

*L. J. v. Massinga* Independent Verification Agent  
CERTIFICATION REPORT FOR DEFENDANTS'  
64th COMPLIANCE REPORT

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**EXECUTIVE SUMMARY**

This is the Independent Verification Agent's (IVA) Certification Report for the Defendants' 64<sup>th</sup> Compliance Report covering the six-months compliance reporting period of January 1 – June 30, 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.

**COMPLIANCE WITH THE MODIFIED CONSENT DECREE**

More than ten years has passed since the Modified Consent Decree (MCD) was signed. During that time, there have been multiple changes in leadership including four DHS Secretaries and now, with the November 2020 departure of Dr. Randi Walters and appointment of Brandi Stocksdales, six BCDSS Directors. Yet, despite the length of time since the MCD was signed and multiple changes in leadership and the accompanying commitments to compliance with the MCD, compliance has not been achieved. Over the 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.

It is important to note that a portion 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. This resulted in many changes to practice and policy and impacted compliance with the MCD.

## DATA COLLECTION AND REPORTING

Defendants' report was received by the IVA on December 10th, 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 IVA remains troubled by continuing problems with data validity, reliability and accuracy. These issues cannot be addressed without 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.

In response to the IVA's repeatedly raised concerns about the slow pace of progress on the drafting and agreement on measure instructions, a *L.J.* Problem-Solving Forum was convened on October 19, 2020 to address this and other issues. As a result of this forum, Defendants agreed to submit a full set of draft measure instructions to the IVA and Plaintiff's counsel by January 15, 2021. Discussions of these draft measure have begun and are ongoing. However, given the timing on these drafts and the necessary subsequent discussions, Defendants' first opportunity to have valid, accurate and reliable data collection and reporting available for the measures will be the 67<sup>th</sup> 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. Access to existing data has improved somewhat during the 64<sup>th</sup> Report period with the IVA receiving some reports on a regular basis. Communication with the Defendants has improved markedly since November 2020 under the leadership of Director Stocksdale, and the IVA appreciates her and her staff's attention to the MCD and the completion of measure instructions.

## CERTIFICATION OF MEASURES AND ADDITIONAL COMMITMENTS

In the 64<sup>th</sup> Report, Defendants requested certification of five measures: 36, 93, 116, 121, and 126. However, during subsequent reviews of the data, Defendants have acknowledged that the compliance rates reported for Measures 36, 93 and 116 are erroneous and stated that the correctly-calculated rates would be substituted in the 65<sup>th</sup> Report. Of the remaining two measures, the IVA certifies compliance with Measure 121 but denies certification of Measure 126 due to lack of supporting documentation.

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 64<sup>th</sup> report the Defendants report full or partial compliance with sixteen of these Additional Commitments. Given the data provided in and with Defendants' report, the IVA is able to certify compliance with four of the twenty-two Additional Commitments.<sup>1</sup>

## 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 have submitted draft measure instructions for all quantitative measures as of January 15, 2021, and the Defendants and the IVA are participating in ongoing meetings and work sessions to work towards an agreement on the full set of measure instructions. In addition, it is critical that practices outlined in the measure instructions are implemented to ensure proper documentation in CJAMS and other reporting systems, that staff document their work, and, of course and most importantly, practice be improved to meet the needs of families and children.

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<sup>1</sup> A discussion of all Additional Commitments is Appendix 1 to this report.

***L.J. v. Massinga* Independent Verification Agent**

**IVA CERTIFICATION REPORT FOR  
DEFENDANTS' 64<sup>th</sup> COMPLIANCE REPORT**

This is the IVA's Certification Report for the Defendants' 64<sup>th</sup> Compliance Report covering the six-months compliance reporting period of January 1, 2020 to June 30, 2020.

