



WISCONSIN DEPARTMENT OF  
CHILDREN AND FAMILIES

Jeanine B. Settlement Agreement Report  
of the  
Division of Milwaukee Child Protective Services  
January – December 2016

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*Please note this information is embargoed from public release or publication until  
12:00 p.m. on March 24, 2017.*

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# Introduction

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## **Background to Jeanine B. Settlement Agreement**

This report provides information on the progress of the Division of Milwaukee Child Protective Services (DMCPS), formerly the Bureau of Milwaukee Child Welfare,<sup>1</sup> towards meeting the requirements of the Jeanine B. Settlement Agreement.

In 1993, the American Civil Liberties Union Children's Rights Project (now Children's Rights, Inc.) filed suit in the Federal District Court for the Eastern District of Wisconsin on behalf of an estimated class of 5,000 children who were receiving child welfare services in Milwaukee County. The Milwaukee County Executive, the Director of the Milwaukee County Human Services Division, the Governor and the Secretary of the Department of Health and Social Services<sup>2</sup> were named as defendants.

The complaint was a broad-based challenge to the administration of the Milwaukee County child welfare system, stating that it failed in its obligation to provide adequate child welfare services to children and families. The complaint alleged that the State failed to adequately supervise and fund the Milwaukee County system.

In response to the lawsuit and to improve the safety and well-being of children, the state of Wisconsin assumed direct responsibility for administering and funding Milwaukee County child welfare effective January 1, 1998. The lawsuit subsequently continued only against the state defendants. In 2002, the parties reached a settlement of the litigation. The Settlement Agreement requires DMCPS to achieve specific outcomes regarding the permanency, safety and well-being of Milwaukee County children in out-of-home care. Only one of the numerous outcomes required in the Settlement Agreement has not yet been accomplished.

## **Format of Report**

This is the annual report for 2016. It includes outcomes of DMCPS's performance from January 1, 2016 through December 31, 2016.

This report is divided into three sections. The first section describes the performance towards meeting the **remaining enforceable provision**. The second section includes the status of **provisions that are no longer subject to enforcement**. DMCPS has been released from enforcement of these provisions after meeting the required benchmarks for two consecutive six-month periods, as stipulated in the Settlement Agreement. The third section includes the status of **non-enforceable process indicators and outcomes** inclusive of safety, well-being and permanency objectives included in the Settlement Agreement. This information was identified in previous reports as "monitoring items." Provisions that are no longer operative are excluded from this report. For example, Section I.B.5 of the Settlement Agreement is inoperative because the Subsidized Guardianship waiver was not obtained before January 1, 2003; thus the controlling requirement is I.B.4.

## **Data**

Most of the data presented in this report were generated from the electronic Wisconsin Statewide Automated Child Welfare Information System (eWiSACWIS). To create a more streamlined document for the reader, the rounding of performance percentages (past and present) occurs in most instances.

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<sup>1</sup> On October 4, 2015, the Bureau of Milwaukee Child Welfare (BMCW) was renamed the Division of Milwaukee Child Protective Services (DMCPS).

<sup>2</sup> The Department was subsequently renamed the Department of Health and Family Services. Beginning in July 2008, responsibility for DMCPS, at that time known as BMCW, was transferred to the newly created Department of Children and Families.

## Annual Performance of Remaining Enforceable Provision, CY 2003 – CY 2016

§I.D.9 At least the following percentages of children in DMCPS custody within the period shall have had three or fewer placements during the previous 36 calendar months of their current episode in DMCPS custody. The number of placements will exclude time-limited respite care placements and returns to the same caregiver after an intervening placement during the same out-of-home care episode. Those children in DMCPS custody through the Wraparound Milwaukee program shall be excluded from this calculation. Initial assessment center placements also will be excluded from the calculation.

Past Performance		Current Performance											
CY 2003 Standard >=80%	CY 2004 Standard >=82%	CY 2005 – CY 2016 Standard >=90%											
CY 2003 Result	CY 2004 Result	CY 2005 Result	CY 2006 Result	CY 2007 Result	CY 2008 Result	CY 2009 Result	CY 2010 Result	CY 2011 Result	CY 2012 <sup>3</sup> Result	CY 2013 Result	CY 2014 Result	CY 2015 Result	CY 2016 Result
76%	72%	72%	73%	75%	77%	78%	80%	82%	84%	87%	87%	88%	87%

<sup>3</sup> Note: The formula for this performance standard was modified effective July 1, 2012 pursuant to agreement among the parties and Court approval. The original formula was in effect for the first six months of 2012. The modified formula was used to calculate data in the second six months of 2012, forward.

