

Second 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 second 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). 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 sitting judges continues.

This report addresses the agreement reached between the State of Mississippi and the United States (“the parties”) regarding youth probation services provided by DHS 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 25 through 28, 2016.

II. Compliance Review Findings

This report includes a summary of compliance findings and a detailed accounting of compliance 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 provided an opportunity to assess progress the State has made over the past six months, meet with agency personnel involved in reform efforts, provide in-person feedback on some draft tools and policy documents the State has submitted, and observe the first community input meeting required by the settlement agreement. In addition, I met with the Youth Services Counselors (YSCs) and regional supervisor assigned to Lauderdale County Youth Court, observed YSC meetings with youth and their family members, interviewed both of the counsel appointed to represent youth in Lauderdale County Youth Court, and visited the youth from Lauderdale County detained in the Rankin County Juvenile Detention Center at the time of my visit.

The agency has taken significant steps to move toward compliance during the past six months. These include: developing and refining tools to support use of the Structured Assessment of Violence Risk in Youth (SAVRY) and graduated responses to youth behavior while on probation; increasing consistency of completion of the SAVRY for youth on formal probation;

increasing data collection and documentation of youth probation violations; drafting documents to guide YSC notice to youth about their rights and what to expect on probation; significantly revising the probation contract to make it more understandable to youth and their families; and setting fixed schedules for supervision meetings and providing notice of those meetings to counsel. In addition, DYS held the first community input meeting required by the agreement while I was on site. The next important steps for the State's compliance activities include: completing revisions of key policies and accompanying tools; developing a training plan; and developing county-specific guidance for Lauderdale County YSCs related to job duties and detention decision-making.

Following the retirement of the previous Community Services Director this summer, DYS is transitioning to a new head of the Community Services Division. That person will also be taking over the role of Settlement Coordinator. Therefore, another key activity in the coming months will be ensuring that the new Community Services Director has the support he needs to take on the activities that lie ahead to reach compliance with the agreement.

I note that there continue to be significant challenges involved 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 reaching out to request access to information under control of others. However, despite the outreach from the State, the Youth Court judges have not permitted me to observe Youth Court or to review documents or databases generated or controlled by the Court. The County has not permitted me to interview County employees, though it did grant permission for me to interview the youths' appointed counsel, who are County contractors. These circumstances have limited my ability to gain a full picture of YSCs' interactions with judges, court personnel, youth, families and others in the courtroom setting. They have also limited my opportunities to learn about YSCs' performance in other collaborative activities with court staff who are county employees, such as interactions with the county intake workers who also serve as Designees. I have done my best to develop as full a picture as possible given these limitations.

During the visit I was able to meet with each YSC, the regional supervisor for the region that includes Lauderdale County, the Community Services Director, and the Department of Youth Services Director. I participated a meeting of regional supervisors who have been working on policy changes, in order to explain some of my assessments and recommendations for reaching compliance in person. I also attended the first community input meeting arranged by the State. I observed all meetings between YSCs and their clients that occurred while I was at the Youth Court. Several counselor-client meetings previously scheduled to occur during my visit were rescheduled to meet clients' and counselors' needs, so I was not able to observe as many meetings as would have been ideal. Flexibility is important in working with youth and families in this context, so I understand how the plans can shift. After each meeting I interviewed the parent and youth separately as well. I visited Rankin County Detention Center, which houses detained youth for Lauderdale County, and interviewed the one youth who was in detention on the day I visited. I also spoke briefly with youth and families waiting in the lobby for their Youth Court hearings. Therefore, I was able to observe 3 meetings between YSCs and clients, conduct full interviews with 4 youth and 3 family members, and to speak briefly with another 3 youth and 3 family members who were too new to the juvenile justice system to provide insight for my assessment.

I reviewed the documents generated during the past 7 months by YSCs for 21 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 a sampling of youth who were reported for probation violations over the past 5 months.

I was able to review the following additional documents while on site:

- Draft outlines for YSCs describing youth rights and the probation process;
- Agenda for 40th Annual Juvenile Justice Symposium August 3-5, 2016;
- Agenda for 6th Annual Indian Child Welfare Conference, August 10, 2016;

- Notes from my previous exit conference dated January 18, 2016, circulated by the State;
- Several provisions of the Mississippi Code Youth Court Act related to informal adjustment;
- Youth Court Rule 16 governing detention;
- Social History Interview Form;
- Agenda for DYS Policy Committee Meeting, July 25, 2016;
- Agenda and handouts for community input meeting, July 25, 2016.

The State submitted other documents and policies for feedback prior to the visit as well, including drafts of the Probation and Graduated Responses policies, accompanying tools and forms, and the Probation Contract.