**I. INTRODUCTION**

Defendants Baltimore City Department of Social Services (BCDSS) and Maryland Department of Human Services (DHS) provided their 64<sup>th</sup> Report to the IVA on December 10, 2020, five months after the reporting period ended. The 64<sup>th</sup> Report is the 22<sup>nd</sup> 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. In June 2019 Dr. Randi Walters was appointed Director of BCDSS and remained Director through the 64<sup>th</sup> reporting period. However, Dr. Walters resigned her position in November 2020 and Brandi Stocksdales, then-Deputy Director for Child Welfare, was appointed as BCDSS Director. 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 has found the meetings and work sessions with Ms. Stocksdales to be very productive and looks forward to continuing to work with her and her leadership team.

### **III. DEFENDANTS' COMPLIANCE WITH THE MCD**

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.<sup>2</sup> More than ten years has passed since the MCD was signed. Despite the length of time since the MCD was signed and even with multiple changes in leadership and the accompanying commitments to compliance with the MCD, compliance has not been achieved.

Since 2011, Defendants have had only four of the forty Exit Standards certified as compliant. Since 2016, only two Exit Standards have been certified as compliant. The Defendants did not seek certification for any measures during the 63<sup>rd</sup> reporting period, acknowledging the problems with data quality. For the 64<sup>th</sup> reporting period, the Defendants are seeking certification of five measures: 36, 93, 116, 121, and 126. The IVA is able to certify only one of these measures. These measures and the certification decisions are discussed in detail in section VI (p.14) of this report.

Current reporting indicates that compliance levels for most measures remain unacceptably low. For example, less than 30% of children in OHP had a case plan, only 23% of children and caregivers received services to meet their needs and support stability in the least restrictive placement, and only 64.3% of all foster homes and kinship homes met all legal requirements (Exit Standards 15, 44 and 57, respectively). There are notable and concerning declines in three Education Exit Standards (Measures 104, 105 and 106), which all fall under 50%. These compliance rates likely do not tell the full story of how the agency is performing under the MCD given that the validity, accuracy and reliability of the data continues to be

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<sup>2</sup> For a summary of those additional reporting requirements, see Att. 1, *L.J. MCD Reporting and Notification Requirements* (IVA 7.12.19).

problematic. Still, what is clear is that Defendants must invest significant efforts and resources in improving practice for the benefit of some of Baltimore City's most vulnerable children and families.

The IVA appreciates Defendants sharing detailed information about staff, programs and initiatives in the 64<sup>th</sup> Report. However, the Defendants do not demonstrate how these changes will lead to compliance with the MCD. Defendants discuss the status of compliance rates but do not discuss how they plan to improve compliance. New measures instructions and the collection and reporting of more reliable data should allow the Defendants to state clearly how they plan to reach the compliance levels required by the MCD.

#### **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.

Despite agreement in 2018 to move forward expeditiously on measure instruction drafting, as of the end of the 63<sup>rd</sup> reporting period in December 2019, only four measures had completed revised measure instructions. In the IVA's 63<sup>rd</sup> Report, the IVA expressed significant concerns regarding progress on the drafting of the measure instructions (pp. 11 – 15). The pace of the measure instruction drafting still did not improve during the summer and early part of the



fall of 2020. While there is no doubt that the need to focus management attention on the COVID-19 pandemic had an impact on progress, that represents only a portion of the more than two years since the process began. On October 19, 2020, an *L.J.* Problem-Solving Forum was convened to address the lack of progress on measure instructions among other issues. As a result of that forum, the Defendants agreed to submit to the IVA a full package of draft measure instructions no later than January 15, 2021.

The IVA received the first cohort of draft measures on November 13, 2020; the second cohort on December 11, 2020; and the full set of draft quantitative measures on January 15, 2021. 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. The IVA recognizes the efforts of the Defendants to complete these draft measure instructions and appreciates their completion and submission according to the timeframe promised in October. The IVA has reviewed many of these draft measures and raised questions and concerns that will need to be addressed prior to signing off on the individual measure instructions. Meetings have been set with the parties, IVA and the facilitators to discuss these draft measures, and it is hoped that the process of finalizing measure instructions will continue to move forward with urgency.

