

Fourth Report of the Probation
Services Independent Auditor
U.S. v. City of Meridian, et al.
Civil Action No.
3:13-CV-978-HTW-LRA

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I. Introduction

This is the fourth report of the Probation Services Independent Auditor, prepared pursuant to the settlement agreement between the State of Mississippi and the United States in the matter of *United States v. City of Meridian, et al.*

In June 2015, the State of Mississippi (“the State”) and the United States Department of Justice (“Justice Department”) reached an agreement to resolve the United States’ investigation and litigation regarding the State’s handling of youth referred for law enforcement by public schools. The investigation and subsequent litigation included the Lauderdale County Youth Court (“Youth Court”), the Meridian Police Department (MPD), and the Mississippi Department of Human Services Division of Youth Services (DYS). The State of Mississippi and the City of Meridian reached settlements with the Justice Department, and on September 30, 2017, the United States District Court dismissed the Justice Department’s claims against Lauderdale County and its two sitting juvenile court judges.

This report addresses the agreement reached between the State of Mississippi and the United States (“the parties”) regarding youth probation services provided by DYS to children facing delinquency charges in the Lauderdale County Youth Court. On November 18, 2015, pursuant to the settlement agreement, the parties jointly selected me, Dana Shoenberg, J.D., LL.M., as the Probation Services Independent Auditor. The agreement requires that the Independent Auditor conduct compliance reviews every six months, with additional reviews as necessary if emergent issues arise. The report below outlines my findings from the compliance review conducted July 24 through 27, 2017. This is the fourth compliance review since the parties reached a settlement in this matter.

II. Compliance Review Findings

This report includes a summary of compliance findings and a detailed description of the State’s compliance status in each substantive area of the settlement agreement. The summary of compliance findings in Part A includes a chart listing each provision and the State’s level of compliance. The detailed compliance ratings in Part B include: the full text of each provision, the

compliance rating, a discussion of the Auditor's findings, recommendations for reaching compliance, and a description of the evidentiary basis for the Auditor's findings. The parties agreed upon the following terms to describe levels of compliance:

Non-compliance means that the State has made no notable progress in achieving compliance on any of the key components of the provision.

Beginning compliance means that the State has made notable progress in achieving compliance with a few, but less than half, of the key components of the provision.

Partial compliance means that the State has made notable progress in achieving compliance with the key components of the provision, but substantial work remains.

Substantial compliance means that the State has met or achieved all or nearly all the components of a particular provision.

A. Summary of Compliance Findings

This compliance review visit provided an opportunity to assess the progress the State has made since January 2017. In addition, I worked with policy committees on graduated responses and training policies. I also attended the biannual community input meeting required by the settlement agreement. I met with the Youth Services Counselors (YSCs) and the Regional Director assigned to Lauderdale County Youth Court, observed YSC meetings with youth and their family members, interviewed youth and families independently, met with counsel appointed to represent youth in Lauderdale County Youth Court, and met with the Director of the Division of Youth Services (DYS) and the Community Services Director, who is also the Settlement Agreement Coordinator.

The agency has made significant progress toward compliance during the past six months. The State completed development of most of the policies required under the settlement agreement, established processes to solicit and incorporate feedback from line staff on new tools and forms in development, and finalized a handout for youth and families to cover topics that must be

communicated under the settlement. In addition, the agency piloted and then finalized the newly revised contracts for youth on informal adjustment and parole. The agency arranged for staff to attend a Youth Mental Health First Aid training and also conducted training about the new probation contracts. In addition, DYS held a community input meeting required by the settlement agreement while I was on site. The agency publicized the event through radio, television and internet. Staff also extended invitations to current clients, advocates and individuals who had attended prior community input meetings. The next important steps for the State's compliance activities include: developing a training plan (and then implementing training); implementing new policies recently developed or revised; and ensuring consistent use of newly developed tools and processes.

As with my prior visits, significant challenges remain in monitoring implementation of this settlement agreement while the claims against other defendants remain in litigation. The State has provided access to all of its own documentation and employees related to this agreement, and has also been more than helpful in helping me seek access to information under control of others. However, the County and the Youth Court judges have maintained their decision not to allow me to observe Youth Court, review documents or databases generated or controlled by the Court, or interview County employees. These circumstances continue to limit my ability to gain a full picture of YSCs' interactions with judges, court personnel, youth, families and others. I have done my best to develop as full a picture as possible given these limitations.

During this visit I observed meetings between YSCs and their clients. After each meeting I interviewed the parent and youth, generally separately, as time permitted. Therefore, I was able to observe 8 meetings between YSCs and clients, and conduct interviews with 9 youth and 9 family members.

I reviewed documents generated during the past 6 months by YSCs for 11 youth. These documents included YSC case notes, completed SAVRY scoring forms, social histories, recommendations to the court, and forms that tracked the procedural history of the case. I reviewed these documents for youth on probation and on informal adjustment, including youth who were reported for probation violations since January 2017.

I reviewed the following additional documents while on site:

- Lauderdale County staff recommendations for improvements to the informal adjustment and probation contracts, as well as a consolidated supplemental handout explaining information required under the settlement agreement;
- Training manual for Youth Mental Health First Aid;
- SAVRY case audits by Regional Supervisor for Lauderdale County; and
- Sampling of emails sent to counsel for youth on the YSCs caseloads informing them of meeting schedules.

The State submitted other documents for feedback and/or review prior to and immediately following the visit as well, including:

- The State's compliance report;
- Questionnaire for piloting new informal adjustment and parole agreements;
- Monthly Probation/Parole Violation Tracking Forms for January 2017 through June 2017;
- Letters to community members regarding the Community Forum;
- Email communication between DYS and a reporter providing notification about the Community Forum;
- Drafts of a new Training policy and accompanying lists of topics for Core Training and Clerical Training;
- New drafts of a guidance memo for staff in Lauderdale County to implement the provision requiring that counsel be notified of probation meeting schedules;
- Drafts of a DYS memo providing guidance on YSCs' detention recommendations;
- New drafts of the Graduated Response policy and accompanying tools; and
- New drafts of the Probation and Informal Adjustment policies and contracts.

