



**S.H. v. Stickrath**  
**Stipulation For Injunctive Relief**  
**SECOND ANNUAL REPORT**

**TABLE OF CONTENTS**

A. Introduction.....3  
B. Highlights.....6  
C. Concerns for the Future .....10  
D. P & P Revision.....12  
E. Use of Force, Seclusion, Restraints, & Classification .....13  
F. Education .....22  
G. Behavioral/Mental Health Care .....54  
H. Operations, Housing, Supervision, Staffing, & Training.....89  
I. Discipline, Grievances, & Youth Advocate.....119  
J. Medical Care.....123  
K. Dental Care .....128  
L. Release Authority.....131  
M. Community Based Treatment: Continuum of Care .....137  
N. Conclusion .....142

Appendix A

Appendix B

Appendix C

Appendix D

Appendix F

Appendix G

**SECOND ANNUAL REPORT  
FRED COHEN, MONITOR**

**July 15, 2010**

**A. INTRODUCTION**

First, my thanks to the Court and Counsel for being so generous in granting my request to delay the issuance of this Second Annual report until July 15, 2010.

Next, I wish to acknowledge the unexpected, May 26, 2010 departure of Director Stickrath to become the Director of the Ohio Department of Public Safety. Without question, DYS is simply not the same agency it was when Mr. Stickrath became Director in December 2004.<sup>1</sup> The institutional population is about half the previous size, the community footprint of juvenile justice in Ohio has been enlarged; facilities are smaller, safer, and more attuned to rehabilitation than before.

Tom Stickrath's leadership, along with support from the executive, judicial, and legislative branches of Ohio government, DYS staff, and yes, the contributions of S.H. Monitoring Team members have all had a role in this. The head of an agency such as DYS sets a tone, announces a philosophy, and then, hopefully, provides the resources needed to move ahead.

Director Stickrath set the tone of zero tolerance for the gratuitous use of force by staff, for example, and Team Member Steve Martin, working closely with DYS staff, worked to dramatically decrease use of force and increase the use of non-physical and non-confrontational techniques to diffuse violence.

There are many more gains attributable to Tom Stickrath's leadership and, as one might predict, there were decisions made that I did not agree with and decisions implemented in a

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<sup>1</sup> On April 27, 2010, in a memo to the Monitor and Director Stickrath, Class Counsel noted, "First, we see real progress and we commend DYS for that progress." Counsel went on to present "future concerns" and these concerns will appear in Section C of this document.

fashion that our Team experts thought resulted in some avoidable negative consequence. The manner, not the decision, of closing Marion Juvenile Correctional Facility is certainly one such example.

While it is plain that there are "miles to go" in the implementation of S.H., it is just as plain that many miles have been traveled from the issuance of my Fact-Finding Report on DYS, (January 2008).

The areas of mental health; education, particularly the use of suspension, expulsion, and limiting education opportunities for some youth; the increase in seclusion hours that accompanied a reduction in youth violence; the fragmentation of case/unit management planning, and enhanced training are among those areas in need of the closest scrutiny as monitoring enters its third year.

As Christine Money assumes the role of Interim Director, we pledge our support and our intention to wholeheartedly assist her in her new leadership role. Chris Money has, indeed, been the driving, implementation force for so many of the DYS changes that this promises to be a seamless transition.

The Court will note occasional references in the text to a DYS position, rejoinder, or the like. It has always been my practice with Reports of this type to give the agency a "first look" and opportunity to correct factual errors and comment on conclusions the agency believes are unsustainable. That was done here and DYS did a thorough review.

### **Monitoring Team**

The Monitoring Team presently consists of:

- Fred Cohen, LL.B, LL.M., Monitor
- Shay Bilchik, J.D.

- Ava Crow, J.D.
- Nicholas Makrides, D.M.D., M.A., M.P.H.
- Steve Martin, Esq.
- Orlando Martinez
- Barbara Peterson, R.N.
- David Roush, Ph.D.
- Donald Sauter, D.D.S., M.P.A.
- Ronald Shansky, M.D.
- Cheryl Wills, M.D.
- Vincent M. Nathan, Esq. (As of July 1, 2010, responsible for the Release Authority)

## B. HIGHLIGHTS

As I did for the First Annual Report, here I will simply list or briefly describe the various developments that have occurred in the implementation of S.H. during the past year.

The continued redirection in the institutional population has resulted in a total of 947 youth held in DYS facilities. The total population in May 2009 was 1266. The Scioto girls' population has been dramatically reduced to some 27 girls in April and 33 in May 2010.

With a 23% reduction in population from May 2009 to April 2010, DYS also had a 56% decrease in youth on youth violence and a 44% decrease in youth on staff violence. This will be discussed in more detail, *infra*.

As the institutional population has decreased, it is of interest to ask: What is occurring in the community? Are juveniles who might have been confined simply left to their own devices at the local level? In Section N, *infra*, these issues are dealt with in some detail. Suffice it to say, a rather remarkable continuum of care is unfolding with the development of alternative treatment programs, the shortening of the length of stay on parole and the further development of a regionalization designed to reduce reliance on confinement and to retain and return youth to their communities.

On June 6, 2009, Marion Juvenile Correctional Facility was closed leading to the transfer of some of the more intractable youth to Circleville and Ohio River Valley. Staff changes reverberated throughout the system with seniority "bumping" causing issues of job insecurity and upsetting the rhythm of functioning teams. Circleville had been functioning quite smoothly as a sex offender treatment facility and was transformed virtually overnight into a secure, gang-riddled, somewhat dangerous place.

Class counsel was greatly concerned and I convened a Special Inquiry Commission composed of Team members Dave Roush and Steve Martin. Their Report, issued on September 11, 2009, was critical of the manner in which the closing was planned and implemented.

The Report did lead to some awkward moments for the Team and DYS leadership. I feel confident that we have put those strained feelings well behind us. Dave Roush and Steve Martin, the Report's authors, are vital members of our Team and I applaud them for their energy, expertise, and candor in carrying out this assignment.

In December 2009 and March 2010, class counsel filed for Dispute Resolution under the terms of the Stipulation. The details are discussed in Section F of this Report. I believe it is fair to say that counsel's main concerns are with Circleville and ORV and that those concerns center on the education of those youth held in some form of seclusion or the SMU's.

DYS has enlisted the aid of private counsel, the firm of Bricker & Eckler, with regard to the latest dispute. I have tried to mediate a result satisfactory to both parties, but to date I have only been able to report on progress, not an agreement. On May 25, 2010, I assembled and issued a "progress Report" regarding the December 9, 2009 dispute. I have had no formal response to date.

The Court initiated a conference call on February 24, 2010 indicating concern about some DYS youth not being fed at appropriate times and whether food might be used as a punishment device.

I reported to the Court that in our monitoring we had never encountered food used as punishment and that while missed meals did exist, the reasons ranged from fear of congregate dining to simply not wanting to get up and go to the cafeteria. Our monitoring addressed the fear factor and we never uncovered significant numbers of youth avoiding meals out of fear and for

those who did miss going to the cafeteria, there were carry-back meals and a process designed to provide a safer environment. Our medical experts never detected, nor reported, on any dietary deficiencies as part of our monitoring.

DYS, I am told, provided data to the Court regarding meals that the Court found incorrect and misleading. No final determination has been reached on this matter as of this writing.

On September 24, 2009, I resigned as Monitor in the case of U.S.A. v. State of Ohio, the DOJ Stipulation encompassing (now) only Scioto. It became apparent to me that my monitoring style was incompatible with the demands of the DOJ and that an inordinate amount of my time was being spent attempting to satisfy the DOJ versus attempting to implement reform. The Court generously accepted by resignation and the U.S.A. case, then, is no longer a part of my monitoring or this Report.

The Mohican Juvenile Correctional Facility closed on May 10, 2010 and without any of the negative consequences associated with the Marion closure. Youth and staff transferred easily, although not without regrets since Mohican was highly regarded for its therapeutic community (TC) model and commitment to rehabilitation. As the Mohican staff is disbursed, its TC model will also be disbursed and its elements utilized at other facilities.

After a long national search Meredith Waudby was selected to serve as Manager of Training and Development at the Training Academy. This is a very welcome development since training and retraining of staff is so vital to a progressive undertaking such as the S.H. Stipulation.

Finally, I very recently learned that Brandon Strange M.D. has agreed to substantially increase his hours starting in August, 2010. This is a very welcome development since a lack of psychiatric leadership and oversight has been a significant deficit. Indeed, I would estimate that

fundamental improvement in mental health services will be our top monitoring priority in the next monitoring cycle.

### **C. CONCERNS FOR THE FUTURE**

A primary concern for me is to facilitate the continued reduction of youth-on youth and staff-on-youth violence. In addition, I expect to see dramatic declines in the use of seclusion in favor of Strength-Based Behavior Management (SBBM) and other techniques designed to enforce positive behavior and not simply react to negative behavior.

We must continue to press for improvement in unified case plans, unit management, and treatment plans. I hope to see youth with a much greater awareness of their re-entry plan and that all of this planning creates an achievable roadmap for successful return to the community. We should begin to think through a valid longitudinal study whereby one can assess our assumptions about what works by following youth into the community and using agreed upon success/failure criteria. My office is conducting an anecdotal survey that will be of interest but of little scientific value.

We must resolve the education issues that have taken up so much of our time. I hope to get agreement on the uses (or not) of expulsion and suspension and a plan that has as its goal, the provision of 5.5 hours a day of school for every eligible youth. I strongly urge the parties to now quickly agree to a resolution of the education issues that have been into the formal dispute resolution process. I heartily endorse the position of Team Member Ava Crow in this matter and with no resolution of the dispute, I will monitor this area in accordance with our views on suspension, expulsion, and the 5.5 hours of daily education as the norm. I hope also that we can resolve our differences without further burdening the Court.

I believe there is wholesale agreement among us that education is the prime predictor for reducing recidivism. These youth need literacy skills, vocational skills, and some need a solid

basis for going on to higher education. I would like to see more attention paid to those DYS youth who want to go to college, two-year or four-year, with special counseling and assistance with applications and funding.

I look to Dr. Brandon Strange, the new Administrative Psychiatrist, to begin to leave his imprint on mental health services. DYS has lacked psychiatric leadership for many years and Dr. Strange appears to be the right fit at the right time for this agency.

We will work for more consistency in diagnoses and utilization of psychotropic medication. I hope to see mental health treatment coordinated with education, recreation activities, and unit management.

As the DYS population continues to shrink, we cannot avoid asking what DYS will (or should) be in the near-term and in the long-term. It seems reasonable to speculate that DYS will receive and house an increasingly "deep end" population of youth: more misconduct, more serious misconduct, and less amenable to treatment.

These issues would appear to go beyond the reach of S.H. yet they will be stimulated by the S.H. reform model. I would urge DYS to establish a committee devoted to anticipating the future of DYS and the relationship between current changes and future needs and to work with the Monitor on this planning.

#### **D. POLICY & PROCEDURE REVIEW AND REVISION**

DYS has devoted considerable energy and staff time to this undertaking. It is true that numerous Stipulation deadlines for revision and implementation were not met. I followed a course where I viewed meeting S.H. Stipulation deadlines, some very unrealistic, as less important than a quality product providing there was evidence of good faith efforts to comply.

I attach as Appendix A, the Policy And Procedure Checklist, ODYS P & P (Revised May 31, 2010) showing the status of the P & P at issue. Members of the Monitoring Team worked closely with ODYS staff in many of these areas with use of force, education, grievance, discipline, medical care, and dental care receiving considerable attention.

## **E. USE OF FORCE, SECLUSION, RESTRAINTS, INVESTIGATIONS OF SERIOUS INCIDENTS, AND CLASSIFICATION**

### **Use of Force (¶'s 70-71)**

A. Progress Achieved. The new use of force policies and procedures (UOF-P&P) were implemented system-wide on October 1, 2009. System-wide implementation was preceded by a successful sixty-day pilot project conducted at the SJCF in June 2009. The three important and obvious benefits of the pilot project were: 1) further key revisions to the UOF-P&P; 2) final development of training program for the new UOF-P&P; and, 3) creation of staff resource personnel at SJCF who were made available to other JCFs as implementation proceeded.

Aside from the site-work done at SJCF (July 2009), Steve Martin conducted site inspections prior to the October implementation date at three of the four remaining facilities in August-September 2009 (IRJCF, CHJCF and CJCF). At two of these three facilities (IRJCF & CJCF), there were serious and pervasive deficiencies documented regarding staff use of force. Among the deficiencies noted was the lack of central office personnel to exercise proper oversight of facility implementation of the UOF P&P. In addition, the reports addressed the continuing pattern of supervisory personnel becoming directly involved in applications of force rather than supervising the incidents. In the aftermath of these reports, DYS developed and implemented at least three major initiatives intended to address these deficiencies.

From November-January 2009, DYS officials developed and conducted training for all OMs, UMs, OAs, UMAs and Direct Deputies on the proper way to conduct planned interventions of force. In January 2010, DYS created an important new position, Facility Resource Administrator, specifically designed to provide oversight and to serve as an ongoing

resource to facility administrators on the UOF P&Ps. This position was filled by one of the most experienced facility administrators in DYS (former Mohican DSDS David Pigman). Also, in January 2010, DYS created a new facility position, Facility Intervention Administrator (FIA), to review all use of force incidents at his/her facility. During February, these five FIAs were appointed and trained and started their respective assignments on March 1, 2010.

In February and April 2010, Mr. Martin conducted follow-up site inspections at IRJCF and CJCF, respectively. In August 2009, these two facilities had a total of 190 use of force incidents. In April 2010, this number had been reduced to 120 with the populations of these two facilities having remained fairly constant from August 2009 thru April 2010. More importantly, these two facilities had almost completely transformed the administration of staff use of force from dysfunctional systems to ones positioned to exert the oversight necessary to properly manage and control staff use of force. SJCF and CHJCF officials/staff continue to maintain and improve their management of staff use of force at their respective facilities. While ORVJCF officials are now exercising systematic oversight of staff use of force, they continue to experience the highest frequency of use of force incidents. While the frequency is partially explained by the number of youth (2<sup>nd</sup> highest population) and classification of youth (SMU and Close Custody) assigned there, the frequency is disproportionately high.

**In summary, DYS now has in place the necessary components to effectively manage and minimize incidents of unnecessary and excessive force (policy, training, facility supervision, facility administrative review process, and investigations).** The progress achieved by DYS in the six months since the October 2009 implementation of the UOF-P&Ps has been considerable. The incidents of serious and calculated misuse of force have markedly diminished. To be sure, DYS has not yet achieved fully institutionalized safeguards to combat

misuse of force (see below). We will carefully monitor for similar progress in the months to follow. The rate at which the agency moves toward full compliance is, of course, subject to a hosts of institutional variables, but the structure for compliance is now in place.

B. Progress Problem Areas. While the frequency rate with which staff use force in DYS is beginning to trend downward (see AMS Physical Response Summary, February-April 2010), it remains too high. Both CJCF and IRJCF have made notable gains in the recent months in reducing incidents of force. Both CHJCF and SJCF are clearly moving toward acceptable levels of staff use of force but still need to improve. ORVJCF continues to experience the highest levels among the five facilities but with increased central office oversight and an improved administrative review process with the FIA in operation since March 1, 2010, it is expected that the high numbers historically seen at the facility will begin to diminish in the coming months.

**In general, the intensity of force tactics/practices used by staff throughout DYS in a typical incident has lessened since the high levels noted in 2007.** As a consequence, youth injuries from staff use of force seemed to have been reduced, both in frequency and seriousness. However, fractures resulting from applications of force are too frequent but are almost exclusively concentrated at ORVJCF since October 2009 (implementation of the new UOF policy). In April 2010, Pat Hurley, a Facility Resource Administrator assigned to central office, conducted a thorough review of the ORVJCF fracture incidents and will be working with facility officials to identify and implement tactics and techniques that can further reduce risk of injury during applications of force.

Facility supervisory personnel continue to frequently be directly involved in applications of force rather than managing them. Recent training on this very issue will likely bring about improvement in this critical area.

Finally, there is mounting evidence that facility personnel who are appointed to conduct Pre-disciplinary hearings do not possess the necessary level of training or competency to conduct such hearings. There have been instances in which improper use of force allegations have been substantiated only to have the matter dismissed in a Pre-disciplinary hearing. Given the already somewhat protracted process for imposing disciplinary sanctions, it is critical that Pre-disciplinary hearings are properly conducted. We will be working with the Bureau Chief in the coming months to develop improved protocols for Pre-disciplinary hearing officers.

#### **Investigation of Serious Incidents (¶'s 79-84)**

A. Progress Achieved. The investigation policies and procedures became effective in November 2009 and training thereon has likewise been accomplished. The CIO has also developed an auditing tool for facility investigations and recently began such audits. Steve Martin reviewed all CIO use of force investigations from January 2009 thru March 2010. He met with the CIO and her investigators on two occasions to address issues to improve the quality of their work product: there has been steady improvement in the quality of the use of force investigations.

They are typically completed in a timely fashion with supportable evidentiary findings. From October 2009 through March 2010, the CIO has completed approximately 93 use of force investigations. Of these 93 investigations, allegations of improper force were substantiated in approximately 40 incidents. Clearly, investigators are conducting these investigations in a detached, evidence-driven manner thus producing credible outcomes.

B. Progress Problem Areas. The quality of facility investigations, not surprisingly, is uneven throughout DYS. Most investigations are completed by facility personnel who have other full time duties and are often limited in experience and training leading to investigative

outcomes that are too often flawed, incomplete, or simply incorrect. However, as aforementioned, the CIO has recently begun to audit facility investigations and work with facility personnel to improve this critically important area. Our monitoring likewise will begin to concentrate on this area during facility site work.

### **Seclusion (¶ 76)**

A. Progress Achieved. Final revisions to the seclusion policy are still pending. The delay in achieving a revised seclusion policy may be attributed in part to the implementation of the CRAV program in June 2009. Prior to June 2009, the primary obstacle to completing the revisions to the seclusion policy centered around the inability of the parties to decide on whether youth classified to SMU should be viewed as in seclusion. Currently, DYS considers such youth to be in an administrative/management confinement status rather than seclusion (they do include as seclusion hours the time an SMU youth is excluded from any out-of-room programming), but such a practice has not been incorporated into any approved policies and procedures as required by the Stipulation.

The advent of the CRAV program further complicated the revision process. For the three month period prior to June 2009, the monthly system-wide average for seclusion was 18,562 hours. The majority of these youth were placed in seclusion for less than four hours at a time. Before conducting comprehensive monitoring of whether and how much these regular/traditional seclusion hours could be reduced, DYS, through CRAV, created a program that resulted in increased seclusion hours that dwarfed regular seclusion hours, thus the monitoring focus shifted to the dynamics of the CRAV. In the three month period following implementation of CRAV, the monthly average for seclusion hours rose to 56,935. In July 2009, CJCF's total of 21,101 hours alone exceeded the system total of 16,238 hours for April 2009.

In the months following the CRAV, it became clear that facilities were not tracking seclusion hours in a manner to identify regular seclusion versus CRAV pre-hearing seclusion and CRAV, post hearing sanctioned seclusion. When the facilities started tracking these categories we learned that the large majority of the CRAV seclusion hours were accumulated in pre-hearing seclusion. This data called into question the efficacy of the entire CRAV program. How valid is a sanction program wherein sanctions for all practical purposes are served prior to a intervention hearing? How fair is a sanction program where the amount of seclusion time is subject to the vagaries of when officials are able to conduct a intervention hearing? These and other questions generated a series of discussions with and among DYS officials that ultimately led to the development of a pilot project to make individualized decisions on whether a youth required pre-hearing seclusion.

This program, “Individualized Response to Acts of Violence” (IRAV), has since April 1 been piloted at two facilities, SJCF and IRJCF. On May 11, 2010, DYS issued a report (“IRAV Seclusion Assessment”) that included preliminary data regarding operation of the pilot program. This preliminary data is very encouraging in that SJCF realized a 62% reduction in pre-hearing seclusion hours while IRJCF realized 54% reduction. IRJCF also realized a 31% decrease in school suspension incidents and a 73% decrease in school suspension days. Current plans call for system-wide implementation of the IRAV program in June 2010. IRAV, which will effectively terminate CRAV, will undoubtedly reduce total seclusion hours throughout the system. What remains to be seen is the magnitude of the reductions. It should be noted that since December 2009 there has been a steady reduction in monthly seclusion hours moving from 48,723 to 32,025 as of April 2010.

Simultaneously with the IRAV pilot project central office personnel began active and systematic monitoring of regular seclusion hours. This monitoring will include random checks of facility “Youth Intervention Monitoring Logs” to ensure that youth are released in accord with the current seclusion policy. Finally, DYS recently developed a set of definitions for the various types of seclusion that will greatly enhance the reporting and tracking of seclusion hours. With this series of actions, revisions to the current seclusion policy should be finalized in the next two-three months. For example, having a youth spend four or five hours in his or her own room is clearly distinguishable from seclusion in a stripped-down room or a specially-designed isolation cell. The next Report should contain a breakdown as to quality and quantity of seclusion.

B. Progress Problem Areas. Clearly, the lack of a finalized seclusion policy impedes comprehensive and objective monitoring of this vitally important issue. For instance, a still unresolved issue is whether those youth classified to SMU are in “seclusion.” The aforementioned definitions for SMU youth would count only those hours in which a SMU youth is excluded from regular programming hours as “seclusion” hours. More importantly, only when the IRAV is fully implemented and active monitoring of regular seclusion is in place, can we begin to establish a baseline for what constitutes acceptable levels of seclusion throughout the system. In January 2009, the monthly total for seven facilities with a population of 1460 was 7,368. In July 2009, the monthly total was 66,023 with a population of 1282. In April 2010, the monthly total was 32,025 with a population of approximately 1000. With these wild swings in seclusion that DYS has experienced the past several years, it is difficult, if not impossible, to determine if DYS uses seclusion “only when less restrictive means of obtaining compliance with programming requirements or lawful orders have been properly, but unsuccessfully, attempted”(see ¶ 76, c.).

It is worth reminding the Court that these variations in seclusion did not appear in isolation. They accompanied the closure of Marion, the transformation of Circleville, and the adoption of a pre-hearing detention policy incident to IRAV. As I noted earlier, one of my major concerns for the coming year is the continued vitality of IRAV and achieving a wholesale reduction in the many uses of seclusion.

