

# Jeanine B. Settlement Agreement Report of the Bureau of Milwaukee Child Welfare 2009

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## **Introduction**

### **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 an action in the Federal District Court for the Eastern District of Wisconsin on behalf of an estimated class of approximately 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, effective January 1, 1998, to improve the safety and well-being of children, the State of Wisconsin assumed direct responsibility for administering and funding Milwaukee County Child Welfare. 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.

### **Format of Report**

This is the second semi-annual report for 2009 and includes outcomes of BMCW's performance from July 1 through December 31, 2009, and reports data from January 1 to December 31, 2009.

This report is divided into three sections, with the *first section* reporting on the **remaining enforceable provisions**.

The *second section* includes the annual status of **provisions that are no longer subject to enforcement** because the defendants were in compliance with the provisions for two consecutive six-month periods, as agreed upon by the Department of Children and Families (formerly the Department of Health and Family Services) and plaintiffs' counsel Children's Rights.

The *third section* includes the annual status of **process indicators and outcomes inclusive of safety, well-being and permanence objectives**. In previous reports this information was identified as "monitoring items."

Provisions that are no longer operative are excluded from this report. For example, Section I.B.5 of the 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 was generated from the electronic Wisconsin Statewide Automated Child Welfare Information System (eWiSACWIS). To create a more streamlined document for the reader, in some instances the rounding of performance percentages (past and present) occurs.

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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 the BMCW was transferred to the newly created Department of Children and Families.

## Remaining Enforceable Provisions – At a Glance

§I.B.6 Of all reunifications with parents/caregivers, at least the following percentages of children shall be reunified within 12 months of entry into care.						
CURRENT PERFORMANCE	PAST PERFORMANCE					
CY 2009 Performance Standard	CY 2003 Standard	CY 2004 Standard	CY 2005 - 2008 Standard			
>= 71%	Monitor Only	>=65%	>=71%			
2009 Result	CY 2003 Result	CY 2004 Result	CY 2005 Result	CY 2006 Result	CY 2007 Result	CY 2008 Result
<b>57%</b>	45%	63%	72%	71%	69%	64%

§I.D.7 Diagnostic/Assessment Centers. By December 31, 2003, BMCW developed special diagnostic/assessment centers for children over 12 years of age who need further assessment in order to determine the appropriate placement. Placement in such centers follows applicable state law.

**CURRENT PERFORMANCE** – The Centers were developed prior to December 31, 2003.  
191 of the 245 (**78%**) placement episodes were within the established timelines.

§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 caretaker 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.

CURRENT PERFORMANCE	PAST PERFORMANCE					
CY 2009 Performance Standard	CY 2003 Standard	CY 2004 Standard	CY 2005 - 2008 Standard			
>= 90%	>=80%	>=82%	>=90%			
2009 Result	CY 2003 Result	CY 2004 Result	CY 2005 Result	CY 2006 Result	CY 2007 Result	CY 2008 Result
<b>78%</b>	76%	72%	72%	73%	75%	77%

## **Section I. Remaining Enforceable Provisions**

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

§I.B.6. At least the following percentages of children who are reunified with parents or caretakers at the time of discharge from BMCW out-of-home care within the period shall be reunified within 12 months of entry into out-of-home care. . . .

**The BMCW did not meet the performance standard for the first or second six-month period of 2009.**

CY 2009 Performance Standard	July – December 2009 Second Six-month Period	CY 2009 Result
>= 71%	58%	57%

#### **A. 2009 annual reunification performance is 57 percent compared to the 71 percent standard.**

The data in Table 1.10 show historical reunification performance.

1. Annual performance has declined over past five years.

*Table 1.10: Semi-Annual and Annual Reunification Performance CY 2003 - CY 2009*

	January - June	July - December	Annual Performance
<b>CY 2009</b>	56%	58%	<b>57%</b>
<b>CY 2008</b>	66%	61%	64%
<b>CY 2007</b>	64%	74%	69%
<b>CY 2006</b>	70%	72%	71%
<b>CY 2005</b>	69%	75%	72%
<b>CY 2004</b>	59%	68%	63%
<b>CY 2003</b>	44%	47%	45%

NOTE: During CY 2003, there was no established performance standard. CY 2004 was the first year when there was an enforceable performance standard (65%).