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	Partial compliance
III.A.1.b	Protections Against Self-incrimination - Notice to youths' guardians	Partial compliance
III.A.1.c	Protections Against Self-incrimination – Inquiry about youths' understanding and use of youth-appropriate language	Partial compliance
III.A.1.d	Protections Against Self-incrimination – Fixed meeting schedule, notification of counsel, rescheduling meetings for counsel	Partial 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	Partial compliance
III.A.2.c.i	Probation Conditions – Understandable	Partial compliance

Provision number	Description of Provision	Compliance Rating
	language and prevent arbitrary and discriminatory enforcement	
III.A.2.c.ii	Probation Contracts – Clear explanation of youth rights, including how to satisfy mandatory school attendance	Beginning compliance
III.A.2.c.iii	Limits on recommending incarceration for probation violations	Partial compliance
III.A.3.a	Review of Policies and Procedures – Revise for compliance with settlement agreement	Beginning 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 for dispositional decisions; To Be Determined for earlier detention decisions; Non-compliance for monitoring diversion program opportunities and funding.
III.C.1	Training – Develop training plans	Beginning compliance
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	Not yet applicable
III.C.4	Training – submit to Auditor and U.S.	Non-compliance
IV.A-C	Community Input	Partial 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	Beginning compliance
VIII.A.2	Policies and Procedures – Complete Policy and Procedure Review within 6 months	Beginning compliance
VIII.A.4	Policies and Procedures – Adopt and begin implementation within 3 months after finalizing; implement within one year	Not yet applicable

Provision number	Description of Provision	Compliance Rating
VIII.B.2	Reporting – Biannual compliance report	Beginning compliance

B. Detailed Compliance Ratings

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

Table II. Detailed Compliance Ratings

Settlement Agreement Provision	<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; <p>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	Partial compliance
Discussion	<p>Conversations with DYS youth and families and YSCs indicate that YSCs continue to review the probation contract with clients when the youth are initially placed on probation. They explain what is expected of youth both at the initial meeting and at other times during probation supervision. They discuss what will happen on probation and the YSC role. Staff may discuss some of the potential sanctions imposed on youth who commit probation violations, but not the range of consequences contemplated by the DYS graduated response policy. They do not currently discuss what happens during the revocation process, youths’ right to challenge allegations, and youths’ right to counsel for revocation.</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.

While YSCs are covering some of the topics contemplated in this provision when they talk with youth and families, they are not providing to youth a written document that provides notice of the topics identified in this provision, other than what is written in the probation contract. However, the agency has been drafting new tools to guide YSCs' conversations about the required topics and to offer as handouts for youth and families. I received some of the drafts for the first time while on site. The initial drafts covered some of the required topics, and some still need to be added. During my visit I worked with the regional supervisor for Lauderdale County and the new Community Services Director to clarify the types of information that could be included in these documents.

In the next draft of these documents, agency staff should take care to use language understandable by youth. It would be helpful to seek the assistance of a reading specialist accustomed to working with juvenile justice-involved or at-risk youth and their families, in order ensure that the reading level is appropriate to the population. In addition, as I recommended for the probation contract, once the draft is completed, it should be tested with some existing clients in order to get their insights about whether it is understandable.

One question we identified during our work together was the intended meaning of "initial meeting" in this provision. In some cases the initial meeting between a YSC and a family will occur prior to adjudication. A family may come to the office to seek advice and referral for services when a child has not become involved in the juvenile justice system. A youth and his family may also meet with a YSC prior to the adjudication hearing if he has been charged with an offense and is being processed formally. The purpose of the meeting is for the worker to collect information needed for a social summary and dispositional recommendation. The parties agreed during our exit conference that the "initial meeting" at which DYS must provide the required notice is the first meeting after a court order of formal probation or the meeting at which an informal adjustment commences. The parties have also agreed that similar notice must be provided at the first meeting with the YSC supervising the youth's parole after a youth returns from placement at the Oakley Youth Development Center. DYS will prepare separate notice documents and staff guidance for initial probation meetings, informal adjustment meetings and initial parole meetings. These handouts must also be in youth-appropriate language.

The agency has been working to update policies to include this

	<p>requirement, and also plans to incorporate the requirement into staff orientation training materials and the Mississippi Desktop Guide to Effective Case Management, the YSCs’ practice manual.</p>
<p>Recommendations for Reaching Compliance</p>	<p>In order to achieve substantial compliance, DYS must ensure that YSCs provide youth with notice of the required topics in youth-appropriate language, and that this requirement is reflected in policies, procedures and any other relevant documents.</p> <p>DYS has indicated that it plans to provide YSCs with a guidance document covering these topics, and it will also provide youth and families with a handout on these topics. The staff working on those documents must revise them so that they are useful for YSCs, understandable for youth and families, and cover all necessary content. Then it must test them with existing clients to see what additional recommendations they have for improving the documents, and incorporate appropriate changes.</p> <p>I recommend (though it is not required) that the agency seek the assistance of a reading specialist familiar with the reading levels of juvenile justice-involved youth and their families, to ensure that the language is appropriate and understandable for the target audience.</p> <p>The state must also finish incorporating this requirement into DYS policy, staff orientation materials, any other appropriate training, the Desktop Guide to Effective Case Management, and any other appropriate documents.</p>
<p>Evidentiary Basis</p>	<p>Conversations with all YSCs in Lauderdale County and supervisor; review of draft DYS policy on Probation; review of draft outlines for staff, youth and families.</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>
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Compliance Rating	Partial compliance
Discussion	Based on conversations with YSCs and review of their files, it appears that at the time when they begin probation, youth come to meetings along with their parents or guardians, and that the conversations about what to expect while on probation include both youth and their families. As a result, the state's 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, in order to reach substantial compliance, the State will need to continue editing and finalize the guidance outlines for staff and the handouts for families that address the required topics. The State must also finish incorporating this requirement into DYS policy, staff orientation materials, any other appropriate training, and the Desktop Guide to Effective Case Management.
Evidentiary Basis	Conversations with all YSCs in Lauderdale County and supervisor; review of draft DYS policy on Probation; review of draft outlines for staff, youth and families.

