

United States of America,)	
)	
Plaintiff,)	
)	Civil Action No.
)	3:13-CV-978
v.)	
)	
City of Meridian, et al.)	
)	
)	
Defendants.)	
_____)	

NOTICE OF FILING

To: All Counsel of Record

PLEASE TAKE NOTICE that on November 27, 2018, the United States caused to be filed with the Clerk of the United States District Court for the Southern District of Mississippi, Northern Division, the following document, attached hereto: Sixth Report of the Probation Services Independent Auditor.

 /s/ Richard C. Goemann

Richard C. Goemann
(D.C. Bar No. 405030)

U.S. Department of Justice
Civil Rights Division
Special Litigation Section
950 Pennsylvania Avenue, NW
Patrick Henry Building, 5th Floor
Washington, DC 20530
Phone: (202) 353-1313
Facsimile: (202) 514-4883
E-mail: richard.goemann@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of November, 2018, I electronically filed a copy of the foregoing Notice of Filing and the accompanying attachment with the Clerk of the Court using the ECF system, which sent notification of such filing to those Parties identified in the Case Management System.

/s/ Richard C. Goemann

Richard C. Goemann

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

Draft submitted: September 16, 2018

Final submitted: November 26, 2018

Dana Shoenberg

dshoenberg@cclp.org

301-602-1610

I. Introduction

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

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

This report addresses the agreement reached between the State of Mississippi and the United States (“the parties”) regarding youth probation services provided by DYS to children facing delinquency charges in the Lauderdale County Youth Court. On November 18, 2015, pursuant to the settlement agreement, the parties jointly selected me, Dana Shoenberg, J.D., LL.M., as the Probation Services Independent Auditor. The agreement requires that the Independent Auditor conduct compliance reviews every six months, with additional reviews as necessary if emergent issues arise. The report below outlines my findings from the compliance review conducted August 13 through 17, 2018. This is the sixth compliance review since the parties reached a settlement in this matter.

II. Compliance Review Findings

This report includes a summary of compliance findings and a detailed description of the State’s compliance status in each substantive area of the settlement agreement. The summary of compliance findings in Part A includes a chart listing each provision and the State’s level of compliance. The detailed compliance ratings in Part B include: the full text of each provision, the compliance rating, a discussion of the Auditor’s findings, recommendations for reaching compliance, and a description of the evidentiary basis for the Auditor’s findings. The parties agreed upon the following terms to describe levels of compliance:

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

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

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

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

A. Summary of Compliance Findings

This compliance review visit provided an opportunity to assess the results of several new trainings that were conducted since my last visit and to observe implementation of updates to key policies.

The agency focused its implementation efforts on training this spring, conducting three trainings specific to Lauderdale County and also involving staff in other agency-wide training opportunities. The county-specific trainings included one on graduated responses, one on professional roles of juvenile justice system personnel, and one on disposition planning. In addition, employees attended an agency-wide training on motivational interviewing and the State's juvenile justice conference, which offered many options for learning sessions. Over the past 6 months, the agency also adopted a policy establishing a process for timely revision of existing policies, completed its first two policy reviews and revisions under the policy, and updated two policies to incorporate new forms.

The State has reached substantial compliance and sustained it for one year in several new areas. These include: providing notices to youth and guardians about probation, inquiring into understanding and using youth-appropriate language (Sections III(A)(1)(a-c)); probation contract revisions (Sections III(A)(2)(c)(i and ii)); exhaustion of alternatives before recommending incarceration for probation violations (Section III(A)(2)(c)(iii)); recommending diversion from incarceration and monitoring funding opportunities (Section III(B)(1)); policy and procedure review (Section VIII(A)(2)); policy and procedure implementation (Section VIII(A)(4)) (as it pertains to adoption, beginning implementation and revision of policies); and completion of a biannual compliance report (Section VIII(B)(2)). Other sections reached substantial compliance for the first time: development and implementation of training plans (Section III(C)(1, 3 and 4)).

As of my last report, the State had sustained substantial compliance for one year in the following areas: establishment of fixed meeting schedules and notification of counsel (Section III(A)(1)(d)); adoption of a risk and needs assessment (part of Section III(A)(2)(b)); recommending diversion where appropriate at the disposition decision point (part of Section III(B)(1)); notice to staff, agents and others of the settlement agreement (Section V(B)); and community input (Sections IV(A-C)). As agreed between the parties, I did not spend time assessing compliance in these areas during my visit. For the items listed in the previous paragraph as having reached one year of sustained substantial compliance, this will be the last time that I monitor compliance with those items as well.

The next important steps for the State's compliance activities include: revising the training policy and implementing the last required training; revising the draft graduated incentives and sanctions grids and implementing them fully in Lauderdale County; and updating remaining documents including the Desktop Guide to Probation Practice, the Core Training Manual as it pertains to the topics covered in this agreement, and any other operational documents such as job descriptions and performance evaluation materials, as appropriate, to reflect the requirements of the settlement agreement.

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

I reviewed documents generated during the past 6 months by YSCs for 23 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 who were reported for probation violations from February through June 2018, as well as a random sample from each staff member's caseload and the caseload assigned to the vacant position, which has been managed by one of the YSCs since a longtime YSC's retirement this spring.

