

MISSISSIPPI DEPARTMENT OF HUMAN SERVICES

DIVISION OF YOUTH SERVICES

COMPLIANCE REPORT

NO 5

GEORGE SCHMAUS

SETTLEMENT AGREEMENT COORDINATOR

July 16, 2018

I. Introduction

This is the fifth compliance report of the Settlement Agreement Coordinator (SAC), 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.*

The Settlement Agreement between State of Mississippi; Mississippi Department of Human Services; the Mississippi Division of Youth Services (DYS) and the US Department of Justice (DoJ) was entered into September 17, 2015. Page 13 of the Settlement Agreement requires the Settlement Agreement Coordinator to develop and submit a report regarding compliance with the Agreement every six months until the Agreement is terminated to the DoJ and the Probation Services Independent Coordinator. It should be clear this report comprises my opinion and assessment of the work in my role as the Settlement Agreement Coordinator.

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). While the State of Mississippi and the City of Meridian have reached settlements with the Justice Department, litigation regarding the Youth Court and its two judges continues.

1. This report addresses the agreement reached between the State of Mississippi and the United States ("the parties") regarding youth probation services provided by DHS/DYS to children facing delinquency charges in the Lauderdale County Youth Court.
2. The agreement requires that the settlement coordinator develops reports regarding compliance with this Agreement and providing such reports to the United States and the Probation Services Independent Auditor every six months. 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 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.

3. The coordinator provides to the United States and the Probation Services Independent Auditor the raw data upon which each compliance report is based, any reports prepared by the State's technical consultants regarding compliance with this Agreement, and any other reports routinely submitted to the Settlement Agreement Coordinator regarding compliance with the Agreement.

Format

1. Narrative summary providing an assessment of compliance with the commitments of the settlement agreement during the period covered by the Report. This section will include a summation of positive developments as well as a summation of the key challenges that remain.
2. Synopsis of each Substantive Remedial Measure. This section will include a summary of each individual commitment in the settlement agreement and comments related to compliance. This section will include a summation of positive developments as well as a summation of the key challenges that remain
3. Appendix of supporting documentation including copies of pertinent policies, memos and other documentation related to each remedial measure and commitment.

Narrative Summary

This 5th Compliance Report comes approximately 6 months after the last Compliance Report was written. There have been some significant accomplishments during this period of time. Progress towards compliance continues to be made.

DYS is working diligently to comply with the requirements of said agreement. Our various workgroups have worked diligently and have modified our probation contract, probation policy, Structured Assessment of Violence Risk in Youth (SAVRY) policy and attachments, and have developed a training plan for 2018 to incorporate training required under the Agreement. We further continue to developing a training policy and training resources to meet the demands of the settlement agreement and beyond.

Detailed comments on each item can be found in the following section:

Synopsis of Substantive Remedial Measures

III.A.1.a Within 90 days of the Effective Date, DYS Shall revise its policies, procedures, and practices to ensure that Youth Services Counselors (YSCs) provide youth at their initial meeting a notice using youth-appropriate language regarding the following:

- 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.**

Progress: In substantial compliance. Several handouts were developed, and through revisions, have been approved for use in Lauderdale County. Guidance was developed and distributed with the handouts, for use beginning on or about November 22, 2017. Said handouts continue to be used in Lauderdale County.

Challenges: None identified at this time.

III.A.1.b DYS shall make diligent efforts to provide the notice described above to the youths' guardians.

Progress: In substantial compliance, subject included in aforementioned handouts.

Challenges: None identified at this time.

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.

Progress: In substantial compliance. The State previously submitted for review and approval to the Independent Auditor the revised formal probation contract, informal probation agreement, and parole agreement, which are written in youth-appropriate language. All documents have been approved for use and have been rolled out for usage statewide, to include Lauderdale County. A review of the formal probation contract was conducted around February, 2018 and approved changes were made, effective April 1, 2018.

Challenges: None identified at this time.

III.A.1.d 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.

Progress: In substantial compliance. Since the Independent Auditor's site visit in July, 2017, the form used to document the notification of parties has been revised and approved for use. It is presently being used in Lauderdale County. Officially guidance on this subject was also developed and distributed to all staff. Said procedure is being utilized.

Lauderdale County Youth Services Counselors, since May, 2016, have been setting fixed meeting schedules at the youth's initial meeting for all subsequent probation meetings.

The YSCs are notifying the youth's counsel of the meeting schedule via email and are making best efforts to reschedule a probation meeting should the youth or parent request it.

Copies of appointment schedules and emails are being maintained by Lauderdale County YSC as documentation of their efforts to schedule and reschedule a probation meeting.

YSCs have been informed to notify the attorney via email and keep a copy of all changed appointment notification letters in the youth's file.

Challenges: Although defense counsel is being duly notified, they generally have not been attending the meetings for various reasons, to include a lack of compensation.

III.A.2.b 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.

Progress: A Graduated Responses was approved in September, 2017, to be implemented statewide on or about October 1, 2017. Since then, a meeting took place between the community services director and the regional director with Lauderdale County Judge Young-Graham to discuss implementing graduated responses, and there has been two separate trainings with Lauderdale County staff on Graduated Responses.