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	Partial compliance
Discussion	YSCs use the probation contract as a basis for the discussion about expectations for youth on probation. As described more below, DYS' policy committee has been working to finish revisions of the contract that incorporate youth-friendly language more fully. The agency should take the steps I outlined in the previous section (work with a reading

	<p>specialist, testing with existing clients) to ensure that the notice handout developed to fulfill the requirement of this section also uses youth-appropriate language.</p> <p>Youth and families I interviewed did report that they understood the requirements for probation at the time they were explained and that their assigned YSCs had made those requirements clear to them. Some were not able to remember clearly what was discussed during that initial meeting, which is why having a handout for families to keep, along with the revised probation contract, will be helpful.</p> <p>Staff do not currently receive training about effective communication with youth and families with disabilities, unless they received it during their coursework in college or graduate school. As I mentioned during my last report, 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>Unfortunately, an expected session at the statewide juvenile justice conference in August was to have addressed working with youth with disabilities. However, this session was not included in the conference. The agency will need to seek out other sources of training on this topic. I previously recommended to agency officials, and continue to recommend, that training planners seek out partners from inside or outside the agency with specialized knowledge in this area. Partners might include representatives of the disability rights advocacy community, special education professors from a local university, or other specialists in this field.</p>
<p>Recommendations for Reaching Compliance</p>	<p>In order to reach substantial compliance, the agency will need to finish revising the formal probation contract and also revise the informal adjustment and parole agreements/contracts to incorporate language that youth and families can understand. Any additional handouts developed to explain probation or parole to families and youth also must incorporate youth-appropriate language. Guidance materials and training for staff must aid staff in use of youth-appropriate language and explaining required topics in ways that maximize understanding. Training for staff must also include information about common disabilities among youth in the juvenile justice system and their families, and skill development for staff in communicating with people with such</p>

	<p>disabilities.</p> <p>This requirement must be reflected in policy, practice manual, and other appropriate agency documents.</p>
Evidentiary Basis	<p>Agenda for upcoming state juvenile justice conference; 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	<p>Partial compliance</p>
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>This process is not instituted in all cases yet, as some staff have only done these anticipatory schedules for clients who have come to them since June. The parties also clarified during the exit conference that changes in scheduled appointments will only need to be communicated to counsel if the youth requests presence of counsel at the meeting. YSCs must document whether a client wishes to have counsel present</p>

	when the meeting is changed. Youth have not requested counsel presence, and counsel have not attended any probation meetings between YSCs and youth since this new process was instituted.
Recommendations for Reaching Compliance	In order to achieve substantial compliance, the State will need to finish fully implementing the new system for those clients who do not yet have a fixed meeting schedule, put the requirement in writing in a form that guides Lauderdale County staff, and continue to keep records of compliance.
Evidentiary Basis	Reviews of emails sent to counsel; spot check for notifications to counsel in random sample of cases.

Settlement Agreement Provision	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.
Compliance Rating	Partial compliance
Discussion	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. New workers receive training in the SAVRY once a sufficient number of new workers can be brought together for the training. While the agency reports that this generally happens within the first two months after a new employee begins, this was not the case for the new employee who had been hired in Meridian in the spring. The agency reports that it has also been conducting booster trainings for staff every six months. In my document reviews during this visit, I saw SAVRY reports completed in all the formal probation cases of the current YSC staff. The risk levels staff determined after conducting a SAVRY assessment

were reported in the social summaries and dispositional recommendations to the court.

However, in my review of individual SAVRY assessments and dispositional reports, I noticed some inconsistent information between the SAVRYs and the dispositional reports they are supposed to inform. For example, in more than one report, the dispositional report described the youth as living in an area with a low or moderate crime rate, but the SAVRY listed community crime, poverty and violence in a higher category than what was described in the text of the social history. One dispositional report described the youth as having a mentoring relationship with a police officer, yet the SAVRY rated the youth as having no attachment or bond with a prosocial adult. One report included the same information as in a different dispositional report about the same youth two months earlier, where some of the youth's circumstances had changed over the two-month period. Some SAVRY reports and dispositional reports included incorrect gender of the youth, and some had inconsistent birth dates. One social history described the youth as being on the honor roll, but the SAVRY rated the youth as having "significant difficulties in school achievement."