**Mechanical Restraints (§'s 77-78)**

A. Progress Achieved. In May 2010 the revisions to the mechanical restraint policy were adopted. Training on the new policy is scheduled to begin in July with implementation set for October 1, 2010. In recent months, facilities began to include on the AMS “Mechanical Restraint Detail Report” both the time in/time out of restraints. This change has greatly enhanced the monitoring of this issue. Moreover, DYS in anticipation of the new policy has begun documenting the reasons/basis for restraining a youth in excess of two hours.

During the life of the Stipulation DYS has so greatly reduced the frequency with which youth are placed in immobilization restraints that it is fair to characterize their current use as rare. While the use of precautionary restraints is closely linked to incidents of force, youth are typically not held in such restraints any longer than is necessary.

B. Progress Problem Areas. Constant training and technical assistance is needed for line personnel in the actual restraint practices during the course of a use of force event. Youth often sustain injuries when staff apply restraints after they have gained control of the youth. Central office and training personnel are actively engaged in seeking to improve tactics and identifying best practices to reduce such injuries.

## **Classification (¶ 47)**

A. Progress Achieved. During the course of the Special Inquiry a number of potential problems were identified related to the security classification instruments that had been implemented in December 2007. These problems centered on both design flaws with the classification instrument and implementation deficiencies. Once these problems areas were brought to the attention of DYS officials, the Director asked that the consultants who helped develop the system assess these areas of concern and make recommendations on revisions to the instruments. Their work was completed in February 2010 and the revisions were approved by the Director in April 2010. Training will be completed on these changes with implementation of the revised instruments set for July 2010. Among the revisions, the initial instrument now provides for non-discretionary overrides and the reclassification instrument will not permit youth classified as close custody to be reduced directly to minimum custody.

B. Progress Problem Areas. Implementation of the revised instruments will require very active monitoring/auditing during its early phase to ensure that the operators have a technical mastery of these instruments. Mr. Martin recently had several meetings with the central office classification administrator regarding development of the auditing instruments. I am confident that the current administrator will provide the necessary oversight to ensure facility compliance with the newly revised classification system.

Finally, I wish to give special recognition to Team Member Steve Martin. He has epitomized our dual function of providing oversight and consultation. His hand is particularly evident in the positive changes described above.

## F. EDUCATION

### Introduction

During the 2009-2010 school year, two monitoring visits were conducted at each of the five Ohio Department of Youth Services Buckeye United School District (DYS-BUSD) schools. Following each visit a detailed report was issued by the Monitor. This Section of the Report summarizes progress and challenges related to achieving compliance with the education Stipulations (Stipulations) in S.H. v. Stickrath. This summary merely highlights major issues and, as is the case in other areas, is way more profitably read in conjunction with the individual reports that have been issued. This Section reviews progress as delineated by the Stipulation. Even where challenges persist, many of these are to be expected only two years into the Agreement.

The First Annual Report identified impressive gains but warned that much diligence would be required to not only maintain the current improvements but to continue towards compliance. The second year of S.H. v. Stickrath has been one of additional progress in education tempered by challenges presented by the introduction of a new School Intervention policy and the inevitable difficulties that accompany transition in programming and leadership.

Two of the five schools continue to make steady progress. One school appeared to have “turned the corner” at the last visit, and it is expected that this school is on track to consolidate its gains and continue moving forward towards compliance. Two schools remain problematic. District progress has continued in providing full staffing; maintaining middle school programs; moving towards a compliant special education program; improving classroom management and instructional practices with some teachers; maintaining a safe and appropriate physical plant;

providing transition and reentry services; and providing professional development. Some ground has been lost, however, in providing a full school day to all general students and in some areas of special education, compliance with the exclusion of some special education students from school for behavioral reasons.

As noted earlier, the dispute resolution process contained in Stipulation 256 was invoked by class counsel on December 9, 2009. Six issues were raised in the initiating correspondence. Since December 9, 2009 substantial resolution efforts have been made by the parties with facilitation by my office. Two significant issues remain problematic. The remaining educational concerns involve the education of students assigned to the Special Management units (SMUs) at the Ohio River Valley (ORV) facility and educational services for students, wherever located, who are suspended and expelled from school as a result of policies implemented in June and July 2009. DYS has initiated plans to reduce the impact of the remaining two concerns, but these efforts are not proposed by DYS as a formal settlement of the issues. These plans were presented in May 2010 and are primarily focused on SMU and other unit instruction at Ohio River Valley-Tecumseh High School (ORV-Tecumseh). It is too early to evaluate the outcomes of these efforts.

For purposes of monitoring visits and reporting, the Stipulations have been grouped as follows:

- Leadership, Policies and Procedures, Management and Communication;
- Full School Day;
- Staffing, Hiring and Retention;
- Special Education;

- Career-Technical Education (Career-Tech);
- Classroom and Student Management and Instruction;
- Middle Schools;
- Professional Development;
- School Space, Physical Plant and Safety; and
- Transition and Re-entry.

## **DISCUSSION**

### **BACKGROUND--EDUCATION MONITORING, MEETINGS AND VISITS: MAY 2009-APRIL 2010**

In the fall of 2009, three-day education monitoring visits were conducted at each of the five juvenile correctional facilities, followed by reports with findings and recommendations. The visits were repeated in the spring of 2010, and included follow-up on concerns that had been identified in the fall and action taken on recommendations.

In addition to monitoring visits, the Office of the Monitor was involved in negotiations and settlement meetings regarding the issues raised in the dispute resolution process. Further, additional focused monitoring was completed at ORV-Tecumseh and Circleville-Ralph E. Starkey (Circleville-Starkey), pursuant to the settlement reached on some of the issues.

### **LEADERSHIP, POLICIES & PROCEDURES, MANAGEMENT AND COMMUNICATION**

#### **(STIPULATIONS 23, 29, 30, 181, 183, 184, 203, 204)**

A number of Stipulation sections emphasize the importance of education in the facilities. Education is a priority area, and the education system is “essential.” Stipulations 23, 29.

Additional acknowledgements of the importance of the education program are contained throughout the Stipulations. *See*, Stipulations 68, 107, 143, 148.

Stipulation Section 23 requires that all educational services must comply with state and federal laws and regulations. Stipulation Section 30 requires that Policies and Procedures (referred to as Standard Operating Procedures or SOPs) be immediately revised as a joint effort by DYS and the Monitor, in consultation with class counsel. Stipulation Sections 181, 183, 184, 203 and 204 require cooperation and enhanced communication efforts within DYS as it relates to education. Important goals of these Stipulations are to improve planning, coordination and cooperation between central office staff and the schools, as well as between the facility administrators and staff and the school administrators and staff.

A transition to a new school superintendent occurred in January 2010, after the resignation of the prior superintendent. The new superintendent has over 30 years of experience in the adult correctional system's education program. The transition appears to be going smoothly.

Although occasional difficulties are referenced by school staff, progress continues in the area of compliance with Stipulation 181 requiring an inclusive management model that seeks input from school staff. Lingering problems with communication, cooperation and staff integration continue at Circleville, impacting BUSD's efforts to provide a full school day. It is too early to evaluate the facility's recently initiated attempts to more fully integrate facility staff in efforts to improve school attendance.

A procedure is in place that allows the school superintendent to provide supervisory guidance in the delivery of educational services at the schools, and he participates in the

evaluation of principals as required by Stipulation Section 183. DYS has relieved principals of most of their secondary, and thus competing, duties with a goal of providing sufficient time to pursue their role as instructional leaders. The progress made on this goal has been impaired by an unintended consequence of a new SOP authorizing suspensions and expulsions, discussed *infra*. Since the inception of this policy, many of the school administrators have devoted substantial time to processing individual suspensions. As multiple students were suspended, schools struggled to perform tasks required such as providing requisite notices to the parents and students and conducting suspension hearings. Further, since the vast majority of school suspensions are for behavior which does not occur in the school, school administrators have often had to play catch-up as they experience a one or two day delay before learning that a student has been excluded. Many of these suspensions occurred without the timely due process we believe required by the Due Process Clause of the Constitution. Further, performing these functions within the mandated timelines has taken administrators from other duties typically performed by instructional leaders, such as counseling students, working with challenged teachers, and supervising hallways.

The backbone of the effort to improve planning and services for DYS students is the SOP process required by Stipulation Section 30. At the conclusion of the 2008-09 year it was reported that with the exceptions of discipline, records and granting academic credit, all education SOPs had been finalized through that process. In fact, the process continued long past the issuance of that report, and in October 2009, work was still being done on the SOPs. The need for special education SOPs was obviated by BUSD's decision in the fall of 2009 to adopt the Ohio Department of Education special education regulations as their SOPs, using existing SOPs as a Manual for guidance. It is unclear whether the SOP related to grading has been

through the process required by the Stipulations. In addition, the Stipulation requires that the process include the consultation of class counsel, and this step has yet to occur.

A new SOP was introduced in July authorizing suspension and expulsion of BUSD students. The issues around this SOP and its implementation are addressed in the various education site visit reports. Changes in procedures are currently being made to ameliorate some but not all of the concerns around BUSD's suspension and expulsion practices. These changes reportedly are being initiated as this report is being written; thus, it is too early to evaluate their impact. Needless to say, suspension and expulsion are high on the list for this year's monitoring.

A report prepared for the Monitor by Lyn Stewart-Hunter, a third-year, University of Arizona law student, strongly suggests that Ohio is out of step with much of the nation in its use of expulsion *vis a vis* classroom management enhancement.

Accurate and informative data support the SOP framework and should be the basis for any changes to those SOPs. As the BUSD system evolves, reliable and informative data is critical. Federal education law now increasingly requires evidence-based decision making, and *ad hoc* programming should be a remnant of the past. Two years into S. H., it is still difficult to retrieve accurate and dependable data. In response to recent data requests, computerized printouts have been provided that erroneously report housing units and erroneously report the number of students refusing educational programming at one school. The first instance appeared to be a computer programming issue. The second instance resulted from *ad hoc* tinkering with school attendance codes that are a part of the school attendance SOP that reportedly was finalized. As more fully discussed in a separate monitoring visit report, special education compliance for suspended students at one school could only be accurately evaluated by laborious

cross-checking of four separate sets of documents. Operating a school system and providing a quality assurance component for programming can only be accomplished if administrators have accurate information to identify problems and tailor solutions. Absent SOP compliance and reliable data, BUSD simply does not have an infrastructure to provide educational services consistently and appropriately to all students. Rather, it has a sometimes shifting group of administrators making impromptu decisions that, however well intentioned, will not systematically provide educational services to students.

### **FULL SCHOOL DAY (STIPULATIONS 189, 190, 193, 196, 197, 198, 216)**

These Stipulation sections require DYS to provide students with a full school day as defined by Ohio law which includes but is not limited to an Ohio regulation requiring 5.5 hours of classes, supervised activities or approved educational options. Schools are to ensure there is sufficient space to provide classes for all students, and BUSD is to consider creating classes that align with treatment programs and provide high school credit. DYS is to consider the ability of the school to provide educational services when it is determining whether to create specialty units. It is to maintain a system by which the schools are to be timely informed of students in specialty units and is to consider expanding its staffing to provide an intervention specialist (special education teacher) for these units. Specific provisions were included allowing Reception Center (Scioto) males to begin a career tech class and providing additional space at ORV-Tecumseh.

Because of the efforts of BUSD and DYS officials and because of substantially reduced populations, progress continues with many of these Stipulations. Reception Center students continue to receive a full school day and arrangements have been made to permit them to take a

career tech class that has historically been open only to the girls at Scioto. ORV-Tecumseh has recently initiated an elective class that combines treatment goals and needs with health and wellness. Teachers are available for self-contained mental health classrooms. A downsized construction plan was developed mid-year for ORV-Tecumseh, and work is underway to provide some new classrooms and office space at the school.

In the spring of 2009, all students, including students on the ORV-Tecumseh SMUs, were provided 5.5 hours of school. At that same time, virtually every school indicated that students in protective custody and students on suicide watch were out of school for a very limited time, if at all. At that time, most schools reported that students were no longer being kept out of school because of individual Special Management Plans that had historically been written to keep the students contained in their living units until compliance. Only one school continued to have a significant number of students regularly excluded from school.

The noted progress in this area reported in the First Annual Report has been halted and in at least one school, reversed by the outcomes of the BUSD decision related to the educational entitlement of students in the SMUs and by the decision to suspend and expel students. Considerable additional detail about the impact of these decisions, of course, is provided in the individual site visit reports.

In January 2009, students in the two ORV SMUs received full school days. In the summer, DYS-BUSD officials concluded that there was insufficient staff for services in both the SMUs and the school. DYS then simply withdrew the staff from the SMUs and reassigned them to the school, leaving the two SMUs to provide no more than two hours of services for the students. An additional SMU was established at ORV-Tecumseh in the fall of 2009. Although

sufficient staffing was provided for students in this SMU to receive a full school day, unless suspended or expelled, the original two SMUs continued to be limited to two hours per day. That two-hour limitation continued into May 2010, although a plan reportedly is being initiated to again provide a full day of school services to these students.<sup>2</sup> It is too early to assess the impact of the plan.

The suspension and expulsion policy was instituted in July 2009, and since that time, all students in the BUSD system have been denied educational services if they are accused of or engage in certain specified behaviors, regardless of where they occur. This policy has resulted in thousands of lost hours of educational opportunity. The practice of seclusion and concurrent exclusion from educational services has been widespread at ORV, Indian River and Circleville. The sole exception to the complete cessation of educational services has been special education students suspended for more than ten days, and they receive limited educational services. The youth at all of these schools are suspended from school services during the duration of their isolation, with the length of isolation and suspension being determined by a facility process. School administrators have no discretion to shorten these suspensions, and thus the suspension hearings provided by the school provide only an illusion of due process.<sup>3</sup>

A handful of students are expelled from the BUSD schools. This process is now limited only to general education students on the ORV-Tecumseh SMUs. In the fall, a total of 14 students had been expelled. At the time of the spring 2010 visits, three students were expelled,

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<sup>2</sup> This plan is also intended to cover general population students suspended from school at ORV-Tecumseh. Reportedly, four periods of unit educational services, including required special education services, are provided to general education and special education students kept on the units and suspended from school for behavioral reasons.

<sup>3</sup> An administrator at one school purported to exercise discretion and declined to suspend some students, but this exercise of discretion occurred long after the students had returned to school.

and a fourth had an expulsion hearing pending. The terms of the expulsions are typically one school term, but some students have multiple expulsions for sequential terms.

#### **STAFFING<sup>4</sup>, HIRING AND RETENTION**

##### **(STIPULATIONS 191-192,194-195, 200, 202, 209, 231)**

Staffing was earlier identified as a significant impediment to providing all students a full school day and to ensuring that special education students receive the educational services to which they are entitled under the Individuals with Disabilities Education Improvement Act (IDEA). Stipulation Section 194 requires DYS to analyze vacancies and teacher absences at each facility over a period of time and staff according to these data. It calls for staffing ratios required by law, and a plan for meeting education staffing needs that is subject to review by class counsel and the Monitor. Stipulation 195 requires DYS to increase its budget for substitute teachers and provide more substitutes for larger schools.

DYS completed its staffing analysis required by Stipulation 194 in late summer of 2009. In September 2009, consistent with the plan, DYS approved 48 new education positions. DYS additionally committed dedicated staff to recruitment and retention efforts.

The staffing plan developed in the summer and fall of 2009 was based on the maximum capacity of each school, and the reduction in DYS' population has resulted in a concurrent reduction in BUSD's school population. Thus with some specific exceptions, BUSD staffing plan appears adequate. The 2009 plan provided for ongoing review, and this is currently occurring at ORV-Tecumseh. The effort at this school is designed to increase the amount of unit

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<sup>4</sup> DYS employs 186 licensed teachers, guidance counselors, and administrators in permanent positions throughout the 5 facilities with a total enrollment of approximately 750 youth. Further, additional educational services are being delivered by contracted service providers. This is a ratio of 1:4 education staff to youth.

instruction occurring at the facility. The plan combines classes with low student attendance, thereby freeing up teachers to provide more services on the units. It is too early to evaluate the effectiveness of this plan; however, based on the willingness of DYS-BUSD to initially staff for full school capacity, there is optimism that this plan will be successful at providing increased unit services while also staffing the school building classrooms at manageable and appropriate levels. Under the plan, SMU students will be provided 5.5 hours of education services per day and students on general population units and excluded from school can receive up to 220 minutes of services per day.

A May 3, 2010 Vacancy Report cites only nine vacant teaching positions for the entire district, and this is a very impressive improvement from the situation during the investigative stage.<sup>5</sup> However, as DYS has worked assiduously to fill teacher vacancies, it has become clear that vacant teaching positions are not the only staffing impediment to providing a full school day. Teacher availability and the reasons why teachers are not always available is a complex problem that must be addressed. At every school, one or more staff are on long term leave of some nature or otherwise unable to perform the functions of the particular position.<sup>6</sup> Schools have only a limited substitute budget to cover these absences. As a stop gap measure, the librarian and administrators are called on to cover classes. Even with these backups, schools still cancel classes due to lack of coverage, with the problem being incidental at some schools and very problematic at others.

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<sup>5</sup> There may be a handful of additional vacancies unidentified in this Vacancy Report. For example, at the very recent visit to Circleville-Starkey there was no Title I reading teacher, and the school reported a vacancy for an additional Graphics Arts teacher. These are not included on the Vacancy Report prepared two weeks after the visit.

<sup>6</sup> For example, some staff members are under “no student contact” orders pending investigations that often stretch into several months.

Administrators must not only plan for classroom coverage but with suspensions and specialty units, they need to plan for an ever-changing demand for unit instruction. Coverage for the self-contained mental health units has been good at the schools this year. However, other units have not fared so well. As noted under the Full School Day discussion, *supra*, ORV-Tecumseh, in collaboration with BUSD officials, concluded at the end of the 2008-09 school year that they did not have sufficient staff to provide a full day of instruction in the SMUs and in the school building, and thus services were dramatically reduced in the two existing SMUs. Unit instruction in the SMUs and general population units appears to be regarded as a relatively low priority.

The length of time required to actually get new teachers in the classroom continues to be a substantial problem. Efforts are being made by Human Resources to streamline the process, and coordination and cooperation between Human Resources and the BUSD staff have improved. A Human Resources liaison now works directly with the Recruitment and Retention staff in the Bureau of Education. Current plans are to reduce the length of hiring time from the current average of 78 days to 65 days. It is hoped that this could be shortened even more, because the hiring season for teachers is typically limited to a short window in the spring and summer. Highly qualified and skilled teachers are interested in early, firm offers of employment. In the face of other concrete offers, most of these teachers will not wait even 65 days for a finalized offer.

DYS continues to require three weeks of pre-service training for teachers at the Training Academy, and this extends the time that classrooms remain unstaffed. Stipulation Section 200 provides for the three weeks, but does not require that it all be conducted at the Training Academy. A concern about extended training time for substitute teachers is also addressed in

Stipulation Section 200. DYS has very recently initiated an effort to reduce the amount of pre-classroom training for non-permanent employees from 160 hours at the Training Academy and 160 hours of on-the-job training to, optimally, 40 hours at the Training Academy and 20 hours of site-specific training. This should increase the pool of itinerant substitute teachers and hasten their entry into classrooms.

### **SPECIAL EDUCATION (STIPULATIONS 221-230)**

The special education Stipulations' overarching provision requires DYS to provide students with adequate special education in compliance with IDEA and its regulations, and with the provisions of the parties' Agreement. BUSD oversight of the facilities' programs is required. Schools are required to provide prompt and adequate screening of students and prompt identification of students already determined eligible at intake. The school district is required to provide special education services within a reasonable time after intake to all students who qualify. Individual Education Plans (IEPs) are to be developed and revised as necessary but no later than once each year. Federal and state statutes and regulations are to be followed in developing and modifying the IEPs. Continuous professional development in numerous areas is to be provided; guidance counselors are to have electronic access to students' IEPs; transition goals are to be contained on IEPs-at-a-Glance and are to be monitored; and school psychologists are to be available to support student needs.

Special education compliance is a particularly difficult area for BUSD, as it is nationally with many juvenile justice facilities. While incidence rates of disabled students in the school population of most public schools range between 10% and 12%, BUSD schools range up to 64%. Further, there is much greater student turnover than in most public schools, and many of the

newly entering students arrive with outdated evaluations and IEPs, thus compounding an already daunting problem.

As noted in the First Annual Report, special education is a process, and a foundation must be laid before some of the components can be effectively put in place. The initial investigative report noted only minimal compliance with some components and noncompliance with many others. Over the past two years, strides have been made and a good foundation is now being laid, although compliance has been impaired by the decision to suspend special education students in large numbers.

Areas of progress in special education compliance include:

\*Increased staffing has reduced teachers' caseload size to compliance levels or very near these levels, depending on the school.

\*The Reception Center continues to make diligent efforts at identifying incoming students who have previously received special education services.

\*The gateway to special education identification in DYS schools is the Intervention Assistance Team (IAT). These teams are functioning in all of the schools, and students are being identified through the process.

\*Triennial evaluations are almost always completed in a timely fashion.

\*With rare and usually justified exceptions, IEPs are reviewed annually.

\*Parental involvement in IEP team meetings has increased and is being accomplished in person, telephonically or, in some cases, through video-conferencing with the regional offices.

\*Sample record reviews establish that appropriate staff involvement in IEP team meetings almost always occurs.

\*The quality of IEP goals has improved, although the improvement is not consistent across staff.

\*Substantial professional development presentations continue to occur around special education issues.

\*The quality of transition goals has improved with some excellent goals being seen, although some teachers still struggle in identifying appropriate goals. The next step will be to actually monitor the implementation of these transition goals.

\*During scheduled visits, all general education teachers have been able to access or produce copies of their students' IEPs upon request.

\*During classroom observations, most teachers can identify the special education students in their classrooms. A handful, without immediate reference to the written IEPs,

can generally discuss the IEP goals the students are working on, and a smaller number can provide monitoring data reflecting systematic efforts to evaluate the students' goals.

\*DYS-BUSD has increased the use of school psychological services, and it appears that the schools, as well as the students, have seen the benefits of such services. DYS-BUSD is now developing permanent positions to be assigned where needed.