I reviewed the following additional documents while on site:

- Confirmations of staff training; and
- Results of pre- and post-testing associated with trainings conducted.

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

- The State's compliance report;
- Radio spot regarding the Community Forum;
- Web postings regarding the Community Forum;
- Draft of Lauderdale County Graduated Incentives and Sanctions grids; and
- Monthly probation violation tracking forms.

Table I summarizes my compliance findings, and detailed discussions follow.

Table I. Compliance Ratings, by Provision

Provision number	Description of Provision	Compliance Rating	Monitoring Completed?
III.A.1.a	Protections Against Self-incrimination - Notice to youth	Substantial compliance Sustained 1 year	Yes
III.A.1.b	Protections Against Self-incrimination - Notice to youths' guardians	Substantial compliance Sustained 1 year	Yes
III.A.1.c	Protections Against Self-incrimination – Inquiry about youths' understanding and use of youth-appropriate language	Substantial compliance Sustained 1 year	Yes
III.A.1.d	Protections Against Self-incrimination – Fixed meeting schedule, notification of counsel, rescheduling meetings for counsel	Substantial compliance Sustained 1 year	Yes
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.	Yes
III.A.2.b	Probation Review and Revocation – Use of graduated responses and risk assessment tool for court recommendations	Substantial compliance for risk assessment sustained one year; partial compliance for graduated responses.	Yes for risk assessment; no for graduated responses
III.A.2.c.i	Probation Conditions – Understandable language and prevent arbitrary and discriminatory enforcement	Substantial compliance Sustained 1 year	Yes
III.A.2.c.ii	Probation Contracts – Clear explanation of youth rights, including how to satisfy mandatory school attendance	Substantial compliance Sustained 1 year	Yes
III.A.2.c.iii	Limits on recommending incarceration for probation violations	Substantial compliance Sustained 1 year	Yes
III.A.3.a	Review of Policies and Procedures – Revise for compliance with settlement agreement	Partial compliance	No

Provision number	Description of Provision	Compliance Rating	Monitoring Completed?
III.A.3.b	Reassess effectiveness of policies, procedures and practices annually and revise as necessary	Substantial Compliance Sustained through 2 compliance periods	No
III.B.1	Diversion and Treatment Options – Recommend youth for existing diversion where appropriate and monitor future funding opportunities	Substantial Compliance Sustained 1 year	Yes
III.C.1	Training – Develop training plans	Substantial compliance	No
III.C.2	Training – cover topics relevant to responsibilities in delinquency proceedings	Partial compliance	No
III.C.3	Training – Begin implementing training plans within 12 months, then annually	Substantial compliance	No
III.C.4	Training – submit to Auditor and U.S.	Substantial compliance	No
IV.A-C	Community Input	Substantial compliance Sustained 1 year	Yes
V.B	Implementation and Monitoring – Notification to DHS/DYS officials, staff, agents and independent contractors	Substantial compliance Sustained 1 year	Yes
VIII.A.1	Policies and Procedures – Generate policies and procedures to ensure compliance and submit for review	Partial compliance	No
VIII.A.2	Policies and Procedures – Complete Policy and Procedure Review within 6 months	Substantial compliance Sustained 1 year. Remaining policy will be monitored under III(A)(3)(a).	Yes
VIII.A.4	Policies and Procedures – Adopt and begin implementation within 3 months after finalizing; implement within one year	Substantial compliance for all finalized policies. Sustained one year. Implementation of remaining policy and modification of ancillary documents	Yes

Provision number	Description of Provision	Compliance Rating	Monitoring Completed?
		will be monitored under other relevant sections including III(A)(3)(a).	
VIII.B.2	Reporting – Biannual compliance report	Substantial compliance Sustained 1 year	Yes

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; 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.
Compliance Rating	Substantial compliance

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.

Discussion	During this period, staff continued to use the revised probation and informal adjustment contracts as well as the new handouts to provide notice to youth and their families of the required topics.
Recommendations for Reaching Compliance	The State has now sustained substantial compliance for one year, and this provision will not be subject to further monitoring.
Evidentiary Basis	Conversations with YSCs; review of youth files; conversations with youth and families.

Settlement Agreement Provision	III.A.1.b DYS shall also make diligent efforts to provide the notice described above to the youths' guardians.
Compliance Rating	Substantial compliance
Discussion	At the beginning of a youth's probation and often during the course of probation, YSCs meet with youth and their parents or guardians together. Therefore, early conversations about what to expect while on probation include both youth and their families. As a result, the State's compliance with the notice requirements is the same for the youths' guardians as it is for the youth.
Recommendations for Reaching Compliance	As described above, the State has sustained substantial compliance for one year, and this provision will not be subject to further monitoring.
Evidentiary Basis	Conversations with YSCs; review of youth files; conversations with 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	Substantial compliance
Discussion	Staff are consistently reviewing each contract provision and having youth initial once they understand, and are also initialing the document themselves after confirming that youth understand. Youth and family members with whom I spoke reported that YSCs explained the probation process thoroughly and that they did not leave with questions about what to expect.
Recommendations for Reaching Compliance	The State has now sustained substantial compliance for one year, and this provision will not be subject to further monitoring. The State has revised its policies to reflect use of the new contracts as well.
Evidentiary Basis	Review of youth files; conversations with staff, youth and families.