#### **B. 2009 annual performance across the three regions ranges from 53 percent to 61 percent.**

The data in Table 1.11 show the monthly and annual performance by each of the three Regions.

1. Region 2, administered by CFCP (now CSSW), achieved the highest annual performance at 61 percent. Worth noting is that it achieved the fewest total number of reunifications (273) compared to the other two Regions.
2. Region 3, administered by IFS, achieved the largest total number of reunifications (313) compared to the other two Regions.
3. Region 1, administered by CFCP (now CSSW), achieved the highest monthly performance in November when 92 percent of all reunifications occurred within 12 months.

Table 1.11: Reunifications January through December 2009, by Region

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual Performance
<b>CFCP – Region 1</b>													
Number of Reunifications	26	33	14	36	19	26	31	40	28	21	12	15	301
Number of children reunified within 12 or fewer months	17	15	8	21	11	14	13	22	16	13	11	11	172
Percentage reunified in 12 or fewer months	65%	45%	57%	58%	58%	54%	42%	55%	57%	62%	92%	73%	<b>57%</b>
<b>CFCP – Region 2</b>													
Number of Reunifications	24	21	19	33	31	28	26	15	12	31	23	10	273
Number of children reunified within 12 or fewer months	15	16	10	21	20	15	16	10	6	19	16	2	166
Percentage reunified in 12 or fewer months	63%	76%	53%	64%	65%	54%	62%	67%	50%	61%	70%	20%	<b>61%</b>
<b>IFS – Region 3</b>													
Number of Reunifications	35	17	17	24	19	41	28	46	25	33	14	14	313
Number of children reunified within 12 or fewer months	19	10	9	10	9	18	20	22	16	19	6	7	165
Percentage reunified in 12 or fewer months	54%	59%	53%	42%	47%	44%	71%	48%	64%	58%	43%	50%	<b>53%</b>
<b>BMCW Totals</b>													
BMCW Total Reunifications	85	71	50	93	69	95	85	101	65	85	49	39	887
Number of children reunified within 12 or fewer months	51	41	27	52	40	47	49	54	38	51	33	20	503
Percentage reunified in 12 or fewer months	60%	58%	54%	56%	58%	49%	58%	53%	58%	60%	67%	51%	<b>57%</b>

## Development of Special Diagnostic Assessment Centers

I.D.7. By December 31, 2003, BMCW shall develop special diagnostic/assessment centers for children over 12 years of age who need further assessment in order to determine the appropriate placement. Placement in such centers shall not exceed 30 days or 60 days if the placement is extended in accordance with applicable state law.

### The BMCW complied with the requirement to develop special diagnostic/assessment centers for children over 12 years of age.

In 2009, there were 162 adolescents placed in an Assessment Center.

1. The 162 adolescents accounted for 245 placement episodes; and
2. Of the 245 placement episodes, 78 percent (191) were within the prescribed timelines and 22 percent (54) went beyond timelines.

January – June 2009 First Six-month Period	July – December 2009 Second Six-month Period	CY 2009 Result
75%	82%	78%

#### A. Number of adolescents staying beyond the timelines has diminished each quarter.

Table 1.20 shows by month and quarter the number of children in placement at an Assessment Center who exceeded the statutory limit during the month.

1. As the data indicate, over the four quarters of 2009 the number of placement episodes that exceeded the prescribed time limits dropped to three children with a pre-dispositional status, and zero children under a post-dispositional status.

Table 1.20 Placement episodes which exceeded the time limits

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
	1st Qtr			2nd Qtr			3rd Qtr			4th Qtr		
<b>Pre-Dispo</b>	4	1	2	1	4	3	2	1	3	1	0	2
<b>By Qtr</b>	7			8			6			3		
<b>Post-Dispo</b>	0	4	4	3	2	0	0	2	1	0	0	0
<b>By Qtr</b>	8			5			3			0		

#### B. Percentage of adolescents staying beyond the timelines for the year, however, remains similar to previous years.

Table 1.21 shows by year the percentage of children in a center placement who did not exceed the statutory time limits.