YSCs are open to using incentives creatively and sometimes do so with resources already available to them. YSCs have asked for early termination of probation due to compliance/good behavior of youth. Judge Young-Graham has given YSCs the discretion to alter conditions of probation as an incentive or sanction, and asked only to be consulted if the YSC desired to shorten or extend the term of probation.

YSCs have all participated in training, supplemental booster trainings and practice sessions on use of the Structured Assessment of Violence Risk in Youth (SAVRY), the objective, validated tool adopted by the agency.

All present Lauderdale County YSCs have been trained in the use of the SAVRY.

The SAVRY is being used for matters involving delinquency in which YSCs are providing recommendation to the Youth Court Judge.

Challenges: Obtaining concrete incentives will be important in forwarding the implementation and maintenance of graduated responses.

III.A.2.c.i. 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.

Progress: In substantial compliance. A revised formal probation policy and contract, informal policy and agreement, and parole policy and agreement are in use statewide. Lauderdale County staff have been trained in each.

Challenges: The agency must ensure any new YSCs are trained in the use of these documents. There presently is one Youth Services Counselor vacancy in Lauderdale County, and it is unknown by when that position may be filled.

III.A.2.c.ii. Probation contracts shall:

- 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.**

Progress: In substantial compliance. The State has explained in probation contract, and informal and parole agreements, that the youth are expected to satisfy the mandatory school attendance policy while on probation, that they must attend school, unless they have an excuse accepted by the school district.

The State has determined to explain these concepts to youth and has incorporated them into the probation contract, and informal probation and parole agreements, in youth friendly language.

Lines were added to the contract and agreements for the youth and YSC to initial,

indicating they understand the terms of the contract or agreement. YSC's continue to use these documents.

Challenges: The agency must ensure any new YSCs are trained in the use of these documents.

III.A.2.c.iii. Youth Services Counselors shall not recommend incarcerating a youth for violations of their probation contract that would not otherwise amount to detainable offense, unless and until all other reasonable alternatives to incarceration have been exhausted.

Progress: In substantial compliance. It is reflected in the files, that YSCs are no longer seeking separate sanctions for youth when they are disciplined in school.

In most of the files, YSCs recommend returning youth to probation with services rather than recommending incarceration when youth violated probation.

The agency is maintaining, for the purpose of tracking compliance, a separate list of youth returned to court for probation violations and has made that available to the independent auditor.

The State is also documenting monthly a list of youth charged with probation violations for school-related behavior, suspensions and expulsions.

YSCs continue to make significant efforts to recommend responses to violations that allow youth to remain in the community.

Challenges: None identified at this time.

111.A.3.a.

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.

Progress: In prior discussions with the Independent Auditor, it was agreed that most additional DYS policies are administrative in nature and need not be updated to align with the Settlement Agreement. However, it was determined that the SAVRY

policy could benefit from revision to align with other changes from the Settlement Agreement. The SAVRY policy was since revised, and further revised April 1, 2018. The current SAVRY policy is effective as of April 1, 2108.

DYS has reviewed its written materials, including the policy manual, Desktop Guide, Core I Training Manual and other documents that guide staff practice to ensure that each provision in the settlement agreement is incorporated appropriately in key documents. Modifications are being made as needed.

Challenges: Policies that are revised will need to be incorporated into the relevant guidance materials.

III.A.3.b. 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.

Progress: In substantial compliance.

DYS is in the drafting stage of a policy to review policies annually, which would require a review of all relevant policies in the first quarter of the calendar year, with a report to be submitted to the Division Director by the end of the first quarter of the calendar year. DYS has already conducted a comprehensive review of the formal probation contract and informal and parole agreements prior to one year from their revision dates. Graduated Responses policy and SAVRY policy were revised in April, 2018. In agreement with the Independent Auditor, DYS agreed to review the Parole Agreement prior to August 15, 2018, the Informal Agreement prior to October 15, 2018, and the Graduated Responses prior to October, 2018. These and other policies are to be reviewed in the first quarter of 2018, to varying extents, to get all policies aligned with this time frame.

III.B.1. 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 funds become available.

Progress: In substantial compliance. Since the last compliance report, Families First for Mississippi has opened up a satellite office in Meridian, Lauderdale County. They will accept non-court supervised youth and may be a referral source to divert some youth from Lauderdale County. Family members of court supervised youth may also be referred. Two primary offerings are life skills classes and job readiness classes. They also offer parenting classes for parents and GED classes. Families First gave a presentation at the last community forum in March, 2018. On May 2, 2018, the Community Services Director viewed a webinar hosted by the Office of Juvenile Justice and Delinquency Prevention entitled "The Model Programs Guide (MPG) Diversion Programs implementation Guide." Unfortunately, this did not led to the existence of a new program in Lauderdale County.

Challenges: In an era of budgetary constraints, finding funding for a diversion program that would meet our specific needs is very difficult and there are no new programs available. The agency does not presently have the funding for matching grants or sustaining a program once outside funding has expired. The agency, like most state agencies, has suffered significant budget cuts in recent years for which there has not been relief thus far.

