



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

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July 15, 2021

VIA ELECTRONIC FILING

Chief Judge Pamela Pepper
United States Federal Building and Courthouse
517 E. Wisconsin Avenue, Room 208
Milwaukee, WI 53202

Re: *B., Jeanine, et al. v. Walker, Scott, et al.*
Case No. 1993CV0547

Dear Judge Pepper:

Attached for the Court's information is the 2020 Annual Jeanine B. Settlement Agreement Report ("2020 Annual Report") of the Department of Children and Families' Division of Milwaukee Child Protective Services ("DMCPS"). The 2020 Annual Report had not yet been completed when the parties' Joint Motion to Terminate Settlement Agreement and Consent Decree on Grounds of Substantial Compliance [Dkt. 586] was filed in February 2021. The 2020 Annual Report documents the maturity and resiliency of the systems DMCPS has put in place to serve Milwaukee County children and families, even under the extremely challenging conditions created by the COVID-19 pandemic throughout most of 2020.

Sincerely,

s/Rebecca A. Paulson
Rebecca A. Paulson
Assistant Attorney General

RAP:klc



Wisconsin Department of
Children and Families

Jeanine B. Settlement Agreement Report
of the
Division of Milwaukee Child Protective Services
January – December 2020

Prepared by:

Wisconsin Department of Children and Families
Division of Management Services
Bureau of Performance Management
Quality Review and Performance Analysis Section

Table of Contents

Introduction **Page 3**

1. Background to Jeanine B. Settlement Agreement
2. Format of report
3. Data

Section I. Remaining Enforceable Provision **Page 4**

1. Placement stability

Section II. Provisions No Longer Subject to Enforcement **Page 7**

1. Timeliness of ASFA compliance
2. "Belated" ASFA compliance
3. Length of stay in care
4. Reunification within 12 months of placement in out-of-home care
5. Adoption within 24 months of removal
6. Children in foster care are safe from maltreatment
7. Timeliness of referrals from access to the independent investigation agency
8. Timeliness of the assignment by the independent investigation agency to an independent investigator
9. Timeliness of the independent investigation agency completing the investigations
10. Caseload size for ongoing case management program
11. Face-to-face contact
12. Development of Special Diagnostic Assessment Centers

Section III. Other Process Indicators and Outcomes **Page 10**

1. Timeliness of completing initial family assessments
2. Timeliness of initial health screens for children entering out-of-home care
3. Placement packet information
4. Children with updated annual medical and dental examinations
5. Timeliness of completing the Initial Permanency Plan
6. Timeliness of Judicial or Administrative Permanency Plan Reviews
7. Children re-entering out-of-home care within 12 months of leaving a prior out-of-home care episode
8. Turnover within Ongoing Case Management programs
9. Average number of children per caseload

Introduction

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,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. 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. The Joint Motion remains pending at the time this Report is being issued.

Format of Report

This is the annual report for 2020. It includes outcomes of DMCPS's performance from January 1, 2020 through December 31, 2020.

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 provided 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; 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.

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.

Note

The data presented in this report reflect the extraordinary effects of the COVID-19 pandemic on DMCPs operations from mid-March 2020 through the end of the year.

Annual Performance of Placement Stability, Remaining Enforceable Provision, CY 2003 – CY 2020

§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 2020 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
Result	Result	Result	Result	Result	Result	Result	Result	Result	Result	Result	Result	Result	Result	Result	Result	Result	Result
76%	72%	72%	73%	75%	77%	78%	80%	82%	84%	87%	87%	88%	87%	87%	88%	89.2%	87.1%

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

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 2020 Performance Standard	First Six-Month (Jan-Jun)	Second Six-Month (Jul-Dec)	CY 2020 Annual Performance
>= 90%	87.4%	86.8%	87.1%

A. CY 2020 placement stability performance is 87.1 percent whereas the standard is 90 percent.

Performance during CY 2020 (87.1 percent) has decreased from the previous CY (89.2 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 2020

	January - June	July - December	Annual Performance
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. 2020 performance for the ongoing case management partner agencies was 87.3 percent for CW and 86.8 percent for SaintA. 2020 performance for DMCPs Initial Assessment was 99.2 percent.

The data in Table 1.2 show the monthly and annual performance by each agency for 2020.

- CW (Children’s Wisconsin) achieved an annual performance rate of 87.3 percent.
- SaintA achieved an annual performance rate of 86.8 percent.
- DMCPs Initial Assessment achieved an annual performance rate of 99.2 percent.

