

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

B.H., et al.,)	
)	
Plaintiffs,)	
)	
v.)	No. 88 C 5599
)	Hon. Jorge L. Alonso
GEORGE H. SHELDON, Acting Director,)	Judge Presiding
Illinois Department of Children and)	
Family Services,)	
)	
Defendant.)	

ORDER

The Court, having reviewed the Report of the Expert Panel, and the position of the parties regarding the individual recommendations set forth in the Report of the Expert Panel, orders as follows:

1. The parties having represented that the findings set forth in the Report of the Expert Panel dated July 21, 2015 (Dkt. No. 490-1, the “Expert Report”) are undisputed, the Court hereby adopts those findings in full.

2. The Court approves Expert Report Recommendation 1, regarding the development of a system of care demonstration program that permits DCFS and Purchase of Service to waive various restrictions on a trial basis to placements in residential treatment facilities. The Court sustains the Department’s objection only to the extent that this recommendation requires action by other state agencies and third parties not parties to this lawsuit. The Department has agreed to work in cooperation with these other entities and to coordinate activities with these other entities as appropriate, and if the goals expressed in Recommendation 1 cannot be achieved by that cooperation, the Department will inform the parties and the Court and prepare an alternative plan in respect to Recommendation 1.

3. The Court approves Expert Report Recommendation 2.

4. The Court approves Recommendation 3.

5. The Court approves Recommendation 4. The Court acknowledges that the Department has already hired and been working with outside experts and has already submitted a revised organizational structure to the Illinois Department of Central Management Services and this order is not intended to require the retention of additional consultants. If the steps that the Department already has taken are insufficient to accomplish the goals set forth in Recommendation 4, the Department shall address the additional actions it will take to accomplish those goals in the Department's Implementation Plan.

6. The Court approves Recommendation 5.

7. The Court, having been advised that the parties have reached an agreement to a revised Recommendation 6, approves revised Recommendation 6 as set forth below:

a. The Court shall appoint an external panel of experts (Expert Panel) pursuant to Rule 706 of the Federal Rules of Evidence under the same terms in respect to payment for their services set forth in the Court's Order of Appointment dated April 10, 2015.

b. The Panel members shall assist the Department in development of its implementation plan for reform, as set forth at sub-paragraphs h-i below. It is hoped that the Department's implementation plan can be submitted with common agreement of the parties and the Expert Panel. The Implementation Plan shall address the necessary reforms to be undertaken in a manner consistent with accepted social work practice and standards and the Recommendations set forth in the prior Report dated July 21, 2015 (*see* Dkt. 790-1, hereinafter the "Report").

c. The Expert Panel also shall assist the parties and the Court in evaluating the Department's implementation plan, the Department's progress in making reforms, and the effectiveness of the reform efforts. The BH parties propose that three of the current court-appointed experts, Marci White, Paul Vincent and Mark Testa, serve on this Expert Panel.

d. The parties and Expert Panel hope and expect that this process will be collaborative, will address issues on an on-going basis, and will lead to agreement whenever possible. If at any time the experts deem it necessary, they may report directly to the Court.

e. The Expert Panel will be provided full access to the information needed to perform their responsibilities. The Expert panel will have reasonable access to all non-privileged documents, data, records and information in the possession of DCFS or any person or agency contracting with DCFS to provide care and services to children. The Expert Panel shall be permitted to interview privately, at reasonable times and places, any person with relevant information, including children, parents, foster parents, DCFS employees and other persons providing services to class members. The consent of persons other than DCFS employees or officials shall be required before such interviews take place. The Expert Panel may also conduct on-site inspections of any facilities or programs providing services to DCFS wards.

f. The Expert Panel may communicate *ex parte* (without other parties or counsel) with any party or counsel for any party. If the Expert Panel communicates in writing with the Court, it must simultaneously serve copies on the parties. The Panel shall not communicate orally with the Court without affording the parties prior notice and an opportunity to be present.

g. If any member of the Expert Panel resigns or otherwise becomes unavailable, the parties will attempt to agree on the selection of a replacement to propose to the Court. If the parties are unable to reach agreement, each party will nominate one person to serve as the replacement and present the issue to the Court for resolution.