1. As the data indicate, between 2005 (82 percent) and 2007 (76 percent) performance continued to decline.
2. In 2008, performance stabilized (76 percent).
3. In 2009, performance improved to 78%, indicating a smaller percentage of children exceeded the timelines.

Table 1.21 placement episodes between 2004 and 2009

	2004	2005	2006	2007	2008	2009
<b>Percentage of episodes within time limits</b>	81%	82%	79%	76%	76%	78%

## Placement Stability

§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 caretaker after an intervening placement during the same out-of-home episode. Those children in BMCW custody through the Wraparound Milwaukee program shall be excluded from this calculation.

**The BMCW did not meet the performance standard for the first or second six-month period of 2009.**

CY 2009 Performance Standard	July – December 2009 Second Six-month Period	CY 2009 Result
>= 90%	79%	78%

### A. 2009 annual placement stability performance is 78 percent compared to the 90 percent standard.

The data in Table 1.30 show historical semi-annual and annual performance since 2003.

1. Although still below the standard of 90 percent, annual performance has steadily improved since CY 2005 (from 72 percent in CY 2005 to 78 percent in CY 2009).

*Table 1.30: Semi-Annual and Annual Placement Stability Performance CY 2003 – 2009*

	January - June	July - December	Annual Performance
<b>CY 2009</b>	78%	79%	<b>78%</b>
<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. 2009 annual performance across the three regions ranges from 77 percent to 81 percent.

The data in Table 1.31 show the monthly and annual performance by each of the three Regions.

1. Region 3, administered by IFS, achieved the highest monthly performance of 81.8 percent as well as highest annual average 80.8 percent.
2. The annual average performance was 78.3 percent.
  - a. Region 1, administered by CFCP (now CSSW), performed below the annual average all 12 months;
  - b. Region 2, administered by CFCP (now CSSW), performed above the annual average in two of the twelve months;
  - c. Region 3, administered by IFS, performed above the annual average during all 12 months.

Table 1.31: Placement stability: performance, January through December, 2009

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
<b>CFCP – Region 1</b>													
Percentage of children with three or fewer placements	77.6%	77.4%	77.3%	77.4%	77.1%	77.8%	77.0%	77.7%	77.8%	77.8%	77.7%	77.6%	<b>77.5%</b>
<b>CFCP – Region 2</b>													
Percentage of children with three or fewer placements	76.3%	76.5%	76.9%	75.8%	76.3%	77.6%	78.6%	77.8%	78.4%	77.4%	77.4%	75.2%	<b>77.0%</b>
<b>IFS – Region 3</b>													
Percentage of children with three or fewer placements	81.8%	81.2%	80.5%	80.2%	80.4%	80.4%	80.0%	80.7%	80.8%	81.1%	81.1%	81.7%	<b>80.8%</b>
<b>BMCW Totals</b>													
Children with three or fewer placements	1,857	1,859	1,851	1,788	1,757	1,727	1,698	1,647	1,671	1,628	1,601	1,575	
Children in OHC	2,369	2,376	2,370	2,303	2,259	2,201	2,167	2,097	2,120	2,070	2,037	2,016	
Percentage of children with three or fewer placements (monthly)	78.4%	78.2%	78.1%	77.6%	77.8%	78.5%	78.4%	78.5%	78.8%	78.6%	78.6%	78.1%	
Percentage of children with three or fewer placements (cumulative)	78.4%	78.3%	78.2%	78.1%	78.0%	78.1%	78.1%	78.2%	78.2%	78.3%	78.3%	78.3%	<b>78.3%</b>
Children with four or more placements	512	517	519	515	502	474	469	450	449	442	436	441	

## Section II. Provisions no longer subject to enforcement

Previously released provisions	CY 2003	CY 2004	CY 2005	CY 2006	CY 2007	CY 2008	CY 2009
§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%
§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 ..., or an available Adoption and Safe Families Act (ASFA) exception documented in their ... * 2005 performance standard >= 90%	88%	93%	<b>93%</b>	89%	90%	95%	95%
§I.B.4. ... percentages of children in BMCW out-of-home care within the period shall be in care for more than 24 months. The percentage shall be 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%
§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%
§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%
§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 for independent investigation within three business days. * 2005 performance standard >= 90%	99%	99%	99%	<b>97%</b>	98%	95%	99%
§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. * 2005 performance standard >= 90%	99%	99%	99%	<b>96%</b>	98%	100%	100%
§I.C.4 Determination of the independent investigations within 60 days of receipt of the referral. * 2005 performance standard >= 90%	98%	98%	99%	<b>98%</b>	96%	100%	100%
§I.D.1-2 BMCW shall ensure that Ongoing Case Managers have ... caseloads not to exceed 11 families per case carrying manager per site ...	10	10	10	<b>10</b>	12	11	11
§I.D.3 By January 1, 2003... meets 90% compliance with monthly face-to-face contact ..	90%	97%	97%	<b>97%</b>	96%	92%	94%