The suspension policy has made the delivery of special education services substantially more complicated. This practice, linked with the inherent logistical problems of suspending numerous special education students, has slowed the progress made in providing special education services. Specific and somewhat complicated rules apply to special education students who are excluded from school for more than ten school days, particularly when there are multiple short-term exclusions.

School officials have been challenged to track these exclusions with sufficient accuracy in order to timely provide the services and procedural protections that are required by IDEA. One school has had huge challenges in meeting these procedural requirements, and even when the schools, with heroic effort, have been close to successful, the effort has involved *substantial* time and focus that had been previously directed to other functions. Because of the manner in which the suspension policy has been implemented, BUSD is out of compliance with such basic IDEA procedural protections as those related to change of placement; IEP meetings for some students and disciplinary placements of students with positive manifestation determinations.

Additionally, the suspension policy has meant that many special education students who had previously been served fulltime in the school building now require educational services to be delivered to their units for short periods of time. Services are required to be based on student

need but in violation of IDEA, the school system bases the amount of services on the availability of school staff. In sum, providing appropriate educational services and appropriate procedural protections to suspended students have been areas fraught with non-compliance during the year.

These are complex issues and the dispute resolution process may have clarified the problems but it does not appear to have solved the problems. These are high priority issues and my office has not been asked to resolve the matters in dispute. I have, in effect, been a volunteer.

IEPs can be paperwork exercises or, as intended by IDEA in providing the substantive requirement of a free appropriate public education (FAPE), they can be carefully crafted roadmaps to improving student behavior, programming and achievement. Without denigrating the substantial progress that has been made by DYS in special education during the last two years, a careful review of randomly selected IEPs at one school exposes the gap that still exists in reaching compliance with the FAPE requirement. This review was necessitated by the dispute resolution process and is detailed in separate reports. In summary, however, one student with multiple exclusions from the classroom had a behavior goal with no specially designed services identified to address the goal; another student with multiple behavioral issues and whose IEP identifies behavior as a special instructional factor had no behavioral goals; and a third student with multiple behaviors and a negative manifestation determination had an IEP that provided only ten minutes a week of behavioral services, along with “extra time” and “small group setting.” Portions of this student’s IEP were not implemented.

Monitoring of IEP goals, including behavioral goals, is required by the Stipulations and is critical to ensuring that the IEPs are appropriate. Individual teachers now do an excellent job

monitoring goals with the necessary specificity. However, these teachers have been in a small minority. DYS has recently implemented two projects in separate schools to create systems to provide sufficient and appropriate monitoring data. Once a system is in place to monitor all goals and once teachers are using these systems, the individuality of IEP goals will likely improve. Further, as the process becomes ingrained in the education program, teachers will understand the need for and value of “as needed” IEP team meetings, also required by the Stipulations. These meetings are not now occurring with the necessary frequency.

The provision of inclusion services to special education students is problematic in some schools. Teachers sometimes use these scheduled periods to work on IEPs or engage in other such duties rather than performing inclusion services to which the students’ IEPs entitle them.

As noted in the discussion *infra* on reading services for pre-literate students, several of the schools continue to be challenged by the absence of speech therapy services.<sup>7</sup> Students have been without this service in three of the DYS schools for much of the school year.

#### **CAREER TECHNICAL EDUCATION (STIPULATIONS 212-216)**

The Stipulations require DYS to expand job training opportunities, systematic career assessment and counseling, and career tech classes. A “cogent” career-tech plan is to be developed to maximize the availability of career tech options at each school so there are choices for eligible students. DYS is to explore alternate funding sources, even if this requires going outside the traditional Ohio Department of Education (ODE) funding stream. Further, DYS-BUSD is to explore collaborative arrangements with outside providers.

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<sup>7</sup> Reportedly, there is a statewide shortage of speech therapists.

Each school offers one or more strong career tech classes. However, the cogent plan for Career Tech expansion required by the Stipulations is still in draft form, and it does not appear to encompass the range of requirements in the Stipulations. Reportedly, contact has been made with community partners, but the gain from these contacts has not been captured in a systematic way. In two years there has been shifting of programs from one school to another but no net gain in offerings.<sup>8</sup> In fact masonry, wiring, and barbering have been dropped from the curriculum. Career tech programming is in need of increased attention and we will provide that focus in the coming year.

The new school superintendent brings a strong interest in adult vocational programming, based on his experience in the adult correctional setting. Fiber Optics, postsecondary classes, and short-term skills classes in various construction trades are ideas that have been discussed, but the extent to which these options will be open to secondary students is unclear. Equally important, these ideas need to fit into the cogent plan required by Stipulation 212 which also needs to address the other provisions of Stipulations 212-216. Most DYS youth will leave the system as secondary students and not as graduates. It is important that the cogent career-tech plan be designed for these students and expand opportunities for them as well as for the graduates, even if, as noted above, traditional ODE funding streams are not accessible.

## **CLASSROOM AND STUDENT MANAGEMENT AND INSTRUCTION**

### **(STIPULATIONS 23, 107, 143, 182, 205-208, 217-219)**

Stipulation Section 23 requires DYS-BUSD to provide educational services that comply with all state and federal laws and regulations. The Stipulations further require DYS-BUSD to

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<sup>8</sup> A ten-week transitions class, discussed *infra* has been placed under career-tech, but this is not a hands-on vocational program.

ensure that education staff and youth specialists receive training in classroom management and that school administrators intensify efforts to work with teachers who are ineffective and provide them with mentors and other resources to assist them. DYS-BUSD is to retain an education consultant to help improve classroom management and learning opportunities, and is to pursue a progressive discipline policy, including positive behavior management strategies designed to provide a positive culture. The district is also to maximize the accuracy of educational assessments. Stipulation Section 217 requires that all classroom space on units be wired for the computerized student learning system (CSLS) and that professional development be provided to prevent the degradation of the system. Internet access is to be provided school staff on request. Services for the students most at risk in reading are required.

Stipulation Section 208 requires DYS to evaluate the scope and reliability of current assessment procedures and instruments being used at Reception. Perhaps a good indicator of progress in this area is that receiving schools have few, if any, complaints about the transition from Reception to receiving school. “Think Exit at Entry,” a slogan gleaned from the Georgia system and reflecting a theme in the Stipulations is now beginning to work its way into the BUSD lexicon. The goal is to prepare students, from the first day they enter the BUSD system, to exit with tools and strategies designed to enhance educational success and avoid re-offending.

Assessment procedures continue to evolve and improve. Students with past or current special education status are almost always identified at Reception, and IEPs are usually obtained from the students’ home schools. Entering students take standardized reading and math tests and are also tested for individualized levels in the core classes. Students are given an occupational interest inventory and are introduced to a transition coordinator to begin building a career portfolio.

Stipulation Section 219 requires DYS to provide access to a computerized software package designed to teach reading to students with pre-literacy skills and to provide training to staff. It also requires reinstatement of Title I reading teachers at the schools. *My Reading Coach* (MRC) is a highly recommended reading program purchased by DYS. With two exceptions, schools report great satisfaction with this program for pre-literate students. In the more successful schools, the Title I reading teacher is the point person for addressing the needs of this underserved group. A remaining school, Circleville-Starkey does not currently have a Title I reading teacher nor does it have a systematic approach for addressing the needs of the pre-literate student. The most recent staffing vacancy report does not list a Title I vacancy at Circleville-Starkey, but a verbal commitment has been made by BUSD officials to remedy this situation.

Stipulation Section 219 also requires DYS to encourage speech therapists to work with students at-risk in reading and requires DYS to expand contract time for speech therapists working with these students. Indian River and ORV report great satisfaction with speech therapists' work with pre-literate students. Despite good efforts, at the time of the spring 2010 visits, Cuyahoga-LEB, Scioto, and Circleville-Starkey did not have contracts with speech therapists. DYS is continuing its aggressive efforts to locate speech therapists for these schools.

Classroom success rests on teachers' access to lesson plans for their classes. A lesson plan is a basic requirement for successful classroom management and instruction. Three years ago, DYS teachers were struggling just to piece together daily lessons. Most teachers paid little attention to Ohio education standards. It was not uncommon for teachers to rely on the same low-level worksheet for an entire class with no regard to the various ability levels. DYS-BUSD took a major step in improving classroom instruction and management when it purchased A+, a Customized Student Learning System. When first introduced, the system was met with great

resistance but CSLS is now widely accepted at most schools as the cornerstone of the school's core curriculum.

After two years of training and problem solving, all teachers are familiar with A+. At best, the highly skilled teachers have incorporated the contents of A+ with their own teacher generated lessons. At minimum, the most challenged teacher now has an individualized lesson in the core subjects, aligned with Ohio standards, and targeted at the individual student's level.

DYS-BUSD is to be commended for its recognition of the educational advantages of technology. Not only has the district wired all classrooms for CSLS, but it has equipped classrooms with overhead projectors and "Smart Boards" that enable teachers to enrich classroom instruction with outside resources. Consistent with the Stipulations, DYS has made the internet accessible to teachers in their classrooms, and lessons in good classrooms are now being enhanced through the Smart Boards with clips and information from internet sites.

Stipulation Section 182 mandates the training of JCOs<sup>9</sup> and all education staff in classroom management techniques. The goal of this Stipulation is to form teams of teachers and youth specialists that would proactively work together to manage student behavior. Some progress has been made toward this goal. Youth specialists are under the supervision of the facility operation managers. During the school day, some are stationed in the hallways with the responsibility of managing student movement and responding to emergency calls. In every school at least one youth specialist along with a teacher is assigned to the Academic Behavior Classroom (ABC).<sup>10</sup> The Youth Specialists have received training on the purpose and procedures of the ABC room and their role is to maintain discipline in the room while the teachers assist the

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<sup>9</sup> JCOs are now known as Youth Specialists, and this is the term that will be used throughout this report.

<sup>10</sup> This ABC room is a part of the School Intervention policy implemented in July, and it is designed to be an intervention to permit the student to regain control and focus. The goal is for the student to return to the classroom.

students with class work. Although, the ABC room operates under the same rules in all of the schools, a significant disparity exists in implementation. Schools struggled with hasty implementation at the beginning of the school year, but now the process is working more smoothly, with some exceptions.

Stipulation Section 205 requires that principals and assistant principals intensify efforts to identify teachers who are ineffective classroom managers and to assist teachers in developing goals and objectives to improve performance. School administrators continue to make progress in this area. During monitoring visits, instructional leadership was noted to be improving in all of the schools. Principals have identified teachers that need assistance in improving their skills. Improvement plans are in place and in some cases, noticeable improvements were observed in lesson planning and general classroom management.

Stipulation Section 107 requires DYS to ensure that its SOPs address educational opportunities for students on suicide watch. At all schools, it is reported that suicidal students' educational services are only briefly limited to allow the student to stabilize sufficiently to permit school attendance with careful monitoring in the building.

Stipulation Section 206 requires a contract with an education consultant skilled in classroom management and instructional practices in juvenile correctional settings. A contract was executed in early 2010, and the consultant has conducted classroom observations at ORV, Circleville and Indian River. She has submitted a preliminary report with plans for future work. Since ORV and Circleville are the schools experiencing the most difficulty with instruction and discipline issues, she will focus on these two schools. If, as expected, her work results in improved classroom management, it is hoped that DYS will expand her work to include other

areas. ORV-Tecumseh's administrators express ongoing concern about the behaviors of the SMU students, and this consultant could be an important asset in addressing these students' needs.

Stipulation Section 207 requires DYS to strive to increase compliance with the progressive discipline policy. Recently, ORV has submitted a plan to allow some disciplinary seclusion to be served on weekends, rather than during school days. ORV has also advertised for a teacher willing to work Saturday and non-traditional hours. Cuyahoga Hills-Luther E. Ball (LEB) has recently revived a proposal to conduct Saturday school. There are a number of issues that are barriers to implementation at LEB, and it remains to be seen if the plan can be implemented.

Stipulation Section 207 also requires the Bureau to carefully monitor implementation of character education and other positive behavior management strategies to ensure that the schools' efforts are directed toward creating a positive culture. All schools have some form of character education and positive behavior management strategies, although these are used inconsistently, depending upon the school and teacher. The facilities introduced a Strength Based Behavior Management System in the spring of 2010, and the schools are included in the program. Although it is too early to evaluate the success of the program on classroom management, it is expected that having the whole facility focused on positive programming and rewards for good behavior will impact the teachers and schools.

BUSD is required to adhere to all state and federal laws regarding its education program. Federal law requires appropriate identification of and services for Limited English Proficient (LEP) students. BUSD has an identification system in place, to be handled by the speech

therapist at Scioto during admission. Further, materials have been made available to teachers in the schools to work with students. However, perhaps because of the absence of a speech therapist at Reception, students have come into the system without identification at Reception. Also, definable services were lacking for one of the four students randomly identified. Although federal law provides districts great latitude in defining its service delivery system, there must be an effective identification process in place and there must be a service delivery system that provides effective services, even though the number of affected students is small.

Stipulation Section 143 requires consideration of specific health education components in the science or health curriculum in the schools. A social worker and teacher are currently teaching a wellness class for the SMU students at ORV. The course is an elective, and it is hoped that the program will be successful enough to implement system wide.

#### **MIDDLE SCHOOL (STIPULATION 220)**

The Stipulation requires the Department to develop a middle school program for 12- and 13-year-old students. Middle school students now attend Cuyahoga Hills-LEB and Indian River and only mix with older students when they change classes. The middle school classes are taught by appropriately certified teachers.

#### **PROFESSIONAL DEVELOPMENT (STIPULATIONS 8GG, 199, 200, 201, 204, 217, 227)**

The Stipulation requires substantial professional development for school staff. Stipulation 8GG defines “training” as requiring “demonstrated proficiency...(by the trainee) to implement” the skills taught in the training.

Professional Development is offered on a regular basis. Subjects include but are not limited to effective teaching strategies and concepts in special education. The required

outcome—demonstrated proficiency—is beginning to be seen in some BUSD classrooms. School staff seems generally satisfied with the professional development offerings but express interest in obtaining greater variety in presenters and prioritization of the offerings.

Stipulation Section 201 requires DYS to provide professional development to guidance counselors, transition staff and teachers working with transition and reentry on the legal implications of students' juvenile records. This has been a repeated request on the part of school staff, and there are plans to provide this training in the upcoming school year.

A necessary step in the effective provision of Professional Development is to ensure that there is follow-up, including coaching and modeling, to assist teachers in incorporating the training in their classrooms to improve their performance and outcomes for students. The education consultant could assist in this effort as teachers attempt to implement the lessons of the P. D. All of the required P.D. is designed to address compliance with the Stipulations, and it is expected that compliance will increase as the training tenets are actually implemented in the schools.

#### **SCHOOL SPACE, PHYSICAL PLANT, AND SAFETY**

##### **(STIPULATIONS 185, 186, 187, 188, 216)**

DYS was required to review current facility usage and take necessary action to ensure sufficient space to appropriately meet the educational needs of students. Further, DYS was to ensure that there were adequate safety features in the schools. All school staff report that there are adequate cameras now installed in classrooms and common areas where needed and that all school staff have individual alert systems. The district is maintaining adequate safe and appropriate furniture in the classrooms.

Major construction projects are underway at Cuyahoga and ORV. These projects will provide additional classrooms at both schools. ORV-Tecumseh school staff sought additional space, beyond that provided for in the construction project. However, DYS officials and the BUSD superintendent report that they believe the planned space will be adequate to address the needs of the school. Because of the difficulty in foreseeing the size of the ORV-Tecumseh population in the future, no definitive answer exists about what will be enough. However, DYS and BUSD engaged in a thoughtful, inclusive process in reaching the final determination.

#### **TRANSITION AND RE-ENTRY (STIPULATIONS 210-211)**

DYS has made progress on transition and re-entry. A transition coordinator begins to work with students in Reception and the work continues through release. Coordinators have also begun to build relationships with parole officers. There is a need for the school transition team to coordinate with the release authority staff. The work of these two groups is targeted towards the same goal, and systematic coordination would enhance results for the youth.

Of equal importance and promise is the ten-week transition skills class. This class covers situations that students will encounter in re-entry, including how to complete job applications and how to effectively interview for work. Efforts are being made to ensure that every youth is scheduled for these classes. As these classes continue to progress more emphasis may be placed on linking and reinforcing the work of the transition coordinator and transition teacher to special education students' IEP transition goals and objectives.

## **Recommendations**

The following Recommendations are proposed as guidelines for DYS and as a basis for this year's monitoring. These recommendations are supplemental to those offered in individual site visit reports. Because only areas of non-compliances are addressed in these recommendations, it is impossible to prioritize them, beyond noting that they are all important for compliance.

1. The Office of the Monitor should be advised of the status of the education SOPs and the date by which all will be finalized through the Stipulation 30 process. DYS-BUSD should review its report from on or about November 2009 to determine whether it needs to be updated and advise the Office of the Monitor of any updates to that report. DYS-BUSD should finalize all outstanding education SOPs with due haste. It is noted that this process requires consultation with class counsel which should also be accomplished in a timely fashion. Stipulation 30.
2. All changes to the education SOPs and attachments referenced in the SOPs should be made consistent with the process in Stipulation 30, and absent exigent circumstances, implementation of amended SOPs should be deferred until the SOP is finalized. The SOPs should be consulted prior to any changes in procedure or programming to determine whether the matter is already addressed in policy. Stipulation 30.
3. DYS-BUSD should intensify the focus on obtaining consistently reliable and accurate data. This may mean conducting analyses of the impact of any changes to computer programs prior to making the changes so that unintended consequences are minimized. Accurate data that the school district can consistently rely on as it makes decisions underlies any effort to achieve minimal compliance with state and federal laws. Data

should be relied upon for any programmatic changes made to the school system. NCLB, IDEA, Stipulation 23.

4. A cogent career tech plan needs to be finalized with all due haste. Components contained in it should include but not be limited to expanding career tech options for secondary students; enhancing the existing career assessment and counseling services; and systematic exploration of collaborative arrangements with community partners. The plan should identify timelines and expected outcomes. The plan and components are required by Stipulations 212, 213.
5. DYS should provide a full school day to all students on specialized units, including the SMUs. These services should not be limited in the future because of the unavailability of staff to cover the school, SMUs and general population units. Stipulations 23, 189, 194, 196.
6. BUSD should revisit the impact of extended teacher and administrator absences<sup>11</sup> from their assigned duties and ensure that staffing plans fully account for these absences. BUSD reported in its 2009 Staffing Analysis that a primary principle was to reduce the number of classes cancelled due to teacher absences, and that it would continue to monitor and reassess teacher vacancies and class cancellations. While the number of classes cancelled due to the absence of teachers has significantly reduced, it continues to be a problem at some schools. Some of these instances are directly attributable to the absence of staff that are on extended leave or “no contact” status, and some cannot be captured by BUSD’s current data. For example, the SMU reduction in services was directly attributable to staff shortages, even though no “teacher absence” codes appeared

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<sup>11</sup> In at least one instance, a teacher was performing the duties of an administrator on extended leave, so that the teacher’s classroom time was limited.

for these students. When the absence involves a special education teacher, this has a ripple effect, negatively impacting caseload levels and workloads of remaining teachers. Stipulations 23, 189.

7. Education services for special education students on specialized units, including the SMUs, should be provided in the least restrictive environment and consistent with the students' IEPs that have been prepared to address *the students' needs*. Stipulations 23, 189, 221.
8. BUSD must procure speech therapy services for students who's IEPs provide for the service. The failure to provide related services represents a non-compliance with IDEA. Stipulation 23, 221.
9. BUSD should adhere to all IDEA statutes and regulations related to behavioral changes of placements. This includes, *inter alia*, maintaining students with positive manifestation determinations in their current educational placements when subsequent behavioral incidents occur that are related to their disabilities. It also includes conducting behavioral change of placement meetings for students entitled to them and basing services in alternate settings on the students' needs and IEPs and not on teacher availability. Site visit reports and dispute resolution reports reflect non-compliance with the statutes and regulations related to manifestation determinations and behavioral changes of placement. Stipulations 23, 221.
10. BUSD should continue work with all due haste in implementing a system of IEP goal monitoring that provides sufficient data to determine whether a student is making appropriate progress on all goals, including behavioral goals. This data should be used,

*inter alia*, to identify students needing additional IEP team meetings to adjust goals. Stipulations 23, 221, 225, 229.

11. BUSD's quality assurance program for special education services should encompass an intensive review of randomly selected students to determine common areas of non-compliance. This examination should go through paperwork compliance to an assessment of whether the students are actually being provided FAPE. This is being recommended because of the non-compliances identified through just such an intensive review at one facility, and summarized *supra*, at p. 13. Stipulation 23, 221, 222a.
12. As Professional Development continues to be offered to education staff, there needs to be increased focus on outcomes, so that trainees have the *demonstrated* proficiency to implement skills taught in the training. Teachers will not have received sufficient professional development under the Stipulations until such outcomes are measurable (*See*, Stipulation 8GG) and there is minimal compliance with state and federal education law. This may require prioritizing of P. D. offerings until such time as all skills can be mastered consistent with the definitions of training contained in the parties Agreement. Stipulations 8GG, 199, 200, 201, 204, 217, 227.
13. BUSD should emphasize pre-literacy efforts at all schools, but especially at Circleville-Starkey. This includes hiring a Title I reading teacher at that school. BUSD should marshal the efforts of speech therapists and general and special education English teachers to ensure that existing programs such as My Reading Coach are fully utilized to assist the pre-literate youth. Although significant progress has been made in this area, two schools continue to lag; one because of the absence of a Title I teacher and the other

because the Title I teacher appears to have other interests. Thus, compliance in this area continues to elude BUSD. Stipulation 219.

14. DYS should suspend its suspension and expulsion policy at least until such time as it has developed the internal capacity to exercise the policy consistent with Ohio law, IDEA, and the Fourteenth Amendment to the U. S. Constitution. Stipulations 23, 221. The rationale for this recommendation is summarized in various parts of this report and more fully developed in individual site visit reports. Currently, the suspension hearings conducted by school administrators do not provide the requisite due process because the administrators have no discretion to shorten the suspensions. In at least one school, some students are excluded from school but do not receive even the illusion of a due process suspension hearing. IDEA violations were found in a random sample of cases.

Stipulation 23, 221.