## Section I. Remaining Enforceable Provision

### Placement Stability

I.D.9. At least the following percentages of children in DMCPs custody within the period shall have had three or fewer placements during the previous 36 calendar months of their current episode in DMCPs custody. The number of placements will exclude time-limited respite care placements and returns to the same caregiver after an intervening placement during the same out-of-home care episode. Those children in DMCPs custody through the Wraparound Milwaukee program shall be excluded from this calculation. Initial assessment center placements also will be excluded from the calculation.

DMCPs did not meet the performance standard for the period of 2016.

CY 2016 Performance Standard	First Six-Month (Jan-Jun)	Second Six-Month (Jul-Dec)	CY 2016 Annual Performance
>= 90%	87%	86%	87%

**A. CY 2016 placement stability performance is 87 percent whereas the standard is 90 percent.**

Performance during CY 2016 (87 percent) has decreased by 1 percent from the previous CY (88 percent) and remains below the standard of 90 percent. The data in Table 1.1 show historical performance since 2003.

*Table 1.1: Semi-annual and annual placement stability performance, CY 2003 – CY 2016*

	January - June	July - December	Annual Performance
CY 2016	87%	86%	87%
CY 2015	88%	88%	88%
CY 2014	88%	87%	87%
CY 2013	87%	88%	87%
CY 2012 <sup>4</sup>	82%	86%	84%
CY 2011	81%	82%	82%
CY 2010	79%	81%	80%
CY 2009	78%	79%	78%
CY 2008	76%	78%	77%
CY 2007	74%	75%	75%
CY 2006	73%	73%	73%
CY 2005	71%	72%	72%
CY 2004	71%	73%	72%
CY 2003	75%	77%	76%

<sup>4</sup> Note: The formula for this performance standard was modified effective July 1, 2012 pursuant to agreement among the parties and Court approval. The original formula was in effect for the first six months of 2012. The modified formula was used to calculate data in the second six months, forward.

**B. 2016 performance for the partner agencies was 86 percent and 88 percent and DMCPs Initial Assessment was 99 percent.**

The data in Table 1.2 show the monthly and annual performance by each agency for 2016.

- CHWCS (Children’s Hospital of Wisconsin Community Services) achieved an annual performance rate of 86 percent.
- SaintA achieved an annual performance rate of 88 percent.
- DMCPs Initial Assessment achieved an annual performance rate of 99 percent.

*Table 1.2: Placement stability performance by agency and by month for 2016*

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual Performance
<b>CHWCS</b>													
Percentage of children with three or fewer placements	86%	85%	86%	87%	86%	86%	85%	85%	85%	85%	85%	85%	86%
<b>SaintA</b>													
Percentage of children with three or fewer placements	87%	87%	87%	87%	88%	87%	88%	88%	88%	88%	87%	87%	88%
<b>Initial Assessment</b>													
Percentage of children with three or fewer placements	100%	100%	96%	100%	100%	100%	100%	100%	100%	100%	100%	100%	99%
<b>DMCPs Totals</b>													
Children with three or fewer placements	1,727	1,738	1,739	1,774	1,733	1,717	1,698	1,716	1,705	1,722	1,701	1,665	
Children in OHC	1,993	2,005	2,006	2,031	1,985	1,981	1,962	1,979	1,977	1,992	1,967	1,936	
Percentage of children with three or fewer placements (monthly)	87%	87%	87%	87%	87%	87%	87%	87%	86%	86%	86%	86%	
Percentage of children with three or fewer placements (cumulative)	87%	87%	87%	87%	87%	87%	87%	87%	87%	87%	87%	87%	87%
Children with four or more placements	266	267	267	257	252	264	264	263	272	270	266	271	

## Section II. Provisions No Longer Subject to Enforcement

Provisions No Longer Subject to Enforcement	CY 2003	CY 2004	CY 2005	CY 2006	CY 2007	CY 2008	CY 2009	CY 2010	CY 2011	CY 2012	CY 2013	CY 2014	CY 2015	CY 2016
§I.B.2 Children reaching 15 of the last 22 months in out-of-home care ... Termination of Parental Rights (TPR) petition filed ..., or an allowable Adoption and Safe Families Act (ASFA) exception documented in their case, by the end of their fifteenth month in care. * final performance standard >= 90%	77%	88%	29%	79%	85%	<b>90%</b>	88%	90%	82%	87%	89%	91%	91%	88%
§I.B.3 ... children in DMCPs custody for more than 15 of the last 22 months in out-of-home care without a TPR previously filed or an available exception previously documented shall have had a TPR petition filed ..., an exception documented ... * final performance standard >= 90%	88%	93%	<b>93%</b>	89%	90%	95%	95%	90%	91%	100%	100%	100%	100%	100%
§I.B.4 ... percentage of children in DMCPs out-of-home care ... for more than 24 months ... calculated against a baseline of 5,533 children in DMCPs out-of-home care. * final performance standard <=25%	44%	30%	23%	<b>18%</b>	18%	18%	16%	14%	11%	12%	11%	11%	12%	14%
§I.B.6 ... percentage of children who are reunified with parents or caretakers at the time of discharge... shall be reunified within 12 months of entry into out-of-home care. * final performance standard >= 71%	45%	63%	72%	71%	69%	64%	57%	61%	68%	<b>65%</b> <sup>5</sup>	70%	62%	58%	54%
§I.B.7 ... adoption is finalized ... within 24 months of entry into care. * final performance standard >= 30%	14%	16%	22%	32%	<b>34%</b>	38%	33%	37%	32%	34%	35%	34%	32%	33%
§I.C.1 ... children in DMCPs custody shall be free of substantiated abuse or neglect allegations within the period by a foster parent or staff of a facility required to be licensed. * final performance standard <=0.60%	0.57%	0.79%	0.81%	0.15%	0.93%	<b>0.39%</b>	0.40%	0.24%	0.22%	0.23%	0.15%	0.24%	0.15%	0.22%

