Attachment A

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. THE STATE OF OHIO; The Honorable John Kasich The Ohio Department of Youth Services Harvey Reed, Director of Ohio Youth Services Indian River Juvenile Correctional Facility Cuyahoga Hills Juvenile Correctional Facility Circleville Juvenile Correctional Facility Scioto Juvenile Correctional Facility, Defendants.	)	CIVIL ACTION NO: 2:08-cv-475

SUPPLEMENTAL COMPLAINT

THE UNITED STATES OF AMERICA ("Plaintiff"), by its undersigned attorneys, hereby files this Supplemental Complaint and alleges upon information and belief:

1. The United States files this Supplemental Complaint in the above captioned matter pursuant to the pattern or practice provision of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141, to enjoin the named Defendants from depriving youth confined in the Circleville Juvenile Correctional Facility, Cuyahoga Hills Juvenile Correctional Facility, Indian River Juvenile Correctional Facility, and Scioto Juvenile Correctional Facility (collectively, the "DYS facilities") of rights, privileges, or immunities secured or protected by the Constitution and laws of the United States.

Jurisdiction, Standing and Venue

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345.

3. The United States is authorized to initiate this action pursuant to 42 U.S.C. § 14141.

4. Venue in the United States District Court for the Southern District of Ohio is proper pursuant to 28 U.S.C. § 1391.

Defendants

5. Defendant State of Ohio ("State") is responsible for the administration of juvenile justice in the State and operates, or contracts for the operation of, all juvenile justice facilities in the State. This action concerns the administration of the DYS facilities, which house youth in State custody who are confined for periods of time established by juvenile county courts.

6. Defendant John R. Kasich is the Governor of Ohio and, in this capacity, heads the executive branch of Ohio's government. The Governor of Ohio, as chief of the executive branch, has the duty to ensure that the departments that compose the executive branch of Ohio government guarantee the federal constitutional and statutory rights of all of the citizens of Ohio, including the youth confined in the DYS facilities.

7. Defendant Ohio Department of Youth Services ("DYS") establishes the general policy to be followed by its juvenile institutions and contractors; provides leadership in developing programs to rehabilitate youth committed to State custody; and is responsible for the promulgation of all rules and regulations necessary and appropriate to the administration and operation of the DYS facilities.

8. Defendant Harvey J. Reed is Director of the DYS and, in this capacity, exercises administrative control of, and responsibility for, the DYS Facilities.

9. Circleville Juvenile Correctional Facility is a juvenile correctional facility within the State of Ohio, a part of DYS, and under the administrative control of and responsibility of Director Harvey J. Reed.

10. Cuyahoga Hills Juvenile Correctional Facility is a juvenile correctional facility within the State of Ohio, a part of DYS, and under the administrative control of and responsibility of Director Harvey J. Reed.

11. Indian River Juvenile Correctional Facility is a juvenile correctional facility within the State of Ohio, a part of DYS, and under the administrative control of and responsibility of Director Harvey J. Reed.

12. Scioto Juvenile Correctional Facility is a juvenile correctional facility within the State of Ohio, a part of DYS, and under the administrative control of and responsibility of Director Harvey J. Reed.

13. The individual Defendants named in Paragraphs 6 and 8 above are officers or agents of the State of Ohio and are sued in their official capacity only.

Factual Allegations

14. Defendants are legally responsible, in whole or in part, for the operation of the DYS facilities and for the health and safety of the youth confined at the DYS facilities.

15. Defendants are governmental authorities with responsibility for the administration of juvenile justice or the incarceration of juveniles within the meaning of 42 U.S.C. § 14141.

16. Defendants are obligated to operate the DYS facilities in a manner that does not infringe upon the federal rights, as protected by the Fourteenth and Eighth Amendments to the

Constitution of the United States and by other federal law, of individuals confined at the DYS facilities.

17. At all relevant times, Defendants have acted or failed to act, as alleged herein, under color of state law.

18. On or about November 8, 2013, the lead monitor in *United States v. Ohio*, 2:08-cv-475, investigated the accumulation of seclusion hours among some youth at the Scioto Juvenile Correctional Facility. She wrote that she found the State had secluded ten youths for over 10 percent of their time in custody during a six-month period in 2013.

