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