



# Jeanine B. Settlement Agreement Report of the Bureau of Milwaukee Child Welfare 2012

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## **Introduction**

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

This report provides information on the progress of the Bureau of Milwaukee Child Welfare (BMCW) in 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>1</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 BMCW 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 second semi-annual report for 2012. It includes outcomes of BMCW's performance from July 1 through December 31, 2012, and reports data from January 1 through December 31, 2012.

This report is divided into three sections. The first section describes the performance towards the **remaining enforceable provision**. The second section includes the status of **provisions that are no longer subject to enforcement**. These provisions are no longer enforced because BMCW was in compliance with the provisions for two consecutive six-month periods as stipulated in the terms of 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.

During 2012, Section I.B.6 moved from an enforceable provision to a provision no longer subject to enforcement. BMCW met the required performance standard for the two consecutive six month periods of July – December 2011 and January – June 2012. By agreement of the parties, Section I.B.6 was released from enforcement as of July 1, 2012. Section I.B.6 performance for 2012 therefore is included in the second section of this annual report, provisions no longer subject to enforcement.

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<sup>1</sup> The Department was subsequently renamed the Department of Health and Family Services. Beginning in July 2008, responsibility for BMCW was transferred to the newly created Department of Children and Families.

## **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.

## Annual Performance of Remaining Enforceable Provision, CY 2003 – CY 2012

§I.D.9 As of July 1, 2012, at least the following percentages of children in BMCW custody within the period shall have had three or fewer placements during the previous 36 calendar months of their current episode in BMCW 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 care episode. Those children in BMCW custody through the Wraparound Milwaukee program shall be excluded from this calculation. Initial assessment center placements also will be excluded from the calculation.

CURRENT PERFORMANCE	PAST PERFORMANCE								
CY 2012 Standard	CY 2003 Standard	CY 2004 Standard	CY 2005 – 2011 Standard						
>= 90%	>= 80%	>= 82%	>= 90%						
CY 2012 Result	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
84%	76%	72%	72%	73%	75%	77%	78%	80%	82%

Note: The formula for this performance standard was modified effective July 1, 2012 pursuant to agreement among the parties and Court approval.<sup>2</sup> The original formula was in effect for the first six months covered by this report. The data in the second six months covered by this report was calculated using the modified formula.

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<sup>2</sup> Modified I.D.9. Measure – At least the following percentages of children in BMCW custody within the period shall have had three or fewer placements during the previous 36 calendar months of their current episode in BMCW 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 care episode. Those children in BMCW custody through the Wraparound Milwaukee program shall be excluded from this calculation. Initial assessment center placements also will be excluded from the calculation (Specified percentages remain the same).

## **Section I. Remaining Enforceable Provision**

### **Placement Stability**

#### **Placement Stability, January – June 2012**

I.D.9. At least the following percentages of children in BMCW custody within the period shall have had three or fewer placements after January 1, 1999, during their current episode in BMCW 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 care episode. Those children in BMCW custody through the Wraparound Milwaukee program shall be excluded from this calculation.

#### **Placement Stability, July – December 2012**

I.D.9. At least the following percentages of children in BMCW custody within the period shall have had three or fewer placements during the previous 36 calendar months of their current episode in BMCW 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 care episode. Those children in BMCW custody through the Wraparound Milwaukee program shall be excluded from this calculation. Initial assessment center placements also will be excluded from the calculation.

BMCW did not meet the performance standard for 2012.

<b>CY 2012 Performance Standard</b>	<b>First Six-Month (Jan-Jun)</b>	<b>Second Six-Month (Jul-Dec)</b>	<b>CY 2012 Annual Performance</b>
>= 90%	82%	86%	84%

- A. 2012 annual placement stability performance is 84 percent whereas the standard is 90 percent.**

Although below the standard of 90 percent, performance during the second six-month period of CY 2012 (86 percent) reached the highest level of any six-month period since the start of the Settlement Agreement. Performance in CY 2012 followed the trend of steady improvement since CY 2005. The data in Table 1.1 show historical performance since 2003.

