

L. J. v. Massinga Independent Verification Agent
CERTIFICATION REPORT FOR DEFENDANTS'
65th COMPLIANCE REPORT
July 1, 2020 – December 31, 2020

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TABLE OF CONTENTS

	<u>Page</u>
Executive Summary	3
I. Introduction	7
II. Changes in BCDSS Leadership	7
III. Defendants' Compliance with the MCD	7
A. Timeliness of Defendants' Report	8
B. MCD Measure Certification for 65 th Reporting Period	8
C. Progress Since 2009 (entry of MCD)	8
IV. Data Collection and Reporting	12
A. Measure Instructions	12
B. Ongoing Data Validity, Reliability and Accuracy Concerns	13
C. Development of Data Reports for the MCD Measures	14
D. Access to Data and Improvement Communication	15
E. Quality Service Reviews (QSR)	16
V. IVA Certification Decisions	17
A. Exit Standards and Internal Success Measures	17
1. Preservation and Permanency	18
2. Out-of-Home Placement	19
3. Health Care	20
4. Education	20
5. Workforce	20
B. Additional Commitments	22
C. Other Reporting Requirements	23
VI. Conclusion	28
List of Attachments	30
Appendix 1. IVA Response to Additional Commitments	

EXECUTIVE SUMMARY

This is the Independent Verification Agent's (IVA) Certification Report for the Defendants' 65th Compliance Report covering the six-month compliance reporting period of July 1 – December 31, 2020. The purpose of the IVA's report is described in the *L.J. v. Massinga* Modified Consent Decree, Part One, Section II, J., which states:

Every six months, Defendants shall submit to the Court, with a copy to the Plaintiffs, a report addressing their performance under the Internal Success Measures and Exit Standards and compliance with the Additional Commitments of Part Two of this Decree, based upon data reflecting performance for the six-month period covered by that report. The report shall contain a certification by the Independent Verification Agent as to the accuracy of the report or a statement by the Independent Verification Agent of the portions of the report that are not certified and the reasons why they have not been certified.

Defendants' report was received by the IVA on June 2, 2021. This is the second consecutive reporting period where the Defendants' report was submitted to the IVA more than five months after the end of the reporting period. As a result, some of the data provided is now more than a year old. The 65th Report is significantly different from prior reports in that Defendants report data on only 5 of the 126 measures because of the changes in the measure instructions and an acknowledgment of the unreliability of much of the data. The IVA agrees with the decision; it is detrimental to have inaccurate and unreliable data provided to the Court and the public.¹

COMPLIANCE WITH THE MODIFIED CONSENT DECREE

More than ten years has passed since the Modified Consent Decree (MCD) was signed. As noted in the IVA's 64th report, over these past ten years, only four of the forty Exit Standards have ever been certified as compliant, and, since 2016, only two. For this reporting period, one Exit Standard, Measure 121, will be certified as compliant.

¹ Beginning with the 64th Report, Defendants are posting their report and the IVA's Certification Report on the DHS website at <https://dhs.maryland.gov/consent-decree/>.

It is important to note that the entirety of this reporting period was impacted by the COVID pandemic. Defendants were required to move the majority of their work to remote status at the end of March 2020 and this continued through the end of the 65th reporting period. This resulted in many changes to practice and policy and had an impact on compliance with the MCD.

There have been improvements by Defendant BCDSS since 2009 including the decrease in the number of children in out-of-home care overall; implementation of a Quality Service Review (QSR) program; the improvement and expansion of Ready by 21 programming; and, more recently, improved communication between the BCDSS Director and IVA with greater access by the IVA to information and staff and through participation in measure instructions drafting. However, the IVA is concerned with Defendants' assertion in their report, that "when examining practice using federal standards, BCDSS is performing well on some key metrics." While these metrics are not specified, a review of this data indicates for BCDSS that the rate of entry into OHP is far higher for BCDSS than the federal standard; the current OHP population has not declined in a meaningful way since 2017; and BCDSS has not met the federal standards for children to achieve permanency after one, two or three years in foster care.