These significant inconsistencies and errors suggest that more training and careful evaluation of SAVRY assessments and dispositional reports are still needed. This is especially important because inaccurate reporting on individual items on the SAVRY can lead to inaccurate ratings of risk, which inform the court's assessment of and decision making about youth. While the agency does have a SAVRY audit form and process used by Regional Directors to review staff completion of the SAVRY, it is clear that these reviews are not catching the types of errors I identified in the documents I reviewed. The agency should re-examine its oversight approach and consider what additional training is needed to prevent these errors.

Completion and timely updates of the SAVRY were not as consistent in the case files of the YSC position that has been vacant since mid-May. Experienced staff have been working hard to cover client meetings and respond to needs of the youth on that caseload in addition to maintaining their own caseloads and training a new colleague who joined the agency in April, so this oversight is understandable. The challenge that the agency will need to face is how to meet this requirement over the next six months when two of four YSCs must be trained in many other areas in addition to use of this evidence-based tool. The SAVRY policy has not yet been revised to align with the settlement agreement, so this task should be addressed in the

	<p>upcoming months as well.</p> <p>For Graduated Responses, the agency has done further work to evolve its policy, accompanying forms, and sample incentives and sanctions grids. While some counties in other parts of the state have built upon their training to develop local grids reflective of available programs and resources, Lauderdale County has not yet done so. Thus, the system as envisioned in DYS policy is not yet fully developed or implemented.</p> <p>I discussed my recommendations for revisions to the latest drafts of the graduated responses policy and accompanying tools with a group assigned to refine the policy and related documents. I also explained that the policy and tools must provide clear procedural guidance to staff, must identify where they have discretion and what factors must guide that discretion, and must include tools that support and are consistent with the policy. After the visit, I followed up with a written summary of my comments on the tools and policy.</p>
<p>Recommendations for Reaching Compliance</p>	<p>To achieve substantial compliance, the State must align the SAVRY policy with the requirements of the agreement. The State must also train new staff in use of the SAVRY so that they can fulfill their responsibilities to complete a SAVRY in all formal probation cases. The agency must ensure that a SAVRY is completed accurately for all formal probation cases. This includes revising its oversight system to ensure accuracy of SAVRY findings and resulting recommendations to the court.</p> <p>The agency will also need to continue revisions to the graduated responses policy to provide procedural guidance about use of the accompanying tools as well as providing guidance for discretionary decisions. The tools must support and be consistent with the policy.</p> <p>DYS must provide support for YSC staff in Lauderdale County so that they can develop incentives and sanctions grids, including establishing a range of incentives for youth to comply with probation requirements. This support includes providing the leadership and guidance to staff necessary to establish local incentives and sanctions grids, providing staff the time and oversight to see that these tasks are completed, explaining parameters for seeking local donations or other permissible sources of funds for incentives, and providing encouragement and oversight to see that the system is implemented once adopted.</p> <p>While not a requirement for compliance, this work to establish a system of graduated responses is most effectively done in coordination with</p>

	<p>other court stakeholders where possible.</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 policies and use of the SAVRY. The agency should also consider whether it would be appropriate to include mention of these and other key functions in job descriptions and periodic evaluations. If the information is too specific to be incorporated into these documents, then the agency must explore other ways to encourage and support full implementation of these new initiatives, and explain in future compliance reports how it determined which documents were appropriate to modify and how it is ensuring full implementation of these policy and practice changes.</p>
Evidentiary Basis	<p>Review of YSC-generated documents about individual youth; Graduated Responses, Probation, and SAVRY policies and appendices; participation in policy development meeting of regional administrators and policy development conference call about graduated responses; 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	<p>Partial compliance</p>
Discussion	<p>The agency has revised the informal adjustment, probation, and parole contracts in recent years to make them more understandable. Over the past few months, the agency has been redrafting the probation contract and receiving comments from me and the Department of Justice. During the meeting of regional supervisors on July 25th, joined by the Community Services Director and the DYS Director, the group reached a near-final version of the contract. I recommended that staff in several</p>

	regions test the contract out with existing clients to see whether the youth and families feel it is understandable. This step is important because involvement of the target audience is the best way to ensure that the tool is appropriate for them. Staff planning the field test should make sure that the contract is tested with a selection of clients that includes a variety of ages, races and ethnicities, regions of the state, and reading/comprehension abilities. Once the contract is finalized, requirements must be reflected in policy, training, and other appropriate agency documents.
Recommendations for Reaching Compliance	In order to achieve substantial compliance, the agency will need to complete revisions of the formal probation, informal adjustment, and parole contracts to incorporate language that youth and families can understand. This process must include testing it with clients and incorporating appropriate revisions following the test. In addition, staff must be trained so that they fill in the blanks with appropriate provisions that are not overly broad or difficult to understand the scope of the requirement. The agency must incorporate these changes in policy and consider whether adjustments to the Desktop Guide, orientation, and/or other resources are necessary to give staff sufficient guidance, and should explain in a future compliance report how it decided where to incorporate guidance about this provision.
Evidentiary Basis	Review of probation contract drafts; participation in policy development meeting of senior DYS officials.

