

*L. J. v. Massinga* Independent Verification Agent  
CERTIFICATION REPORT FOR DEFENDANTS' 56<sup>th</sup>  
SIX-MONTH COMPLIANCE REPORT

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***L.J. V. Massinga* INDEPENDENT VERIFICATION AGENT  
CERTIFICATION REPORT FOR DEFENDANTS' 56th  
SIX-MONTH COMPLIANCE REPORT**

This is the twelfth IVA Certification Report under the Modified Consent Decree (MCD), entered by the Court on October 9, 2009.<sup>1</sup> The Defendants' 56<sup>th</sup> report covers the six-month compliance reporting period of January 1, 2016 – June 30, 2016.<sup>2</sup>

**PART I:**

**INTRODUCTION**

Part I of this report was initially included because Defendants failed to include certain QSR data in reporting on results for individual measures in the 56<sup>th</sup> Report and made incorrect and misleading assertions about the Quality Service Review process and data in the narrative of the 56<sup>th</sup> Report. The data omission was cured for the 57<sup>th</sup> Six-Month Compliance Report, provided to the IVA on July 27, 2017. However, Defendants declined to delete the erroneous portions of the narrative. Therefore, the discussion below remains relevant in responding to the 56<sup>th</sup> Report.

**DISCUSSION OF QSR AND LJ MEASURES TRANSITION**

There are forty (40) Exit Standards in the Modified Consent Decree. Of these forty Exit Standards, the IVA identified seventeen (17) as needing a qualitative component for measurement - something beyond paper or CHESSIE file reviews in order to measure what the

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<sup>1</sup> For an explanation of the IVA's functions under the Modified Consent Decree (MCD) and the structure of the MCD's Exit Standards and Internal Success Measures, see this IVA's previous reports, filed with Defendants' 46<sup>th</sup>, 47<sup>th</sup>, 48<sup>th</sup> and 49<sup>th</sup> Six-Month Compliance Reports.

<sup>2</sup> The delay in completing this report was due in part to the Defendants not providing the 56h Report to the IVA until March, 2017, in part to the change in leadership at BCDSS, and in part to unavoidable interruptions to the IVA's work schedule. The draft report, as has been the custom, was provided for comments to the former director on August 2 and to the current acting director on September 7, 2017. The Introduction to Part I of this report was added in response to the latter's comments received October 6, 2017.

MCD requires for compliance. Using the numbering system used by Defendants in its reports, these are Exit Standards 3, 4<sup>3</sup>, 15, 16, 24, 29, 33, 44, 60, 70, 72, 88, 104, 105, 106, 110 and 111. As part of a comprehensive revision of the LJ measurement methodology,<sup>4</sup> the parties came to agreement that compliance with those measures (as well as an additional twenty-seven (27) Internal Success Measures<sup>5</sup>) would be calculated using the results of a Qualitative Service Review (QSR) process - in some cases by QSR results alone, and in other cases in combination with quantitative reports. For example, Exit Standard 24 (90 percent of children had a case plan that was completed within sixty days of the child's entry into OHP and which was updated every six months) now has two parts; Defendants report 24a using CHESSIE data that allows them to calculate how many case plans are completed within 60 days of entry into care and updated every six months; Defendants agreed to report 24b using QSR data from Practice Indicator 5, which measures the quality of case plans within the context of the child and family's actual strengths and needs. The results show that while 22% of the case plans were completed timely, only 7% met the qualitative standards.

Despite numerous discussions and an agreement between the IVA and Director Tierney (now former Director) regarding the use of QSR for compliance purpose, Defendants, in their 56<sup>th</sup> Report, chose not to provide the QSR data for the Exit Standards. The Defendants provided a lengthy explanation of why they did not adhere to the agreement. The IVA disagrees with the Defendants' conclusion that QSR results are not sufficiently "representative" of the population of children in OHP to permit it to be reported as compliance data. The IVA believes that

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<sup>3</sup> Exit Standards 3 and 4 apply to Family Preservation, which has not yet been reviewed using QSR reviews. It is still being reported using Defendants' original methodology which does not measure quality.

<sup>4</sup> The results of the revision are set out in a chart updated as of February 25, 2016, attached as Att. 1.

<sup>5</sup> Internal Success Measures 2, 6, 7, 8, 12, 14, 21, 22, 25, 27, 32, 40-43, 69, 71, 86, 87, 97, 100-103, and 107-109.

Defendants' conclusions are a result of a lack of understanding of the history and process of QSR. QSR results have been used to report compliance for select measures for a number of other child welfare consent decrees. In fact, the ability of the States of Utah and Alabama to exit their consent decrees has been attributed in part to use of QSR to measure and report the real quality of practice in those States.<sup>6</sup> This type of review is now being used as a part of the measurement system for compliance in consent decree litigation in Washington, D.C., Los Angeles and New Jersey.

