

*L. J. v. Dallas* Independent Verification Agent  
CERTIFICATION REPORT FOR DEFENDANTS' 51ST  
SIX-MONTH COMPLIANCE REPORT

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***L.J. V. DALLAS* INDEPENDENT VERIFICATION AGENT  
CERTIFICATION REPORT FOR DEFENDANTS' 51<sup>st</sup>  
SIX-MONTH COMPLIANCE REPORT**

This is the eighth IVA Certification Report under the Modified Consent Decree (MCD), entered by the Court on October 9, 2009.<sup>1</sup> This is the sixth report under this IVA.<sup>2</sup>

The release of the 51<sup>st</sup> report to the IVA has coincided with Molly McGrath Tierney's departure from her position as Director of the Baltimore City Department of Social Services (BCDSS). Given the timing of this report, it seems appropriate to reflect briefly on the status of the agency at her departure, particularly with reference to changes that have occurred since she became the director in 2008, more than five years ago. What follows is in no way intended to summarize all of the accomplishments of the McGrath administration nor all of the challenges facing her successor, Interim Director David Thompson.

Notable Accomplishments

Permanency Planning and Out of Home Placement: During Director McGrath's tenure the BCDSS succeeded in reducing the number of children in out-of-home care by approximately 60% (from more than 6,000 to 2,500 children by the time of her departure); reducing the number of youth in congregate care, especially group homes; eliminating the placement of children under the age of 7 in congregate care<sup>3</sup>; limiting significantly the number of children between the ages of 7 and 13 in congregate care; and increasing more timely permanency outcomes through more timely reunifications, adoptions, and awards of custody and guardianship. With the reduction in

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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> While not required by the MCD, the IVA shares a draft of the IVA Certification Reports with the BCDSS Director.

<sup>3</sup> Unfortunately, in May 2014, during the 52<sup>nd</sup> Report Period, a two-year old child with significant health problems and disabilities was placed in a group home for medically fragile children.

the number of children in care, BCDSS has also made significant progress reducing caseloads and making them more balanced among caseworkers. It appears from initial Quality Service Review (QSR) reports that this has improved oversight of children in care.

Health Care: The MATCH (Making all the Kids Healthy) program, the collaborative program of HealthCare Access Maryland and the BCDSS received the support of Director McGrath Tierney as MATCH continued to evolve in its efforts to coordinate health care services for Baltimore City children placed in foster care. By supporting the medical, dental and mental health needs of foster children, MATCH should play a significant role in stabilizing and supporting children and their caregivers as the children move through the foster care system toward permanency.

Quality Service Review System Implementation: During the last six months of Director McGrath's term, the BCDSS moved rapidly to develop and implement a Qualitative Service Review (QSR) system. This QSR system will enable BCDSS to move beyond review of system performance based solely on quantitative measures and file reviews. The QSR process should provide invaluable information as to how the many changes and improvements to the structure of the BCDSS foster care system over the past five years have affected its actual practice and, most importantly, the safety, permanency and well-being of the children in its care. It is hoped that, over time, the QSR process itself as well as the data it produces can be used to implement a case practice system that can move BCDSS to a more effective level of practice to benefit Baltimore's children and families.

As new leadership takes over at BCDSS, the IVA hopes that the progress made in these areas will continue, in addition to new opportunities to improve practice and programs in other areas of the agency.

Opportunities – Practice

Case Practice Model: Knowledgeable and effective case practice is essential to moving children through the foster care system and to permanency as quickly as possible, either through reunification with parents or relatives or through adoption or custody and guardianship should reunification not be an option. The Interim Director has acknowledged the need to focus on identifying case practices that will meet the needs of children in BCDSS foster care. In fact, he has created the position of Assistant Director for Practice and Policy to seek out best practices and implement them with staff. As part of this process, caseworkers should be provided training on the effects of trauma and toxic stress on children and youth and how trauma histories should inform their case practice. Given the ineffectiveness of many past attempts to improve practice through training, it is critical that best practices training be experiential and continuous rather than passive and one-time.

Effective Supervision: While the number of children in BCDSS foster care has been significantly reduced, the children and youth who remain in the system, and those who are new entrants to the system, frequently have greater and more complex needs. Improved case practice requires effective supervision skills as well as clinical knowledge by team administrators, unit managers and clinical supervisors. The BCDSS needs to assess the capabilities of their supervision system and make personnel adjustments where necessary to support the caseworkers as they seek the best outcomes for children in care.