Settlement Agreement Provision	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.
--------------------------------	---

Compliance Rating	Substantial compliance reached in January 2017 and sustained for one year – no longer subject to monitoring.
-------------------	--

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

Compliance Rating	<p>For risk assessment tool, the State reached substantial compliance in January 2017 and sustained it for one year, so the risk assessment part of this provision is no longer subject to monitoring.</p> <p>For graduated responses, partial compliance.</p>
-------------------	--

Discussion	<p>Graduated responses</p> <p>The State has made progress in its work to adopt and implement graduated responses for youth on probation. This spring, a DYS regional supervisor provided additional training to Lauderdale County YSCs about effective use of graduated incentives and sanctions. Staff were motivated by the training to take additional steps to gather tangible incentives to offer youth for positive behavior on probation. They also worked to develop solid first drafts of local incentives and sanctions grids. After developing the draft grids, they provided them to the local judges for feedback, but as of the time of my visit they had not yet received any feedback, and the grids were not in use.</p> <p>I provided the staff with some suggestions to improve or reconsider elements in the version of the grids I was provided. For example, I noted where the lists of sanction and incentive options appeared to have duplication of available measures and where they used different language for the same concept from box to box. Some boxes omitted options that seemed as though they might have been unintentional, so I encouraged staff to review each box to determine whether they intended to eliminate sanction options. For example, in the draft sanctions grid, “Phone call to parent” was listed as an option for YSCs to</p>
------------	--

use with youth assessed as high risk who were accused of minor probation infractions, but it did not appear as an option for youth assessed as moderate and low risk who were accused of minor probation infractions. Discussion revealed that in some cases staff had not meant to discard options for certain risk levels of youth.

Similarly, in the incentives grid, which is broken into columns of incentives available for completion of short term goals and long term goals, some significant incentives appeared in the short term goal column, but conversation revealed that staff thought they would be more appropriate to offer youth who achieved significant goals. Some contemplated incentives, such as a meal with a judge, require commitment from the youth court judges and agreement as to when such an incentive would be appropriate to offer before they can be fully implemented. Therefore, further revisions to the grid by staff and consultation with the youth court judges are needed.

In practice, I saw clear uses of incentives and sanctions in a variety of cases I reviewed and client meetings I attended, and YSCs appear to be embracing the concepts. For example, adjustment of curfew times, moving them both later and earlier, was commonly used for incentives and sanctions. Other examples of incentives included verbal praise, allowing youth to skip meetings with the YSC, early release from electronic monitoring, certificates of accomplishment, food treats, and other gifts that staff had collected from local donors.

On the sanctions side, YSCs seem to be using verbal interventions, moving curfew to earlier times, seeking electronic monitoring extensions, encouraging parents to use home discipline strategies, and referring youth to additional services as responses to noncompliance. YSCs also work with families, service providers, and the county electronic monitoring operator to identify significant violations and file complaint questionnaires with the court.

There is still some fine tuning to be done to integrate incentives and sanctions effectively and consistently into case planning and practice, but the more recent case plans from May and later months showed clear improvements from earlier in the year. In earlier case plans from the year, I saw many examples of sections left blank, but by summer, staff were completing more parts of the case plan. For example, the case supervision plan has sections that are included to ensure that staff will engage in a discussion with youth and their families about incentives and sanctions that would be meaningful to them. In some files earlier in the compliance period, this section was not filled in. In

addition, for each criminogenic need on which the counselor plans to focus with the youth, the case plan includes spaces for individual action steps and the incentives promised if youth complete the action step. In some case plans, there were no action steps or incentives filled in. By summer, staff were completing more of the boxes.

There is also space in the case plan for the YSC to fill in the date each incentive was received. There are spaces below that for additional action steps upon completion of the first one. I did not see any case plans in which the date received had been filled in. The committee that developed the new case plan included the "date received" space as a way to ensure that incentives were actually provided and documented. When a youth completes an assigned task and an incentive has been promised, it is critical to the graduated response system that the youth actually receive the incentive promised. Also, as action steps are completed, other ones should replace them in a case plan so it becomes a living document to guide next steps for youth, family and counselor.

I saw some examples of incentives provided during the course of probation, but in other cases, the case plans indicated that incentives would only be earned after the full length of probation. For example, I reviewed case plans that said that youth must have negative drug screens for six months in order to earn an incentive. Another file require a youth to take all mental health medications daily as required for six months in order to earn an incentive. One useful aspect of incentives is that they can engage youth by helping them work toward and achieve small, attainable accomplishments during the course of probation so that they stay motivated. If the rewards come at the end of probation, the incentives are not being used to their fullest potential to motivate youth to progress through the court's expectations. I saw more examples of incentives tied to shorter term actions in later case plans. For example, one plan identified a youth's criminogenic need as mental health/emotional stability/personal hygiene. The objective goal for the youth was to practice personal hygiene daily, and the counselor had set a measurable activity/action step: "Youth will bathe daily and put on clean clothes daily and continuing (2 weeks straight)." The incentive available for completion of the activity was a food gift certificate. This is an example of an effective, measurable, attainable and time-bound goal with a specific incentive tied to it.