In order to respond adequately to Defendants' assertions about QSR, below are a review of the QSR process and the history of QSR implementation at BCDSS.

#### **Overview of QSR Process**

Because of the limitations of traditional case file reviews, the data previously sourced for many of the MCD measures did not provide all of the information required by the MCD or all of the information needed to assess the health of the child welfare system in Baltimore City. The IVA determined that additional methodologies needed to be used "to provide accurate, independent information to the Court and the parties about system performance to implement the requirements of [the] decree" and "to provide feedback to Defendants that supports self-correcting measures and ongoing quality improvement by Defendants."<sup>7</sup> With guidance from the IVA, the parties agreed to the development of a QSR program at BCDSS.

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<sup>6</sup> Defendants also state that "we will be considering revisions to the QSR analysis. To begin, we hope to develop a qualitative methodology (including a codebook) following peer-reviewed, widely accepted research methods for analyzing the narrative portions of the QSR data." (56<sup>th</sup> Report at p.18.) When the IVA pointed out that each case reviewed in QSR is already peer-reviewed, Defendants indicated that this was not really something that was being considered at this point. If that is true, the IVA would ask that this portion of the report narrative be deleted.

<sup>7</sup> MCD Part One, Section II.B. p. 3

### Description of QSR

QSR or other qualitative processes used in combination with quantitative data is best practice in the litigation-related as well as non-litigation related assessment of system performance.<sup>8</sup> The quantitative data that on its own had been inadequate for compliance purposes can now be complemented with qualitative data from the QSR to determine compliance, as well as to gain a better understanding of system performance. The QSR provides a case-based appraisal of frontline practice for organization learning and development purposes to improve results in human service agencies.<sup>9</sup> Cases for review using the QSR system are selected through a stratified random sampling of cases. The QSR uses a standardized protocol to measure the current status of a child and the child's family in key life areas and to appraise practice performance of key service system practices for the same child and family.

This process provides real-time feedback and creates qualitative data and case examples that can be used to better understand strengths and challenges in case practice and system performance. In addition to the case specific feedback, the aggregate QSR data provides an opportunity to understand and highlight the strengths and challenges in case practice and the overall functioning of a local service system. . . . Upon understanding both quantitative and qualitative data trends, systems can implement practice and policy enhancements, amendments or modifications to support practice improvement.<sup>10</sup>

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<sup>8</sup> Noonan, K., "Qualitative Case Review in a Child Welfare Lawsuit, Lessons Learned," [http://www.cssp.org/publications/child-welfare/class-action-reform/For-the-Welfare-of-Children\\_Lessons-Learned-from-Class-Action-Litigation\\_January-2012.pdf](http://www.cssp.org/publications/child-welfare/class-action-reform/For-the-Welfare-of-Children_Lessons-Learned-from-Class-Action-Litigation_January-2012.pdf)

<sup>9</sup> Child Welfare Policy and Practice Group, Quality Service Review Institute, Montgomery, AL and Tallahassee, FL.

<sup>10</sup> Critrin, A. & Samuels, G. (*Center for the Study of Social Policy*, 2015) "Quality Service Reviews: A Mechanism for Case-Level Advocacy and System Reform at p.4." Retrieved August 2, 2017, from <https://www.cssp.org/publications/child-welfare/document/quality-service-reviews-mechanism-for-case-level-advocacy-system-reform-web.pdf>

### The QSR Protocol

The QSR Protocol is comprised of (1) status indicators which measure the extent to which certain desired conditions have been present over the past thirty days in the life of the child and the child's parents and/or caregivers and (2) practice indicators which measure the extent to which core practice functions have been applied successfully over the ninety days prior to the review period by caseworkers and others who serve as members of the child and family team. Status indicators measure constructs related to well-being (such as safety, stability and health) and function (such as the child's academic status and the parents' and/or caregiver's level of functioning). Practice indicators measure core practice functions range from engagement and teamwork to case planning, both for the near-term and with a long-term view, to service provision to children and their families.

The QSR protocol is system specific and designed with local staff and developers of the QSR model. While there may be similarities across jurisdictions using the QSR protocol and process, there are also differences based on the requirements and priorities of each jurisdiction.<sup>11</sup>

### **QSR at BCDSS – History and Implementation**

Following the IVA's determination that quantitative data alone was insufficient for compliance determination for several MCD measures<sup>12</sup>, BCDSS, with support from the IVA, began the process of developing a QSR program at BCDSS. This QSR process strives to meet two main goals. The first and most important goal is to inform practice – to let the agency know how the children in its care are doing; what agency and caseworker practices are working well

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<sup>11</sup> Annie E. Casey Foundation and The Center for the Study of Social Policy (2011), "Counting is Not Enough: Investing in Qualitative Case Reviews for Practice Improvement in Child Welfare," retrieved from [www.cssp.org](http://www.cssp.org).

