
ROE V. STAPLES INTERIM REPORT

10/17/2014

The purpose of this interim report is to provide to Plaintiffs and ODJFS the court-approved expert's opinion concerning ODJFS progress toward compliance with the Roe v. Staples Consent Decree, as modified.

Background

In April 2006, by agreement of the parties, the Court vacated its prior orders as they related to appointment of an expert panel in the matter of Roe v. Staples. In place of the expert panel, Etta Lappen Davis (dba Etsky Consulting), was appointed to provide expert advice to the Plaintiffs on Defendant Riley's Motion to Modify Consent Judgment Pursuant to Rule 60(b)(5) of the Rules of Civil Procedure (Doc. 101).

The Court further ordered that Consultant continue to serve as court-approved expert for Plaintiffs, continue to monitor compliance with the Consent Decree as amended, and that such monitoring occur according to a schedule as agreed upon by the parties. A contract for services between ODJFS and Etta Lappen Davis, dba Etsky Consulting, was executed on May 15, 2013 to continue services through June 30, 2015.

Monitoring Activities (Since 11/2013 Interim Report)

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| 12/17/13 | Telephone conference with Jennifer Justice and Michael McCreight to discuss and compare CPOE 6 and CPOE 9 processes and indicators. |
| 12/18/13 | Received and reviewed CPOE Stage 8 Report, CPOE Stage 8: Examination of In-Home and Reunification Case Findings, 2010-2012, prepared to evidence the extent to which CPOE addresses Roe v. Staples issues. |
| 2/20/14 | Telephone call with Jennifer Justice to discuss May site visit. |
| 2/28/14 | Telephone conversation with Attorney, Michael O'Hara re: status update. |
| 3/5/14 | Copied on correspondence between attorneys Michael O'Hara and |



Ara Mekhjian.

- 3/22/14 E-mail exchange with Jennifer Justice re: schedule for May visit.
- 5/19-21/14 Site visit to ODJFS in Columbus, at which staff presented:
- Overview of Ohio's child welfare structure;
 - Differential Response (development in Ohio, traditional and alternative pathways, core elements, Practice Model, Leadership Council and Statewide Implementation Team, roll-out, and evaluation outcomes);
 - CAPMIS overview;
 - CPOE (Child Protection Oversight and Evaluation) as a component of CQI (Continuous Quality Improvement);
 - CPOE process;
 - CPOE case review example;
 - CQI
 - SACWIS and its linkage to CQI, CPOE and Roe v. Staples
 - Data capacity of the BIC (Business Intelligence Channel) system.
- 5/29/14 Review of documents presented during site visit on 5/19-21/14.
- 6/4/14 Telephone conversation with Michael O'Hara to discuss site visit and plan for a next meeting with ODJFS.
- 7/7/14 E-mail exchange with Jennifer Justice, clarifying that monitoring report would not be completed until after July meeting.
- 7/11/14 Meeting in Columbus with Michael O'Hara, Michael McCreight, Jennifer Justice, Ara Mekhjian, and ODJFS team.
- 7/25/14 Copied on e-mail correspondence between Denise Pleska and Michael O'Hara.
- 8/19/14 Copied on e-mail correspondence between Michael O'Hara and Ara Mekhjian.
- 9/2/14 Telephone conversation with Michael O'Hara to discuss his review of documents presented to Consultant during May 2014 site visit and sent to him after July 11, 2014 meeting with ODJFS.
- 9/8/14 Copied on e-mail correspondence between Michael O'Hara and Ara Mekhjian.
- 9/9/14 Sent e-mail to Jennifer Justice with two follow-up questions:

1) As a result of discussions during May site visit, what, if any, plans have been made for adjustments in CPOE 10 case selection criteria?

2) Does ODJFS have a written outline of the Needs Assessment plan that was described during July 11, 2014 meeting?

Received response from Jennifer Justice that she would check on CPOE 10 plans, and that she believed the Needs Assessment plan would be sent to Michael O'Hara by Ara Mekhjian.

9/11/14 Copied on e-mail correspondence from Michael O'Hara to Ara Mekhjian and draft Joint Status Report.

9/12/14 Received e-mail response from Jennifer Justice:

"After thorough analysis and consideration of your recommendation from the May in-person meeting, the sample size for in-home cases will be increased for CPOE Stage 10 and a new universe will be created for In-Home Differential Response cases in order to expand our already comprehensive monitoring activities. We are also planning to add Title IV-E court cases to our monitoring activities which I am not sure we discussed much but this is also a positive development."

9/12/14 Received ODJFS Needs Assessment plan from Michael O'Hara, provided to him by Ara Mekhjian on this date.

9/18/14 Telephone conversation with Michael O'Hara to discuss Joint Status Report and Needs Assessment plan.

10/13/14 Reviewed 45 CFR Part 1355 Statewide Data Indicators and National Standards for Child and Family Services Reviews, published in the federal register on 10/10/13¹, and CFSR Round 3 tools².

Status of Compliance with Outstanding Issues

Based upon Consultant's site visits and documents reviewed, it is Consultant's opinion that progress has been made on two of the three outstanding issues identified in previous Interim Reports.

1) Monitoring

CPOE Stage 9, in process, has modified and adapted Ohio's CPOE to conform to a great extent to the Federal CFSR process. The current CPOE case review

¹ <http://www.gpo.gov/fdsys/pkg/FR-2014-10-10/pdf/2014-24204.pdf>

² <https://training.cfsrportal.org/resources/3044>

tool is based, in large part, on the current CFSR tool. CPOE, Stage 10 is in the planning process.

