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February 15, 2019

The Honorable Jorge L. Alonso
United District Court for the Northern District of Illinois
219 S. Dearborn Street
Chicago, IL 60604

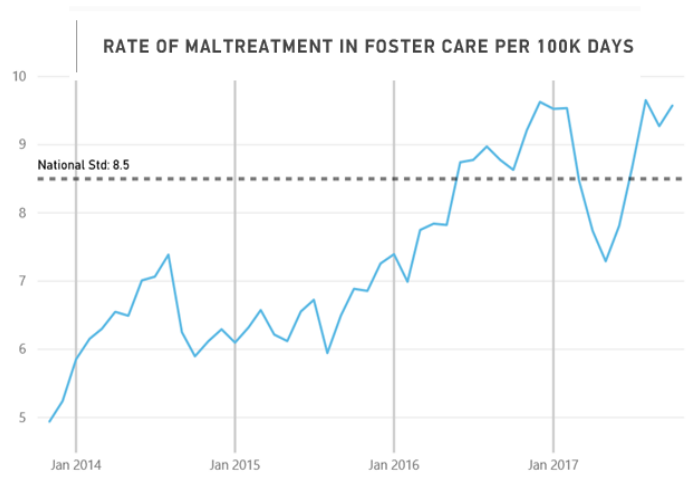
Case: 1:88-cv-05599

Dear Judge Alonso:

A change in administration offers an opportunity to take stock of where things stand under the *B.H.* Consent Decree. We recognize the Department's efforts to ensure that class members receive the services they need and to improve children's outcomes. Unfortunately, the Department's efforts are not producing the desired changes in or additions to DCFS's services, much less the intended results. In fact, things seem to be getting worse in several important ways. And despite the inclusion of more data in the Department's Sixth Triannual Report, there continues to be an alarming lack of analysis of its implementation efforts that is then being used to inform and then guide needed course corrections or the development of new strategies.

A summary assessment of the current status of children and youth in DCFS custody can be inferred from an examination of the overarching outcomes that the Department, Expert Panel, and plaintiffs agreed to use to "monitor changes in both the quality of, and capacity to provide, services and support for children and families in the Illinois child welfare system (Amended and Revised Implementation Plan, Document # 531, 9/28/2016, p. 4).

The paramount obligation of a child welfare department is to ensure the safety of the children it takes into its protective custody. The expectation is that the rate of maltreatment of children and youth in DCFS care should be trending downward, and preferably far below the national threshold established by the federal government for the Child and Family Service Review (CFSR). As shown in Figure 1, the maltreatment rate has been climbing, opposite to the desired direction, since the second half of 2014. After rising above the national standard in 2016, it briefly declined but has since risen above the national standard once again.



Even though the rise in maltreatment may not be directly attributable to the documented difficulties that the Department has had in meeting the needs of children with psychological, behavioral or emotional challenges, it can be anticipated that remedying these difficulties should also contribute to making DCFS a safer environment for all children and youth in care.

Figure 1. -- Of all children in foster care during a 12-month period, what is the rate of victimization per day of foster care?
 Source: DCFS PowerBI dashboard 2/5/2019.

The second indicator that the parties agreed to track is the percentage of children who are reunified with their families or discharged to permanent homes within one year of their removal into state custody. The trend line suggests that permanency rates have plummeted during 2017. However, the Expert Panel hesitates to interpret this apparent fall-off in performance as “real,” especially since the data included in the 6th Triannual Report suggest that removals during the latest federal fiscal years may not have been tracked for a full 12 months. But even if we were to ignore the data reported after January of 2017, both the chart and the data included in the 6th Triannual Report indicate virtually no change in permanency rates. This lack of progress extends back well before the federal court approved the Department’s Implementation Plan in 2016. The Expert Panel commented on this troubling “stasis” of the system in its Letter to the Court dated 10/30/2017 (Document # 565, p 16):

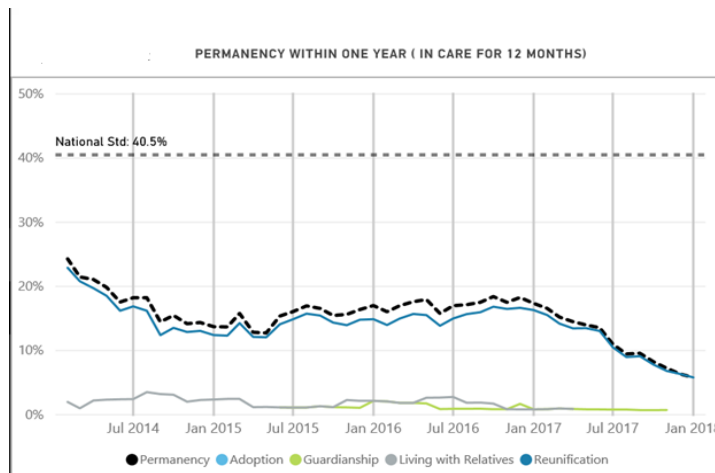


Figure 2. -- Of all children who enter foster care in a 12-month period, what percent are discharged to permanency within 12 months of entering foster care?
 Source: DCFS PowerBI dashboard 2/5/2019

