditor's Reply***

Based on its response, DCF is taking measures to address our concerns in this area.

## OTHER MATTERS

**To further ensure the safety of the children in its programs, the Department of Children and Families should consider monitoring the reported addresses of registered sex offenders.**

The Department of Children and Families (DCF) is the state agency responsible for protecting children from abuse and neglect. If a child is in immediate danger, DCF has the authority to remove the child from his or her home and attempts to place the child with relatives. Before placement of a child, DCF performs a background record check (BRC) on everyone in the household over the age of 14. DCF also examines the safety and appropriateness of the home environment. As previously noted, if no relative's household is deemed appropriate, DCF may place the child in another approved home. In foster-home placements, DCF performs BRCs on all household members over age 14 and completes a 12-week training program. After the child is placed, DCF visits the foster home each month and performs annual BRCs during yearly re-certifications.

According to 110 Code of Massachusetts Regulations (CMR) 18.09, an individual over the age of fourteen who has been convicted of any of the criminal offenses noted in Appendix A generally prohibits the foster-parent licensing. However, 110 CMR 18.11 permit childcare providers to allow such an individual to provide care, to be employed by a provider, or to reside in a foster home if the individual submits documentation from a criminal-justice official or mental-health professional stating that the individual does not pose an unacceptable risk of harm to children. For such instances, DCF's Policy 086-14 includes guidance for foster-care providers regarding an applicant's employment or disqualification.

Sex offenses against adults and children are listed on the Executive Office of Public Safety and Security Sex Offender Registry—Registration, Classification and Dissemination—according to 803 CMR 1.00, which requires the Sex Offender Registry Board (SORB) to maintain a registry of sex offenders pursuant to Chapter 6, Sections 178C – 178Q, of the Massachusetts General Laws. The Massachusetts Sex Offender Registry includes individuals who remain under supervision for years after their conviction or termination of probation or parole, as well as those under supervision for the remainder of their lives.<sup>5</sup> The period for which an individual remains a registered sex offender

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<sup>5</sup> Note: The Massachusetts Sex Offender Registry includes information on both in-state and out-of-state convictions of offenders, whereas a CORI check captures only Massachusetts offenses.

depends on the nature of the offense. There are currently three levels of sex offenders in Massachusetts, according to 803 CMR 1.03:

*Level 1 Offender. The designation given to a sex offender when it has been determined that the individual's risk of reoffense is low and the degree of dangerousness posed to the public is not such that a public safety interest is served by public access to information pertaining to the offender.*

*Level 2 Offender. The designation given to a sex offender when it has been determined that the individual's risk of reoffense is moderate and the degree of dangerousness posed to the public is such that a public safety interest is served by public access to sex offender registry information.*

*Level 3 Offender. The designation given to a sex offender when it has been determined that the individual's risk of reoffense is high and the degree of dangerousness posed to the public is such that a substantial public safety interest is served by active dissemination (community notification) of sex offender registry information.*

Registered sex offenders are required by Chapter 6, Section 178F, of the General Laws to annually notify the SORB of their current address and place of employment, and the SORB contacts registered sex offenders to verify this information. Although the names and addresses of Level 2 and Level 3 sex offenders are available to any individual 18 or older by request from the SORB, 803 CMR 1.28 prohibits the SORB from publishing any information concerning Level 1 sex offenders.

Unlike 17 other states,<sup>6</sup> Massachusetts currently has no statutory or regulatory requirements for state childcare agencies such as DCF to match Massachusetts registered sex offender addresses to the addresses of children receiving DCF care, including the homes of family caregivers, foster homes, adoptive homes prior to finalization, and independent living residences.

Based on this, during our audit of DCF we asked the SORB to provide us with electronic data for all registered Level 2 and Level 3 sex offenders and compared the most recently reported home addresses of all Level 2 and Level 3 registered sex offenders to all licensed Commonwealth childcare provider addresses for the 27-month period July 1, 2010 through September 30, 2012. Our analysis identified 25 instances in which the addresses of Level 2 and Level 3 sex offenders matched addresses of children receiving DCF care. It is important to note that the addresses included in the Massachusetts SORB database are self-reported by offenders, and it is possible that some addresses

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<sup>6</sup> Sex offender address checks for childcare providers are required by the States of Alaska, Colorado, Florida, Hawaii, Illinois, Kentucky, Missouri, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, Tennessee, Washington, West Virginia, Wisconsin, and Wyoming. Source: *We Can Do Better, 2011 Update*, National Association of Child Care Resource and Referral Agencies, pp. 177-78.



listed in the SORB database may be inaccurate or out of date. Accordingly, although all necessary steps were taken to reasonably ensure the accuracy of our analysis, it is possible that some sex offenders may have been excluded from our match list.

