

MISSISSIPPI DEPARTMENT OF HUMAN SERVICES

DIVISION OF YOUTH SERVICES

COMPLIANCE REPORT

NO 6

GEORGE SCHMAUS

SETTLEMENT AGREEMENT COORDINATOR

April 12, 2019

I. Introduction

This is the sixth 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 6th Compliance Report comes approximately 9 months after the last Compliance Report was written. Progress towards full compliance continues to be made and maintained.

DYS has worked diligently to comply with the requirements of said agreement. Over the past few years, 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 to incorporate training required under the Agreement. We further continue to develop a training policy 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, monitoring completed.

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

Progress: In substantial compliance, monitoring completed.

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, monitoring completed.

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, monitoring completed.

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 have been several 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. Staff in Lauderdale County have developed local sanctions and incentives grids, which have been submitted to the Independent Auditor for review.

YSCs have previously 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, with the exception of a new YSC, who stills needs the training at the time of this report. She is scheduled to attend SAVRY training May 1-2, 2019.

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

Challenges: Obtaining concrete incentives will be important in forwarding the implementation and maintenance of graduated responses. Some tangible incentives have been gathered and are being utilized, including gift cards.

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, monitoring completed.

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, monitoring completed.

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, monitoring completed.

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 previously 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. Further revisions to that policy were made effective March 1, 2019.

DYS has revised all policies relevant to the Settlement Agreement, all of which have already gone through a post-dispersement review process. All revised policies are posted in our de facto electronic policy and procedure manual, on the Department of Human Services website. At the time of this report, a training policy draft has been submitted to the Independent Auditor, which includes a provision for annual in-service training, to be implemented statewide. Sections from The Desktop Guide to Effective Case Management Practice relevant to the Settlement Agreement have been updated and also submitted to the Independent Auditor for review and feedback. This Guide will be the basis for CORE I training, which, when implemented, will be a training protocol for new YSCs.

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: Substantial compliance sustained through two compliance periods.

DYS created 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. Said policy was adopted May, 2018. As of the first quarter of 2019, all policies relevant to the Settlement Agreement have been reviewed. Some policies were revised in the process.

During the review process of relevant policies, it was decided that DYS could benefit from an annual review of all policies, not only those relevant to the Settlement Agreement. This includes many policies which are administrative in nature and do not guide practice. A schedule was developed to review all current policies throughout the calendar year, based on quarters, with a certain number of polices to be reviewed each quarter. Policies relevant to the Settlement Agreement will continue to be reviewed the first quarter of the calendar year.

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, monitoring completed.

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 Community Services Section Training Policy Workgroup had been formed to work on a training policy for community services. DYS continues to work on developing and revising the Desktop Guide to Effective Case Management Practice, relevant sections of which has been submitted to the Independent Auditor for review. Once complete, it be the basis for training of new YSCs. While renaming this Guide was considered, due to it be ingrained in several places, DYS opted not to change the title of this Guide. Included training policy draft is plan for annual in-service training to be implemented statewide, to include Lauderdale County YSCs, with an outline of topics to cover. Feedback is pending at the time of this report.

DYS previously submitted a training plan in 2018 specific to Lauderdale County to train YSCs in the areas specifically outlined in the Agreement.

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 then, all Lauderdale County YSCs have been trained in each of the subject areas outlined in the Settlement

Agreement. Since the last compliance report, a new YSC was hired in Lauderdale County, to start in November, 2018. To date, this new YSC has received training in each of these subject areas outlined in the Settlement Agreement.

Disposition Planning training was conducted by Regional Directors Kizzie Wells-Daniels and LA Pegues on March 28, 2018. A new training was conducted November 28, 2018 for the northern half of the state, to include Lauderdale County YSCs, except for one who was out on maternity leave. During said training, the Case Plan Policy was discussed and the case plan was reviewed. Staff was given a case vignettes during the training to utilize in preparing case plans. Staff were engaged and asked relevant questions. Based on feedback from a number on YSCs at this training, an immediate update to the case plan policy and case plan was conducted. A second session was held December 12, 2018 for the southern half of the state. Lauderdale County YSCs were included in that training, except for the one YSC on maternity leave. At this training, the revised case plan policy and case plan was presented.

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. A new training was conducted by Ms. Chipman on December 10, 2018, which included the new YSC in Lauderdale County, as well as additional YSCs needing the training or a refresher. The revised case plan was utilized in this training.

Professional Roles training was conducted May 3, 2018, in Lauderdale. The training was led by Community Services Director George Schmaus and Regional Director Shermentia 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. An individual training was given to the new YSC in Lauderdale Count on December 18, 2018. Individuals did not speak at this training.

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 Interviewing concepts and techniques.

On November 28, 2018, and December 12, 2018, there were trainings for Lauderdale County YSCs, except one that was out on maternity leave, in Evidence Based Practices

in Juvenile Justice. Two presenters from the Department of Mental Health presented various evidence based practices. A third speaker from the Wrap Around Institute at the School of Social Work at the University of Southern Mississippi also presented on Wrap Around services, an evidence based system. PowerPoints from each presentation were made available to the Independent Auditor.

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.

Progress:

In substantial compliance. DYS submitted a training plan in 2018 to train Lauderdale County YSCs in the areas specified by the Settlement Agreement. Those trainings took place throughout 2018 and previously. Annual in-service training is a part of the training policy recently submitted for review, along with an outline of topics to be reviewed annually. The intention is that this will be for all YSCs going forward.

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.

Progress: DYS has been working on a training policy for Community Services and recently submitted a draft to 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, monitoring completed.

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, monitoring completed.

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, monitoring completed.

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, monitoring completed.

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. DYS also recently modified the Performance Development Assessment (PDA) for YSCs, to the satisfaction and agreement of all parties, and have rolled it out for use in subsequent openings on a statewide basis. This is the appraisal tool for YSCs, usually done annually.

VIII.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, monitoring completed.