One youth I spoke with was given three incentive items on the final day of probation. The youth was surprised, not having been expecting anything at all. This suggests that the incentives were not incorporated into case planning or previous conversations with this young person.


	<p>With a limited number of tangible incentives available, it would make sense to spread them across the course of probation, rather than just saving them for the end.</p> <p>Another case plan in a file I reviewed was not completed, but it did identify “Drugs” as the main criminogenic need area, and it identified as a potential incentive that “If youth acts right 30 days on monitor will not be drug tested until 2nd month.” I was glad to see that the YSC contemplated providing an incentive earlier than the end of probation, but concerned about the offer of a possible incentive that sends a mixed message about what the youth most needs to focus on. If drug use is the central problem for the youth, then incentivizing electronic monitoring compliance with reduced drug use surveillance seems like a mismatch. In addition, “if youth acts right” does not provide the youth enough guidance about a measurable and specific goal because it is vague and subject to varying interpretation.</p> <p>Overall, it is exciting to see that staff have begun to appreciate the value of using graduated responses, that they are discussing them with youth and their families and writing them more regularly into case plans, and that there has been clear progress in developing and implementing a written guide for their use. The steps remaining to reach substantial compliance should be achievable within the near term.</p>
<p>Recommendations for Reaching Compliance</p>	<p>To reach substantial compliance with regard to graduated responses, DYS staff in Lauderdale County must complete editing their incentives and sanctions grids and then implement them. Ideally, this will involve input from the youth court judges, but DYS will be in substantial compliance if staff make their best efforts to engage the judges, including attempting to schedule a meeting with the judges and reminding the judges that DYS is awaiting feedback. If the judges do not collaborate with DYS after best efforts have been made, DYS will achieve substantial compliance if it implements edited grids that make use of its own available resources.</p> <p>In addition, discussion with youth and families of incentives and sanctions should be consistently reflected in case supervision plans; incentives should be tied to individual specific, measurable, attainable, reasonable and time-bound goals; and provision of incentives when they have been earned should be clearly documented in the case plan.</p>

	Other documents such as the Desktop Guide and orientation materials must be updated to incorporate the practice, approach and philosophy embodied in the new graduated response and SAVRY policies.
Evidentiary Basis	Review of YSC-generated documents about individual youth including case supervision plans; draft Graduated Response grids; interviews with DYS staff and management; review of dispositional planning training materials.

Settlement Agreement Provision	<p>III.A.2.c.i.</p> <p>Within 90 days of the Effective Date, the DYS shall, to the extent necessary, adopt or revise policies, procedures, and practices to ensure that conditions of youths’ probation are written in simple terms that are easily understandable to youths and prevent arbitrary and discriminatory enforcement.</p>
Compliance Rating	Substantial compliance
Discussion	The revised informal adjustment, probation and parole contracts remain in use. I identified one concern: I noted in several files that one of the YSCs was filling in the contract section marked, “Stay away from the following places:” with the words “drug known areas.” I explained to both the YSC and supervisor that setting a rule that youth must stay away from known drug areas was the kind of vague and overly broad instruction that the settlement was trying to prevent. Both the counselor and supervisor were assigned to Lauderdale County after the initial implementation of the settlement when this issue was first addressed. This one aberration on its own does not negate the State’s substantial compliance. However, it speaks to the importance of ensuring that instructions to prevent inappropriate contract entries are part of new employee training and guidance for YSC practice.
Recommendations for Reaching Compliance	The State has now sustained substantial compliance for one year, and this provision will not be subject to further monitoring.

Evidentiary Basis	Review of probation contracts and youth files; discussion with YSCs and other agency 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	Substantial compliance
Discussion	<p>As explained above, the agency has revised and implemented use of the new informal adjustment, probation and parole contracts and policies, and staff continue to use the contracts.</p> <p>One family expressed frustration that there are not more options in the county for youth who are suspended or expelled from school. Agency staff explained to me that the youth court was exploring expanding the education options for youth not permitted to be in school, but such new options are not yet available.</p>
Recommendations for Reaching Compliance	The State has now sustained substantial compliance for one year. This provision will not be subject to further monitoring.
Evidentiary Basis	Review of youth files; discussion with YSCs, youth, families, and other agency officials.

