

L. J. v. Massinga Independent Verification Agent
CERTIFICATION REPORT FOR DEFENDANTS'
66th COMPLIANCE REPORT
January 1, 2021 – June 30, 2021

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List of Attachments

1. IVA Response to Defendants’. 60th Report (filed 6.25.19), pp. 16-24
2. AECF, BCDSS Assessment (1.6.20)
3. BCDSS Director’s email announcing soft opening of Kinship Support Center (2.1.22)
4. IVA Memo to Parties re Data for 65th Rep. (10.7.21)
5. L.J. Measure Instructions ISM 28, ES 121, ISM 117 and 118 (March – April 2021)
6. Complaint Process Summary for L.J. 66th Compliance Report (received 1.12.22)

Appendix 1. IVA Response to Additional Commitments

EXECUTIVE SUMMARY

This is the Independent Verification Agent's (IVA) Certification Report for the Defendants' 66th Compliance Report covering the six-month compliance reporting period of January 1 – June 30, 2021. Defendants' report was received by the IVA on December 17, 2021. Like reports from the previous two reporting periods, this report was submitted far into the next reporting period. Although very limited data is presented in this report, the delay by the Defendants results in data that is in some cases over than a year old.

CHILD WELFARE POLICY AND PRACTICE ISSUES

In the 60th report, the IVA reported on 36 youth under the age of 13 who have experienced significant placement instability, lack of appropriate placements and waiting lists for treatment programs. We briefly revisit these youth in this report. Despite the focus on these youth, two-thirds remain in foster care three years later. Of these youth, nine have been in care for five or more years. While these youth present with more complex needs and may be a particularly challenging population, the Defendants must be prepared to meet the needs of *all* children who enter their care and to avoid long stays in foster care.

The Defendants identified increasing the percentage of kinship care placements as a priority in their efforts to improve placement stability. Unfortunately, IVA review of data indicates that this percentage has decreased, not increased, with only 31% of children in BCDSS out-of-home care in kin (both licensed and unlicensed) placements. Of further concern, 75% of kin placements are unlicensed. Without a license, kin caregivers receive significantly less monthly financial and other support than licensed kin homes.

In addition to the lack of kin homes, the IVA remains concerned about the availability of placements for some children, particularly those with complex mental health needs, LGBTQ youth and large sibling groups. The lack of appropriate placements for children and youth with significant mental health problems, especially when those problems are complicated by developmental disabilities, is particularly pressing. Some of these children have suffered multiple traumas and been further traumatized by instability in the foster care system, having been ejected or run away from multiple placements. Contributing to the failure to resolve these problems, Defendants have not completed the MCD-required biennial assessment of placements and placement supports required to meet the needs of children in OHP.

Quality mental health care services and continuity of services for children are in short supply or inaccessible, further exacerbating placement issues. The IVA continues to work with the Defendants on possible solutions to the challenges of ensuring that children in foster care receive the high quality, consistent mental health care they need. These attempts to ensure services are complicated by high caseloads for caseworkers. The IVA recognizes that hiring and retaining staff is a challenge beyond just Baltimore City that will not be immediately resolved. However, it is imperative that Defendants urgently consider other personnel changes and supports that may help overloaded caseworkers better support children and families.

COMPLIANCE WITH THE MODIFIED CONSENT DECREE

Since the signing of the MCD in October 2009, only four of the forty Exit Standards have ever been certified as compliant, and, since 2016, only two. Unfortunately, this trend continues. For this reporting period, one Exit Standard, will be certified as compliant. The lack of certification is rooted in several areas including poor documentation, failure to meet all elements of the measure

as required by the MCD, inability to report data out of CJAMS, and invalid, inaccurate or unreliable data.

In the 66th Report, Defendants present lists of strategies that will be taken to improve compliance with a number of the LJ measures. Many, though not all, of the strategies involve staff training. Rather than attempt to analyze the strategies at this time, the IVA will wait to review those strategies when there is evidence that they have been implemented and where there are outcomes by which to evaluate those strategies.

DATA COLLECTION AND REPORTING

The IVA remains troubled by continuing problems with data validity, reliability and accuracy. After years of delay with the drafting of new, more accurate measure instructions, Defendants submitted draft measure instructions for most of the MCD measures in January 2021. After months of discussion of these draft measures and the resulting final measure instructions agreement with the IVA, BCDSS began to implement the new measure instructions in July 2021.

However, development of the reports to extract the data from CJAMS for LJ reporting is occurring at an unacceptably slow pace and has revealed significant, ongoing problems with both the CJAMS user interface and potential limitations of obtaining accurate and reliable data from CJAMS. This will impact reliability of the data for the 67th Report period and, likely, much of the 68th Report period, postponing once again the ability to create a reasonably accurate, reliable and valid report until well into 2022.

CERTIFICATION OF MEASURES AND ADDITIONAL COMMITMENTS

For the 66th reporting period, the IVA has certified Exit Standard 121 and confirms that the data for Internal Success Measures 28, 117 and 118 as accurate, reliable and valid. The Defendants also provided an update on the twenty-two Additional Commitments and other reporting requirements of the MCD. The IVA has responded to Defendants' varying levels of compliance with the Additional Commitments in detail in Appendix 1.

CONCLUSION

The Defendants remain non-compliant with the MCD. The parties have agreed to a set of final measure instructions that outline practices to be implemented to ensure proper documentation in CJAMS and other reporting systems by the Defendants. This documentation is essential to data collection; data validity, accuracy and reliability; and ultimately, practice and practice improvements that will lead to better outcomes for children and families in the child welfare system in Baltimore City.

**IVA CERTIFICATION REPORT FOR
DEFENDANTS' 66th COMPLIANCE REPORT**

This is the IVA's Certification Report for the Defendants' 66th Compliance Report covering January 1, 2021 to June 30, 2021.

I. INTRODUCTION

Defendants Baltimore City Department of Social Services (BCDSS) and Maryland Department of Human Services (DHS) provided their 66th Report to the IVA on December 17, 2021. The 66th Report is the 24th Compliance Report since the Modified Consent Decree (MCD) was entered in October 2009.