Settlement Agreement Provision	<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.
Compliance Rating	Beginning compliance

<p>Discussion</p>	<p>The policy committee revised the most recent draft of the probation contract to incorporate and simplify an explanation of rights suggested by the Justice Department. The group also discussed the challenges associated with providing detailed notice about school attendance requirements when each county may include several school districts. The committee would like to explain in the contract that youth must comply with their school districts' attendance policy, and leave out any further discussion of school system requirements. The committee felt that YSCs could follow up with client-specific guidance and review the school district's handbook with families where school attendance becomes an issue. The Justice Department and the State have reached agreement on the appropriate content of the probation contract, including its approach to school attendance, and I agree with the approach they have agreed upon.</p> <p>The policy committee decided that youth who are suspended or expelled must attend a Mississippi Department of Education-approved educational program or that the judge must approve an alternative, rather than leaving the discretion to YSCs. If these are to be the only options to fulfill the mandatory attendance requirement while suspended or expelled, then staff must be trained and knowledgeable about the MDE-approved options and alternative acceptable to the Youth Court that are available for their clients who have been suspended or expelled.</p>
<p>Recommendations for Reaching Compliance</p>	<p>In order to achieve substantial compliance with this provision, the State will need to finalize revisions to the probation, informal adjustment and parole contracts, incorporating appropriate recommendations from the Independent Auditor and Department of Justice. The agency must adjust policy and 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. The agency must adjust policy, training and other relevant documents in order to ensure that staff are knowledgeable about local options available to youth on probation who are suspended or expelled, and that staff provide client-specific guidance about attendance requirements to youth and families when necessary.</p>
<p>Evidentiary Basis</p>	<p>Review of probation contract and probation policy drafts; participation in policy development meeting of senior DYS officials.</p>

Settlement Agreement Provision	<p>III.A.2.c.iii.</p> <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>
Compliance Rating	Partial compliance
Discussion	<p>DYS has instituted a new mechanism for tracking probation violations brought to the court. This new system made it much easier for me to identify YSC recommendations to review. I appreciate the addition of this tracking form to YSCs’ data collection each month. DYS also adopted a form for YSCs to use when making a probation violation complaint. This form collects most important information about the youth and the reason for the violation. While on site, I made two recommendations to align the form with the factors that the draft graduated response policy asks staff to consider.</p> <p>There are three times in the course of processing a probation violation where YSCs 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), it appears that there are some times when staff communicate with the designee about the circumstances of the case. This is an informal opportunity to influence the detention decision. Without more detailed case notes, I cannot tell what YSCs are communicating to designees, whether they are recommending detention in some cases, or what their recommendations for or against detention are based upon.</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, but reports are varied about what the YSC’s role is, what it is supposed to be, and to what extent judges may ask the YSCs for their opinions about whether to</p>

detain the youth or what alternative to detention would be appropriate. The State reports that YSCs normally do not provide a recommendation on detention or release, since the authority lies with the court to make this decision. However, others described that practices might differ based upon individual judges' preferences or interest in particular YSCs' opinions. The YSCs' notes generally report the outcome of the hearing, but not what their role in the hearing was or what their recommendations were. One former YSC put some detention recommendations in writing on a notice she designed herself, so I was able to see a few examples of her recommendations and rationale. The other YSCs do not complete a written detention recommendation for the detention hearing, and there has been no requirement to do so.

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 written social histories and dispositional recommendations. For this stage I was able to identify when YSCs made a recommendation of detention, and could see from the case history what services and detention alternatives had been attempted previously with a youth. One staff person recorded in the case notes that a particular non-incarceration recommendation represented a graduated sanction for a probation violation. It is nice to see that staff are absorbing these concepts, even as the tools for implementation are still being refined.

Thus, for the first and second stages described above, there was insufficient information in most records for me to evaluate whether staff are recommending detention or not. I have requested that YSCs document in their case notes the information they are sharing with the Designee and any recommendations they make if they have any involvement in the Designee's detention decision. I have also requested that YSCs expand the documentation of detention hearings to include whether the judge asked for their input, what they said in response to the request, and whether they offered any additional information or recommendations at the detention hearing. Of course, DYS is welcome to institute a different method of recordkeeping in order to accomplish the same goals. For the third stage it appeared that staff were mostly recommending detention in cases where other options had been exhausted, and I did not see any recommendations for secure placement, so it appears that the agency is in substantial compliance with this requirement at the formal hearing stage.

During the exit conference the parties resolved another question about how to interpret the settlement agreement. The question involved the

meaning of “otherwise ... detainable offense.” The parties agreed that this means a non-status offense. Thus, according to the parties, staff may not, under this agreement, recommend detention or secure placement for a probation violation unless the probation violation conduct is a felony or a misdemeanor and reasonable alternatives to incarceration have been exhausted.