DATA COLLECTION AND REPORTING

The IVA remains troubled by continuing problems with data validity, reliability and accuracy. These issues should be addressed, at least in part, with completed valid measure instructions and improved data collection. Measure instructions are required to 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 years of delay with the drafting of new, more accurate measure instructions, an issue repeatedly raised by the IVA, Defendants submitted draft measure instructions for most of the MCD measures in January 2021. Lengthy but productive discussion of these draft measure began in January and continued through June 2021. BCDSS is working to implement the new measure instructions beginning July 2021. Defendants' first opportunity to have valid, accurate and reliable data collection and reporting available for the measures will be the 67th reporting period (July 1 – December 31, 2021).

With the transition in June 2020 to the new Child Juvenile & Adult Management System (CJAMS), the IVA hopes to see improved data collection. 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. The progress as of the date of this report is so slow as to impede the ability to input properly and collect sufficiently accurate data even for the 67th Report period, potentially postponing once again the ability to create a reasonably accurate, reliable and valid report until well into 2022.

IVA communication with the Defendants has improved markedly since November 2020 under the leadership of Director Stocksdales, and the IVA appreciates her and her staff's attention to the MCD and the completion of measure instructions as well as to addressing challenging practice issues.

CERTIFICATION OF MEASURES AND ADDITIONAL COMMITMENTS

In their 65th Report, Defendants request certification of one Exit Standard - Measure 121. Defendants further state that they are "confident to report on the following measures" all of which are internal success measures - 28, 38, 117 and 118. Unfortunately, some of the data

reported for these internal success measures is inaccurate. Exit Standard 121 and each of these internal success measures will be discussed in Section V below.

In addition to the 126 measures, the MCD contains twenty-two Additional Commitments to cover issues of importance to the welfare of the children served by BCDSS which do not fit neatly into the measures format. In their 65th report the Defendants report full or partial compliance with sixteen of these Additional Commitments, as well as other varying degrees of compliance. Given the data provided in and with Defendants' report, the IVA is able to certify compliance with five of the twenty-two Additional Commitments.²

CONCLUSION

The Defendants remain non-compliant with the MCD. The development of final, accurate measure instructions is vital to the collection of valid, reliable and accurate data. Defendants submitted draft measure instructions for all quantitative measures as of January 15, 2021, and the Defendants and the IVA participated in meetings and work sessions to work towards an agreement on the full set of measure instructions through the first half of 2021. These measure instructions 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.

² A discussion of all Additional Commitments is Appendix 1 to this report.

**IVA CERTIFICATION REPORT FOR
DEFENDANTS' 65th COMPLIANCE REPORT**

This is the IVA's Certification Report for the Defendants' 65th Compliance Report covering July 1, 2020 to December 31, 2020.

I. INTRODUCTION

Defendants Baltimore City Department of Social Services (BCDSS) and Maryland Department of Human Services (DHS) provided their 65th Report to the IVA on June 2, 2021, five months after the reporting period ended. The 65th Report is the 23rd Compliance Report since the Modified Consent Decree (MCD) was entered in October 2009.

II. CHANGES IN BCDSS LEADERSHIP

More than ten years has passed since the Modified Consent Decree (MCD) was signed. Over these ten plus years, there have been multiple changes in leadership including four DHS Secretaries. During the 65th reporting period, Brandi Stocksdales was appointed Director of the Baltimore City Department of Social Services following the departure of Dr. Randi Walters. Ms. Stocksdales is the sixth Director over a ten-year period.

Ms. Stocksdales brings significant local and state child welfare experience to the position. The IVA has been in regular communication with Ms. Stocksdales and her staff since her appointment. The IVA continues to have open communication and a productive working relationship with Director Stocksdales and her team.

III. DEFENDANTS' COMPLIANCE WITH THE MCD

A. Timeliness of Defendants' Report

Defendants' report was received by the IVA on June 2, 2021. This is the second consecutive reporting period in which the Defendants' report was submitted to the IVA more than five 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. It 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. The Office of the IVA has very limited staff. The uncertainty of when the Defendants' report will be received and the delay in receipt create a challenging schedule for the IVA to submit their report on a timely basis.

