

2011

Third Annual Report

On Compliance with the S.H. v. Reed
Stipulation for Injunctive Relief

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Preface

This is the third Annual Report in the remedial stage of the *S.H. v. Reed* (previously *S.H. v. Stickrath*) litigation, but this is the first Annual Report since I came on as Monitor at the beginning of this year and since Harvey Reed was appointed Director of the Department shortly thereafter. In July, Terry Schuster came on as my Special Assistant and we reached out to experts in the field to help us adapt the work of our monitoring team to be more efficient, comprehensive, and responsive to the parties. We developed a site visit reporting protocol that has helped ensure 1) that our reports are timely and comprehensive; 2) that our compliance findings are tied to the requirements of the Stipulation and do not conflict with one another; 3) that the Department is not overwhelmed with multiple reports from the same site visit; 4) that our reports offer guidance to the Department on priorities; and 5) that the monitoring team has an opportunity to collaboratively troubleshoot site-specific problems with central office and facility leaders following the visit.

We have taken significant steps to keep our work transparent and to efficiently and appropriately share information with interested parties. We have uploaded various document collections to a private Google Docs site for the monitoring team and plaintiffs' counsel as a shared filing cabinet. We have met with the Legal Assistance Program, the Correctional Institution Inspection Committee, the Office of the Ohio Public Defender, and the Legal Rights Service for people with disabilities, to open lines of communication and collaboratively address systemic concerns. We also invited DOJ monitor, Dr. Kelly Dedel, to participate in a recent Special Inquiry, and are pursuing a memorandum of understanding between the *S.H.* and DOJ monitoring teams to reduce redundant efforts and restore some level of collaborative oversight. Judge Marbley supports this collaboration, and has instructed us to develop a plan to efficiently and cost-effectively monitor overlapping areas of the two Stipulations.

The Department's leaders have shown integrity and sincere dedication to reform, and I am confident in their ability to achieve compliance with the Stipulation. Operation Safety First and the monitoring team's Special Inquiry caused some strained relationships, and may have

set us back in terms of building a strong partnership between the monitoring team and the agency. The Stipulation, however, makes clear that the goal of monitoring in this case is not simply to find noncompliance, but to partner with and coach the Department to achieve compliance.¹ It is also our responsibility to keep counsel for plaintiffs informed and involved in decision-making as partners in the monitoring process. We are operating in this spirit, and will continue to assess our monitoring approach to ensure that we support and empower the Department's leaders while holding them accountable.

Introduction

What follows is the Monitor's 2011 Annual Report on compliance with the *S.H. v. Reed* Stipulation for Injunctive Relief. It consists of four parts. Part one provides a comprehensive chart with compliance levels for each substantive Stipulation paragraph. It also identifies paragraphs that require no further monitoring by the *S.H.* monitoring team. More detailed instructions on how to read the chart in part one can be found at pp. 6-9. Parts two and three of this report outline what we believe should be the Department's general and site-specific priorities for 2012, and part four lists additional priorities for the monitoring team in the coming year. This Annual Report relies largely on the monitoring team's last findings at each of the facilities, so some relevant updates will be captured in upcoming site visits rather than in this report. We have collected comments and objections from the parties to a preliminary draft of this report, and have incorporated their feedback where appropriate. We invite the parties to voice any remaining objections on the record.

As of December 1st, 2011, the Ohio Department of Youth Services housed 606 youth in secure juvenile correctional facilities at an average per diem cost of \$442 per youth. The average age of youth in custody was 17.7 years old, and average length of stay was 12.6 months. Of the youth admitted to DYS facilities in fiscal year 2011, 93.3 percent were male and 6.7 percent were female; 56 percent were African American, 34.7 percent were Caucasian, and

¹ See Stipulation paragraph 247.

9.3 percent were other races. 43 percent were admitted for person offenses; 30.7 percent were admitted for property offenses; 10.7 percent were admitted for sexual offenses, and only 3.3 percent were admitted for drug offenses.²

We recognize that the monitoring team is large and the scope of the Stipulation is very broad, and believe we are professionally obligated to conduct compliance monitoring as efficiently as possible. To that end, we have streamlined group site visit reporting and eliminated conflicting compliance determinations by following a new reporting protocol; in this report we have clarified monitoring assignments among the team and eliminated unnecessary overlap; and in the coming year we will streamline our process for gathering data and documents. In this report, we both provide a comprehensive compliance assessment and also identify concerns that DYS should prioritize, to ensure that our review is thorough without being overwhelming. We will continue to do this in our future reports.

We will also continue to identify areas of sustained compliance and suspend monitoring of certain Stipulation paragraphs as appropriate. Conditions of confinement problems are chronic and must be continually managed. As the Department demonstrates proficiency in managing these ongoing problem, and adherence to the principles and requirements of the Stipulation, we will shift our focus to ensuring that DYS has a sufficient quality assurance system in place to prevent relapse, and hand off more and more monitoring responsibilities to DYS. As part of this effort, we will work with DYS in the coming year to develop audit tools for S.H. monitoring that will help clarify exactly what is required for a finding of substantial compliance, and that will facilitate the transfer of monitoring responsibilities to the Department when the case comes to an end.

With the closure of Ohio River Valley JCF in September of this year, DYS has four remaining secure facilities. We have scheduled three large group site visits for the remainder of the fiscal year, to Indian River JCF in December, to Scioto JCF in January, and to Circleville JCF in February. A fourth site visit in April will depend on our findings over the next several months

² DYS Monthly Fact Sheet, December 2011, *available at* <http://www.dys.ohio.gov/DNN/LinkClick.aspx?fileticket=sAk4xNhrD%2bw%3d&tabid=117&mid=885>.

and the remaining monitoring budget for the fiscal year. Dental care in DYS facilities is nearing full compliance. Following reports on dental care at Indian River and Cuyahoga Hills in January, and brief follow-up visits to all four facilities in April we anticipate that dental care monitoring can be suspended, barring any significant backsliding.

In drafting this annual report, we've drawn from expert reports written at various points throughout the year, and we've identified priorities based on their findings. Because many of these findings are already "old news," and we anticipate changes at our upcoming site visits, we will continually update the compliance chart and the list of general and site-specific priorities.

Part I. 2011 Compliance Snapshot

The following chart captures compliance determinations from site visits by various members of the monitoring team. These include visits to Circleville in May and August 2011; to Scioto in December 2010, and March and May 2011; to Indian River in February, March, and September 2011; and to Cuyahoga Hills in November 2010, and March and April 2011. It also draws from reports by Vince Nathan on the Release Authority, Shay Bilchik on regionalization of service delivery and re-entry, and David Roush on training and quality assurance.³ Compliance determinations that were not discernible in these reports were made or deferred based on interviews with monitoring team members in November 2011. The compliance determinations represent levels of compliance observed at the time of those site visits and in reviews of data and documents from the months leading up to the visits. Thus the facts underlying these compliance determinations have likely changed. Indeed, we anticipate improvements in many areas and look forward to our visits in December, January and February.

Where paragraphs are assessed at each site for compliance, we have listed compliance determinations for each facility. Where paragraphs apply only to central office or are otherwise non-site-specific, we have listed compliance determinations in the column marked "General." Compliance determinations include "NC" (not in compliance), "PC" (in partial compliance), and "SC" (in substantial compliance). These are color coded red, green, and blue respectively. Until recently, monitoring team members filed several separate reports following group site visits, often making conflicting compliance determinations. For example, experts assessing compliance with paragraph 49 (unit staffing) made conflicting compliance determinations at Scioto and Cuyahoga Hills. We have reviewed these conflicting assessments, and have made final and singular compliance determinations in this report. Beginning with the group site visit to Circleville in August, the monitoring team began following a new reporting protocol, in which the Monitor files a single report and makes a single compliance determination for each paragraph at each institution. We will continue to follow this protocol in future site visits.

³ These reports have been shared with the parties and are available from the Monitor upon request.

The second column in the chart identifies the member or members of the monitoring team who are currently assigned to monitor each paragraph for compliance. Where we found it reasonable to eliminate overlap among the monitoring team members, we did so. However, where compliance would be more fully and properly assessed with input from more than one team member, more than one has been assigned. For example, paragraph 47 on classification and housing requires the DYS security classification system to assure placement in a housing unit based on both risks and programming needs. Monitoring team member Steve Martin has expertise useful in assessing classification based on risks and team member Orlando Martinez has expertise useful in assessing classification based on programming needs. The Monitor will make a single compliance determination based on input and recommendations from both team members.⁴

In some paragraphs with multiple experts assigned, we have identified a “lead expert,” who will consult with the other experts assigned and report for them all. For example, Barb Peterson has been designated as the lead expert on paragraphs 127 and 128, which relate to medication administration. Where necessary, she will consult with Daphne Glindmeyer regarding administration of psychotropic medications, and will report to the Monitor on this subject for both of them.