While the parties did not make this explicit, several provisions governing custody and detention in the Mississippi Code and Mississippi’s Uniform Rules of Youth Court Practice determine when youth may be detained as well, including Miss. Code Ann. §§ 43-21-301, 303, 307 and 309, and Rules 11, 12 and 16. In Mississippi, courts and designees may only order detention of a youth where there is probable cause to believe that the youth is within the jurisdiction of the youth court, that custody is necessary, and there is no reasonable alternative to custody. Custody may only be deemed necessary: (1) when a child is endangered or any person would be endangered by the child; or to insure the child's attendance in court at such time as required; or when a parent, guardian or custodian is not available to provide for the care and supervision of the child; and (2) there is no reasonable alternative to custody. See, for example, Miss. Code Ann. § 43-21-301(3). Under these provisions, detention is limited to circumstances where the youth is a danger to herself or others, is a risk of flight, or when parents, guardians or custodians are not available to care for the child, and where there is no reasonable alternative. Whether the parties intended implicitly to incorporate these provisions or not, DYS staff must be trained in the law in order to ensure that they understand the bounds of what designees and judges may order if they are to make appropriate recommendations.

I saw one example in which the staff member who has since departed recommended detention for a girl whose probation violation was running away, which is a status offense. This recommendation would not be permitted under the agreement, as the other options for serving this youth who was new to youth court had not yet been tried. Due to the limited documentation in most files, I cannot determine whether this is an isolated example.

The wide variety of answers I received when asking stakeholders about the circumstances under which YSCs may recommend incarceration and what represents a detainable offense make clear that written guidance and training on this requirement are necessary.

The additional documentation of detention recommendations at the

	<p>early stages will make it more possible for supervisors to provide guidance to staff, and for me to assess compliance with this provision in the future. I look forward to seeing those expanded notes during my next review.</p>
<p>Recommendations for Reaching Compliance</p>	<p>To achieve substantial compliance, the agency will need to institute additional documentation of detention recommendations at the designee and detention hearing decision points. Also, the agency will need to develop some guidance in writing and also in training for staff to understand how to comply with this provision of the agreement, and then ensure that staff are not recommending detention in cases where they are not permitted to do so under the agreement. This training must include explanation of Mississippi’s laws governing custody and detention of youth. If the agency decides that it will only implement this provision in Lauderdale County, it will need to determine the appropriate means to provide written policy and practice guidance to YSCs in Lauderdale County only.</p> <p>As I noted in my last report, 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>	<p>Review of YSC written recommendations and case notes; discussions with YSCs and other stakeholders.</p>

<p>Settlement Agreement Provision</p>	<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>
<p>Compliance Rating</p>	<p>Beginning compliance</p>
<p>Discussion</p>	<p>Since my last visit, the agency has been focused on revising the probation contract and accompanying policy. A team has also been</p>

	<p>working on the graduated responses policy and tools. I have provided recommendations on these both in writing and in meetings on site.</p> <p>The agency should review each recommendation in this report and also review the settlement agreement to determine which written documents are most appropriate to reflect and accomplish implementation of the requirements of this agreement. In some cases the agency may only plan to implement changes to practice in Lauderdale County, while in others it may determine that statewide implementation is appropriate. Adjustment of the documents must follow these decisions.</p>
<p>Recommendations for Reaching Compliance</p>	<p>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 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, I would like 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 in exit conferences and the policy committee.</p>
<p>Evidentiary Basis</p>	<p>Review of agency policies, Desktop Guide, orientation materials, and other guidance documents.</p>

<p>Settlement Agreement Provision</p>	<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>
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Compliance Rating	Not applicable until one year from initial revision of policies.
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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 for dispositional decisions; To Be Determined for earlier detention decisions; Non-compliance for monitoring diversion program opportunities and funding.
Discussion	<p>The parties have advised that they intended this provision to refer to diversion from detention and out of home placement for probation violators. As explained above, YSCs are generally recommending alternatives to detention and placement where appropriate in written dispositional recommendations. During my next visit, once clearer documentation is available, I will confirm whether this holds true for earlier detention decisions as well.</p> <p>For the part of this provision that requires the agency to monitor opportunities and sources of funding for additional diversion programs, I was not provided with evidence of efforts to seek new funding sources. The one grant application that the agency submitted this year was for a youth gang task force. The proposal outlined plans to work with youth leaving the Oakley Youth Development Center and returning to the community. This set of activities would not meet the definition of diversion program upon which the parties agreed for this settlement agreement. The agency has identified another potential grant source it plans to pursue in the coming weeks.</p> <p>This was a difficult year for the agency because it learned that one of its main programs that serve as alternatives to placement, the Adolescent Opportunity Program (AOP), had been supported by federal funds that could not be used for this purpose. The agency has redirected those</p>

	<p>funds to prevention programs that may not serve as juvenile justice programming. However, Lauderdale County has found a way to maintain its AOP program. This accomplishment is noteworthy, as the program serves as a key alternative to out of home placement in the County.</p> <p>For future reports, it will be helpful if the agency keeps a log or other documentation of efforts staff make to monitor and identify grant opportunities. While applications for grants illustrate what the agency chose to apply for, they do not document efforts staff have made to look for such opportunities. The DYS Director has agreed to track and provide notification of these efforts in the future, recognizing that a current restructuring of the agency, including a significant budget and staffing cut, may delay this activity in the near term.</p>
Recommendations for Reaching Compliance	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. The State must also expand YSC case notes or other means of recordkeeping for earlier detention decisions so that I can assess compliance at the earlier detention decision points. DYS will also need to monitor and seek future funding opportunities for diversion programs and provide documentation of its efforts.
Evidentiary Basis	Review of YSC recommendations; conversations with DYS personnel; grant applications.