II. BCDSS LEADERSHIP

More than twelve years has passed since the Modified Consent Decree (MCD) was signed in October 2009. Since this time there have been multiple changes in leadership at the state and local levels including four DHS Secretaries and multiple BCDSS directors. Brandi Stocksdale was appointed Director of the Baltimore City Department of Social Services following the departure of Dr. Randi Walters in November 2020. Over the past year, Ms. Stocksdale and the IVA have developed a strong working relationship. The stability and growth of her leadership team has been valuable, particularly during the pandemic. We look forward to continuing our work with her and her staff.

III. DEFENDANTS' COMPLIANCE WITH THE MCD

A. Timeliness of Defendants' Report

Defendants' report was received by the IVA on December 17, 2021, more than five and a half months after the end of the reporting period. While the MCD does not state a timeline for Defendants' report submission following the end of a reporting period, five months is excessive for a six-month reporting cycle, and no explanation has been provided to the IVA for this extended response period. The long gap between the end of the reporting period and receipt of the report results in the IVA reviewing data for certification that is in some cases over a year old when the IVA begins work on the compliance certification report. This issue has been raised in previous IVA reports and continues to be of concern. The IVA again requests more timely submission of reports by the Defendants.

B. MCD Measure Certification for 66th Reporting Period

The MCD requires compliance with 126 measures – forty (40) Exit Standards and eighty-six (86) Internal Success Measures (ISM) - as well as twenty-two (22) Additional Commitments and various other reporting requirements. More than twelve years has passed since the MCD was signed, and compliance has yet to be achieved. For the 66th reporting period, the Defendants report data for 42 ISM and Exit Standard measures and are seeking certification of one Exit Standard (121) and one ISM (28). Discussion of these measures will be presented in section VI of this report.

C. Defendants' Strategies for Improvement

In the 66th Report, Defendants present lists of strategies that will be taken to improve compliance with a number of the LJ measures. Many, though not all, of the strategies involve staff training. Rather than attempt to analyze the strategies at this time, the IVA will wait to review those strategies when there is evidence that they have been implemented and where there are outcomes by which to evaluate those strategies.

IV. CHILD WELFARE POLICY AND PRACTICE ISSUES

A. 60th Report Special Review: An Update

For the 60th reporting period (January 1 - June 30, 2018), the IVA conducted an extensive review of the cases of 36 children under the age of 13 who have experienced significant placement instability, lack of appropriate placements and waiting lists for treatment programs. The outcome of this review was shared in the IVA's certification report for the 60th reporting period (Attachment 1, IVA Certification Report for Defendants' 60th Report (filed June 25, 2019), pp. 16-24). While the IVA did not have the time or resources to conduct another in depth review such as that done for the 60th report, the IVA briefly reviewed the status of these 36 youth as of the end of September 2021. Unfortunately, despite the attention focused on these youth in the IVA's report, the majority of these youth remain in out-of-home care, and many remain unstable. The IVA found that 70% (26 of 36) of the children reviewed for the 60th report have not achieved permanency and remain in out-of-home care more than three years later. A snapshot view of placements taken at the end of September 2021 found: 11 youth were in congregate care (seven in therapeutic group homes, four in residential treatment centers), 10 were in therapeutic foster care,

two were in kinship placements, and one each were in a secure juvenile detention facility, a psychiatric hospital and on runaway.

While the IVA understands the clinical justification of the decisions to place some of these children in congregate care, the fact remains that the vast majority of available research and professional opinion supports the conclusion that congregate care is not good for any child, nor is there evidence that these youth have benefitted from multiple congregate care placements. Yet, nearly half of these 26 youth are in congregate care placements. The next largest group of children (10) are in therapeutic foster care (TFC) placements. While these family-based settings are preferable to congregate care settings, BCDSS has a history of over reliance on TFC placements, which is concerning given that past history has shown that they are less likely to lead to permanency than kinship placements and regular DSS resource (foster) homes.

All of these 26 youth have been in out of home care for more than three years, but nine youth have been in care for five or more years including one who has been in care for eight years now. While these youth present with more complex needs and may be a particularly challenging population, the Defendants must be prepared to meet the needs of *all* children who enter their care and to do all they can to avoid long stays in foster care. No youth should grow up in foster care. The Defendants should have more than enough information about these youth to find appropriate placements to stabilize them, help them step-down to less restrictive placements, and ultimately lead to reunification with family or other permanent homes. If the placement resources and services do not exist to meet the needs of these youth, then Defendants must create them. Several of these youth continue to experience significant instability with many appearing on overstay lists (weekly lists of children who have stayed in hospitals longer than clinically necessary), placement

waiting lists and Extended Hours (formerly, Gay Street) reports (reports of children who have stayed in office buildings overnight).

Of the 36 youth, 10 have exited BCDSS's care. Of these youth, seven were reunified with a parent, and three were placed with relative or fictive kin caregivers. Despite their significant instability while in out-of-home care, these youth were able to return to a parent or be placed with another family member. When youth could not be reunified with a parent, a relative was able to provide care that led to permanency via custody and guardianship. A review of these cases may help the Defendants gain insight into what made these permanency outcomes possible for these youth while so many others remain in out-of-home care.

B. Kinship Care

In a recent essay published in The New York Times entitled, "*I Will Never Forget That I Could Have Lived With People Who Loved Me,*" Sixto Cancel, a former foster youth and now advocate for systems change for foster care through his organization Think of Us, wrote:

My foster care placements failed not because I didn't belong in a family but because the system failed to identify kinship placements for me and lacked enough culturally competent, community-based services to keep me in a home that had a chance at success.

(Available at <https://www.nytimes.com/2021/09/16/opinion/foster-care-children-us.html>).

Mr. Cancel argues that by prioritizing kinship care many children can avoid being removed from their families and communities, avoid separation from siblings, and avoid the needless trauma of moving to a stranger's home, or, worse, group care. Maryland has already taken a step forward in

making more kinship care placements possible through a law, effective October 1, 2019, expanding the definition of eligible kinship caregiver to include individuals not legally related but who have strong bonds to the child or the child's family. (2019 Ch. 77 (HB 1212), amending Fam. Law Art. Section 5-534).