“The system has stabilized at a median length of stay that is the longest in the nation (see Figure 3). Quite simply, too many children are growing up in foster care in Illinois and for far too long. The fact that the stasis of the system has persisted since the early 2000s in Cook County and longer in the balance of state, in spite of (or because of) changes in political and DCFS leadership, is one of the major reasons that a supplemental implementation plan was required in order to disrupt this unhealthy equilibrium. As Sabel and Simon (2004) note, a federal court’s involvement is warranted whenever public institutions have chronically failed to meet their constitutional obligations, and the normal processes of political accountability (elections and administrative appointments) have proved inadequate for solving the problem. DCFS repeatedly has shown it cannot change the current dynamic without a consent decree.”

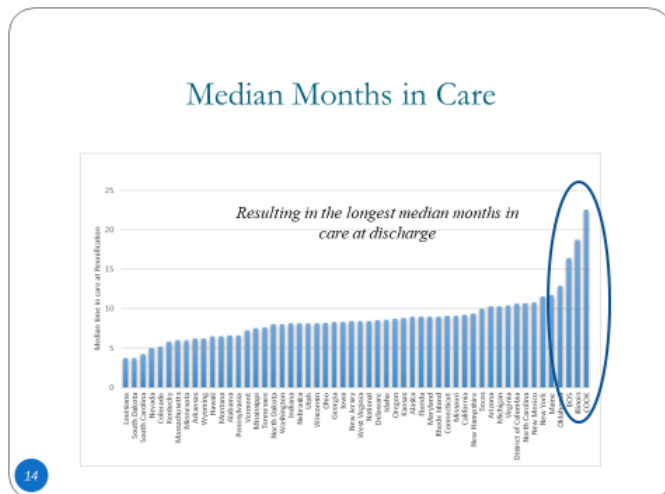


Figure 3. -- Illinois registers longest median months in foster care in the nation, 2016

The fact that the Department has not shown any appreciable progress in reducing inordinately long lengths of foster care stay under the current Implementation Plan is particularly problematic. Implementation science tells us that lack of success may be attributable to: 1) the absence of evidence-supported interventions to effect the desired change; 2) insufficient integrity in the implementation of otherwise effective interventions; or 3) lack of an enabling context to translate adequately implemented interventions into meaningful change. The Expert Panel finds that all three of these deficits have been hampering progress under the *B.H.* Consent Decree. This is why we strongly supported the Court’s urging that DCFS involve the National Implementation Research Network (NIRN) in the implementation of the plan. This is why we emphasized it in our recommendations to the Court, which the Court included in its Order dated 10/20/2015 (Document #507), that DCFS develop, in partnership with one or more of its University partners, a results-oriented accountability system that improves regular and timely access to available data, develops new measurement systems to monitor implementation integrity, evaluates intervention effectiveness in accomplishing intended results, and adapts program modifications flexibly when results are contrary to expectations. Further, we recommended, and the Court included in its order, the following requirement:

The Department shall prepare interim Status Reports for submission to the Expert Panel and Plaintiffs regarding the status of its implementation efforts to achieve compliance and the efficacy of those efforts. The reports should include, at a minimum: 1) the steps that the Department has taken for addressing system barriers and for rolling-out and assessing the fidelity of the Department’s implementation of its proposed practice model and identified evidence-based

interventions; 2) the results of its formative evaluation and any summative evaluations of impacts following the guidelines in the Children's Bureau's "Framework" publication and using appropriate comparison groups and one or more of the 26 key metrics and other measures; and 3) the various quality service reviews undertaken for ensuring that children are being fully served as intended and learning when specific initiatives should be sustained, discontinued, or revised when the desired goals are not being achieved.

The Expert Panel finds that the Department has not followed through on its pledge to involve NIRN in the implementation of the plan. We find ludicrous its claim in the latest draft of the 6th Triannual Report that it has retained NIRN to review and comment on DCFS's adherence to best practices in implementation science and assist with an assessment of DCFS's implementation capacity and strategy. We have spoken to a representative from NIRN, who has indicated that the Department has conferred with the organization no more than 10 hours during all of 2018. This is far from what the Expert Panel envisioned as sufficient engagement. We suspect the Court would agree. On several occasions we attempted to create the conditions for expanding NIRN's involvement by urging that NIRN consultation time be increased minimally to 25% of the NIRN director's time. But each of these overtures was rebuffed.

