

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**TENNESSEE'S MONITORING ENSURED
COMPLIANCE WITH CRIMINAL
BACKGROUND CHECK REQUIREMENTS
AT 28 OF THE 30 CHILDCARE
PROVIDERS REVIEWED**

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Office of Inspector General

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Report in Brief

Date: January 2020

Report No. A-04-19-02023

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL



Why OIG Did This Audit

The Child Care and Development Block Grant Act (CCDBG Act) of 2014 added new requirements for States that received funding from the Child Care and Development Fund (CCDF) to conduct comprehensive criminal background checks on staff members and prospective staff members of childcare providers every 5 years. Criminal background check requirements apply to any staff member who is employed by a childcare provider for compensation or whose activities involve the care or supervision of children or unsupervised access to children.

Our objective was to determine whether Tennessee's monitoring of childcare providers ensured provider compliance with State requirements related to criminal background checks established under the CCDBG Act.

How OIG Did This Audit

We analyzed and tested a population of 1,221 licensed childcare centers and family homes that received CCDF funding during State fiscal year 2018. We used geographic area, total capacity, and total CCDF funding received to select 15 childcare center providers and 15 family home providers, where we obtained a list of all current employees or household members. In total, we reviewed supporting documentation for 434 individuals at 30 different childcare provider locations.

Tennessee's Monitoring Ensured Compliance With Criminal Background Check Requirements at 28 of the 30 Childcare Providers Reviewed

What OIG Found

Tennessee's monitoring process ensured provider compliance with State requirements related to criminal background checks at 28 of 30 childcare provider locations we reviewed. At the 30 selected childcare provider locations, we reviewed supporting documents for 434 individuals who were employees or household members. Of the 434 individuals we reviewed, 2 did not have an updated background check completed.

For both errors, the program evaluator did not ensure that the employee completed a new background check timely. Both errors were caused by a lack of training by Tennessee for the program evaluators in the background check completion process.

What OIG Recommends and Tennessee's Comments

We recommend that Tennessee conduct all required background checks for the two individuals we identified as not having the required checks at the time of our review.

Tennessee concurred with our recommendation and provided information on actions that it has taken to address our recommendation. Specifically, it stated that it had already completed the required background checks on the two individuals we identified in our audit.

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INTRODUCTION

WHY WE DID THIS AUDIT

The Child Care and Development Block Grant Act (CCDBG Act) of 2014 added new requirements for States that receive funding from the Child Care and Development Fund (CCDF) to conduct comprehensive criminal background checks on staff members and prospective staff members of childcare providers every 5 years.¹

As part of our oversight activities, we conducted a series of audits that assessed States' criminal background check requirements and reviewed their plans and actions to implement the criminal background check requirements established under the CCDBG Act. Appendix B contains a list of prior reports that Office of Inspector (OIG) has issued relating to criminal background check requirements. We conducted this audit as a second phase of our oversight activities to assess whether State agencies' monitoring ensured provider compliance with the CCDF requirements related to criminal background checks.

OBJECTIVE

Our objective was to determine whether Tennessee's monitoring of childcare providers ensured provider compliance with State requirements related to criminal background checks established under the CCDBG Act.

BACKGROUND

Child Care and Development Block Grant Act

Reauthorized in the CCDBG Act, the CCDF is the primary Federal funding source devoted to subsidizing the childcare expenditures of low-income families. Administered by the Administration for Children and Families (ACF), the CCDF helps eligible low-income families pay for childcare at a provider of their choice while they work or participate in training or education, or both. In fiscal year (FY) 2019, ACF provided \$8.2 billion to States, territories, and tribes to fund CCDF programs. In FY 2017, the CCDF served approximately 1.3 million children younger than 13 years of age from 796,000 low-income working families each month.

Under the CCDBG Act, each lead agency must certify in its State plan that it has monitoring policies and practices applicable to all childcare providers and facilities to deliver services.² States must have requirements, policies, and procedures in place to conduct criminal background checks for staff members of childcare providers (other than relatives) that are

¹ P.L. No. 113-186, § 658H, enacted (November 19, 2014).