Although the monitoring assignments are current, the compliance determinations in the chart are from findings in various reports throughout the year. Thus, there are paragraphs in which the expert currently assigned is not the one to have made the compliance findings. For example, paragraphs relating to mental healthcare were previously assessed for compliance by Dr. Wills, but are currently assigned to Dr. Glindmeyer and/or Dr. Weisman. While their names appear next to those compliance findings on the chart, they have yet to assess them.

Compliance monitoring not only involves fact finding; it also involves interpreting the Stipulation for Injunctive Relief. Thus, when reporting on compliance, it is important to clarify how the monitoring team interprets the Stipulation. Rows in the chart that are highlighted in

⁴ Where appropriate, these experts will also seek input from mental health subject matter experts Daphne Glindmeyer and Andrea Weisman.

gray are paragraphs that we believe do not require compliance determinations from the Monitor. They include introductory and concluding paragraphs, non-substantive paragraphs, and paragraphs that state “general principles” or “guiding principles.” We define a general or guiding principle paragraph to be one that states a broad requirement that is re-stated in more specific, measurable terms in other Stipulation paragraphs. The guiding principle paragraphs are used to interpret the more specific and related substantive terms, but do not require their own compliance determination. Under this interpretation, 212 of the 274 paragraphs require compliance determinations from the Monitor.

The meaning of Stipulation paragraph 28, which requires “a strong system of accountability [to be] put in place,” is not entirely clear. Specifically, it is unclear if this paragraph refers to establishing a strong system of internal quality assurance or to a strong system of external oversight that would last beyond the *S.H.* case. In this report, we have highlighted it in gray, but we will discuss the proper interpretation of this paragraph with the parties and revisit this determination at a later date.

Where we have deferred a compliance assessment on a Stipulation paragraph, it is because the monitoring team has not yet evaluated compliance with that paragraph, further investigation is required, or the issue is being negotiated between the parties. Our aim is to address these paragraphs in the coming year and not to defer compliance determinations in the future.

Rows in the chart that are highlighted in blue are paragraphs that are in sustained substantial compliance. For those paragraphs, we intend to shift the focus of our monitoring to the Department’s internal quality assurance and self-assessments. In some instances we have highlighted the paragraph in some but not all facilities. For example, we believe monitoring of paragraph 226 on school Intervention Assistance Teams should continue at Circleville, but need not continue at the other facilities; thus, all facilities except Circleville are highlighted in blue at paragraph 226.⁵ There are several paragraphs that monitoring team members believe DYS has

⁵ To be clear, the Intervention Assistance Teams should continue to meet at each facility even though external monitoring would be suspended.

substantially complied with, but which still require some additional monitoring. These paragraphs are labeled “SC,” but are not highlighted in blue. In total, we have highlighted 53 paragraphs (25%)⁶ in blue, including 34 paragraphs (16%) that are highlighted at all four DYS facilities, and an additional 19 paragraphs (9%) that are highlighted at at least one facility.

Note that nearly all of the dental care paragraphs at Circleville are in sustainable substantial compliance and are highlighted in blue. We anticipate that dental care in all DYS facilities will be found in full compliance by the end of the fiscal year.

Stipulation Paragraph	Expert(s) assigned	General	CJCF	SJCF	IRJCF	CHJCF
1. Stipulation resolves claims	N/A	--	--	--	--	--
2. Claims; class defined	N/A	--	--	--	--	--
3. Parties agree to fact finding report	N/A	--	--	--	--	--
4. No waiver of sovereign immunity	N/A	--	--	--	--	--
5. Parties agree to Stipulation	N/A	--	--	--	--	--
6. Def.'s best efforts to obtain funding	N/A	--	--	--	--	--
7. Purpose of Stipulation	N/A	--	--	--	--	--
8. Definitions	N/A	--	--	--	--	--
9. Provisions applying to Paint Creek	N/A	--	--	--	--	--
10. Safe environment / LRE	Guiding principle	--	--	--	--	--
11. DYS mission statement	N/A	--	--	--	--	--
12. Decisions must meet letter and spirit of Stipulation	N/A	--	--	--	--	--

⁶ This percentage is based on the 212 paragraphs identified that require compliance determinations from the Monitor (i.e., 53 out of 212 equals 25 percent).

Stipulation Paragraph	Expert(s) assigned	General	CJCF	SJCF	IRJCF	CHJCF
13. Continuum of care / regionalized service delivery	Bilchik	SC	--	--	--	--
14. Task force / development of regional facilities	Bilchik	SC	--	--	--	--
15. LRE / limiting population in secure confinement	Bilchik	SC	--	--	--	--
16. Cost-effectiveness	Guiding principle	--	--	--	--	--
17. Disproportionate minority confinement	Bilchik	SC	--	--	--	--
18. Effective and consistent assessments	Guiding principle	--	--	--	--	--
19. Youth-focused care	Guiding principle	--	--	--	--	--
20. Quality treatment interventions	Guiding principle	--	--	--	--	--
21. Family engagement	Guiding principle	--	--	--	--	--
22. Qualified workforce properly deployed	Guiding principle	--	--	--	--	--
23. Education system provides opportunities / complies with law	Guiding principle	--	--	--	--	--
24. Responsive grievance system	Guiding principle	--	--	--	--	--
25. Access to advocates and attorneys	Nathan	SC	--	--	--	--
26. Strong re-entry programs	Bilchik	PC	--	--	--	--
27. Fair and informed release process	Guiding principle	--	--	--	--	--
28. Accountability and monitoring	Guiding principle	--	--	--	--	--
29. Top priorities: force, isolation, mental health, education	N/A	--	--	--	--	--
30. P&P review and revision for priorities in paragraph 29	Martin, Peterson, Crow, Roush, Martinez	SC	--	--	--	--
31. Speedy implementation of new P&P	Martin, Peterson, Crow, Roush, Martinez	PC	--	--	--	--

Stipulation Paragraph	Expert(s) assigned	General	CJCF	SJCF	IRJCF	CHJCF
32. Plan for reforming release standards and procedures	Nathan	[deferred]	--	--	--	--
33. DYS list of changes made within 30 days of Stipulation	N/A	SC	--	--	--	--
34. DYS description of agency and program history	N/A	SC	--	--	--	--
35. Review and revision of P&P in other areas as needed	General principle	--	--	--	--	--
36. P&P review within 9 months / implementation	N/A	SC	--	--	--	--
37. Staff training on P&P	Roush	--	PC	PC	PC	PC
38. Annual in-service	Roush	--	PC	[deferred]	[deferred]	[deferred]
39. Medical and mental health P&P, general and site-specific	Weisman, Glindmeyer, Peterson, Shansky	--	PC	PC	PC	PC
40. Site-specific P&P consistent with system-wide P&P	Weisman, Glindmeyer, Peterson, Shansky	--	[deferred]	[deferred]	[deferred]	[deferred]
41. Annual review of P&P	Harrell, Schuster	[deferred]	--	--	--	--
42. Subsequent paragraphs contain P&P specifics	N/A	--	--	--	--	--
43. Admissions and intake	Martinez	--	[deferred]	[deferred]	[deferred]	[deferred]
44. Assessments and screenings	Martinez	--	[deferred]	[deferred]	[deferred]	[deferred]
45. Content of orientation	Martinez	--	[deferred]	[deferred]	[deferred]	[deferred]
46. Revision of Introductory Handbook	Martinez	--	SC	SC	SC	SC
47. Security classification appropriate to risks and needs	Martin, Martinez	--	[deferred]	[deferred]	[deferred]	[deferred]
48. Role of unit staff in service delivery / family engagement	Roush	--	NC	PC	PC	PC
49. Sufficient unit staffing; social worker caseloads	Roush, Martinez	--	PC	PC	PC	PC
50. Adequate, low-cost phones	Roush	--	PC	PC	PC	PC
51. Unit staff to have access to necessary records	Weisman, Martinez	--	PC	[deferred]	[deferred]	PC