B. MCD Measure Certification for 65th 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 ten years has passed since the MCD was signed, and compliance has yet to be achieved. For the 65th reporting period, the Defendants report data for only five measures and are seeking certification of only one - Exit Standard 121. Defendants further reported that they are “confident to report on the following measures” (all of which are internal success measures): 28, 38, 117 and 118. Discussion of these measures will be presented in section V of this report.

C. Progress since 2009 (entry of MCD order)

In the 65th Report, in addition to reporting on particular measures, Defendants share system updates under the MCD. The IVA appreciates Defendants' candor in acknowledging that

“substantial progress is needed on meeting and/or measuring the MCD measures.” Furthermore, the IVA agrees, and has expressed in numerous reports, that “some of the reported compliance data does not fully represent the quality of the Department’s services to children.” (65th Rep., p. 7).

The IVA acknowledges some of the improvements since 2009 including the decrease in the number of children in out-of-home care overall; implementation of a Quality Service Review (QSR) program; the improvement and expansion of Ready by 21 programming; and, more recently, improved communication between the Director and IVA with greater access to information and staff and participation in measure instructions drafting. In their report, Defendants also assert that “when examining practice using federal standards, BCDSS is performing well on some key metrics.” (65th Rep., p. 7). Defendants reference and attach a document titled “Performance on SSA Headline Indicators” (issued February 12, 2021 for September – December 2020 - state fiscal year (FY) 2021, second quarter) (65th Rep., Att. 1), but they do not specify to which “key metrics” they refer.

In the “Performance on SSA Headline Indicators” report, Defendants provide data on only two of the five federal safety indicators, on all of the seven federal permanency indicators, and on one of the six federal well-being indicators, stating that data for some of the indicators is still being verified. (65th Report, Att. 1 at p. 3). While Defendants are meeting the federal standards on the two safety measures reported, they do not report on the only safety measure pertaining directly to out-of-home care – the incidence of maltreatment while in out-of-home care. Rather than performing well on the permanency indicators, which all pertain to OHP, Defendants are not meeting the federal standards for five of the seven permanency indicators. The permanency indicators primarily address the number of children entering OHP and the time

it takes for them to leave foster care for a permanent home through reunification with a parent, or adoption or custody and guardianship by a relative or non-relative. They also are performing below overall Maryland performance for those five indicators.

The first permanency indicator is the rate of entry into OHP. The federal standard is 1.5 children per 100,000 children in the population. Baltimore City's rate, while steadily falling since 2018, is still at 5.1 children per 100,000 children in the population. This is more than 200% higher than the federal standard. In contrast, Maryland as a whole, even including Baltimore City's high entry rate, currently falls below the 1.5 children per 100,000 children federal standard.

For current system performance purposes, the continuing high entry rate is a more useful statistic on which to focus, rather than the oft-repeated dramatic reduction in OHP population since 2009. Maryland data³ reveals that the steady reduction in BCDSS' foster care population stopped in FY 2016, when the median OHP population was 1,923. Since then, it has fluctuated up and down by a little less than 100 children - 1,843 in FY 2017, 1,879 in FY 2018, 1,924 in FY 2019, 1,818 in FY 2020, and 1,848 in FY 2021. The median population in FY 2021 is actually slightly higher than FY 2017's 1,843 children.⁴

The reasons behind the lack of improvement in reducing the OHP population level since FY 2017 become clearer with examination of the other six federal permanency measures which

³ Maryland Child Welfare Trends data includes OHP population and many other data points for the entire child welfare system, including Child Protective Services, Family Preservation, Resources and Support (foster homes) and OHP. It is publicly available on the DHS website at [https://dhs.maryland.gov/business-center/documents/under SSA/Monthly Child Welfare Data](https://dhs.maryland.gov/business-center/documents/under_SSA/Monthly_Child_Welfare_Data).