15. BUSD should enhance its oversight of the LEP program until such time as it is assured that all appropriate students are being identified promptly at admission and that services are being provided in a systematic manner. Stipulation 23.

## **G. BEHAVIORAL/MENTAL HEALTH CARE**

### **Introduction**

Cheryl Wills, M.D., a child/adolescent psychiatrist who has monitored the Louisiana and Mississippi juvenile systems, has now taken the lead in this area as a member of the Monitoring Team. She is ably assisted by Barbara Peterson, R.N., a psychiatric nurse who has served as the Director of two mental hospitals (Ohio and Hawaii) and served also on the Dunn v. Voinovich Team, monitoring mental health care in Ohio's adult prisons.

Dr. Wills' work forms the primary basis for the preparation of this Section of the Report. She brings to bear a background well suited for the task and certainly better suited than a law-trained Monitor.

As a lawyer with training in psychiatry, I have observed a system that is struggling; a system that was lacking in psychiatric leadership and was psychology driven. Without psychiatric leadership in Central Office, various hegemonies develop in the field. There has been little review or evaluation of these semi-autonomous psychiatrists and so long as there are no explosive issues, matters tend to go undisturbed.

Dr. Brandon Strange should provide the much needed psychiatric leadership and it is time for mental health care within DYS to operate with an adequate staff, adequate facilities, and relative ease of access to needed care.

There is a comprehensive plan for DYS continuum of care. It addresses medical, mental health, and all program components. This document is approaching our initial review date.

I ask that DYS officials regard this Section of the Report as an invitation to dialogue; to talk through our differences and, above all, begin to provide enhanced mental health care for DYS youth.

*I will track the specific, relevant Sections of the Stipulation here. Please note that where there is a clinical/practice issue, it is the opinion of Dr. Wills and Barbara Peterson with perhaps some editing and sidebar by me.*

### **DYS Stipulation Paragraphs Relevant to Mental Health Care**

**¶15. Least Restrictive Alternatives.** *The DYS continuum of care for youth should provide rehabilitation while protecting the community. The least restrictive appropriate alternative should always be preferred in order to decrease the number of youth in secure care.*

The DYS continues to fall below what would be regarded as the community standard of psychiatric care<sup>12</sup> for children and adolescents. That is, they retain general psychiatrists who lack training in proper psychiatric assessment, treatment and relapse prevention for youth. Improperly treated mental disorders, such as Attention Deficit/Hyperactivity Disorder (AD/HD), depression, and posttraumatic stress disorder (PTSD) may cause youth affected by these disorders to be overly vigilant, impulsive, impatient, disobedient, suicidal, and/or aggressive. Such youth may be subjected to higher security classifications and are assigned to more restrictive settings than they would be if they were psychiatrically stable.

DYS continues to lack an adequate psychiatric and behavioral rehabilitation program for aggressive youth with cognitive disorders, such as mental retardation. These youth, who are too aggressive to be maintained on the new Life Skills Unit at IRJCF, are housed with more predatory youth who tax them. The cognitively disabled youth fight back, and are reclassified and transferred to more secure facilities, where they do not receive developmentally sensitive rehabilitation and are frequently subjected to disciplinary actions because of their disruptive

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<sup>12</sup> This presumes that community standards of care govern the standards required in juvenile facilities. Since it is not even clear that juveniles have a constitutional right to care that exceeds the Estelle, serious need-deliberate indifference test, it is a stretch to *impose v. suggest* a higher standard here.

behavior. Adequate sensitivity to, treatment for and rehabilitation for cognitively disabled youth will foster prosocial behaviors that will help some of these youth to be maintained in less restrictive settings.

¶16. **Cost Effective Measures.** *The system developed should maximize cost effectiveness and the use of taxpayer's money.*

One psychiatrist continues to report to SJCF and CJCF as early as 3:00 AM, when clinics do not start until much later. Although CHJCF established a policy that psychiatrists may not report to the facility prior to 7:30 AM, this is not the case for SJCF and IRJCF. The psychiatrist who reports at 3:00 AM often leaves the facility before general population treatment team meetings occur, so it is difficult, at best, to optimize psychiatric services delivered to this population based on multidisciplinary collaboration.

DYS indicates this is to read records, correct transcripts, and the like. I do not as yet have a satisfactory answer to this practice or a verified record of actual treatment time spent with youth.

The absence of clerical support staff at all DYS facilities results in clinical staff spending substantial time performing clerical work that could be better spent providing and documenting rehabilitative services for youth.

Psychiatrists at SJCF and CJCF alternate seeing the same patient instead of having individual caseloads. This practice is time consuming and does not facilitate desirable continuity of care or optimized care for youth who are not given an opportunity to form a therapeutic relationship with a single psychiatrist.

**¶17. Equitable Treatment for All Youth.** *The continuum of care should promote equal and equitable treatment for all youth. DYS must focus on the disproportionate commitment of youth of color and work to identify and reduce disparities. DYS must also develop programming that is culturally sensitive, gender sensitive, and disability-responsive.*

The DYS continues to demonstrate significant deficiencies with meeting the needs of the following groups of youth:

1. General population girls with mental illness, especially those who engage in aggressive behavior and who suffer from
  - a. PTSD
  - b. AD/HD
  - c. Depression
  - d. Psychosis
2. Psychiatric care of girls on the mental health unit.
3. Aggressive youth with cognitive disabilities.
4. Youth who suffer from psychiatric disorders due to past (sexual and/or other) trauma.
5. Aggressive boys in the general population, MHUs, and SMUs who suffer from PTSD, AD/HD, Depression, and/or psychosis.
6. Youth who lack family and community support networks.
7. Youth whose behavior would stabilize if their rehabilitation had more input from family networks.

These are serious deficiencies although, as Monitor, I accept the fact that this Report does not provide any data, or even estimates, about the full dimensions of the problem. This is a first

order task in moving ahead. With regard to SJCF, I personally visited the facility in February, June, and December 2009. I spent a fair amount of time talking and mingling with the girls on the mental health unit. During my visits, I never observed these girls more peaceful and orderly; never heard as many expression of "I feel very safe here;" and never detected such a caring, helpful environment. Naturally, I do not review charts nor challenge clinical diagnoses. What I can do, however, is bring the practiced eye of a seasoned observer; an eye that is not easily fooled. What I experienced, then, was an extraordinarily safe and treatment oriented environment for Scioto girls on the mental health unit.

#### **¶18. Effective and Consistent Admission Assessment and Ongoing**

**Assessments.** *Placement and treatment decisions must be formed by validated risk and need assessment instruments. . . ; to ensure that youth are placed in the least restrictive environment possible. ...*

The DYS has begun to use validated risk and needs assessment instruments for psychiatric disorders and cognitive disabilities. Psychology staff members have not yet determined how to communicate risk factors if they do not easily fit into a check list or questionnaire. For example, when a youth who has had several family members commit suicide was admitted to the reception center, this dramatic fact was not communicated in the risk section of the transfer packet. Cognitive disorders are not being integrated into the problem lists and treatment plans of youth who are transferred from the reception center to the general population.

Family input into the assessment process is disappointingly deficient. Records do not reflect consistent efforts to contact families for ancillary information.

Efforts to obtain data from previous mental health treatment providers at the reception and general population levels have improved, but remain seriously inadequate for youth who are prescribed psychotropic medication.

**¶19. Youth-Focused Care.** *The DYS system of care must reflect the individual, familial, social, educational, developmental and psychological needs of youth served. DYS shall implement individualized, dynamic treatment planning and programming informed by principles of adolescent development and facilitated through active youth involvement.*

Individualized, dynamic treatment planning for youth with mental illness does not yet systemically exist in the DYS.

**¶20. Quality Treatment Interventions.** *DYS shall employ interventions that incorporate appropriate professional standards of care to include outcome measures to support effectiveness.*

There are no outcome measures in place for mental health care in the DYS.

**¶22. Qualified Work Force Properly Deployed.** *Professional and correctional staff must be trained, retained and supervised through effective leadership to be a workforce that is youth-focused and strength-based in its approach. Hiring, training and ongoing management of personnel to build adolescent development expertise, cultural competence and a genuine sense of care and*

*concern for the youth is essential.*<sup>13</sup>

The DYS has had some difficulty recruiting and retaining licensed social workers. As of May 10, 2010, however, there were only four vacancies and 92% of the social workers employed in August 2009 remained in their positions. DYS asserts it has no present difficulties in the recruitment and retention of social workers.

Clerical support staff is sorely needed for social work divisions at each DYS facility so that social workers will be better able to perform their jobs. Floating social workers should be added to each facility so that staff will not be overwhelmed when the inevitable training, vacations, and illness affects the social work team.

Every effort should be made to retain qualified licensed social workers in the DYS system.

The DYS has had substantial difficulty with recruiting and retaining a psychology supervisor for the ORV psychology supervisor position. Additional efforts should be made to make this position more visible and attractive to potential candidates before the CJCF psychology supervisor, who is working at both facilities, suffers from burnout. The quality of psychology supervision at CJCF has suffered because of the supervisor's division of labor.

The DYS says it is in the process of formalizing a training contract with a psychiatric nurse practitioner to train (and possibly supervise) the new psychiatric nurses. This was formalized recently and training is scheduled for July 2010

The newly established CHJCF psychology supervisor position has been established in the midst of internal unrest, which makes it difficult for the supervisor to function in an authoritative

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<sup>13</sup> Please refer to Section H of this Report for a discussion-data on the hiring of Youth Specialists. I think it fair to say that hiring practices there do not reflect the ambitious goals contained in the reformation of the old "JCO" model.

and collaborative administrative capacity similar to her peers at other DYS institutions. CHJCF appears to be accustomed to functioning with relative autonomy.

Substantial and constant support from the Central Office Director of Programs is needed to give necessary authority to the behavioral healthcare division. The Central Office Director of Mental Health Services should provide weekly administrative and clinical supervision and consultation to the CHJCF psychology supervisor. The Mental Health Liaison from Central Office, Mike Gordon, meets weekly with the psychology supervisor of concern. Dr. Ken Covey from Indian River is also providing on-site technical support.

All behavioral healthcare staff including social workers need intensive training on normal child development, identification and treatment of psychiatric disorders in adolescents, identification and assessment of mental disorders, formulating strengths-based individualized mental health treatment plans, documentation, risk assessment, and quality assurance.

**¶28. Accountability and Monitoring.** *A strong system of accountability must be put in place through systematic monitoring and evaluation of programs and treatment of juveniles.*

There is no accountability and monitoring system for mental health presently in place.

**¶29.** *The parties agree that use of force by staff, isolation practices, the absence of acceptable mental health care and other appropriate programming, overcrowding, and the deficiencies in education are such that class members are at risk physically, psychologically, and educationally.*

Psychiatric Services remain inadequate throughout the DYS, although there has been a substantial improvement in psychiatric care for youth at the IRJCF. With the partial exception of

IRJCF and the sole staff child psychiatrist, youth in DYS facilities who have psychiatric disorders that can improve with appropriate pharmacotherapy (AD/HD, PTSD, depression) remain at risk physically, psychologically, and educationally due to poor psychiatric care.

It is difficult to calibrate that risk and this impact conclusion; then, rests on the opinion of Dr. Wills, supported by Ms. Peterson.

**¶43. Intake Protocol:** *DYS shall develop and implement policies, procedures, and practices to establish a consistent, orderly admissions intake system that is conducive to gathering necessary information about youth; to disseminating information to staff providing services and care for youth; and to maintaining youth safety.*

Comment: See ¶18, supra.

*DYS shall ensure that all staff is attentive to the heightened risk of suicide on facility intake units. (This comment does not fit neatly here, but it is extremely important.)*

Staff has received training about identifying youth at risk for suicide. Dr. Wills opines that general psychiatrists at all DYS facilities, except perhaps IRJCF, appear removed from concerns about the relationship between needed psychiatric care for youth's psychiatric disorders, especially those youth who are isolated due to disciplinary actions or who have been transferred to more restrictive settings due to aggression and the risk of suicide.

DYS officials note that DYS has increased contract psychiatry hours by almost 50% since March 2008 and appear more involved with treating youth and attempting to work with families than is suggested by the Report's text.

**¶44. Assessment and Screening** . . . *assessments completed at the local level shall be used to minimize time in the reception center. DYS shall ensure that trained personnel implement a standardized process for assessments and screenings to capture information in a number of areas. . .*

Mental Health assessments at the reception center follow a standardized protocol, although, as noted, input from family members is lacking.

**¶47. Classification and Housing.** *Youth shall be housed pursuant to a validated security classification system that assures placement in a housing unit appropriate to the treatment and programming needs of the youth and the risks of harm. . .*

Depending on the degree of disability, each youth in need of acute psychiatric stabilization is classified to be housed in a Mental Health Unit, or is transferred to a psychiatric hospital in the OSU system.

Youth who have cognitive disabilities and who do not engage in violent behavior are eligible to be admitted to the Life Skills Unit at IRVJCF.

There are no appropriate placements used for aggressive males who have cognitive disabilities. These youth often have their security classifications elevated due, in part, to the DYS not being responsive to the rehabilitative needs of cognitively disabled persons.

**¶49. Unit Staffing.** *There shall be sufficient staff . . . no unit social worker should have more than twenty youth on his/her caseload at any one time.*

Unit social workers have been overwhelmed at several facilities. Currently the facilities with the greatest need for additional social workers are CJCF and ORVJCF. CHJCF recently recruited several new social workers. Unfortunately the CHJCF has a pattern of high turnover rates for social workers. A time study is recommended to ascertain the staffing and supervision needs for social workers at all facilities.

The following chart addresses the caseload requirement and it appears that DYS is in compliance.

	CHJCF	CJCF	IRJCF	ORVJCF	SJCF	SJCF
Total Licensed SW	11	6	10	15	8	1
Avg. # Youth on Mental Health Caseload	No MH Unit	No MH Unit	15 (There is a social worker vacancy on the unit.)	No MH Unit	Female 3 Male 8	No MH Unit
Avg. # Youth on General Population Caseload	20	12	18	10	(Specialty Population - Girls) 10 CBT Unit 11	Reception Males 10

¶52. **All Youth Entitled to Rehabilitation.** *Rehabilitation . . . is not dependent on a clinical diagnosis.*

This section of the Stipulation was intended to recognize that rehabilitation is a more generic term than treatment. Rehabilitation expresses a socialization construct where treatment is a clinical term bounded by the terminology and clinical interventions of medicine and its adjuncts.

DYS does, indeed, view its mission to "help" youth as not limited, for example, to DSM diagnostic categories. Thus, there is continued movement toward integrated programs and multi-disciplinary teams.

The Monitoring Team's psychiatric expert strongly disagrees with the manner in which DYS clinicians have dealt with youth with AD/HD who have had their medications and/or diagnoses removed (CJCF/SJCF/CHJCF) by general psychiatrists; and those youth who have had their diagnoses (AD/HD, PTSD, depression) reclassified to "in remission" status by a psychiatrist (ORVJCF).

I realize that the above text expresses a basic disagreement on diagnosis and treatment and it is not one I can resolve. Diagnostic and treatment disagreements in psychiatry appear almost to be the norm. David Freedman in *Wrong: Why Experts Keep Failing Us — And How to Know When Not to Trust Them*, p. 7 (2010) writes, "The fact is, expert wisdom usually turns out to be at best hotly contested and ephemeral, and at most flat-out wrong." Freedman relies importantly on the work of John Ioannidis, M.D., who specializes in calculating the chances that research is wrong. Ioannidis found extraordinary rates of "wrongness" in medical studies published even in the most prestigious, peer-reviewed journals.

Our reports should be more judicious in articulating the broad range of diagnostic/treatment alternatives that meet professional judgment standards but may not be ones that our expert, or some other expert, would use. Disagreement on diagnosis in the area of ADD (and now autism) is rife and the range of disagreement on over/under diagnosis; over/under use of medication extreme.<sup>14</sup>

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<sup>14</sup> See Mayes, Ph.D., et al, ADD And the Rise in Stimulant Use in Children, 16 *Harv. Rev. of Psychiatry* 151 (2000), on the extent of use and surrounding controversy. See also Brad D. Fulton, Ph.D., et al, National Variation of ADHD Diagnostic Prevalence and Medication Use: Health Care Providers and Education Policies, 60 *Psych.*

**¶53. Unified Case Plans.** *Every youth in the custody of DYS is entitled to a unified case plan.*

Mental health matters are not satisfactorily integrated into each youth's unified case plan, a matter that has been commented on elsewhere.

**¶55. Routine Interactions With Youth Designed to Promote Positive Behaviors.**

*. . . The rehabilitation planning for youth shall take into consideration cognitive, behavioral and environmental influences. . . . methods will encourage . . . the decrease of attention-seeking negative and self-destructive behaviors.*

Staff members need additional support with using the strengths-based behavior management system. Mental health concerns and goals should be integrated into each youth's behavior plan.

**¶56. Structured Programming.** *Structured Programming shall be designed to ensure that youth are not confined in locked rooms except: . . . (b) as necessary where the youth poses an immediate risk of harm to self or others. . . address general health and mental health needs, and be coordinated with youth's individual behavioral and treatment plans. . . .*

Improved psychiatric interventions with DYS youth will further alleviate emotional suffering (including anger and aggression). More appropriate psychiatric care will likely reduce the use and risks of long-term SMU and other youth continuing to engage in behavior that is dangerous to themselves and/or to others.

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Services 1075 (2009), finding diagnosis and medication prevalence more closely associated with the number, age, and type of physicians within a state than, for example, education policies

Behavioral interventions at ORVJCF and CHJCF have been clearly articulated in special management plans (SMPs). No DYS facility has begun to integrate structured programming and mental health needs into an individualized treatment plan.

**¶56 Special Needs Youth.** *DYS shall ensure that youth with special needs (e.g., youth with mental illness, mental retardation, developmental disabilities, or physical disabilities) obtain appropriate care, programming, and group therapy (as appropriate), including any accommodations in other programming related to their special needs.*

At the CHJCF, each male who is enrolled in the Chemical Dependency Intervention Unit (CDIU), and/or the sex offender treatment units programs receives educational materials that have been modified to suit his developmental and intellectual skills levels. This practice is less prevalent at other male facilities. There are no specialized units for the rehabilitation of girls who have chemical dependency or sex offense concerns and who require highly focused attention.

The low number of girls confined at Scioto supports use of individual attention to chemical dependency and sex offense generated treatment needs. Our upcoming monitoring will assess such individual care

**¶59. Comfort Rooms.** *DYS also shall ensure that there is a clearly articulated program with policies and procedures for utilizing any comfort room.*

The comfort room policy has not yet been revised. There is no comfort room or rubber room in the Liberation/SMU complex at ORVJCF.

**¶60. Quality Assurance for Rehabilitation.** *DYS shall develop quality assurance mechanisms to assess whether the program is implemented correctly and consistently across all settings and to assess the effectiveness of interventions used. DYS shall annually survey facility staff and youth to secure feedback on program implementation.*

No such program exists in the DYS.

**¶62. Sex Offender Programming.** *All youth entering DYS who have been adjudicated for a sexually oriented offense shall receive assessments and testing specific to their needs. . . . licensed professionals shall recommend programming specific to the youth's treatment needs that is normed for adolescent populations, and reliant upon objective, evidence-based criteria . . . .DYS shall develop a sex offender program to be delivered in a hierarchical system of care approach to address the individual needs of the youth and the level of the offense. Policies, procedures, practices and quality assurance measures shall be created to address program service delivery specific to the sex offender population.*

The DYS plans to disband all sex offender specialty units on or about August 2010. The youth will be housed in general population housing and will attend groups run by social workers who may or may not be licensed. Youth who need confidential intensive supportive programs run by dedicated professionals who are committed to sex offender rehabilitation will no longer receive these services.

There are certain risks attached to this dispersal of specialized sex offender units including exploitation of certain offenders and certain risk to more passive youth from sex offenders. We will monitor the treatment opportunities provided youth who were, or were candidates for, specialized housing.

We urge DYS to reconsider the above described plan but suggest that treatment of "sex offenders" based on individual diagnostic needs versus triggered by the offense category is an available option. On the other hand, no treatment for a seriously ill youth who is a "sex offender" is not an option.

**¶74. Crisis Management Generally.** *DYS shall ensure that Safety Plans, Special Management Plans (SMPs), isolation and any other procedure designed to decrease severe and/or chronic problem youth behavior, including assaultive and/or threatening behavior, are individualized, strength-based, tied to treatment goals, and provide adequate incentives. . . are time limited, with graduated punishments and incentives, and are carefully monitored . . . .*

SMPs are reasonably designed for most youth who need them. However, youth assigned to SMUs and who have failed to advance through the level systems have SMPs that appear more designed to meet security needs than are responsive to these males' rehabilitative needs.

Youth who are in this situation warrant intensive re-evaluation from a multidisciplinary perspective. Many of these youth are being denied desperately needed optimized psychiatric care, psychosocial supports, and individualized strengths-based behavior plans that will motivate

them to buy into the DYS rehabilitative program.<sup>15</sup> Youth who receive optimized psychiatric care will have a better chance to earn graduated incentives and to progress through their SMPs.

**¶75. Special Management Plans and Isolation.** *DYS shall ensure that SMPs . . .*

*for youth who are on the mental health caseload or who are being followed by Psychology,*

Approval by a psychologist is virtually at 100% and required weekly review close to that. It is with SMU youth that individual plans and plans with new ways to manage are most dubious. Although the SMPs have been effective for some youth, the true test of a SMP is how effective it is in the highest risk youth.

**85. General.** *DYS shall provide youth with a reasonably safe environment designed to effect proper development and prevent psychological deterioration. DYS shall provide youth with a reasonable opportunity to accomplish the purpose of their confinement, including development of mental and emotional capacities for successful conduct and reentry into the community, such as the ability to take responsibility for the consequences of their actions; to respond appropriately to others (coping skills); to manage anger; and to develop a positive sense of accomplishment.*

Long-term SMU youth are not receiving adequate psychiatric care. Their families are not being regularly invited to participate in their treatment. Records from previous treatment providers are not being sought consistently. Youth who lack supportive families are not being connected with other supports to help them feel supported; they have no reason to work through

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<sup>15</sup> We are available to work with DYS here and identify those youth and the care we believe is appropriate.

their SMPs. Some of these youth see their futures as being spent in ODRC. This level of hopelessness results in increased aggression and defiance in a subgroup of youth who have little incentive to improve their behavior.