*Table 1.1: Semi-annual and annual placement stability performance, CY 2003 – CY 2012*

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

**B. 2012 annual performance for the partner agencies was 81 percent and 86 percent and BMCW Initial Assessment was 99 percent.**

The data in Table 1.2 show the monthly and annual performance by each agency for 2012.

- CHW-CS (Children’s Hospital of WI – Community Services) achieved an annual performance rate of 81 percent.
- IFS (Integrated Family Services) achieved an annual performance rate of 86 percent.
- BMCW Initial Assessment achieved an annual performance rate of 99 percent.

*Table 1.2: Placement stability performance, by month for 2012*

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual Performance
<b>CHW-CS</b>													
Percentage of children with three or fewer placements	79%	79%	79%	79%	79%	77%	84%	84%	84%	85%	85%	86%	<b>81%</b>
<b>IFS</b>													
Percentage of children with three or fewer placements	86%	85%	85%	85%	85%	85%	89%	88%	87%	87%	87%	87%	<b>86%</b>
<b>Initial Assessment</b>													
Percentage of children with three or fewer placements	100%	100%	100%	96%	96%	97%	100%	100%	100%	100%	100%	96%	<b>99%</b>
<b>BMCW Totals</b>													
Children with three or fewer placements	1,591	1,570	1,571	1,580	1,572	1,531	1,586	1,537	1,549	1,551	1,533	1,519	
Children in OHC	1,934	1,912	1,919	1,928	1,916	1,881	1,831	1,780	1,800	1,803	1,771	1,756	
Percentage of children with three or fewer placements (monthly)	82%	82%	82%	82%	82%	81%	87%	86%	86%	86%	87%	87%	
Percentage of children with three or fewer placements (cumulative)	82%	82%	82%	82%	82%	82%	83%	83%	83%	84%	84%	84%	<b>84%</b>
Children with four or more placements	343	342	348	348	344	350	245	243	251	252	238	237	

## 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
§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 available Adoption and Safe Families Act (ASFA) exception documented in their case, by the end of their fifteenth month in care. * 2005 performance standard >= 90%	77%	88%	29%	79%	85%	<b>90%</b>	88%	90%	82%	87%
§I.B.3 ... children in BMCW 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 ... * 2005 performance standard >= 90%	88%	93%	<b>93%</b>	89%	90%	95%	95%	90%	91%	100%
§I.B.4 ... percentage of children in BMCW out-of-home care ... for more than 24 months ... calculated against a baseline of 5,533 children in BMCW out-of-home care. * 2005 performance standard <=25%	44%	30%	23%	<b>18%</b>	18%	18%	16%	14%	11%	12%
§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. *2005 performance standard >= 71%	45%	63%	72%	71%	69%	64%	57%	61%	68%	<b>65%</b> <sup>3</sup>
§I.B.7 ... adoption is finalized ... within 24 months of entry into care. * 2005 performance standard >= 30%	14%	16%	22%	32%	<b>34%</b>	38%	33%	37%	32%	34%
§I.C.1 ... children in BMCW 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. * 2005 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%
§I.C.2 ... reports within the period alleging abuse or neglect of a child in BMCW custody shall be referred to the independent investigation agency... within three business days. * 2005 performance standard >= 90%	99%	99%	99%	<b>97%</b>	98%	95%	99%	98%	97%	99%

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

<sup>3</sup> BMCW met the performance standard for two consecutive six-month periods (July – December 2011 and January – June 2012), as required for release from provision. Current report reflects January – December 2012 performance.



Provisions No Longer Subject to Enforcement ( <i>cont.</i> )	CY 2003	CY 2004	CY 2005	CY 2006	CY 2007	CY 2008	CY 2009	CY 2010	CY 2011	CY 2012
§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 BMCW. <i>* 2005 performance standard &gt;= 90%</i>	99%	99%	99%	<b>96%</b>	98%	100%	100%	100%	100%	100%
§I.C.4 Determination of the independent investigation within 60 days of receipt of the referral. <i>* 2005 performance standard &gt;= 90%</i>	98%	98%	99%	<b>98%</b>	96%	100%	100%	100%	99%	98%
§I.D.1-2 BMCW shall ensure that Ongoing Case Managers have ... <i>caseloads not to exceed 11 families per case carrying manager per site ... (Average)</i>	10	10	10	<b>10</b>	12	11	11	10	9	8
§I.D.3 By January 1, 2003... meets <i>90% compliance with monthly face-to-face contact.</i>	90%	97%	97%	<b>97%</b>	96%	92%	94%	96%	97%	98%
§I.D.7 ... By December 31, 2003, BMCW developed special diagnostic/assessment centers for children ... Placement in such centers follows applicable state law.	NA	81%	82%	79%	76%	76%	78%	<b>97%</b>	100%	100%