Stipulation Paragraph	Expert(s) assigned	General	CJCF	SJCF	IRJCF	CHJCF
52. All youth entitled to rehabilitation	General Principle	--	--	--	--	--
53. All youth entitled to UCP and resources to implement it	Weisman, Martinez	--	[deferred]	NC	NC	PC
54. All staff have defined role in rehabilitation	Roush, Martinez, Weisman	SC	--	--	--	--
55. Behavior management is consistent, positive, and fair	Roush, Martinez, Weisman.	--	PC	PC	SC	PC
56. Structured programming	Roush, Martinez, Weisman	--	PC	PC	PC	PC
57. Expanding the use of volunteers	Roush	--	SC	PC	PC	SC
58. Care and accommodations for special needs youth	Weisman	--	PC	PC	PC	PC
59. Clear program with P&P for comfort rooms	Weisman	--	[deferred]	SC	SC	PC
60. QA for program and intervention implementation	Roush, Martinez, Weisman	--	NC	PC	NC	PC
61. DYS to develop program and staffing plan	Roush, Martinez, Weisman	[deferred]	--	--	--	--
62. Sex offender program / staff training / QA and P&P	Glindmeyer, Weisman	--	[deferred]	[deferred]	[deferred]	[deferred]
63. Release decisions for sex offenders	Nathan. (lead), Glindmeyer, Weisman.	[deferred]	--	--	--	--
64. Stay should not be extended because of delay in services	Nathan	[deferred]	--	--	--	--
65. Safe living conditions	Roush, Martinez	--	NC	PC	NC	SC
66. Adequate staffing is critical to safety	Roush	--	PC	PC	PC	PC
67. JCOs qualified to work with youth	Roush, Martinez	PC	--	--	--	--
68. JCO youth engagement responsibilities / training	Roush, Martinez	PC	--	--	--	--
69. Staff training topics / lesson plans / evaluations / feedback	Roush	PC	--	--	--	--
70. Use of force generally	Martin	--	SC	PC	PC	PC
71. Guiding principles for use of force policies	Martin	--	SC	PC	PC	PC

Stipulation Paragraph	Expert(s) assigned	General	CJCF	SJCF	IRJCF	CHJCF
72. Fair and appropriate gang intervention strategies	Roush, Martinez	--	NC	PC	NC	PC
73. Adequate video coverage to enhance youth/staff monitoring	Roush	--	[deferred]	SC	SC	SC
74. Safety plans and SMPs tied to treatment / behavior incentives	Roush, Martinez	--	PC	PC	PC	PC
75. SMPs / isolation: designed to meet individual youth needs	Roush, Martinez, Weisman	--	PC	PC	SC	SC
76. Seclusion guiding principles	Martin	--	PC	PC	PC	PC
77. Restraints P&P / purpose / safeguards / documentation	Martin	--	SC	SC	SC	SC
78. Staff training on restraints	Martin	--	SC	SC	SC	SC
79. P&P re. investigations of use of force and sexual misconduct	Martin	--	SC	SC	PC	PC
80. Guiding principles for P&P in paragraph 79	Martin	--	SC	SC	PC	PC
81. Eliminating the backlog of investigations	Martin	SC	--	--	--	--
82. Sufficient staffing to conduct investigations	Martin	--	SC	SC	PC	PC
83. Coordinated abuse investigations	Martin	--	SC	SC	PC	PC
84. QA for use of force	Martin	--	SC	SC	PC	PC
85. Opportunity to accomplish the purpose of confinement	General Principle	--	--	--	--	--
86. Mental health care scope / individualized / evidence-based	General Principle	--	--	--	--	--
87. Mental health P&P / disseminated to clinical staff	Glindmeyer, Weisman	--	[deferred]	[deferred]	[deferred]	[deferred]
88. Mental health screening, assessment, and referral	Glindmeyer, Weisman	--	[deferred]	[deferred]	[deferred]	[deferred]
89. Revise protocols for special needs and mental health units	Glindmeyer, Weisman	--	[N/A]	SC	SC	[N/A]
90. Clearly articulated criteria for discharge from MH caseload	Glindmeyer, Weisman	--	PC	PC	[deferred]	SC
91. Adequate trained personnel, space, and time for MH goals	Weisman	--	NC	PC	PC	PC

Stipulation Paragraph	Expert(s) assigned	General	CJCF	SJCF	IRJCF	CHJCF
92. Mental health staff ratios / analysis	Weisman	--	PC	PC	SC	PC
93. Mental health clinical staffing of treatment units	Weisman	--	[N/A]	SC	SC	[N/A]
94. Annual review of MH staffing and allocation	Weisman	[deferred]	--	--	--	--
95. Occupational and general activity therapy	Weisman	--	PC	SC	SC	NC
96. Sufficient clerical support for MH clinical staff	Weisman	--	PC	PC	PC	PC
97. Mental health resources for youth in general population	Glindmeyer, Weisman	--	PC	PC	PC	PC
98. Structured, focused design and planning of treatment	Glindmeyer, Weisman	--	PC	NC	NC	NC
99. Family engagement by mental health staff	Weisman	--	PC	PC	PC	PC
100. Mental health clinician to meet regularly with girls	Glindmeyer, Weisman	--	[N/A]	SC	[N/A]	[N/A]
101. Disciplinary advocate for youth on MH caseloads	Weisman	--	[deferred]	[deferred]	SC	SC
102. Mental health QA and peer review	Glindmeyer, Weisman	--	PC	PC	PC	PC
103. Mental health staff capacity and performance	Glindmeyer, Weisman	--	PC	PC	PC	PC
104. Mental health leadership	Glindmeyer, Weisman	[deferred]	--	--	--	--
105. Training for clinical and other staff	Glindmeyer, Weisman	PC	--	--	--	--
106. Mental health records and team coordination	Glindmeyer, Weisman	--	NC	PC	NC	NC
107. Guidelines for suicide P&P	Weisman	--	PC	[deferred]	PC	PC
108. Changes to physical plant to prevent self-harm / safety rooms	Weisman	--	PC	SC	SC	[N/A]
109. Youth entitled to medical care	General Principle	--	--	--	--	--
110. Medical services to meet the needs of adolescents	General Principle	--	--	--	--	--
111. Develop and implement chronic care clinics	Shansky	--	PC	PC	PC	PC

Stipulation Paragraph	Expert(s) assigned	General	CJCF	SJCF	IRJCF	CHJCF
112. Expectations of central office medical leadership	Peterson, Shansky	PC	--	--	--	--
113. Define relationship between Medical and Nursing Directors	Shansky	SC	--	--	--	--
114. Medical and Nursing Directors drive P&P	Peterson, Shansky	PC	--	--	--	--
115. Resources for and monitoring of Medical Director	Shansky	PC	--	--	--	--
116. New medical P&P subject to review	Peterson, Shansky	PC	--	--	--	--
117. Assessments monitored for quality and accuracy	Peterson, Shansky	--	PC	NC	NC	NC
118. New protocols and revised policies on documentation	Peterson, Shansky	--	PC	PC	PC	PC
119. QI for initial health appraisals	Shansky	--	PC	NC	PC	PC
120. Screens by LPN / appraisals by RN with Dr. signature	Shansky	--	PC	PC	PC	PC
121. Requirements for initial health and MH assessments	Shansky (lead), Glindmeyer, Weisman	--	SC	SC	SC	SC
122. Medical P&P for transfers; requirements for progress notes	Shansky (lead), Glindmeyer	--	PC	[deferred]	PC	PC
123. Transfer process and medical care / transfer summary	Shansky	--	SC	SC	SC	SC
124. P&P guidelines for injury assessment and referral	Shansky	--	PC	PC	PC	PC
125. Qualitative reviews of documentation	Shansky	--	PC	NC	PC	PC
126. Additional attention to special needs of females	Shansky	--	[N/A]	PC	[N/A]	[N/A]
127. Standards for administration of medicine	Peterson (lead), Glindmeyer	--	NC	PC	PC	SC
128. P&P to ensure assessment of impact of medication errors	Peterson (lead), Glindmeyer	--	NC	NC	NC	PC
129. Prescribing, stocking, and access to "as needed" meds	Peterson	--	SC	SC	SC	SC
130. Routine pharmacy monitoring	Peterson	--	SC	PC	NC	PC
131. Monitoring and reporting of laboratory services	Peterson	--	PC	SC	PC	PC

Stipulation Paragraph	Expert(s) assigned	General	CJCF	SJCF	IRJCF	CHJCF
132. Infection control	Peterson	--	PC	PC	PC	SC
133. Physical plant: medication storage / sanitation	Peterson	--	PC	SC	PC	SC
134. Review and replace medical equipment	Peterson	--	PC	SC	PC	SC
135. Availability / accessibility of medical records	Peterson (lead), Weisman	--	PC	PC	PC	PC
136. Medical record to be chronological and complete	Peterson (lead), Glindmeyer	--	SC	SC	PC	SC
137. Problem lists conspicuous in file / resolved issues identified	Peterson	--	SC	PC	PC	PC
138. Review of medical records / required contents of Dr. notes	Peterson	--	NC	NC	PC	PC
139. Monitoring / review of abnormal vital signs	Shansky	--	NC	NC	NC	NC
140. Face-to-face appointment for acute illness or hospitalization	Shansky	--	PC	SC	SC	SC
141. QA / QI / peer review / programming to match needs	Shansky	--	PC	PC	PC	PC
142. Protocol for preventive care / health education	Peterson	--	PC	SC	SC	SC
143. Medical staff to inform youth regarding care	Peterson	--	SC	SC	SC	SC
144. Informed consent / education on medication uses	Peterson (lead), Weisman	--	PC	PC	PC	PC
145. Protocol to ensure family engagement in medical care	Peterson	--	SC	SC	SC	SC
146. Assessment of nutrition program	Peterson	--	SC	SC	SC	SC
147. Health care staffing and allocation	Peterson	--	PC	PC	PC	PC
148. Relief factor for 24/7 nursing positions	Peterson	--	PC	[deferred]	PC	PC
149. P&P defined roles of medical staff / no tolerance for aggression	Peterson	PC	--	--	--	--
150. Assess medical staff pay and benefits	Peterson	PC	--	--	--	--