KEY: **Bold** values in cells indicate that the performance met the standard for that period allowing for release from the provision

<sup>5</sup> DMCPs met the performance standard for two consecutive six-month periods (July – December 2011 and January – June 2012), as required for release from provision. Data point reflects 2012 annualized performance.

Provisions No Longer Subject to Enforcement (cont.)	CY 2003	CY 2004	CY 2005	CY 2006	CY 2007	CY 2008	CY 2009	CY 2010	CY 2011	CY 2012	CY 2013	CY 2014	CY 2015	CY 2016
§I.C.2 ... reports within the period alleging abuse or neglect of a child in DMCPs custody shall be referred to the independent investigation agency... within three business days.	99%	99%	99%	97%	98%	95%	99%	98%	97%	99%	98%	98%	97%	97%
* final performance standard >= 90%														
§I.C.3 ... reports referred for independent investigation ... shall be assigned to an independent investigator within three business days of the independent investigation agency's receipt of the referral from DMCPs.	99%	99%	99%	96%	98%	100%	100%	100%	100%	100%	100%	100%	98%	99%
* final performance standard >= 90%														
§I.C.4 Determination of the independent investigation within 60 days of receipt of the referral.	98%	98%	99%	98%	96%	100%	100%	100%	99%	98%	100%	97%	97%	94% <sup>6</sup>
* final performance standard >= 90%														
§I.D.1-2 DMCPs shall ensure that Ongoing Case Managers have caseloads not to exceed an average... of 11 families per case carrying manager per site ... (Average)	10	10	10	10	12	11	11	10	9	8	9	9	8	8
§I.D.3 By January 1, 2003...meets 90% compliance with monthly face-to-face contact.	90%	97%	97%	97%	96%	92%	94%	96%	97%	98%	99%	98%	98%	98%
§I.D.7 ... By December 31, 2003, DMCPs developed special diagnostic/assessment centers for children ... Placement in such centers follows applicable state law.	NA	81%	82%	79%	76%	76%	78%	97%	100%	100%	100%	98%	98%	98%

**KEY:** Bold values in cells indicate that the performance met the standard for that period allowing for release from the provision.

<sup>6</sup> For 11 of the 15 late Independent Investigations in 2016, the Independent Investigation agency was asked by the Milwaukee Police Department to delay its assessments until the police had completed their related investigation. The 11 investigations were all related to the same provider. The Police Department asked for the delay in order to ensure that the Independent Investigations did not compromise the criminal investigation. The Independent Investigation agency kept in contact with DMCPs and the Police Department, and eventually received direction to complete the assessments.