² 45 CFR § 98.16(o).

licensed, regulated, or registered under State law or receive CCDF funds.³ Criminal background check requirements apply to any staff member who is employed by a childcare provider for compensation or whose activities involve the care or supervision of children or unsupervised access to children. This includes not only caregivers, teachers, and directors but also janitors, cooks, and other employees of a childcare provider who may not regularly engage with children but whose presence at the facility gives them the opportunity for unsupervised access. For family home providers, this includes the caregiver requesting a check of himself or herself as well as other adults in the household who may have unsupervised access to children.⁴

Criminal Background Check Requirements as of September 30, 2016

The U.S. Department of Health and Human Services (HHS) implemented the CCDBG Act's criminal background check requirements for States, territories, and tribes in a Final Rule issued in September 2016 (CCDF Program Final Rule, 81 Fed. Reg. 67438 (Sept. 30, 2016)). According to Federal regulations (45 CFR § 98.43), States must have requirements, policies, and procedures in place to conduct comprehensive criminal background checks. These regulations require States to conduct criminal background checks for childcare staff members and prospective childcare staff members that include:

- a Federal Bureau of Investigation (FBI) fingerprint check using the Next Generation Identification system;
- a search of the National Crime Information Center's National Sex Offender Registry; and
- a search of the following registries, repositories, or databases in the State in which the childcare staff member resides and each State in which such staff member resided during the preceding 5 years:
 - the State criminal registry or repository, with the use of fingerprints being required in the State in which the staff member resides or optional in other States;
 - the State sex offender registry or repository; and
 - the State-based child abuse and neglect registry and database.

As of September 30, 2018, Tennessee had implemented requirements for all criminal background check components (except the Interstate Criminal History Registry and Interstate Sex Offender Registry Checks) and conducts these checks for all new childcare staff, in accordance with 45 CFR section 98.43.

³ 45 CFR § 98.43(a)(1).

⁴ CCDF Program Final Rule, 81 Fed. Reg. 67438, 67494 (Sept. 30, 2016).

Appendix C contains Tennessee’s implementation status of new CCDF criminal background checks.

Tennessee’s Coordination Efforts for Conducting Criminal Background Checks

Within Tennessee both the Department of Human Services (DHS) and the Department of Children’s Services (DCS) play a role in ensuring background regulations are conducted and completed. DHS uses an online background check system called “BacTrak” for storing and reviewing the background check statuses of all childcare workers in Tennessee. All applicants for childcare positions must undergo fingerprinting and submit a disclosure form to initiate national and State background and registry checks prior to beginning employment. The fingerprint sample and disclosure forms are processed by the Tennessee Bureau of Investigation (TBI) and the FBI, and the results are downloaded directly into BacTrak.

DHS checks these results downloaded to BacTrak prior to an applicant beginning employment to determine whether the applicant has a criminal history or is listed on various registries for Tennessee and any other States in which the applicant has lived in the past 5 years.

In regard to the national background registry checks, DHS works with its State partner agency, TBI, to conduct criminal background checks for childcare staff. After the applicant’s fingerprints are taken, the fingerprints go directly to TBI (and subsequently to the FBI via TBI’s software interface). The fingerprints are checked against the FBI criminal records and against the national child sex offender registry. TBI does not perform the out-of-state registry checks.

In regard to the in-State background registry checks, TBI checks both the State criminal registry and the State sex offender registry. DCS concurrently checks the State registries through a software interface with the Department of Health: DCS checks the State child abuse registry and Department of Health checks the State vulnerable person registry.⁵

In regard to interstate background registry checks, Tennessee has received a waiver for 2 of the 3 requirements. Tennessee completes the interstate child abuse and neglect registry with each respective State for any applicant who has lived outside of the State within the last 5 years.

Applicants are permitted to begin employment on a provisional basis pending completion of all the background check components and the applicant clears the following: FBI fingerprint check, the TBI State criminal history check, the sex offender registries, the vulnerable persons registry,

⁵ The Tennessee Department of Health is required by State law and Federal regulation to maintain a registry of persons who have abused, neglected, or misappropriated personal property of a vulnerable person who is under eighteen (18) years of age, or who, by reason of advanced age or other physical or mental condition is vulnerable to abuse, neglect, or misappropriation of property and who was, at the time of such determination, in the care of: (a) a State agency, (b) an entity which is licensed or regulated by a State agency, or (c) an entity under the provisions of a contract between that entity and a State agency.

and the in-State child abuse and neglect registry. Provisionally employed applicants must always be supervised.