Stipulation Paragraph	Expert(s) assigned	General	CJCF	SJCF	IRJCF	CHJCF
151. Health care staff properly credentialed / relevant expertise	Peterson	--	SC	SC	SC	SC
152. Regularly assess staff competency / peer review	Weisman, Glindmeyer, Peterson, Shansky,	--	NC	NC	NC	NC
153. Med staffing sufficient for population needs	Peterson	--	PC	PC	PC	PC
154. All youth have a right to dental care	Makrides, Sauter	--	SC	SC	SC	SC
155. Dental care must meet or exceed national standards	Makrides, Sauter	--	PC	PC	PC	PC
156. General dental care standards to be monitored	Makrides, Sauter	--	SC	SC	SC	SC
157. Dental care P&P reviewed by class counsel and Monitor	Makrides, Sauter	--	SC	SC	SC	SC
158. Access to routine and acute dental care / supplies	Makrides, Sauter	--	PC	SC	SC	SC
159. Urgent dental care within 24 hours	Makrides, Sauter	--	SC	SC	SC	SC
160. Scheduling of dental treatment / eliminating delays	Makrides, Sauter	--	PC	SC	SC	SC
161. Annual dental exam, cleaning, oral health education	Makrides, Sauter	--	SC	SC	SC	SC
162. Update dental P&P in various areas	Makrides, Sauter	SC	--	--	--	--
163. Dental screening exam / individual treatment plan	Makrides, Sauter	--	SC	PC	NC	PC
164. Preventive care / sealant placement / topical fluoride	Makrides, Sauter	--	SC	SC	SC	SC
165. Develop oral hygiene education program	Makrides, Sauter	--	SC	SC	[deferred]	SC
166. High priority dental caries / stabilization / follow-up	Makrides, Sauter	--	SC	PC	PC	SC
167. Guidelines for partial dentures and crowns	Makrides, Sauter	--	SC	SC	NC	SC
168. Oral surgery / dental radiographs / dental assistant	Makrides, Sauter	--	SC	SC	NC	SC
169. Availability of dental specialists	Makrides, Sauter	--	SC	SC	SC	SC
170. Monitor dental treatment of special needs patients	Makrides, Sauter	--	SC	SC	SC	SC

Stipulation Paragraph	Expert(s) assigned	General	CJCF	SJCF	IRJCF	CHJCF
171. QA and peer review / correction of deficiencies	Makrides, Sauter	--	SC	NC	NC	PC
172. Adequate medical information available to dentist	Makrides, Sauter	--	SC	SC	SC	SC
173. Dental treatment plan for each youth	Makrides, Sauter	--	SC	SC	SC	SC
174. SOAP format for dental record progress notes	Makrides, Sauter	--	SC	SC	SC	SC
175. Appropriate dental space, equipment, and supplies	Makrides, Sauter	--	SC	SC	SC	NC
176. Dental staffing	Makrides, Sauter	--	SC	SC	NC	SC
177. Licensure of dental staff	Makrides, Sauter	--	SC	SC	SC	SC
178. Number and quality of dental staff	Makrides, Sauter	--	SC	PC	PC	PC
179. Infection control / biohazard labeling / sterilization	Makrides, Sauter	--	SC	NC	NC	SC
180. DYS acknowledges the importance of education	General Principle	--	--	--	--	--
181. Communication between schools and Bureau of Education	Crow	--	PC	SC	PC	PC
182. JCOs in schools / training / classroom management	Crow	--	PC	PC	PC	SC
183. Role of superintendent and facility admin	Crow	--	SC	SC	SC	SC
184. Education staff instructional duties not hampered by security	Crow	--	SC	SC	SC	SC
185. Ensure sufficient education space	Crow	--	PC	SC	PC	PC
186. Safety features in schools: cameras, alert systems	Crow	--	SC	PC	SC	PC
187. Appropriate classroom furniture	Crow	--	SC	SC	PC	PC
188. Repairs / classroom space at CHJCF / HVAC at ORV	Crow	--	[N/A]	[N/A]	[N/A]	PC
189. All youth receive full school day (5.5 hours)	Crow	--	PC	NC	PC	SC
190. Options to meet full school day requirements	Crow	--	SC	PC	SC	SC

Stipulation Paragraph	Expert(s) assigned	General	CJCF	SJCF	IRJCF	CHJCF
191. Recruiting and retaining school staff / diversity recruiting	Crow	--	PC	PC	PC	SC
192. Centralized hiring process / staff allocation / HQT placement	Crow	--	PC	PC	PC	PC
193. Academic credit for certain group programs	Crow	--	PC	NC	NC	NC
194. Analyze vacancies / staffing ratios / staffing plan	Crow	--	NC	NC	PC	NC
195. Budget for substitutes / hire and train permanent subs	Crow	--	NC	[deferred]	PC	[deferred]
196. Full education services in specialty units	Crow	--	[N/A]	SC	[deferred]	[N/A]
197. Facilities to inform Bureau which students in specialty units	Crow	--	[N/A]	SC	[deferred]	[N/A]
198. Special education teacher on specialty units	Crow	--	[N/A]	SC	[deferred]	[N/A]
199. Revise policies to provide professional development	Crow	--	PC	PC	PC	PC
200. Pre-service and ongoing training for teachers	Crow	--	SC	PC	PC	PC
201. Staff training on collateral consequences of juv. records	Crow	--	SC	PC	SC	SC
202. Educational aides / yearly contracts for teachers	Crow	--	SC	SC	SC	SC
203. Improve communication between facility and school staff	Crow	--	SC	SC	SC	SC
204. Violence interfering with students' education	Crow	--	NC	PC	PC	SC
205. Identify and help teachers with classroom management	Crow	--	NC	PC	SC	NC
206. Contract with education consultant re. classroom mgmt	Crow	SC	--	--	--	--
207. Progressive school discipline / positive behavior management	Crow	--	PC	NC	SC	SC
208. Improve accuracy of education assessments	Crow	[deferred]	--	--	--	--
209. Clerical support for guidance counselors	Crow	--	SC	SC	SC	PC

Stipulation Paragraph	Expert(s) assigned	General	CJCF	SJCF	IRJCF	CHJCF
210. Transition specialists / links to community / reentry follow-up	Crow	--	PC	PC	NC	PC
211. Explore options for post-secondary education	Crow	--	PC	NC	NC	NC
212. Job training / career tech / vocational education	Crow	--	PC	PC	NC	PC
213. Waivers and funding for career tech programs	Crow	SC	--	--	--	--
214. Satellite career tech / local business and community	Crow	--	PC	NC	NC	NC
215. Career tech certifications	Crow	--	SC	SC	SC	SC
216. AOT classes at reception / additional programs at ORV	Crow	--	[N/A]	SC	[N/A]	[N/A]
217. All classroom space wired for CSLS / staff trained	Crow	--	PC	PC	NC	SC
218. Internet for staff / consider for youth / library technology	Crow	--	SC	[deferred]	[deferred]	[deferred]
219. Speech therapists / literacy / Title I reading teachers	Crow	--	PC	PC	SC	SC
220. School for 12- and 13-year-old students	Crow	SC	--	--	--	--
221. Special Education / compliance with IDEA	Crow	--	PC	PC	PC	PC
222. Bureau oversight of Special Education	Crow	--	PC	PC	PC	PC
223. Speedy provision of Special Ed services following intake	Crow	--	SC	SC	SC	SC
224. Special Ed screening / qualified staff to screen	Crow	--	PC	SC	SC	SC
225. Individualized Education Plans	Crow	--	PC	PC	PC	PC
226. Intervention Assistance Teams / "child find" duty	Crow	--	PC	SC	SC	SC
227. Professional development in various Special Ed areas	Crow	--	PC	PC	PC	PC
228. Guidance counselors electronic access to full IEPs	Crow	--	SC	SC	SC	SC