Even with these efforts, full implementation of the revised measure instructions will not be possible until the 67<sup>th</sup> reporting period (July 1 - December 31, 2021) at the earliest.

**B. Ongoing Data Validity, Reliability and Accuracy Concerns**

Beyond the completion and implementation of valid measure instructions, it is equally important that practices outlined in the measure instructions and MCD are implemented to ensure proper documentation in CJAMS and other reporting systems. Without implementation of

the processes to collect and input the data and organizational commitment to accurate and complete documentation, the Defendants will continue to present to this Court data that cannot be certified as valid, reliable or accurate.

In the 63<sup>rd</sup> Report, Defendants acknowledged “that methodology and data quality issues, as indicated by prior IVA and Agency reports, present limitations to the accuracy, reliability and validity of the data for the current and past reporting periods.” (Def. 63<sup>rd</sup> Rep., p. 33.) That statement remains true for the 64<sup>th</sup> Report period. A review of the data submitted in support of the 64<sup>th</sup> Report reveals that the data is even more unreliable in some number of areas than in the past. This may be due in part to (1) the many complications in practice and data documentation due to the onset of the COVID-19 pandemic during the reporting period; and (2) the transition in child welfare data management systems from CHESSIE to CJAMS in June 2020. The IVA hopes that these limitations can be addressed with clear measure instructions, focused implementation of the measure instructions and improved data collection.

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. Hopefully, after a transition period, caseworkers will find CJAMS to be a system that it is easier and more convenient for data entry. If so, this should result in more of their activities being documented thus leading to more accurate reporting. In addition, extracting data may be less cumbersome because local offices will be able to run some reports directly from the system as opposed to all reports having to be generated at the state level. Defendants have promised to try to include as many of the *L.J.* reporting elements in the CJAMS system as possible; they have indicated that

the relative ease of making enhancements to the system should allow the addition of those elements. However, they have also advised that there are a number of priorities with the new systems other than those involving the *L.J.* measures, and it is unknown when these additional elements can be added to the CJAMS system. As of the writing of this report, these additional elements have not been added to CJAMS.

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. Sheritta Barr Stanley, Assistant Director for Innovation Unit, tracks particular reporting requirements closely (i.e., monthly caseworker visits, case plan completion) 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.

An additional concern is accurate calculation and reporting of data. For example, a review of the data provided in the "Quantitative Data Summary" portions of the 64<sup>th</sup> Report (pp. 67 – 84) and "QSR Data Summary" portions (pp. 85 – 90) reveals that data that should match in the two portions of the report do not match. For example, for Exit Standard 88b (90 % of children received timely all needed health care services), Defendants report 63.8% compliance. (p. 79). The compliance rate for that Exit Standard should be derived from the results of QSR Practice Indicator 9a. Yet, on p. 87 of the 64<sup>th</sup> Report, the relevant Practice Indicator result is reported as 73%. This type of discrepancy is consistent throughout the QSR-derived results

reported. The IVA has reported this problem to Defendants and will work with them to try to ensure accurate reporting of all measures in subsequent reports.

### **C. Access to Data**

Providing data and reports to the IVA on a regular basis improved somewhat during the 64<sup>th</sup> Report period. As stated in their 63<sup>rd</sup> Report (p.6), Defendants agreed to provide certain data on a regular basis to the IVA and to consider *ad hoc* requests for other data on a case-by-case basis. Defendants have continued to provide some basic data, including the reports referred to by SSA as the “Milestone Reports” and the “SSA Served Reports” on a regular basis. Defendants still do not provide management reports such as those for caseworker caseloads or resource home approvals and recertifications.

In the body of the 64<sup>th</sup> Report, apart from reporting on the *L.J.* measures themselves, Defendants provide information about program initiatives and accomplishments. This information includes staff turnover and vacancies; reunification efforts during COVID; filing of Court Progress Reports; changes and updates to the QSR program; and child fatality prevention among other areas. This information is useful but would be even more helpful if this information was provided in real time as well as in the six-month court report. Since the appointment of Director Stocksdale, additional opportunities have been provided for the IVA, Plaintiffs’ counsel and children’s CINA counsel to learn more about what changes are occurring at BCDSS on a more contemporaneous basis. These efforts are applauded, and the administration is encouraged to continue them and expand their reach to the wider community.