<p>Settlement Agreement Provision</p>	<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>
<p>Compliance Rating</p>	<p>Substantial compliance</p>
<p>Discussion</p>	<p>For purposes of assessing compliance with this section, I have broken the review into three subcategories: time of arrest, detention hearing, and disposition hearing.</p> <p>As explained previously, staff in Lauderdale County do not normally make recommendations about whether to detain youth at the time of arrest. Those decisions are made by designees, often outside of work hours. YSCs generally are not the ones to sign the affidavit that forms the basis for the probation violation; witnesses to the violations, including parents, program directors, and the County employee responsible for electronic monitoring, are usually the ones to sign the affidavits.</p> <p>The second detention decision point is at the detention hearing. A YSC attends the hearing, and will only make a recommendation regarding detention if the judge asks. In the cases where YSCs have recommended use of detention pending disposition for a youth violating probation, it appeared that the youth either had charges for new detainable offenses in addition to the probation violations or that, to the extent I could tell from counselor notes in the probation file and interviews, all locally available alternatives had been exhausted. One of the public defenders reported that the staff continue to work hard to seek available options before recommending detention or out of home placement.</p> <p>The third stage at which YSCs may recommend incarceration or alternatives is in conjunction with the formal hearing on a probation violation. In cases where staff recommended that detention be used as a disposition, either the youth had new charges along with the probation violations or it appeared from available documents and</p>

	<p>interviews that all locally available alternatives had been exhausted. According to the DYS director, Lauderdale County did not send any youth to the State’s secure placement facility during 2017 or the first half of 2018.</p> <p>I had previously recommended that when the YSCs complete the social summaries, they write in the date when it was written or updated. I did not see that suggestion implemented in the files I reviewed. Reports should have dates on them so that the reader can more easily determine what period of time the recommendations cover, how recently they were updated, and which court hearing the recommendations correspond with. Therefore, I continue to recommend that YSCs include a date completed on their social summaries.</p>
<p>Recommendations for Reaching Compliance</p>	<p>The agency has sustained substantial compliance with this provision for one year. This provision will not be subject to further monitoring.</p>
<p>Evidentiary Basis</p>	<p>Review of YSC logs, written recommendations and case notes; discussions with YSCs and other agency officials.</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>Partial compliance</p>
<p>Discussion</p>	<p>The agency has nearly finished its policy revisions. During this compliance period the agency revised forms for case planning and risk assessment review, and reissued policies that referred to those documents. It also adopted a case supervision plan policy, which the parties agreed was outside the scope of the settlement agreement, and a policy providing for annual review of policies.</p>

	<p>We have agreed that the only remaining new policy development work required under the agreement is revision of the training policy.</p> <p>As described above, there is still work to be done on implementation of the graduated response policy, and work is still necessary to finish presenting the required training topics, issue the training policy, and revise other documents necessary to fully implement the agreement.</p>
Recommendations for Reaching Compliance	<p>To achieve substantial compliance, the agency will need to complete its review of its written materials, including the 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. Staff must fully incorporate new and revised policies into their practice, and the training policy must be completed.</p>
Evidentiary Basis	<p>Review of agency policies and other guidance documents.</p>

Settlement Agreement Provision	<p>III.A.3.b.</p> <p>The DHS/DYS shall reassess the effectiveness of its policies, procedures, practices, and existing agreements annually and make necessary revisions to increase the effectiveness of its efforts to prevent violations of youth's constitutional rights with regard to the subject matter of this Agreement.</p>
Compliance Rating	<p>Substantial compliance.</p>
Discussion	<p>As described in my last report, the first anniversary of the State's revision of the probation policy and probation contract arrived in March. DYS asked staff from various parts of the State to provide feedback, notified me and the Justice Department about contemplated revisions, incorporated some of my suggestions, and reissued the policy in April. The agency also revised the Graduated Responses and SAVRY</p>

	<p>policies in April to incorporate and reference its newly revised case supervision plan and policy, and reviewed and reissued the Parole policy effective September 1.</p> <p>The agency has adopted a policy that sets forth a process for annual policy revisions in the first quarter of each year. In addition, the parties have agreed on a way to ensure that policies that reach their one-year anniversary this fall, prior to the agency’s first quarter annual review of all policies, will receive a timely review consistent with the settlement agreement. The agency will conduct a full review at the one-year anniversary of the policy’s issuance, and then do a brief check in January to confirm that circumstances have not changed, thereby putting all policies on the same cycle for future years.</p>
<p>Recommendations for Reaching Compliance</p>	<p>The State has now sustained substantial compliance for two reporting periods. If the substantial compliance rating continues during the next compliance period, then this provision will not be subject to further monitoring.</p>
<p>Evidentiary Basis</p>	<p>Probation policy and contract, communications from Community Services Director, policy on annual policy reviews, case plan policy and documents.</p>

<p>Settlement Agreement Provision</p>	<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>
<p>Compliance Rating</p>	<p>Substantial compliance</p>
<p>Discussion</p>	<p>The parties have advised that they intended this provision to require staff to recommend diversion from detention and out of home placement for probation violators where appropriate. YSCs are mostly</p>