19. On or about January 17, 2014, DYS released information showing that youths on the mental health caseload at Cuyahoga Hills Juvenile Correctional Facility, Indian River Juvenile Correctional Facility, Circleville Juvenile Correctional Facility and Scioto Juvenile Correctional Facility had spent approximately 59,865 hours in seclusion from approximately July 2013 through December 2013.

20. On November 21, 2013, DYS announced it would close Scioto Juvenile Correctional Facility and the youths would be gradually reassigned to the remaining facilities. Plaintiff believes that some Scioto youth were transferred to Cuyahoga Hills Juvenile Correctional Facility, Indian River Juvenile Correctional Facility and/or Circleville Juvenile Correctional Facility.

21. On or about January 17, 2014, DYS released information showing that some youth on the mental health caseload at Indian River Juvenile Correctional Facility, Circleville Juvenile Correctional Facility and Scioto Juvenile Correctional Facility had been placed in seclusion for long periods of time, including seclusion of 19 days for one youth and 21 days for another youth.

22. On or about January 17, 2014, DYS released information showing that one youth on the mental health caseload at Cuyahoga Hills Juvenile Correctional Facility had been placed in pre-hearing seclusion for 4.88 days, in contravention of DYS policy concerning the maximum length of pre-hearing seclusion.

23. On or about January 17, 2014, DYS released information showing that some youth on the mental health caseload at Cuyahoga Hills Juvenile Correctional Facility, Indian River Juvenile Correctional Facility, Circleville Juvenile Correctional Facility and Scioto Juvenile Correctional Facility had been placed in seclusion despite DYS' observation that the youths had displayed suicidal ideation, self-injurious behavior or were on suicide watch.

24. Numerous national studies have established that seclusion of youth with mental health disorders even for short periods of time can severely harm youth. ACLU, "Alone & Afraid: Children Held in Solitary Confinement and Isolation in Juvenile Detention and Correctional Facilities" (Nov. 2013); American Academy of Child & Adolescent Psychiatry, Policy Statements: Solitary Confinement of Juvenile Offenders" (April 2012); Lindsay Hayes, Office of Juvenile Justice and Delinquency Prevention, Juvenile Suicide in Confinement: A National Survey (2009).

25. On or about January 10, 2014, the lead monitor in *United States v. Ohio*, 2:08-cv-475, found that Scioto youths who spent long periods of time in seclusion often were not receiving mental health treatment via group during their seclusion time. She found instead that these youths were receiving daily visits by mental health staff during the seclusion period, but these visits were documented as brief checks per protocol, and were not treatment oriented.

26. On or about December 16, 2013, a subject matter expert in *S.H. v. Reed*, No. 2:04-cv-1206, stated that if a youth with a mental health disorder is placed in seclusion, it is

incumbent on DYS to modify the youth's integrated treatment plan. If a youth with a mental health disorder is placed in seclusion and DYS does not modify the youth's integrated treatment plan, seclusion may exacerbate the youth's behavioral problems. On information and belief, DYS has not so modified youths' treatment plans.

27. Defendants have engaged, and continue to engage, in a pattern or practice of failing to provide adequate mental health care and rehabilitative treatment to youth at the DYS facilities in the following specific respects, among others:

a. the provision of adequate screening and assessments;

b. the provision of adequate treatment planning; and

c. the provision of adequate psychological services.

28. Defendants have engaged, and continue to engage, in a pattern or practice of failing to ensure that youth with mental health disorders at the DYS facilities are adequately protected from harm and from undue risk of harm in the following specific respects, among others:

a. protection from the unnecessary use of seclusion; and

b. protection from the use of seclusion as a barrier or obstacle to receiving adequate mental health care and rehabilitative treatment at the DYS facilities.

29. Defendants have engaged, and continue to engage, in a pattern or practice of subjecting youth with mental health disorders at the DYS facilities to unnecessary periods of seclusion with:

a. the specific intent to punish; or

b. no reasonable relation to a legitimate governmental objective and instead as a form of punishment.

Violations Alleged

30. The United States incorporates by reference the allegations set forth in Paragraphs 14 through 29 as if fully set forth herein.