Aggressive youth who have cognitive disorders do not have their behavioral healthcare and safety needs met. With the exception of highly structured specialty units, such as the CDIU at CHJCF, these youth receive little support or program modifications designed to help them advance through their programs.

Without better psychiatric treatment, these youth are at a cognitive and behavioral disadvantage when they begin to work through their rehabilitation programs. This problem exists throughout the DYS system, although IRJCF has made substantial gains in the past year, and the child psychiatrist at CHJCF has met the expected standard of care.

DYS, however, is very supportive of the ORV psychiatrist arguing that he is, indeed, actively involved in treatment and regularly attends treatment meetings.

The fair balance between psychiatric care and the other, quite acceptable approaches to care, remains unclear. The Stipulation itself, e.g., does not require psychiatric dominance, only a legitimate presence.

**¶86. Mental Health – Scope.** *DYS shall implement a comprehensive plan for a mental health system that is attentive to adolescent cognitive, intellectual, emotional, social, and moral development. The system shall incorporate individualized, accurate, evidence-based or research-supported promising practices. Adequate staff, space, and time are provided for the necessary planning, implementation, and oversight of mental health services.*

This plan is evolving and it has not yet been fully reviewed.

**¶87. Mental Health Policies and Procedures.** *DYS shall establish internally consistent policies and procedures that meet professional practice standards for every major area of mental health governance and service delivery. DYS shall ensure that facility mental health programs shall promote informed decision-making and consistent staff expectations and accountability.*

The policies and procedures are near completion and represent a basic reform of the infrastructure of how services are delivered across the agency. The policies were written through step by step consultation with Barb Peterson. The policies and procedures should move the agency from semi-autonomous areas of services — social services, substance abuse services and mental health services — to an integrated model of behavioral health services. The policies represent an individualized approach for each youth in the system that is need based and are currently in final review to meet ACA standards and legal sufficiency.

**¶88. Mental Health Screening, Assessment, and Referral.**

1. *DYS shall ensure that all youth have access to inpatient psychiatric treatment at an appropriate facility.*

The OSU system provides this rarely-used service.

2. *Within one year, DYS shall redesign and restructure mental health screening, assessment, and referral processes to ensure that all youth at risk of unmet and untreated mental health needs, including mental disability, behavioral, and substance abuse*

*diagnoses, are identified and referred for appropriate, prompt, and effective care that is consistent with professional judgment.*

Identification of youth with cognitive disabilities remains deficient, although there has been some progress. Identification and referral of youth with passive risk factors for suicide (such as relatives attempting or committing suicide or previous hospitalizations for suicide attempts) remains deficient. Otherwise, we express no negative findings here.

3. *DYS shall strive to prevent deterioration or exacerbation of mental health symptoms and to limit the behavioral manifestations of illnesses to potentially jeopardize youth and/or staff safety or to cause inappropriate punishment or needless isolation for behaviors caused by mental health issues.*

Progress in this area has been deficient at all facilities, including the ORVJCF SMUs.

The psychology supervisor at IRVJCF has been restructuring the MHU treatment team meeting process to improve their ability to provide comprehensive assessment and rehabilitation of youth.

**¶89. Special Mental Health Units.** *DYS shall revise and clarify the screening, assessment, and referral protocols that govern the definition and operation of the Special Needs, Intensive, and Non-intensive Mental Health Units.*

The DYS Central Office administrative team reviews each request to transfer a youth to a Mental Health Unit. The Monitoring Team also will begin monitoring more closely the behavioral healthcare status of youth who are being referred for transfer to SMUs; referring

institutions will be held accountable for failing to optimize psychiatric care for aggressive youth who are mentally ill and/or have cognitive disabilities.

I attach as Appendix D, a site visit report by Barbara Peterson discussing the new SJCF mental health unit, completed on March 30, 2010.

**¶90. Mental Health Discharge.** *DYS shall ensure that criteria for discharge from the mental health caseload are clearly articulated.*

The policy is not yet available.

**¶91. Mental Health Resources and Staff Generally.**

1. *DYS shall provide adequate trained personnel, space, and time to accomplish these goals, including the addition of clinicians; independently licensed or appropriately supervised master's prepared social workers; psychiatric nurses; and clerical staff.*

The number of licensed social workers has increased. Unlicensed social workers are not permitted to work on specialty units. The DYS plans to disband specialty units for sex offenders and chemical addictions. This will reduce the number of licensed social workers DYS needs – to the detriment of the rehabilitation programs for youth. Licensed social workers will continue to work on MHUs and the Life Skills Units.

There may be a need for additional social work supervisors at CJCF and ORVJCF. A time study of social work functions is recommended to determine the appropriate number of social workers is needed.

Recruitment of licensed social workers has been challenging – the job needs to be more attractive to competitive candidates. Modification of the sixteen group therapy sessions per youth per month requirement is a modest step towards this goal.

Psychiatric nurses are being hired. Unfortunately, many of the new hires lack psychiatric nursing experience. Training for these workers is in the planning stages. This means that the psychiatric nurses who are on the job are developing good and bad habits without receiving constructive feedback. Also, even after the new psychiatric nurses receive costly job-specific training, they can be bumped from their positions by primary care nurses who have seniority: This is not a cost effective plan (§16).

2. *DYS shall ensure that youth specialists are included as integral members of the team in order to provide a coordinated and consistent treatment response.*

At the IRJCF MHU and on the SMUs, youth specialists were active members of the treatment teams. This is an important development and worthy of more detailed attention in my next report.

## **¶92. Mental Health Clinical Staff.**

1. *Clinical staffing goals shall be 1 clinician for each 15 girls diagnosed as mentally ill and in need of treatment; 1 clinician for each 20 boys diagnosed as mentally ill and in need of treatment; and 1 clinician for each 20 mentally ill youth in the general population.*

The psychiatry staff is at 100% capacity, however, only one of the six psychiatrists is a child psychiatrist. (During the first year of their settlement agreements, Louisiana and Mississippi had 100% child psychiatrists.)

The psychiatry staffing needs for CJCF and SJCF need to be better defined; flip flopping psychiatrists at two facilities, as noted earlier, is not conducive to optimized psychiatric care for youth.

The psychology divisions at CJCF and SJCF are at 100% capacity. ORV has vacancies for one psychology supervisor and a psychology assistant. CHJCF has a vacancy for one psychologist. IRJCF has a full psychology team, but two staff were on medical leave during the spring 2010 site visit.

CHJCF, which historically has a high rate of social worker turnover, is at 100% capacity. CJCF, ORVJCF and IRJCF each has three social work vacancies. SJCF has no openings for social workers. While there have been problems reported in the past regarding social work recruitment and retention, DYS reports no such difficulties at the present time. Between August 2009 and May 2010:

- Social Worker positions were reduced from 96 to 85 (11%) due to a facility closure
- Seventy-eight (92%) of the social workers employed with DYS in August 2009 remain on the job as of May 2010.
- Four vacancies existed as of May 2010

CHJCF, CJCF, and SJCF are recruiting psychiatric nurses. ORVJCF, and IRJCF have filled their positions.

2. *Clinical staffing in any Intensive Mental Health Unit or residential mental health unit shall include at least 3 full-time mental health clinicians and a treatment team leader whose clinical profession and training shall be at the discretion of DYS.*

This requirement has been met.

3. *Deployment of clinical staff also is at the discretion of DYS but the delivery of service is subject to the review of the Monitor.*

This, in effect, invites our assessment of the impact of deployment while preserving DYS autonomy to decide on such deployment. This will be addressed more concretely in our upcoming monitoring.

**¶93. Staffing Additional Mental Health Units.** *The clinical staffing of additional, other type treatment units shall initially be at the discretion of DYS, whose plan for any such unit and its staffing shall be reviewed by Class Counsel and the Monitor.*

The DYS has a new life skills unit that is well-designed. The program is sensitive to the needs of youth who have cognitive disabilities.

**¶94. Annual Review of Mental Health Staffing.** *Clinical staffing and the allocation of such staff shall be the subject of a detailed annual review and report by the Monitor who shall include any specific recommendations.*

The most recent annual review of mental health staffing resulted in the addition of a psychologist to the IRJCF team.

**¶95. Occupational and Recreational Therapy.** *DYS shall ensure that the mental health program will provide occupational therapy (OT) and general activity therapy in adequate number and quality, especially those on units with more intensive mental health needs, to promote*

1. *fine and gross motor activities,*

2. *tasks which focus attention and have a high probability of success, and*
3. *increased self-esteem and self-confidence for mentally ill youth who are frequently unable to participate in the more challenging schedule of general population.*

IRJCF and CJCF are recruiting occupational therapists. There is no occupational therapist at CHJCF. SJCF and ORVJCF have occupational therapists that are making substantial contributions to the rehabilitation of youth with mental illness who are assigned to MHUs and SMUs.

**¶96. Support Staff.** *DYS shall ensure that facilities have the clerical support essential . . . to maximize the efficient use of valuable clinical time and expertise.*

As noted, clerical support for the social work divisions at each DYS facility is lacking. Transcription services for psychiatrists are lacking at most DYS facilities. These raise serious questions regarding the optimal use of clinicians.

**¶97. Mental Health for General Population.**

1. *DYS shall provide youth who are not on the mental health caseload with frequent, regular access to social work or other staff trained in the detection of depression and anxiety disorders, in order to prevent under-diagnosis due to masking or failure to report symptoms by youth who fear looking weak.*
2. *DYS shall ensure that general population youth with mental health needs receive adequate clinical staffing, mental health resources, and program support.*
3. *DYS shall ensure that these youth receive continuing mental health services as needed.*

Social workers have received no training in the detection of psychiatric disorders, including AD/HD, depression, PTSD, and psychosis. It seems likely that many youth who have mental illness are not being identified, suffer unnecessarily, and are subject to disciplinary consequences for behaviors that can be attributed, at least in part, to inadequately treated psychiatric disorders.

This sort of conclusion, we realize, is sweeping and inferential in the absence of our own, even random, psychiatric assessment of DYS youth. Thus, it is particularly open to dialogue as to the impact of a lack of training.

**¶98. Mental Health Treatment Design.** *DYS shall ensure that*

1. *treatment planning is based on professional standards, to include problem identification, strengths-based treatment, and relapse prevention.*
2. *treatment programs are highly structured, consistent, intensive, and focused on changing specific behaviors and development of basic social skills.*

Treatment planning is poorly coordinated at the DYS. The quality of the mental health treatment plans is inadequate in terms of individualized assessment and identification of problems, diagnosis, measurable goals, and progress reports.

With the exceptions of the IRJCF psychiatrists, (and to a lesser degree, one of the SJCF psychiatrists), DYS psychiatrists fail to integrate medical and behavioral data consistently into the assessment and treatment planning of youth.

#### **¶99. Mental Health Treatment and Families.**

- 1. DYS shall ensure that clinical staff, including Psychology, expand and strengthen contact with the families, family surrogates, or other significant adults in the lives of youth from reception through treatment and discharge planning. All opportunities to build such relationships should be exploited.*

Psychology staff at DYS facilities should increase contact with family members. Some psychiatrists contact family members to obtain clinical information and verbal medication consent. Family visitation appears to have increased with regional parole staff providing transportation. It appears that video conferences and conference calls also have increased.

The medication consent forms for youth and their families are not user-friendly and need to be updated.

- 2. Efforts to involve families should be required by policy and documented in the mental health record.*

Policies are not yet available to review.

#### **¶100. Mental Health Treatment and Girls.**

- 1. DYS shall ensure that a mental health clinician meets regularly with girls on the mental health caseload for individualized non-crisis oriented treatment, and with the non-mental health caseload youth, in order to promote the early detection and treatment of depression.*

The addition of a competent behavioral clinician with cultural diversity experience to the Buckeye (SJCF) girls unit is promising. The strengths-based behavioral psychologist has

been empowering youth to be agents for their rehabilitation. The psychologist is able to identify psychiatric disorders in youth, including depression, AD/HD, and PTSD.

2. *DYS shall strive to provide appropriate treatment for adolescent female depression.*

Dr. Wills of the Monitoring Team determined that psychiatric care at Scioto for the girls is deficient. As I noted earlier, that is contrary to my informed layman's observations. Indeed, all girls in DYS are on the mental health caseload. The census on the girls' mental health unit averages eight to ten; the remaining 20 (average) girls are in general population. The array of mental health services for girls on the mental health unit are provided by a psychiatrist, licensed psychologist, licensed independent social worker, occupational therapist, mental health nurse, unit manager, dedicated teacher, and youth specialists. Mental health services for girls in general population are provided by a psychiatrist, licensed psychologists, unit manager, doctoral level psychology assistants, licensed social workers, occupational therapist, mental health nurse and teachers in the general education and special education programs.

Obviously, the recitation of caseload data and the availability of mental health professionals does not address issues of quality or even actual access to available care. Our future monitoring must become a bit more data driven in the sense of clinician time spent with the girls and an objective assessment of the quality of the various interventions employed.

**¶101. Discipline for Youth on Mental Health Caseload.** *Any youth who is on the mental health caseload or otherwise appears in need of assistance shall be provided with an advocate to assist such youth at any disciplinary hearing.*

Psychology staff members at each DYS facility are supposed to review the schedule of disciplinary hearings and offenses. When necessary, psychologists inform the disciplinary hearing officer (and Youth Advocate) about youth who are not able to proceed with hearings due to acute mental illness or cognitive deficiencies. When a youth needs assistance or advocacy to proceed with a disciplinary hearing, the psychologist will notify the hearing officer in advance of the hearing.

**¶102. Quality Assurance and Peer Review Procedures for Mental Health.**

1. *DYS shall establish, disseminate, and monitor clear, detailed protocols for quality assurance and peer review in the provision of mental health care.*

This has not yet occurred.

2. *DYS shall establish a plan to identify and use the most effective, evidence-based mental health and rehabilitative care treatment modalities, efficacy studies, bed utilization studies, and formulary policies as part of a well-researched, established, clearly outlined system of care.*

This has not yet occurred.

**¶103. Mental Health Staff Capacity and Performance.** *DYS shall ensure that data collection efforts such as the Performance-based Standards Project are expanded system-wide. DYS shall develop and implement methods for evaluating staffing competencies, performance indicators and outcome measures, and formal systems of care coordination (integrated treatment plans and meetings, records, logs, internal*

*communications, family contacts). DYS shall require competence in specifying and assessing progress in individual treatment plans, in clinical performance, and in the integration of the disciplines (see Adequacy of Mental Health Records below) in order to increase quality improvement systems, clarity of clinical vision or purpose, ability to monitor performance, and the systematic capacity to identify and improve problems.*

This has not occurred.

**¶104. Mental Health Leadership.** *DYS will ensure that mental health leadership at the Central Office level*

- 1. adequately recognizes and responds to the serious and complex needs of the mentally ill youth in the DYS system;*
- 2. has a demonstrated knowledge of pertinent issues; and*
- 3. exercises strong leadership and commitment to advocate for critical mental health system needs and required change.*

The DYS has recruited a child psychiatrist, Dr. Brandon Strange, to oversee psychiatric care at DYS facilities. The psychiatrist began working 8 hours weekly in Fall 2009 and will begin to work 20 hours per week in July 2010. As noted earlier, Dr. Strange very recently agreed to substantially increase his hours beginning sometime in late or mid-August 2010. The central office psychologist, AKA the Director of Mental Health Services, has to date been the conduit between the mental health monitoring team members and the central office psychiatrist. This situation has contributed to communication matters that have delayed progress of the system and needed psychiatric care for youth.

Members of the monitoring team who are responsible for reviewing mental health issues met with the central office psychiatrist in November 2009. It is our hope that the central office psychiatrist will exercise strong leadership and advocacy for required change. His limited hours to date do not give us enough experience to confidently assess the results of his management style and clinical inputs

**¶105. Training and Supervision of Mental Health Staff.** DYS shall

1. *develop and implement its own core clinical training curriculum in order for all clinical staff to have requisite training and skills that are expected and supported by the agency.*

This reportedly is in progress. It is a matter of grave concern and requires immediate attention.

2. *provide adequate mental health in-service for clinicians as well as for all levels of staff to ensure their ability to respond effectively to the serious mental health needs that the DYS population presents.*

This has not yet occurred. The professional education retreats that the social work and psychology staff at CJCF used to have several times per year have ceased due to increased work and training demands.

3. *In-service opportunities must provide consistent messages, tied to clear expectations, DYS shall provide clinical staff with system-wide, consistent clinical enhancement training.*

This has not occurred yet.

4. *Provide outside training opportunities that will assist treatment professionals within DYS.*

This has not occurred.

5. *Continue and expand current opportunities for clinical staff to pursue additional clinical training of their own initiative and choosing and staff will be encouraged to utilize workforce development funds.*

This has not occurred.

#### **¶106. Mental Health Records and Team Coordination.**

1. *DYS shall ensure that clinical staff develop specific individual treatment plans and goals for youth and assess progress toward these goals.*

This has not occurred.

2. *Interventions must be strength-based,*

This has not occurred.

3. *Families will be involved in treatment planning and delivery.*

This has not occurred.

4. *Progress notes will be in standardized (SOAP) format.*

SOAP notes are used but many staff put information in the incorrect areas. Training by an advanced skilled mental health professional is recommended.

5. *DYS shall ensure that record-keeping is unified, accurate, and supportive of each youth's integrated treatment plan and response.*

This has not occurred for mental health records.

6. *DYS shall ensure that administration and staff clearly understand the nature of coordinated treatment plans that promote integrated and effective planning and treatment.*

This has not occurred.

#### **¶107. Suicide.**

1. *DYS shall emphasize the need to distinguish a suicide gesture from an authentic attempt.*

We have not yet seen the training materials, but we were told staff had been trained on it.

2. *DYS shall address the use of suicide threats as a means to seek protection and determine if specific policies and procedures are needed regarding protective custody.*

This is being addressed by another expert.

3. *Youth on Suicide Watch shall be seen daily by a psychologist during the Week to support youth in developing necessary coping skills and stability to be removed from suicide precautions.*

This area is complied with.

4. *The policy and procedures will address*
  - a. *the physical characteristics of rooms or areas used for suicide watch,*
  - b. *the various levels of intensity for suicide watch,*
  - c. *appropriate duration of suicide watch,*
  - d. *activities,*
  - e. *educational opportunities, and*
  - f. *similar matters incorporated by national standards.*

The final policy is not yet available.

#### **¶108. Mental Health Care Facilities/Physical Plant.**

At CHJCF, adequate space for clinicians to conduct confidential evaluations is not available. One psychiatrist evaluates patients in the medical department and one sees patients in a room in the psychology area. The phone in the psychology interview room does not dial outside the facility. Thus, interviewers are not able to contact family members during clinical interviews with youth.

At ORVJCF, the Liberations/SMU complex lacks a chill room and a rubber room. This is a major safety concern because staff members are slow to respond to crisis when they know they will have to transfer a youth to a different complex to utilize a rubber room. Also, the absence of a chill room makes it difficult for the occupational therapist to implement rehabilitative de-escalation and relaxation plans for youth whom she works with on the SMU.

Finally, I requested data from DYS to be used at our annual Monitoring Team meeting in May. I attach as Appendix E that data concerning clinical staff, mental health beds and census; access to hospital level care; diagnostic categories and prevalence; and use and distribution of psychotropic medication.

## **H. OPERATIONS, HOUSING, SUPERVISION, STAFFING, AND TRAINING**

### **I. Introduction**

Change is beginning to take hold in these areas as well as those discussed elsewhere. Assessing the precise nature and extent of that change remains unquestionably premature. Perhaps the most encouraging judgment resulting from the latest round of monitoring visits is that the results remain decidedly mixed or at that point where both parties' perspectives find support but neither finds satisfaction.

### **II. Areas of Progress**

#### **A. Reductions in the Population**

The size of the reduction in the youth population is impressive. Of all of the actions and interventions sponsored by DYS in response to SH, the majority of DYS line staff that we speak with believe that the positive outcomes in a variety of different areas are more attributable to the reduction in population than anything else. They cite the immediate positive benefits on staff. There is a changed staffing ratio with fewer residents under the direct supervision of one staff member. This changes the nature of direct and continuous supervision, permitting staff to have more frequent and improved interactions with youth. The increase in interactions has a consistently positive effect on the key indicators of misbehavior. Hence, the PbS data show gradual improvements in safety and protection from harm factors.

The reduced population also has a positive effect on overtime. With the reduced need for staff, there are fewer mandations; and staff report less stress associated with the job. Stress reduction among staff also permits an increase in the positive interactions between staff and

youth. The Court may recall that "mandation" was the rallying cry for staff dissatisfaction when the Stipulation was entered into. Now, it is a murmur.

The reduction in the average daily population (ADP) permits movement toward single occupancy in living units. Providing youth with increased privacy, the ability to be alone, and reduced interpersonal conflicts resulting from poor housing (room assignment) decisions predicts a calmer atmosphere with fewer youth problems. Should the population reach a total of 850 youth; that will allow single occupancy.

The research on crowding is clear. There is now an acknowledgement of the adverse effects of crowding that was less evident in DYS prior to SH. Many positive but fragile initial outcome indicators were attributed to specific but unfulfilled interventions that are better explained by improved population management.

## **B. Unit Management**

The Unit Management concept at each JCF shows signs of improvement. The improvements take three forms. First, Shannon Komisarek adds continuity to the implementation of Unit Management through the leadership and supervision she provides. Her understanding of Unit Management within a juvenile facility is solid, and her sense of what is working well and what is not working well is very good. She conducts regular evaluations of the Unit Managers and the Unit operations. These assessments prompt greater discussions about the goals and objectives of unit management.

Second, there has been a gradual but noticeable improvement in the competencies of the Unit Managers. At the beginning of the monitoring process, there were perhaps only a few unit managers per facility whose unit was under control. Granted, this was a time of great instability brought about by the closure of Marion and the DYS adhering to the vagaries of the collective

bargaining agreements. Now, there are multiple units at each JCF where Unit Managers are exercising the type of leadership needed to create calmer and safer environments, the important precursors of rehabilitation.