⁴ A full year under the pandemic, FY 2021 saw a significant reduction – almost 50% - in the number of children entering OHP. However, its impact on the OHP total population number was offset at least somewhat by the inclusion in the total population for FY 2021 of more than one hundred young adults who were permitted to remain in the foster care system when they turned 21 rather than “aging out” under the extremely poor economic conditions of the pandemic. That extension is set to end on September 30, 2021; at that point the total OHP population will decrease by more than one hundred.

provide data on permanency rates after entry into OHP and re-entry after leaving OHP. These measures are: (1) the rate of permanency at 1 year, (2) the rate of permanency at 2 years, (3) the rate of permanency at 3 years and (4) the rate of reentry into OHP after reunification.

<u>Permanency after OHP Entry</u>	<u>Federal Standard</u>	<u>Baltimore City's Rate</u>
Within one year	41%	38%
Within two years	44%	17%
Within three years	30%	10%

(65th Rep., Att. 1, p. 5). As the chart illustrates, for each year that a child spends in OHP in Baltimore City, the likelihood of the child reaching permanency gets markedly worse.

The final three indicators address re-entry into OHP within twelve months of exiting OHP to “permanency.” Baltimore City’s re-entry rates from adoption and guardianship are slightly better than the federal standard (4% compared to 5% and 0% compared to .25%, respectively); however, the rate of re-entry from reunification is 16% - 4 percentage points above the federal standard of 12%. Sixteen percent re-entry rate from reunification is certainly an improvement over Baltimore City’s more than 25% in FY 2017. However, it also coincides with the first year of the pandemic (2020), when significantly fewer – more than 25% fewer - children in total entered OHP –506 children compared with the prior year (2019) total of 688 children. While the data as to how many of the children who did enter OHP were re-entries is not currently available to the IVA, it is likely that at least some of the children who would have re-entered in earlier years did not re-enter due to the pandemic.

At this point, no one knows what post-pandemic OHP will look like. Hopefully the lower re-entry rate trend will continue. It is critical that the permanency rates for children in OHP, especially after their first year in care, are reduced significantly. Defendants may wish to start measuring their accomplishments not in contrast to 2009, eleven years in the past, but in contrast to more recent years. The IVA believes that increased compliance with much of the MCD – particularly in the areas of case planning, skilled use of all types of family involvement meetings, improved outreach to and support of kin as caregivers, support of children and youth in the areas of health and education, and lowered caseloads – will help to improve Defendants’ performance in the federal standards in all areas. Improving the Agency’s engagement with both families and the community as well as utilizing the opportunities that the Family First Prevention Services Act offers are additional areas in which improved performance appears to have helped improve compliance in at least one other jurisdiction under a consent decree. See, e.g., *LaShawn A. v. Bowser* Progress Report for the Period January 1 – December 31, 2020, at p.16.⁵

IV. 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.) Measure instructions are required to 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.

⁵ <https://cssp.org/wp-content/uploads/2021/03/LaShawn-A-v.-Bowser-Report-for-Period-Jan-Dec-2020.pdf> (downloaded July 25, 2021).

As described in the IVA's Response to Defendants' 64th Report, 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.

As promised, Defendants provided a full set of draft quantitative measures on January 15, 2021. Defendants also provided a list of proposed qualitative measures (without measure instructions) to be assessed by the Quality Service Review (QSR) program. Since that date, the Defendants, IVA and Plaintiffs' counsel have 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. A full set of the new instructions should be available to be posted on Defendants' website and included with Defendants' 66th Report, due in early fall, 2021.

BCDSS staff is working now to develop tip sheets for and to provide training to staff to implement the new measure instructions.