31. The acts and omissions alleged in Paragraphs 18 through 29 constitute a pattern or practice of conduct that violates the federal rights, as protected by the Eighth and Fourteenth Amendments to the Constitution of the United States, of youth confined at the DYS Facilities.

32. Unless restrained by this Court, Defendants will continue to engage in the acts and omissions set forth in Paragraphs 18 and 29 that deprive youth confined at the DYS facilities of rights, privileges, or immunities secured or protected by the Constitution of the United States and federal law, and will cause irreparable harm to these youth.

PRAYER FOR RELIEF

33. The Attorney General is authorized, pursuant to 42 U.S.C. § 14141, to seek equitable and declaratory relief.

WHEREFORE, the United States prays that this Court enter an order:

a. Declaring that the acts, omissions, and practices of Defendants set forth in Paragraphs 18 through 29 above constitute a pattern or practice of conduct that deprives the DYS facilities' youth of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, and that those acts, omissions, and practices violate the Constitution and laws of the United States;

b. Permanently enjoining Defendants, their officers, agents, employees, subordinates, successors in office, and all those acting in concert or participation with them from continuing the acts, omissions, and practices set forth in Paragraphs 18 through 29 above, and

requiring Defendants to take such actions as will ensure that lawful conditions of confinement are afforded to youth at the DYS Facilities; and

c. Granting such other and further equitable relief as the Court may deem just and proper.

DATE: March 12, 2014

Respectfully submitted,

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Attachment B

MEMORANDUM

TO: Tom Anger, Linda Janes, Amy Ast—Ohio DYS
Bo Tayloe, Silvia Dominguez—U.S. DOJ

FROM: Kelly Dedel, Ph.D., Lead Monitor *U.S. v State of Ohio*

RE: Results of Seclusion Analysis

DATE: November 8, 2013

As you know, while I was on site at Scioto during the week of October 14, 2013, I became curious about the accumulation of seclusion hours for certain youth. While on site, I noted that the IH Officer and Superintendent used a tempered approach in the number of seclusion hours ordered as a sanction for individual AOVs (e.g., they did not order the maximum permissible, but more often something less). However, I also noticed that the same youth's names kept coming up in the documentation, over and over again.

I did not have time to further investigate this while I was on site, so upon returning home, I requested additional documents to examine this "accumulation" question. Using the AMS seclusion reports for the entire 6-month monitoring period, I calculated the number of hours/days each youth spent in seclusion. At first, I simply estimated the number of days the youth was in custody during that time, e.g., if he had any seclusion time during the month of June, I assumed he was there for the entire month. Once I obtained the preliminary results, I felt the need to make the analysis more precise and requested the exact admission and release dates for each youth so that I could know the precise number of days in custody, and therefore the proportion of that time that the youth spent in seclusion.

The results of this analysis are summarized in the table below. It includes youth whose total seclusion hours/days was 10% or more of their time in custody during the 6-month period. [Note: the total time in seclusion was <u>not</u> consecutive.] Of course, the AMS records show that there are some youth who spent very little time in seclusion. However, the AMS records also show that there are a number of youth who spent a considerable amount of time (20, 30, 40, nearly 50 days) in seclusion. Depending on how long the youth was in custody, this could amount to significant proportions of his time at Scioto.

As you know, I have serious concerns about the use of seclusion as a sanction:

- The risk of self-harm increases when youth are isolated. Approximately ½ of the suicides that occur in juvenile correctional facilities occur among youth who are in disciplinary seclusion.
- Isolation has the potential to exacerbate mental illnesses.
- Seclusion suppresses violent behavior in the moment, but does nothing to address the underlying causes of it. Instead, youth often emerge from seclusion feeling angry, frustrated and irritable—likely the very emotions that triggered their violent behavior in the first place.

- Seclusion disengages youth from the people and programs that they need to access in order to develop the awareness, skills and desire to control their violent behavior.

Although I believe it to be ineffective, when youth experience seclusion in very small doses, I don't necessarily believe it is harmful. However, when youth's exposure to seclusion accumulates, as it has for the youth listed in the table below, I believe the risk of harm is much more significant.

