

**First Report of the United States Regarding Probation Services Settlement Agreement
Compliance
U.S. v. City of Meridian, et al., C.A. No. 3:13-CV-978**

This is the United States' first report as monitor of the State of Mississippi's Department of Human Services, Division of Youth Services' compliance with the Settlement Agreement in this case. On April 15, 2019, the parties informed the Court that the United States would begin monitoring the state's compliance with the Settlement Agreement, pursuant to the Agreement's terms at Section V.F. Joint Notice of Filing, ECF No. 130 (April 15, 2019). For context, this report includes some references to the prior compliance ratings of the Probation Services Independent Auditor, who monitored compliance with the Agreement from December 2015 to April 15, 2019.

As used in the tables below, the compliance ratings indicate the following:

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.

Table I. Summary Compliance Ratings and Status, 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; substantial compliance for graduated responses reached during this visit.	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	Substantial compliance	No
III.A.3.b	Reassess effectiveness of policies, procedures and practices annually and revise as necessary	Substantial Compliance Sustained 1 year	Yes

Provision number	Description of Provision	Compliance Rating	Monitoring Completed?
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 reached during last visit and sustained through this compliance period	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 reached during last visit and sustained through this compliance period	No
III.C.4	Training – submit to Auditor and U.S.	Substantial compliance reached during last visit and sustained through this compliance period	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	Substantial 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	Yes

Provision number	Description of Provision	Compliance Rating	Monitoring Completed?
		of remaining policy and modification of ancillary documents 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

This table provides details about compliance with each substantive provision in the agreement still subject to monitoring.

Table II. Detailed Compliance Ratings

<p>Settlement Agreement Provision</p>	<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>
<p>Compliance Rating</p>	<p>For the 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, substantial compliance reached during this compliance visit.</p>
<p>Discussion</p>	<p>Graduated responses</p> <p>In her previous, 6th report, the Independent Auditor wrote:</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>The State has made progress in its work to adopt and implement graduated responses for youth on probation. During our most recent compliance tour, we provided staff with some suggestions to improve or reconsider elements in the state’s most recent version of the grids. Staff incorporated that feedback and submitted it to the Independent Auditor as well as to the Lauderdale County Youth Court judges for review. The current draft is sufficient to qualify for substantial compliance, and staff have been incorporating incentives and non-incarcerative sanctions in their practice.</p>

	<p>DYS also reached out to schedule a meeting with the judges, and continues to solicit the judges’ feedback on the draft incentives and sanctions grids. This is sufficient to qualify for substantial compliance.</p> <p>In addition, the Auditor’s 6th report noted:</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> <p>In our most recent reviews of the case supervision plans available, we saw consistent notation that there had been discussion with youth and their families about appropriate incentives and sanctions at the time of case plan development. Staff confirmed that they were doing this when writing case plans. The case plans reflected that incentives were tied to SMART goals.</p>
<p>Recommendations for Reaching or Sustaining Compliance</p>	<p>The state has now reached substantial compliance with this provision.</p> <p>However, training remains an issue. Other documents such as the Desktop Guide and orientation materials must be updated to incorporate the practice, approach and philosophy embodied in the state’s new policies related to the use of graduated responses and the Structured Assessment of Violence Risk in Youth (SAVRY). Furthermore, any new staff must receive sufficient graduated response and case planning training and opportunity to demonstrate their understanding of the training so that their skills can be confirmed.</p> <p>These outstanding needs are reflected in the Partial Compliance finding we make for the training section, III.2.C, below</p>
<p>Evidentiary Basis</p>	<p>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.</p>

Settlement Agreement Provision	III.A.3.a. Within 90 days of the Effective Date, the DHS/DYS shall revise its policies, procedures, practices, and existing agreements to ensure compliance with this Settlement Agreement.
Compliance Rating	Substantial compliance
Discussion	With its submission of the newly revised training policy, the agency has completed its required policy revisions.
Recommendations for Reaching or Sustaining Compliance	
Evidentiary Basis	Review of agency policies and other guidance documents.

Settlement Agreement Provision	III.A.3.b. 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.
Compliance Rating	Substantial compliance.
Discussion	The state has been conducting timely annual reviews of the policies it developed under the settlement agreement, so it is in substantial compliance with this requirement. The state initially determined that it would review all agency policies during the first quarter of each year. However, officials recently decided that it would be more manageable to spread the work across the calendar year.