h. In consultation with the Expert Panel, the Department should, within the framework of the Report [Dkt. 790-1], develop an enforceable implementation plan pursuant to Paragraph 68(d) of the Consent Decree, which identifies the tasks, responsibilities and timeframes necessary to accomplish the objectives of the Consent Decree as addressed in the Expert Panel's findings and recommendations. The parties and the Expert Panel will confer regularly as the Department develops the implementation plan and thereafter. This implementation plan should be developed within four (4) months and submitted to the Court for approval. At least two weeks prior to the deadline for submission, the Department will provide final drafts of the plan to Plaintiffs and the Expert Panel. The parties and the Expert Panel will attempt to resolve any disagreements regarding the implementation plan. If any disputes remain, the parties and the Expert Panel will provide the Court with their respective positions as to such disputes.

i. The implementation plan will provide for the Department to contract with an external partner to perform an effective residential and group-home monitoring program. The Department shall use an external partner for that function until such time as the Department has sufficient staff with the necessary experience and clinical expertise to perform the function internally and further has developed an in-house program that can monitor residential and group-home placements effectively.

j. The parties recognize that the implementation plan may not anticipate all of the obstacles the Department may encounter and that experience may lead to

revisions of the initial plan. As a result, once initially approved by the Court, the implementation plan should be reviewed by the Department, Plaintiffs' counsel, and the experts regularly. Necessary revisions will be included in amendments to the plan following the same process as set forth in paragraph 7h, above. Any such amendments will be submitted to the Court for approval with the next Status Report.

k. The Department is in the process of developing an Internal Change Management, Strategic Planning and Innovation Unit ("the Unit") which will report directly to the Director. The Unit will be empowered to drive system change and implement actions necessary to achieve compliance with the Consent Decree. It is expected that the Department will identify a single individual within the Unit who has responsibility for and sufficient authority to oversee and direct the Department's plan and implementation efforts to achieve compliance, and to serve as the primary contact with the Expert Panel and Plaintiffs. The individual will update the Expert Panel and Plaintiffs through regular meetings and other communication during periods of plan development, in the filing of the interim Status Reports, described immediately below, and thereafter.

l. 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.

m. The Department shall provide to the Expert Panel and Plaintiffs interim Status Reports every four months after the Court's approval of the Department's implementation plan. Plaintiffs may provide to the Expert Panel a response to the report raising any issues regarding the Department's implementation efforts and any objections to the report's sufficiency or accuracy. The Expert Panel, in turn, may obtain verification of the accuracy, reliability, and validity of the information and findings contained in the Interim Status Reports. The parties and Expert Panel shall use the interim Status Reports, Plaintiffs' feedback and other information the Department has to prepare Interim Status Reports for submission to the Court regarding the Department's progress toward compliance, and further recommending corrective courses of action for the Department when appropriate. The expectation is that the parties and Expert Panel will submit to the Court a single Status Report with common agreement on the progress of the Department's implementation plan, the Department's progress in making reforms and the effectiveness of the reform efforts. The parties and the Expert Panel will attempt

to resolve any disagreements regarding the interim Status Reports. If any disputes remain, the parties and the Expert Panel will provide the Court with their respective positions as to such disputes.

n. The Implementation Plan and the Interim Status Reports will describe how the Department will 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.

o. The Expert Panel shall serve at least for the period up to and including the issuance of the interim Status Report due twelve months after the Court's approval of the implementation plan. At that time, expected to be January 2017, the parties shall provide the Court with a Joint Status Report, setting out their respective positions regarding the additional time, if any, the Expert Panel should continue to serve, and shall include in that filing the Expert Panel's recommendation regarding the need, if any, for continued service. The Expert Panel's appointment shall not end until entry of an Order by the Court terminating the appointment on the grounds that the Department has achieved substantial compliance with the goals of the implementation plan and has adequately addressed the findings in the report of the court-appointed experts [Dkt. 790-1].

8. In accordance with revised Recommendation 6, set forth in Paragraph 7 above, the Court appoints an external panel of experts (Expert Panel) pursuant to Rule 706 of the Federal Rules of Evidence. The Expert Panel shall consist of Mark Testa, Paul Vincent, and Marci White.

SO ORDERED:

10/20/15



Jorge L. Alonso
United States District Judge