If a person has no criminal history, the applicant's file will be designated as cleared. If the applicant has a criminal history, the applicant's file will be flagged, and DHS will work to settle the issue.⁶ Once a background check is complete, the system verifies that all required checks have been completed, and then it automatically generates a letter to the applicants stating the results of their background checks ("cleared" or "flagged"). DHS, the potential childcare provider, and the applicant all receive a copy of this letter.

Childcare program evaluators monitor licensed childcare agencies for compliance with the rules of the Tennessee Department of Human Services and State statutes and provide technical assistance to ensure the health and safety of children in licensed childcare agencies. Program evaluators are responsible for reviewing applicable background check documentation during each monitoring visit (at least one announced visit and three to six unannounced visits annually) to verify that all staff have completed a qualifying background check.

HOW WE CONDUCTED THIS AUDIT

Tennessee had 1,221 licensed⁷ childcare centers⁸ and family homes⁹ that received CCDF funding during State FY (SFY)¹⁰ 2018. We reviewed a nonstatistical sample of 15 childcare center providers and 15 family home providers for a total of 30 licensed childcare providers.

We conducted site visits to 15 family home and 15 childcare center providers where we obtained a list of all current employees or household members. We performed a walkthrough of the childcare provider to observe anyone in the facility and discussed any challenges or obstacles they faced with adhering to the criminal background check requirements. In total, we

⁶ If a criminal history is identified through the background check, DHS will notify the applicant of their rights to a waiver or an appeal of the finding. The applicant has 10 days from the date of the notification to file an appeal. For a waiver, DHS offers a "second chance" hearing for applicants who confirm the charges against them but can explain the improvements made in their life since the charges. Once the background check findings have been appealed or waived successfully, a notification letter is sent to the childcare provider clearing the applicant for work.

⁷ We did not include license-exempt providers for this audit.

⁸ A childcare center is a provider licensed or otherwise authorized to provide childcare services for fewer than 24 hours per day, per child in a nonresidential setting, unless care in excess of 24 hours is due to the nature of the parent(s)' work.

⁹ A family childcare provider is one or more individual(s) who provide childcare services for fewer than 24 hours per day, per child, in a private residence other than the child's residence, unless care in excess of 24 hours is due to the nature of the parent(s)' work.

¹⁰ In Tennessee, the SFY is from July 1, 2017, through June 30, 2018.

reviewed supporting documentation for 434 individuals who were current employees or household members at 30 different childcare provider locations.

We limited our review of internal controls to obtaining an understanding of the laws and regulations concerning the State agency's monitoring process to ensure childcare provider compliance with State requirements related to criminal background checks.

Appendix A contains the details of our audit scope and methodology.

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 to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

FINDINGS

Tennessee's monitoring ensured provider compliance with State requirements related to criminal background checks at 28 of 30 childcare provider locations we reviewed. At the 30 selected childcare provider locations, we reviewed supporting documents for 434 individuals who were employees or household members. Of the 434 individuals we reviewed, 2 did not have an updated background check completed.

For both errors, the program evaluator did not verify that the employee completed a new background check within the required 5-year period. Both errors were caused by a lack of training by DHS for the program evaluators in the background check completion process.

TENNESSEE'S MONITORING ENSURED PROVIDER COMPLIANCE WITH STATE CRIMINAL BACKGROUND CHECK REQUIREMENTS

Tennessee State Regulations for Criminal Background Checks

All persons or entities operating a childcare agency as defined in this part, unless exempt as provided in § 71-3-503, must be licensed as a childcare agency (Tennessee Code Annotated (T.C.A.) 71-3-502 (a)(1)).

Persons subject to the requirements of subdivision (a)(1) shall submit to a fingerprint-based background review of criminal history records, and juvenile records that are available to the TBI, to be conducted by the TBI, and shall submit to a review of the person's status on the Department of Health's vulnerable persons registry (T.C.A. 71-3-507 (a)(2)(A)).