In 2019, former Director Randi Walters invited Annie E. Casey's Center for Systems Innovation to conduct a full assessment of BCDSS outcomes. (Attachment 2, Annie E. Casey Foundation, BCDSSS Assessment (January 6, 2020)). One of the many findings of this assessment was that in October 2019, 36% of all BCDSS placements were with relative/kin caregivers. Following this assessment, the Defendants identified the goal of increasing the percentage of youth placed with kin as a priority in their efforts to improve placement stability. Unfortunately, IVA review of more recent data from CJAMS (LJ Measure 30 Report, available upon request) shows that this percentage has decreased, not increased. Between July 1 - December 31, 2021 (the 67th Report period), only 31% of children in BCDSS out-of-home care were in kin (both licensed and unlicensed) placements.

An additional concern highlighted in the Casey BCDSS assessment was the high percentage of kin (62.3%) who are unlicensed. Unfortunately, again, this percentage has moved in the wrong direction; between July 1 - December 31, 2021, 75% of kin placements were unlicensed. Without a license, kin caregivers are only eligible to receive monthly Temporary Cash Assistance (TCA) payments for the youth in their care, an amount significantly less than monthly foster care payments for licensed homes. In addition to receiving less monthly financial support, unlicensed kin providers are not assigned a resource home (Resources and Support) worker like other BCDSS licensed foster homes who receive support from both a Resources and Support worker and an OHP caseworker. There is only one Kinship Navigator assigned to meet the needs

of all kin caregivers when children are first placed with them and - if they do not become licensed - on an ongoing basis. Furthermore, it appears that the Kin Navigator will also be expected to carry the responsibility of running the new Kinship Support Center. This requires her to meet the needs of the OHP workers handling cases of children placed with caregivers as well as of the caregivers themselves. (Attachment 3, BCDSS Director's email announcing soft opening of Kinship Support Center (February 1, 2022)).

The disparity between the Defendants' support of licensed resource homes (most of which are not kin of the children) - with both an OHP and a Resources and Support worker, and a substantial monthly financial stipend - and the support of children's kin as caregivers remains significant. This disparity undermines Defendants' stated goal to increase significantly the number of children who are placed in kin homes. The lower financial support and less staff support puts additional strain on kin providers. If BCDSS is to increase the percentage of children placed with kin and provide them with the much-needed support, Defendants must identify and address any barrier to kin licensing.

Defendants must ensure that a full and periodic ongoing search for kin occurs in all cases where children are not placed with kin, and that all staff are aware of the expanded definition of kin. Staff should be encouraged once again to reach out to all potential suitable caregivers already known to a child or child's family. This practice helps siblings stay together and may, with the right support, provide more stable, permanent placements, even for older children and children with significant behavioral challenges, both groups of children who otherwise face significantly diminished chances of timely (or any) permanency. The same Casey BCDSS assessment found that Baltimore City's 15.3% of children "aging out" of foster care without ever having a permanent home is twice the national average. Furthermore, of the children who did leave foster care with

no permanent home, 95% were African-American while only 67% of the children under 18 in OHP in 2017 were African-American.

C. Placement Needs

When all efforts have been exhausted to place children with kin, or when kin are unable to meet the needs of the children in their care, appropriate placement must be available to meet children's needs. The IVA has repeatedly raised concerns about the lack of placements for some children, particularly for children with complex mental health needs, large sibling groups, and LGBTQ youth.

The lack of appropriate placements and treatments for children and youth with significant mental health problems, especially when those problems are complicated by developmental disabilities, is particularly pressing. Some of these children have suffered multiple traumas and been further traumatized by instability in the foster care system, having been ejected or run away from multiple placements. Some have spent not just hours but days in hospital emergency rooms waiting for beds in psychiatric units. Some children are forced to remain in psychiatric units long past the time they are ready for discharge due to a lack of available and appropriate placements. Some of these children have spent multiple nights in BCDSS' office buildings in violation of the MCD, while others have been placed in hotels with supervision by one-to-one service providers, an expensive and questionable practice. Developing appropriate placements is primarily the responsibility of DHS, as Baltimore City DSS does not control the process of contracting for placements for children with more complex needs. While there has been a very limited expansion of "high end" resources since 2020, these are all very restrictive congregate care placements, and

they must be shared statewide. DHS has failed to craft and implement appropriate solutions to long-standing placement problems.

Sibling groups, particularly sibling groups of three or more, continue to be separated, negatively impacting the sibling bond that is essential to familial relationships, identity and development. As of December 31, 2021, only 43% of the 673 children with siblings in OHP (not including those older youth in independent and semi-independent living situations) live with all of their siblings. (LJ Measure 31 Report, available upon request). Entering foster care is a traumatic experience, but the practice of keeping siblings together can mitigate some of the trauma and help children adjust to new homes and caregivers. BCDSS and DHS should work together to recruit families who can accept larger sibling groups of all ages.

Several studies show that about 30% of foster youth identify as LGBTQ+ and that these youth are overrepresented in the foster care population. (<https://www.childwelfare.gov/pubPDFs/lgbtqyouth.pdf>, June 2021, p. 1). In addition to the trauma from the circumstances that led them to the foster care system - abuse, neglect, abandonment - these youth are further traumatized by a system that doesn't provide them with safe and supportive placements and services. While LGBTQ+ youth are no more likely to be diagnosed with a mental health disorder or experience behavioral health challenges than other youth, the youth who have these additional challenges can be particularly difficult to place. Recent multiple overnight stays in office buildings and hotels for some trans youth bear this out. The Defendants need to identify safe and supportive placements for these youth, preferable family settings where caregivers can affirm them and help them grow into healthy adults.

Under the MCD, Defendants are required to conduct biennially “an assessment of the range of placements and placement supports required to meet the needs of children in OHP. . .” (MCD, Part Two, Section II. Out of Home Placement, E. Additional Commitments, pp. 26-27). In response to the IVA’s and Plaintiffs’ concerns about the inadequacy of the Defendants’ previous biennial needs assessment, the Defendants contracted with the Institute for Innovation and Research at the University of Maryland School of Social Work to complete the assessment. This assessment was to be completed no later than May 31, 2021 but has been delayed for at least a year by issues related at least in part to CJAMS access. Multiple meetings have been held with the assessors and the Defendants regarding concerns about the assessment methodology and timing. As of the date of this report, limited information has been provided regarding the status of the assessment.