Stipulation Paragraph	Expert(s) assigned	General	CJCF	SJCF	IRJCF	CHJCF
229. Monitoring progress toward IEP goals / teacher evaluations	Crow	--	PC	PC	PC	NC
230. Transition plans / comply with IDEA "change of placement"	Crow	--	PC	NC	NC	PC
231. School psychologists available / FBAs / disability evals	Crow	--	SC	PC	PC	PC
232. Grievance system / youth assistance / fairness / trends	Martin	--	[deferred]	SC	[deferred]	SC
233. Review of clinical grievances by uninvolved clinician	Martin	--	[deferred]	[deferred]	[deferred]	SC
234. Grievance orientation for youth and parents	Martin	--	[deferred]	[deferred]	[deferred]	SC
235. Youth Advocate position reviewed / redefined	Martin, Schuster	--	[deferred]	[deferred]	[deferred]	[deferred]
236. Discipline system / Youth Advocate pilot program	Martin	--	[deferred]	[deferred]	[deferred]	[deferred]
237. Consequences and time added in line with treatment	Martin (lead), Nathan, Weisman	--	[deferred]	[deferred]	[deferred]	[deferred]
238. Discipline for youth on MH caseload	Martin (lead), Glindmeyer, Weisman	--	PC	[deferred]	[deferred]	[deferred]
239. Documentation / data access P&P / treatment progress	Roush (with input from other experts)	--	[deferred]	[deferred]	[deferred]	[deferred]
240. Documentation of MH interventions	Glindmeyer, Weisman	--	PC	PC	PC	PC
241. Youth records useful to treatment teams	Weisman (lead), Peterson	--	PC	PC	PC	PC
242. Appointment of Monitor and subject matter experts	N/A					
243. Def's to pay for monitoring costs	N/A					
244. Monitor to consult counsel regarding experts	N/A					
245. Resolving disputes related to Monitor's budget and staff	N/A					
246. Monitoring team to contract directly with DYS	N/A					
247. Monitor as coach and fact finder / monitoring principles	N/A					

Stipulation Paragraph	Expert(s) assigned	General	CJCF	SJCF	IRJCF	CHJCF
248. Monitoring team doc review not a waiver of QA privilege	N/A					
249. Monitor will not disclose confidential, privileged info	N/A					
250. Audit instrument / data request forms for site visits	N/A					
251. Annual compliance report / interim reports	N/A					
252. Monitor's longitudinal study of youth	Harrell, Schuster	[deferred]	--	--	--	--
253. Process for replacing the Monitor	N/A					
254. Monitor not subject to dismissal without good cause	N/A					
255. Monitor shall also serve as Monitor over DOJ findings	N/A					
256. Resolving disputes over substantial compliance	N/A					
257. Youth must still exhaust grievances before legal action	N/A					
258. No motion or legal action without dispute resolution	N/A					
259. No contempt proceedings without prior motion and order	N/A					
260. Presumptive 5-year monitoring of Stipulation	N/A					
261. Monitoring for 5 years unless compliance achieved early	N/A					
262. Def's may move to terminate if compliant for 2 years	N/A					
263. Court to retain jurisdiction / has power to enforce Stipulation	N/A					
264. Def's to pay Plaintiffs' attorneys fees and costs	N/A					
265. Parties to work with AG to expedite youth criminal cases	Harrell	PC	--	--	--	--
266. Parties agree that Stipulation is fair / protects class	N/A					

Stipulation Paragraph	Expert(s) assigned	General	CJCF	SJCF	IRJCF	CHJCF
267. Stipulation is binding on Def's, successors, and Plaintiffs	N/A					
268. Def's must meet Stipulation requirements immediately	N/A					
269. P's can move to enforce / class reps can be replaced	N/A					
270. Stipulation does not change PLRA or other laws	N/A					
271. Laws / union agreements not to undermine Stipulation	N/A					
272. Stipulation is the entire agreement	N/A					
273. Stipulation construed as a whole	N/A					
274. Stipulation paragraphs are severable	N/A					

Part II. Recommended Priorities for 2012

- **Finish implementing the Regionalization and Reentry Plans** (Paragraphs 13, 15 & 26). DYS has made significant progress in regionalization of service delivery, reduction in population, and reentry preparation and support for youth. DYS should complete implementation of the Regionalization Plan by expanding the use of the Community Based Treatment Centers (CBTCs) and broadening the reach of the Behavioral Health Juvenile Justice (BH/JJ) and Targeted RECLAIM programs to an increasing number of counties across the state. DYS should also fully implement the Reentry Continuum Action Plan, including implementation of the Family Finder Tool, adoption of the new Discharge Agreement, and increased use of video connector technology, the Juvenile Relational Inquiry Tool, and the Pre-Qualified Vendor's Initiative.⁷
- **Improve the functioning of the Release Authority** (Paragraph 32). The parties continue to dispute various matters related to the Release Authority. In his 2010 and 2011 reports, monitoring team member Vince Nathan makes various recommendations that should be prioritized in the coming year. They include: building the capacity of the Juvenile Justice Case Management System (JJCMS) to generate useful reports for the Release Authority;⁸ ensuring that youth are fully informed of their right to meaningful appeals of Release Authority decisions;⁹ distinguishing the public safety release barrier from the treatment barrier and serious incident barrier, and the permissible uses of each;¹⁰ reinforcing with staff the essential role of the Interdisciplinary Treatment Teams in recommending a youth's release or retention;¹¹ and linking Release Authority reviews

⁷ Shay Bilchik, Report on Stipulation Paragraphs 13-15, and 26 (Nov. 30, 2011), p. 8 (forthcoming).

⁸ Vince Nathan, Report on Release Authority (July 2010), pp. 46-47, 50-52.

⁹ Id., at pp. 17-19.

¹⁰ Id., at pp. 32-34; Vince Nathan & Jim Holzhauer, Memo re. Release Authority Dispute Resolution (October 2011), pp. 2-3.

¹¹ Vince Nathan, Supplemental Report on Release Authority (Aug. 2011), p. 8.

to Individualized Treatment Plans as a measure of a youth's progress and achievements while in custody.¹²

- **Plan for the Training Academy transition** (Paragraphs 37-38, 60 & 69). State budget constraints have necessitated closing the DYS Training Academy, which houses the Department's Bureau of Professional and Organizational Excellence (POE). POE and central office should develop a transition plan for relocating programs and services to the new shared training space to minimize the negative impact on training and quality assurance.¹³
- **Reinforce consistency and accountability through unit management** (Paragraph 48). Recent large-scale violent disruptions at Scioto and Circleville came about, in part, because of breakdowns in the unit management model. The Monitor's Special Inquiry Report outlines strategies that have proven effective at Circleville in regaining control of the youth population. Scioto leadership should develop an action plan to support and empower staff and to hold management accountable for regaining control of the youth population; and DYS central office should evaluate Scioto leadership based on the success of that plan. Circleville leadership should develop a local quality improvement tool to ensure that the management model it has established is memorialized in local policy.¹⁴
- **Expand family engagement efforts** (Paragraphs 48 & 99). With assistance from the Vera Institute for Justice, and generous support from the Public Welfare Foundation, DYS has expanded efforts to engage the families of youth committed to their care through reinforcing positive family connections, reentry planning, and day-to-day case management.¹⁵ The Department's work with the Vera Institute is extremely impressive

¹² Vince Nathan Report (July 2010), at p. 8; see also Orlando Martinez & David Roush, Scioto JCF site visit report (April 2011), pp. 9-10.

¹³ David Roush, Report on DYS Bureau of Professional and Organizational Excellence (Sept. 2011), p. 7.

¹⁴ Monitor's Special Inquiry Report re. DYS Tactical Operation Safety First (Nov. 2011), pp. 10, 12-13.

¹⁵ See Monitor's Circleville site visit report (Nov. 2011), pp. 31-32.

and may become a national model for family engagement. We applaud this partnership, and look forward to full implementation at all DYS facilities in the coming year.

- **Expand youth leadership opportunities** (Paragraph 55). Stipulation paragraph 55 states in part that “Behavior will be managed through the recognition that adolescents learn from one another as well as adults in authority, via observation, imitation and modeling.” One way to achieve this would be to expand youth empowerment programs like the Peer-Mentoring Program that was in place at Indian River during our February site visit, including programs for youth in medium and close custody units who demonstrate appropriate behaviors and good social skills.¹⁶ DYS is developing a policy to improve the consistency of Student Councils at each facility, which we strongly support and encourage.¹⁷
- **Expand recreational and job-related activities for youth** (Paragraph 56). DYS should expand recreational and job-related activities for all youth on the weekends and for graduates during the week. Youth consistently report that they have too much time with nothing to do, and that gang-related activities fill the void.¹⁸ DYS reports efforts to supplement activities, for example, through the development of an Activities Committee and the creation of administrator positions responsible for developing and implementing additional structured activities.¹⁹ We look forward to seeing improvements in this area at all DYS facilities in the coming months.

¹⁶ Orlando Martinez & David Roush, Indian River site visit report (April 2011), pp. 8-9.