Table 1.2: Placement stability performance by agency and by month, January through December 2020

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual Performance
CW													
Percentage of children with three or fewer placements	87.6%	87.6%	87.0%	86.9%	86.7%	87.1%	87.3%	86.8%	87.2%	87.6%	88.2%	88.2%	87.3%
SaintA													
Percentage of children with three or fewer placements	88.4%	88.2%	88.0%	87.4%	87.1%	86.8%	86.8%	85.4%	85.7%	85.2%	86.2%	86.1%	86.8%
Initial Assessment													
Percentage of children with three or fewer placements	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	90.0%	99.2%
DMCPs Totals													
Children with three or fewer placements	1,620	1,610	1,596	1,563	1,539	1,518	1,505	1,496	1,521	1,522	1,553	1,524	
Children in OHC	1,838	1,830	1,823	1,793	1,770	1,745	1,728	1,734	1,757	1,760	1,779	1,748	
Percentage of children with three or fewer placements (monthly)	88.1%	88.0%	87.5%	87.2%	86.9%	87.0%	87.1%	86.3%	86.6%	86.5%	87.3%	87.2%	87.1%
Percentage of children with three or fewer placements (cumulative)	88.1%	88.1%	87.9%	87.7%	87.6%	87.5%	87.4%	87.3%	87.2%	87.1%	87.1%	87.1%	87.1%
Children with four or more placements	218	220	227	230	231	227	223	238	236	238	226	224	

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
§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%	90%	88%	90%	82%	87%	89%	91%	91%	88%	97%	89%	83%	87%
§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%	93%	89%	90%	95%	95%	90%	91%	100%	100%	100%	100%	100%	100%	0%**	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%	18%	18%	18%	16%	14%	11%	12%	11%	11%	12%	14%	13%	12%	12%	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. * final performance standard >= 71%	45%	63%	72%	71%	69%	64%	57%	61%	68%	65% ⁵	70%	62%	58%	54%	58%	63%	49%	47%
§I.B.7 ... adoption is finalized ... within 24 months of entry into care. * final performance standard >= 30%	14%	16%	22%	32%	34%	38%	33%	37%	32%	34%	35%	34%	32%	33%	26%	33%	25%	26%

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

** 2018 Belated ASFA involved two children with permanency goal of TPR/Adoption.

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 (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	CY 2017	CY 2018	CY 2019	CY 2020
§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%	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%
§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. * final performance standard >= 90%	99%	99%	99%	97%	98%	95%	99%	98%	97%	99%	98%	98%	97%	97%	97%	99%	98%	97%
§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. * final performance standard >= 90%	99%	99%	99%	96%	98%	100%	100%	100%	100%	100%	100%	100%	98%	99%	98%	99.5%	100%	100%
§I.C.4 Determination of the independent investigation within 60 days of receipt of the referral. * final performance standard >= 90%	98%	98%	99%	98%	96%	100%	100%	100%	99%	98%	100%	97%	97%	94%	99%	100%	98%	100%
§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
§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%
§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%	99%	96%	95%	98%

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 December 2020)

- §I.B.2 Of the 592 children reaching 15 of the last 22 months in out-of-home care, 514 (87 percent) children had a Termination of Parental Rights (TPR) petition filed or an allowable ASFA exception documented.
- §I.B.3 Of the 5 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, 5 children (100 percent) belatedly had a TPR petition filed or an allowable exception documented.
- §I.B.4 On average each month, 647 (12 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 372 children reunified with parents or caretakers, 174 (47 percent) were reunified within 12 months of entry into out-of-home care.
- §I.B.7 Of the 201 children with a finalized adoption, 52 (26 percent) of the finalizations occurred within 24 months of the child’s entry into care.
- §I.C.1 Of the 2,735 children in an out-of-home care placement, 6 children (0.22 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 licensed foster home - relative, and three children in court-ordered-kinship).
- §I.C.2 Of the 155 reports referred to the independent investigation agency, 151 (97 percent) were referred within three business days.
- §I.C.3 Of the 155 reports referred for independent investigation, 155 (100 percent) were assigned to an independent investigator within three business days of the referral from DMCPs.
- §I.C.4 Of the 130 investigations completed by the independent investigative agency, 130 (100 percent) of the determinations were completed within 60 days of receipt of the referral.
- §I.D.3 Of the 22,631 (cumulative total) expected monthly face-to-face contacts, 22,043 (97 percent) were achieved.
- §I.D.7 The Centers were developed prior to December 31, 2003. Of the 145 placement episodes, 142 (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 7.7 cases and 8.5 cases per Ongoing Case Manager.

Table 2: Caseload

	Nov 2019	Dec 2019	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Open Cases			1,465	1,463	1,451	1,451	1,406	1,384	1,338	1,364	1,352	1,381	1,391	1,376
Active Ongoing Case Managers at End of Month			179	179	180	184	185	177	173	171	165	167	160	159
Monthly Average	8.3	8.4	8.2	8.2	8.1	7.9	7.6	7.8	7.7	8.0	8.2	8.3	8.7	8.7
Performance			8.3	8.3	8.1	8.0	7.8	7.8	7.7	7.8	8.0	8.1	8.4	8.5