It is the Expert Panel's opinion that without greater guidance from implementation experts, without the creation of a results-oriented accountability system internal to DCFS, and without a firm commitment to adhere to the guidelines established in the U.S. Children's Bureau's "Framework" for "ensuring that children are being fully served as intended and learning when specific initiatives should be sustained, discontinued, or revised when the desired goals are not being achieved" (Document # 507, p. 4), progress will not be made in bringing DCFS into compliance with the *B.H.* Consent Decree. Many thoughtful studies of Consent Decree management have reached these same conclusions.

Just to clarify, the problem is not a lack of data, but the inadequate study of data. The current report is data rich (perhaps too rich in our estimation), but study and (as a corollary) action poor. The simple fact is that when the Department engages in the full Plan, Do, Study, Act (PDSA) cycle, progress is made. Witness, for example, the successes, discussed in the 6th Triannual Report, of the Illinois Birth-Thru-Three (IB3) project in boosting rates of permanency 53% for children under the age of 6 in Cook County. According to the principles of the "experimentalist" approach, DCFS should be scaling-up this initiative to determine if the positive results are replicable in downstate Illinois. But no plans for such an undertaking are discussed in the 6th Triannual Report. The Department appears to be stuck in the same rut we identified in our original Report of the Expert Panel filed 7/23/2015 (Document # 490, p. 4).

The Department has not adopted a sustainable model of practice which incorporates evidence-supported, evidence-informed, and promising practices. Evidence-supported practices, such as subsidized guardianship for older youth, have fallen into disuse. Evidence-informed practices, such as performance-based contracting, are not fully implemented with fidelity to the proven

design. Promising practices, such as home-based, “wrap-around” mental health services, are carefully developed but summarily discarded after a change in leadership. Many innovations are rushed into production and scaled-up with insufficient forethought given to evaluating their impacts on desired outcomes and determining whether the program actually worked. The end result is a “flavor-of-the-month” approach to endorsed treatments and a system of practice that is shaped by crises, practitioner preferences, tradition, and system expediency.

While effort has been expended with respect to projects outlined in the Implementation Plan, the most recent Triannual Report reveals the absence of an overarching DCFS plan and structure for managing the implementation of its efforts to comply with the Consent Decree. Likewise, there is an apparent absence of any “big picture” analysis of where things stand, what needs to happen next, and the apparent abandonment, without explanation, of any number of purportedly planned implementation activities. Our observations about the status of the system in October of 2017 (Document #565, p. 10) have relevance for the challenges the Department continues to face in achieving compliance with the Consent Decree:

Caseworkers, supervisors and other departmental regional administrative staff assigned responsibility for these youth are being asked to undertake planning and service implementation activities for youth with some of the most challenging behavioral health needs in the context of communities where the specialized treatment services many of them need either do not exist at all or have not been successfully individualized in the past to address similar youths’ needs. Dr. Testa wrote to Mr. Digre, “[w]e understand the Department’s desire to increase the outputs from all of the B.H. projects including the perceived need to do something quickly in the hopes that it disrupts the system-wide stasis we have been observing over the last decade. However, we’ve been down this road before with little tangible evidence of whether these initiatives truly worked and improved the situations for children.... So let’s make sure we’re not simply ‘flailing’ about and instead make sure we walk away with tangible evidence of how the process worked, to what effect, and what inferences can be drawn about how the lives of children have improved as a result of the initiative.” (Email to Pete Digre on July 27, 2017).

As DCFS moves ahead under new leadership, more rigorous analysis of why it has not made more progress toward compliance under the existing Implementation Plan seems warranted. The attached report from one of the Implementation Plan’s initiatives (Therapeutic Residential Performance Management Initiative) provides the type of information, analysis and recommendations that will be helpful in determining where things actually stand, analysis of why there has not been more progress and ideas about what needs to happen next with respect to a number of the challenges faced by DCFS. It is important that DCFS provide the same level of thoughtful reporting on how things are actually going, identify the specific problems, provide detailed analysis of why things are not working and plans, or at least ideas, for how to make things better. DCFS’s attempt to edit out this type of content in earlier TRPMI reports (as opposed to simply specifying its position regarding content with which it disagreed) is both disturbing and consistent with our observation that the Department prefers to stick to reporting

activities without providing or inviting analysis and discussion about how implementation is really working and what needs to be done to improve it.

We appreciate the Court's continued commitment to ensure that members of the B.H. class receive the services that address their underlying needs and achieve the levels of safety, permanence and well-being the B. H. Consent Decree entitles them. We stand ready to provide more details at the parties' next appearance in Court on February 28, 2019.

Respectfully submitted,

Handwritten signature of Marci White, MSW in blue ink.

Marci White

Handwritten signature of Mark F. Testa in blue ink.

Mark Testa
Spears-Turner Distinguished Professor