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

**Numbers Behind the Provisions No Longer Subject to Enforcement (January to December 2012)**

§I.B.2 Of the 572 children reaching 15 of the last 22 months in out-of-home care, 499 (87 percent) children had a Termination of Parental Rights (TPR) petition filed or an allowable ASFA exception documented.
§I.B.3 Of the 32 children in BMCW 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, 32 children (100 percent) belatedly had a TPR petition filed or an allowable exception documented.
§I.B.4 On average each month, 680 (12 percent) children in BMCW 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 608 children reunified with parents or caretakers, 398 (65 percent) were reunified within 12 months of entry into out-of-home care. <sup>4</sup>
§I.B.7 Of the 236 children with a finalized adoption, 80 (34 percent) of the finalizations occurred within 24 months of the child’s entry into care.
§I.C.1 Of the 2,980 children in an out-of-home care placement, 7 children (0.23 percent) were the victims of Child Abuse or Neglect by a foster parent (two children), treatment foster parent (one child), staff of a facility required to be licensed (two children), or court ordered kinship provider (two children).
§I.C.2 Of the 144 reports referred to the independent investigation agency, 142 (99 percent) were referred within three business days.
§I.C.3 Of the 144 reports referred for independent investigation, 144 (100 percent) were assigned to an independent investigator within three business days of the referral from BMCW.
§I.C.4 Of the 132 investigations completed by the independent investigative agency, 130 (98 percent) of the determinations were completed within 60 days of receipt of the referral.
§I.D.3 Of the 24,970 (cumulative total) expected monthly face-to-face contacts, 24,352 (98 percent) were achieved.
§I.D.7 ... The Centers were developed prior to December 31, 2003. 248 of the 248 (100%) placement episodes were within the established timelines.

§I.D.1-2 BMCW 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 7.4 cases and 8.1 cases per Ongoing Case Manager.

	May 2012	June 2012	July 2012	August 2012	September 2012	October 2012	November 2012	December 2012
Open Cases			1,496	1,466	1,467	1,480	1,487	1,500
Active Ongoing Case Managers at End of Month			192	200	198	196	187	188
Monthly Average	8.4	8.1	7.8	7.3	7.4	7.6	8.0	8.0
Performance			8.1	7.7	7.5	7.4	7.6	7.8

<sup>4</sup> BMCW met the performance standard for two consecutive six-month periods (July – December 2011 and January – June 2012), as required for release from provision. Current report reflects January – December 2012 performance.

### Section III. Process Indicators and Outcomes

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

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

<b>Numbers Behind the Process Indicators (January to December 2012)</b>
Of the 473 required family assessments, 431 (91 percent) were completed within 90 days.
Of the 810 expected initial health screens, 711 (88 percent) were completed within five business days.
Of the 100 children in the sample who changed placements or experienced their first placement, 77 providers (77 percent) received and signed for a copy of the Information for Foster Parent’s Face Sheet and Checklist.
On average each month, 1,993 of 2,130 children (94 percent) were current with their annual medical exams.
On average each month, 1,465 of 1,694 children (86 percent) were current with their annual dental exams.
Of the 824 Initial Permanency Plans, 658 (80 percent) were completed within 60 days.
Of the 3,104 annual and administrative permanency plan reviews, 2,900 (93 percent) were conducted timely.
Of the 1,007 children who entered out-of-home care, 92 children (9 percent) entered care within 12 months of a prior out-of-home care episode.
At the start of 2012, there were 151 Ongoing Case Managers. During the year, 71 Ongoing Case Managers separated from their position and 128 were hired.
On average each month, 178 Ongoing Case Managers worked with an average of 2,524 children.