



Wisconsin Department of
Children and Families

Jeanine B. Settlement Agreement Report
of the
Division of Milwaukee Child Protective Services
January – June 2021

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Introduction

1. Background to the 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,¹ 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 Services² were named as defendants.

The complaint was a broad-based challenge to the administration of the Milwaukee County Child Welfare System, alleging 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. Most of the outcomes were phased in over three annual periods, remaining in effect until the Period 3 benchmark was met for two successive six-month periods. Only one of the outcomes identified in the Settlement Agreement, placement stability, has not yet been met.

On February 3, 2021, the parties filed a Joint Motion to Terminate Settlement Agreement and Consent Decree on Grounds of Substantial Compliance and other supporting papers. On June 9, 2021, the court approved the distribution of the Notice of Proposed Termination of the Settlement Agreement and Consent Decree, while noting this court action does not concern any individual child's case that is pending in Milwaukee County Children's Court. The Modified Settlement Agreement, settlement monitoring reports, Joint Motion, Scheduling Order and other materials filed by the parties or other persons pursuant to the Scheduling Order may be viewed at <https://dcf.wisconsin.gov/mcps/settlement>. Key dates and events established by the Scheduling Order also may be found at the above link.

2. Format of Report

This is the first semi-annual report for 2021. It includes outcomes of DMCPS's performance from January 1, 2021, through June 30, 2021.

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 Settlement Agreement **provisions that are no longer subject to enforcement**. DMCPS has been released from enforcement of these provisions after meeting the required Period Three benchmarks for two consecutive six-month periods, as provided in the Settlement Agreement. 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; the controlling requirement is I.B.4.

¹ On October 4, 2015, the Bureau of Milwaukee Child Welfare (BMCW) was reorganized as a division of the Department of Children and Families and renamed the Division of Milwaukee Child Protective Services (DMCPS).

² 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.

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.”

3. Data

Most of the data presented in this report was 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.

Recent data presented in this report reflect the extraordinary effects of the COVID-19 pandemic on DMCPS operations during this reporting period.

4. Annual Performance of Placement Stability, Remaining Enforceable Provision, CY 2003 – YTD 2021

§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 – YTD 2021
Period 3 Standard
≥90%**

CY 2003	CY 2004	CY 2005	CY 2006	CY 2007	CY 2008	CY 2009	CY 2010	CY 2011	CY 2012 ³	CY 2013	CY 2014	CY 2015	CY 2016	CY 2017	CY 2018	CY 2019	CY 2020	CY 2021	YTD
76%	72%	72%	73%	75%	77%	78%	80%	82%	84%	87%	87%	88%	87%	87%	88%	89.2%	87.1%	87.5%	

³ 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

1. 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.

CY 2021 Period 3 Standard	First Six-Months (Jan-Jun 2021)	Second Six-Months (Jul-Dec 2021)	YTD 2021 Semi-Annual Performance
>= 90%	87.5%	NA	87.5%

- A. YTD 2021 placement stability performance is 87.5 percent whereas the Settlement Agreement Period 3 Standard is 90 percent.**

Performance during YTD 2021 (87.5 percent) has increased from the previous CY (87.1 percent). Table 1.1 shows historical performance since 2003.

Table 1.1: Semi-annual and annual placement stability performance, CY 2003 – YTD 2021

	January - June	July - December	Annual Performance
YTD 2021	87.5%	NA	NA
CY 2020	87.5%	86.8%	87.1%
CY 2019	89.6%	88.7%	89.2%
CY 2018	88%	88%	88%
CY 2017	87%	87%	87%
CY 2016	87%	86%	87%
CY 2015	88%	88%	88%
CY 2014	88%	87%	87%
CY 2013	87%	88%	87%
CY 2012 ⁴	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%

⁴ 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. 2021 YTD performance for the ongoing case management partner agencies was 88.7 percent for CW and 86.2 percent for SaintA. 2021 YTD performance for DMCPS Initial Assessment was 100 percent.

Table 1.2 shows the monthly and semi-annual performance by agency for 2021 YTD.

- CW (Children’s Wisconsin) achieved a semi-annual performance rate of 88.7 percent.
- SaintA achieved a semi-annual performance rate of 86.2 percent.
- DMCPS Initial Assessment achieved a semi-annual performance rate of 100 percent.