D. Mental Health

High quality, culturally-responsive mental health care is essential to the well-being of children and youth in foster care. The lack of data around the mental health needs of children in BCDSS care remains a frustration for both the IVA and Plaintiff’s counsel. Some information may be available through MATCH’s electronic medical case management system (eCW), but according to HCAM staff, this information is unable to be extracted in a useful way. Information such as the percentage of child and youth in need of mental health services, percentage of children and youth receiving mental health services, common diagnoses, frequently prescribed medications, and treatment outcomes, is essential to ensuring that services are available to meet the needs of children and their families/caregivers. It is disappointing that even with MATCH case management services these data points are not available for children in BCDSS’s care. CJAMS documentation requirements for caseworkers and MATCH staff need to be enforced, and

any necessary upgrades must be made to CJAMS itself to enable the Defendants to report accurate and timely data on the mental health needs and services to children in their care.

The MCD requires the Defendants to address mental health care for children and youth in foster care. Included in the Health section of the MCD is an Additional Commitment that requires:

By December 31, 2010, DHR/BCDSS shall operationalize a system to meet the mental health needs of children in OHP. The system will include access to mental health screening and assessment as well as a continuum of treatment services designed to secure ongoing treatment that meets the needs of children in OHP. DHR/BCDSS will seek the advice and input from the Health Care Advisory Group in the development and implementation of this system.

The Defendants have not yet complied with this Additional Commitment. Further discussion of this Additional Commitment is included in Appendix 1 to this report.

The Defendants updated the proposed Behavioral Health Plan in June 2021 (attached to Defendants 66th Report). However, as the IVA has stated in previous reports to this court and in meeting with the Defendants, the plan is insufficient. There remain significant gaps in the scope of the plan and services, particularly in meeting the ongoing mental health needs of children beyond the new entrant period and the provision of crisis intervention services. Defendant DHS has failed over the past decade to accomplish the promised rate reform, which would separate the payment of board costs to private foster care agencies from the payment for services such as mental health care. Recently, DHS shared that rate reform will be delayed until at least 2026. This delay continues to have a negative impact on meeting the goals of this Additional Commitment and, more importantly, the needs of the children in OHP.

Lack of quality mental health care services and continuity of services for children, particularly for those who experience placement instability, was again discussed at an *L.J.* Problem

Solving Forum held on October 14, 2021. At the forum, the Defendants proposed the creation of a program to provide direct services to foster children and youth. Following the forum, Director Stocksdale convened a small group including the IVA, Plaintiffs' counsel, Behavioral Health Systems Baltimore (BHSB) and other DHS/DSS staff to discuss this proposed program. This group has been meeting regularly and continues their work on possible solutions to the many challenges of ensuring that children in foster care receive the high quality, consistent mental health services they need.

E. Caseloads

It cannot go unmentioned: caseloads at BCDSS are too high. For July - December 2021, only 23.8% of OHP caseworkers met the caseload requirements of 12 children per caseworker. One-half of all OHP caseworkers had caseloads between 16 - 25 children. (LJ Measure 112/115 Report, available upon request). These high caseloads impact the children in foster care and their families as well as the caseworkers. Not only are these increased caseloads a violation of the MCD, they make it much more difficult to resolve any of these issues discussed here.

The IVA appreciates the Defendants' commitment to the hiring of individuals who have Masters of Social Work degrees and recognizes that this may result in fewer candidates for open positions. The IVA also recognizes that hiring and retaining staff is a challenge beyond just Baltimore City and beyond just the social work profession. ("State and Local Governments Will Face Brutal Worker Crunch," Maryland Matters (January 14, 2022), available at <https://www.marylandmatters.org/2022/01/14/state-and-local-governments-will-face-brutal-worker-crunch-expert-warns/>). Because these complex problems cannot be resolved all at once, Defendants need to urgently consider other personnel changes and supports, e.g., requesting additional pay for caseworkers under certain conditions and additional transportation and in-home

aides, that may help overloaded caseworkers support children and families. The Defendants are well aware of the problem and should be pursuing ways to address it before the problem worsens further.

V. DATA COLLECTION AND REPORTING

A. Measure Instructions

The MCD requires Defendants to report on the status of 126 measures: 40 Exit Standards and 86 Internal Success Measures. The parties and the IVA have agreed that some of the measures require both quantitative and qualitative measurement. For these measures, there are subparts “a” and “b” for quantitative and qualitative compliance levels, respectively, and both subparts must be compliant for the measure to be certified. The IVA can review the data for the subpart and comment on the accuracy, reliability and validity of the data but cannot grant certification of a subpart of a measure. Both “a” and “b” must be in compliance for certification purposes. Measure instructions set out what activity is required by the measure, and how that measure will be tracked and documented in order to produce the required compliance data for reporting.

After an extended period with little progress on creation of valid measure instructions, on October 19, 2020, an *L.J.* Problem-Solving Forum was convened to address the lack of progress on measure instructions among other issues. At that forum, the Defendants agreed to submit to the IVA a full package of draft measure instructions no later than January 15, 2021 with the hope of capturing accurate, valid and reliable data beginning July 2021. From January through May, 2021, the Defendants, IVA and Plaintiffs’ counsel committed significant time and effort to discussing and finalizing the measure instructions for all 126 measures. The goal has been to craft

measure instructions which remain true to the requirements of the MCD while being as clear and precise as possible to permit the creation of the necessary reports by agency staff.

The measure instructions were drafted with the intention that, wherever possible, the required data comes from the newly-implemented Child Juvenile and Adult Management System (CJAMS) system. As with any data system, the measures require documentation in CJAMS to occur in a specific way in order to capture the data in reports. BCDSS staff is working now to develop tip sheets and provide training to staff to implement the new measure instructions. The pace of the development of tip sheets and training has been slow. As of the completion of this report, staff continues to input data in ways that will not permit accurate reporting for a number of measures. In part this has been due to the delay in the design and development of the data reports as well as the many problems with the CJAMS application itself and the lack of ongoing training and coaching of staff in how to use CJAMS properly. In order to ensure that the health measures were properly documented beginning by at least January 1, 2022 (the beginning of the 68th Report period), the IVA developed the materials and provided the training for the MATCH staff in late fall, 2021.