Table I summarizes my compliance findings. Some of the provisions of the settlement agreement include deadlines in the future. I have not indicated a compliance rating for those provisions, noting that the requirements are not yet applicable.

Table I. Compliance Ratings, by Provision

Provision number	Description of Provision	Compliance Rating
III.A.1.a	Protections Against Self-incrimination - Notice to youth	Substantial compliance
III.A.1.b	Protections Against Self-incrimination - Notice to youths' guardians	Substantial compliance
III.A.1.c	Protections Against Self-incrimination – Inquiry about youths' understanding and use of youth-appropriate language	Substantial compliance
III.A.1.d	Protections Against Self-incrimination – Fixed meeting schedule, notification of counsel, rescheduling meetings for counsel	Substantial compliance
III.A.2.a	Probation Review and Revocation – Probation status review by Youth Services Counselors	The parties have agreed that this section will not be audited.
III.A.2.b	Probation Review and Revocation – Use of graduated responses and risk assessment tool for court recommendations	Substantial compliance for risk assessment and partial compliance for graduated responses.
III.A.2.c.i	Probation Conditions – Understandable language and prevent arbitrary and discriminatory enforcement	Substantial compliance
III.A.2.c.ii	Probation Contracts – Clear explanation of youth rights, including how to satisfy mandatory school attendance	Substantial compliance
III.A.2.c.iii	Limits on recommending incarceration for probation violations	Substantial compliance
III.A.3.a	Review of Policies and Procedures – Revise for compliance with settlement agreement	Partial compliance
III.A.3.b	Reassess effectiveness of policies, procedures and practices annually and revise as necessary	Not yet applicable
III.B.1	Diversion and Treatment Options – Recommend youth for existing diversion where appropriate and monitor future funding opportunities	Substantial Compliance
III.C.1	Training – Develop training plans	Beginning compliance

Provision number	Description of Provision	Compliance Rating
III.C.2	Training – cover topics relevant to responsibilities in delinquency proceedings	Beginning compliance
III.C.3	Training – Begin implementing training plans within 12 months, then annually	Beginning compliance
III.C.4	Training – submit to Auditor and U.S.	Non-compliance
IV.A-C	Community Input	Substantial compliance
V.B	Implementation and Monitoring – Notification to DHS/DYS officials, staff, agents and independent contractors	Substantial compliance
VIII.A.1	Policies and Procedures – Generate policies and procedures to ensure compliance and submit for review	Partial compliance
VIII.A.2	Policies and Procedures – Complete Policy and Procedure Review within 6 months	Substantial compliance
VIII.A.4	Policies and Procedures – Adopt and begin implementation within 3 months after finalizing; implement within one year	Substantial compliance
VIII.B.2	Reporting – Biannual compliance report	Substantial compliance

B. Detailed Compliance Ratings

This section provides details about compliance with each substantive provision in the agreement.

Table II. Detailed Compliance Ratings

<p>Settlement Agreement Provision</p>	<p>III.A.1.a</p> <p>Within 90 days of the Effective Date, DYS shall revise its policies, procedures, and practices to ensure that Youth Services Counselors provide youth at their initial meeting a notice using youth-appropriate language regarding the following:</p> <ul style="list-style-type: none"> i. the youth services process, including the role of the Youth Services Counselor; ii. the potential consequences to youth for violating their probation contract, including the range of sanctions the youth may face; iii. an explanation of the probation [review and]¹ revocation process, including the youth’s right to challenge allegations of probation violations, and the youth’s right to counsel in revocation hearings.
<p>Compliance Rating</p>	<p>Substantial compliance</p>
<p>Discussion</p>	<p>During this period, DYS finalized its Informal Adjustment, Probation and Parole policies and contracts, having piloted them in several counties including Lauderdale County. Managers developed a questionnaire and considered and incorporated feedback from staff in development of the contracts. In addition, in Lauderdale County, in order to comply with the notice requirements in this provision, DYS developed and implemented handouts to ensure that youth and families were notified of the required topics. During my compliance visit, staff made clear that they had suggestions about how to improve the handouts, and I agreed with their recommendations. DYS agreed to approve the recommended</p>

¹ The parties have agreed that the words “review and” are extraneous in the above provision, and that the Auditor should not include them in compliance reviews and assessments.

	<p>changes. YSCs now use the combination of the informal adjustment or formal probation contract and the handout in order to inform youth of the information required under this provision of the settlement agreement. I have confirmed that they are covering these topics through observation and conversations with YSCs, youth and families. Therefore, the State has reached substantial compliance with this provision.</p> <p>The staff in Lauderdale County expressed additional recommendations to improve the contracts, and the agency incorporated a number of the suggestions into the informal adjustment agreement as well.</p>
<p>Recommendations for Reaching Compliance</p>	<p>As explained above, the State has reached substantial compliance with this provision because it has revised the contracts, developed handouts, placed them into use, and revised the state-wide policies that apply. Now, in order to complete the steps of incorporating all parts of this settlement agreement into policy as required by section III(A)(3)(a), the State must develop written county-specific guidance for Lauderdale County staff to guide use of the handouts.</p>
<p>Evidentiary Basis</p>	<p>Conversations with all YSCs in Lauderdale County; reviews of probation explanation handouts for youth and families; review of youth files; discussion with Director of Community Services.</p>

<p>Settlement Agreement Provision</p>	<p>III.A.1.b</p> <p>DYS shall also make diligent efforts to provide the notice described above to the youths’ guardians.</p>
<p>Compliance Rating</p>	<p>Substantial compliance</p>
<p>Discussion</p>	<p>At the beginning of a youth’s probation and often during the course of probation, YSCs meet with youth and their parents or guardians together. Therefore, early conversations about what to expect while on probation include both youth and their families. As a result, the State’s</p>

	compliance with the notice requirements is the same for the youths' guardians as it is for the youth.
Recommendations for Reaching Compliance	As described above, the State has reached substantial compliance with this provision. Now, in order to comply with section III(A)(3)(a), which requires incorporation of settlement requirements into policy, and to complete the final elements of this provision, the State must develop written county-specific guidance for Lauderdale County staff to guide use of the handouts.
Evidentiary Basis	Conversations with all YSCs in Lauderdale County; reviews of probation explanation handouts for youth and families; review of youth files; discussion with Director of Community Services.