Third, there is a growing understanding of the importance of the Unit Plan as the key document for treatment services. The current understanding of the Unit Plan seems significantly better than what was occurring during the Fact Finding and the first round of monitoring, although it still needs strengthening. With the strengthening of the Unit Plan, there is reason to believe that the quantity and quality of structured programming, including recreation, will improve.

### **C. Youth Specialist Training**

The content of training is improved due, in part, to the nature of the SH reforms emanating from Chris Money's team. The change in the position description from Juvenile Corrections Officer to Youth Specialist signaled a new direction for training development. The Strength-Based Behavior Management program combines with the Cognitive-Behavioral Intervention strategy to form a solid base for reform. Training is nearing the point where it can reflect a cogent strategy for rehabilitation.

These gains are tempered by the second-generation problems of execution. That is, an underdeveloped approach to the application of these new concepts hampers full implementation. For training services, far too many current obstacles are the first generation training problems. Specifically, lesson plans should be an agency's blueprint for the implementation of program concepts, but SMEs loathe completing them. Hence, complex and well conceived rehabilitation concepts and practices are only partially prepared for instruction to new and veteran staffers. The unequal technical skills of trainers means that line staff skill development remains

inconsistent. Likewise, there must be more emphasis on guided and independent practice components of training materials.

There has been a significant increase in the amount of training provided to DYS employees. The exposure of Youth Specialists to new information increased substantially during 2009, and 2010 promises to be equally busy.

The Training Academy will have in place by July 2010 a new trainer and curriculum developer from the Maryland Department of Juvenile Services. In addition to excellent training credentials, she holds a MSW. Her focus will be the Pre-Service training at the Training Academy. This hire reflects a cooperative relationship with the Juvenile Justice Trainers Association (JJTA), which assisted in advertising the position announcement and recruiting competent candidates.

#### **D. SBBMS**

The Strengths-Based Behavior Management System receives positive preliminary results and evaluations from staff members who have had the training and who have had several weeks of experience with the concepts prior to the monitoring visit. At most of the JCFs, the training was too fresh and the implementation too new to be able to draw a definitive assessment about the full impact the new training program will have on programs and services.

#### **E. Mohican Closure**

DYS effectively closed the Mohican Juvenile Correctional Facility in April. The closure followed a detailed plan with multiple timelines for tasks completion, and the plan reflected collaborative problem solving at its best. Mohican Superintendent Larry Gongwer's leadership was superb. The scattering of Mohican staff to other parts of DYS appears to have made the recipient facilities better. Evidence currently exists of the immediate and positive influences

many Mohican transfers, e.g., Stephenson and Halter to name a few, are having on their host facilities. The Mohican diaspora could actually prove to be a positive event for the remaining JCFs.

### **III. Lack of Progress**

#### **A. Racial & Cultural Sensitivity**

##### **Equitable Treatment for All Youth**

The Stipulation requires that the DYS continuum of care should promote equitable treatment for all youth and that DYS must focus on the disproportionate commitment of youth of color and work to identify and reduce disparities. DYS must also develop programming that is culturally sensitive, gender sensitive and disability-response.

##### **Background**

DYS has entered into an agreement with the Ohio NAACP to facilitate the Ohio Phoenix Leadership Program with incarcerated youth in all ODYS facilities. The NAACP will engage youth in various pro-social programming and activities such as tutoring, sports events and performing arts activities and provide mentoring and reentry services to youth being released back to their communities.

On a state-wide basis, DYS employs one full-time Compliance Specialist to ensure that the State of Ohio maintains compliance with the requirements of the OJJDP Act regarding Disproportionate Minority Contact (DMC). To meet the DMC requirements of the Act, a statewide initiative that includes the Governor's Council on Juvenile Justice and 14 counties has been meeting regularly. The counties in the initiative represent over 85 percent of Ohio's minority youth. DYS, through this initiative, allocates federal funding for programs that serve

minority youth at greatest risk of becoming involved in the juvenile justice system or who have already been involved.

Linda Modry is the coordinator and contact for the DMC initiative as well as the DYS Deputy Director of Parole and Community Services. Her staff has provided the following data that indicates Black youth are over-represented in DYS. Black youth comprise 59.5% of admissions while white youth comprise 33.14% with an equal percentage being released to Parole during Calendar Year (CY) 2009.

**CY 2009 Admissions to DYS**

Race	Female	Male	TOTAL
American Indian or Alaskan Native	0	1	1
Biracial	8	53	61
Black	31	712	743
Hispanic	2	20	22
Other	0	6	6
White	42	371	413
<b>TOTALS</b>	<b>83</b>	<b>1163</b>	<b>1246</b>

**CY 2009 DYS Releases to Parole**

Race	Female	Male	TOTAL
American Indian or Alaskan Native	0	4	4
Asian or Pacific Islander	0	1	1
Biracial	10	57	67
Black	49	820	869
Hispanic	3	27	30
Other	1	7	8
White	55	449	504
<b>TOTALS</b>	<b>118</b>	<b>1365</b>	<b>1483</b>

Data from the Burns Institute, a juvenile justice and equity advocate group, contained in their interactive disparities data map provides a picture of Ohio’s disproportionate rate of commitments for minority up to 2006. These data reflect that historically, Black youth have been over represented in DYS. Using the relative rate index, number of youth per 100,000, how youth of color are disproportionately represented in the DYS population.

Year	White		Black		Latino		Native Am.		Asian		Other
	#	Rate	#	Rate	#	Rate	#	Rate	#	Rate	
2006	1410	- 138	1371	- 667	69	- 181	0	0	6	- 33	39
2003	1554	- 147	1296	- 635	72	- 205	3	85	6	- 37	15
2001	1728	- 161	1308	- 668	78	- 236	3	84	9	- 58	12
1999	1749	- 162	1284	- 690	69	- 226	3	88	12	- 81	12

**DISPROPORTIONALITY vs. DISPARITIES**

There is no doubt that youth of color are disproportionately represented in admission to DYS but is there disparate treatment of youth of color? The DYS does not measure disparate outcomes for youth of color in the JCFs; however, the new JJCMS management information system once fully implemented will allow DYS to measure the rate of overrepresentation and disparate outcomes. It will require the collection and analysis of differential handling within the JCFs at various decision points by race and gender so that administrators can “drill-down” on the data to probe deeper into whether policies and practices, programs decisions or factors such as length of stay create disparity. For example:

1. Average Intervention Time (days) accrued
2. Average intervention time forgiven
3. Average of Parole Continuance Time Approved
4. Average Parole Supervision Period

## **CULTURALLY SENSITIVE PROGRAMMING**

The Stipulation requires DYS to develop programming that is culturally sensitive, gender sensitive and disability-responsive. Although administrators and staff are in agreement that this stipulation is necessary, few understand or can define what it is. A definition shared with the JCFs is; knowing that there are cultural differences and understanding and accepting different cultural values, attitudes and behaviors and incorporate into a plan of rehabilitation. Given the mandate that DYS must correct undesirable values, attitudes, and behavior, the DYS should use a “racial lens” as they develop the treatment planning process and development of individualizing their treatment and getting away from programs that are “one-size fits all.” This is the best way to integrate elements of the youth’s culture and translate them into an effective behavioral change intervention.

By pinpointing the youth’s risk factors, or areas of need, an assessment can inform staff of individual factors and direct the youth to activities and interventions aimed at changing specific behavior and thinking patterns that may relate to his/her culture, i.e. focus on the offenses for which youth of color most frequently admitted. The Ohio NAACP can be a valuable contributor on the development of an individualized approach particularly in transitioning and community reconnections.

### **Cultural Competency Training**

During monitoring visits to the JCFs it has become increasingly clear that DYS staff need to be trained to work effectively with culturally varied people, integrating elements of their culture; vocabulary, values, attitudes, rules, and norms in rehabilitation approaches. Staffs are not seeing or believing there are cultural differences among the populations being served.

The Haywood Burns Institute, again, is a good resource for training of the Departmental staff. In particular, culturally appropriate JCF programming should be the priority for training by the Institute with a focus on successful strategies to reduce racial/ethnic disparities:

- Fundamentals – Essential Components to a successful and sustainable effort to reduce disparities
- The Importance of Data - Identifying target populations
- Treatment approaches – Community Engagement

### **SUMMARY AND CONCLUSION**

Ohio DYS has for many years addressed DMC in order to stay in compliance with the requirements of the OJJDP Act and successful efforts through RECLAIM Ohio have reduced the number of commitments to DYS. This has not, however, changed the rates of disparities for youth of color. The question then becomes whether there is disparate handling/treatment of youth of color and at what decision points this occurs. Pre-placement decision points are being studied by the DMC initiative but post-placement decision points have not been addressed in the Juvenile Correctional Facilities. Because of changes to policies and procedures and the recent development of the new management information system, JJCMS, key reentry and release decisions data can be used to analyzed policy, practice and programming decisions and how they affect youth of color. The Release Authority is preparing to collect the information necessary to begin this analysis and the first data should be available within a few weeks.

Training is also identified as critical because consistent leadership to achieve equitable treatment and the understanding of how to deliver this treatment is essential. For that reason it is suggested that the Burns Institute could be an important provider of training to DYS because of their national perspective and expertise in these matters.

## **B. Protection from Harm**

Safety issues emerge from a review of the PbS data. Comparisons between the April 2009 and the October 2009 data collection periods do not reflect the many changes that may have occurred between October and now. Greater access by the Team to AMS data would make the PbS data more meaningful; but until that occurs, PbS remains the best accessible data resource.

### **1. Consistent Responses to Acts of Violence (CRAV)**

After nearly a year of CRAV, mixed results exist regarding its intended effect on violence reduction. The proposition by which CRAV was implemented was a forced choice between the lesser of two evils. It is possible to suppress the frequency of violent acts through intense isolation. It is not possible, however, to rely on isolation and also fulfill the agency's goal of rehabilitation. The substitution of prolonged social isolation as a primary intervention for conduct disordered, gang-involved, mentally ill, and violent youth does little except to ensure that *these youth will likely be released from DYS worse off than when they were committed*. With few exceptions, CRAV has been a trade off with a relatively poor cost/benefit ratio. In exchange for substantial increases in isolation, there have been small reductions in violence indicators. We recognize, however, that DYS officials view the tradeoff differently; as stemming violence in exchange for expensive use of seclusion. However, with CRAV under close review now for continued application and with pre-hearing seclusion dropping dramatically, we appear to be entering a new era.

Those for whom CRAV is intended appear to be the ones that are least affected by it. The most positive outcomes in violence reduction are at those JCFs with the greatest number of minimum and medium classification youth. These youth appear to be able to do a rational

calculus, which computes that three to eight days of isolation simply is not worth the gratification or approval that a youth accumulates through a violent act. Some staff and some youth believe that this rational approach with minimum and medium youth is a function of the harsh consequences associated with CRAV. On the other hand, a large number of staff believe that it is the reduction in population and the changes that have occurred regarding social and spatial density that have fueled these pockets of reduced violence. CRAV is seen by these individuals as coincidental. In some cases, CRAV confinements were sufficiently problematic that institutional administrators began altering their responses. For example the percentage of youth that receive an IDC or an IH as a result of an Act of Violence is not consistent across DYS, nor is the amount of isolation consistent with every Act of Violence category.

Punishment rarely establishes new behaviors. If this is true, and we assume that it is, then CRAV does not teach a youth anger management skills, conflict resolution skills, or violence reduction strategies. What has changed following the implementation of CRAV is the frequency of "swings" (youth sexually exposing themselves to female staff) and "sprays" (youth throwing body fluids on staff). And so, in different ways, the violence from these youth continues, even when in isolation.

IRAV (Individual Responses to Acts of Violence) will replace CRAV and reduce use of seclusion, but all the inherent pitfalls of CRAV apply to IRAV, if only to a lesser degree. We will continue to work with DYS officials to create behavioral inducements to induce behavioral change.

## **2. Gang Violence Reduction Interventions**

The time has come for a different approach to gang violence reduction. DYS continues to use an adult oriented and limited strategy for STG. Instead, it is time for DYS to think

consistently with juvenile corrections driven best practices, and the first action should be to include new input and ideas regarding gang violence reduction. The failure to address effectively the gang violence problem means that ORV, Circleville, and, to a lesser degree, Indian River, remain unacceptably dangerous places for youth.

There is also a widespread and somewhat misguided belief that gang violence may no longer be a significant problem in DYS. There may be some truth to a diminished amount of gang activity, especially for the minimum and medium classification youth at Cuyahoga Hills and Scioto. Observations of gang violence indicate that the problem may be a bit more subtle because of CRAV, but it exists nonetheless. Gang involved youth complained that there is not an effective vehicle for getting out of gang affiliation and that staff are no help in the process.

In questioning high-ranking DYS officials about this observation, their official response follows:

In June 2009 DYS began searching for an effective curriculum to assist in reducing gang violence. *The Phoenix Curriculum*, selected in September 2009, guides youth to develop *self-efficacy* in identifying and addressing the highest *risk factors* for substance abuse, violence, bullying, gang involvement, and other crime. The curriculum is built on respected concepts of cognitive-behavioral treatment (CBT) and motivational interviewing (MI). These resources provide the most comprehensive approach to gang intervention in corrections and community settings. The CBT/Phoenix “train the trainers” training began in June 2010 with facility roll out beginning in August 2010.

Other strategies to address violence include: Youth whose maladaptive behavior has an underlying STG identification are placed on Special Management Plans

(SMPs) as an outgrowth of receiving an Intervention Hearing. Their compliance with the SMP (along with the absence of incidents) determines the length of time on the SMP; Training was conducted agency-wide in February 2010-“Why Do Youth Join Gangs”; Quarterly meetings with Site STG Coordinators began in February 2010. These meetings facilitated by a Facility Resource Administrator from Central Office, serve as a vehicle to share information regarding trends and best practices to assist in addressing some of the STG behavior occurring at the sites.

In concluding this subsection, we reiterate that gang-related violence remains a basic problem for DYS. We do not assert that there has been no, or even too little, action. We assert that what is happening is not effective. A majority of the youth on the SMUs have extensive STG involvement and DYS does plan to target these youth for more intensive STG-related programming.

### **3. Concerns about Suicidal Behaviors in Violent Facilities**

There are two concerns related to suicide rate data within PbS. First, are the data accurate? There is reason to believe that each JCF has had problems reporting accurate data. This needs to be addressed. Second, there is an uncomfortable interaction between numbers of nominal gestures and violence.

Some suggest that this statistic simply captures a wide range of behaviors intended by youth to get attention. In some cases, agency staff members will point to the absence of any successful suicides as evidence that the data represent attention-seeking behaviors versus real suicide threats. The fallacy is that this type of logic can contribute to complacency about the lethality of any attention-seeking gesture gone wrong. In other words, even nominal, innocuous,

attention-seeking behaviors have the capacity to end a youth's life if the event is allowed to proceed past a certain point. Therefore, any complacency growing out of a belief that these behaviors are simply attention-seeking can erode the levels of supervision and vigilance by staff while simultaneously communicating to youth that the attention-seeking behaviors may not be dramatic enough to catch staff's attention.

From a simple mathematical perspective, an increased frequency of risky behaviors predicts an increased probability of problems. This probability increases again when risky behaviors occur in the presence of staff members who may not be fully trained or occur in a system that is disjointed. Both factors appear to exist in DYS.

In the past I have written that the DYS culture overreacts to an expression of a suicidal thought or a scratch on the arm with a paper clip. Youth know this invariably leads to a watch which, in turn, leads to a reason not to attend school and to just "layout." In my view, this has changed for the good and while some experts on the Team are of a different view, I do not view suicide or failed attempts as a significant problem for DYS.

Just prior to the last PbS collection period (April 2010) a process was established to have the site's Psychology Supervisors review all AMS Precautionary Status (Watch/Observation) incidents to translate them into the PbS's Suicidal Behavior, Ideation, Self Injurious Behavior or other Misconduct categories. This process should establish a greater consistency in reporting. The PbS Coach, Lois Jenkins, was in Ohio during the week of June 21, 2010 to work with DYS's PbS coordinator and each site in completing a quality assurance review of agency documentation submitted during last collection period.

### **C. The Search for Continuity of Care**

A common theme reported at every JCF exit meeting and at the recent Monitor Team Meeting is the presence of systems problems. In particular, the DYS system is disjointed and fragmented. There is a lack of continuity and uniformity of purpose. Described by some as a “silo” mentality, the problem can be explained by the lack of interaction between departments, divisions, institutions, and programs. These systems problems impede the quality of care provided to youth in all aspects of DYS, and they reflect poorly on leadership’s implementation of the basics of organizational effectiveness.

Each Team Member can provide examples within his or her area of monitoring of how programs and services do not communicate and interact well with other programs and services. From the perspectives of protection from harm, the problems start with a mission statement that is linguistically flaccid. The mission should provide the foundation for the program plan in delivering rehabilitative programs and services. While there are components of the *SH* reform-driven rehabilitation model that reflect evidenced-base practices, there is no clear and unifying plan that informs goals, objectives, program development, program implementation, and line staff expectations.

The absence of a unifying theme invites Central Office to move too hastily from one good concept to another with little time spent on explanations about how program pieces and parts fit together, how skills acquired in one specific training session interact with or complement skills learned in different training sessions, or how to implement program sanctions that are consistent with new reform-driven programs. Change is in the air but it is dispersed too often.

In the absence of a unified plan, there is very little accountability for staff at all levels. In a system that highly values accountability, the absence of a unified message and a unified program plan permit staff to do a number of things of questionable efficacy that adversely affect the quality of care provided to youth. The most frustrating situation occurs when staff use the chaos associated with rapid change to continue to implement their own brand of programs. Fortunately, these problems are also on the Central Office list of challenges, so next year's monitoring will hopefully reveal progress in these areas.

### **1. Unit Plan.**

The Unit Plan, as noted previously, is the skeleton that supports the rehabilitative programs and services delivered in the individual living units via Unit Management. The quality of Unit Plans varies greatly. Part of this variance is due to lack of clarity and direction about the DYS rehabilitation plan. Greater clarity and continuity would permit Unit Managers to construct a Unit Plan specific to their particular population of youth and consistent with the DYS mission. Increasing internal consistency is a positive factor. Consistency adds to structure, which is a vital component of safety. When safety and structure combine, an atmosphere conducive to rehabilitation exists. Currently, this is difficult to achieve because of the systematic fragmentation or the absence of a unified and integrated strategy to achieve the institutional mission.

On the heels of two disruptive years with the closure of Marion and Mohican and the remake of Circleville, a pause and a moment of stability would be greatly appreciated by the majority of the superintendents. As stated before, the key to this stability could well be the strengthening of the Unit Management philosophy, the quality of the Unit Managers, and the clarity of the Unit Plan. All of this seems to be occurring, albeit slowly. Those involved in the

Unit Management transition process indicate that their chief obstacle is the inherent difficulty within DYS of establishing continuity and team cohesion due to the lack of staffing stability brought on by the Collective Bargaining Agreements (CBA). The problem is not that a CBA in a large state system would prove to be counterproductive for a particular class of employees at a particular job site. Instead, the problem, as understood by Dave Roush, is that DYS refuses ostensibly to make any changes in the problematic contract language a priority or even an issue for discussion. DYS officials informed me that they did ask to be exempted from the pick-a-post process at the last contract negotiation process. After two years of identifying problems, requesting change, suggesting alternative language, this may be the third rail of juvenile justice reform in Ohio.

## **2. Cognitive Behavior Interventions (CBI)**

Central Office has had to change the mission of the Cedar Cottage at Scioto when the revocator youth opted out. DYS plans to replicate the CBT concept from Cedar Cottage throughout the system. As recently as May 2010, Laura Dolan met with Dave Roush and has kept the Monitor informed through regular "fact sheets."

The Strengths-Based Behavior Management Program training has so recently been implemented that it is not yet possible to gauge fully the impact of this program. The fact that two similar strategies are rolled out separately perpetuates the concern about the lack of continuity and direction.

## **3. Mohican and the Therapeutic Community (TC)**

The decision to close Mohican also ended perhaps the best program available for youth in DYS. Mohican employed many of the most talented staff, but its success (particularly its PbS numbers that were consistently better than the Field Average) generated some resentment and

criticism from other sectors of DYS. While staff were quick to acknowledge Mohican's success, their comments were always qualified with statements such as "you know they don't get the toughest youth" or "they use a quirky and complicated strategy (Therapeutic Community) that takes a long time to learn and could never work in the other JCFs."

The Mohican closure proceeded smoothly. Central Office developed a comprehensive plan, developed representative committees to oversee the plan, communicated tasks and responsibilities effectively to others, and followed its timeline precisely, enabling the closure to occur on schedule. DYS deserves praise for the successful closure of Mohican. The one element missing from the process is a strategy to preserve and disseminate the quality information about TC generated over decades of an effective implementation. The dispersion of Mohican staff, staff knowledge, and TC program concepts could have an overall positive impact on the other JCFs.

A "TC Summit" was convened on March 30, 2010 involving Mohican Staff with the focus on how to introduce TC to IRJCF and CHJCF. A grant for funding for TC training was submitted in June 2010.

#### **4. Structured Programming**

Structured programming show signs of improvement across DYS, but the amount of idle time and boredom remains too high. Too much time spent with nothing to do is an even greater problem on the weekends, and boredom remains a key factor in gang recruitment and gang violence according to gang members.

The number of programs and activities has increased. There are more things to do, more involvement by individuals from outside the institution, and more volunteer programs, particularly faith-based groups. The problem appears to be the number of youth who, for

whatever reason, are not able to participate in these programs. Sometimes the activity is limited to a smaller group of youth, thus limiting participation. Other activities only occur once a week; and even though they may permit greater numbers of participants, the schedule means that youth may go a week without a comparable activity. The size of DYS and the number of youth in each JCF compounds the difficulty of supplying structured activities.

## **5. Recreation**

Recreation is a central part of structured programming. The intent of recreation is to supply regular opportunities for exercise, activity, and competition that are important parts of the social, emotional, and physical development of adolescents. Beyond meeting these developmental needs, recreation should also focus on structured and leisure time activities that strengthen a youth's assets and remediate a youth's deficits. For this to occur, recreation must be fully integrated into the treatment strategies for the various clusters of youth in DYS. So far, this has not happened. We have been repeating this point since the monitoring began.