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
Family assessments completed within 90 days	96%	97%	95%	95%	88%	66%	96%	90%	95%	91%	98%	85%	82%	89%	85%	85%	85%	95%
Initial health screens – within five business days	58%	76%	67%	75%	61%	62%	69%	89%	86%	88%	75%	71%	83%	88%	87%	93%	92%	90%
Placement packets to foster parents	91%	85%	97%	73%	86%	88%	92%	97%	73%	77%	92%	92%	94%	94%	97%	90%	94%	90%
Annual medical exam	75%	74%	73%	85%	78%	80%	91%	91%	95%	94%	94%	91%	89%	91%	93%	93%	93%	89%
Annual dental exam	57%	65%	64%	78%	67%	68%	87%	87%	92%	86%	84%	76%	74%	79%	81%	83%	81%	72%
Initial Permanency Plans within 60 days	97%	97%	98%	95%	90%	82%	82%	85%	87%	80%	84%	70%	76%	86%	85%	85%	81%	83%
Annual and Administrative Permanency Plan Reviews	77%	77%	92%	91%	92%	85%	85%	95%	93%	93%	94%	93%	92%	92%	96%	95%	95%	94%
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%
Ongoing Case Manager turnover	30%	39%	33%	26%	34%	35%	30%	25%	34%	25%	39%	34%	32%	29%	28%	33%	34%	25%
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

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 2020)

Of the 499 required family assessments, 474 (95 percent) were completed within 90 days.

Of the 595 expected initial health screens, 533 (90 percent) were completed within five business days.

Of the 100 children in the sample who changed placements or experienced their first placement, 90 providers (90 percent) received and signed for a copy of the Information for Foster Parent's Face Sheet and Checklist.

On average each month, 1,733 of 1,945 children (89 percent) were current with their annual medical exams.

On average each month, 1,130 of 1,566 children (72 percent) were current with their annual dental exams.

Of the 713 Initial Permanency Plans, 595 (83 percent) were completed within 60 days.

Of the 4,203 Annual and Administrative Permanency Plan Reviews, 3,938 (94 percent) were conducted timely.

Of the 774 children who entered out-of-home care, 58 children (7 percent) entered care within 12 months of a prior out-of-home care episode.

At the start of 2020, there were 190 Ongoing Case Managers. During the year, 57 Ongoing Case Managers separated from their position and 41 were hired.

On average each month, 173 Ongoing Case Managers worked with an average of 2,320 children.



Wisconsin Department of Children and Families

Jeanine B. Settlement Agreement Results January – December 2020

Presentation to Milwaukee Child Welfare Partnership Council

Prepared by:

Wisconsin Department of Children and Families
Division of Management Services
Bureau of Performance Management
Quality Review and Performance Analysis Section

Presentation Date: March 26, 2021



2003 – 2020 Key Measures of the Jeanine B. Settlement Agreement

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
§I.D.9 Placement Stability	76%	72%	72%	73%	75%	77%	78%	80%	82%	84%	87%	87%	88%	87%	87%	88%	89.2%	87.1%
§I.B.4 Children in OHC 24+ months	44%	30%	23%	18%	18%	18%	16%	14%	11%	12%	11%	11%	12%	14%	13%	12%	12%	12%
§I.B.6 Reunification w/in 12 Months of Entry into OHC	45%	63%	72%	71%	69%	64%	57%	61%	68%	65%	70%	62%	58%	54%	58%	63%	49%	47%
§I.B.7 Adoption w/in 24 Months of Entry into OHC	14%	16%	22%	32%	34%	38%	33%	37%	32%	34%	35%	34%	32%	33%	26%	33%	25%	26%
§I.C.1 Substantiated Abuse/Neglect	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%
§I.D.1-2 Families per OCM	10	10	10	10	12	11	11	10	9	8	9	9	8	8	8	8	9	8



2003 – 2020 Key Measures of the Jeanine B. Settlement Agreement

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
§I.D.3 Face-to-Face Contact	90%	97%	97%	97%	96%	92%	94%	96%	97%	98%	99%	98%	98%	98%	98%	98%	98%	97%
Initial Health Screen	58%	76%	67%	75%	61%	62%	69%	89%	86%	88%	75%	71%	83%	88%	87%	93%	92%	90%
Annual Medical Exam	75%	74%	73%	85%	78%	80%	91%	91%	95%	94%	94%	91%	89%	91%	93%	93%	93%	89%
Annual Dental Exam	57%	65%	64%	78%	67%	68%	87%	87%	92%	86%	84%	76%	74%	79%	81%	83%	81%	72%
Re-entry w/in 12 Months of a Prior OHC Episode	9%	7%	7%	10%	11%	8%	8%	10%	8%	9%	6%	6%	9%	7%	7%	7%	7%	7%
Ongoing Case Manager Turnover	30%	39%	33%	26%	34%	35%	30%	25%	34%	25%	39%	34%	32%	29%	28%	33%	34%	25%
Children per Caseload (12 Month Average)	19.5	18.5	17	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

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

Jeanine B. Settlement Agreement 2020 Annual Report



For more information or copies of this
presentation, please contact
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