Settlement Agreement Provision	III.A.1.c The DYS shall inquire into the Child's ability to understand the probation process and ensure that this process is explained in youth-appropriate language.
Compliance Rating	Substantial compliance
Discussion	The newly revised informal adjustment agreement and probation and parole contracts have been written in youth-friendly language. One innovation in the implementation of the new agreements and contracts is that YSCs now ask youth to explain in their own words to ensure that they understand each provision of the informal adjustment or probation agreements/contracts. Staff and youth must initial next to each provision showing that youth were able to explain each provision in their own words. This ensures that YSCs are confirming youths' understanding of the process and the court's expectations. The agreements/contracts are included in youth files, and my conversations with youth and families indicated that they understood these concepts.

	<p>I wrote in my previous reports that YSCs would benefit from developing skills to aid in identifying youth and families who may have difficulty processing the information presented, and in alternative strategies for communicating with youth and families who have learning disabilities, intellectual disabilities, and mental health conditions that make processing of information difficult.</p> <p>During the last compliance period, DYS began providing training for staff in this area by offering two presentations on working with individuals with intellectual or developmental disabilities (IDD). During this compliance period, three of the four YSCs from Lauderdale County attended an all-day training on Youth Mental Health First Aid. The other YSC has attended this training in the past. This course is directed at a wide variety of professionals and others who work with young people, but it served as a useful presentation of basic information about a variety of mental health challenges facing young people, along with common signs and symptoms. Since it was directed at a broad audience, the training did not include discussion about how these signs and symptoms of mental illness might be relevant to the work of YSCs, so I recommended that in order to fulfill this identified need, managers and staff sit down to discuss how the training might apply to their work. The Director of Community Services informed me that he met with the staff to review the material and discuss how it relates to their work. I will assess whether this training led to increased knowledge when I visit this winter.</p>
<p>Recommendations for Reaching Compliance</p>	<p>The State is in substantial compliance because YSCs are using the revised written tools, and youth and families seem to understand what has been explained to them.</p> <p>Pursuant to section III(A)(3)(a), this requirement must be reflected in policy, the practice manual, and other appropriate agency documents.</p>
<p>Evidentiary Basis</p>	<p>Training materials from past six months; review of youth files; conversations with staff, regional supervisor and Community Services Director.</p>

Settlement Agreement Provision	<p>III.A.1.d</p> <p>Lauderdale County Youth Services Counselors will set a fixed meeting schedule at the youth’s initial meeting for all subsequent probation meetings, notify the youth’s counsel of the meeting schedule and make best efforts to reschedule a probation meeting should the youth request the presence of counsel who is unavailable at the time of the previously scheduled meeting. Lauderdale County Youth Services Counselors will document their efforts to reschedule a probation meeting should the youth request the presence of counsel who is unavailable at the time of the previously scheduled meeting.</p>
Compliance Rating	Substantial compliance
Discussion	<p>The Lauderdale County YSCs have instituted a process for setting meeting schedules with clients and communicating them to appointed counsel. As they meet with new clients, they are filling out a form listing the dates of meetings for the remainder of the probation period. Copies of that list are provided to the youth and turned over to the office secretary, who emails the information to counsel and places a copy of the form in a notebook in the courtroom.</p> <p>I saw consistent evidence in files that the meeting schedules are set, and that staff are appropriately flexible if youth and families need to change the dates. Youth and families reported that they are given set meeting schedules but know how to change them as needed. Youth have not requested counsel presence, and counsel have not attended any probation meetings between YSCs and youth since this new process was instituted. One of the attorneys appointed to represent youth in juvenile proceedings confirmed that she has been receiving the emails. The other appointed counsel was out of town during my visit, but he has confirmed that he was receiving the emails in the past.</p> <p>In spot-checking the process, I determined that some email notices to counsel are falling through the cracks. I used the current caseload lists to request the emails to counsel of randomly-selected youth. In some cases there was no email to be found, though in many cases I could confirm that the correct email had been sent. During my visit, we devised some quality assurance measures to help ensure that the</p>

	<p>notices are sent consistently. The form used to notify youth and families of meeting dates will be amended to add two check-off boxes, one for staff to confirm that they have turned in the form to the administrative assistant and one for the administrative assistant to confirm that she has sent the emails. In addition, the administrative assistant will review monthly caseload lists to confirm whether she has sent emails to counsel in each case.</p> <p>Because the state has developed a system and put it into practice, I find that it has achieved substantial compliance, but during the next compliance period it will need to show that the quality assurance mechanism is fully functioning.</p> <p>The State has developed a memo implementing this provision locally in Lauderdale County. I provided suggestions for additions, which the State incorporated. The Department of Justice did not have any additional feedback. Thus, the State is also in compliance with the requirement to have a policy implementing this aspect of the settlement agreement.</p>
<p>Recommendations for Reaching Compliance</p>	<p>The State has achieved substantial compliance with the practice requirement and section III(A)(3)(a) of the settlement agreement requiring revision of policies as well. The State should continue to keep records of its implementation of this provision.</p>
<p>Evidentiary Basis</p>	<p>Reviews of files; conversations with staff, youth and families.</p>