<sup>12</sup> The IVA's plan for the development of a QSR program at BCDSS was first addressed in the IVA's 49<sup>th</sup> Report to the court.

and which are not; and then to spur action to improve the children's care through improving agency and caseworker practice. The second goal is the use of QSR to meet the requirements of a number of the L.J. measures.

#### Protocol and QSR Team Development

With feedback from the parties, a QSR protocol specific to BCDSS was developed by the IVA and BCDSS with the assistance of Ray Foster and Paul Vincent of the Child Welfare Policy and Practice Group.<sup>13</sup> (The current BCDSS QSR Protocol<sup>14</sup> is attached as Att. 2.) The BCDSS QSR protocol is divided into two parts – child and family status and practice performance. Focusing on the thirty days prior to the review, status indicators measure safety, stability, living arrangement, caregiver functioning, parent functioning, progress towards permanency, health, well-being, education, and voice and choice. Focusing on the ninety days prior to the review, practice indicators measure engagement, family teamwork, functional assessment and understanding, long-term view, case planning, plan implementation, tracking and adjustment, caseworker visitation, provision of health care, provision of education support services, resource availability, family visits and community connections, family supports and services, and transitions and life adjustments.

A new QSR unit was established, and through an intensive interview process, six BCDSS staff members with experience in child welfare were chosen to work in teams of two as Quality Service Reviewers. In January 2014, this group of reviewers, along with the QSR program

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<sup>13</sup> The standard QSR tool/protocol developed by Ray Foster is the Human Services Outcome's (HSO) copyrighted Quality Service Review. Ray Foster has been the primary developer, as well as the person assisting many jurisdictions in adapting the tool to their needs. Paul Vincent, Director of The Child Welfare Policy & Practice Group, helped introduce the system in both Alabama and Utah and has been the primary trainer on the use of this tool.

<sup>14</sup> The FY16-17 Protocol continues to be used in FY18 with two minor revisions. See Att. 2a.



manager and IVA staff, were provided training by Ray Foster. This training continued into the field with QSR staff working with experienced mentors and experienced certified case reviewers from other programs across the country to conduct case reviews of BCDSS children and youth. An experienced Program Manager and licensed social work clinician was selected Program Manager. Cases were selected through a random sampling process.

Following the successful initial implementation of the QSR program at BCDSS, the QSR unit was expanded to create five teams of reviewers (2 reviewers to a team) and administrative staff was added. In May 2015, Ray Foster of The Child Welfare Policy and Practice Group returned to Baltimore to conduct training for new and existing QSR staff on the QSR process and the use of BCDSS's protocol. Again, this training was extended into the field with experienced reviewers from other programs across the country. During the 56<sup>th</sup> reporting period the QSR unit consisted of a program manager, two team administrators (who provided supervision as well as completing reviews with their staff), two support staff and eight Quality Service reviewers.

Because the QSR is part of a system of continuous quality improvement, it is necessary for the QSR protocol to go through revisions to improve its application to the work of BCDSS and the requirements of *L.J. v. Massinga* as data is available. The revisions to the BCDSS protocol are a result of collaborative efforts between DSS management, QSR staff and the IVA staff. Additionally, regular, ongoing training is provided quarterly by Florence Racine, MSW, LSW, Assistant Director at the Office of Performance Management and Accountability, New Jersey Department of Children and Families. Some topics addressed in training sessions include effective interviewing skills, engaging staff in the QSR process, staff debriefing and fidelity to the QSR model.



BCDSS-Specific QSR: Sampling and Review Process

Cases are selected through a stratified random sampling process currently conducted by the Office of Innovations at BCDSS. The sampling methodology is designed to identify a sample that aligns with the most significant characteristics of the current BCDSS population. The sample is stratified by age, length of stay in out-of-home care, permanency plan and placement type. Cases are reviewed no more frequently than every two years. In 2015, a PhD-level statistician at University of Baltimore's Jacob France Institute performed regression analysis on multiple years of BCDSS data, and advised the IVA and Defendant's Assistant Director for Quality Assurance that review of 30 randomly-chosen cases per quarter would provide a representative sample of cases matching the whole BCDSS population with a confidence level of 90% at a 5% margin of error. (The Sample Size Chart created by the statistician is attached as Att. 3.) The BCDSS director agreed to add additional reviewers to the QSR review team to permit review of 30 cases per quarter.

