

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

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

NOTICE OF FILING

To: All counsel of Record:

PLEASE TAKE NOTICE that on February 27, 2020, 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: **Second Report of the United States Regarding Probation Services Settlement Agreement Compliance.**

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

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CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of February, 2020, 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

**Second 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' second 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 compliance ratings of the United States' first report and to prior compliance ratings of the Probation Services Independent Auditor, who monitored compliance with the Agreement from December 2015 to April 15, 2019. ECF Nos. 132, 132-1 (07/17/19).

The findings are current through the most recent compliance tour, December 16 – 18, 2019 and follow up documents provided by the State of Mississippi within the month thereafter.

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.

Monitoring Completed means that the State has reached Substantial Compliance and sustained that level of compliance for a period of one year so that the indicated subsection (or "provision") is no long subject to monitoring. See Agreement Section VII.B.3.

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

Provision number	Description of Provision	Compliance Rating	Monitoring Completed?
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 May 2019 visit and sustained during this compliance period.	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 reached during May 2019 visit and sustained during this compliance period.	No
III.A.3.b	Reassess effectiveness of policies, procedures and practices annually and revise as necessary	Substantial Compliance Sustained 1 year	Yes
III.B.1	Diversion and Treatment Options – Recommend youth for existing diversion where appropriate and	Substantial Compliance Sustained 1 year	Yes

Provision number	Description of Provision	Compliance Rating	Monitoring Completed?
	monitor future funding opportunities		
III.C.1	Training – Develop training plans	Substantial compliance Sustained 1 Year	Yes
III.C.2	Training – cover topics relevant to responsibilities in delinquency proceedings	Substantial compliance achieved during this compliance visit.	No
III.C.3	Training – Begin implementing training plans within 12 months, then annually	Substantial compliance Sustained 1 year	Yes
III.C.4	Training – submit to Auditor and U.S.	Substantial compliance Sustained 1 year	Yes
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 reached during May 2019 visit and sustained through this compliance period.	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 will be monitored under other relevant sections including III(A)(3)(a).	Yes
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

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 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, the State reached substantial compliance during the May 2019 compliance visit and sustained it during this compliance period.</p>
Discussion	<p>Graduated responses</p> <p>The state sustained substantial compliance during this period. Staff in Lauderdale County clearly understand the use and value of graduated responses, and described using them when possible and appropriate. The case plans and progress notes of the two experienced Lauderdale youth services counselors reflected use of graduated responses. The newest counselor who arrived in September 2019 is just beginning to have her own caseload, so it was too early to determine whether she is actively using graduated responses, but in conversation she illustrated clear understanding of the concepts and opportunities for using graduated responses in her work. The newest counselor had not completed training in the risk and needs assessment tool as of the time of our visit, so she had not yet begun to complete case plans, which are driven in part by the risk and needs assessment.</p>
Recommendations for Reaching or Sustaining Compliance	<p>The state has now reached substantial compliance with this provision.</p> <p>In order to sustain substantial compliance over the next several months, the state should continue to assist staff in identifying available incentives and sanctions that can be used for youth on probation. In addition, the state should continue helping staff develop and refine their focus on case plan goals and use of graduated responses to support movement toward those goals.</p>

	<p>Regarding the newest counselor, we previously requested that the State provide samples of her case plans once she has completed her training. Two samples should be provided within the next review period.</p> <p>DYS responded to these recommendations by committing to assist staff in identifying available incentives and sanctions, as well as help staff develop and refine their focus on case plan goals and the use of graduated responses to support movement towards those goals. DYS has also committed to submitting two samples of case plans from the newest counselor by April 1, 2020.</p>
Evidentiary Basis	Review of documents generated by youth service counselors about individual youth, including case supervision plans; interviews with DYS staff and management; review of dispositional planning training materials; observation of graduated response and disposition planning training.

Settlement Agreement Provision	<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>
Compliance Rating	Substantial compliance sustained for this compliance period.
Discussion	No new policies were needed during this time period. The remaining activity was continuing work on the state's day-to-day operations manual for youth services counselors, known as the Desktop Guide. During this compliance period, the State provided revised sections of the Desktop Guide for review, and then incorporated recommended revisions in those parts that are covered by the settlement agreement
Recommendations for Reaching or Sustaining Compliance	The regional directors who conducted the graduated response and disposition planning trainings identified some recommended changes for the graduated response and case planning policies and forms. The agency should consider those recommendations and incorporate them as appropriate into the policies, forms and accompanying training.