<p>Settlement Agreement Provision</p>	<p>III.A.2.b.</p> <p>The DYS shall develop, at a minimum, a table of graduated responses and a risk assessment tool, which the Youth Services Counselors shall use when making recommendations to the Youth Court Judges regarding the appropriate response to youth conduct.</p>
<p>Compliance Rating</p>	<p>Substantial compliance for risk assessment tool; partial compliance for graduated responses.</p>


Discussion	<p>DYS chose a risk assessment tool (the Structured Assessment of Violence Risk in Youth, or SAVRY), trained workers in its use, and adopted policies regarding Graduated Responses and Risk Assessment during 2014 and 2015.</p> <p>In my document reviews during this visit, I saw SAVRY reports completed in all the formal probation files I reviewed. The risk levels staff determined after conducting a SAVRY assessment were reported in the social summaries and dispositional recommendations to the court.</p> <p>I noted during previous reviews that the State needed to take additional steps toward quality assurance as a component of implementing the SAVRY effectively. This means that there must be meaningful supervisor review that identifies discrepancies between information collected, SAVRY scoring, and recommendations to the court, with feedback provided to line staff. The Regional Director, who is also a SAVRY trainer, began her new position in mid-December 2016. Since then she has been reviewing SAVRY completion and details in youth files and working with staff where she identifies discrepancies. I reviewed some of the files she evaluated as well as her documentation of the evaluations, and the process appears to be working. There are many fewer discrepancies between evidence in the parts of the files I am permitted to review, the scoring of the SAVRY, and the assessments reported to the court. Because I am not privy to the entire file on which workers base their scoring, I cannot be certain whether their assessments reflect the entire file, but I can tell that the Regional Director is engaging in meaningful quality assurance, and I did not see the extent of discrepancies that I identified in previous compliance visits.</p> <p>The SAVRY policy has not yet been revised to align with the settlement agreement, so this task should be addressed in the upcoming months in order to comply with the agreement's policy revision requirements in III(A)(3)(a). The policy should reflect what staff and supervisors should do if they identify a significant error in review of the SAVRY that may have had an impact on the outcome of a juvenile's case. In addition, the Graduated Responses policy team has created substantial revisions to the case supervision plan. The new case plan should be reflected in the SAVRY policy, where the old case plan form is still appended and referenced.</p> <p>The agency has completed its revision of its graduated response policy and accompanying grid templates. The policy requires that YSCs work</p>
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	<p>with judges and referees in their jurisdictions to develop locally-applicable incentives and sanctions grids based on templates included in the policy, as well as standards for when youth should be brought back to court. The agency will need to conduct training for YSCs so that they understand the purpose of incentives and sanctions and so that they have the tools and skills necessary to develop the local grids and standards. The Community Services Director informed me that in the past weeks since my visit and after the policy was finalized, the Lauderdale County YSCs received an introductory training about the policy and accompanying tools. The next step will be to develop the grids and standards for return to court with local judges and referees.</p>
<p>Recommendations for Reaching Compliance</p>	<p>To sustain substantial compliance with regard to risk assessment, the State must continue to use the SAVRY to inform its recommendations to the court, and the Regional Director must continue to review files and provide feedback to staff on completed SAVRY assessments. In accordance with section III(A)(3)(a) of the settlement agreement, the State must also align the SAVRY policy with the requirements of the agreement.</p> <p>To reach substantial compliance with regard to graduated responses, YSC staff in Lauderdale County must develop county-specific incentives and sanctions grids, including establishing a range of incentives for youth to comply with probation requirements, and make use of them.</p> <p>Other documents such as the Desktop Guide and orientation materials must be updated to incorporate the practice, approach and philosophy embodied in the new graduated response and SAVRY policies, as well as the quality assurance efforts necessary to ensure accurate, reliable incorporation of the SAVRY into court recommendations and reports such as the social summary.</p>
<p>Evidentiary Basis</p>	<p>Review of YSC-generated documents about individual youth; review of Regional Director evaluation of recently conducted SAVRYs; Graduated Responses and SAVRY policies and appendices; participation in meeting of graduated responses committee; interviews with DYS staff and management.</p>

Settlement Agreement Provision	<p>III.A.2.c.i.</p> <p>Within 90 days of the Effective Date, the DYS shall, to the extent necessary, adopt or revise policies, procedures, and practices to ensure that conditions of youths' probation are written in simple terms that are easily understandable to youths and prevent arbitrary and discriminatory enforcement.</p>
Compliance Rating	Substantial compliance
Discussion	<p>The agency has revised the agreements and contracts used to explain conditions of informal adjustment, probation and parole to youth and their families, and will soon issue new versions of the policies that include these documents. Before finalizing this revision, the agency sought feedback from staff and clients during a pilot period in several jurisdictions including Lauderdale County to determine whether any other changes might be appropriate, and the agency shared that feedback with me and the Justice Department.</p> <p>I also noted previously that the staff should be trained to write requirements into the agreements that are not overly broad or hard to understand. I learned from staff that they were trained about this requirement. In reviewing files, I did not see any provisions written into the contracts that included overly broad language or requirements that were hard to understand.</p>
Recommendations for Reaching Compliance	<p>In order to sustain substantial compliance, the agency will need to ensure that the policies issued to staff and available online include the most up to date versions of the contracts recently revised. Pursuant to section III(A)(3)(a) of the agreement, the agency must consider whether adjustments to the Desktop Guide, orientation, and/or other documents are necessary to give staff sufficient guidance.</p>
Evidentiary Basis	<p>Review of probation contracts and youth files; discussion with YSCs and other agency officials.</p>