Over-reliance on Treatment Foster Care: As of May 2014, 791 of the 2,425 children in BCDSS foster care were in private treatment foster care homes. That is one-third of the children in foster care in Baltimore City. The concerns about permanency for the children placed in those

homes as well as the lack of acknowledgment of the number of children moving between treatment foster homes has been raised in previous IVA reports.

The BCDSS, with the help of DHR, needs to address the over-reliance of BCDSS on private treatment foster care providers. BCDSS should identify and discontinue placement with those agencies that have been unable to meet their obligations to provide services to maintain stability for the youth they accept into their programs. BCDSS and DHR need to work together to obtain permanency for the children already placed for long periods of time in treatment foster homes, even if it means approving a higher adoption subsidy rate in some cases. They also need to find solutions to the larger problem of the financial penalty for a treatment foster family to adopt or take immediate steps to find alternative homes for children, especially those for whom reunification is unlikely to occur.

Educational Needs of Foster Children: The IVA applauds the Interim Director's commitment to educational rights and opportunities for children and youth in foster care. Recognizing the challenges of education for foster children and youth, Interim Director Thompson recently announced the creation of a position for a Program Manager for Education and Academic Achievement to implement the programs and procedures necessary to ensure each foster child has the best chance to succeed academically.

#### Opportunities - Programs

Family Preservation: Over the past few years, there has been a focus on avoiding foster care and keeping children with their families and, when they must be removed, moving more quickly toward reunifying them, if possible. The IVA agrees that a shift in focus was needed; for many years, children's bonds with their families and the harm of being in foster care itself were

not sufficiently considered in weighing the difficult decision of whether to remove children from their homes. In order to accomplish such a shift safely, however, it is critical that timely and appropriate needs assessments and services be provided to children who remain in their homes and their families. This means that BCDSS must have strong, evidence-informed family preservation programs with well-trained and well-supported staff as well as access to an array of services to fit families' strengths, needs and resources while keeping children safe in their own homes.

Diversion of Older Youth: Under the prior administration, the Choice intensive services program was added to attempt diversion of 15-year olds from entering foster care or rapid reunification if they did enter foster care; once children enter care at that age, the likelihood is high that they will remain in care until 21. That program should be evaluated to see if it is worth continuing, and, if so, expanding to other age groups. BCDSS should work with providers with proven records of family strengthening programs, such as the Family Tree, to consider which evidence-informed programs should be adopted and to strengthen the skills and effectiveness of current family preservation staff.

Rapid Reunification of Younger Children: Strong family-focused services are also critical to timely and lasting reunification of children in foster care from the parents from whom they were removed. The prior administration implemented the "rapid reunification" program in which families with a child under the age of eight who is newly entering foster care are assigned to both a permanency and a family preservation worker to try to provide intensive services to parents immediately with the goal of reunification within six months. If successful, expansion of

the program should be considered. If not, BCDSS should look for models for early-reunification programs that have been successful in similar settings.

Post-Reunification Services: With regards to family reunification, BCDSS also needs to look at the success of its post-reunification services. A decision was made early in the prior administration to transfer the cases of children and families from permanency workers to family preservation workers immediately upon reunification. The rationale that working with intact families is the job of family preservation and that the latter have better community contacts and resources to provide the families is probably sound. However, concerns have arisen about both the timing and quality of case transfer at a time in a family's life that is critical to lasting reunification. Practice must be strengthened to insure an immediate and smooth transition between programs.

Specialized Foster Home Recruitment Efforts: Those children and youth who remain in foster care and those who must enter care because they cannot be safely maintained in their homes or with relatives are often in need of greater and more intensive services. Recognizing the significant shifts in the foster care population to older youth, and the limitations in the current treatment foster care system to provide stable care (and permanency) for children with more severe emotional problems and behavioral needs, the previous administration focused foster home recruitment on people interested in and capable of providing the necessary level of support to teens, teen parents and children with serious mental, developmental or physical health needs. These efforts should be intensified under the new administration.

Pregnant and Parenting Youth: BCDSS should continue their efforts to identify pregnant and parenting teens and to provide effective services to them. Once a pregnant teen is identified,

her case is supposed to be assigned to a MATCH nurse to ensure that all appropriate pre-natal and post-birth care is being provided. However, in order for MATCH to provide these services, they must first be notified that a youth is pregnant. Communication between caseworkers and MATCH is essential to ensuring that these pregnant and parenting youth are comprehensively served. BCDSS and MATCH staff must find ways to improve communication so that this especially high-risk population of foster youth can receive the services and support needed. In addition, there needs to be focused attention on better support for teen parents who are not in the specialized “mother-baby” programs, such as those who are in BCDSS foster homes.