¹⁷ For a report on the effectiveness of Student Council programs in stabilizing juvenile facilities, see Texas Youth Commission, *Lessons in Leadership: The Case for Student Councils at All TYC Facilities* (Jan. 2010), available at http://www.criminaljusticecoalition.org/files/userfiles/Lessons_in_Leadership.pdf.

¹⁸ See Orlando Martinez & David Roush, Indian River site visit report (April 2011), pp. 7-9, 12; Monitor’s Circleville site visit report (Nov. 2011), pp. 15-16.

¹⁹ See, e.g., DYS response to Martinez/Roush Indian River site visit report, p. 2; DYS response to Martin Indian River site visit report, p. 3.

- **Improve services for youth with cognitive and developmental disabilities** (Paragraph 58). Some youth with cognitive and developmental disabilities who do not meet the admission criteria for the Life Skills Unit due to aggressive behavior have not received treatment responsive to their limitations and rehabilitative needs.²⁰ DYS reports that the New Freedom curriculum has specific programming designed for youth with cognitive and developmental disabilities, and has stated that with the full implementation of full-service treatment units, the needs of these youth will be met.²¹ In the coming year, the monitoring team's new mental health experts will evaluate the sufficiency of full-service treatment units to meet the special needs of this population. We encourage Director Reed to present this concern to the Ohio Interagency Task Force on Mental Health and Juvenile Justice, established by HB 86, and to explore alternative placements for, and the roles of other departments in providing services to, youth with these disabilities.²² See also the discussion below of youth with serious mental illnesses under Stipulation paragraphs 76, 88, and 98.
- **Provide quality assurance for behavioral healthcare services** (Paragraphs 60 & 102). The quality assurance process must assess data over time on outcomes, the effectiveness of policies, and the competence of staff; and design improvements based on that data to provide more effective and efficient services. At each of the four remaining DYS facilities, mental health experts found that programs were not monitored to assess outcomes and need for improvement; and assessments and care provided to youth were not systematically reviewed to ensure clinical needs were being

²⁰ Monitor's Circleville site visit report (Nov. 2011), pp. 17-18; Cheryl Wills & Barb Peterson, Cuyahoga Hills site visit report (April 2011), pp. 30, 34-35, 37-38, 47; Cheryl Wills & Barb Peterson, Scioto site visit report (March 2011), pp. 10-11, 23, 32.

²¹ DYS response to Wills/Peterson Scioto site visit report, pp. 8-9; Monitor's Circleville site visit report (Nov. 2011), p. 18.

²² See Orlando Martinez & David Roush, Scioto site visit report (April 2011), at p. 15 ("DYS should consider working with their legislative contacts to explore statutory changes that would direct delinquent youth with intellectual disabilities to specialized community-based placements.") Monitoring team member Shay Bilchik will also work with DYS and community providers to help find appropriate placements for youth with serious mental illnesses.

addressed.²³ DYS reports that this is a department-wide work in progress, and has begun implementing the behavioral health services quality assurance / quality improvement process as outlined in its policies, including training, coaching, and mentoring.²⁴ The monitoring team's new mental health experts will assess these efforts in their upcoming site visits.

- **Address safety and staffing problems with unions, the Department of Administrative Services, and State legislators** (Paragraphs 65-66 & 271). In the Special Inquiry Report, we discussed provisions in collective bargaining agreements and regulations for the State's Department of Administrative Services (DAS) that contribute to severe staffing shortages in DYS facilities. In violation of Stipulation paragraph 271, the State has renewed collective bargaining agreements that contain provisions detrimental to youth safety. As we recommended in the Special Inquiry report, we believe Director Reed and the *S.H.* Monitor, as a team, should meet with DAS, collective bargaining units, and state legislators to negotiate solutions to DYS's chronic staffing problems. The Monitor and counsel for both parties will also explore judicial solutions to these problems under the Stipulation.²⁵
- **Fully implement gang-intervention efforts** (Paragraph 72). Youth gangs have been the source of violence and disruption at several facilities and continue to affect safety for youth and staff.²⁶ Indeed, Ohio is perhaps the only state in the country in which youth gangs originating in juvenile facilities have expanded their presence to adult facilities. DYS has begun rolling out the Phoenix / New Freedom gang intervention curriculum,

²³ Monitor's Circleville site visit report (Nov. 2011), pp. 18-19; Cheryl Wills & Barb Peterson, Cuyahoga Hills site visit report (April 2011), pp. 9, 13-14, 31, 44; Cheryl Wills & Barb Peterson, Scioto site visit report (March 2011), pp. 12, 26-27, 32-33, 42-43; Cheryl Wills & Barb Peterson, Indian River site visit report (Feb. 2011), pp. 6, 15, 24, 28, 34-35.

²⁴ DYS response to Wills/Peterson Cuyahoga Hills report, pp. 6, 11-12, 13, 22, 24; DYS response to Wills/Peterson Scioto report, pp. 4-5, 9, 17-18.

²⁵ Monitor's Special Inquiry Report re. DYS Tactical "Operation Safety First" (Nov. 2011), pp. 9-10; see also Orlando Martinez & David Roush, Scioto site visit report (April 2011), pp. 4, 6-7.

²⁶ See Monitor's Circleville site visit report (Nov. 2011), pp. 22-23; Monitor's Special Inquiry Report (Nov. 2011), p. 8.

and we look forward to its full implementation in 2012.²⁷ Additionally, DYS may be well-positioned to negotiate truces between rival youth gangs at one or more facilities. We will discuss this further in our upcoming Indian River site visit report.

- **Find alternative placements and funding for youth with serious mental illnesses** (Paragraphs 76, 88 & 98). Monitoring team member Steve Martin found extraordinary levels of seclusion and punitive sanctions for a small number of youth at Indian River with mental health designations.²⁸ In the Special Inquiry Report, the Monitor found that the Sycamore Unit, which housed twelve youth with mental illnesses and cognitive disabilities, was operating in practice as an intensive seclusion unit rather than an intensive treatment and programming unit.²⁹ Stipulation 88 requires that DYS strive to prevent deterioration or exacerbation of mental health symptoms and needless isolation for behaviors caused by mental health issues. The monitoring team's new mental health experts report that DYS facilities are responsible for some of the most acutely mentally ill youth in the state, who in other jurisdictions would be transferred to more appropriate psychiatric treatment facilities. The repeated placement of youth with mental illnesses in seclusion also impacts the decisions of the Release Authority to retain youth beyond their minimum sentence expiration dates. We recommend emergency measures in the short term to transfer these youth to psychiatric treatment facilities and to obtain funds for their care.³⁰ Longer-term solutions are being explored by the Director and the Interagency Task Force on Mental Health and Juvenile Justice. The monitoring team and counsel for both parties will also explore judicial solutions to this problem under the Stipulation. Addressing these concerns will be a priority for the monitoring team in 2012.

²⁷ The S.H. Monitor in a previous role as Ombudsman for the Texas Youth Commission issued a report on best practices in gang prevention and intervention, *available at* http://www.tyc.state.tx.us/ombudsman/rpt_GangPrevention.pdf. We recommend this report as a resource during implementation of gang prevention and intervention efforts at DYS.

²⁸ Steve Martin, Indian River site visit report (Sept. 2011), pp. 2-4, 8.

²⁹ Monitor's Special Inquiry Report re. DYS Tactical Operation Safety First (Nov. 2011), pp. 14-16.

³⁰ Interview with Andrea Weisman (Nov. 2011).

- **Fill clinical staff vacancies** (Paragraphs 91-92 & 96). Monitoring team members found shortages in psychiatric care hours, and significant vacancies for psychologists, psychiatric nurses, and social workers in DYS facilities. Team members also found a lack of clerical support for social workers, causing unit social workers to spend much of their time completing paperwork and other bureaucratic tasks rather than attending to youth and coordinating services with staff.³¹ DYS reports recruiting for and filling some clinical positions, and has argued that the existing clerical support for behavioral health services is adequate.³² The monitoring team's new mental health experts will continue to assess clinical staffing issues in their upcoming site visits.
- **Implement the OYAS/ITP and Integrated Electronic Record** (Paragraphs 106 & 241). Monitoring team members have reported that youth have multiple un-integrated care plans with essential information located in various separate records. Thus, behavioral healthcare staff must access multiple databases to obtain a complete picture of a youth's status, making rehabilitation for youth residents difficult and inefficient.³³ DYS reports that the Ohio Youth Assessment Summary / Integrated Treatment Plan (OYAS/ITP) and Integrated Electronic Record will resolve these concerns. The OYAS/ITP is being piloted at Indian River and developed further by the University of Cincinnati with feedback from DYS.³⁴ We will assess the pilot project in our upcoming Indian River site visit report, and look forward to its broader implementation in 2012.
- **Provide peer review and quality assurance for medical care** (Paragraphs 115, 125, 138, 141 & 152). DYS facilities have begun to quantitatively monitor implementation of

³¹ See, e.g., Cheryl Wills & Barb Peterson, Cuyahoga Hills site visit report (April 2011), pp. 4-7, 25, 39-40; Monitor's Circleville site visit report (Nov. 2011), pp. 28-30.