<p>Settlement Agreement Provision</p>	<p>III.A.2.c.ii.</p> <p>Probation contracts shall:</p> <ol style="list-style-type: none"> 1. Include a clear explanation of the youth’s rights in the contract; and 2. Specify how children can satisfy the mandatory school attendance requirement while on probation.
<p>Compliance Rating</p>	<p>Substantial compliance</p>
<p>Discussion</p>	<p>As explained above, the agency has revised and implemented use of the new informal adjustment, probation and parole contracts and policies to include these provisions in Lauderdale County and will soon finalize documents for statewide roll-out. Staff were trained last year on options for education for suspended and expelled youth.</p>
<p>Recommendations for Reaching Compliance</p>	<p>In order to comply with the policy and practice requirements of section III(A)(3)(a) of the agreement, the agency must adjust other documents such as the Desktop Guide, orientation materials, training, and other resources in order to give staff sufficient guidance regarding these topics, and should explain in a future compliance report how it decided where to incorporate guidance about this provision.</p>
<p>Evidentiary Basis</p>	<p>Review of informal adjustment, probation and parole contracts; discussion with YSCs and other agency officials.</p>

<p>Settlement Agreement Provision</p>	<p>III.A.2.c.iii.</p>
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	<p>Youth Services Counselors shall not recommend incarcerating a youth for violations of their probation contract that would not otherwise amount to a detainable offense, unless and until all other reasonable alternatives to incarceration have been exhausted. </p>
<p>Compliance Rating</p>	<p>Substantial compliance</p>
<p>Discussion</p>	<p>As I have explained in my previous reports, there are three times in the course of processing a probation violation where YSCs may have the opportunity to make recommendations to judges or designees about a detention decision. The first of these occurs after someone with knowledge of the probation violation files an affidavit describing the probation violation. While the designee makes the detention decision (and YSCs are not legally permitted to serve as Youth Court Designees), staff sometimes do communicate with the designee about the circumstances of the case. This is an informal opportunity to influence the detention decision. In my file review I did not see case notes that described these interactions, but that may be because the Lauderdale County YSCs rarely request detention for probation violators. My conversations with YSCs suggest that such a recommendation is rare. Often the designees are making decisions in the middle of the night when a youth is arrested, and they do not contact YSCs after hours to gather information before making detention decisions in those circumstances.</p> <p>The second detention decision point is at the detention hearing, which may be the same day as a youth is arrested, or up to two business days later in Mississippi. A YSC attends the hearing, and depending on the judge’s request will sometimes make a recommendation regarding detention. Counsel with whom I spoke confirmed that YSCs rarely recommend detention for probation violators. I reviewed the monthly Probation/Parole Violation Tracking Form on which DYS compiles information about the resolution of probation violations in Lauderdale County each month. I asked YSCs questions about a number of their cases and learned that many are handled without return to court, and that often the judges make detention decisions without asking the opinions of YSCs.</p> <p>The third stage at which YSCs may recommend incarceration or alternatives is in conjunction with the formal hearing on a probation violation. In preparation for a possible adjudication, the YSCs prepare</p>

	<p>written social summaries (some YSCs provide these to the court and some keep them in their files, only to be produced if requested) and dispositional recommendations, which are provided to the court. For this stage I was able to identify whether YSCs made a recommendation of incarceration, and could see from the case history what services and detention alternatives had been attempted previously with a youth. None of the files I reviewed included a recommendation of incarceration.</p> <p>The State has completed a memorandum to guide practice in Lauderdale County that makes clear the need to document all detention recommendations at any of the three stages in case notes, as well as the requirement that staff exhaust other options before recommending incarceration for probation violations.</p> <p>I noted in my previous report that DYS staff must be trained in the law governing detention in order to ensure that they understand the bounds of what designees and judges may order if they are to make appropriate recommendations. Some information about the law governing detention is contained in the new Graduated Response policy, as is a requirement that staff exhaust options in the graduated sanctions grid prior to recommending detention. The law is laid out in more detail in the recent draft memo described in the preceding paragraph. The key will be providing training to staff that gives meaning to the legal provisions cited in the memo. Despite the fact that this training has not occurred, the agency is still in substantial compliance with this section because staff are exhausting other options before recommending incarceration.</p>
<p>Recommendations for Reaching Compliance</p>	<p>While the agency has achieved substantial compliance with this provision, the agency will need to complete training for staff to understand how to comply with this provision of the agreement. This training must include explanation of Mississippi’s laws governing custody and detention of youth and how to exhaust non-incarceration options before recommending incarceration at any stage of a probation violation proceeding in Lauderdale County.</p> <p>As I noted in my last report, as it implements training, DYS must also help YSCs enhance skills and identify programmatic resources to help families experiencing disciplinary challenges and lack of probation compliance with their court-involved youth.</p>
<p>Evidentiary Basis</p>	

	Review of YSC logs, written recommendations and case notes; discussions with YSCs and other agency officials.
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Settlement Agreement Provision	<p>III.A.3.a.</p> <p>Within 90 days of the Effective Date, the DHS/DYS shall revise its policies, procedures, practices, and existing agreements to ensure compliance with this Settlement Agreement.</p>
Compliance Rating	Partial compliance
Discussion	<p>Since my last visit, the agency has revised the informal adjustment, probation and parole contracts and policies. It also created handouts to guide conversation about additional topics not covered in the contracts but required by this agreement. The State completed the graduated response policy and tools recently as well. The agency has drafted local policies for Lauderdale County to guide notifying counsel of probation meeting dates and finalized the local guidance memom to make clear YSCs’ role in detention decisions. The agency has drafted and completed one revision of the training policy. This is significant progress.</p> <p>I have noted above where additional work toward policy development or practice is needed. I also met with the DYS Director and Community Services Director to discuss a timeline for completion of remaining requirements, so we have a fairly comprehensive list of what still needs to be accomplished. The agency should check recommendations in this report against the list we compiled to determine whether anything needs to be added. The agency has completed some items on the list since the time of our meeting.</p>
Recommendations for Reaching Compliance	To achieve substantial compliance, the agency will need to review its written materials, including the policy manual, Desktop Guide, orientation training materials, staff evaluation materials, and other documents that guide staff practice. The agency must ensure that each provision in the settlement agreement is incorporated in key