I offer these data as a starting point for a conversation about how to mitigate these risks for the youth who have chronic, aggressive misconduct. Obviously, preventing the misconduct via effective treatment is the best solution. Dr. Glindmeyer is reviewing these youth's mental health records and may be able to make some recommendations toward that end. When treatment is not sufficient, finding ways to address the youth's behavior that are compatible with, rather than counterproductive to, the goal of rehabilitation seems essential.

I plan to summarize these results in the upcoming Monitor's Report, but hope that we can initiate a problem-solving discussion about where to go from here in the meantime.

Respectfully,

Kelly Dedel, Ph.D.
Lead Monitor, *U.S. v. State of Ohio*

Youth	Days in Custody during Monitoring Period (max 184)	Days in Seclusion during Monitoring Period	% days spent in Seclusion
[O.J.]	74	28.54	38.57%
[B.D.]	184	49.56	26.93%
[A.F.]	184	43.83	23.82%
[T.R.]	184	35.36	19.21%
[D.H.]	184	33.59	18.25%
[J.A.]	141	24.56	17.42%
[T.H.]	109	16.27	14.92%
[M.G.]	137	17.55	12.81%
[R.B.]	184	23.24	12.63%
[K.A.]	184	20.57	11.18%
[D.S.]	184	17.62	9.6%

Attachment C

Ohio | **Department of Youth Services**

John R. Kasich, Governor
Harvey J. Reed, Director

November 21, 2013

TO: Stakeholders

FROM: Director Reed

RE: Facility Closure

I want to inform you of the Department's decision to close the Scioto Juvenile Correctional Facility (SJCF) on May 3, 2014. Over the course of the past two years, the DYS population has dropped from an average of 685 youth in October 2011 to 525 youth in October 2013. With a 23 percent drop in population, closing the facility improves the efficiency of our operations.

As of yesterday, there were 38 youth at SJCF (20 males and 18 females who reside separately). Male youth will be gradually reassigned to the remaining facilities according to their security, educational and programming needs. I am confident that our staff is well-equipped to handle these youth safely and effectively. We are evaluating the appropriate placement options for our female youth, including placement at private residential facilities and Community Corrections Facilities (CCFs), and will certainly keep you informed as the plan advances.

We are required to follow all layoff procedures according to union contracts and the Ohio Revised Code; however, we will offer a DYS position to all staff impacted by this closure and who are not ready to retire. During the next few weeks, we will work closely with the affected bargaining unit and exempt staff to identify positions for which they are qualified.

Thank you for your cooperation and support. Please do not hesitate to contact us with any questions or concerns by emailing questions@dys.ohio.gov.

Central Office
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Attachment D

United States Seclusion Hours Summary Table

Prehearing And Intervention Seclusion Hours	**July 2013**	**Aug 2013**	**Sept 2013**	**Oct 2013**	**Nov 2013**	**Dec 2013**	**Totals**
Cuyahoga	434.45	624.37	1,027.85	1,433.47	864.97	629.34	5,324.26
	102.05	47.88	16.10	143.78			
Scioto	277.92	528.14	108.75	403.52	232.44	286.83	3,999.52
	336.00	984.17	72.00	457.75	240.00	72.00	
Indian River	2,025.13	1,938.72	2,091.99	1,908.29	1,475.24	1,763.57	20,235.07
	1,657.33	3,072.00	2,105.60	997.20	384.00	816.00	
Circleville	930.38	1,319.01	1,444.17	2,775.69	3,048.87	850.71	30,306.16
	2,256.17	2,448.00	1,752.00	4,919.33	6,420.10	2,141.73	
Total	**8,019.43**	**10,962.29**	**8,618.46**	**13,039.03**	**12,665.62**	**6,560.18**	**59,865.01**

Attachment E

S.H. v. Reed
Re: Compliance with Consent Order Provisions regarding Mental Health
Submitted by: Andrea Weisman, Ph.D.
December 16, 2013

Sub-topic II.C.1.a. QA/QI and peer review for mental health and psychiatry

Mental Health Compliance Rating – Partial Compliance

Methodology: Peer Review forms were received from each facility: CJCF – N=6, CHJCF – N=8, Scioto – N=7, IRJCF – N=6.

