

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

FILED

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 JUAN F., *et al.*,)
)
 Plaintiffs,)
)
 v.)
)
)
 DANIEL P. MALLOY, *et al.*,)
)
 Defendants.)
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2017 DEC 13 A 9:40

US DISTRICT COURT
BRIDGEPORT CT

CIVIL NO. 2:89cv00859 (SRU)

2017 REVISED EXIT PLAN

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November, 2017**

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Introduction

1. The Juan F. class is:
 - A. All children who are now, or will be, in the care, custody, or supervision of the Commissioner of the Department of Children and Families as a result of being abused, neglected or abandoned or being found at risk of such maltreatment; and
 - B. All children about whom the Department knows, or should know by virtue of a report to the Department, who are now, or will be, abused, neglected or abandoned, or who are now, or will be, at serious risk of such maltreatment.
2. The Court Monitor reserves the rights, authorities and responsibilities granted in the Monitoring Order of December 1, 1992, as modified, and all the rights, authorities and responsibilities granted in the October 7, 2003 Stipulation and Order (Dkt. #447), and in the 2005 Revised Monitoring Order (Dkt. #501), all of which are incorporated in this Exit Plan by reference.
3. The Defendants shall provide funding and other resources necessary to fully implement and achieve sustained compliance with the 2017 Revised Exit Plan.
4. A joint strategic plan will be developed by the DCF Commissioner in consultation with the Court Monitor, to address compliance with the 2017 Revised Exit Plan Outcome Measures. The sole purpose of the strategic plan is to guide DCF in its implementation of the 2017 Revised Exit Plan Outcome Measures. The strategic plan will be completed within 60 days of the entry of this 2017 Revised Exit Plan. It will be reviewed by the DCF Commissioner and the Court Monitor and updated, as needed, on a monthly basis.
5. The Defendants will provide timely notification to the Court Monitor of any actual or planned reductions of a material nature in DCF programs, staffing and services pertaining to the Juan F. class.

2017 REVISED EXIT PLAN OUTCOME MEASURES THAT MUST BE ACHIEVED¹**Revised Outcome Measure 1: Commencement of Investigation/FAR**

DCF shall assure that at least 90% of all reports of children alleged to be abused, or neglected, shall be prioritized, assigned and the investigation/FAR (Family Assessment Response) shall commence within the time frames specified below.

If the report of child abuse or neglect is determined by the DCF Careline to be:

- A. A situation in which failure to respond immediately could result in the death of, or serious injury to, a child; then the response time for commencing an investigation is the same calendar day Careline accepts the report.
- B. A non-life threatening situation that is severe enough to warrant a 24-hour response to secure the safety of the child and to access the appropriate and available witnesses, then the response time for commencing an investigation is 24 hours.
- C. A non-life threatening situation that, because of the age or condition of the child, indicates that the response time for commencing an investigation is 72 hours.

¹ The 2006 Revised Exit Plan Outcome Measures are herewith renumbered as follows:

Cross-reference of Measures from 2006 to 2017 Exit Plan		
2006 Measure	Description	2017 Measure
OM1	Commencement of Investigation	OM 1
OM2	Completion of Investigation	OM 2
OM3	Case Plans	OM 3
OM4	Search for Relatives	Compliant
OM5	Repeat Maltreatment (In-Home)	OM 7
OM6	Maltreatment of Children in OOH Care	OM 8
OM7	Reunification	Compliant
OM8	Adoption	Compliant
OM9	Transfer Of Guardianship	Compliant
OM10	Sibling Placement	OM 13
OM11	Re-Entry into DCF Custody	OM 9
OM12	Multiple Placements	OM 12
OM13	Foster Parent Training	Compliant
OM14	Placement within Licensed Capacity	OM 11
OM15	Needs Met	OM 4
OM16	SW/Child Visitation (CIP)	OM 10
OM17	SW/Child Visitation (In-Home)	OM 5
OM18	Caseload Standards	OM 6
OM19	Reduction of CIP in Residential	OM14
OM20	Discharge Measure	Compliant
OM21	Discharge of Mentally Ill or DDS Children	Compliant
OM22	MDE	Compliant

Revised Outcome Measure 2: Completion of the Investigation/FAR

At least 85% of all reports of alleged child maltreatment accepted by the DCF Careline shall have their investigations completed within 45 calendar days of acceptance by the Careline.