Older Foster Youth and Successful Transition from Foster Care: Much time and many resources have been invested in trying to improve the services provided to youth aged 18-20 – really young adults – who remain in the foster care system before “aging out” at the age of 21. Tragically, for many years, leaving children to grow up in foster care was tolerated, resulting in more than 1,300 youth, an average of 35 per month, aging out from BCDSS custody over the past three years. Many of those youth spent the majority of their young lives in foster care – a number staying in foster care literally from birth.

BCDSS began early in Director McGrath’s tenure to develop its “Ready by 21” program to provide the staff, procedures and tools to help youth gain the skills and material necessities to live as independently as they can when they leave the care of BCDSS. As part of BCDSS case plan materials, there is a list of activities and skills that youth should meet/be provided at different ages between 14 and 21. There is a significant number of non-case-carrying staff who is tasked with providing support to OHP workers with older youth in their case loads. Ready by 21 staff is also tasked with facilitating FIMs for youth. There are Ready by 21 staff members who are specifically tasked with developing employment, education, life skills and housing



opportunities and training. Keys to Success, an intensive three week life-skills training and preparation for SILA has been implemented and focuses on cohorts (up to 10 youth) who are 19-years-old. There is a general goal that all 19 year olds will go through the program and be in a sustainable living situation upon aging out. Youth still in foster homes and group homes are being encouraged to consider transitioning to SILA so that they are not left without a place to live upon turning 21.

Not surprisingly, development of sound, effective Ready by 21 programs has been difficult. A number of different strategies have been developed and abandoned or changed significantly. Issues that need to be addressed immediately include earlier transitioning planning; it appears that the main transition-planning meeting now occurs 60 days or less before the youth turns 21. That meeting should merely confirm that the final transition plans which had been devised much earlier (ages 19-20, at the latest, earlier for disabled youth) have been accomplished. Transition planning FIMs need to be examined for effectiveness, and additional resources, such as more facilitators and Ready by 21 staff automatically being present, should be added if not currently available.

Because high volume of youth aging out of care is a national phenomenon (in part because the federal government now provides IV-E support for eligible youth remaining in care until the age of 21), there are many tested programs and resources available that may be adaptable for use in Baltimore City. The IVA urges the new administration not to try to reinvent the wheel, instead look to programs which have shown success elsewhere, particularly in urban environments like Baltimore.

Custody and Guardianship versus Adoption: When reunification is not possible, the permanency alternative for most children is either adoption or custody and guardianship. Prior

to 2007, custody and guardianship was not a financially viable alternative for many families because of a lack of subsidies like those available in adoption cases. However, in 2007 and 2008 Maryland and the federal government, respectively, made custody and guardianship subsidies available. Subsidized guardianship has helped many children leave the foster care system; one element of the significant reduction of the number of children in foster care in Baltimore City is that caregivers who were not comfortable adopting their grandchildren or other relatives now have an alternative to bring children's foster care cases to a close. Custody and guardianship is a critical tool that should continue to be available when it is in the best interests of the child.

Unfortunately, there appears to be an unintended negative consequence to subsidizing custody and guardianship. There has been an increase in awards of custody and guardianship in cases, particularly of very young children, that likely would have resulted in adoptions in the past. There are many reasons for this occurrence, for example, parents being more willing to consent to custody and guardianship than adoption and unwillingness by the agency or children's attorneys to attempt changes of permanency plans or termination of parental rights in juvenile court; caregivers not having to become licensed foster parents (with all of the training and background and home inspection requirements) to receive (state-funded) custody and guardianship funds; custody and guardianship being quicker to obtain due to the first two reasons; a belief that post-permanency assistance will be easier to obtain if there is custody and guardianship rather than adoption; and the more traditional reasons of relatives, in particular, being uncomfortable with adopting their daughter's or son's or sister's child and older children being "unwilling" to be adopted.

While each child's best permanency plan must be decided based upon the child's individual best interest, it needs to be recognized openly that custody and guardianship does not provide a legally permanent family for a child: (1) custody and guardianship carries with it the reality that parents can, at any time, petition to regain custody and guardianship; (2) closure of the custody and guardianship case is at the court's discretion – if the case remains open, the child remains CINA and further intervention is easier to obtain; (3) the child has no legal relationship to the adult(s) with custody and guardianship upon attaining age 18 – protections requiring parents to provide for adult disabled children are not applicable; (4) the child has no right to the Social Security benefits available to an adopted child or disabled adult if the caregiver becomes disabled, retires or dies. Of course, for many families, the child is considered a permanent member of the family even when custody and guardianship has expired due to the child's turning 18 years of age. But even the way that granting of an adoption is celebrated by the court and families in comparison to the lack of ritual and celebration attached to the grant of a custody and guardianship order clearly sends the message to children and families that this is just another legal order, not one that provides a child with a "forever family."