B. Ongoing Data Validity, Reliability and Accuracy Concerns

In June 2020, Defendants began the conversion of the child welfare data system from the CHESSIE system to the Child Juvenile and Adult Management System (CJAMS). The parties have agreed over the years that the inflexible and non-user-friendly nature of the CHESSIE system was a major impediment to determining actual compliance with the MCD. Unfortunately, as is common with any large database transition project, 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 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 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

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 for which Defendant Department of Human Services is responsible, primary responsibility for extracting the necessary data from CJAMS will shift to DHS with the implementation of the new measure instructions. The work of developing the reports is challenging for a number of reasons: (1) the report developers are not the same individuals who developed the CJAMS database interface, and are not individuals

familiar with child welfare practice or L.J.; (2) while CJAMS has been implemented statewide as the database for child welfare, there remain a number of development and implementation problems which result in erroneous data reporting results; (3) there continue to be problems with some of the data that was exported from the prior CHESSIE system; (4) there is no data dictionary available as of yet for CJAMS, meaning that neither report developers nor agency staff can determine in advance which fields will be needed to obtain the necessary data; and (5) staff negotiating the measure instructions did not have enough experience or familiarity with the CJAMS interface to anticipate problems in extracting certain types of data from the CJAMS database. 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 period, postponing once again the ability to create a reasonably accurate, reliable and valid report until well into 2022.

D. Access to Data and Improved Communication

Defendants have continued to provide some basic data, including the reports referred to by SSA as the "Milestone Reports" on a regular basis. Defendants still do not provide management reports such as those for caseworker caseloads or resource home approvals and recertifications.

Beyond increasing access to agency data, BCDSS leadership under Director Stocksdale has offered the IVA, Plaintiffs' counsel and some other stakeholders more opportunities to engage with the BCDSS staff, including quarterly meetings with children and parents' CINA counsel and monthly letters in between those meetings.

Some of the recent opportunities for the IVA have included:

- IVA staff invited monthly to some management meetings.

- IVA feedback sought on newly drafted Standard Operating Practices (SOP).
- Meeting with Program Manager for Resources and Support to discuss the SAFE Home Study process.
- IVA participation in LJ report development meetings.
- IVA observation of FIM (Family Involvement Meeting) and other trainings.

These efforts are appreciated and helpful to the work of the IVA. We encourage the administration to continue them and to expand their openness to the wider community, prioritizing increased meaningful access and listening opportunities to the families and youth served by the agency.

E. Quality Service Reviews (QSR)

The QSR Program Manager has 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 have been made to the QSR reporting document to reflect the changes in the measure instructions with the intention of implementing the new measure instructions for OHP as of July 1. It is apparent that the BCDSS and the QSR staff have worked to improve the quality of reviews being conducted for the QSR program, and the IVA has been assured that children are now being seen in person as part of the reviews. The IVA also has been assured that reviews will be done by two reviewers, as is required for fidelity to the QSR model. As a result, the IVA intends to re-start the practice of reviewing the quality of reviews and participating in Inter-rater Reliability Review sessions on a regular basis to attempt to determine before the end of the 66th Report period whether the reviews are done with sufficient fidelity to the QSR model and with sufficient quality that their results can be certified as accurate, reliable and valid for *L.J.* reporting purposes.

At the October 2019 *L.J.* Problem-Solving forum, the Defendants agreed to include in an upcoming BCDSS staffing report a plan to staff QSR reviews for the Family Preservation Program (FPP). No such staffing report or plan has been provided. Defendants appear to lack sufficient QSR staff at this time to review the required number of both OHP and Family Preservation Program cases.

V. IVA CERTIFICATION DECISIONS

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

- I. Preservation and Permanency Planning
- II. Out-of-Home Placement (OHP)
- 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).⁶

A. Exit Standards and Internal Success Measures

The 65th Report differs significantly from prior reports in that Defendants report data on only 5 of the 126 measures. By way of explanation, Defendants state,

⁶ 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.

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 agrees with the decision to omit reporting on all of the data other than that for Measures 117, 118, and 121. These are a few of the small number of measures that do not rely on CJAMS, QSR or other sources that the IVA currently is unable to certify as accurate, valid and reliable.

In the 65th Report, the Defendants seek certification of one Exit Standard - Measure 121. In addition to Measures 117, 118, and 121, the other two ISMs on which Defendants report – Measures 28 and 38 - are discussed below but not certified as accurate, valid and reliable.

1. 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. However, the Defendants state they are “confident to report” on one Internal Success Measure for this section: Measure 28.