Table 1.2: Placement stability performance by agency and by month, January through June 2021

	Jan 2021	Feb 2021	Mar 2021	Apr 2021	May 2021	Jun 2021	Semi-Annual Performance
CW							
Percentage of children with three or fewer placements	88.7%	88.5%	88.9%	88.6%	88.6%	89.0%	88.7%
SaintA							
Percentage of children with three or fewer placements	86.5%	85.7%	86.1%	85.8%	86.1%	86.9%	86.2%
Initial Assessment							
Percentage of children with three or fewer placements	100%	100%	100%	100%	100%	100%	100%
DMCPS Totals							
Children with three or fewer placements	1,547	1,522	1,526	1,517	1,519	1,498	
Children in OHC	1,765	1,746	1,743	1,738	1,736	1,702	
Percentage of children with three or fewer placements (monthly)	87.6%	87.2%	87.6%	87.3%	87.5%	88.0%	
Percentage of children with three or fewer placements (cumulative)	87.6%	87.4%	87.5%	87.4%	87.4%	87.5%	87.5%
Children with four or more placements	218	224	217	221	217	204	

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	CY 2017	CY 2018	CY 2019	CY 2020	YTD 2021
<i>1. Timeliness of ASFA compliance</i>																			
§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.	77%	88%	29%	79%	85%	90%	88%	90%	82%	87%	89%	91%	91%	88%	97%	89%	83%	87%	89%
* final performance standard >= 90%																			
<i>2. "Belated" ASFA compliance</i>																			
§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 ...	88%	93%	93%	89%	90%	95%	95%	90%	91%	100%	100%	100%	100%	100%	100%	0%**	100%	100%	60%
* final performance standard >= 90%																			
<i>3. Length of stay in care</i>																			
§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.	44%	30%	23%	18%	18%	18%	16%	14%	11%	12%	11%	11%	12%	14%	13%	12%	12%	12%	12%
* final performance standard <=25%																			
<i>4. Reunification within 12 months of placement in out-of-home care</i>																			
§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.	45%	63%	72%	71%	69%	64%	57%	61%	68%	65% ⁵	70%	62%	58%	54%	58%	63%	49%	47%	50%
* final performance standard >= 71%																			

⁵ 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	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	CY 2017	CY 2018	CY 2019	CY 2020	CY 2021	YTD 2021
<i>5. Adoption within 24 months of removal</i>																				
§I.B.7 ... adoption is finalized ... within 24 months of entry into care.	14%	16%	22%	32%	34%	38%	33%	37%	32%	34%	35%	34%	32%	33%	26%	33%	25%	26%	34%	
* final performance standard >= 30%																				
<i>6. Children in foster care are safe from maltreatment</i>																				
§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.	0.57%	0.79%	0.81%	0.15%	0.93%	0.39%	0.40%	0.24%	0.22%	0.23%	0.15%	0.24%	0.15%	0.22%	0.18%	0.12%	0.23%	0.22%	0.14%	
* final performance standard <=0.60%																				
<i>7. Timeliness of referrals from Access to the independent investigation agency</i>																				
§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%	97%	99%	98%	97%	100%	
* final performance standard >= 90%																				
<i>8. Timeliness of the assignment by the independent investigation agency to an independent investigator</i>																				
§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%	98%	99.5%	100%	100%	100%	
* final performance standard >= 90%																				
<i>9. Timeliness of the independent investigation agency completing the investigations</i>																				
§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%	99%	100%	98%	100%	98%	
* final performance standard >= 90%																				
<i>10. Caseload size for ongoing case management program</i>																				
§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	8	8	9	8	8	

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	CY 2017	CY 2018	CY 2019	CY 2020	CY 2021	YTD
<i>11. Face-to-face contact</i> §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%	98%	98%	98%	97%	97%	97%
<i>12. Development of Special Diagnostic Assessment Centers</i> §I.D.7 ... By December 31, 2003, DMCPD 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%	99%	96%	95%	98%	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 through June 2021)

1. Timeliness of ASFA compliance

§I.B.2 Of the 263 children reaching 15 of the last 22 months in out-of-home care, 235 (89 percent) children had a Termination of Parental Rights (TPR) petition filed or an allowable ASFA exception documented.

2. “Belated” ASFA compliance

§I.B.3 Of the 30 children in DMCPDS 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, 18 children (60 percent) belatedly had a TPR petition filed or an allowable exception documented.

3. Length of stay in care

§I.B.4 On average each month, 676 (12 percent) children in DMCPDS out-of-home care were in care for 24 or more months (measured against the baseline of 5,533 children).

4. Reunification within 12 months of placement in out-of-home care

§I.B.6 Of the 175 children reunified with parents or caretakers, 87 (50 percent) were reunified within 12 months of entry into out-of-home care.

5. Adoption within 24 months of removal

§I.B.7 Of the 90 children with a finalized adoption, 31 (34 percent) of the finalizations occurred within 24 months of the child’s entry into care.

6. Children in foster care are safe from maltreatment

§I.C.1 Of the 2,115 children in an out-of-home care placement, 3 children (0.14 percent) were the victims of child abuse or neglect by staff of a facility required to be licensed (two children with foster homes – non-relative, one child with a group home).