	<p>recommending alternatives to detention and placement and are exhausting other options before recommending incarceration for probation violators.</p> <p>I offer this observation: there are many cases on the YSCs' caseloads with similar combinations of truancy, runaway, simple assault, and disturbing family peace, some with youth drug use. These cases often start with informal probation or a short period of formal probation, then some will escalate to longer formal probation, use of electronic monitoring, suspended detention sentences and eventual detention as the youth continues a pattern of behaviors but now amasses violations of probation and electronic monitoring and sometimes new charges as he or she fails to comply with the rules that have been imposed. Some communities have had success developing multidisciplinary teams that can support families, ensure that community resources are fully used, and advocate for new services and funding if the community has gaps in its continuum of services. While outside the scope of requirements of this settlement agreement, I encourage DYS and the court to collaborate with other stakeholders and service providers to explore whether such multidisciplinary teams could provide more robust options for diversion or prevent escalation of involvement for identified groups of youth in Lauderdale County.</p> <p>For the part of this provision that requires the agency to monitor opportunities and sources of funding for additional diversion programs, the Community Services Director reports having reviewed information about possible funding, including participating in a webinar offered by the U.S. Office of Juvenile Justice and Delinquency Prevention. He was not able to identify any appropriate new funding for Lauderdale County programs. He reported that the Families First program, which came to Lauderdale County within the past year, funded by a grant to the Department of Human Services, is expanding its offerings to include substance abuse assessment and referral. He explained that this option for accessing substance abuse services may allow for more youth with potential substance abuse problems to be diverted from the system rather than needing to access such services through the courts.</p>
<p>Recommendations for Reaching Compliance</p>	<p>The agency has sustained substantial compliance with this provision for one year. This provision will not be subject to further monitoring.</p>
<p>Evidentiary Basis</p>	

	Review of youth case files and YSC recommendations; conversations with DYS personnel; emails from Community Services Director.
--	--

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	Substantial compliance
-------------------	------------------------

Discussion	<p>The State submitted a draft training plan in March. The plan listed names of the training, dates, and anticipated trainers. After the Justice Department requested more details, DYS sent individual outlines for each scheduled training. After the trainings were completed, DYS sent the materials provided to staff. DYS has also drafted, received feedback from me and the United States, but not yet finalized a policy governing training.</p> <p>One topic for training remains to be completed, as well as revisions to new employee orientation and the training policy. The topic to be completed is “Best practices in social service and therapeutic options for Children and families, including evidence-based practices.” The training plan draft listed Motivational Interviewing (MI) among the planned training topics, and after the training the agency sent the presentation materials. I agree that motivational interviewing can partially count toward this requirement, as long as staff also receive additional training that helps YSCs understand what are the evidence-based practices in juvenile justice, and what are considered best practices for treating the youth and families whom they serve. Also, staff need further support in order to practice MI and receive feedback. More comments about MI are included in Section III(C)(2)(c).</p> <p>I have shared with the Community Services Director some sources of information for the evidence-based practices training and encouraged him to seek out possible trainers. He has been working on locating a trainer. Once a training is in the works, the agency should share with</p>
------------	--

	<p>me and the Justice Department an outline or comparable plan for the training.</p> <p>As explained below, if the State wishes to count motivational interviewing as a best practice to be evaluated by me, the State should submit plans for further developing the motivational interviewing skills of the YSCs beyond the brief training they received for all DHS workers.</p>
<p>Recommendations for Reaching Compliance</p>	<p>In order to sustain substantial compliance with this provision, the State must submit an outline for a training on evidence-based juvenile justice practices, a plan for supplementing the motivational interviewing training YSCs have received, and orientation plans for new workers that cover the topics found in the settlement agreement.</p>
<p>Evidentiary Basis</p>	<p>Review of draft training plan and policy; training materials; conversations with staff.</p>

<p>Settlement Agreement Provision</p>	<p>III.C.2.</p> <p>The training plans shall ensure that appropriate staff are trained on topics relevant to their role and responsibilities in juvenile delinquency proceedings including:</p> <ul style="list-style-type: none"> a. Constitutional due process requirements; [SEP] b. Disposition planning; [SEP] c. Best practices in social service and therapeutic options for Children and families, including evidence-based practices; [SEP] d. The appropriate professional role of different players within juvenile proceedings; and e. Any of the policies, procedures or practices that are created or revised pursuant to this Agreement.
<p>Compliance Rating</p>	<p>Partial compliance</p>
<p>Discussion</p>	

The settlement agreement provides the following definitions regarding training:

“Train” means to instruct in the skills addressed to a level that the trainee has the demonstrated proficiency to implement those skills as, and when, called for in the training. “Trained” means to have achieved such proficiency.

The parties agreed that I would assess compliance with this provision by observing and talking with staff to determine whether they had adequately incorporated the concepts from training in their practice.

a. Constitutional due process requirements:

As described in my last report, staff received a training that addressed this topic well. Staff seem to understand the need to provide youth with due process through proper probation violation hearings and are using the materials developed by the agency to help clients understand their rights. The concern expressed elsewhere in this report about vague language in contracts and case plans is something DYS managers should keep in mind when reviewing YSC work product.

b. Disposition planning:

The State has adopted a new case supervision plan, developed a case planning policy, and revised its policy governing risk and needs assessment. In my last report I noted that the agency would need to ensure that staff were trained in effective development of a disposition plan, appropriate ways to work with families as part of effective disposition planning, incorporation of the SAVRY and social history in development of the case plan, writing measurable and achievable goals, and proper use of the form. The training was provided to staff in March.

Staff have begun to use the new case plan form, but there is still variability in the case plans’ identification of objective, meaningful goals to address youths’ crime-related needs, action steps that could help youth achieve those goals, incentives the youth can earn if they complete the action steps, and creation of action steps that are specific, measurable, achievable, reasonable/relevant, and appropriately time-bound.