**Numbers Behind the Provisions No Longer Subject to Enforcement (January through December 2016)**

- §I.B.2 Of the 592 children reaching 15 of the last 22 months in out-of-home care, 522 (88 percent) children had a Termination of Parental Rights (TPR) petition filed or an allowable ASFA exception documented.
- §I.B.3 Of the 12 children in DMCPs custody for more than 15 of the last 22 months in out-of-home care without a TPR petition previously filed or an allowable exception indicated, 12 children (100 percent) belatedly had a TPR petition filed or an allowable exception documented.
- §I.B.4 On average each month, 758 (14 percent) children in DMCPs out-of-home care were in care for 24 or more months (measured against the baseline of 5,533 children).
- §I.B.6 Of the 501 children reunified with parents or caretakers, 270 (54 percent) were reunified within 12 months of entry into out-of-home care.
- §I.B.7 Of the 240 children with a finalized adoption, 80 (33 percent) of the finalizations occurred within 24 months of the child's entry into care.
- §I.C.1 Of the 3,228 children in an out-of-home care placement, 7 children (0.22 percent) were the victims of Child Abuse or Neglect by staff of a facility required to be licensed (one child in an RCC, three children in group homes, two children in TFC's, and one child in a general foster home).
- §I.C.2 Of the 249 reports referred to the independent investigation agency, 242 (97 percent) were referred within three business days.
- §I.C.3 Of the 249 reports referred for independent investigation, 247 (99 percent) were assigned to an independent investigator within three business days of the referral from DMCPs.
- §I.C.4 Of the 255 investigations completed by the independent investigative agency, 240 (94 percent) of the determinations were completed within 60 days of receipt of the referral.<sup>7</sup>
- §I.D.3 Of the 25,438 (cumulative total) expected monthly face-to-face contacts, 24,987 (98 percent) were achieved.
- §I.D.7 ... The Centers were developed prior to December 31, 2003. Of the 279 placement episodes, 274 (98 percent) were within the established timelines.
- §I.D.1-2 DMCPs shall ensure that Ongoing Case Managers have ... caseloads not to exceed 11 families per case carrying manager per site.... Compliance with this provision at any given point in time is measured by averaging the current monthly caseload average with the corresponding averages for the preceding two months. Performance was between 8.0 cases and 8.6 cases per Ongoing Case Manager.

*Table 2: Caseload*

	Nov 2015	Dec 2015	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Open Cases			1,708	1,687	1,704	1,714	1,707	1,692	1,689	1,675	1,675	1,672	1,672	1,642
Active Ongoing Case Managers at End of Month			203	201	204	200	200	198	200	198	205	204	207	210
Monthly Average	8.3	8.2	8.4	8.4	8.4	8.6	8.5	8.5	8.4	8.5	8.2	8.2	8.1	7.8
Performance			8.3	8.3	8.4	8.4	8.5	8.6	8.5	8.5	8.4	8.3	8.1	8.0

<sup>7</sup> See Footnote 6.

### Section III. Process Indicators and Outcomes

Process Indicators (Previously - Monitor Only)	CY	CY	CY	CY	CY	CY	CY	CY	CY	CY	CY	CY	CY	CY	CY
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2016
Family assessments completed within 90 days	96%	97%	95%	95%	88%	66%	96%	90%	95%	91%	98%	85%	82%	89%	89%
Initial health screens -- within five business days	58%	76%	67%	75%	61%	62%	69%	89%	86%	88%	75%	71%	83%	88%	88%
Placement packets to foster parents	91%	85%	97%	73%	86%	88%	92%	97%	73%	77%	92%	92%	94%	94%	94%
Annual medical exam	75%	74%	73%	85%	78%	80%	91%	91%	95%	94%	94%	91%	89%	91%	91%
Annual dental exam	57%	65%	64%	78%	67%	68%	87%	87%	92%	86%	84%	76%	74%	79%	79%
Initial Permanency Plans within 60 days	97%	97%	98%	95%	90%	82%	82%	85%	87%	80%	84%	70%	76%	86%	86%
Annual and Administrative Permanency Plan reviews	77%	77%	92%	91%	92%	85%	85%	95%	93%	93%	94%	93%	92%	92%	92%
Re-entry within 12 months of a prior out-of-home care episode	9%	7%	7%	10%	11%	8%	8%	10%	8%	9%	6%	6%	9%	7%	7%
Ongoing Case Manager turnover	30%	39%	33%	26%	34%	35%	30%	25%	34%	25%	39%	34%	32%	29%	29%
Children per caseload (twelve month average)	19.5	18.5	17.0	18.4	21.9	20.9	20.2	17.1	15.7	14.2	13.6	15.5	13.6	13.2	13.2

**KEY:** Cells where the font is in **BOLD** indicate that performance has improved compared to the previous review period.

#### **Numbers Behind the Process Indicators (January through December 2016)**

Of the 572 required family assessments, 510 (89 percent) were completed within 90 days.

Of the 762 expected initial health screens, 669 (88 percent) were completed within five business days.

Of the 100 children in the sample who changed placements or experienced their first placement, 94 providers (94 percent) received and signed for a copy of the Information for Foster Parent's Face Sheet and Checklist.

On average each month, 2,054 of 2,246 children (91 percent) were current with their annual medical exams.

On average each month, 1,463 of 1,859 children (79 percent) were current with their annual dental exams.

Of the 827 Initial Permanency Plans, 709 (86 percent) were completed within 60 days.

Of the 4,340 annual and administrative permanency plan reviews, 4,013 (92 percent) were conducted timely.

Of the 978 children who entered out-of-home care, 73 children (7 percent) entered care within 12 months of a prior out-of-home care episode.

At the start of 2016, there were 210 Ongoing Case Managers. During the year, 85 Ongoing Case Managers separated from their position and 87 were hired.

On average each month, 203 Ongoing Case Managers worked with an average of 2,681 children.