III.C.1. 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.

Progress: A new DYS Community Services Section Training Policy Workgroup was formed to work on a training policy for community services. The workgroup has met several times and prepared drafts and redrafts of the policy, based on feedback received. DYS continues to working on developing and revising a Core I Training Manual for new employees, to include compiling updated curriculum for the manual. This will include policies affected by the Settlement Agreement. As envisioned, the CORE I Training Manual will be the basis for training of new staff.

III.C.2. The training plans shall ensure that appropriate staff is trained on topics relevant to their role and responsibilities in juvenile delinquency proceedings including:

- a. Constitutional due process requirements;**
- b. Disposition planning;**

- c. Best practices in social service and therapeutic options for Children and families, including evidence-based practices;**
- 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**

Progress:

In December, 2016, Lauderdale County staff, among others, participated in a training on Constitutional and Due Process Rights for Juveniles.

Since the last compliance report DYS has conducted three new and separate training sessions for Lauderdale County staff, one on disposition planning, one on application of graduated responses, and one on professional roles. Each one of these trainings is expected to be incorporated into CORE training at some future point.

Disposition planning training was conducted by Regional Directors Kizzie Wells-Daniels and LA Pegues on March 28, 2018. During said training, the new case plan policy was thoroughly discussed and the newly revised case plan was reviewed. Staff was given a case vignette during the training to utilize in preparing a case plan. A pre and post-test was given to gauge comprehension of the material. Staff were given a vignette to take with them to complete a second case plan on their own. Staff were engaged and asked relevant questions.

Graduated Responses training was conducted April 6, 2018 in Lauderdale County. A prior training was conducted the fall of 2018, which was primarily a policy review, which discussed the newly revised policy and attachments. The training in April, 2018, consisted more of the practical application of graduated responses. It was conducted by Regional Director Melissa Chipman, with assistance from a Youth Services Counselor from her region who has been very successful in obtaining donations for incentives. The case plan, with incentives and rewards, was reviewed discussed as were suggestions for obtaining incentives. A pre and post-test was given as well.

Professional Roles training was conducted May 3, 2018, in Lauderdale. The training was led by Community Services Director George Schmaus and Regional Director Shermania Jackson. Staff were given a list of professionals in the Juvenile Justice System in Mississippi, with definitions of their job roles. Local professionals spoke of their roles to include; a judge, prosecutor, defense attorney, guardian ad litem, court

administrator, school attendance officer, and the building director. A pre and post-test was given.

In February, 2018, Lauderdale County staff participated in Motivational Interview training, presented by various Department of human Services Staff. Said training provided an overview of motivational Interview concepts and techniques.

III.C.3. 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: Not applicable until one year from the effective date of the agreement.

III.C.4. Training plans develop 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.

DYS has been working on a training policy for community services and has made several submissions to the Independent Auditor. There was not a prior existing training policy for community services. Work continues in this area.

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.

Progress: In substantial compliance. DYS has held four biannual community forums that were well advertised on the Department of Human Services (DHS) website, and local media, to include in the local newspaper under the community events section. A forum is scheduled for August 14, 2018.

IV.B. 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 meeting shall inform the public about the requirements of the Agreement and the DHS/DYS' progress in each substantive area of the Agreement, and address community concerns regarding this Agreement. The meeting 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 meeting using print media, radio, and the internet.

Progress: In substantial compliance.

Challenge: DYS has held community forums regularly approximately every six months for the past several years. A forum scheduled for January, 2018 was canceled due to snow and ice, and was rescheduled for March, 2018. A new forum is scheduled for August, 14, 2018 and will be advertised on the DHS website, social media, and a local newspaper and TV station will be notified of the forum, as well as prior attendees and interested parties.

IV.C. The community meeting 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.

Progress: In substantial compliance. The Independent Auditor's Reports to date have been posted on the DHS website, as a link under "Youth Services." This compliance report will be posted prior to the Auditor's August, 2018 site visit. Said

documents have been provided at the prior community forums.

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.

Progress: In substantial compliance. Division of Youth Services staff involved in the implementation of the Agreement have been informed of the provisions set forth in this agreement, to include all Lauderdale County staff.

VIII A.1. 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.

Progress: The State has followed and will continue to follow compliance recommendations of the Auditor.

VIII.A.2 Schedule for Policy and Procedure Review. Unless otherwise stated in Section IIII 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 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.

Progress: In substantial compliance. The State has reviewed policies other than those already modified, or in the process of being modified, by the Agreement. In conjunction with the Independent Auditor, it was determined that most other policies are administrative in nature and those that are not have been modified to comply with this Agreement.

VIII.A.4. 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.

Progress: In substantial compliance. Policies developed or revised have been implemented in a timely manner once approved for use.

VII.B.2. 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 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 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 date(s) by which those actions will be taken.

Progress: In substantial compliance. The State has submitted several Compliance Reports to DOJ and the independent auditor prior to the auditor's visits. The next Compliance Report will be submitted one month prior to the August, 2018 site visit.