	DYS responded to these recommendations by committing to consider staff recommended changes to case plan and graduated responses policies and forms and to make any necessary changes by April 1, 2020.
Evidentiary Basis	Review of agency policies, draft and revised Desktop Guide sections, and other guidance documents.

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; sustained for one year, monitoring completed.
Discussion	<p>The State shared plans for graduated responses and disposition planning training and then delivered that training during our visit. We discuss those trainings in section III (C)(2), below. The State also revised the training policy, which includes an intended schedule of new staff orientation as well as experienced staff training.</p> <p>One new staff member arrived during this compliance period, and she has one training yet to complete. We were told that the plan is to complete it in January. Since then, we received confirmation of her completion of required trainings.</p> <p>We also congratulate the agency on funding and hiring a community services training director. Having a person assigned to this role allows the agency to track the training needs of current staff in coordination with supervisors and agency leaders, keep abreast of new topics that would be valuable for staff to learn about, and coordinate orientation and ongoing training programs. Training coordination and planning is a key ingredient in continuous quality improvement in an agency.</p>
Recommendations for Reaching or Sustaining Compliance	The state has now reached substantial compliance and sustained it for one year, so this topic will no longer be subject to compliance monitoring.

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	Substantial 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> <p>a. Constitutional due process requirements:</p> <p>A newly hired staff person began in September 2019 and we received confirmation that she received this training on December 20, 2019.</p> <p>b. Disposition planning:</p>

	<p>During this visit, we observed trainings on graduated responses and disposition planning. The trainings included important components of these areas of practice. The trainers knew their subject matter and were clear and confident in their delivery of the material. They also reinforced the importance of documentation, and staff reflected their understanding about the importance of documentation.</p> <p>c. Best practices in social services and therapeutic options: The state conducted a training on this topic in November 2018 that met the requirements of this section. The newest staff member received a summary version of this training, and reflected an understanding of its content.</p> <p>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.</p> <p>e. Policies, procedures and practices addressed in the Agreement: The agency has provided training for counselors in Lauderdale County as new policies have been adopted. The updated graduated response and disposition planning trainings reflected this practice.</p> <p>Orientation, Annual Training and Staff Resource Materials During this compliance period, the state updated materials for the Desktop Guide and for new staff orientation and experienced staff training, incorporating our recommendations.</p>
<p>Recommendations for Reaching or Sustaining Compliance</p>	<p>In order to sustain substantial compliance, the agency must ensure that staff are trained on any updates to graduated responses and case plan policies or forms, as well as any other updates to policies covered by the settlement agreement.</p> <p>DYS has committed to train staff on any updates to policies covered by the Settlement Agreement by May 1, 2020.</p>
<p>Evidentiary Basis</p>	<p>Review of youth files, discussions with DYS personnel, review of training materials and drafts of core training and Desktop Guide sections, review of pre and post tests, observation of graduate response and disposition planning trainings.</p>

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 sustained; no further compliance monitoring.
Discussion	The agency drafted a training plan, provided additional details for most trainings as requested, and implemented the trainings for which there were plans.
Recommendations for Reaching or Sustaining Compliance	The state has now reached substantial compliance and sustained it for one year, so this topic will no longer be subject to compliance monitoring.
Evidentiary Basis	Records of recent trainings, discussions with staff, and review of draft training plans.

Settlement Agreement Provision	III.C.4. Training plans developed pursuant to this subsection shall be submitted to the Probation Services Independent Auditor and the United States subject to the review process set forth below in subsection VIII.A.
Compliance Rating	Substantial compliance sustained for one year; no further compliance monitoring
Discussion	The State submitted training plans for review.
Recommendations for Reaching or	The state has now reached substantial compliance and sustained it for one year, so this topic will no longer be subject to compliance monitoring.

Sustaining Compliance	
Evidentiary Basis	Draft training plan, additional training materials.

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. ^[1] [SEP]</p>
Compliance Rating	Substantial compliance and sustained during compliance period.
Discussion	No new policies or procedures were needed during this time period.
Recommendations for Reaching or Sustaining Compliance	<p>The state should monitor Lauderdale County Youth Court practices and consider policy modifications, should they be required in order for DYS practice to continue reflecting the substantive terms of the Agreement.</p> <p>In response to this recommendation, DYS has committed to making relevant policy modifications state-wide, should the Agreement-required modifications apply to all Youth Courts in the state. For any Agreement-required policy modifications applicable only to Lauderdale County, DYS will convey those modifications to Lauderdale County staff in memo form.</p>
Evidentiary Basis	Review of agency policies.