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

Data Reported: 4 youth. The Defendants shared data indicating that all of these youth exited care to a “family setting,” specifically that they were reunified with a parent. This data is not accurate. A review of the court documents in the Baltimore City Juvenile Court QUEST database system show that of the four youth, three were reunified with a parent, but the

remaining youth was not reunified with a parent but instead enlisted in the military which led to the rescission of commitment. This is a permissible reason for rescission under agreement of the parties to the MCD, but the reporting of the data is inaccurate.

In addition to the four youth for whom Defendants reported rescission, an additional four (4) youth ages 18 to 20 had their commitment rescinded during the reporting period. A review of these cases in Quest confirms these four rescissions. While they may have been permissible rescissions under the agreement between the parties, the information was not included in the 65th Report. The IVA's confirmation of these additional rescissions means that the data reported to the Court and the process for gathering it cannot be considered accurate, valid or reliable.

2. **Out-of-Home Placement**

The OHP section of the MCD includes twelve Outcomes containing a total of fourteen Exit Standards. Defendants do not claim compliance with any of the seven Exit Standards in this section. However, the Defendants state they are "confident to report" on one Internal Success Measure for this section: 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. While the reporting of this numerical data may be accurate, the Defendants do not provide adequate explanation for their decision not to keep foster homes on retainer as required by the MCD. In their 65th report, the Defendants state that "BCDSS does not currently have foster homes on retainer for this purpose. This is explained further in the additional commitment section." (Defendants' 65th Report, p. 48). However, in response to OHP Additional Commitment 4, which requires "stipends to emergency shelter care homes ... to assure that such homes remain available for emergency placements," Defendants state that

“BCDSS has identified and approved emergency home placements, a category of home approval signifying a caregiver’s willingness to be an emergency resource.” (Defendants’ 65th Report, p. 41). They do not explain what appears to be a contradiction in the two responses. What 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, is that “the challenges of identifying placements for children in crisis continues to be real, as does the challenge of stabilizing youth with high intensity behavioral health needs.” (Defendants’ 65th Report, p. 41)

3. 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.

4. 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.

5. 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 (Att. 1) accurately reflects the requirements of the MCD. 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 44 caseworkers hired in 2020 were first assigned a case between July 1 – December 31, 2020. 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 65th 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 (Att. 2) and 118 (Att. 3) accurately reflect the requirements of the MCD.

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 65th 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. With the 63rd and 64th reports, Defendants 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 65th 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 only 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 65th reporting period as it did for the 64th 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 Att. 1 to IVA Resp. to 64th Rep., *L.J. MCD Notification and Reporting*

Requirements (IVA, 7.12.19)). Defendants have reported on five of these other reporting requirements in the 65th 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' 65th Report, p. 30). In December 2020, the IVA and Plaintiffs' counsel received timely notice of the deaths of two children in OHP who died during that month – the only children in OHP who were reported to have died in 2020. One was the shooting death of a young man who was considered a runaway from OHP, and the other was a baby who died from undetermined causes in a foster home. No final fatality report was prepared for the young man who was shot to death. The final fatality report for the baby, dated February 16, 2021, was received February 22, 2021.

Unfortunately, timely reporting problems began again in 2021. On January 28, a boy whose Juvenile Court CINA case was closed only in November 2020, died. The IVA and Plaintiffs' counsel never received the original fatality report; a final fatality report was received in April 2021, at which point the IVA had to request the initial fatality report. The final fatality reports for the non-OHP 2020 fatalities were mostly provided late. The system for ensuring timely reports continues to require additional efforts and clearly defined notification practices.

Other critical incident reports generally were provided soon after the events occurred, although not always within one working day. Follow-up reports, however, were regularly received weeks or even months after they had been finalized. Furthermore, the IVA remains

concerned about the paucity of information provided in many of the follow-up reports. BCDSS management has met twice in the past three months with Plaintiffs' counsel and the IVA to discuss concerns related to fatality and critical incident reports and investigations.

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' 65th Report, p. 30).

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 state: "The Agency believes that it is in full compliance with this commitment." (Defendants' 65th Report, p. 30).