Observations: These reviews are titled Clinical File Reviews and reflect provider's assessment of 14 areas of concern including, whether the ITP is strength-based, whether there is evidence that parents/guardians have been communicated with, whether the SOAP format was utilized in the documentation of group and individual sessions, etc. The newly created form provides check boxes (Compliant, Non-Compliant and N/A). Problems noted include: when non-compliant or N/A is checked there frequently is no narrative explaining why the rating was given. In addition, there are numerous examples of unchecked boxes or multiple responses to the same question. This check box approach does not really get at the quality of treatment provided or the clinical efficacy of their interventions. In order to determine the efficacy of treatment, DYS would, for example, need to look at such issues as whether the Sex Offender program is working, and for which populations of youth is it working? Are there racial, intelligence, psychiatric diagnostic factors that correlate with youth's ability to complete the program in a timely way. DYS would also need to examine such issues as what sub-groups of youth are effectively participating in their CBT curriculum or individual therapy, as evidenced by youth engaging in fewer acts of violence or meeting treatment objectives. And DYS would be advised to look at whether group and individual services are being offered at the recommended frequency, also by the demographic variables identified above.

In addition, Behavioral Health Peer Review forms specifically focused on ITPs were received from CJCF (N=16). These forms assess the ITP objectives in terms of the acronym SMART: Specific (What do we want them to accomplish?), Measurable (Concrete criteria established to measure progress. How much, how many, how will I know when it is accomplished), Attainable (Plan the steps and associated timeframe wisely), Realistic (Is the youth willing and able to meet the objective?) and Timely (Are

the time frames associated with objective). This is a form that collects provider's responses on 5 separate Likert scales which range from strongly disagree to strongly agree (with "neutral" in the center of the scale. Most providers rated the ITPs as meeting SMART expectations.

Since ITPs were also presented for review, it was possible to determine the accuracy of ratings on the SMART Peer review forms. For example, one form which rated the ITP positively on all indicators, in fact contained an objective that read "Learn and practice Skill Card #12: Following instructions and Skill Card #1: Listening over the next 30 days." In still another, the objective read "(Youth) and I will continue working together in individual sessions to identify his coping skills, coping strategies, common thinking errors and his goals, dreams and hopes for the future. This social worker plans on continuing to provide regular support, encouragement and advice in order to aid (youth) in balancing his thinking. We will complete the CBT packet entitled "Functional Behaviors – Making Choices that Work." Neither of these objectives identifies the new skill the youth will learn. I have provided consistent feedback over the years : Talking about completion of skill cards or CBT packets is not the same thing as skill acquisition. If the objective is completion of an assignment, the providers aren't measuring whether the problem behavior has decreased when they monitor for progress. And referencing what the social worker will do to provide support and encouragement is also not appropriate for inclusion in the statement of an objective. As a consequence, this peer review process has not meaningfully addressed the integrity of the ITPs.

There are additional problems with the Peer Review process. Many of the SMART Review forms are inaccurately filled out. With some providers rating that they "strongly disagree" that an objective meets the SMART indicators while the accompanying narrative would suggest the provider actually found the objectives to be compliant in the context of SMART. Also, where "neutral" is provider's rating, there is frequently no narrative to explain the rating. It is substantially unclear what value is added with this rating, particularly if it has no narrative clarifying what the rating means.

While there are continuing difficulties with the QI processes, there is evidence that psychology supervisors are focused on improving ITPs. Both Drs. Dunphy and Hamning should receive particular praise for their efforts to improve the quality of ITPs as evidenced by their thoughtful feedback to clinicians in both Behavioral Health Staff Meeting minutes and on their supervision notes. However their efforts are not reflected in the documentation provided for review.

Required Action: DYS needs to provide additional training on the writing of ITPs and on the forms in used for their peer review process.

Sub-topic II.C.1.e. Case formulation, fidelity to treatment provided to treatment model, treatment planning and treatment teams

Compliance Rating: Partial Compliance – Case formulation, treatment planning and treatment teams

Compliance Rating: Non- Compliant - Fidelity to treatment provided to treatment model

Methodology: Four Individual Treatment Plans (ITP) from each of the four facilities were reviewed. CJCF presented an additional 13 ITPs along with their Peer Review documentation. This documentation was sufficient to comment on case formulation, treatment planning and treatment teams. There was no documentation offered for review of fidelity to treatment provided to treatment model.