ODJFS has taken steps and produced evidence to address Consultant's concerns about the CPOE process, as expressed in 2009 and 2012 Interim Reports.

- During December 2013 telephone discussion ODJFS clarified that current CPOE staffing is equivalent to levels in place in 2006.
- CPOE is the primary, but not the only, mechanism for monitoring that is relevant to *Roe v. Staples*. As demonstrated by ODJFS during Consultant's May 2014 site visit, in addition to CPOE there is a substantive CQI (Continuous Quality Improvement) program, monitoring of Ohio's differential response program, and many counties have established their own quality improvement systems.
- SACWIS provides supervisors and managers with the ability to monitor performance by case, by worker, and by CPSA.
- Routine reports and a dashboard available through Ohio's BIC (Business Intelligence Channel) provide snapshots of performance by county on key measures.

ODJFS has completed rollout of Ohio's Differential Response Model in all counties. The DR Model emphasizes concepts integral to *Roe v. Staples*. Model evaluation³, completed in 2013 based on model implementation in six counties, indicates positive outcomes in family engagement, maintaining children at home, attitudes of families and staff, and reduction of need for repeat services.

Quality Improvement processes in addition to CPOE, and the capacity for oversight that SACWIS now affords to supervisors and managers, add a great deal to ODJFS's monitoring capacity.

ODJFS provided to Consultant a comprehensive report, *CPOE Stage 8: Examination of In-Home and Reunification Case Findings, 2010-2012*. The Report identifies the CPOE indicators for in-home cases and reunification cases that ODJFS considers most relevant to *Roe v. Staples*. The Report includes performance of counties during the two years, analysis of the factors that contributed to positive outcomes, the factors that influenced less acceptable performance, and the QIP (Quality Improvement Plan) requirements to improve counties' performance.

During May 2014 on-site discussions, Consultant expressed to ODJFS concern that case sampling in CPOE 9 might not have ensured review of cases most relevant to *Roe v. Staples* issues, in particular, those that demonstrated need for and provision of services to families to prevent removal of children from their homes and to facilitate reunification, when possible, for children whose removal

³ <http://www.iarstl.org/papers/OhioARFinalExtensionReportFINAL.pdf>

was necessary. In response to those discussions, ODJFS reported that the sample size for in-home cases will be increased for CPOE Stage 10, and a new universe will be created for In-Home Differential Response cases. Title IV-E court cases will also be added to monitoring activities.

CFSR Round 3 Standards and tools have revised indicators and measures, increased emphasis on child well-being over previous CFSR rounds, and allowance for states to utilize, with approval, their own record review.

In consideration of all factors and evidence reviewed, Consultant believes that Ohio has met the intent of the original Roe v. Staples decree regarding monitoring.

2) Data Validation

Ohio reports that SACWIS is fully operational in all counties. A comprehensive User's Manual ⁴ has been published to provide guidance for ODJFS and CPSA users.

According to data⁵ issued by the Children's Bureau, Administration for Children and Families in January 2014, of the 35 states whose SACWIS is operational, only 14 have achieved compliance. 10 states have had their SACWIS compliance action plans approved, and Ohio is among nine states for which SACWIS compliance assessment has been initiated. 14 states have elected to use non-SACWIS models.

Although Ohio's achievement of SACWIS compliance with Roe v. Staples had been agreed upon by ODJFS and Plaintiffs as the measure of data validity, both sides now agree that reconsideration is in order, as full compliance with SACWIS might still be years away. There has been preliminary discussion of acceptance of a more practical and less distant goal, for example, data validation in a select number of counties. It will be necessary for ODJFS and Plaintiffs to engage in additional discussion about the feasibility of modifying the data validity requirement.

3) Needs Assessment

Previous interim reports have documented ODJFS's preliminary plans for use of SACWIS data as a foundation for completing a needs assessment.

ODJFS has presented a plan for completing a needs assessment, sent to Plaintiffs' attorney on 9/12/14.

⁴ <http://jfs.ohio.gov/sacwis/pdf/SACWIS-Management-Administrative-Cubes-User-Guide.pdf>

⁵ <http://www.acf.hhs.gov/programs/cb/resource/sacwis-status>

Consultant has reviewed the plan, which was discussed at the 7/11/14 meeting in Columbus. Consultant believes the plan is sound and appropriate, and the resulting Needs Assessment will provide valuable information that can help to improve the services available to the children and families of Ohio.

In order to comply with Roe v. Staples, ODJFS must complete a needs assessment.

Recommendations:

- 1) Consultant recommends that Plaintiffs and the Court consider ODJFS compliant with the intent of the monitoring requirements of the original consent decree.
- 2) ODJFS should continue to report any progress toward SACWIS compliance, as accomplished.
- 3) ODJFS, Plaintiffs, and Consultant should continue to discuss possible alternative approaches to data validation that would be acceptable to all parties.
- 4) ODJFS should proceed with needs assessment as outlined in plan provided to Plaintiffs and Consultant on 9/12/14.

Summary

Based upon monitoring activities, it is the opinion of the court-approved expert that ODJFS has made sufficient progress toward meeting Roe v. Staples requirements for monitoring, and has made some progress toward compliance with data validity and needs assessment requirements.

Consultant will continue to monitor Ohio's progress toward resolution of the outstanding Roe v Staples issues.

Etta Lappen Davis, MA.Ed
Etsky Consulting
October 17, 2014