	<p>documents in sufficient detail to support full implementation of the settlement agreement’s requirements.</p> <p>In a future compliance report, the State will need to identify where in policy and procedure each provision of the agreement has been or will be incorporated. Either in writing or conversation, it will be helpful for an agency official to explain how the agency determined which policies and other documents were the appropriate places to incorporate the revisions. We have discussed some of these decisions as they have arisen during the course of implementing this settlement agreement.</p>
Evidentiary Basis	Review of agency policies, Desktop Guide, orientation materials, and other guidance documents.

Settlement Agreement Provision	<p>III.A.3.b.</p> <p>The DHS/DYS shall reassess the effectiveness of its policies, procedures, practices, and existing agreements annually and make necessary revisions to increase the effectiveness of its efforts to prevent violations of youth’s constitutional rights with regard to the subject matter of this Agreement.</p>
Compliance Rating	Not applicable until one year from initial or most recent revision of policies.

Settlement Agreement Provision	<p>III.B.1.</p> <p>Lauderdale County Youth Services Counselors shall continue to recommend youth to existing diversion programs, where appropriate, and to monitor future opportunities and sources of funding for additional diversion programs should such programs become available.</p>
Compliance Rating	Substantial compliance

Discussion	<p>The parties have advised that they intended this provision to require diversion from detention and out of home placement for probation violators. As explained above, YSCs are generally recommending alternatives to detention and placement and exhausting other options before recommending incarceration.</p> <p>For the part of this provision that requires the agency to monitor opportunities and sources of funding for additional diversion programs, the Community Services Director has sent me an email when he considered a grant source for potential funding.</p>
Recommendations for Reaching Compliance	<p>In order to sustain substantial compliance, the State must continue to recommend options that do not involve detention or out of home placement for probation violators where appropriate. DYS will also need to continue to monitor and seek future funding opportunities for diversion programs and provide documentation of its efforts.</p>
Evidentiary Basis	<p>Review of YSC recommendations; conversations with DYS personnel; emails from Community Services Director.</p>

Settlement Agreement Provision	<p>III.C.1.</p> <p>Within six months of the Effective Date, the DYS shall develop training plans for all Youth Court Counselors involved in providing delinquency and probation services in the Youth Court and shall submit the training plan to the Probation Services Independent Auditor and the United States for review and input.</p>
Compliance Rating	<p>Beginning compliance</p>
Discussion	<p>While the agency has not yet submitted a written training plan, it has identified and planned training opportunities for staff. In addition, DYS has drafted its first policy governing training, which we discussed in a meeting of the training committee during my visit in July. Appended to</p>

	the policy is a draft of the topics to be covered in new staff orientation, called Core Training. I provided some initial feedback on the list of topics to be covered, noting where it did not appear that required topics from this settlement agreement had been included. The Community Services Director reports that the committee has expanded the length of the orientation training in response to my feedback and is actively developing curricula and materials for the orientation sessions.
Recommendations for Reaching Compliance	The agency must draft a training plan and submit it for review in order to reach compliance with this requirement.
Evidentiary Basis	Review of training materials from recent trainings, conversations with staff.

Settlement Agreement Provision	<p>III.C.2.</p> <p>The training plans shall ensure that appropriate staff are trained on topics relevant to their role and responsibilities in juvenile delinquency proceedings including:</p> <ul style="list-style-type: none"> a. Constitutional due process requirements; [SEP] b. Disposition planning; [SEP] c. Best practices in social service and therapeutic options for Children and families, including evidence-based practices; [SEP] d. The appropriate professional role of different players within juvenile proceedings; and e. Any of the policies, procedures or practices that are created or revised pursuant to this Agreement.
Compliance Rating	Beginning compliance
Discussion	As described above, the agency has not yet submitted a training plan. I have posed to the parties a number of questions about their intended

meaning for some elements of this provision, and am awaiting their clarifications. Thus, my comments below should be considered preliminary only.

I have commented elsewhere in this report about training. In addition to the training recommendations already mentioned elsewhere in this report, I note the following:

Constitutional due process requirements:

As described in my last report, staff received a training that addressed this topic well.

Disposition planning:

As explained above, the agency has developed a new case planning document, which is included in the nearly final Graduated Response policy. Now the agency must ensure that staff are trained in effective development of a case plan, appropriate ways to work with families as part of effective disposition planning, incorporation of the SAVRY and social history in development of the case plan, use of incentives to promote progress toward goals and objectives, writing measurable and achievable goals, and proper use of the form.

Also, as discussed above, the new Regional Director has been working on enhancing quality assurance in the SAVRY. As training needs are further identified through those file reviews, future trainings should address the needs identified through quality assurance activities.

Best practices in social services and therapeutic options:

There have not been any trainings about effective probation practice, helping youth develop new skills, therapeutic options, evidence-based practices, or other best practices since my last review.

Appropriate professional role of different players within juvenile proceedings:

There have not been any trainings about this topic since my last visit.

Policies, procedures and practices addressed in the Agreement:

The agency has been providing training in Lauderdale County as new policies have been adopted.