The concerns about recreation range from its lack of coordination and integration with the Unit Plan and the local JCF school program to a general lack of accountability by some General Activity Therapists (GAT), resulting in wide spread complaints by residents and Youth Specialists that recreation occurs only periodically, the GATs are only marginally involved in the process, and that there seems to be little focus or direction in the activities. This does not reflect every recreation program, but it captures themes that appear at varying levels at each JCF.

### **D. Data**

Team Member Dave Roush writes that the *Study of Conditions of Confinement* (Parent et al, 1994) introduced to the juvenile detention and corrections fields the concept of a coherence test. In other words, if a strong causal relationship is presumed to exist between one variable

(the cause) and another variable (the effect), then anyone should be able to see evidence of this connection, even in the absence of sophisticated statistical analyses. Because the *Study* found very little or no covariance between increased compliance with professional standards and improved levels of conditions of confinement, the accuracy or coherence of this presumed causal relationship was called into question and refuted both logically and empirically. As applied to monitoring, a coherence test would be the ability to find, observe, and document the existence of practices, behaviors, and outcomes that match the formal and informal descriptions of program operations. That is, can the Monitor Team Members find subjective and objective evidence that the facility in fact does what DYS claims it does?

Adjudicating protection from harm issues is like a three-legged stool. In other words, it is a type of triangulation, where the accuracy of a description or an impression becomes a function of the coherence of the three different perspectives. The more each perspective gives a similar impression or paints a similar picture, the greater the likelihood that the description of the phenomenon is accurate. True or accurate phenomena can then be assessed for adherence with the Stipulations.

The legs of the three-legged protection-from-harm stool are (1) the still disjointed DYS narrative, (2) the Monitor Team Member's subjective perspectives based on direct observations and interviews with youth and staff, and (3) the objective perspective or the data. The key data sources for DYS are the AMS system and Performance-based Standards (PbS). Because AMS largely informs PbS, discrepancies between the two indicate other problems of data integrity and validity.

Data problems exist, as the Court discovered with regard to feeding data, despite a competent data collection system. The capacity exists to do sophisticated and useful data

analyses. There should be greater coherence between the AMS system and PbS. This takes several forms.

### **1. Errors of Commission**

Data must be trustworthy or valid. That is, the numbers must reflect changes in specific behaviors. One recurring source of data integrity problems was the PbS rates of suicidal behaviors in each JCF. The suicidal behavior rate when there is an injury to the youth (Safety 6) remains the greater concern. The DYS rate is much higher than the PbS Field Average. Data verification using AMS reports revealed staff-related classification errors at most of the JCFs. The errors were corrected, which usually resulted in an increase in the Safety 6 rate, making this safety and protection from harm indicator even more problematic. (See the earlier discussion of suicide.)

As DYS moves to address the suicidal behaviors data problems, several questions remain unanswered:

1. Regarding the issues surrounding precautionary suicide status within AMS, the DYS finding that some double counting occurs is likely and partially the case. Because the Scioto-Girls' rate drives the elevated average for all of DYS, it is rightfully the focal point for review. The Monitor Team found some over counting or double counting to be the case in an analysis of the AMS data used for reporting Safety 6 and Safety 7 statistics to PbS. The double counting appears to be less than 20%, which would lower the rate. This likely would not change the concern expressed in the Monitor Team reports since even a 20% reduction is still grossly in excess of the Field Average.

2. Regarding the May 4th timeline to identify accurate coding categories in AMS, training needs, a training package, timeline for training, and data accuracy reviews, it would have

been important for the Monitor Team to have had an opportunity to review these materials before they were promulgated.

3. Regarding the PbS Category (Related AMS Code), there is no information about an AMS Code for suicidal ideation. This is an important part of the data collection process. If it has no AMS number, does this mean that DYS does not count it?

4. Regarding AMS Codes 761 and 762, the Monitor Team agrees that the current practice double counts these codes within PbS, but this over-reporting does not appear to be the substantial reporting error based on reviews of AMS data during these second monitoring visits. For example, in only one facility was this a problem. Otherwise, the errors that did occur were misclassification of AMS reports between Safety 6 and Safety 7 and some underreporting of Safety 6 and Safety 7 data.

## **2. Errors of Omission**

ORV remains the most problematic JCF. Team member Dave Roush asserts that ORV, however, does not use the same system for reporting data as the other JCFs. The amount of isolation hours documented for a youth depends upon the youth's program status as opposed to whether or not he is actually locked in a room. Youth on a 23-1 program, which includes youth on all SMUs and youth on special STG status or AOV isolation in the general population, are considered to be "on program" as opposed to being in isolation. This probably explains why the ORV isolation hours are not the highest in JCF. Additionally, ORV has fights, assaults, and other PbS indicators that are not among the highest in DYS. This makes sense logically and mathematically. If a third of the population is in isolation for 23 or more hours per day, and if the youth is alone and under staff supervision when out of the room, it would figure that this youth, who is in the special program because he is a frequent offender of the CRAV, no longer

has the opportunity for fighting and other misbehaviors, so the total number of incidences of violence would decrease. So what impact does that have on the rate of violence for youth in general population? In other words, if one backed out of the PbS rate calculations all of the accumulated but unreported time that youth were actually locked in their rooms (and, hence, unavailable to engage in violence), one would expect the violence indicator rates to increase. Without accurate information about the isolation hours associated with the special programs and SMUs, it is difficult to know what effect this omission has on the ORV rates of violence.

DYS rejoins and asserts that the SMUs at ORV are not a 23-1 program. The program is based on a 3-phase, level system. They point out that 23 of the 36 youth on the SMUs have pending felony charges, a point I am well aware of and have consistently pushed DHS to resolve.

The SMU population, notes DHS, is 18.6% of the ORV population (and 3.9% of the overall DHS population). All SMU youth have some opportunities to be out of their rooms to attend education, recreation, and treatment sessions. The fear of violence is the limiting factor.

There clearly is some basis for a reasonable difference of opinion on the reporting and meaning of the data under discussion. Team member Roush has been asked to meet with DHS officials at the earliest opportunity and prepare a brief report for me resolving this.

Data access remains a problem. Greater access to AMS by the Monitor Team Members would resolve most of the problems, but DHS is unwilling to provide any Monitor Team member with password access to AMS. A request for such enhanced access was made by me to then Director Stickrath who left the agency before he could respond. He did say to me informally, "I don't see why not but let me check."

A telephone conference was held during the afternoon of June 1, 2010 with Shelly Fitzhugh, Andrea Kruse, and Dave Roush. Dave discussed the need to triangulate data and gave

a couple of examples regarding suicide behavior with/without injury, data integrity issues and his requests to access AMS when needed.

Shelly and Andrea offered to provide AMS reports whenever he requested. Currently, Shelly provides AMS reports that Dave requests and sends them to him prior to site visits. Dave does not like to disrupt staff to provide him with information. He would like to access the data himself whenever he needs to review certain facilities or timeframes. Shelly and Andrea assured him that it would not be an issue to pull and send requested AMS reports.

At the end of this conversation, Dave stated that at this point, he would put together a list of parameters for requesting exactly what he wants, and which reports are needed and he would send this information to Shelly and Andrea. As of June 23, 2010 this list had not been received but it appears this access question is well on the way to resolution.

#### **E. Staffing**

The state of transition brought about by the Mohican closure on the heels of the Marion closure combined with the reductions in population make the status of Youth Specialist staffing difficult to evaluate accurately. This will be a priority in the next round of monitoring visits, since there will have been additional time for facilities to adjust to these changes.

Two ongoing concerns are the levels of licensed social workers, noted elsewhere in this Report as well, and the access to clerical support by the important middle management positions, particularly Unit Managers and staff trainers. Making major changes to improve programs and services would be an important part of achieving compliance with the Stipulations if DYS would simultaneously remove these implementation obstacles for staff.

## **F. Division of Human Relations (DHR) and the Training Academy**

Systems problems surface again regarding DHR and the Training Academy. One of the first exercises of linguistic symbolism was the transition in the position description from Juvenile Corrections Officer to Youth Specialist. Beyond the name change, the Training Academy was supposed to upgrade the Pre-Service training materials and experiences so that the training of new staff would be consistent with the Youth Specialist PD. Simultaneously, DHR was supposed to systematically establish core competencies for the new Youth Specialist position and was supposed to improve the new hires by assessing more carefully an applicant's desire to work with adolescents and by increasing the education levels of new hires. In each instance, DHR and the Training Academy either report no progress or report insufficient evidence to support an appropriate response to these critical issues.

Central Office has contributed to a training dysfunction by creating an informal and bifurcated system where reform-related concepts, programs, and curriculum materials are prepared by Subject Matter Experts outside the supervision of the Training Academy Director. Furthermore, Central Office has transferred a lead trainer into a position of authority, giving the impression that the transferred trainer is directing the training process. These muddled lines of authority, which seem to exist in an attempt to circumvent or expedite, have been replicated at the Training Academy, thus perpetuating problems.

Central Office must improve the continuity of training. Action is needed to make the Training Academy the lead element in the DYS training initiatives or to change position descriptions so that they reflect limited and secondary responsibilities. It is also time to re-evaluate the efficacy DHR as the supervising agent for the Training Academy. It makes more sense that the Training Academy receives supervision by the Bureau of Programs due to the lack

of accountability exercised by the DHR. Finally, Central Office would do better to hold someone accountable for the failure to set new core competencies for the Youth Specialists PD.

Over the past year, the DHR has made comments about DYS actions that have gone unchallenged and uncorrected in the presence of Central Office staff. The allegation that Marion was closed to pay for the S.H. monitoring activities presents an entirely different picture of DYS decision making than the Monitor was told.

The politically sensitive matter of negotiations on such delicate issues as Pick-A-Post should be revisited when the election season is not a factor. We are aware of "pot sweeteners" used to accommodate union demands (e.g., on licensing social workers) and suffice it to say where we might accept political reality, we do. However, we must reserve the right also to comment on negative consequences.

When this matter recently was pursued with DYS officials, they indicated that DYS's Joan Olivieri said that the legislature did not fund the costs associated with the Stipulation. The cost of required staffing per the Stipulation was approximately \$25 million a year. When the legislature did not give additional monies to DYS and cut DYS' budget, DYS had no other option than to close facilities. I do not believe this matter need be pursued any further from this office.

#### **IV. Why is Progress Limited?**

##### **A. Over-valuing Progress Indicators**

There is some wishful thinking occurring. Impressive and specific progress has occurred and has been described here, but the nature and extent of such progress has not been kept in perspective. Team members differ in their assessment of progress with the Monitor perhaps more optimistic than, say, Team Members Roush and Martinez. Furthermore, DYS uses an

ACA-type approach to evaluating progress as described earlier. Dichotomous variables can be misleading. Take, for example, a student in an undergraduate course on criminal law. On the first exam, she scores a 30%; but on the second exam, she scores a 60%. She has increased her compliance with the competency expectation of the course by two fold. Has she shown substantial progress? Yes. However, class grades are not dichotomous variables, and assuming this is not a pass-fail arrangement, movement from 30% to 60% does not yet constitute a passing grade. There are some parallels to the current situation at DYS.

## **B. Diminished Collaboration**

This recent round of monitoring visits was decidedly more adversarial than earlier visits. This was noticeable through the behaviors by some DYS staff to constrain and compartmentalize the monitoring process.

With regard to two instances of significant misbehaviors by Indian River staff, DYS did not inform the Monitor until after the situation was discovered by Monitor Team Members, signaling a disregard for the shared trust objective of the Monitor. In one instance, Youth Specialist Larin Feuerbacher noted a youth's active attempt to commit suicide and then did nothing to intervene. Also implicated in Feuerbacher's negligence were Youth Specialists Merrille Wittmer and Christopher Dawson. The second deception involved a criminal investigation of female Youth Specialist Michelle McAleer alleged to have had sex with a recently released DYS youth (#214080). Another unsubstantiated allegation surfaced that a recent staff sexual misconduct incident "disappeared" from AMS, which warrants further investigation in light of the aforementioned events.

## **V. What Needs to Happen**

### **A. Collaborative Monitoring**

Team Member Martin's involvement with Central Office on the review of use of force issues represents an excellent example of collaborative monitoring. The relationship between Team Member Wills and Dr. Pam Gulley has the same potential and is beginning to take shape. As Monitor, I have been able to influence DYS to adapt the Youth Advocate program, streamline the disciplinary process, and revamp the grievance process. DYS has funded a position devoted to revitalizing the longitudinal study and to film some aspects of it. Because of the success produced through Monitor Cohen's relationship, and Team Member Martin's collaboration, it would be helpful to other Monitor Team Members to replicate this collaborative monitoring as much as possible.

Several obstacles exist, the Central Office Liaison and the range of stipulations. First, there have been difficulties with Central Office liaisons assigned to other team members. Much of this stems from the Central Office Liaison's desire for favorable outcomes of the monitoring visit, which contributes to unintentional but disruptive behaviors associated with correcting or reinterpreting the monitoring process.

Second, for each clustering of *SH* Stipulation topics a liaison is needed. For example, for structured programs and unit management, Shannon Komisarek should be the Central Office Liaison. Regarding safety and general conditions of confinement, there needs to be a Central Office Liaison with substantial familiarity with the AMS system. The team members with the broader foci should have multiple Central Office Liaisons.

Third, Team members must gain the trust of DYS staff and officials. That our role is collaborative and oversight does not mean collaboration is automatic; that teaching will be

received with an open mind. Dr. Shansky and Drs. Sauter and Makrides, e.g., are readily accepted by DYS in their collaborative rolls. Thus, we have some work to do as well in the collaborative process.<sup>16</sup>

## **B. Institutional Nexus**

The accomplishments associated with Team Member Bilchik's activities are impressive. His understanding of the "big picture" issues is impressive, and his accomplishments and his understandings combine to make his observations and recommendations cogent for DYS. Team Member Bilchik raises an important concern from the perspective of second-generation issues. For example, the reduction in the DYS footprint, i.e., the continuing reduction of average daily population, guarantees a continued state of change for the JCFs. In response to this transition and the SH reform efforts, and as I asked elsewhere, is there a plan that describes what the JCFs will look like in the future? To answer this question, there must be a clear rehabilitation plan for DYS that extends beyond the Master Plan. From there, questions arise about the role of each JCF in a system that will likely be more regionalized and community-based.

## **C. Linguistic Symbolism**

### **1. Social Isolation**

In addressing the concept of seclusion, Dave Roush notes, as I have, that the nature and extent of confinement versus seclusion varies somewhat based on the different definitions of the conditions of that confinement. For example, confinement of a youth in the youth's sleeping room with only minor modifications to the environment is generally thought of as room confinement as opposed to the confinement of a youth in a room not designated as his or her sleeping room, which has an altered environment by restricting the youth's access to personal possessions, reading materials, and clothing. The latter is often called seclusion. The work of

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<sup>16</sup> By mentioning a few names as collaborative agents, I do not mean to condemn others by silence.

Team Member Martin represents an appropriate first step in the identification, differentiation, and monitoring of the different types of confinement linked to use of force and acts of violence policies and practices. This strategy needs continued support.

The larger problem is social isolation. Within this context, excessive social isolation, regardless of the conditions of the confinement, represents a substantial protection from harm concern that is contrary to the DYS mission.

## **2. Transparency and Shared Trust**

Line staff and middle managers describe the *SH* monitoring visits as the inspections that they fear most. Some of the fear is misplaced, some is perhaps well founded. Misplaced are the fears that the Monitor Team somehow controls the closing of facilities or the wholesale loss of jobs. Other fears are that JCF staff will have a price to pay through Central Office if the Monitor Team provides a negative report. Either way, self-admitted fear is problematic. Fear undermines both trust and transparency. Better attention to a good match between each Monitor Team Member and Central Office liaisons could work to improve both trust and transparency.

## I. DISCIPLINE, GRIEVANCES, AND YOUTH ADVOCATE

### Discipline

The Youth Discipline process has been dramatically reformed and renamed. A critical part of this reform is to provide assistance to youth during Intervention Hearings. Youth Advocates will act as a “guardian” that can recommend a disposition that is consistent with a youth's overall case management plan and treatment needs, not necessarily one that minimizes liberty or is precisely what the youth may desire.

Each facility now has a Youth Advocate along with some trained back-ups and an assessment of their role in the Intervention Process will be a major part of the upcoming monitoring. Early, anecdotal reports from the field are quite positive.

The Intervention Hearing itself will now be conducted by a single Hearing Officer versus the three-person panel of the past. How these officers are trained and function is of central concern and the subject of this year's monitoring.

While disciplinary seclusion of up to five days may be imposed and additional time recommended that delays a youth's release, the primary purpose here is not punishment *simpliciter*. It is to fashion a disposition with "consequences" proportionate to the misconduct but designed to change behavior. Thus, there should be input from a broad range of staff, the Advocate, and the youth.

The process is too new to report even anecdotally on its progress at this time.

## **Grievances**

The new Grievance Policy went into effect on May 1, 2010 and is attached as Appendix B. Section IV, E, 5 calls for a quarterly cumulative summary report of all grievances filed, types of complaints and actions taken. Although, the first report is not due until August 2010, the template has been designed and will contain the following information:

- Overall statistics listed by site
- How many total grievances at that site
- Type of grievance by category at each site (and how many of each type)
- The top 4 grieved issues at each site
- Trend Analysis
- Analysis of the Administrative Review and Timelines

The Policy and rightly so, emphasizes the speedy and informal resolution of problems experienced by youth. Of particular interest is Section IV C (a) to the effect that "The youth's involvement with the grievance process is completed upon return of the grievance form, or the expiration of [14 days]." This should establish "exhaustion of administrative remedies" under the PLRA pre-condition for filing a federal lawsuit. The Chief Inspector is to review over grievances. Thus, there is a simplicity and streamlined process now in place.

Team Member Steve Martin has agreed to undertake the actual monitoring of the process including youth perceptions of fairness as to process and outcomes.

## **Youth Advocate**

The concept of a Youth Advocate has been researched through this office and then formulated for over a year. Once accepted by DYS, the positions were posted in October 2009, interviews held in November 2009, and a Youth Advocate was selected for each site. It was determined that in addition to the Youth Advocates, proxies, or back-ups would also be necessary at each site. The Superintendents selected additional exempt staff that were not selected as Hearing Officers or Grievance Coordinators for these positions.

All youth and staff have been trained at the facilities. The new Primary Rule Violations, IH Process went into effect on Feb. 1, 2010 for all facilities except Circleville (they were the first to rollout SBBMS) who started the new process on March 1, 2010.

## **Youth Advocate Training**

- Youth Advocates and proxies attended the Intervention Hearing Training December 17, 2009.
- A Youth Advocate Training occurred December 18, 2009 and included an assignment packet that Youth Advocates and proxies worked on between December 18, 2009 and January 7, 2010.
- An extensive two-day training occurred January 7-8, 2010 for the Youth Advocates and Proxies. Training covered history of advocacy, systems versus the individual, and interview questions.
- Youth Advocates have met with Federal Monitor Fred Cohen twice (December 4, 2009 & January 29, 2010).
- A need for additional proxies was determined and they were trained in March and April 2010.

**Duties of the Youth Advocate:**

- review AMS reports and videos
- gather facts of incident
- meet with youth prior to hearing
- attend the hearing with the youth
- ensure that hearing is conducted per policy
- conduct quality review of hearing packet
- meet with youth to ensure he or she understands disposition
- assist youth in appeal process

## **J. MEDICAL CARE**

### **Introduction**

My January 1, 2008 Report, p. 137 et seq., analyzed the DYS health care system. The findings determined that there were deficiencies particularly in the improvement of chronic care, although chronic ailments are not as pervasive with youth as adults. Documentation was an issue as was Quality Assurance, and education of youth.

It is fair to say that the medical care problem for DYS, as it is nationally in juvenile facilities, is nominal when compared to adult facilities. Ron Shansky, our expert Team Member, along with Barbara Peterson, prepared a rather brief summary for inclusion in this Report. To provide the Court with additional detail if desired, I have also included as Appendices F and G, the most recent site visit Reports from ORV and Circleville, DYS' most troubled facilities.

### **Leadership**

There has been improved leadership from Central Office with enhanced collaboration between the Medical Director and the Director of Nursing on development and completion of policy and procedure. Policies that have been completed were implemented on March 31, 2010. Education on the purpose of the policy, the most important changes and performance expectations was not designed in advance of distribution. The initial education program was not acceptable to us and suggestions were offered for future initiatives.

Timeliness of all initiatives remains to be addressed. Peer review and Quality Improvement have not yet been implemented. Dr. Shansky spent a full day at Central Office training DYS staff in these important areas.

## **Medical Assessments**

Initial medical assessments are improving even though monitoring of the impact of this process has yet to be implemented. Intrasystem transfer forms have been improved and are being used. The quality and the completeness of the form requires monitoring.

There must be increased effort to involve family members in the provision of medical and mental health information. There must be added encouragement for family members to participate in the treatment planning process.

## **Medications**

There is significant variation in institutional performance; only two of the five facilities consistently meet current nursing practice standards in the preparation and administration of medications.

Since the quality improvement program has not yet been implemented there is no consistent recording or review of medication errors. There is inconsistent pharmacy performance and no documentation of problem resolution efforts. “As needed” medications are being given more consistently as necessary (rather than only at medication administration times).

## **Laboratory**

Phlebotomy services are now available at SJCF (since March 2010) and IRJCF (since June 1, 2010). Nurses elsewhere continue to complete blood draws and prepare blood for transport to the lab.

## **Infection Control**

The Health Services Administrator completes basic statistics for diagnosed infectious diseases. Nurses do provide education on the prevention and treatment of infectious diseases during intersession. Documentation, however, must be improved.

## **Documentation**

There is no integrated medical file and information involved in the care and treatment of youth is not accessible to all staff involved in the provision of that care. There is no individualized plan of care that combines care during incarceration with discharge planning. There is currently no plan to address this requirement. There are no qualitative and quantitative reviews being completed. Charts are not maintained in chronological order (the most recent information is simply filed on top) and there are no guidelines for thinning the record.

A policy that addresses medical record requirements should be developed. It has also been recommended that a Medical Record Librarian position be considered.

Problem lists are now included on every file and are being completed. Physician assessments of acute and chronic conditions were being completed although the forms as initially distributed were incorrect. This problem was corrected on June 1, 2010.

## **Quality Improvement**

There is no quality improvement program in place. One educational session was completed May 21, 2010.