B. Ongoing Data Validity, Reliability and Accuracy Concerns

CJAMS implementation began in May 2019 with testing in Washington County. In June 2020, Baltimore City DSS was the last of Maryland's 24 jurisdictions to switch from using the CHESSIE data system to CJAMS. Unfortunately, as is common with large database transition projects, the transition to CJAMS has not been a smooth one, and there continue to be significant challenges with staff using CJAMS to do such critical tasks as creating case plans and service plans;\, sufficiently documenting conversations and the results of meetings, and uploading

important documents. Furthermore, there continue to be numerous corrections needed to the user interface (application) and the CJAMS program itself to capture and report data accurately.

The well-known and acknowledged problem of staff failing to document activities and information about children and families on a timely and thorough basis must be resolved if Defendants are to report accurate, valid and reliable data that will permit the IVA to certify compliance with the *L.J.* measures. Efforts to address this problem appear to be underway on a systematic basis for the first time to the IVA's knowledge. The Innovations Unit, which is increasing in the number of staff, tracks particular reporting requirements (i.e., monthly caseworker visits, case plan completion) closely and follows up with staff to ensure that this information is properly documented in CJAMS. This effort will need to be continued and expanded to additional documentation requirements, including those related to all caseworker contacts, such as those with parents, providers and others.

C. Development of Data Reports for the MCD Measures

At the end of April 2021, immediately upon completion of the drafting of the measure instructions, work began to develop the reports needed to extract data from CJAMS for most of the measures other than those using the Quality Service Reviews (QSRs) as the source of the data. Appropriately, because the CJAMS database is a statewide database, primary responsibility for extracting the necessary data from CJAMS has shifted to DHS with the implementation of the new measure instructions.

Unfortunately, every aspect of developing the reports to extract the needed data from CJAMS is taking much longer than expected. The work has been challenging for a number of reasons including developer inexperience with CJAMS and with child welfare; data conversion

problems; the lack of a data dictionary; and the lack of experience of the BCDSS and DHS staff and the IVA with the CJAMS application to anticipate problems extracting data from CJAMS when negotiating the measure instructions. Of most concern, however, is the fact that while implementation of CJAMS had begun two years prior to May 2021, when development of the *L.J.* reports began, there had not yet been any validated reports developed to extract child welfare data from CJAMS, and there remain a number of development and implementation problems which result in erroneous data reporting results. The progress as of the date of this report has been so slow as to impede the Defendants' ability to input properly and to collect sufficiently accurate data for the 67th Report and 68th Report periods, postponing once again the ability to create a reasonably accurate, reliable and valid report until well into 2022.

D. Quality Service Reviews (QSR)

The Defendants did not report any data from the QSR program for the 66th reporting period. The IVA was informed by the Director that despite QSRs being conducted during the reporting period, the data from these reviews is not available. The IVA has no additional information, and none was provided by the Defendants in their report.

The IVA had hoped to participate with the Inter-rater Reliability review sessions before the end of the 66th reporting period and into the 67th reporting period (July 1 to December 31, 2021) to determine whether the reviews were done with sufficient fidelity to the QSR model and with sufficient quality that their results could be certified as accurate, reliable and valid for *L.J.* reporting purposes. However, due to the unexpected extensive time commitment of the CJAMS report development process, the IVA was not able to participate in these sessions. The development of data reports is a priority for the IVA at this time and will remain so until completed. Once the

CJAMS reports have been completed and validated, the IVA will be able to shift focus to QSR validation.

The QSR Program Manager worked closely with the IVA and with other BCDSS management staff to develop the measure instructions for the *L.J.* measures utilizing QSR as the data source. The necessary changes were made to the QSR reporting document to reflect the changes in the measure instructions and implemented as of July 1, 2021.

The IVA has been in discussion with Director Stocksdale and her staff regarding expansion of the QSR program to reviews of the Family Preservation Program. These discussions are ongoing, and several issues including the protocol, review, staffing and number of cases to be reviewed still need to be agreed upon. It is anticipated that QSR of the Family Preservation Program to test the QSR tools and process will begin in the spring of 2022.

VI. CERTIFICATION DECISIONS

Part Two of the Modified Consent Decree contains five sub-sections:

- I. Preservation and Planning
- II. Out of Home Placement
- III. Health Care
- IV. Education
- V. Workforce

Each of these five sub-sections contains Outcomes with Definitions, Internal Success Measures (ISMs), Exit Standards and Additional Commitments. The IVA is responsible for review of Defendants' assertions of compliance and may certify compliance only after determining

that the data reported and the measures and methods used to report that data are accurate, valid and reliable. (MCD, p. 4).¹

A. Exit Standards and Internal Success Measures

For the 66th Report, of the 126 measures, Defendants provide data for 40 of the measures and part a only of two additional measures. As stated previously, the Defendants do not report on all measures due to problems with data collection and poor data quality. In the 65th report, Defendants stated,

The Agency acknowledges that the ongoing methodology and data quality issues, as indicated by prior IVA and Agency reports, present limitations on the accuracy, reliability, and validity of some of the data for the current and past reporting periods. In close collaboration with the IVA, the Agency is committed to, and actively involved in, addressing these issues. The Agency will implement all the new measurement instructions on July 1, 2021.

(65th Rep., pp. 54-55). The IVA believes that it is detrimental to have inaccurate and unreliable data provided to the Court and the public and, generally, agrees with the decision to omit reporting on the majority of the measures.

However, the Plaintiffs expressed significant concerns about the lack of data and compliance reporting in the 65th Report. The IVA provided to the parties a list of data sources

¹ In past reports, detailed descriptions of MCD substantive requirements, measures and measures instructions, and compliance with Exit Standards and Internal Success Measures were provided. For the purposes of this report, so little has changed in terms of data quality and compliance with the MCD measures that there is minimal new information to provide. Rather than including in this certification report a detailed discussion of the measures that provides little to no new information, the reader is directed to prior comprehensive reports such as the IVA Responses to Defendants' 58th (filed February 28, 2019), 60th (filed June 25, 2019), and 62nd (filed March 12, 2020) Reports.

that the IVA believed could be reported accurately to the Plaintiffs. (Attachment 4, IVA Memo to Parties re Data Access for Defendants' 65th Report). These are a few of the small number of measures that did not rely on CJAMS, QSR or other sources that the IVA currently is unable to certify as accurate, valid and reliable. For the 66th Report, Defendants agreed to report on the limited number of measures for which they had data available or for which they could identify a source other than CJAMS for data collection. It is the hope of the IVA that accurate, reliable and valid data will be available for as many measures as possible in the 67th reporting period (July 1, 2021 - December 31, 2021) and for all of the measures no later than the 68th reporting period (January 1, 2022 - June 30, 2022). However, because there are a number of problems with the CJAMS application itself, and the projected dates for the application fixes are well into 2022, it is more likely that certification of reliability and accuracy will be delayed until at least the 69th reporting period (July – December 2022).