During our audit, we informed DCF officials of our results, and the agency began an investigation of these 25 addresses that matched those of sex offenders. On September 6, 2013, DCF provided the Office of the State Auditor (OSA) with a summary report of the investigations that provided detail on those 25 addresses. DCF officials told us that they confirmed that the reported sex offenders were not living in the same residence as DCF children and that they could not substantiate that the children living at the 25 residences had experienced any abuse. Selected cases from the report and their results are listed below:

- The Salem home address of a 3-year-old child under DCF care matched the address of an adult Level 3 sex offender who had been convicted of rape of a child by force. SORB address information indicated that the child and the offender were residing in different units of the same eight-unit building. According to the DCF report, “[The landlord] of the building was aware of [the sex offender’s] status but had not informed the building’s residents. The sex offender is a maintenance man for the building” who had access to the other apartments in order to make repairs. The child’s mother told the sex offender directly to stay away from her child. There are other families in the building with children.
- The home address of a 12-year-old child and a 9-year-old child under DCF care at the same Salem address matched the address of an adult Level 3 sex offender who had been convicted of rape of a child by force. SORB address information indicated that the child and the offender lived in the same building until October 2012. The mother had discovered that the sex offender had taken a picture of the youngest child without permission around July or August 2012. She filed a police report, and the sex offender admitted to taking the photo.
- The Northampton address of a 12-year-old child in DCF placement matched the address of a Level 2 sex offender convicted of rape and abuse of a child and a Level 3 sex offender convicted of indecent assault and battery on a child less than 14 years of age. SORB address information indicated that the child and the offenders lived in different units of the same building. The child’s guardian was unaware that either sex offender lived in the building.
- The Danvers home address of 16 children, ranging in ages from 1 to 15 years old, under DCF care matched the address of a Level 2 sex offender who was convicted of two counts of indecent assault and battery on a child less than 14 years of age. SORB address information indicated that the offender was residing in the same motel used by the state as temporary housing for homeless families. Based on a conversation with motel staff, DCF believed that 4 of the 16 children resided at the motel before the sex offender’s arrival on February 17, 2013.

Based on our results, we believe that comparing the addresses of registered sex offenders with its foster, adoptive, and family caregivers and investigating any matches will allow DCF to better ensure the safety of the children in its care by taking appropriate precautions. According to the summary report,

*DCF does not have streamlined access to the Sex Offender Registry data base maintained by the Sex Offender Registry Board. DCF is working with the Executive Office of Public Safety and Security (EOPSS) and local law enforcement agencies to expand and streamline that access. The goal of these efforts is to ensure that DCF is afforded the full extent of information permitted by law regarding registered sex offenders who may live in the vicinity of foster families and families receiving services from DCF, and to ensure that access to this information is as efficient and effective as possible.*

### **Auditee's Response**

*DCF's top priority is the safety and well-being of children in the Department's care. To ensure our internal procedures were as strong as possible to maintain the safety of children, DCF conducted a review of the policies and procedures specific to the use of the Sex Offender Registry Information (SORI) database. The Department now reviews all foster/pre-adoptive applicants against the SORI database. In addition, during the annual re-evaluation/re-licensing process of foster/pre-adoptive homes, DCF includes a review of the SORI database as part of the Background Record Check (BRC). Functionality has been added in FamilyNet to support documentation of the SORI check and results.*

*DCF is re-conducting SORI checks on all foster care and pre-adoptive parents and their household members, ages 14 and older, who were listed as an open resource from October 1, 2012 to January 27, 2014.*

*As part of DCF's work with OSA, on March 27, 2013, DCF received a list from OSA of 15 registered sex offenders with an address that matched the address on file for a family with a child or children for 16 open DCF cases and 7 closed cases. These children were all living with their families and were not in placement with foster families or other DCF placements. The Department filed 51A reports on these 23 families, providing DCF with the ability to fully investigate the situation. DCF social workers or investigators were provided with the information and visited or spoke on the phone with each of the 23 families.*

*The Department found that none of the registered sex offenders were living in the same house or apartment as any of the 23 families. Four of the families were found to be living within the same apartment complex as a registered sex offender, but in different apartments. The social workers spoke with each of these families and counseled them about keeping children safe and supervised at all times.*

*On June 7, 2013, the Department received a second list from OSA with the names of three registered sex offenders with addresses that were the same as two children in DCF placement. Neither of the two clients, one foster child and one young adult living independently, lived at the same address as the identified sex offender. Both had previously lived in the same apartment complex as an identified sex offender, but not in the same apartment. Both families and clients were counseled on safety by the social worker.*