### **D. Quality Service Reviews (QSR)**

In previous reports the IVA has shared concerns about the quality of reviews being conducted for the QSR program at BCDSS. Since the initiation of some changes to the program

by the QSR Program Manager, the IVA has begun the process of determining whether QSR practice has improved sufficiently such that the IVA could once again certify the QSR results for *L.J.* reporting purposes. In November 2020 the IVA observed the QSR Inter-rater Reliability (IRR) process for two cases. The IVA also engaged Florence Racine, Assistant Director, Office of Quality at the New Jersey Department of Children and Families, to review several completed QSR instruments for quality and fidelity to the QSR model. The IVA looks forward to having an opportunity to meet with the Director, Deputy Director and QSR leadership to discuss the results of the review of those reports and the IRR experience.

Given the changes in conditions required by the Covid-19 pandemic – including the inability to meet face-to-face with the child and caregiver in each QSR review – data from any QSR reviews done during the 64<sup>th</sup> Review period are not certifiable. In addition, Defendants' announcement in the 64<sup>th</sup> Report that they are beginning to conduct some reviews with only one reviewer (without prior discussion with the IVA) is of significant concern because the two-reviewer protocol is a critical element of the QSR process.

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 had acknowledged that they lack sufficient QSR staff to review both OHP and Family Preservation Program cases, but recently indicated that they are seeking to add two additional staff members to the QSR unit to conduct reviews. Defendants provided the Family Preservation Program QSR protocol to the IVA in December 2020.

## **V. NEED FOR COMMUNITY INPUT**

As Defendants have recognized, system improvements require more than just compliance activities. As discussed in the IVA's 63<sup>rd</sup> report, one of the areas of casework practice that repeatedly has been recognized as needing significant improvement is engagement with families and identification of resources to meet their needs. BCDSS management in the past year has begun to engage children's and parents' CINA attorneys as well as service providers and funders in dialogue. What is critical but still missing are the voices of the affected communities themselves.<sup>3</sup> Defendants need to cultivate meaningful input from Black-led organizations and providers and to facilitate the development of leadership and advocacy skills of large numbers of youth in foster care, adults formerly in foster care, and parents and other family members involved with the child welfare system so that they can participate in a meaningful way in assessing and planning for improvement in the child welfare system. There are increasing numbers of supports and models for such programs.<sup>4</sup>

## **VI. 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

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<sup>3</sup> Baltimore City DSS still does not have the legally-mandated Social Services Commission, whose primary function is "to advise the local director and the state director as to the local application of state policies or procedures." The status of membership for the Commission has remained "forthcoming" for a number of years. See Att. 2, City of Baltimore website, <https://mayor.baltimorecity.gov/bc/boards/social-services-commission> (downloaded March 9, 2021). For a more detailed discussion, see the IVA Response to Defendants' 61<sup>st</sup> Report, pp. 14-15.

<sup>4</sup> See, e.g., Att. 3, ACYF-CB-IM-19-03\_CB Information Memorandum, "Family and Youth Voice" (August 1, 2019); Capacity Building for States, Parent Partner Navigator and Parent Partner Programs Manual (2016), <https://library.childwelfare.gov/cwig/ws/library/docs/gateway/Blob/107662.pdf?w=+NATIVE%28%27recno%3D107662%27%29&upp=0&rpp=10&r=1&m=1> (last downloaded March 8, 2021).