7. Timeliness of referrals from Access to the independent investigation agency

§I.C.2 Of the 62 reports referred to the independent investigation agency, 62 (100 percent) were referred within three business days.

8. Timeliness of the assignment by the independent investigation agency to an independent investigator

§I.C.3 Of the 62 reports referred for independent investigation, 62 (100 percent) were assigned to an independent investigator within three business days of the referral from DMCPDS.

9. Timeliness of the independent investigation agency completing the investigations

§I.C.4 Of the 48 investigations completed by the independent investigative agency, 47 (98 percent) of the determinations were completed within 60 days of receipt of the referral.

10. Caseload size for ongoing case management program

§I.D.1-2 DMCPDS 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 8.2 cases and 8.5 cases per Ongoing Case Manager. (see table below)

Table 2: Caseload Size

	Nov 2020	Dec 2020	Jan 2021	Feb 2021	Mar 2021	Apr 2021	May 2021	Jun 2021
Open Cases			1,381	1,376	1,380	1,367	1,343	1,347
Active Ongoing Case Managers at End of Month			169	171	166	163	159	156
Monthly Average	8.7	8.7	8.2	8.0	8.3	8.4	8.4	8.6
Performance			8.5	8.3	8.2	8.2	8.4	8.5

11. Face-to-face contact

§I.D.3 Of the 10,830 (cumulative total) expected monthly face-to-face contacts, 10,513 (97 percent) were achieved.

12. Development of Special Diagnostic Assessment Centers

§I.D.7 The Centers were developed prior to December 31, 2003. Of the 73 placement episodes, 73 (100 percent) were within the established timelines.

Section III. Other Process Indicators and Outcomes

Process Indicators (Monitor Only)	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	CY 2017	CY 2018	CY 2019	CY 2020	YTD 2021
1. Initial family assessments completed within 90 days	96%	97%	95%	95%	88%	66%	96%	90%	95%	91%	98%	85%	82%	89%	85%	85%	85%	95%	93%
2. Initial health screens completed within five business days	58%	76%	67%	75%	61%	62%	69%	89%	86%	88%	75%	71%	83%	88%	87%	93%	92%	90%	92%
3. Placement packets to foster parents	91%	85%	97%	73%	86%	88%	92%	97%	73%	77%	92%	92%	94%	94%	97%	90%	94%	90%	90%
4. Updated annual medical exam	75%	74%	73%	85%	78%	80%	91%	91%	95%	94%	94%	91%	89%	91%	93%	93%	93%	89%	89%
5. Updated annual dental exam	57%	65%	64%	78%	67%	68%	87%	87%	92%	86%	84%	76%	74%	79%	81%	83%	81%	72%	70%
6. Initial Permanency Plans completed within 60 days	97%	97%	98%	95%	90%	82%	82%	85%	87%	80%	84%	70%	76%	86%	85%	85%	81%	83%	78%
7. Annual and Administrative Permanency Plan Reviews	77%	77%	92%	91%	92%	85%	85%	95%	93%	93%	94%	93%	92%	92%	96%	95%	95%	94%	96%
8. 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%	7%	7%	7%	6%
9. Ongoing Case Manager turnover	30%	39%	33%	26%	34%	35%	30%	25%	34%	25%	39%	34%	32%	29%	28%	33%	34%	25%	17%
10. 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	13.3	13.4	14.2	13.4	13.3

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 June 2021)

1. Initial family assessments completed within 90 days

Of the 217 required family assessments, 202 (93 percent) were completed within 90 days.

2. Initial health screens completed within five business days

Of the 335 expected initial health screens, 307 (92 percent) were completed within five business days.

3. Placement packets to foster parents

Of the 50 children in the sample who changed placements or experienced their first placement, 45 providers (90 percent) received and signed for a copy of the Information for Foster Parent's Face Sheet and Checklist.

4. Updated annual medical exam

On average each month, 1,702 of 1,910 children (89 percent) were current with their annual medical exams.

5. Updated annual dental exam

On average each month, 1,075 of 1,526 children (70 percent) were current with their annual dental exams.

6. Initial Permanency Plans completed within 60 days

Of the 318 Initial Permanency Plans, 249 (78 percent) were completed within 60 days.

7. Annual and Administrative Permanency Plan Reviews

Of the 1,994 Annual and Administrative Permanency Plan Reviews, 1,919 (96 percent) were conducted timely.

8. Re-entry within 12 months of a prior out-of-home care episode

Of the 354 children who entered out-of-home care, 23 children (6 percent) entered care within 12 months of a prior out-of-home care episode.

9. Ongoing Case Manager turnover

At the start of 2021, there were 174 Ongoing Case Managers. During the year, 33 Ongoing Case Managers separated from their position and 24 were hired.

10. Children per caseload (twelve-month average)

On average each month, 164 Ongoing Case Managers worked with an average of 1,366 children.