Revised Outcome Measure 3: Case Plans

Except probate, interstate, and subsidy only cases, appropriate case plans shall be developed as set forth in the “DCF Court Monitor’s Protocol for Outcome Measures 3 and 4” and the accompanying “Directional Guide for Outcome Measures 3 and 4 Reviews” attached collectively as Appendix B hereto. The enforceable domains of this Outcome Measure shall not include the “overall score” domain. The domains in Appendix B for which compliance at 90% or better has been met for a quarter and then sustained for an additional quarter as of the date of this 2017 Revised Exit Plan, shall be considered to have achieved Pre-Certification. There are no domains that currently qualify for Pre-Certification.

For each domain, once compliance at 90% or better has been met for one quarter and then sustained for an additional quarter, that domain shall also be considered to have achieved Pre-Certification.

Once all of the domains achieve Pre-Certification, then Outcome Measure 3 shall be considered to have achieved Pre-Certification and subject to the process in Paragraphs 10 and 11 hereof as to whether a final review is required in connection with a request to terminate jurisdiction over this action.

Revised Outcome Measure 4: Children’s Needs Met

Families and children shall have their medical, dental, mental health, and other service needs met as set forth in the “DCF Court Monitor’s Protocol for Outcome Measures 3 and 4” and the accompanying “Directional Guide for Outcome Measures 3 and 4 Reviews,” attached collectively as Appendix B hereto. The enforceable domains of this Outcome Measure shall not include the “all needs met” domain. The domains in Appendix B for which compliance at 85% or better has been met for a quarter and then sustained for an additional quarter as of the date of this 2017 Revised Exit Plan, shall be considered to have achieved Pre-Certification.

Those domains include:

- Risk: Child-in-Placement
- Securing the Permanent Placement
- DCF Case Management-Legal action to achieve the permanency goal in the prior six months
- DCF Case Management-Recruitment for placement providers to achieve permanency goal during the prior six months
- Child’s current placement
- Education

For each of the remaining domains, once compliance at 85% or better has been met for a quarter and then sustained for an additional quarter, that domain shall also be considered to have achieved Pre-Certification. The remaining domains include:

- Risk: In-Home
- DCF Case Management - Contracting or providing services to achieve permanency during the prior six months;
- Medical needs;
- Dental needs;
- Mental health, behavioral and substance abuse services.

Once all of the domains achieve Pre-Certification, then Outcome Measure 4 shall be considered to have achieved Pre-Certification and subject to the process in Paragraphs 10 and 11 hereof as to whether a final review is required in connection with a request to terminate jurisdiction over this action.

Revised Outcome Measure 5: Worker-Child Visitation (In-Home)

DCF shall visit at least 85% of all in-home family cases at least twice a month, except for probate, interstate or voluntary cases.

Revised Outcome Measure 6: Caseload Standards

The caseload of no DCF social worker shall exceed the following caseload standards, with exceptions for emergency reasons on caseloads, lasting no more than 30 days. Additionally, the average caseload of all caseload carrying DCF social workers in each of the following categories shall not exceed 0.75 (*i.e.*, 75% utilization) of these maximum caseload standards:

- A. Investigators shall have no more than 17 investigative cases at any time.
- B. In-home treatment workers shall have no more than 15 cases at any time.
- C. Out-of-home treatment workers shall have no more than 20 individual children assigned to them at any time. This includes voluntary placements.
- D. Adoption and adolescent specialty workers shall have no more than 20 cases at any time.
- E. Probate workers shall have no more than 35 cases at any time. When the probate or interstate worker is also assigned to provide services to the family, those families shall be counted as in-home treatment cases with a ratio of 1:20 cases.
- F. Social workers with in-home voluntary and interstate compact cases shall have no more than 49 cases at any time.
- G. A worker with a mixed caseload shall not exceed the maximum weighted caseload derived from the caseload standards in A through F above.

PRE-CERTIFIED OUTCOME MEASURES THAT MUST BE SUSTAINED

Outcome Measure 7: Repeat Maltreatment of Children

No more than 7% of the children who are victims of substantiated maltreatment during any six-month period shall be the substantiated victims of additional maltreatment during any subsequent six-month period.

Outcome Measure 8: Maltreatment of Children in Out-of-Home Care

No more than 2% of the children in out-of-home care shall be the victims of substantiated maltreatment by substitute caregivers while in out-of-home care.

Outcome Measure 9: Re-Entry into DCF Custody

Of all children who enter DCF custody, 7% or fewer shall have re-entered care within 12 months of the prior out-of-home placement.