Each review is planned six weeks to two months in advance. This allows for time to meet with the caseworker to introduce them to the reviewers, inform the caseworker of the process, calendar key dates and gather information regarding who should be interviewed during the review week. Each review is completed by a team of two reviewers over the course of a week. Following a review of the case file (paper and CHESSIE) and court file, interviews are conducted with the child, caseworker, TA, caregiver, MATCH case manager, attorneys as well as other people who play a role in the child's life including, but not limited to, biological parents and other family members, therapists, physicians, school personnel and mentors.

After the interviews are completed, the reviewers complete the Case Report (Att. 4) that includes ratings of the 12 status and 14 practice indicators. (Att. 4, pp. 10-31.) Both status and practice indicators are scored on a Likert scale from 1 (Adverse/Absent) to 6 (Optimal). Scores are grouped into three categories: Urgent (1-2, absent/adverse to poor), Improve (3-4, marginal to fair) and Maintain (5-6, good to optimal). Each of these indicator ratings is substantiated by information gathered during the file review and interviews and is documented in the Case Report narrative.

Next, Inter-Rater Reliability (IRR) is conducted on all cases to address the consistency of use of the rating system. Inter-rate Reliability is the measure of reliability used to assess the degree to which different judges or raters agree in their assessment decisions.<sup>15</sup> The application of a standardized protocol, comprehensive training, regular supervision and case discussion among dedicated case reviewers are essential to ensuring inter-rater/reviewer reliability.<sup>16</sup>

BCDSS IRR is a multi-stage process. The Case Report is first submitted to the QSR team administrators for review of the completeness of the narrative, the ratings and proper application of the protocol. Following the initial supervisory review and any necessary edits, the Case Report is submitted to the IVA and other QSR reviewers to read and prepare for discussion at the Inter-rater Reliability group session held on Friday afternoons after the completion of the week's cases. Each case is discussed in detail and facts are presented to justify the rating for each measure. Following Inter-rater Reliability, the reviewers meet with the caseworker and supervisor during a debrief session to discuss the facts of the case, share information gathered and offer feedback. The review ends with Grand Rounds where the cases reviewed during the

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<sup>15</sup> [www.uni.edu/chfasioa/reliabilityandvalidity.htm](http://www.uni.edu/chfasioa/reliabilityandvalidity.htm).

<sup>16</sup> Inter-Rater Reliability, Child and Family Services Review, retrieved 1/11/17 from [www.cfsrportal.org](http://www.cfsrportal.org)

week were presented to DSS staff and discussion of the overall presenting issues was encouraged.<sup>17</sup>

#### Data Collection

Data from the individual Case Reports are compiled and reported by the Office of Innovation on a set periodic schedule. Cumulative results are presented to the Director and other management team members, and plans are created to address the most urgent concerns raised by the ratings.

#### Utilizing QSR for MCD Compliance

In February 2016, the IVA and Defendants completed months of negotiation on how the selected Exit Standards (Exit Standards 3, 4, 15, 16, 24, 29, 33, 44, 60, 70, 72, 88, 104, 105, 106, 110 and 111) and Internal Success Measures (see footnote 5) would be measured utilizing QSR. The resulting descriptions of how compliance would be determined for each of those measures are attached as Att. 5. Defendants had agreed that cases achieving ratings of 5 or 6 on the relevant indicators would be counted as compliant. For some of the measures, the results of one or more indicators would be used to measure compliance. For other measures, the cases would have to be compliant on the relevant indicator and/or in response to an additional question answered by QSR during the review. These additional questions were written so that the answers could be determined from the QSR review of the case. (Att. 4 pp. 5-8 and 32-38.)

However, in the 56<sup>th</sup> Report, Defendants determined, without consultation with the IVA, not to utilize QSR results to measure compliance with the Exit Standards.<sup>18</sup> Instead, only

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<sup>17</sup> In mid-2016, weekly Grand Rounds was discontinued by the then-Program Manager with a plan to hold monthly Grand Rounds with Program Managers. At the date of this report, Grand Rounds are not being conducted. The IVA recommends that a Grand Rounds process be re-established and implemented by QSR management in consultation with the IVA.

quantitative results were reported with a reference to QSR in general rather than a specific threshold. Because the Exit Standards in question require qualitative measurement and Defendants have rejected utilizing QSR results to report compliance for those Exit Standards, Defendants will need to propose an alternative way of measuring compliance before the IVA will ever be able to determine compliance for those Measures.

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<sup>18</sup> After this Response was drafted, the IVA received Defendants' 57<sup>th</sup> Report in which the QSR results were utilized for reporting purposes.