³² See, e.g., DYS response to Wills/Peterson Cuyahoga Hills report, pp. 15, 18-20; Monitor's Circleville site visit report (Nov. 2011), pp. 28-30.

³³ Cheryl Wills & Barb Peterson, Cuyahoga Hills site visit report (April 2011), pp. 9-10, 14, 28, 41, 46-47; Cheryl Wills & Barb Peterson, Scioto site visit report (March 2011), pp. 12-13, 18, 20, 24, 41, 45; Cheryl Wills & Barb Peterson, Indian River site visit report (Feb. 2011), pp. 7, 17-18, 36-37; see also Orlando Martinez & David Roush, Cuyahoga Hills site visit report (June 2011), pp. 8-9; Orlando Martinez & David Roush, Scioto site visit report (April 2011), pp. 9, 25.

³⁴ DYS response to Wills/Peterson Cuyahoga Hills report, pp. 9, 21, 25; DYS response to Wills/Peterson Scioto report, pp. 3, 8, 15, 19.

medical care policies. Monitoring team members found, however, that qualitative monitoring of professional performance and the use of data to improve policies and performance was not occurring. Quality assurance and quality improvement (QA/QI) for medical care should include on-site review of processes (intake, sick call, chronic care, medication management, injury assessment, etc.); review of the professional performance of nurses in each area; review of physician performance by the DYS Medical Director; and data studies performed by central office to identify opportunities for improvement.³⁵ Monitoring team members Ron Shansky and Barb Peterson have offered their assistance in developing necessary QA/QI tools.

- **Ensure that medical assessments of youth injuries are properly conducted in clinical settings** (Paragraph 124). In the Special Inquiry Report, we found two youth subjected to OC spray who were not assessed by medical staff, and inadequate assessments and decontamination of other youth subjected to OC spray.³⁶ Monitoring team members in various site visit reports also found several examples of youth who were not seen face-to-face in a clinical setting following uses of force, but who were instead assessed through the window of a seclusion room door.³⁷ Improvements to the youth injury assessment process should be a priority for the Department in 2012, and should be monitored for quality and consistency.
- **Hire additional permanent substitutes for BUSD schools** (Paragraphs 194-195). Each DYS facility has experienced chronic vacancies and extended leave among school staff, as well as long periods of time between hiring new staff and those employees beginning work. As a result, students at various times have gone for prolonged periods without

³⁵ Ron Shansky & Barb Peterson, Cuyahoga Hills site visit report (March 2011); pp. 1-2, 4-5, 7-8; Ron Shansky & Barb Peterson, Scioto site visit report (Dec. 2010), pp. 2, 4-7; Ron Shansky & Barb Peterson, Indian River site visit report (March 2011), pp. 1, 4, 6, 8.

³⁶ Monitor's Special Inquiry Report re. DYS Tactical Operation Safety First (Nov. 2011), pp. 6-7.

³⁷ Ron Shansky & Barb Peterson, Cuyahoga Hills site visit report (March 2011), p. 4; Ron Shansky & Barb Peterson, Scioto site visit report (Dec. 2010), pp. 3-4, 7; Ron Shansky & Barb Peterson, Indian River site visit report (March 2011), p. 3.

math and English, speech therapy, career tech, and science classes.³⁸ The BUSD staffing plan provides only one permanent substitute per facility, and relies too heavily on itinerant substitutes who are difficult to recruit and limited by the Principal's budget. Because this plan has not remedied the deficiencies caused by foreseeable vacancies and extended leave, and because filling vacancies generally takes two or more school quarters, we believe DYS should budget for additional permanent substitutes.³⁹ This is reasonably required by Stipulation paragraph 195.⁴⁰

- **Fully implement career tech and vocational programs** (Paragraphs 211-212 & 214). In various site visits, monitoring team member Ava Crow found schools providing insufficient vocational programming.⁴¹ This was the subject of a special report prepared at the behest of Judge Marbley. The school district has since obtained additional funding through grants and developed a suitable plan for career tech that provides college credit, certifications, and jobs in the facilities. We look forward to assessing these programs in the coming year.
- **Reduce the scope of primary rule violations that require intervention hearings, and expand the use of alternative disciplinary consequences** (Paragraph 237). Disciplinary Hearing Officers and Youth Advocates have been bombarded with Intervention Hearings. One Youth Advocate, for example, reported participating in an average of 150 hearings per month; and not having the time to meet with youth before the hearing, interview witnesses, or review incident videos.⁴² Unit Managers who have acted as Hearing Officers have been prevented from properly supervising staff and programming on the units.⁴³ Sanctions imposed at Intervention Hearings also impact the Release

³⁸ Monitor's Circleville site visit report (Nov. 2011), pp. 57-58; Ava Crow & Anne Flynn, Cuyahoga Hills site visit report (June 2011), pp. 4-8, 17-18, 21-24; Ava Crow & Anne Flynn, Scioto site visit report (May 2011), pp. 6-7, 12, 22-23, 25; Ava Crow & Anne Flynn, Indian River site visit report (May 2011), pp. 4-6, 18-19.

³⁹ See Monitor's Circleville site visit report (Nov. 2011), p. 58.

⁴⁰ Stipulation paragraph 195 states: "DYS shall increase the budget for substitute teachers and provide for more substitutes at the larger schools. DYS shall also hire and train permanent substitutes...."

⁴¹ See Monitor's Circleville site visit report (Nov. 2011), at pp. 64-65.

⁴² Interview with Denise Conrad, Youth Advocate at Circleville JCF (Sept. 2011).

⁴³ Id.

Authority's decisions to retain youth beyond their minimum sentence expiration dates.⁴⁴ Staff from the Department's Bureau of Professional and Organizational Excellence have stepped in temporarily to serve as hearing officers and eliminate the backlog of hearings, and DYS is attempting to revise rules and sanctions to reduce the scope of behaviors considered primary rule violations. The Department intends to create a review process that determines if behavior warrants a hearing as opposed to an immediate consequence, and to improve staff training on de-escalating problem behaviors.⁴⁵ We look forward to seeing these remedial measures rolled out in the coming year.

⁴⁴ Email conversation with Vince Nathan (Dec. 12, 2011).

⁴⁵ Email conversation with Steve Martin and Christy Hauck (Sept. 13-14, 2011).

Part III. Recommended Site-Specific Priorities for 2012

Scioto Juvenile Correctional Facility

- **Properly house female residents according to risk levels** (Paragraph 47). Monitoring team member Steve Martin advised against the DYS plan to co-mingle minimum, medium, and close custody female residents on the same housing unit. He recommended revisiting that plan or, at a minimum, developing management protocols to minimize the risks of harm associated with co-mingling these populations.⁴⁶ DYS reports developing a management protocol and thoroughly reviewing it with staff working on that female housing unit.⁴⁷ We will re-assess this housing concern at our upcoming Scioto site visit in January. DYS contracted with Catholic Charities for 8 beds at Parmadale Insitute for female residents with significant mental health needs. This arrangement is a pilot and may be expanded at some point in the future.
- **Monitor initial medical assessments for quality and timeliness** (Paragraphs 117 & 119). At their last visit to Scioto, monitoring team members Ron Shansky and Barb Peterson found that intake health assessments were not reviewed for quality and timeliness.⁴⁸ DYS reports piloting a form at Scioto that provides a comprehensive review of initial medical assessments.⁴⁹ We look forward to seeing this and other improvements at our next Scioto site visit in January.
- **Increase school attendance and provide a full school day** (Paragraph 189). At our last group site visit to Scioto, monitoring team member Ava Crow found unacceptable school attendance rates; significant numbers of youth confined to the units and receiving less than an hour of school each day; education being treated as a reward for

⁴⁶ Steve Martin, Scioto site visit report (June 2011), pp. 7-10.

⁴⁷ DYS response to Martin Scioto report, pp. 4-5.

⁴⁸ Ron Shansky & Barb Peterson, Scioto site visit report (Dec. 2010), pp. 2-3.

⁴⁹ DYS response to Shansky/Peterson Scioto report, p. 1.

good behavior; and misuse of the school district's discretion to excuse absences.⁵⁰

Monitoring team members Cheryl Wills and Barb Peterson found that several youth with poor school attendance had mental health concerns that warranted further intervention; and that in many cases, mental health team members were not aware of the problems these youth were having in school.⁵¹ DYS/BUSD report efforts to increase school attendance, reduce and improve unit instruction, eliminate the practice of using SMPs to limit educational services, and re-train on the use of attendance codes.⁵² We will re-assess for compliance with paragraph 189 at our upcoming Scioto site visit in January.

