

MISSISSIPPI DEPARTMENT OF HUMAN SERVICES

DIVISION OF YOUTH SERVICES

COMPLIANCE REPORT

NO 7

GEORGE SCHMAUS

SETTLEMENT AGREEMENT COORDINATOR

November 15, 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:

In substantial compliance, monitoring completed with regard to risk assessment tool.

Substantial compliance reached during last compliance visit with regard to graduated responses. Since then, YSCs in Lauderdale County have developed and finalized incentives and sanctions grids, after consultation with the judges, which have been submitted to DOJ.

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 substantial compliance. DYS has revised all policies relevant to the Settlement Agreement, all of which have already gone through one or more post-dispersement review processes. All revised policies are posted in our de facto electronic policy and procedure manual, on the Department of Human Services website, under the link for Youth Services.

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, monitoring completed.

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:

In substantial compliance. A training policy is in place. The Desktop Guide to Effective

Case Management, which will be utilized for future YSC training, has been updated to include topics addressed in the Settlement 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:

The non-probationary YSCs in Lauderdale County have been trained in the topics outlined in the Settlement Agreement. A new YSC will be trained in all relevant topics. She is an experienced veteran YSC who left the agency and recently returned. Previously, she covered two counties. Lauderdale County was not one of them.

The Desktop Guide to Effective Case Management Practice, which will be utilized for future YSC training, has been updated to include topics addressed in the Settlement Agreement. As of the date of this report, sections related to the Settlement Agreement are in the process of being edited, based on recent feedback from DOJ.

The agency has recruited for a Training Director, exclusively for the DYS Community Services Section. As of the date of this report, a candidate has been selected and DYS is awaiting confirmation of a start date from Human Resources. The likely start date will be December 1, 2019.

The Training Director will take the lead in training for Community Services, to include implementing a week long Core training for new YSCs.

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, and sustained through last compliance period.

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.

Progress: In substantial compliance, sustained through last compliance period.

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: In substantial compliance. The State has followed and will continue to follow compliance recommendations of the Auditor and or DOJ.

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, monitoring completed.

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, monitoring completed.

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.