For example, in one case plan I reviewed, one of the youth's identified areas of criminogenic need was "Disruptive Behaviors/Personality." The action listed for the youth to complete was, "Enroll in activities and increase positive peer interactions." This action step is problematic because it is: 1) not specific enough – the youth does not know what types of activities he is expected to enroll in or how to increase positive peer interactions; 2) not measurable – how will the youth, parent and counselor know when the action step has been achieved? 3) not time-bound – what does the youth need to do by when?

In another case, the client's social summary indicates that the child has been diagnosed with an intellectual disability and "Obitual defiance" and has no past injuries, surgeries and/or diseases. However, it lists three medications the youth is taking that are typically used to address other mental health conditions. The case plan lists only "drug treatment teaching the disadvantages of using drugs" as a service referral, and no action steps. Other notes in the file suggest that the youth was actually participating in other programs not listed in the case plan. The youth was eventually detained for 30 days due to new assault and disturbing family peace charges. The case plan and contact notes do not indicate that there has been a full effort to sort out all of this young person's needs, ensure that needed services are provided, and align the case plan with identified needs. (Note: because the new charges constitute a "detainable offense" under the agreement, this example does not implicate Section III(A)(2)(c)(iii) above.)

I will work with DYS over the coming weeks to share more examples from the files I reviewed for further training and discussion purposes. Providing follow-up feedback to staff is appropriate after an important training, and should help them refine their practice.

c. Best practices in social services and therapeutic options:

During the past six months, the agency required that staff participate in courses including Interstate Compact, Community Services for Trafficking Victims, Family Engagement in Youth-Family Teams, Motivational Interviewing, and Commercial Sexual Exploitation.

As explained in the training plan section above, the agency has begun to address this training requirement, but there are two things the agency needs to do in order to reach substantial compliance with this area.

1) More on Motivational Interviewing

Staff participated in an agency-wide motivational interviewing (MI) training, but I did not see consistent use of MI skills during my client meeting observations. There could be several reasons for this, including the likelihood that my presence changes the dynamic in the room, the lack of follow-up practice with juvenile justice-specific case scenarios after MI was introduced to the whole Department of Human Services, and the fact that several of the client meetings I observed were final meetings where the youth had completed probation, so the nature of the visit was different from usual.

I would like to explore with the parties possible alternative approaches for me to assess whether staff have been sufficiently “trained” in MI or anything else the agency submits for review. Options might include having me watch staff do motivational interviewing meetings with each other pretending to be the client, or having me play the client for role plays with staff. I also encourage the agency to provide opportunities for staff to practice and receive follow-up training and feedback as needed.

2) Training on evidence-based and best practices in juvenile justice and best practices for treating the youth and families who make up the DYS caseload

The Community Services Director is working on developing this training. I have sent a number of resources, and would be happy to discuss this further.

d. Appropriate professional role of different players within juvenile proceedings:

This training occurred in April. Staff appear to understand the roles of the various players in the system.

e. Policies, procedures and practices addressed in the Agreement:

The agency has been providing training in Lauderdale County as new policies have been adopted. This spring, the agency did a follow-up graduated responses training as well.

In my last report, I encouraged the agency to figure out how it would assess understanding and proficiency following training, and to determine steps to take if staff lack comprehension or competency. The agency chose to do pre- and post-tests, which staff did not appreciate because the tests were written to capture tiny details in

	<p>policy, rather than assess the most important points of understanding and skill development. I encourage management to work with staff to figure out what meaningful methods of assessment might be most effective.</p>
<p>Recommendations for Reaching Compliance</p>	<p>In order to achieve substantial compliance, the agency must provide follow-up supervision and feedback to staff on dispositional planning, and must complete training on section C, evidence-based and best practices. Key concepts included in trainings should be reflected in revisions to the Desktop Guide and orientation materials.</p>
<p>Evidentiary Basis</p>	<p>Review of youth files, discussions with DYS personnel, review of training materials.</p>

<p>Settlement Agreement Provision</p>	<p>III.C.3.</p> <p>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.</p>
<p>Compliance Rating</p>	<p>Substantial compliance</p>
<p>Discussion</p>	<p>The agency has drafted a training plan, provided additional details for most trainings as requested, and implemented the trainings for which there were plans.</p>
<p>Recommendations for Reaching Compliance</p>	<p>To sustain substantial compliance, the agency will need to finish the additional elements of its training plan and, one year after the initial plan was submitted, complete another plan.</p>
<p>Evidentiary Basis</p>	<p>Records of recent trainings and discussions with staff.</p>

Settlement Agreement Provision	<p>III.C.4.</p> <p>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.</p>
Compliance Rating	Substantial compliance
Discussion	The State submitted a training plan for review.
Recommendations for Reaching Compliance	<p>In order to sustain substantial compliance, the State will need to finish and submit the additional elements of its training plan, incorporating feedback from me and from the Justice Department as appropriate. One year after the initial plan was submitted, that State will need to complete another plan.</p>
Evidentiary Basis	Draft training plan, additional training materials.