1. Data Quality

In the 66th Report, the Defendants provided data for the following measures, both Internal Success Measures (ISM) and Exit Standards: 1, 3a, 5, 6, 10, 18, 28, 38, 45-52, 67, 68, 72a, 73-76, 79, 80, 82, 89, 91, 92, 93, 100, 113, 116-119, 121-126. The Defendants have requested certification of measures: 28 and 121. Certification decisions are discussed later in this section.

The IVA continues to be concerned about reporting of data that is not accurate, reliable and valid to both this court and for public posting. Even this limited data reporting raises serious concerns which will be discussed briefly below.

1. Source of data is incorrect in the table provided by Defendants. For example, for ISM113/ES116 the Defendants indicate the data source as “CJAMS” and report a compliance level

of 86% (Def. 66th Rep., p. 66). However, this information was not available from CJAMS for the 66th reporting period but instead came, apparently, from the Personnel System of Record. Exit Standard 15 is reported as being divided into two parts – 15a and 15b. In fact, the measure instructions agreed upon in April, 2021, made ES15 one part composed only of data from the QSR. The source of information for Exit Standard 48 is indicated to be “Quality Assurance Review”; the correct source of information is CJAMS.

2. Some reported compliance levels are alarmingly low - below 15%. While Defendants acknowledge issues with the accuracy, reliability and validity of their data due to lack of documentation in CJAMS, the IVA continues to be concerned about data that shows compliance levels to be alarmingly low. These measures include:

Measure 3a (90 percent of children and families in family preservation had a case plan):
2.48%

Measure 6 (percent of children who had a comprehensive assessment within 60 days of placement): 11.57%

Measure 18 (percent of all new entrants for whom a family involvement meeting was held within 72 hours of placement): 0.34%

If these compliance levels are indeed due to lack of documentation or proper documentation in the system of record, we expect to see significant improvement during the next reporting period.

3. Incorrect reporting of Exit Standards and their aligned ISMs. An example of this type of reporting error occurs in reporting compliance levels for measures 45 (ISM) and 48 (ES). Both require reporting “the percent of kinship care providers who received written notification of the right to apply for foster home licensing within days of placement.” The only difference between these measures is the 90% compliance threshold required for ES 48. Yet, Defendants report

45.10% for measure 45 and 56.10% for measure 48 (Defs' 66th Rpt, p. 53). Similarly, the Defendants report measures 71a (ISM) and 72a (ES) differently (Defs' 66th Rpt, p. 58). These measures report documented monthly visits by caseworkers in the child's placement. The measure instruction requires compliance for each of the six months of the reporting period. Measure 71a is reported correctly as six separate monthly compliance levels for each month of the reporting period. Measure 72a is reported as an average of the monthly compliance levels reported in Measure 71a. This is incorrect, and 72a should be reported as individual months, not an average.

4. Measures that are simply inexplicably low. Some of the measures reported by Defendants do not rely on CJAMS for reporting during this period and, therefore, their low compliance rates cannot be explained by workers being unfamiliar with where to document their activities in the system. Examples of these measures are:

Measure 48 (90 percent of kinship care providers who received written notification of the right to apply for foster home licensing within ten days of placement): 56.10%

Measures 119/122 (percent of caseworkers and supervisors who had at least twenty hours of training annual): 40.61%

Measures 123/125 (percent of cases transferred with required documentation within five working days): 43.7%

Measures 124/126 (percent of transferred cases in which a case conference was held within ten days of the transfer): 28.8%

2. MCD, Part Two, Section I, Preservation and Permanency Planning

The Preservation and Permanency Planning section of the MCD includes five Outcomes containing a total of seven Exit Standards. Defendants do not claim compliance with any of the seven Exit Standards in this section. They have requested certification of ISM 28.

Internal Success Measure 28: *Number of youth, ages eighteen to twenty-one, who exited OHP through rescission.*

The measure instructions for newly revised Internal Success Measures 28 accurately reflect the requirements of the MCD. (Attachment 5, Measure Instruction ISM 28).

Data Reported: 1 youth

IVA Response: One youth is reported to have exited care through rescission. At the time of rescission, this youth was 19 years old. The request for rescission was made by the youth's attorney and granted by the court over the objection of BCDSS. Jurisdiction remained open in the case. Subsequently, the youth requested to re-enter care and was recommitted to BCDSS in July 2021.

The IVA has reviewed the data and confirms the data as reported by Defendants for the 66th reporting period. This data was confirmed by reviewing the SSA Caseworker Verification Report and confirmed by individual case review in the Quest court system.

3. MCD, Part Two, Section II, Out-of-Home Placement

The OHP section of the MCD includes twelve Outcomes containing a total of fourteen Exit Standards. While Defendants are not seeking certification for any of these measures, the IVA is including a brief review of Measure 38.

Internal Success Measure 38: *Number of emergency foster homes on retainer and the number of beds available in each home.*

Data reported: 0 beds.

Defendants have declined to keep foster homes on retainer for this purpose. However, it is clear from continued hospital overstays and use of office buildings and hotels as unlicensed placements, as well as frequent placement changes for too many children, that the challenges of identifying placements for children, particularly those in crisis and those with high intensity behavioral health needs, continues.

4. MCD, Part Two, Section III, Health Care

The Health Care section of the MCD includes five Outcomes containing seven Exit Standards. Defendants do not claim compliance with any of those Exit Standards.

5. MCD, Part Two, Section IV, Education

The Education section of the MCD includes three Outcomes containing six Exit Standards. Defendants do not claim compliance with any of those Exit Standards.