Each of these five sub-sections contains related 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).<sup>5</sup>

**A. Exit Standards and Internal Success Measures**

In the 64<sup>th</sup> Report, the Defendants sought certification of five Exit Standards - Measures 36, 93, 116, 121, and 126. However, after review of the data with the IVA, Defendants have acknowledged that the reported compliance rates for Measures 36, 93 and 116 are not correct due to a combination of erroneous data and erroneous calculations and thus not certifiable as compliant. They have decided to leave them as reported in the 64<sup>th</sup> Report but have committed to correct them in the 65<sup>th</sup> Report. The IVA certifies the reported compliance with Exit Standard 121. The reported compliance with Exit Standard 126 is not certified for the reasons set forth below.

**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.

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<sup>5</sup> 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' 58<sup>th</sup> (filed February 28, 2019), 60<sup>th</sup> (filed June 25, 2019), and 62<sup>nd</sup> (filed March 12, 2020) Reports.

## 2. Out-of-Home Placement

The Out-of-Home Placement section of the MCD includes twelve Outcomes containing a total of fourteen Exit Standards. In the 64<sup>th</sup> Report, Defendants claim compliance with one of those Exit Standards, Measure 36.

**Exit Standard 36.** *For 99 percent of children under age thirteen placed in congregate care, the placement was medically or therapeutically necessary and the placement included services that met the child's needs.*

Reported compliance level: 100%. After review of the data with the IVA, Defendants acknowledged errors in data calculation and have recalculated the rate to be **43.5%**. (That rate should appear in the Quantitative Data Summary for Measure 36 for the 64<sup>th</sup> Report when the 65<sup>th</sup> Report is published.) **For that reason, certification of compliance with Exit Standard 36 for the 64<sup>th</sup> Report period is denied.**

## 3. Health Care

The Health Care section of the MCD includes five outcomes containing seven Exit Standards. In the 64<sup>th</sup> Report, Defendants claim compliance with one of those Exit Standards, Measure 93.

**Exit Standard 93.** *90 percent of all new entrants had a complete health passport that was distributed to the children's caregivers promptly.*

Reported compliance level: 93%. After review of the data with the IVA, Defendants acknowledged errors in data calculation and have recalculated the rate to be **65.5%**. (That rate should appear in the Quantitative Data Summary for Measure 93 for the 64<sup>th</sup> Report when the 65<sup>th</sup> Report is published.) **For that reason, certification of compliance with Exit Standard 93 for the 64<sup>th</sup> Report period is denied.**



**4. Education**

The Education section of the MCD includes three outcomes containing six Exit Standards. Defendants have not claimed compliance with any of those Exit Standards.

**5. Workforce**

The Workforce section of the MCD includes three outcomes containing six Exit Standards. Defendants have claimed compliance with three of those Exit Standards – Measures 116, 121 and 126. The IVA will certify compliance with Measure 121 but cannot certify compliance with Measures 116 or 126.

**1. Exit Standard 116:** *90 percent of case-carrying teams were at or below the standard for ratio of supervisor: worker.*

Reported compliance level: 91%. However, after review of the data with the IVA, Defendants have acknowledged that the reports include as supervisors a number of administrators who are not direct caseworker supervisors. There appear to be problems with the assignment of caseworkers to supervisors in the CJAMS database. The IVA has not been provided with a corrected set of data from which a correct calculation could be made. **For that reason, certification of compliance with Exit Standard 116 for the 64<sup>th</sup> Report period is denied.**

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

Reported compliance level: 100%. The measure instruction for Exit Standard 121 follows Maryland Human Services Article §4-301 which requires 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 prior to being granted permanent employment and assigned cases.

The IVA has reviewed the information provided from Defendants' human resources database. It shows the name, job title, and hire date of each caseworker hired between January 1 and June 30, 2020. The spreadsheet also contains the date of assignment of the caseworker's first case. For the 64<sup>th</sup> Report period, there was only one OHP caseworker hired who also was assigned a case during the report period.<sup>6</sup> For that caseworker, Defendant provided a copy of her Master of Social Work diploma from University of Maryland School of Social Work, and proof that she passed the competency exam. The IVA was able to confirm that her supervisor is a licensed social worker. 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 64<sup>th</sup> Report period.**