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

## Provisions No Longer Subject to Enforcement - Numbers behind the performance percentages

Previously Released Provisions
§I.B.2 Of the 806 children reaching 15 of the last 22 months in out-of-home care, 710 (88%) children had a Termination of Parental Rights (TPR) petition filed or an allowable exception documented.
§I.B.3 Of the 78 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, 74 children (95%) belatedly had a TPR petition filed or an allowable exception documented.
§I.B.4. On average each month, 907 (16%) children in BMCW out-of-home were in care for 24 or more months (measured against the baseline of 5,533 children).
§I.B.7 Of the 304 children with a finalized adoption, 99 (33%) of the finalizations occurred within 24 months of the child's entry into care.
§I.C.1 Of the 3,767 children in an out-of-home care placement during CY 2009, 15 children (0.40%) were the victim of Child Abuse or Neglect by a foster parent or staff of a facility required to be licensed.
§I.C.2 Of the 223 reports referred to the independent investigation agency, 221 (99%) were referred within three business days.
§I.C.3 Of the 223 reports referred for independent investigation, 223 (100%) were assigned to an independent investigator within three business days of the referral from BMCW.
§I.C.4 Of the 221 investigations completed by the independent investigative agency, 221 (100%) of the determinations were completed within 60 days of receipt of the referral.
§I.D.3 Of the 30,469 (cumulative total) expected monthly face-to-face contacts during CY 2009, 28,632 (94%) were achieved.

§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.

	October 2009	November 2009	December 2009
Open Cases	1,694	1,673	1,651
Active Ongoing Case Managers at End of Month	146	148	149
Monthly Average	11.6	11.3	11.1
Performance			11.3

### 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
Family assessments completed within 90 days	96%	97%	95%	95%	88%	66%	<b>96%</b>
Initial health screens – within five business days	58%	76%	67%	75%	61%	62%	<b>69%</b>
Placement packets to foster parents	91%	85%	97%	73%	86%	88%	<b>92%</b>
Annual medical exam	75%	74%	73%	85%	78%	80%	<b>91%</b>
Annual dental exam	57%	65%	64%	78%	67%	68%	<b>87%</b>
Initial Permanency Plans within 60 days	97%	97%	98%	95%	90%	82%	82%
Annual and administrative Permanency Plan reviews	77%	77%	92%	91%	92%	85%	85%
Re-entry within 12 months of a prior out-of-home care episode	9%	7%	7%	10%	11%	8%	8%
BMCW turnover	30%	39%	33%	26%	34%	35%	<b>30%</b>
Children per caseload (CY 2009 12 - month average)	19.5	18.5	17.0	18.4	21.9	20.9	<b>20.2</b>

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

Numbers Behind the Process Indicators
Of the 472 required Family Assessments, 454 were completed within 90 days.
Of the 905 expected initial health screens, 625 were completed within five business days.
A sample of 102 children who changed placements or experienced their first placements were eligible to have placement packets.
Each month, an average of 2,291 of 2,506 children were current with their annual medical exams.
Each month, an average of 1,768 of 2,045 children were current with their annual dental exams.
Of the 652 Initial Permanency Plans, 537 were completed within 60 days.
Of the 3,484 annual and administrative permanency plan reviews, 2,950 were conducted timely.
Of the 1,129 children who entered out-of-home care, 90 of the children entered care within 12 months of a prior out-of-home care episode.
At the start of 2009, there were 196 Ongoing Case Managers. During the year 86 Ongoing Case Managers separated from their position, and 88 were hired.
Each month, an average of 153 Ongoing Case Managers worked with an average of 3,089 children.