Observations: Treatment planning and ITPs continue to be a challenge for all facilities. Although we'd previously identified problems with the conceptualization and encoding of ITPs, and asked DYS to produce ITPs that was responsive to this observation, none of the currently reviewed ITPs are strength-based, nor do they present goals or objectives in concrete, measurable terms. Examples across facilities include: Goal: "(Youth will address his pro criminal identify mindset and work towards identifying a non criminal identity." The corresponding objective is "(Youth and I will complete the packet "Problems with Authority in our individual sessions." Goal: "(Youth) will be able to maintain control over disturbing thoughts and feelings and related impulses that contribute to criminal behavior." The corresponding objective reads: "I will use CBT techniques to develop an understanding of and be able to identify in everyday situations, the ways in which thoughts feelings, behaviors and consequences are connected and related to each other." Goal: "Correct irrational thinking, which leads to anger and interpersonal problems." And again, the corresponding objective reads: "I will use materials from MAV and CBT groups, including thinking reports, to review the last 5 incidents of angry outbursts and all future incidents to identify the specific triggers that were connected with these incidents."

As has been discussed previously, a case formulation is the essential framework for the development of Individual Treatment Plans (ITP). Treatment goals need to reflect real world concerns – issues that must be addressed in order for the youth to return to the community. Objectives should be designed to develop and measure skill acquisition. Plans need to be assessed in terms of their efficacy in helping the youth acquire the desired skills, and revised monthly – or more often – if it becomes clear that the ITP is not working. Articulating objectives as the completion of paper and pencil tasks or

studying Skill Cards does not address the development of new replacement behaviors. These are rather, strategies being employed in the service of the development of new skills, they are not in and of themselves, evidence of skill acquisition.

Required Action: Until ITPs are made more meaningful, mental health service delivery is compromised. The ITP is a roadmap, and if it doesn't outline what the staff is trying to achieve with the youth, there's no way for providers to assess whether the youth is improving. If DYS is to receive an improved compliance rating with regard to fidelity monitoring, they will have to produce evidence that they are engaging in such monitoring. This is a recommendation that has been made repeatedly over the years.

Sub-topic II.C.1.f. Behavior contracts

Compliance rating - Partial Compliance
Methodology: Five Intensive Behavior Contracts from each facility were reviewed.

Comments: As a general matter, there is noted improvement in the Intensive Behavior Contracts. There is consistency across facilities in their use of a newly revised Intensive Behavior Contract format. The Contracts now evidence only one or two target behaviors, some document the frequency of occurrence of the noxious behavior, and all offer both incentives and consequences. All Contracts are now scheduled for review 7 days from the date of its signing, and, Contracts evidence attempts to articulate goals in incremental steps: "I (youth) agree I will perform the following behavior: maintain a distance of an arm's length when upset, use respectful language when discussing my issue, and maintain a low voice volume 1 out of 3 times," "I will maintain an arm's length of space between myself and all female staff 1 out of 2 times."

There are however, some continuing challenges with the Contracts. In particular, the incentives are not sufficiently incentivizing: "I will earn an extra snack provided by the UM or SW at a predetermined time," "I can listen to 15 minutes of music in my SW or psychologist's office," "15 minutes with an MP3 player on her unit," "I will earn 10 minutes in my room." As has been noted previously, incentives should be both proximate to the production of the desired behavior and should be sufficiently incentivizing so as to be rewarding to the youth. An extra 10 minutes in one's room at the end of a week of not engaging in target behaviors just not enough of a carrot for an adolescent. Incentives should be meaningful and determined in collaboration with the youth. In order to be maximally rewarding, as previously noted, they should also be more proximate to the production of desired behavior – like daily.

In addition, all Contracts begin with the statement that "I (youth) enter into the following contract in order to create and maintain order and harmony in the facility." In point of fact, Behavior Contracts are entered into in order to enhance the youth's ability to engage in replacement behaviors - that is, new behaviors that replace the target

behaviors. If and when successful, it is likely that it will facilitate "order and harmony in the facility," however, that is not the purpose of the Contracts.