**3. Exit Standard 126:** *90% of transferred cases had a case transfer conference within ten days of the transfer.*

Reported compliance level: 99.8%. In order to verify the accuracy, validity and reliability of this report, Defendants need to provide (1) case reassignment/transfer conference cover sheets for the report period; (2) a list of OHP staff who left BCDSS, transferred out of OHP or went on leave for more than 30 days during the report period; and (3) a list of OHP cases transferred to the Family Preservation Unit during the report period. Despite the IVA's written

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<sup>6</sup> For the remainder of the caseworkers hired during the 64<sup>th</sup> Report period, Defendants will need to provide documentation with the 65<sup>th</sup> Report that they met the qualification standards prior to being assigned their first cases.

request on January 28, 2020, that data has not been provided. **For that reason, certification of compliance with Exit Standard 126 for the 64<sup>th</sup> Report period is denied.**

### **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 63<sup>rd</sup> Report, Defendants provided documents which purported to support their assertions of compliance with the Additional Commitments. In her Certification Report, 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 of Defendants producing the needed documentation in future reports.

In their 64<sup>th</sup> 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 four (4) of the twenty-two (22) 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

Much of the rationale for the certification decisions remains the same for the 64<sup>th</sup> reporting period as it did for the 63<sup>rd</sup>. 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. (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 64<sup>th</sup> 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' 64<sup>th</sup> Report, p. 39).

During the 64<sup>th</sup> Report period, Plaintiffs' counsel and the IVA received final fatality reports for two 2019 fatalities of children in OHP. One of those reports was received within a few weeks of its issuance; the other was not received for a few months. 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. The IVA remains concerned about the paucity of information provided in many of the follow-up reports. BCDSS management has agreed to meet 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' 64<sup>th</sup> Report, p. 39).

No such reports were received during the reporting period. The IVA is not aware of whether any such reports were 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 continues to be in partial compliance with this commitment." (Defendants' 64<sup>th</sup> Report, p. 39).

In April 2019, the standardized process required under this provision was finalized and a brochure for individual class members and counsel was distributed. A database was created to track reported concerns, but those concerns were not all contemporaneously included in the database nor were complaint resolutions contemporaneously recorded, as required. Unfortunately for the third reporting period in a row, the Defendants have failed to complete and submit the required summary report. The summary reports are a substantial portion of this reporting requirement, and the Defendants have failed to provide valid explanation for this violation of the MCD.

**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" but had been "unable to institute policies with which to capture all the data necessary to satisfy this commitment but is studying possible ways to do so in the future." (Defendants' 64<sup>th</sup> Report, p. 47). In the past month, Defendants have begun to report on individual children on waiting lists.

**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." (Defendants' 64<sup>th</sup> Report, p. 47). Defendants acknowledge the need to refine the process to capture all incidents that must be reported under this provision of the MCD.

The IVA has continued to raise concerns over many years about reports and dispositions that were never received or received well beyond the required five-day time frames. The IVA also has raised repeatedly with counsel for the Defendants the over-redaction of some reports to the point that it is difficult to understand the facts of the incident being reported.

**VII. CONCLUSION**

The IVA appreciates the recent commitment of the Defendants to the development of new measure instructions. This is the first step towards improved data collection and reporting which should allow Defendants to clearly articulate a plan for compliance. The IVA urges Defendants to commit the resources now that are necessary to improve data collection and reporting and compliance with the MCD's Exit Standards and Additional Commitments.

Respectfully Submitted,

          /s/          

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Copies provided on March 11, 2021, by email to:

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**List of Attachments**

Att. 1 - *L.J.* MCD Reporting and Notification Requirements (IVA, 7/12/19).

Att. 2 - Baltimore City Social Services Commission (downloaded March 9, 2021).

Att. 3 - Administration for Children and Families, Children's Bureau, "Engaging, empowering, and utilizing family and youth voice in all aspects of child welfare to drive case planning and system improvement." (ACYF-CB-IM-19-03) (August 1, 2019).