Childcare Providers at 2 of 30 Locations Did Not Comply With Criminal Background Check Requirements

Tennessee’s monitoring did not ensure provider compliance with State requirements related to criminal background checks for 2 of 434 individuals across 2 childcare provider locations.¹¹ In 2017, Tennessee implemented the 5-year background check requirement. When this was implemented, the system that maintains all background check information had a limitation—it could only capture the previous 5 years’ worth of background checks in the new system. Upon identifying this limitation, DHS required its program evaluators to manually check any individual not captured in the previous 5-year window of the system sweep.

For one error, miscommunication between the program evaluator and the supervisor regarding the manual check allowed one employee to go roughly 10 years without renewing the background investigation. For the second error, the program evaluator did not verify that the employee completed a new background check within the required 5-year period. DHS acknowledged that program evaluator training on background check verification processes was needed to decrease these types of errors.

Although DHS generally complied with background check regulations, by not ensuring that all employees or household members who supervised or had routine unsupervised contact with children met all employment regulations, DHS potentially jeopardized the safety of children in its care.

RECOMMENDATIONS

We recommend that the Tennessee Department of Human Services conduct all required background checks for the two individuals we identified as not having the required checks at the time of our review.

TENNESSEE DEPARTMENT OF HUMAN SERVICES COMMENTS

In written comments on our draft report, Tennessee concurred with our recommendation and provided information on the actions that it has taken to address our recommendation. Specifically, it stated that it had already completed the required background checks on the two individuals we identified in our audit. Tennessee also provided technical comments on our draft report, which we addressed as appropriate. Tennessee’s comments, excluding the technical comments, are included as Appendix F.

¹¹ Our audit focused on 15 family homes with 40 current employees or household members and 15 childcare centers with 394 employees.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

In selecting which State(s) to include in our audit, each OIG audit team was to conduct an analysis of the States within its region and consider the following factors:

- States with a “partial” or “substantial” implementation status for criminal background check requirements in the 2016 through 2018 CCDF State Plan,
- States in which we may not have conducted background check work recently or those in which we had findings related to background check requirements in foster care or Head Start audits,
- States where news reports have raised concerns related to criminal background check requirements,
- total CCDF funding within the State, and
- total children served by the CCDF within the State.

In addition to the factors above, the six States¹² included in our prior CCDF Phase I (State implementation of CCDBG criminal background check requirements) audit series were included in the CCDF Phase II (State monitoring of childcare provider compliance) audits. Based on our review of these factors, we selected Tennessee. We selected and reviewed a nonstatistical sample of 30 out of 1,221 childcare centers and family homes that received CCDF funding during SFY 2018 to improve our understanding of the State’s monitoring of childcare provider compliance with State criminal background check requirements. Our provider selection was based on the following risk factors:

- **Tier Area (the geographic division of the State identified by the State’s licensing unit):** Tennessee CCDF providers are divided into top-tier and low-tier counties.
 - The State provided a list of top-tier counties. “Top-tier counties” are those that had the 20 highest average populations in 2015 or the 20 highest per capita incomes in 2014-2016. “Low-tier counties” were all those not identified as “top tier.”
 - For each of the 1,221 providers, we identified the county in which each provider was located, assigned it a tier (top or low), and sorted by the tier level.
 - Within each tier, we grouped the providers by county.

¹² The six States included in CCDF Phase I were New York, Nevada, Colorado, Georgia, New Hampshire, and Illinois (Appendix B).

- **Total Capacity (the maximum number of children to be served at the provider location):** We sorted the list again based on the highest number of children being served at each provider.
- **Separated by Provider Type:** We then separated the list into childcare centers and family home providers.
- **CCDF Funds Received in 2018 (per data received from Tennessee):** We sorted each of the two lists by the providers receiving the most CCDF funds and receiving the most CCDF funds per child.
- **Most Providers Per County:** We selected the counties with the most providers (Shelby, Davidson, and Knox).
 - We then chose providers in only Davidson and Knox counties because of the proximity of low-tier counties to these two top-tier counties with the most providers.
 - We selected 15 childcare centers and 15 family homes for a total of 30 licensed providers.