Outcome Measure 10: Worker-Child Visitation (Out-of-Home)

DCF shall visit at least 85% of all out-of-home children at least once each month, except for probate, interstate or voluntary cases. All children must be seen by their DCF social worker at least quarterly.

Outcome Measure 11: Placement Within Licensed Capacity

At least 96% of all children placed in foster homes shall be in foster homes operating within their licensed capacity, except where necessary to accommodate sibling groups.

Outcome Measure 12: Multiple Placements

At least 85% of the children in DCF custody shall experience no more than three (3) placements during any 12-month period.

Outcome Measure 13: Sibling Placement

At least 95% of the siblings entering out-of-home placement shall be placed together unless there are documented therapeutic reasons for separate placements.

Outcome Measure 14: Reduction in the Number of Children Placed in Residential Care

The number of children placed in privately operated residential treatment care shall not exceed 11% of the total number of children in DCF out-of-home care.

6. No Outcome Measures other than the 2017 Revised Exit Plan Outcome Measures and the Pre-Certified Outcome Measures shall be subject to further monitoring, review or court action. The parties are in agreement to terminate jurisdiction over the following 2006 Revised Exit Plan Pre-Certified Outcome Measures:
 - OM 4 Search for Relatives
 - OM 7 Reunification
 - OM 8 Adoption
 - OM 9 Transfer of Guardianship
 - OM 13 Foster Parent Training
 - OM 20 Discharge Measures
 - OM 21 Discharge of Mentally Ill or Developmentally Disabled Children
 - OM 22 Multi-Disciplinary Exams

7. The parties agree to terminate jurisdiction over the following 2017 Revised Exit Plan Pre-Certified Outcome Measures if the Defendants sustain compliance with the measures through the end of the Second Calendar Quarter 2018 (June 30, 2018).
 - OM 11 Placement within Licensed Capacity
 - OM 12 Multiple Placements
 - OM 13 Sibling Placement
 - OM 14 Reduction in the Number of Children in Residential Capacity

8. Reporting by the Court Monitor on all Revised Outcome Measures is required on a quarterly basis until the Court issues an order terminating jurisdiction over the action, except that public filing of reports by the Court Monitor may occur on a six-month basis and cover two quarters of performance.

Until jurisdiction over this matter is terminated by the Court, the parties agree that the DCF Court Monitor shall have discretion to conduct and provide for such additional reporting and case reviews to determine compliance or sustained compliance that are consistent with the terms of the 2017 Revised Exit Plan, as modified, and under any other applicable Court orders.

There shall be no changes to the measurement procedures to be used to determine and sustain compliance with Outcome Measure 3 and 4 except as may be ordered by the Court.

The Court Monitor's measurement procedures used to determine and sustain compliance with the Revised Outcome Measures in this 2017 Agreement are set forth in Appendix A attached hereto.

The Court Monitor's protocols and directional guides for Revised Outcome Measures 3 and 4 to be achieved, as amended pursuant to this 2017 Agreement, are set forth in Appendix B, attached hereto.

The methodology, including protocols and directional guides, for review of Revised Outcome Measures 1, 2, 5, and 6 for Pre-Certification will be developed by the Court Monitor with input from the parties.