There is no one answer to this problem but it needs to be addressed, piece by piece. One important piece is to provide the security that there will be assistance post adoption (or custody and guardianship). Child and Family Services Agency (CFSA), Washington, D.C.'s child welfare agency, has a contract with Adoptions Together to provide comprehensive post permanency services, including pre-adoption or custody and guardianship counseling (including to reluctant families and children) and post-adoption or custody and guardianship counseling, education, recreation opportunities and other services. Baltimore City needs such a program.

There also needs to be education of BCDSS staff and the Juvenile Court about the importance of the real permanency that adoption brings as well as advocacy by BCDSS legal staff to try to get a truly permanent plan implemented whenever possible and appropriate.

The 51<sup>st</sup> Reporting Period

Defendants' 51<sup>st</sup> Report covers the January through June 2013 reporting period. Defendants claim compliance with nine Exit Standards - 3, 39, 48, 52, 68, 93, 115, 116, and 121. The IVA continues to find and certify compliance with Exit Standards 68 and 121. The IVA continues not to be able to certify compliance with Exit Standards 3 (last submitted for certification in the 47<sup>th</sup> Report), 39, 48, 52, 93, 115 and 116 for the reasons set out in the following chart.

Because Defendants are not requesting certification of any new Exit Standards, the IVA once again is filing an abbreviated certification report in chart format in response to Defendants' 51<sup>st</sup> Six-Month Compliance Report. The chart includes explanations of what Defendants need to do in order to gain IVA certification of the non-certified Exit Standards.

**51<sup>st</sup> REPORT EXIT STANDARD CERTIFICATION DECISIONS AND REASONS**

<b>Exit Standard</b>	<b>Defts' 51<sup>st</sup> Report</b>	<b>IVA</b>	<b>Reason for IVA Decision</b>	<b>What is Needed for Compliance/Notes</b>
<b>39 - The array of current placements matched the recommendation of the biennial needs assessment.</b>	Yes	No	1. Failure to complete a biennial needs assessment. 2. Failure to provide written assessment of placement needs and the specific steps being taken to meet those needs.	Defendants need to articulate in writing : (1) the placement needs for children in BCDSS care, as required by Additional Commitment OHP 1; and, (2) if not all needed placements are available, the steps they are taking to obtain the needed placements.
<b>48 – 90% of kinship care providers received written notification of the right to apply for foster home licensing within ten days of placement.</b>	99.5%	No	Review of three months' Hand Counts during the report period shows that there were a significant number of children who were moved from a non-kin placement to a kin placement who were not identified on the placement record and, therefore, the kin were not sent the required notification.	Defendants need to develop more reliable procedures for ensuring that kin with whom children are re-placed receive these notifications.
<b>52 –BCDSS employed a staff of non-case carrying specialists to provide technical assistance to caseworkers and supervisors for cases that required specialized experience and /or knowledge.</b>	Yes	No	1. Non-case carrying specialists not available in all areas required by MCD. 2. Education specialists not fulfilling requirements of position. (See Attachment 1, Education Specialist Job Description).  Resource Directories were updated and published for each unit in August 2013. (See Defendants' 51 <sup>st</sup> Report Appendix F).	Defendants need to: (1) demonstrate the availability of housing specialists to assist staff in helping parents and guardians with a plan of reunification to find appropriate housing; and (2) ensure that education specialists are meeting requirements of positions and acting as a resource to caseworkers.