Because of the higher licensed capacity and CCDF funds received by the providers in top-tier counties, our sample consisted of more providers in top-tier counties. Specifically, from the top tier counties, we selected 11 childcare centers and 11 family homes, and, from the low-tier counties, we selected 4 childcare centers and 4 family homes.

We performed a walk-through of the providers to observe anyone in the childcare locations and discussed any challenges or obstacles they faced with adhering to the criminal background check requirements. We compared the list of current employees previously provided by the State with the list of the current employees that each childcare location provided to verify whether the individuals had all the required background checks. In total, we reviewed supporting documentation for 434 individuals who were current employees or household members at 30 different childcare provider locations. We performed fieldwork at the Tennessee DHS in Nashville, Tennessee, and at various family home and childcare center providers from April 29 through June 7, 2019.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal and State laws, regulations, and guidance;
- reviewed applicable State laws, policies, and procedures related to CCDF criminal background check requirements;

- identified criminal background check requirements have been fully implemented within the State;
- identified which criminal background check requirements that have not yet been implemented by the State;
- interviewed State agency officials to gain an understanding of the State’s monitoring process (including frequency of visits) over provider compliance with criminal background check requirements established under the CCDBG Act;
- interviewed State agency officials to identify any challenges or barriers that the State experienced with monitoring providers to ensure that the new criminal background check requirements¹³ are being met;
- conducted site visits of 15 family home providers:
 - obtained a list of all current household members and employees,
 - performed a walk-through of the provider homes to observe anyone in the household, and
 - compared the list that the State previously provided of all 40 household members or employees with the list that each family home provided to verify whether the individuals had all the required background checks;
- conducted site visits of 15 childcare centers:
 - obtained a list of all current employees and
 - compared the list of current employees that the State previously provided of all 394 employees with the list of the current employees that each childcare center provided to verify whether the individuals had all the required background checks; and
- discussed the results of our audit with State agency officials.

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 to provide 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.

¹³ CCDF Program Final Rule, 81 Fed. Reg. 67438 (Sept. 30, 2016). See description on page 2 of this report.

**APPENDIX B: PRIOR OIG REPORTS RELATING TO CRIMINAL
BACKGROUND CHECK REQUIREMENTS**

Report Title	Issue Date
<i>All Six States Reviewed Had Partially Implemented New Criminal Background Check Requirements for Childcare Providers, and Five of the States Anticipate Full Implementation by Fiscal Year 2020 (A-05-19-00015)</i>	8/23/2019
<i>New York Has Not Fully Implemented New Criminal Background Check Requirements for Childcare Providers (A-02-17-02011)</i>	1/8/2019
<i>Nevada Implemented Some New Criminal Background Check Requirements for Childcare Providers, but Challenges Remain for Unimplemented Requirements (A-09-17-01003)</i>	9/19/2018
<i>Colorado Implemented Many New Criminal Background Check Requirements for Childcare Providers, but Challenges Remain for Unimplemented Requirements (A-07-17-06076)</i>	9/17/2018
<i>Georgia Implemented Most New Criminal Background Check Requirements for Childcare Providers, but Challenges Remain for Unimplemented Requirements (A-04-18-03578)</i>	7/27/2018
<i>New Hampshire Implemented Most New Criminal Background Check Requirements for Childcare Providers, but Challenges Remain for Unimplemented Requirements (A-01-18-02500)</i>	7/9/2018
<i>Illinois Implemented Most New Criminal Background Check Requirements for Childcare Providers, but Challenges Remain for Unimplemented Requirements (A-05-17-00047)</i>	6/4/2018