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	Beginning compliance

Discussion	While the agency has not yet submitted a written training plan, it has identified training opportunities available to the juvenile justice and child welfare communities this summer, and has made plans to ensure that staff maximize the training opportunities at those events that are relevant to training topics required by this agreement.
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 agendas for upcoming conferences; discussions with DYS officials regarding plans for the statewide juvenile justice conference.

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; 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.
Compliance Rating	Beginning compliance
Discussion	As described above, the agency has not yet submitted a training plan. In addition to the training recommendations already mentioned elsewhere in this report, I note the following:

Constitutional due process requirements:

There has not been training in constitutional due process requirements, but staff will attend a session on this topic at the upcoming statewide juvenile justice conference. I have asked for the materials and any power point presentations to be provided to me so that I can determine whether the content meets the requirements of this agreement. I have also requested documentation of attendance at individual sessions of training that staff attend.

Disposition planning:

The agency has been developing a new case planning document. In at least one of the files I reviewed the case plan was not completed and there was a note on the 8-page old long form that said that a new form was in development, and the old form was left blank. Once the agency completes redevelopment of the form, it should ensure that the training incorporates the training recommendations I made in my previous compliance review report and also aligns with the new case plan form and the ideas behind it. During my visit, I discussed with the policy committee some ways in which the new draft case plan could be rearranged to follow the progress of a case and also encourage staff to incorporate incentives that are tied to individual criminogenic needs. I have provided the parties with an example of such a case plan.

In my last report, I noted the importance of reviewing the case plan with youth and families, so that youth, families and counselors have a common understanding about how the youth's needs have been assessed, what the relationship is between services recommended and the youth's needs, what the goals of the probation period will be, and what incentives are available for working toward those goals. When I met with the policy committee, I was told that the case plan was not intended for use with youth and families. If staff will not be reviewing this document with clients, then the agency should establish through policy and training some other mechanism to review these topics with the youth and families being served. The agency may also wish to reconsider whether it wants to revise the case plan so that it may be shared with clients. I did not see anything in the draft I reviewed that would make it inappropriate for clients to see.

As explained above in section III.A.2.b., during my review of individual SAVRY assessments and dispositional reports, I noticed inconsistent information between some SAVRYs and the dispositional reports they were supposed to inform.

	<p>These significant inconsistencies and errors suggest that more training and careful evaluation of SAVRY assessments and dispositional reports are still needed. This is especially important because inaccurate reporting on individual items on the SAVRY can lead to inaccurate ratings of risk, which inform the court’s assessment of and decision making about youth. While I recognize that there is already a SAVRY audit process in place for Regional Supervisors to review SAVRY completion by staff, it appears that this review has not been sufficient to identify the errors I described in section III.A.2.b.</p> <p>Best practices in social services and therapeutic options:</p> <p>In my previous report I noted that some YSCs covered a small range of topics with their clients and engaged in very brief visits. I was pleased to learn during this visit that some staff are taking the time to meet separately with youth and parents at times. However, I also noticed circumstances in which important topics that I learned about through file notes or independent conversation with the youth were not covered in the meetings I observed between the YSC and the youth and family. Some more training about effective probation practice and use of supervision meetings appear to be necessary to develop YSC skills in this area.</p> <p>Policies, procedures and practices addressed in the Agreement:</p> <p>I have noted at various places in this report where development of new policies and procedures will also require new training. The agency should review the agreement comprehensively to identify all places where implementation of the agreement will require new training.</p> <p>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.</p>
<p>Recommendations for Reaching Compliance</p>	<p>In order to achieve substantial compliance, the agency must review current opportunities for training and 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</p>

	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	Not applicable until one year from the effective date of the agreement.

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.
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Settlement Agreement Provision	<p>IV.A.</p> <p>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.</p> <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>
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Compliance Rating	Partial compliance
Discussion	<p>The parties jointly identified the measures upon which they wish compliance with the community input provisions to be assessed. Because they did not identify particular questions as applying to particular parts of this standard, 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? <p>Measured by the questions above, the agency has reached partial compliance. The initial meeting occurred on July 25, 2016. As agreed by the parties, the first meeting was scheduled with individuals who had been involved in the initial complaints about the subject matter of this investigation and lawsuit, rather than having a large publicly advertised gathering. The Justice Department provided additional suggestions of individuals to be invited as well. The intent was to engage community leaders and other stakeholders in helping to plan the community input program. Three representatives of the local NAACP who were also clergy attended. There was productive dialogue about the efforts of the department and other issues the attendees wished to raise, including school discipline, trust of the police and other matters.</p> <p>The location of the event was somewhat accessible to the public, though far from ideal. It was held in the Meridian Police Department headquarters, in a courtroom of the city's municipal court. Everyone involved agreed that this was not an appropriate location for future</p>