6. MCD, Part Two, Section V, Workforce

The Workforce section of the MCD includes three Outcomes containing six Exit Standards. Defendants claim compliance with one of those Exit Standards - Measure 121. Defendants also report data for two related internal success measures – 117 and 118.

Exit Standard 121: *95 percent of caseworkers met the qualifications for their position title under Maryland State Law.*

Reported compliance level: 100%.

IVA certification: Yes

The measure instruction for newly revised Exit Standard 121 accurately reflects the requirements of the MCD. (Attachment 5, Measure Instruction, Exit Standard 121). It follows the language of Maryland Human Services Article §4-301 which requires, with one exception, that Defendants hire as caseworkers only human services professionals who are licensed by the state in areas such as social work and psychology. Unlicensed individuals may be hired only if they meet the following criteria: (1) have a bachelor's degree in an "appropriate behavioral science"; (2) complete mandatory pre-service training; and (3) are supervised by licensed social workers. All new caseworkers must pass a competency test after the pre-service training and prior to being granted permanent employment and assigned cases. Measure 121 requires reporting on newly hired caseworkers during the reporting period in which they are first assigned a case.

From the data provided, it appears that 22 caseworkers were first assigned a case between January 1 - June 30, 2021. For all of those caseworkers, Defendants provided documentation of either an MSW in social work or related field or a bachelor's degree in an "appropriate behavioral science," and (2) proof of completion of the mandatory pre-service training and passage of the competency examination prior to assignment of a first case. For those new caseworkers without a social work license, they also provided documentation of their supervisors' social work license. The IVA finds that the procedures used by Defendants to collect this information and the data provided are reliable, valid and accurate. For that reason, the IVA certifies Defendants' compliance with Exit Standard 121 for the 66th Report period.

Internal Success Measure 117: *Percent of caseworkers who qualified for the title under Maryland State Law.*

Internal Success Measure 118: *Percent of case-carrying workers who passed their competency exams prior to being assigned a case.*

The measure instructions for newly revised Internal Success Measures 117 and 118 accurately reflect the requirements of the MCD. (Attachment 5 Measure Instructions ISM 117 and ISM 118). The MCD does not require a specific level of compliance with the Internal Success Measures. However, the IVA does examine the claimed levels of compliance to determine if they are accurate, reliable and valid. The IVA finds that Defendants' claimed compliance level of 100% with Internal Success Measures 117 and 118 meet those criteria.

Internal Success Measure 117 has the identical requirements to Exit Standard 121. Therefore, the reasoning and findings made above for Exit Standard 121 are the same for Internal Success Measure 117. The 100% compliance level reported for Measure 117 is certified as accurate, reliable and valid.

Internal Success Measure 118 is a subset of the requirements of Exit Standard 121. Its requirements are limited to ensuring the passage of competency exams prior to caseworkers being assigned their first cases. As stated above, Defendants have provided reasonable documentation of the dates of passage of the competency exam for all of the new caseworkers to whom cases were assigned during the 66th Report period. Therefore, the 100% compliance level reported for Measure 118 is certified as accurate, reliable and valid.

B. Additional Commitments

Four of the five sub-sections of the MCD also have Additional Commitments included. These twenty-two Additional Commitments are included in the MCD to cover issues of importance

to the welfare of the children served by BCDSS which do not fit neatly into the ISMs/Exit Standards measures format. Defendants are required to report on compliance with the Additional Commitments in each six-month compliance report. Starting with their 63rd report, Defendants have provided some limited documentation which purported to support their assertions of compliance with the Additional Commitments. In the Certification Reports, the IVA reviewed each of the Additional Commitments for compliance and provided detailed feedback to the Defendants. In several instances, the IVA provided specific information as to what was missing for compliance determinations in hopes that Defendants would produce the needed documentation in future reports.

In their 66th Report, Defendants again report compliance or partial compliance with most of the Additional Commitments but still did not provide the documentation needed to support most claims of compliance. The IVA is able to certify five of the twenty-two Additional Commitments. They are as follows:

Preservation and Permanency, E. 7. - Guardianship Subsidies

Out-of-Home Placement, E. 5. - Semi-Independent Living Arrangement Rate

Out-of-Home Placement, E. 8. - Funding for Child Care to Caregivers

Health Care, E. 1. – BCDSS Health Care Initiative

Health Care, E. 2. – BCDSS Health Care Advisory Council

Much of the rationale for the certification decisions remains the same for the 66th reporting period as it did for the 65th Report. Rather than repeating it in the body of this report, a review of the Additional Commitments and the reasons for certification decisions are included as Appendix 1 to this report.

C. Other Reporting Requirements

Both the first and second parts of the MCD contain a number of other reporting requirements. (See IVA Resp. to 64th Rep., Att. 1, *L.J. MCD Notification and Reporting Requirements* (IVA, 7.12.19)). Defendants have reported on five of these other reporting requirements in the 66th Report.

1. MCD Part One, Section II. Verification Activities and Information Sharing

F. The Plaintiffs shall have access to the following: ... 4. Within one working day, Plaintiffs' counsel shall be notified of the serious injury or death of any class member and shall be provided timely the incident report, any reports of the investigative outcomes, and access to the child's case file.

Defendants state: "BCDSS continues to notify the Plaintiffs' counsel of the death of any class member as required by this provision of the MCD. The Agency strives to ensure timely submission of required incident and fatality reports." (Defendants' 66th Report, p. 21).

Since May 2021, Defendants have provided 12 initial fatality reports within no more than three days of the deaths. Five final fatality reports were received within two weeks of the reports' completion dates. According to BCDSS, final fatality reports were not done in three cases where there were clear medical causes of the deaths and no indication of abuse or neglect, and one report was delayed and is still pending. The other three final reports, dated October 29, 2021, December 6, 2021, and December 10, 2021, were not provided to the IVA or Plaintiffs' counsel until a follow-up request was made on February 28, 2022. The IVA also remains concerned about the paucity of information and recommendations provided in some of the final fatality reports where the reports appear to be solely a summary of the neglect and abuse investigation disposition.

Of the incident reports received by the IVA, they generally were provided soon after the events occurred, although not always within one working day. One exception was around the winter holidays, when a number of reports of COVID infection were provided late. In addition, there were few follow-up reports provided to critical incident reports over the past six months.