- **Improve safety in the school building** (Paragraph 204). Because youth from various housing units mix and interact at school, and large numbers of youth move through the hallways between classes, the school building has been one of the most disruptive and violent locations at Scioto. In our Special Inquiry Report, we recommended that facility and school leadership develop an action plan to ensure safety in the school building.⁵³ We are confident in the abilities of the new principal at Scioto, and we expect to see an effective plan in action at our upcoming site visit in January.
- **Improve practices in the school's ABC room** (Paragraph 207). At our last group site visit to Scioto, monitoring team member Ava Crow found ineffective behavior management by teachers and Youth Specialists in the school's ABC room; no permanent Youth Specialist assigned to the room; and lag times at shift changes in which no Youth Specialist was present.⁵⁴ DYS/BUSD committed to developing a plan to improve the effectiveness of the ABC room,⁵⁵ and contracted with an expert consultant on classroom

⁵⁰ Ava Crow & Anne Flynn, Scioto site visit report (May 2011), pp. 2-5, 22.

⁵¹ Cheryl Wills & Barb Peterson, Scioto site visit report (March 2011), p. 15.

⁵² DYS response to Crow/Flynn Scioto report, pp. 1-2.

⁵³ Monitor's Special Inquiry Report re. DYS Tactical Operation Safety First (Nov. 2011), pp. 11-13.

⁵⁴ Ava Crow & Anne Flynn, Scioto site visit report (May 2011), pp. 19-21, 25.

⁵⁵ DYS response to Crow/Flynn Scioto report, p. 8.

behavior management, and we look forward to seeing improvements at our upcoming Scioto site visit.

Circleville Juvenile Correctional Facility

- **Provide youth with face-to-face appointments following episodes of acute illness, hospitalization, or specialty appointments** (Paragraph 140). Stipulation paragraph 140 requires a face-to-face appointment with the physician or nurse to discuss the results of any youth specialty appointment or hospitalization and the plan of care. At their last visit to Circleville, monitoring team members Ron Shansky and Barb Peterson found youth whose care was compromised by lack of communication and failure of clinicians to follow up with the patient.⁵⁶ We hope to see this resolved and internally monitored at our upcoming Circleville site visit in February.
- **Expedite the process for providing unit instruction to youth outside of their rooms** (Paragraph 189). At our last group site visit to Circleville, monitoring team member Ava Crow found that education for students secluded on their units was not engaging or effective. Students were awakened from napping in dark cells and offered school work through the door; the vast majority of students declined work; and no youth were permitted out of their rooms to receive unit instruction. We recommended expediting the process for student safety assessments (to determine which students could safely receive instruction outside of their rooms), and adapting unit space to stimulate active engagement with teachers.⁵⁷ We look forward to improvements at our upcoming site visit in February.

⁵⁶ Monitor's Circleville site visit report (Nov. 2011), p. 44.

⁵⁷ *Id.*, at pp. 55-57.

Cuyahoga Hills Juvenile Correctional Facility

- **Provide additional training and supervision to use of force investigators** (Paragraphs 79-84). At his last site visit to Cuyahoga Hills, monitoring team member Steve Martin found problematic use of force investigations, and recommended additional training and oversight for facility management staff assigned as investigators.⁵⁸ DYS has since reported training investigators and instituting quality reviews of completed investigations by the Direct Deputy and Superintendent.⁵⁹ We look forward to assessing these efforts in the upcoming year.
- **Evaluate the leadership and supervision of school administrators** (Paragraphs 205 & 222). Following our last group site visit to Cuyahoga Hills, monitoring team member Ava Crow reported that the assistant principle did not adequately supervise and evaluate teachers, and that the school district has failed to address these deficits through evaluation or discipline of that assistant principal.⁶⁰ This was a repeat finding, and continues to be a concern of the monitoring team for the coming year.

⁵⁸ Steve Martin, Cuyahoga Hills site visit report (Dec. 2010), pp. 5-6, 9.

⁵⁹ DYS response to Martin Cuyahoga Hills report, p. 2.

⁶⁰ Ava Crow & Anne Flynn, Cuyahoga Hills site visit report, pp. 16-17, 22.

Part IV. Additional Monitoring Priorities for 2012

- **Monitor the new de-centralized admission and intake process** (Paragraphs 43-44). Stipulation paragraphs 43 and 44 require a consistent, orderly intake system with trained personnel administering screenings and assessments. DYS has de-centralized the admission process by decreasing the amount of time at the Scioto reception center and assigning certain responsibilities to parent institutions. Monitoring the quality and consistency of this new admissions process at the reception center and parent institutions will be a priority in 2012.
- **Investigate the effects of classification “overrides”** (Paragraph 47). Plaintiffs’ counsel has raised concerns with the DYS classification system. Specifically, counsel is concerned about the number of youth designated as low and moderate risk by the OYAS instrument who are classified as close custody (high risk) due to mandatory and discretionary “overrides” in the DYS classification process. They have argued that overrides do not sufficiently distinguish between youth and disproportionately affect youth of color. Monitoring team member Steve Martin is currently gathering information related to classification overrides, and will report findings and recommendations in the coming year.
- **Evaluate sexual behavior treatment under the new full-service treatment unit model (Paragraph 62)**. DYS screens and assesses youth with sex offense adjudications, and places them into one of two programming tracks: low needs or standard needs. Youth assigned to the low needs program receive 24 group sessions over a period of six to nine weeks, and youth assigned to the standard needs program receive 60 sessions over a period of nine to twelve months. Youth are housed in general population units and receive sex offender programming from licensed clinicians on an outpatient basis.⁶¹ Concerns raised in the last year regarding the integration of sex offenders into general

⁶¹ DYS response to Wills/Peterson Cuyahoga Hills report, pp. 3-4, 12, 23.

population housing units have been sufficiently addressed by DYS with research from the University of Cincinnati.⁶² Two new mental health experts have joined the *S.H.* monitoring team, and they will assess implementation of DYS sex offender programming in the coming year.

- **Investigate the extent of health, mental health, and education services provided through the seclusion room door** (Paragraphs 91, 124 & 185). Various members of the monitoring team have expressed concerns regarding youth being provided with health care, mental health care, and education through a seclusion room door instead of in more appropriate clinical or educational settings. Assessing the extent of these practices, and identifying appropriate alternatives, will be a priority for the monitoring team in 2012.
- **Evaluate the effectiveness of the grievance system** (Paragraph 232). While grievance policies and procedures are sufficient, youth at every facility continue to express a lack of confidence in the effectiveness of the grievance process, particularly with regard to addressing complaints of staff misconduct. We will assess the grievance process, the timeliness of responses, and the independence and authority of grievance coordinators, and make recommendations as appropriate. One area of concern that we have already begun to address is ensuring that youth are appropriately informed of the results of investigations once they have been completed. This will be discussed further in the upcoming Indian River site visit report.
- **Evaluate the Youth Advocate position** (Paragraphs 101 & 235-236). Stipulation paragraph 235 requires that the youth advocate position be reviewed and redefined. In the upcoming year, the monitoring team will thoroughly review the degree to which Youth Advocates have enhanced the disciplinary hearing process, and affected youths' perceptions of fairness – particularly for youth with mental health disorders – and we

⁶² See Brian Lovins, "The Use of Specialized Units," White Paper on self-contained specialized treatment units (Sept. 2011).

will recommend, as appropriate, alterations in the Youth Advocate role that would better serve these ends.

- **Investigate the application of seclusion time and Intervention Hearing time, particularly for youth with mental health disorders** (Paragraphs 237 & 238).

Monitoring team member Steve Martin found over 4000 days of intervention hearing time imposed in disciplinary hearings at Indian River in a single month, as well as very substantial blocks of seclusion time.⁶³ At Scioto, Martin found substantial numbers of seclusion hours, and identified a small number of youth who accounted for a majority of those hours.⁶⁴ Various monitoring team members have expressed the concern that youth with serious mental health disorders receive a disproportionate number of seclusion hours and intervention hearing days, exacerbating their mental health issues and lengthening their stays in DYS custody, at great cost to the State.⁶⁵ In the upcoming year, monitoring team members Steve Martin, Vince Nathan, Daphne Glindmeyer, and Andrea Weisman will collaboratively monitor compliance with Stipulation paragraphs 237 and 238, and attempt to identify clear recommendations for reducing the use of these severe sanctions, particularly for youth with mental health disorders.

⁶³ Monitoring team conference call (Aug. 26, 2011).

⁶⁴ Steve Martin, Scioto site visit report (June 2011), pp. 6-7, 9.

⁶⁵ Monitoring team conference call (Aug. 26, 2011); Interview with Andrea Weisman (Nov. 2011).