APPENDIX C: TENNESSEE'S IMPLEMENTATION STATUS OF CCDF CRIMINAL BACKGROUND CHECKS

Criminal Background Check Requirements	Implementation Status as of 9/30/2018	OIG Analysis of State's Implementation Status (Includes a Review of Tennessee's Laws, Regulations, and Guidance)
FBI Criminal History Fingerprint Check 45 CFR § 98.43 (b)(1)	Implemented	T.C.A. Section 71-3-507
National Crime Information Center (NCIC) National Sex Offender Registry 45 CFR § 98.43 (b)(2)	Implemented	T.C.A. Section 71-3-507
In-State Criminal Registry 45 CFR § 98.43 (b)(3)	Implemented	T.C.A. Section 71-3-507
In-State Sex Offender Registry 45 CFR § 98.43 (b)(3)	Implemented	T.C.A. Section 71-3-507
In-State Child Abuse and Neglect Registry 45 CFR § 98.43 (b)(3)	Implemented	T.C.A. Section 71-3-507
Interstate Criminal Registry 45 CFR § 98.43 (b)(3)	Not Implemented	Expected date of full implementation of this requirement is September 30, 2020
Interstate Sex Offender Registry 45 CFR § 98.43 (b)(3)	Not Implemented	Expected date of full implementation of this requirement is September 30, 2020
Interstate Child Abuse and Neglect Registry 45 CFR § 98.43 (b)(3)	Implemented	T.C.A. Section 71-3-507

APPENDIX D: FEDERAL AND STATE REGULATIONS

FEDERAL REGULATIONS

According to Federal regulations, States must have in effect requirements, policies, and procedures to require and conduct criminal background checks for childcare staff members, including prospective childcare staff members of all licensed, regulated, or registered childcare providers and all childcare providers eligible to deliver services for which assistance is provided (45 CFR § 98.43 (a)(1)).

Childcare provider means a center-based childcare provider, a family childcare provider, or another provider of childcare services for compensation and on a regular basis that: (A) is not an individual who is related to all children for whom childcare services are provided and (B) is licensed, regulated, or registered under State law or eligible to receive assistance provided under this subchapter (45 CFR § 98.43 (a)(2)(i)).

Childcare staff member means an individual (other than an individual who is related to all children for whom childcare services are provided): (A) Who is employed by a childcare provider for compensation, including contract employees or self-employed individuals; (B) Whose activities involve the care or supervision of children for a childcare provider or unsupervised access to children who are cared for or supervised by a childcare provider; or (C) Any individual residing in a family childcare home who is age 18 or older (45 CFR § 98.43(a)(2)(ii)).

Federal regulations require States to conduct two national checks: (1) an FBI criminal history fingerprint check using Next Generation Identification¹⁴ (45 CFR § 98.43(b)(1)), and (2) a search of the NCIC's National Sex Offender Registry for childcare staff members or prospective staff members (45 CFR § 98.43(b)(2)).

According to Federal regulations, States are required to conduct a search of three in-State registries: (1) State criminal registry (using fingerprints), (2) State sex offender registry, and (3) State-based child abuse and neglect registry in the State in which the childcare staff member or prospective staff member resides (45 CFR § 98.43(b)(3)).

In addition, States are required to conduct a search of three Interstate registries: (1) criminal registry in each State (fingerprints optional), (2) each State's sex offender registry, and (3) each State's child abuse and neglect registry in the State(s) in which the childcare staff member or prospective staff member resided during the preceding 5 years (45 CFR § 98.43(b)(3)).

¹⁴ The FBI fingerprint check, Next Generation Identification (formally the Integrated Automated Fingerprint Identification System), provides the criminal justice community with the world's largest and most efficient electronic repository of biometric and criminal history information.

STATE REGULATIONS

All persons or entities operating a childcare agency as defined in this part, unless exempt as provided in § 71-3-503, must be licensed as a childcare agency (T.C.A. 71-3-502 (a)(1)).

Persons subject to the requirements of subdivision (a)(1) (above) shall also supply a fingerprint sample in a manner prescribed by DHS and by the TBI, shall submit to a fingerprint-based background review of criminal history records, and juvenile records that are available to the TBI, to be conducted by the TBI, and shall submit to a review of the person's status on the Department of Health's vulnerable persons registry under title 68, chapter 11, part 10, the State sex offender registry, and pursuant to § 71-3-515, a review of the person's status in the DCS and the DHS records of indicated perpetrators of abuse or neglect of children or adults, and, if determined necessary by DHS, a review of any available juvenile records in juvenile court (T.C.A. 71-3-507 (a)(2)(A)).