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. [ISEP]</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. [REDACTED] A representative for the United States will also attend. The open meetings shall inform the public about the requirements of this Agreement and the DHS/DYS' progress in each substantive area of the Agreement, and address community concerns regarding this Agreement. The meetings shall be held in a location that is accessible to the public. At least one week before the open meetings, the DHS/DYS shall widely publicize the meetings using print media, radio, and the internet.</p> <p>IV.C.</p> <p>The community meetings shall include summaries of the Action Plan and Compliance Reports required by this Agreement during the period prior to the meeting and any policy changes or other significant actions taken as a result of this Agreement. The DHS/DYS shall make any written summary of policy changes or other significant actions taken as a result of this Agreement publicly available on a public website it creates or maintains.</p>
<p>Compliance Rating</p>	<p>The State reached substantial compliance in January 2017 and sustained it for one year. Therefore, these provisions are no longer subject to monitoring.</p> <p>The parties agreed that the State is still obligated to hold its community forums every six months throughout the life of the settlement agreement implementation.</p>

<p>Settlement Agreement Provision</p>	<p>V.B.</p> <p>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.</p>
---------------------------------------	--

Compliance Rating	Substantial compliance reached in July 2016 and sustained for one year – no longer under monitoring.
-------------------	--


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

Settlement Agreement Provision	<p>VIII.A.2.</p> <p>Schedule for Policy and Procedure Review. Unless otherwise stated in Section III of this Agreement, the DHS/DYS shall complete its policy</p>
--------------------------------	---

	<p>review and revision within six months of the Effective Date. To accomplish this goal, the DHS/DYS shall adhere to the Agreement regarding each substantive provision. After the DHS/DYS completes its initial revision, it shall immediately submit the revised policies to the Probation Services Independent Auditor for review and input and to the United States for its review and input. Both the Independent Auditor and the United States shall submit to the DHS/DYS any suggested revisions to the proposed policies within thirty (30) days. Within thirty (30) days after receiving the Independent Auditor’s and the United States’ suggested revisions, the DHS/DYS shall revise the policies to incorporate the revisions, where deemed appropriate by DHS/DYS.</p>
Compliance Rating	Substantial compliance
Discussion	<p>The agency is almost done with its policy and procedure development. As identified in this report, only the final revisions of the training policy remain.</p> <p>The agency has sustained substantial compliance with this provision for one year because “all or nearly all” of the requirements were met. The state did not complete its policy revisions within the 6 month time frame required, but eventually completed all but the remaining training policy.</p>
Recommendations for Reaching Compliance	Development and implementation into practice of the remaining training policy will be monitored under Section III(A)(3)(a).
Evidentiary Basis	Draft and final policies and local Lauderdale County implementation memos.

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>
--------------------------------	--

	<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>
<p>Compliance Rating</p>	<p>Substantial compliance for all finalized policies. Modification of ancillary documents such as job descriptions, training materials and performance evaluation instruments will be monitored under the relevant sections in the rest of the agreement.</p>
<p>Discussion</p>	<p>The State has adopted and begun implementing each policy as it has been finalized. With the exception of the graduated response policy, all newly adopted or revised policies have been implemented, and the State has begun implementing that policy. As described above, the training policy has not yet been finalized, so the state has not had an opportunity to comply with this provision as it pertains to that policy. The state has been in substantial compliance because the provision as written requires only that the state begin to implement each policy and align documents as the policies are adopted.</p> <p>The agency has sustained substantial compliance with this provision for one year for those policies already issued. The remaining documents to be aligned and policies to be implemented will be monitored under the relevant sections in the rest of the agreement, including Section III(A)(3)(a).</p>
<p>Recommendations for Reaching Compliance</p>	<p>The remaining documents to be aligned and policies to be implemented will be monitored under the relevant sections in the rest of the agreement as noted, including Section III(A)(3)(a).</p>
<p>Evidentiary Basis</p>	<p>See discussions above for each section.</p>

<p>Settlement Agreement Provision</p>	<p>VIII.B.2.</p> <p>Compliance Report. The DHS/DYS shall submit a bi-annual compliance report to the United States and the Probation Services Independent Auditor, the first of which shall be filed within six months of the Effective Date. Thereafter, the bi-annual reports shall be filed 30 days prior to the Independent Auditor’s bi-annual compliance tour until the Agreement is terminated. Each bi-annual compliance report submitted 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>
<p>Compliance Rating</p>	<p>Substantial compliance</p>
<p>Discussion</p>	<p>The State submitted a timely compliance report prior to the August 2018 compliance visit. It addressed each area and described actions that had been taken, as well as the actions the State intends to take to reach substantial compliance, and challenges it is facing. The report did not offer dates by which it planned to address remaining issues. However, because the State submitted a substantive report that addressed each provision and its accomplishments and next steps, I find that this is substantially compliant.</p>
<p>Recommendations for Reaching Compliance</p>	<p>The agency has sustained substantial compliance with this provision for one year. This provision will not be subject to further monitoring. However, the State is still expected to submit reports 30 days prior to each compliance visit.</p>
<p>Evidentiary Basis</p>	<p>Compliance reports.</p>

--	--