	<p>meetings given community members’ mistrust of the police, the uncomfortable setup of the courtroom for a meeting in which discussion among participants was the main goal, and the fact that access to the courtroom required entrance past a security window and through a locked door. The DYS Director asked the attendees whether any of their churches would be willing to host the next event in December, and they expect to have further dialogue in the next few months. The attendees asked DYS to provide a representative to speak with their conference of clergy at a future meeting, and the Director agreed to make someone available.</p> <p>As required by the compliance measures, invitations were sent one week prior to the event. While not required for compliance, I do recommend that invitations be sent further in advance in order to give those interested in participating an opportunity to plan. I talked with one invited individual who did not attend, but might have attended with more notice.</p> <p>The agency met all of the requirements except for two:</p> <ul style="list-style-type: none"> • 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? <p>The State has only completed one draft compliance report to date, and it did not submit revisions after the Justice Department and I provided feedback identifying needed additions to the report. The Justice Department has waived the requirement that the agency complete an action plan, with the expectation that the content that would have been included in an action plan, outlining details about plans for compliance and a timeline, would be included in the compliance report. However, the agency has not yet provided the details of an action plan in any document. It did not provide summaries of its compliance report or the content of an action plan to participants, though the DYS Director did summarize verbally some of the activities DYS has engaged in so far. The agency handed out copies of the settlement agreement and my first report. The agency has not yet posted summaries of policy changes on its website. By the time of the next meeting DYS will have more opportunity to put these remaining elements in place.</p>
<p>Recommendations for Reaching</p>	<p>In order to reach substantial compliance, the agency will need to complete a compliance report that meets the requirements of the</p>

Compliance	settlement agreement and provide summaries to participants in the next community input meeting. In addition, it will need to post on its website summaries of policy changes made in compliance with the agreement.
Evidentiary Basis	Observation of first community input meeting (including examination of handouts provided to participants).

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	While YSCs in Lauderdale County had not yet received copies of the settlement or details of the requirements by the time of my initial visit, they had certainly been informed of the settlement agreement. At this point, officials and staff have been fully informed, and I have not encountered any agents or independent contractors needed to implement the agreement. If the agency hires contractors to assist in any aspect of implementation such as training, it will be important to share the details of the agreement and the agency's plans for compliance so that the contractors or agents provide services in accordance with the agreement's requirements.
Recommendations for Reaching Compliance	To sustain substantial compliance, the agency will need to communicate the provisions of the agreement to any future agents or contractors who become involved in aspects of DYS activities impacted by the agreement.
Evidentiary Basis	Conversations with DYS officials and YSCs.

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Settlement Agreement Provision	VIII.A.1. 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.
Compliance Rating	Beginning compliance
Discussion	I believe that 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.
Recommendations for Reaching Compliance	Recommendations for reaching compliance may be found in the section of this report addressing Parts III.A.3.a and III.C.

Settlement Agreement Provision	VIII.A.2. 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
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	<p>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.</p>
Compliance Rating	Beginning compliance
Discussion	<p>As explained above, the State engaged in some policy revisions prior to entering the settlement agreement, but has not completed additional policy revisions since the agreement has been in place. The State has begun to incorporate the feedback the Justice Department and I provided on the Probation and Graduated Responses policies.</p> <p>Now that the State has received some initial guidance about what it will need to do to comply with the agreement, as well as suggestions about changes to its existing policies, it now needs to conduct a comprehensive review of its policies and procedures in order to determine what changes need to be made in order to facilitate compliance with the agreement. The 90-day deadline set in Part III has passed. The 6-month deadlines for items not covered in Part III and for training plans have passed as well.</p>
Recommendations for Reaching Compliance	The State must conduct its review of policies and procedures to determine which require revision in order to comply with the agreement, and must submit revisions promptly for review. Further, the state must prepare the training plans outlined in III.C. and submit them for review.

Settlement Agreement Provision	<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</p>
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	<p>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>
Compliance Rating	Not applicable until three months after each policy or procedure is finalized.

Settlement Agreement Provision	<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 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	Beginning compliance
Discussion	I asked the parties to clarify the relationship between provisions that seemed to suggest different deadlines for the State to produce action plans and compliance reports. DOJ and DHS/DYS have agreed to treat the four-month deadline for the first comprehensive action plan in

	<p>VIII.B.1 as moot, and, in lieu, DHS/DYS agreed to satisfy the deadline in VIII.B.2. by submitting the first compliance report six months after the agreement’s effective date. The parties also agreed that the reference in V.G.1. to the first compliance report being four months after the effective date would be moot. The parties have further agreed that the State need not file a separate action plan, provided that the plans for compliance and timelines for completing activities are included in a compliance report.</p> <p>The State asked for an example of an effective compliance report. The Department of Justice provided contact information for a settlement coordinator in another jurisdiction, and that individual provided the State with two examples of compliance reports. The State also requested feedback from me and the Justice Department prior to finalizing the first report. However, after we received the draft report, provided suggestions, and pointed out that more specifics about past activities and future plans were needed, the State decided not to submit revisions of its first compliance report.</p>
<p>Recommendations for Reaching Compliance</p>	<p>In order to achieve substantial compliance with this provision, the State will need to submit a compliance report that explains the specifics of achievements it has made and outlines its plans for compliance with remaining requirements in the agreement.</p>