APPENDIX E: NUMBER OF INDIVIDUALS MISSING REQUIRED CRIMINAL BACKGROUND CHECKS AT 30 SELECTED PROVIDERS

Provider Number	Provider Type	Number of Individuals* Reviewed	Number of Individuals Missing One or More Required Criminal Background Checks
1	Family Home	3	0
2	Family Home	3	0
3	Family Home	1	0
4	Family Home	2	0
5	Family Home	1	0
6	Family Home	2	0
7	Family Home	4	0
8	Family Home	3	0
9	Family Home	2	0
10	Family Home	5	0
11	Family Home	3	0
12	Family Home	4	0
13	Family Home	1	1
14	Family Home	2	0
15	Family Home	4	0
Totals for Family Homes		40	1
16	Childcare Center	38	0
17	Childcare Center	36	0
18	Childcare Center	45	0
19	Childcare Center	18	0
20	Childcare Center	8	0
21	Childcare Center	15	0
22	Childcare Center	23	0
23	Childcare Center	26	0
24	Childcare Center	35	0
25	Childcare Center	20	1
26	Childcare Center	13	0
27	Childcare Center	53	0
28	Childcare Center	46	0
29	Childcare Center	9	0
30	Childcare Center	9	0
Totals for Childcare Center		394	1
Combined Totals for Family Homes and Childcare Centers		434	2
* The term "individuals" refers to employees or household members included in our audit.			

APPENDIX F: TENNESSEE DEPARTMENT OF HUMAN SERVICES COMMENTS



STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES

JAMES K. POLK BUILDING
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BILL LEE
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DANIELLE W. BARNES
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December 18, 2019

Lori S. Pilcher, Regional Inspector General for Audit Services
Department of Health and Human Services
Office of Inspector General
Office of Audit Services, Region IV
61 Forsyth Street, SW, Suite 3T41
Atlanta, Georgia 30303

Dear Ms. Pilcher,

Enclosed please find the Department's response for the one (1) open finding for the draft HHS OIG Report: A-04-19-02023 November 26, 2019, regarding corrective action to the report entitled "Tennessee's Monitoring Ensured Compliance with Criminal Background Check Requirements at 28 of the 30 Childcare Providers Reviewed".

Should you have any questions regarding our responses, please contact me at (615) 837-5092 or William A. Hines, Director of Operations, Child Care Services, Tennessee Department of Human Services, at William.A.Hines@tn.gov.

Sincerely,

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

Jude White
Assistant Commissioner for
Child Care and Community Services

cc: Danielle W. Barnes, Commissioner
Todd McKinney, Inspector General
Sam Alzoubi, Director of Audit Services
Will A. Hines, Director of Operations, Child Care Services

United States Department of Health and Human Services
Office of Inspector General Audit Report
Tennessee's Monitoring Ensured Compliance with Criminal Background Check Requirements at
28 of the 30 Childcare Providers Reviewed
November 2019
Report #: A-04-19-02023

Finding: Childcare Providers at 2 of 30 Locations Did Not Comply With Criminal Background Check Requirements

Tennessee's monitoring did not ensure provider compliance with State requirements related to criminal background checks for 2 of 434 individuals across 2 childcare provider locations.⁸ In 2017, Tennessee implemented the 5-year background check requirement. When this was implemented, the system that maintains all background check information had a limitation—it could only capture the previous 5 years' worth of background checks in the new system. Upon identifying this limitation, DHS required its program evaluators to manually check any individual not captured in the previous 5-year window of the system sweep.

For one error, miscommunication between the program evaluator and the supervisor regarding the manual check allowed one employee to go roughly 10 years without renewing the background investigation. For the second error, the program evaluator did not verify that the employee completed a new background check within the required 5-year period. DHS acknowledged that program evaluator training on background check verification processes was needed to decrease these types of errors.

Although DHS generally complied with background check regulations, by not ensuring that all employees or household members who supervised or had routine unsupervised contact with children met all employment regulations, DHS potentially jeopardized the safety of children in its care.

⁸ Our audit focused on 15 family homes with 40 current employees or household members and 15 childcare centers with 394 employees.

Recommendations: We recommend that the Tennessee Department of Human Services conduct all required background checks for the two individuals we identified as not having the required checks at the time of our review.

CAP Response: DHS agrees that two of these 434 provider staff did not have a re-check of their initial background check timely within five years.

DHS agrees with the DHHS OIG Recommendation and has already completed the re-checks of both individuals, through fingerprinting, and both were clear.