**APPENDIX A**  
**CRIMINAL OFFENSES PROHIBITING**  
**INDIVIDUALS FROM BECOMING FOSTER-CARE**  
**PROVIDERS**

| Criminal Offense   | M.G.L.           |
|--|------------------|
| Assault and Battery, Dangerous Weapon, Victim over 60        | c.265 § 15A(a)   |
| Assault and Battery, Bodily Injury of a Child                | c.265 § 13J      |
| Assault and Battery, Intellectually Disabled Person          | c.265 § 13F      |
| Administering Drugs to Overpower for Sex                     | c.272 § 3        |
| Armed Assault with Intent to Rob or Murder                   | c.265 § 18(b)    |
| Armed Assault with Intent to Rob or Murder, Victim over 60   | c.265 § 18(a)    |
| Armed Assault in a Dwelling with Felony Intent               | c.265 § 18A      |
| Armed Carjacking   | c.265 § 21A      |
| Armed Robbery  | c.265 § 17       |
| Assault with Intent to Maim or Murder                        | c.265 § 15       |
| Assault with Intent to Rape                                  | c.265 § 24       |
| Assault with Intent to Rape                                  | c.265 § 24B      |
| Attempted Escape or Escape by a Prisoner                     | c.268 § 16       |
| Attempt to Murder  | c.265 § 16       |
| Burning Dwelling House                                       | c.266 § 1        |
| Distribution of a Controlled Substance to a Minor            | c.94C § 32F      |
| Exhibit Posing Child   | c.272 § 29A      |
| Extortion  | c.265 § 25       |
| Home Invasion  | c.265 § 18C      |
| Incest   | c.272 § 17       |
| Indecent Assault and Battery, Child 14 or Over               | c.265 § 13H      |
| Indecent Assault and Battery, Child under 14                 | c.265 § 13B      |
| Indecent Assault and Battery, Intellectually Disabled Person | c.265 § 13F      |
| Induce Minor to Prostitution                                 | c.272 § 4A       |
| Intimidation of Witness                                      | c.268 § 13B      |
| Kidnapping   | c.265 § 26       |
| Malicious Explosion  | c.266 § 102B     |
| Manslaughter, Negligence (Minor/Child)                       | c.265 § 13       |
| Manslaughter   | c.265 § 13       |
| Mayhem   | c.265 § 14       |
| Murder   | c.265 § 1        |
| Perjury  | c.268 § 1        |
| Rape   | c.265 § 22(b)    |
| Rape, Aggravated   | c.265 § 22(a)    |
| Rape, Statutory  | c.265 § 23       |
| Trafficking in Cocaine                                       | c.94C§ 32E(b)(4) |
| Trafficking in Heroin  | c.94C§ 32E(c)(4) |
| Trafficking in Marijuana                                     | c.94C§ 32E(a)(4) |
| Unnatural Acts with Child under 16                           | c.272 § 35A      |

**APPENDIX B**

**MEDICAL ENCOUNTER FORM USED FOR 7/30  
MEDICAL EXAMINATIONS**

| MEDICAL ENCOUNTER FORM   |  |  |  |  |
|--|--|--|--|--|
| Name of Child:   |  | DOB:   | Date:  |  |
| Medical  | Dental   | Behavioral Health  | Vision   | Hearing  |
| <input type="checkbox"/> 7 day Medical Screening   | <input type="checkbox"/> Oral Exam/Cleaning                    | <input type="checkbox"/> Psych Evaluation                      | <input type="checkbox"/> Evaluation                            | <input type="checkbox"/> Evaluation                            |
| <input type="checkbox"/> 30 day Comprehensive Exam   | <input type="checkbox"/> Follow-Up<br><i>(Describe below.)</i> | <input type="checkbox"/> Follow-Up<br><i>(Describe below.)</i> | <input type="checkbox"/> Follow-Up<br><i>(Describe below.)</i> | <input type="checkbox"/> Follow-Up<br><i>(Describe below.)</i> |
| <input type="checkbox"/> Emergency Room Visit  | <input type="checkbox"/> Orthodontia (Braces)                  | <input type="checkbox"/> Medication                            |  |  |
| <input type="checkbox"/> Sick Visit  | <input type="checkbox"/> Surgery                               | <input type="checkbox"/> Crisis Evaluation                     |  |  |
| <input type="checkbox"/> Well Child Visit  |  |  |  |  |
| <input type="checkbox"/> Immunization  |  |  |  |  |
| <input type="checkbox"/> Follow-up <i>(Describe below)</i>   |  |  |  |  |
| <input type="checkbox"/> Surgery   |  |  |  |  |
| Diagnoses/Conditions (medical, mental health, developmental, learning and substance use):  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
| Procedures done and results, if available:   |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
| Immunizations given:   |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
| Allergies:   |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
| Prescription(s) given:   |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
| Is follow-up or referral to another provider needed? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If yes, describe below.)</i> |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
| Other important medical and social information (if applicable):  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
| <b>Provider Signature:</b>   |  |  | <b>Provider Name (Print.):</b>                                 |  |
| <b>Facility:</b>   |  |  | <b>Telephone Number:</b>                                       |  |
| <b>AGENCY USE ONLY:</b> Date entered in FamilyNet <i>(File copy of Encounter Form in Medical section of paper case record.)</i>                |  |  |  |  |