	For the training plan to be complete, the agency will need to include plans for assessment of staff comprehension of and competency in topics covered in training. It should also identify steps the agency will take where it determines that staff lack comprehension or competency following training.
Recommendations for Reaching Compliance	In order to achieve substantial compliance, the agency must develop training plans to include the subjects required under the settlement agreement. The plans must include means of assessment of staff comprehension of and competency in topics trained. Plans must also explain what remedial steps the agency will take if these assessments indicate a lack of staff comprehension or competency. The agency must submit the plans for review and incorporate appropriate recommendations from the Justice Department and Independent Auditor.
Evidentiary Basis	Observations of YSC meetings with clients; review of SAVRY assessments, social histories and dispositional recommendations.

Settlement Agreement Provision	III.C.3. The DYS shall begin implementing its first training plans within twelve months of the Effective Date and shall create subsequent training plans on an annual basis thereafter.
Compliance Rating	Beginning compliance
Discussion	While DYS has not completed a written training plan, the agency has begun to provide trainings in some topics required by the agreement, as described above.
Recommendations for Reaching Compliance	The agency will need to complete its training plan and begin providing additional training in accordance with the agreement.

Evidentiary Basis	Records of recent trainings and discussions with staff.
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Settlement Agreement Provision	III.C.4. Training plans developed pursuant to this subsection shall be submitted to the Probation Services Independent Auditor and the United States subject to the review process set forth below in subsection VIII.A.
Compliance Rating	Non-compliance
Discussion	I have not yet received a training plan to review.
Recommendations for Reaching Compliance	The agency must draft a training plan and submit it for review in order to reach compliance with this requirement.
Evidentiary Basis	No training plan provided.

Settlement Agreement Provision	IV.A. Within six months of the Effective Date, the DHS/DYS, in consultation with the Probation Services Independent Auditor and the United States, shall develop and implement a community input program to keep the community informed about the progress of its reforms and to hear ongoing community questions and concerns. The community input program shall include a process for receiving and responding to input from interested members of the community. [SEP]
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	<p>IV.B.</p> <p>The community input program shall require at least one open community meeting every six months for the duration of this Agreement. A representative for the DHS/DYS shall be required to attend the open meeting so long as this Agreement is in effect. Counsel for the State, or any other person chosen by the DHS/DYS, may serve as its representative.  A representative for the United States will also attend. The open meetings shall inform the public about the requirements of this Agreement and the DHS/DYS' progress in each substantive area of the Agreement, and address community concerns regarding this Agreement. The meetings shall be held in a location that is accessible to the public. At least one week before the open meetings, the DHS/DYS shall widely publicize the meetings using print media, radio, and the internet.</p> <p>IV.C.</p> <p>The community meetings shall include summaries of the Action Plan and Compliance Reports required by this Agreement during the period prior to the meeting and any policy changes or other significant actions taken as a result of this Agreement. The DHS/DYS shall make any written summary of policy changes or other significant actions taken as a result of this Agreement publicly available on a public website it creates or maintains.</p>
<p>Compliance Rating</p>	<p>Substantial compliance</p>
<p>Discussion</p>	<p>The parties jointly identified the measures they wish the Independent Auditor to use to assess compliance with the community input provisions. Because the questions apply to the community input meeting as a whole, the discussion of the parts A, B, and C has been combined. The questions to be used to evaluate compliance are as follows:</p> <ul style="list-style-type: none"> • Did DHS/DYS hold an open community meeting once every six months? • Was the meeting room accessible to the public? • Did DHS/DYS publicize the meeting at least one week in advance? • Did DHS/DYS have a representative in attendance?

- Did DHS/DYS provide to the public summaries of its action plan and most recent compliance report?
- Had DHS/DYS posted summaries of policy changes made as a result of this agreement on its website?
- Did DHS/DYS' community meeting include a process for receiving input from interested members of the community?
- Did DHS/DYS' community meeting include a process for responding to input from interested members of the community?

The agency sustained substantial compliance with this provision during the past compliance period because, in accordance with the parties' definition of substantial compliance, it has "achieved nearly all the requirements" as outlined by the parties. The agency held its third community input meeting on July 25, 2017, at 31st Avenue Missionary Baptist Church, in Meridian. The agency ensured that all its staff from Lauderdale County were in attendance, as well as the agency Director, Director of Community Services, and Regional Director who oversees Lauderdale County. Handouts were available describing the current state of compliance. Several community members and reporters attended as well. In all, approximately 30 people participated. DYS leaders gave a summary of recent activities and plans for the future, and also responded to questions and ideas from community members. The meeting was accessible to the public, with available parking, plenty of space in the church for the meeting, and ease of access for news media.

Agency personnel publicized the meeting in several ways. They posted announcements on the DYS website, sent letters to current clients and their families as well as individuals who attended previous community input meetings, handed flyers to some clients, and arranged for public service announcements and other coverage online and in other media. They reached out to print, television and radio reporters and sent notices to individuals who attended the last meeting who provided contact information.

The agency met all of the requirements fully except for one:

- Had DHS/DYS posted summaries of policy changes made as a result of this agreement on its website?


The agency has not yet posted summaries of policy changes on its website. However, because the agency has met all the other

	requirements, its activities on community input meet the definition of substantial compliance. Prior to the next compliance visit, I suggest that the agency work with its website coordinator to post summaries of policy changes adopted thus far.
Recommendations for Reaching Compliance	In order to sustain substantial compliance, the agency will need to post on its website summaries of policy changes made in compliance with the agreement. Furthermore, the State will need to continue conducting community input meetings every six months for the duration of the agreement.
Evidentiary Basis	Observation of community input meetings, examination of handouts provided to participants, review of agency website notice, advance news coverage, emails from Community Services Director, letters to clients.