## **Health Education**

Nurses provide education on health topics during intersession. There have been increased efforts to insure that information is provided at a level required by the youth participants. Documentation must be improved by individualizing each youth's participation and understanding. Documentation should also include evidence of ability to use the information provided.

## **Nutrition**

Nutrition to meet the needs of adolescents and special dietary requirements is being provided.<sup>17</sup>

## **Staffing**

Staffing assessments of psychiatric and physician time are being assessed as a result of facility closures and changes in mission. The final outcome of this assessment has not been made available to us. There has been a verbal commitment to addressing continuing education requirements consistent with needs of the population for licensed individuals. There has been no evidence of actual movement in this direction and credentials for psychiatrists remain an issue.

There was an assessment of compensation for professional staff completed in March 2010. There is no peer review/competency assessment of professional staff members being completed. There is an inadequate number of support staff for medical and mental health services at the institutional and central office level.

A relief factor for 24/7 staffing of nurses has not been addressed. There is no intent to consider the use of nurse practitioners per the Director's Office (previous Director). Licensure for social workers remains to be completed. Labor Relations staff should be included in the assessment and planning for staffing but this has not occurred.

## **Summary**

There has been progress in the provision of medical and mental health services. Both areas require the development and implementation of quality improvement and peer review programs.

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<sup>17</sup> In light of the concerns expressed recently by the Court regarding the feeding of DYS youth and inconsistent records on youth meals this subsection may itself seem malnourished. As I have repeatedly said, and now confirm again by our medical experts, nutrition is not an issue. I cannot address the records issue but will note only that how well youth are fed and the records thereof are severable issues.

There is a continuing need for coordination of mental health and medical services and staff to insure adequate planning for each youth occurs and is documented along with the response to care.

Numbers, credentials and peer review or competency assessments of clinical providers have not been adequately addressed. This area has been identified as a priority by ODYS.

## **K. DENTAL CARE**

Fiscal Year 2010 was one of great progress in the area of dental care for the Ohio Department of Youth Services (ODYS). Drs. Makrides and Sauter worked closely with me, Dr. John Bradley, and the facility dentists to provide clear recommendations for improving the level and quality of dental care provided to the youth. All functioning facilities were visited twice during FY 2010.

Dental policies and standard operating procedures (SOP) were refined during 2009 and produced quality documents that became effective on March 31, 2010. Much of the guidance provided in the policies and SOPs was being utilized in the clinics prior to final policy approval. During the past year the dental consultants noted a cultural shift in ODYS dentistry from resistance to acceptance of change. Dr. Bradley took the lead and has continued to support positive changes.

All ODYS institutions now have dental assistant and dental hygienist positions. The additional personnel has allowed the dentists to focus their efforts on providing restorative care while delegating infection control, dental radiography, and dental hygiene to appropriately credentialed dental auxiliaries.

Primary prevention therapies are more effective now that dental hygienists provide them. A core component of dental hygiene training is providing customized and individualized oral health education. These professionals are also more adept in the removal of hard deposits on the teeth in a way that minimizes discomfort, thus increasing patient acceptance. ODYS dental hygienists are involved in identifying teeth that would benefit from sealants.

ODYS dentists are now spending much more of their time providing secondary prevention/caries stabilization and restoration. ODYS implemented a system to track patients

from the time of their arrival at a facility through the completion primary and secondary prevention therapies. Patients are placed on dental recall at a frequency consistent with their level of need.

Increasing the level and quality of dental care also involved enhancing physical resources. The existing dental clinic at Cuyahoga Hills Juvenile Correctional Facility (CHJCF) was remodeled in order to provide immediate improvements in dental care as the new medical facility was not due to be operational until FY 2011. Indian River Juvenile Correctional Facility (IRJCF) is also building a new dental clinic. There is a concern that it has only one operator, but the dental hygienist can work when the dentist is not present if properly credentialed. Dr. Makrides did feel that IRJCF needed increased dentist hours<sup>18</sup>.

We were delighted at the procurement and placement of a digital panoramic x-ray unit at Scioto Juvenile Correctional Facility. Although the printer was not in place at the time of the April 2010 site visit, in the future all dental charts leaving the reception center for the field will contain a digital panoramic radiograph. This will improve screening for dental hard tissue abnormalities and provide a radiographic examination for treatment and extraction of third molar teeth<sup>19</sup>.

Increased hours and staff at SJCF have resulted in a drop in urgent care requests at the field facilities as reported to Dr. Sauter at ORVJCF and CJCF.

Some old habits die hard. Chronic problems continue with lack of adequate radiographic examinations prior to dental treatment and lack of adequate dental record documentation. Repeat deficiencies place a stain on an otherwise progressive year of dental monitoring.

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<sup>18</sup> May 2010 IRJCF monitoring report

<sup>19</sup> A common problem and dental complaint on dental Health Requests

## **Goals for FY 2011**

- Improve radiographic examinations prior to treatment
- Improve dental record documentation
- Improve tracking and treatment of caries
- Improve quality and quantity of treatment plans
- Improved tracking and diagnosis of dental sealants
- Continue physical plant improvements
- Implement draft plan for ODYS dental director
- Improve attitude and ownership of the program by dentists

## L. RELEASE AUTHORITY

### **Introduction**

A policy (701.01.01) to provide a standard release and discharge decision making process was established by the Ohio Department of Youth Services in November 2009 and Standard Operating Procedures (SOP) for its implementation have since been developed by the Release Authority. This, in effect, is an update to the implementation of this policy and SOPs that began with training of staff and other juvenile justice officials in February, 2010, full implementation in March 1, 2010, and a recommendation regarding a statutory change that would strength the release and discharge of youth. The implementation of the policy and SOPs was included for investigation while conducting monitoring visits to the Juvenile Correctional Facilities.

### **Stipulation Section 26 – Strong Re-entry Programs.**

The Stipulation requires that reentry efforts should begin at the time of admission and utilize a wrap-around case management function that includes residential options for youth who cannot return home to their families.

SOP 701.01.02 – An operating procedure was established that requires the Release Authority designee to review assessment information and other pertinent information and finalize expectations for the youth on a Reentry Plan worksheet. Expectations consist of identifying critical risk and needs that should be addressed related to public safety, accountability and competency development, Minimum Sentence Expiration Date and potential community programming options. It is required that a reentry planning meeting with the youth be held prior to a youth being released from reception.

Team Member Orlando Martinez monitored four reentry planning meetings held by a designee at the Scioto Reception Center and concluded that youth were being informed of DYS' expectations and given the opportunity to express concerns.

The reentry plan worksheet is placed in the youth's Central Office file and a copy sent electronically to the receiving institution using the JJCMS, new tracking system put in place on March 1, 2010. The reentry plan is also sent to parents and guardians.

*JJCMS replaced a component of SOLAR on March 1, 2010 and is being used by the Release Authority to schedule reviews, communicate with parents regarding release plans and hearings and as a worksheet for release decisions.*

The JJCMS is a major step forward in beginning to structure the treatment continuum within the juvenile correctional facilities. For example, the board will use JJCMS online – Release Decision Worksheet - that structures decision-making to determine if a youth should be approved for release using these factors:

1. Institutional Behavior
2. Public Safety Risk – OYAS; Institutional Classification; Clinical Judgment
3. Treatment Need – TX available; Effective TX; Timeliness of TX; TX Available in the Community.

It also should structure institutional services by requiring staff to respond to those factors being used by the Release authority to make decisions.

Currently, the youth's institutional social worker, in collaboration with the Interdisciplinary Treatment Team, must use the Reentry Plan worksheet and incorporate the

court and Release Authority expectations into the youth's Unified Case Plan goals within 21 days of the youth's arrival at the parent institution. Review of files in the JCFs indicates that there is not adequate documentation of what treatment is being provided and how that applies to reducing the youth's risk to reoffend. It is possible that this information is contained in JJCMS; however, staff who attempt to use JJCMS indicate that they have not been trained on how to access and use the system.

*Staff in the juvenile correctional facilities have not been trained in the use of JJCMS and completion of Release Decision worksheet or the Discharge Review worksheet.*

### **Stipulation Section 27 – Fair and Effective Release Process**

The Stipulation requires that decision making regarding release must be based upon accurate and current information regarding the youth's risk and needs, the due process rights of the youth, timely and ongoing communication with treatment staff, parents or other responsible adults, and must comply with notifications as required by law. Youth should not be held longer than necessary for successful reentry, an extremely vital principle.

The SOPs set a framework for a release process that can be effective. However, JCF's must do a better job of preparing youth for reentry and Parole must become a better partner in pre-release planning. A good release process can be divided into three phases:

1. Pre-release planning during confinement. SOP 701.01.02 provides guidelines on the development and communication of reentry plans.
2. Transitional activities involving both institutional and Parole. There is no evidence that these activities are occurring. JCF Units hold regular "team meetings" with individual

youth but reentry information from Parole and institutional services that relate to reentry are either not available or not part of these meetings. Case files do include information regarding transitional information; however, it is not integrated with institutional activities.

3. The planning of long-term stabilization activities such as living arrangements, returning to school, jobs, vocational training, health and behavioral healthcare.

*Juvenile Correctional Facilities and Parole must prepare youth for successful reentry back into their community by addressing their treatment needs as identified by the OYAS and other assessments and by conducting timely and individualized pre-release planning.*

### **Stipulation Section 32 – Plan for Reforming Release.**

This stipulation requires that the parties work with the Monitor and prepare a plan for reforming release standards and procedures. The plan must explore potential revisions of the release authority statute and/or rules. This plan was implemented on March 1, 2010

In spite of excellent work by all relevant parties, an obstacle to the creation of a fair and effective release process has been the difficulty of simultaneously balancing treatment and public safety as it relates to release. The Release Authority's major function is to act as "disciplinarian" not as case manager. What is now lacking is interagency and cross-disciplinary cooperation in the release process and linkages and activities between facility and aftercare case manager with outside service providers (e.g. mental health, substance abuse and residential placement) or key community agencies (e.g. schools, jobs, churches, and recreation centers).

***Replace the Release Authority with Juvenile Reentry Courts in all Ohio Jurisdictions.***

***Redirect Release Authority resources and Parole resources to a Unified Case Management system that has primary responsibility to coordinate reentry of youth to home communities.***

A program solution that is already in effect in several Ohio Juvenile Courts is the reconnecting of the Juvenile Court to reentry by managing reintegration of youth into the community after commitment to secure confinement. Existing reentry courts in Ohio have achieved good results according to UC research findings. Thus, a model already exists.

The JJCMS could support such a change and the recent policies and procedures could be adjusted to meet a reentry court concept if current Release Authority and Parole staff would be reassigned to a unified case management system that provides the following:

- Implementation of Continuum of Care is facilitated by a case manager who follows the youth from initial entry to discharge
- Case Manager prepares initial treatment plan as is now the case with the Release Authority
- Case Manager participates in facility treatment team meetings
- Case Manager monitors and holds youth accountable in the community as currently being done by the Parole Officer
- Case Manager brokers services for youth (e.g. educational, continued counseling, housing, job training, and employment)
- Case Manager presents revocation requests to the reentry court when public safety is threatened

Vincent Nathan, Esq. has been added to the S.H. Monitoring Team and assigned the exclusive task of monitoring the Release Authority (R.A.). The R.A. is the lynchpin between the institutions and the community and we need to follow closely the complex decisions being made by the R.A. and determine if readiness for release and continuum of care are, indeed, being followed.

## **M. COMMUNITY BASED TREATMENT: CONTINUUM OF CARE**

This Section is, in effect, an update on the progress being made related to Stipulation Sections 13, 14 and 15 of the S.H. Settlement. This section of the report should be considered in tandem Section M of this Report.

Team Member Shay Bilchik, as well as the Monitor, is very encouraged by the work done to date and the commitment to continue the work by ODYS. As will be seen, there is a tremendous amount of work underway in each area described below:

### **Stipulation Section 13 – Comprehensive Continuum of Care in a Regionalized Services**

#### **Delivery System**

The primary activity being monitored in this area is the creation of a realigned continuum of care and the development of additional local capacity through the use of small (12-48 bed) community-based facilities (also contemplated in the activities delineated in Stipulation 14 – Task Force).

The development of this continuum has been quite remarkable. Building on the relationships established by RECLAIM Ohio, the DYS leadership has developed an expanded application of RECLAIM called Targeted RECLAIM, a project designed to support the largest 6 counties in adopting evidence based programs that will serve as alternative treatment programs, thereby reducing the number of youth committed to ODYS institutions. These programs are also known to reduce recidivism. In addition, ODYS has invested in the Behavioral Health Juvenile Justice program, another mechanism designed to better serve youth in the community as compared to being committed to an ODYS institution. The results of these two reform minded efforts has been quite staggering. The goal set for the programs was a reduction in ODYS

commitments of 20% and through May, 2010 (the eleventh month of the year); the projection is a reduction of 40% compared to last year, while the other 82 counties are showing a decrease of 27%. In short, the downsizing of the ODYS population is being achieved in large part by increasing effective alternatives. The results of the program that can be measured to date (BH/JJ) show decreases in recidivism and improvement in behavioral indicators.

The Community Based Treatment Center (CBTC) in Franklin County has been opened, but is under-populated as result of the huge reductions in the overall ODYS population. As a result, one 12-bed wing is still available for the targeted CBTC offender (moderate risk), with the other 12 beds are being converted for other use by the facility operator, Starr Commonwealth. ODYS has approached Cuyahoga County about the target population they would need to serve in the next CBTC to be opened and jointly agreed upon the target population (moderate risk) and the type of facility (secure) that would be needed as an alternative to ODYS institutional placement. The RFP to develop this facility and begin operations in late 2010 has been released. This RFP is still pending, with a well attended “bidder’s call” taking place in May 2010. The last CBTC that will be opened will be in the southwest area of the state and will also be developed in close coordination with the local jurisdiction to be served.

It is worthy of note that a test site, the Revocation Center at Scioto, has informed the creation and design of the CBTCs. The Revocation Center utilizes Cognitive Behavioral Therapy as its core operating principle, focusing the methodology on offenders who were sent/returned to Scioto as a consequence of a parole revocation. These offenders were tracked by DYS, with very favorable results related to violations and reoffending. While several of the youth have demonstrated inappropriate behavior, including re-arrests, the overall data is far more favorable than what was occurring with revocators before the use of the CBTC methodology. These

outcomes are quite reassuring in light of the fact that the CBTCs will be using the same methodology with their youth.

Additional efforts in this area include shortening the length of stay on parole, a change in policy that will still leave ODYS adequate time to help youth transition back to the community, while not keeping them on parole for such a long period of time that they are likely to incur technical violations. The new presumptive release from parole dates were instituted in the late fall and are just beginning to have an impact on parole officer caseloads. Once this impact is realized it will allow the parole officers additional time to work with their youth prior to release, engage with them in a more productive manner after their release (fully utilizing the EPICS training they have received), spend more time working with the youth' families, and better partner in developing community resources.

**Stipulation Sections 14 (Task Force) and 15 (Least Restrictive Alternatives)**

Both of these stipulations are supported by the development of the continuum referenced above. In addition to the use of programs through BHJJ and Targeted RECLAIM, and the platform provided by RECLAIM for community based programs, the continuum is being further supported by the work being done to strengthen the CCFs. This work involves training the CCF staff in the use of the CBTC methodology and in improved aftercare support through training in EPICS, a program used by parole officers to improve their case management. Not only will this effort result in improved programming and the probability of lower recidivism, it will also shorten the length of stay in the CCFs due to the fact that the CBTC methodology is shorter than the previous average length of stay at CCFs.

As can be seen, much has been done in support of these stipulations. Discretionary funding has been targeted to implement several different programs and activities that will serve

to strengthen this continuum and staff have been working with other stakeholders to realign the array of services available in the community and through the CCFs.

Another positive development in this area is the support DYS is providing to five of the biggest counties to become involved in the Juvenile Detention Alternatives Initiative (Cuyahoga, Lucas, Summit, Franklin and Montgomery). This methodology has been proven to reduce the unnecessary detention of youth while not increasing pre-trial offending; while also helping to reduce commitments to state institutions. This program has just commenced and will be a terrific complementary piece to the realignment, BHJJ and Targeted RECLAIM work described above.

All of the activities described above will likely make significant contributions to a regionalization plan whose goals are to substantially reduce the current reliance upon institutional confinement and to return juvenile offenders to local communities whenever possible. The expansion of regional beds (including more space in CCFs due to the expected reduction in the length of stay); the increases in non-custodial local alternatives, and the work just undertaken through JDAI to keep youth out of detention, are all supportive of these goals – and will lead to the further closing or downsizing of existing facilities.

As reported last year, while there is another stage of work yet to take place concerning possible legislative changes around the state's sentencing laws (minimum mandatory sentences and gun spec laws), these amendments seem better positioned for consideration if they follow the work currently underway.

In the spirit of looking forward, however, what follows are a number of key areas that we believe should be included in a plan for action:

- Developing a master plan for the provision of aftercare services in partnership with the local courts — a recent meeting facilitated by Mr. Bilchik with the ODYS Regional Administrators launched this effort
- Developing prevention programming utilizing cross systems approaches, including efforts to reduce the number of youth being suspended and expelled from schools and arrested, and stem the flow of youth from the child welfare into the juvenile justice system
- Enhancing the use of prosecutorial and court diversion programs
- Increasing the use of IV-E, Medicaid and TANF
- Strengthening research and data capacity, including putting into place a longitudinal study that will examine the results of the reforms that are underway
- Creating greater public awareness in order to build public and political will
- Developing the capacity for DYS to serve as a purchasing agent for local services (particularly important in providing aftercare services/supports)
- Supporting ongoing and enhanced efforts to reduce Disproportionate Minority Contact and disproportionality in the child welfare system
- Developing the capacity to perform cost-benefit analyses on an on-going basis
- Improving the legal representation of youth in the system

I hope the Court shares in our excitement about these developments. Our joint efforts have made good progress and we look forward to bringing the current work to fruition and taking on the areas delineated above for development over the course of the coming year. It should be reiterated that former Director Tom Stickrath had this vision for juvenile justice in Ohio and these positive comments are as much a tribute to him as anyone.

## N. CONCLUSION

I have scrupulously avoided the use of substantial compliance-type language in this Report. I do not use numerical terms such as "78% compliance" because the use of such numbers likely conveys a false sense of compliance. For the numbers to have meaning, one would need to assign numerical scores to a complex array of Stipulation requirements and DYS behaviors. This, in turn, opens up areas for disagreement on the value (or weight) of the conduct and the area addressed.

We will, indeed, begin to use the normative language of substantial compliance as we go through the third year and, perhaps more importantly, begin to speak clearly to our views on what needs to be done to be in substantial compliance and to substantially meet the letter and intent of the Stipulation.

I presume that it is rather obvious that there is no unanimity of opinion among Team members in some areas regarding progress. No Team member believes there is no progress or, worse, regression. The differences relate to the quantity and speed of change. I suspect that I fall on the more positive side of finding progress, although I pray this is not viewed as utterly Pollyannaish. Dave Roush, an extremely valuable Team member and highly experienced in juvenile justice matters, is a bit more skeptical. He worries about access to data and the integrity of some of the data we receive.

Dave is rightly concerned about the many shortcomings in training and we will push hard this year in that area. Dave also worries far more about suicidality than I do. His concerns about an integrated, continuum of care are shared.

Dr. Wills, our psychiatric expert, has strong views on the diagnosis and treatment of ADHD and DYS' employment of general psychiatrists *vis a vis* child-adolescent specialists. It is important to remind ourselves that acceptable clinical judgments in psychiatry cover a broad band and mere personal disagreement with diagnosis/treatment may be grounds for voicing an objection but not for condemnation. Some of the strongest language in the mental health section is that of Dr. Wills. While I attempt to preserve her professional judgments, I do alter some of the language employed and yet I realize that in some instances it remains very strong.

We will work closely with Dr. Strange and his staff and we will be as collaborative as desired by DYS. I wish to reassert, however, the mental/behavioral health care area remains a significant laggard.

Stepping back from this comprehensive Agreement, I see authentic progress in changing the institutional face and climate of DYS accompanied by enormous strides in changing the footprint of DYS. Shay Bilchik tells me he knows of no jurisdiction in this country doing more with community treatment alternatives.

I hope the Youth Advocate, Intervention Hearing change, the grievance procedure change, and the strength-based programming combine to create an even safer, more rehabilitative, and less liberty-depriving environment in the coming year.

As I noted earlier, there are miles we have travelled and many more miles to go. I am so grateful to my Team for their competence, commitment, and energy. I never ask anything of a Team member that is refused; indeed, not done with enthusiasm and on time. Dave Roush and Steve Martin deserve special applause for their "Special Inquiry" work. Barbara Peterson, e.g., investigates an individual issue professionally and expeditiously. Her work spans medical, dental, and mental health, making her extraordinarily valuable.

Ron Shansky spent a full day in May teaching his specialty, Quality Assurance, to Central Office staff. Ava Crow, aided by Anne Flynn, has worked tirelessly on complex and contentious education issues, going far beyond "the call of duty." She brings grace and a tenacious work ethic to our team.

Our dental experts glide seamlessly in and out of their site visits and write succinct, timely excellent reports. Dr. Wills writes reports of such length and depth and so soon after a site visit that I do not know how she does it. She is tireless and greatly committed to these youth.

Finally, Shay Bilchik repeatedly shows why he gained the reputation as the best administrator ever for OJJDP. Shay has, in effect become the "go to guy" in Ohio's juvenile community corrections movement. He brings disparate groups together and creates harmony. He is also perhaps the best meeting facilitator I have ever encountered.

I expect this third year of monitoring to begin to show integrated treatment/rehabilitating planning, further reductions in violence/force as well as in all forms of seclusion, and a much better performance from the Training Academy now that there is new leadership.

Mental health care simply must pick itself up and DYS must now show leadership and oversight here. Clinicians appear to practice in a semi-automatic fashion with little inter-clinician interaction; and little on treatment protocols.

Where our experts have uncovered psychiatrists arriving at very odd, early morning hours, we need an answer to — why?

I look for education disputes to vanish; yes, vanish as all DYS youth receive quality educational and vocational opportunities.

Respectfully submitted by,  
Fred Cohen, Esq.  
S.H. v. Stickrath, Monitor