Contracts reviewed were developed from July through October. None were signed by the youth, clinician, UM, or supervisory behavioral health staff. No evidence was provided that any of the Contracts were reviewed. As such, it is impossible to know whether these Contracts were implemented, or if revising these Contracts was just a training exercise for the practitioners. As a consequence, it is impossible to determine if these Contracts are more efficacious than their predecessors. To determine the efficacy of the Contracts, DYS would have to track whether the youth met the goal and got the reward, or didn't meet the goal and got the consequence.

Required Action: DYS needs to provide documentation that reviews of the behavior contracts is occurring and that they are reducing the target behaviors.

Sub-topic II.C.1.h. Discipline for youth on the mental health caseload through the intervention hearing process

Compliance Rating – Partial Compliance

Since my preliminary recommendations in November, 2013, no new documentation has been presented for review regarding discipline for youth on the mental health caseload. We were advised that DYS has revised their policy "Intervention Procedures for Youth with Mental Illness, Cognitive or Developmental Disabilities (policy 303.01.04). Policy now requires that clinicians attend intervention hearings if: there are mental health and/or developmental issues that may have impacted the youth's behavior at the time of the rule violation, and if there are mental health and/or developmental issues that should be considered regarding disposition of the youth if found proven.

This was recommended in our earlier Mental Health findings report, and it is all to the good that DYS is incorporating this recommendation into their operating procedures.

I have substantial concern however, that DYS is continuing to seclude mentally ill youth who are charged with rule infractions. While some amount of room confinement may be appropriate in some instances, when mentally ill youth are secluded, especially for protracted periods, they suffer harmful consequences. When a mentally ill youth winds up in seclusion, it is incumbent on the practitioners to modify the ITP appropriately to extinguish the behavior. If the youth continues in seclusion without a corresponding modification of his/her ITP, the seclusion will just exacerbate the behavior problems DYS is seeking to extinguish.

In a Behavioral Health Staff Meeting note from Dr. Hamning at Scioto (8/21/13), he documents that "half of the kids are in seclusion (on Buckeye) a good majority of time." In particular, I have concern about how youth who were transferred off the Progress Units – all of whom were on the mental health caseload - are being managed in their new units. Historically – before DYS undertook drastic reforms to change the PROGRESS Unit program design – the PROGRESS Unit and SMUs before it exacerbated challenging youth behavior by keeping youth locked in their cells for most or all of the day, for weeks or months on end. Dr. Hamning's note raises concerns that the youth who have transitioned out of the PROGRESS Unit are still being managed with long stays in seclusion, by way of the IRAV and sanction seclusion processes rather than by way of a maximum security housing unit. If DYS's treatment interventions have not evolved enough to identify why these youth and others with serious mental health issues are behaving in the ways that they are, it is more likely that these youth will spend significant lengths of time in seclusion, an intervention that actually undermines the effectiveness of treatment.

In order to establish whether or not this is occurring, it will be necessary to review AMS logs, ITPs, Behavior Management Plans and seclusion hours for all the youth who transferred off Progress to other units.

Of course the concern extends to other mentally ill youth in DYS facilities.

Since DYS's announcement regarding the closure of Scioto, plaintiffs have expressed their concern "that youth on the mental health caseload who did not receive adequate treatment in the PROGRESS Unit will now be dispersed to the remaining institutions and continue to have deficient case formulation, treatment planning, behavior contracts, excessive discipline and excessive segregation. Similar youth who would have otherwise been transferred to the PROGRESS unit may be facing the same problem." It is clear to me that the deficiencies in behavioral health care led to high rates of seclusion for youth at Scioto, and that the same deficiencies exist at the other three DYS facilities. What I do not know from the documentation I have been provided is whether youth with mental illnesses are experiencing high rates of seclusion at the other three DYS facilities. Given the recent closures of both the PROGRESS Unit and Scioto JCF, plaintiffs' question regarding whether youth with behavioral challenges at other facilities spend a significant portion of their DYS stays in seclusion is a valid one. Such a determination, however, could be made only after a more thorough review of the AMS data and treatment files of mental health caseload youth who have experienced multiple Intervention Hearings over the last six months.

Required Action: By mid-January DYS should produce documentation that identifies the seclusion hours for "frequent fliers" and indicate whether they are on the mental health caseload. This, along with their ITPs and Intensive Behavior Management Plans will help to determine if IDTs are addressing the behavior that has led to seclusion, and the harmful effects of seclusion itself.