Exit Standard	Defts' 51 <sup>st</sup> Report	IVA	Reason for IVA Decision	What is Needed for Compliance/Notes
<b>68 – 99.8 percent of children in OHP were not housed outside regular business hours in an office, motel, hotel or other unlicensed facility. [Remainder of standard omitted as not applicable.]</b>	99.8%	Yes	Reports available and reviewed for all but three eight-hour evening, night, weekend and holiday shifts. One child spent six hours at the Extended Hours building (“Gay Street”) during this report period. No evidence of children otherwise being housed in office buildings, hotels or motels.	Notes: 1. Fifth Consecutive Certification. 2. Related Measure 67 is <u>not</u> certified as accurate because BCDSS has not provided written instructions for a reliable system to report the actual amount of time that each child spends in the Extended Hours building after regular business hours.
<b>93 – 90% of all new entrants had a complete health passport that was distributed to the children’s caregivers promptly.</b>	94.4%	No	Failure to meet MCD requirement to provide caregiver with documentation of child’s condition at time of entry into care.	Defendants need to provide to the caregiver documentation of child’s condition at time of entry into care. Because there is often little information available immediately, one of the ways to meet this measure would be to send copies of initial health assessments (and any necessary interpretations of doctor’s language) along with any critical medical history to the caregiver when they are received. For further documentation of the child’s condition at the time of entry into care, the caregiver should be provided with a copy of the comprehensive assessment (the combination of the medical, dental and mental health examinations) as soon as the documentation is available. Under the MCD, the caregiver must also be provided with a copy of the health plan. (MATCH has indicated that the initial health plan (created at about 60 days after entry into care) is now being sent to caregivers.)

Exit Standard	Defts' 51 <sup>st</sup> Report	IVA	Reason for IVA Decision	What is Needed for Compliance/Notes
<p><b>115 – 90% of case-carrying staff was at or below the standard for caseload ratios.</b></p>	<p>97.8%</p>	<p>No</p>	<p>1. Failure to use DHR-established caseload standards in calculating compliance. With regards to Defendants' argument on page 18 of the 51<sup>st</sup> Report, regardless of what the CWLA has said, DHR for the past four years has used the 1:12 and 1:36 ratios in the information it provides annually to the General Assembly about staffing. (See Attachment 2, DHR Child Welfare Caseload Data, December 1, 2012). 2. Failure to include new applications as cases in calculating caseloads for Resources &amp; Support workers. Defendants argue in the 51<sup>st</sup> Report that because only 40% of foster home applications result in licensed homes and <u>some</u> of these homes do not have children in them (many applicants are the kin who already care for the foster children for whom their home is being licensed), the volume of work "pales in comparison to the work involved in an approved home." The IVA does not have the data to determine which activity takes more of a worker's time; however, the current practice of excluding applications from consideration in setting caseloads is not acceptable.</p>	<p>1. Defendants need to use caseload ratios of 1:12 for calculating compliance for OHP caseworkers. 2. Defendants need to include new applications assigned to Resources &amp; Support workers as cases for the purpose of calculating caseloads. 3. Defendants need to use caseload ratios of no greater than 1:36 for calculating compliance for Resources &amp; Support caseworkers. [Note: The IVA has not determined what the exact caseload limit should be; presumably, the caseload limit should be somewhere between 1:14 and 1:36 since the Resources &amp; Support workers have both new application cases (for which DHR has set a 1:14 caseload limit) and ongoing cases. The IVA asks that the parties discuss the issue and try to come to an agreement.]</p>



<b>Exit Standard</b>	<b>Defts' 51<sup>st</sup> Report</b>	<b>IVA</b>	<b>Reason for IVA Decision</b>	<b>What is Needed for Compliance/Notes</b>
<b>116 – 90% of case-carrying teams were at or below the standard for ratio of supervisor: worker.</b>	99.7%	No	Failure to use DHR-established supervisor to caseworker standards in calculating compliance. DHR for the past four years has used the 1:5 ratios in the information it provides annually to the General Assembly about staffing. (See Attachment 2).	Defendants need to use supervisor to caseworker ratios of 1:5 for calculating compliance.
<b>121 – 95% of case workers met the qualifications for their position title under Maryland State law.</b>	100%	Yes	Procedures are in place to ensure qualifications are met. (No caseworkers hired this period. Two caseworkers were transferred into child welfare from a non-child welfare unit (Homeless Services) but were placed in Resources & Support's Recruitment and Retention Unit in non-case carrying capacities.)	Notes: 1. Sixth Consecutive Certification. 2. Related Internal Success Measures 117 and 118 are also certified as accurately reported.

**ADDITIONAL COMMITMENTS**

The MCD also requires that Defendants report on their compliance with the Additional Commitments which are set out at the end of each section of Part Two of the MCD. Defendants have failed to do so despite prior requests by the IVA. The IVA again requests that Defendants include such a report with their next Compliance Report and subsequent reports.

One Additional Commitment that has long awaited attention is now poised for implementation – the Education Additional Commitment (MCD, p. 37). With the appointment of a Program Manager for Education and Academic Achievement, the BCDSS has taken a great leap forward towards compliance with the education requirements of the “Fostering Connections to Success and Increasing Adoptions Act.”

Submitted by:

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/s/

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