9. The Defendants must be in compliance with all of the outcome measures, and in sustained compliance with all of the outcome measures for at least two quarters (six months) prior to asserting compliance and shall maintain compliance through any decision to terminate jurisdiction. The parties shall have meaningful opportunity to be heard by the Court Monitor before he renders his findings and recommendations.
10. Pre-Certification. If DCF has met the requirements for any Revised Outcome Measure and sustained compliance for at least one (1) additional and consecutive quarter (6 months total), the Court Monitor shall conduct a “pre-certification review” of that Outcome Measure (“Pre-Certification Review”). Pre-Certification Reviews have already taken place and are applicable to Outcome Measures 7, 8, 9, 10, 11, 12, 13, and 14 of the 2017 Revised Exit Plan. The purpose of the Pre-Certification Review is to recognize DCF’s sustained improved performance, to identify and provide a prompt and timely opportunity to remedy any problem areas that are affecting the well-being of Juan F. class members, and to increase the efficiency of DCF’s eventual complete compliance and exit from this action. Other than conducting the Pre-Certification Review earlier than the final review mandated by paragraph 11, the Pre-Certification Review will be conducted in accordance with the provision for review as described in paragraph 8, unless otherwise agreed upon by the parties and the Court Monitor. If the Pre-Certification Review with respect to a particular Revised Outcome Measure: (a) does not identify any material issues requiring remediation; and (b) no assertions of noncompliance with the specific Revised Outcome Measures(s) at issue are pending at the time Defendants assert sustained compliance with the Outcome Measures; and (c) the Court Monitor has not identified any material issues requiring remediation subsequent to the Pre-Certification, the final review as per paragraph 11 of this 2017 Revised Exit Plan will not be required after the Defendants assert sustained compliance with all Outcome Measures. In conducting any Pre-Certification Review or final review of the Defendants’ compliance with any specific Outcome Measure, the Court Monitor may also consider any current measurement methodologies, including any methodologies employed by the federal Department of Health and Human Services (HHS), Administration for Children Youth and Families (ACYF), in its Child and Family Services (CFSR) reviews and in any Annual Progress and Services Review (APSR) reports issued pertaining to DCF.
11. To seek termination of the Court’s jurisdiction over this action, Defendants may not seek to terminate jurisdiction over individual Outcome Measures; rather, simultaneous compliance with all of the Revised and Pre-Certified Outcome Measures is a prerequisite to seeking termination of jurisdiction over all of the Outcome Measures and this action. If Defendants assert compliance and request termination of jurisdiction over this action, the Court Monitor shall, prior to the Court’s adjudication of the Defendants’ motion, determine which, if any, Outcome Measures require a final review in order to assess the Defendants’ achievements, subject to Paragraph 10 of this 2017 Revised Exit Plan. The Court Monitor’s determination on which Outcome Measures require a final review shall be conclusive and binding on the parties. For any Outcome Measures requiring a final review, the Court Monitor shall conduct a review of a statistically significant valid

sample of case files at the 96% confidence level, and such other measurements as are necessary, to determine whether Defendants are in compliance with their obligations. The Court Monitor shall then present findings and recommendations to the District Court in connection with the Defendants' request for termination of jurisdiction over this action. The parties shall have a timely and meaningful opportunity to be heard by the Court Monitor before he submits any findings and recommendations to the Court, which findings and recommendations shall be submitted no more than 90 days from the submission of the Defendant's motion. The parties shall also have a meaningful opportunity to be heard by the Court before any ruling is rendered with respect to a motion to terminate jurisdiction over this action. Defendants shall maintain compliance through any final decision to terminate jurisdiction over this action. This 2017 Revised Exit Plan shall not limit any rights of any party to seek any relief from the Court under applicable federal law.

12. In furtherance of the parties' mutual desire to achieve sustained compliance and an end to this Consent Decree as soon as possible, the parties agree to meet at least monthly to review progress and concerns. It is the parties' intention to continue this process for at least one year, unless either party determines, and notifies the other, that the process is no longer productive or useful.
13. Should either party determine in good faith that the process described in paragraph 12 is not productive or useful in achieving its goals, that party may provide notice of that determination in writing. After 30 days of providing that notice, if the party giving notice chooses to do so, it may seek whatever assistance it deems appropriate from the Special Master, who may work further with the parties to resolve concerns.
14. Upon approval and entry of this 2017 Revised Exit Plan, Plaintiffs will promptly withdraw, without prejudice, the "Notice of Noncompliance" of February 1, 2017.
15. The United States District Court for the District of Connecticut retains continuing jurisdiction over this action until the Court issues a final order terminating such jurisdiction.

THE PLAINTIFFS,

By:



Ira P. Lustbader, Esq.


Childrens' Rights, Inc.
88 Pine St., Suite 800
New York, NY 10005
212-683-2210
Fax: 212-683-4015
ilustbader@childrensrights.org



Steven M. Frederick, Esq.

**Wofsey, Rosen, Kveskin &
Kuriansky, LLP**
600 Summer Street
Stamford, CT 06901
203-327-2300
Fax: 203-967-9273
sfrederick@wrkk.com

THE DEFENDANTS,

By: 
Perry A. Zinn-Rowthorn
195 Church Street
Assistant Attorney General
The Office of the Attorney General
55 Elm Street
Hartford, CT 06106



Raymond Mancuso

DCF Court Monitor

300 Church Street 4th Floor

Wallingford, CT 06492

203-741-0458

203-741-0462

Raymond.Mancuso@CT.Gov

ORDER

The foregoing having been considered by the Court, it is approved and so ordered.

By: /s/Stefan R. Underhill 3
Honorable Stefan R. Underhill
U.S. District Judge
United States District Court
915 Lafayette Boulevard
Bridgeport, CT 06604