In 2019, the parties and the IVA completed agreement on the required "complaint process." (Att. 4). A brochure was created and distributed to attorneys for parents and children in the CINA system in the Juvenile Court. (Att. 5). For the first time, in June 2020, the IVA and Plaintiffs' counsel received a report of complaints made during the 65th reporting period and their resolutions. The summaries were detailed and include substantial identifying information so cannot be attached to this report.

Although detailed as to specifics of the individual cases, 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? After the review/investigation of the reported issue were completed, was a letter sent to the complainant by the Director with the outcome?

Additionally, 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. Access was granted but the tracking system was not updated regularly, and the IVA was unable to get real-time status updates.

Due to the timing of the provision of the summary of reports (June 18, 2021) and the failure to keep the tracking system updated, the IVA has not had the opportunity to verify the report outcome of the submitted complaints. At this point, the complaints are up to a year old, and requests for verification to the complainants would not be reasonable. It does appear, according to the information in the report itself, that the Agency, primarily through the Program Manager for Court Processes, acted promptly upon receiving complaints. However, what were referred to as "resolutions" were, in a number of cases, actually promises that the issues would be resolved, not verification of the actual resolution. There were delays in resolution of some of the complaints; a number of these were significant delays in issuance of checks by the finance unit. Unfortunately, this continues a problem oft reported by children's caregivers and counsel and others in the past.

After the filing of this report, the IVA will request a meeting with Defendants and Plaintiffs' counsel to discuss expectations around what the summary of reports should include.

The IVA will request that as well as the list of cases and their resolution (which the IVA should just be able to download contemporaneously from the complaint tracker), a summary of the types of issues, times to resolution, and types of resolution be prepared (without identifying information) to attach to future reports.

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: "The Agency does send an Overstay List on a weekly basis to Plaintiffs' counsel and the IVA" and "will start to report on waiting lists during the next report period." (Defendants' 65th Report, p. 39). Defendants have continued to send a weekly overstay list and added children on waiting lists to that report in March 2021. The IVA will increase review during upcoming reporting periods to try to verify whether the children whose names are provided are the only 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' 65th Report, p. 40).

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. In December 2020, the IVA submitted through the Complaint Resolution Process eleven cases for which maltreatment dispositions were received for maltreatment reports that were never provided, and eight cases for which neither maltreatment reports nor dispositions were provided. (The IVA became aware of the allegations of maltreatment after receipt of Critical Incident Reports.) The dates of these reports and dispositions ranged from March 2020 to November 2020. In the Agency's summary of reports of complaints discussed in the earlier section, the description of the resolution provided was that the "LJ Complaint Team worked with BCDSS Legal and Program Manager for CPS to review the process for reporting."

Unfortunately, in May 2021, the IVA again had to submit a list of cases, nineteen this time, with dates between November 2020 and April 2021, where the Defendants did not provide all required documents to the IVA. In most of these cases, the Defendants provided a Critical Incident Report to the required parties but did not follow up with the official CPS maltreatment report and disposition when the Critical Incident report indicated that an investigation would be conducted. At other times the IVA received a disposition for an investigation without having ever received a maltreatment report. It is difficult to understand why this continues to be such a challenge. The IVA urges Defendants to make whatever corrections are necessary so that the IVA does not have to repeat this negative result yet again in the future.

VI. CONCLUSION

In the second half of the 65th 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 accurate data reporting. At the local level, under the leadership of BCDSS Director Stocksdale, the IVA sees a renewed commitment to doing the challenging work of training and coaching staff to do better casework while also holding them accountable to document that work properly. 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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Copies provided on July 26, 2021, by email to:

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List of Attachments

Att. 1 – Exit Standard 121, finalized 4.10.21.

Att. 2 – Internal Success Measure 117, finalized 4.10.21.

Att. 3 – Internal Success Measure 118, finalized 4.10.21.

Att. 4 – Process for Reporting Class Members' Issues (final 4.12.19).

Att. 5 – Complaint Brochure (final 4.12.19).