	To the extent that this provision requires the reassessment of practices as opposed to policies, the state has been responsive to implementation issues, conducting supplemental trainings and adjusting practice when needed in order to reach compliance the agreement.
Recommendations for Reaching or Sustaining Compliance	As of our most recent visit, the State has sustained substantial compliance for one year and will not be subject to further monitoring.
Evidentiary Basis	Probation, Parole and Informal Adjustment policies and contracts, Graduated Responses policy and attachments, SAVRY policy and attachments, Case Supervision Plan policy and attachments, policy on Annual Policy Reviews, communications 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 2019. The plan listed names of the training, dates, and anticipated trainers. After the Independent Auditor and DOJ requested more details, DYS sent individual outlines for each scheduled training. After the trainings were completed, DYS sent the materials provided to staff. These activities together are adequate to fulfill the requirements of completing training plans.</p> <p>We agreed that completion of motivational interviewing booster training, referenced in the Independent Auditor’s previous report, was not necessary under this agreement, since the state chose to train staff in best practices and therapeutic options in other ways.</p>

Recommendations for Reaching or Sustaining Compliance	The state has now reached substantial compliance and sustained it through one additional compliance period. In order to sustain compliance, the state will need to ensure that it modifies and updates its training plan, should it become aware of new information, data, or techniques that require changes to the training covered by the settlement agreement.
Evidentiary Basis	Review of draft training plan and policy; training materials; conversations with staff.

Settlement Agreement Provision	<p>III.C.2.</p> <p>The training plans shall ensure that appropriate staff are trained on topics relevant to their role and responsibilities in juvenile delinquency proceedings including:</p> <ul style="list-style-type: none"> a. Constitutional due process requirements; [L] [SEP] b. Disposition planning; [L] [SEP] c. Best practices in social service and therapeutic options for Children and families, including evidence-based practices; [L] [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.
Compliance Rating	Partial compliance
Discussion	<p>The settlement agreement provides the following definitions regarding training:</p> <p>“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.</p> <p>Compliance with this provision is assessed by observing and talking with staff to determine whether they had adequately incorporated the concepts from training in their practice.</p>

a. Constitutional due process requirements:

The newly hired staff person received training in due process rights of youth, presented by the Community Services Director and Regional Director during her orientation. The training was based upon the training that other staff had received previously.

b. Disposition planning:

The State took additional steps to train staff in effective case planning that uses SMART goals and incorporates incentives and sanctions. We saw evidence of this training in case plans.

c. Best practices in social services and therapeutic options:

The state conducted a training on this topic in November that met the requirements of this section. Because the training was conducted by another state agency, there were no pre and post tests. However, staff seemed to understand the concepts taught, along with recognizing that many of the programs covered that have an evidence base for reducing juvenile recidivism are not available in Lauderdale County.

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

Staff have been trained and appear to understand the roles of the various players in the system.

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

The agency has provided training for YSCs in Lauderdale County as new policies have been adopted. This fall, the agency conducted a follow-up case supervision plan training in response to feedback on incorporation of graduated responses into case planning.

Orientation, Annual Training and Staff Resource Materials

This compliance period, the state submitted drafts of materials for the Desktop Guide and for new staff orientation and experienced staff training. The feedback we offered included measures to ensure that the settlement agreement topics receive sufficient attention during training, ensuring that experienced staff receive training that is engaging and builds on their knowledge and skills, efforts to ensure that law and practice terms are explained accurately, and efforts to ensure that topics are taught effectively and with appropriate content.

Recommendations for Reaching or Sustaining Compliance	In order to achieve substantial compliance, the agency must complete its work on the Desktop Guide and orientation materials and ensure that all staff have received training on dispositional planning, including effective use and development of case supervision plans.
Evidentiary Basis	Review of youth files, discussions with DYS personnel, review of training materials and drafts of core training and Desktop Guide sections.

Settlement Agreement Provision	III.C.3. The DYS shall begin implementing its first training plans within twelve months of the Effective Date and shall create subsequent training plans on an annual basis thereafter.
Compliance Rating	Substantial compliance
Discussion	The agency drafted a training plan, provided additional details for most trainings as requested, and implemented the trainings for which there were plans. It submitted drafts of annual staff training topics and new staff orientation and began to incorporate feedback on those documents. These activities are sufficient for substantial compliance with this provision.
Recommendations for Reaching or Sustaining Compliance	Having reached substantial compliance by creating a training plan, to sustain substantial compliance, the agency will need to create a subsequent plan on or about November 26, 2019 (one year from the date the Independent Auditor found the State to be in substantial compliance with this provision).
Evidentiary Basis	Records of recent trainings and discussions with staff.

Settlement Agreement Provision	III.C.4. Training plans developed pursuant to this subsection shall be submitted to the Probation Services Independent Auditor and the
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	United States subject to the review process set forth below in subsection VIII.A.
Compliance Rating	Substantial compliance
Discussion	The State submitted training plans for review.
Recommendations for Reaching or Sustaining Compliance	To sustain substantial compliance, the State will need to submit the subsequent training plan developed pursuant to III.C.3 to the Justice Department for review.
Evidentiary Basis	Draft training plan, additional training materials.

Settlement Agreement Provision	VIII.A.1. The DHS/DYS shall generate such policies and procedures to ensure compliance with the substantive terms of this Agreement. The policies and procedures developed pursuant to this Agreement shall be subject to the review process described below in paragraphs VIII.A.2 and VIII.A.3. ⁽¹⁾ SEP
Compliance Rating	Substantial compliance
Discussion	See “Recommendations” section below.
Recommendations for Reaching or Sustaining Compliance and Evidentiary Basis	Recommendations and evidentiary basis for reaching compliance may be found in the sections of this report addressing Parts III.A.3.a.