Settlement Agreement Provision	V.B. Notification. Within two weeks of the Effective Date, the DHS/DYS shall communicate the provisions set forth in this Agreement to DHS/DYS officials, staff, agents, and independent contractors who are involved in the implementation of this Agreement.
Compliance Rating	Substantial compliance
Discussion	Officials and staff have been fully informed about the agreement, and I have not encountered any agents or independent contractors needed to implement the agreement.
Recommendations for Reaching Compliance	To sustain substantial compliance, the agency will need to communicate the provisions of the agreement to any future employees, agents or

	contractors who become involved in aspects of DYS activities impacted by the agreement.
Evidentiary Basis	Conversations with DYS officials and YSCs.


Settlement Agreement Provision	<p>VIII.A.1.</p> <p>The DHS/DYS shall generate such policies and procedures to ensure compliance with the substantive terms of this Agreement. The policies and procedures developed pursuant to this Agreement shall be subject to the review process described below in paragraphs VIII.A.2 and VIII.A.3. </p>
Compliance Rating	Partial compliance
Discussion	<p>This provision creates the same requirement as that found in provision III.A.3.a., except that III.A.3.a. contains a time requirement not found in VIII.A.1., and VIII.A.1. refers to the review process described below. In addition, the review process set forth in part VIII.A. is incorporated by reference in Part III.C., which addresses training. With regard to policies and procedures, my findings on compliance may be found in the section of this report addressing III.A.3.a. With regard to training, my findings on compliance may be found in Part III.C.</p>
Recommendations for Reaching Compliance and Evidentiary Basis	<p>Recommendations and evidentiary basis for reaching compliance may be found in the sections of this report addressing Parts III.A.3.a and III.C.</p>

	VIII.A.2.
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Settlement Agreement Provision	Schedule for Policy and Procedure Review. Unless otherwise stated in Section III of this Agreement, the DHS/DYS shall complete its policy review and revision within six months of the Effective Date. To accomplish this goal, the DHS/DYS shall adhere to the Agreement regarding each substantive provision. After the DHS/DYS completes its initial revision, it shall immediately submit the revised policies to the Probation Services Independent Auditor for review and input and to the United States for its review and input. Both the Independent Auditor and the United States shall submit to the DHS/DYS any suggested revisions to the proposed policies within thirty (30) days. Within thirty (30) days after receiving the Independent Auditor's and the United States' suggested revisions, the DHS/DYS shall revise the policies to incorporate the revisions, where deemed appropriate by DHS/DYS.
Compliance Rating	Substantial compliance
Discussion	<p>The agency is almost done with its policy and procedure development. As identified in this report, the following are still outstanding, with most of them in final stages of back and forth with the Justice Department and auditor to incorporate recommendations:</p> <ul style="list-style-type: none"> • Revisions of the SAVRY policy. • Creation of a memo guiding use of supplemental handouts to accompany the new probation and informal adjustment contracts in Lauderdale County. <p>As a result, the state has complied with “nearly all” the requirements of this section because it has provided at least an initial draft of all revisions with the exception of one state policy and one local memo.</p>
Recommendations for Reaching Compliance	The State must create and/or finalize the remaining items on the list above. Further, the state must prepare the training plans outlined in III.C. and submit them for review.
Evidentiary Basis	Draft and final policies and local Lauderdale County implementation memos.

<p>Settlement Agreement Provision</p>	<p>VIII.A.4.</p> <p>Policy Implementation. No later than three months after each policy or procedure is finalized consistent with Paragraph III.A.2, the State shall formally adopt and begin implementing the policies and modify all orders, job descriptions, training materials, and performance evaluation instruments in a manner consistent with the revised policies and procedures. Following adoption and implementation, the DHS/DYS shall annually review each policy and procedure and revise as necessary. Any revisions to the policies and procedures shall be submitted to the Independent Auditor for review and input and to the United States for its review and input. Unless otherwise stated, all policies and procedures shall be implemented within one year of the Effective Date.</p>
<p>Compliance Rating</p>	<p>Substantial compliance for all finalized policies.</p>
<p>Discussion</p>	<p>The State has adopted and begun implementing each policy that has been finalized. I will be able to assess full implementation of many of these policies during the next compliance visit.</p>
<p>Recommendations for Reaching Compliance</p>	<p>The State should continue to train staff and ensure ongoing use of new tools and policies as each one is issued.</p>
<p>Evidentiary Basis</p>	<p>See discussions above for each section.</p>

<p>Settlement Agreement Provision</p>	<p>VIII.B.2.</p> <p>Compliance Report. The DHS/DYS shall submit a bi-annual compliance report to the United States and the Probation Services Independent Auditor, the first of which shall be filed within six months of the Effective Date. Thereafter, the bi-annual reports shall be filed 30 days prior to the Independent Auditor’s bi-annual compliance tour until the Agreement is terminated. Each bi-annual compliance report submitted</p>
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	<p>by the DHS/DYS shall describe the actions it has taken during the reporting period to implement this Agreement and shall make specific reference to the Agreement provisions being implemented. To the extent any provision of this Agreement is not being implemented, the compliance report shall also describe what actions, including any additional revisions to policies, procedures and practices, the State will take to ensure implementation, and the date(s) by which those actions will be taken. </p>
Compliance Rating	Substantial compliance
Discussion	<p>The state submitted a timely compliance report prior to the July 2017 compliance visit. It did address each area and describe actions that had been taken, as well as the actions the state intends to take to reach substantial compliance, and challenges it is facing. The report did not offer dates by which it planned to do so. However, in a subsequent telephone call the DYS Director and the Community Services Director did identify target dates for completion of items remaining to achieve substantial compliance with the settlement agreement. Because the State submitted a substantive report that addressed each provision and its accomplishments and next steps, I find that this is substantially compliant.</p>
Recommendations for Reaching Compliance	<p>In order to sustain substantial compliance with this provision, the State will need to include target dates for compliance activities in its next compliance report and continue including the other elements it included in the June report. Further, the State will need to prepare, submit and distribute timely compliance reports until the agreement is terminated.</p>
Evidentiary Basis	Compliance reports.