2. MCD Part One, Section II. Verification Activities and Information Sharing

F. The Plaintiffs shall have access to the following: ... 5. Defendants shall promptly provide to the Independent Verification Agent and to Plaintiffs' counsel all publicly available reports that Defendants receive indicating that they are not in compliance with a requirement of this Decree.

The Defendants state: "There are no such reports known to Defendants at this time." (Defendants' 66th Report, p. 21).

The IVA received no such reports during the reporting period. The IVA is not aware of any such reports received by Defendants but not provided to the IVA as required.

3. MCD Part One, Section III, Communication and Problem-Solving

E. By December 31, 2009, Defendants, after consultation with the Internal Verification Agent, Plaintiffs' counsel and stakeholders, shall establish a standardized process for resolving issues related to individual class members. ... Records shall be kept of the issues raised and their resolutions, and summary reports shall be provided to the Internal Verification Agent and Plaintiffs' counsel every six months.

Defendants offer conflicting statements regarding compliance with this reporting requirement. First, Defendants state: "The Agency believes that [it is in] compliance with this commitment." However, at the end of the same paragraph, Defendants state: "The Program Manager for Court Processes and the IVA will continue to discuss how to improve this process to achieve certification." (Defendants' 66th Report, p. 22).

Defendants provided to the IVA a summary of the complaints received during the 66th reporting period. (Attachment 6, Complaint Process Summary for L.J. 66th Compliance Report, received January 12, 2022). Rather than providing details of individual cases, the summary describes three types of cases which made up the 47 complaints received during the reporting period - payment issues, COVID and visitation issues, and communication issues. The summary provides helpful information about steps taken by BCDSS management to respond timelier to issues raised and to try to mitigate the problems in the future. These are important, commendable steps toward utilizing the complaint process to contribute to system improvement.

There remain some matters to be addressed towards full compliance with this requirement:

1. The summary does not speak to questions about whether the process as presented to Plaintiffs' counsel and the IVA and described in the brochure created for public dissemination was followed. For example, were complaints acknowledged in writing within three business days? If the complaint took more than 30 days to resolve, was a letter sent to the complainant to advise them about when the issue would be resolved? After the review/investigation of the reported issue was completed, was a letter sent to the complainant by the Director with the outcome?

2. While the report includes the three broad categories of complaints, it does not provide any information about the substance of the complaint resolutions. For example, were all of the financial complaints verified as true? If so, how long did it take to get the tardy payments to the caregivers? Were there any further delays in payments to those caregivers?

3. The parties had agreed that the IVA would be granted access to the tracking system to obtain ongoing real-time status updates of all reported issues. However, it appears that the tracking system was not utilized at all during the reporting period, and the IVA was unable to get a list of

complaints, much less their real-time status updates. Due to the failure to keep the tracking system updated, the IVA has not had the opportunity to verify the outcome of the submitted complaints nor how long it took to resolve complaints. The IVA requests that real-time tracking of complaints, with access to the IVA, be resumed.

4. MCD Part Two, Section II. Out of Home Placement, Section D 1. a. (4)

Plaintiffs' counsel will be notified within ten working days of any child being placed on a waiting list or in temporary placement.

Defendants state: "BCDSS implemented a comprehensive overstay and waitlist that is sent every week to DHS, Plaintiffs' counsel, and the IVA." (Defendants' 66th Report, p. 37). For the first half of the reporting period, Defendants sent a weekly overstay list. They began adding children on waiting lists to that report in March 2021. Because waiting list information was not sent for the full reporting period, the Defendants were not in compliance with this reporting requirement. For the next reporting period, the IVA will need to explore ways to verify the information provided and to verify that these lists include all children awaiting placements.

5. MCD Part Two, Section II. Out of Home Placement, Section D. 9. a. (1) (b)

... Within five business days of receipt of a [maltreatment in care] report, BCDSS shall notify the attorney for the child, the child's parents and their attorneys ..., Plaintiffs' counsel An unredacted (except the name of and identifying information about the reporter and privileged attorney-client material) copy of the report must be provided to the child's attorney and Plaintiffs' counsel. The completed unredacted ... disposition report must be provided to the child's caseworker, child's attorney and to Plaintiffs' counsel within five business days of its completion. ...

Defendants state: "BCDSS makes efforts to comply with this requirement by providing timely notice and report of all incidents that are required of this commitment. Notices and reports as required herein are provided by the Legal Services Division and the Agency continues to work

on refinements to the process to capture all incidents that fall under the categories specified in the MCD to be in complete compliance with its requirements.” (Defendants’ 66th Report, p. 37).

Unfortunately, as the IVA has continued to raise time and time again, there continue to be a number of reports and dispositions that are never received or received well beyond the required five-day time frames. Between July 1 - December 31, 2021, there were at least 23 instances when Defendants received a report of provider-involved maltreatment and never provided the report to the IVA or Plaintiffs’ counsel (nor, likely, child’s CINA counsel as well). This was more than one-half of the reports received. In about one-third of those cases, Defendants provided a Critical Incident Report to the required parties but in the rest no notice of abuse or neglect of the child while in OHP was ever provided. In at least 11 cases, the IVA never received a disposition of a maltreatment-in-care report that was finalized during the period between July 1 - December 31, 2021. It is inexplicable why this continues to be such a challenge. Again, the IVA urges Defendants to make whatever corrections are necessary so that the IVA does not have to report this negative result yet again in the future.

VII. CONCLUSION

In the second half of the 66th Report period and to date, Defendants have shown a much greater commitment to the work of data collection and reporting. With both the CJAMS application and report development continuing to be a significant challenge, Defendant DHS will need to redouble its commitment to obtaining the resources necessary to create accurate data reporting. At the local level, under the leadership of BCDSS Director Stocksdales, the IVA sees a renewed commitment to the requirements of the MCD and best casework practice, as well as holding staff accountable to document their work fully and properly. With better data, the

Defendants should be able to identify and support needed programs and services for children and youth in their care. Realizing those commitments will require, among many other things, continued emphasis on hiring more qualified staff, developing stronger leadership and coaching skills for all levels of supervisory staff, and investment in the development of meaningful relationships with Baltimore's most vulnerable communities and the organizations that they trust.

Respectfully Submitted,

/s/

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