

Settlement Agreement Between
The State of Maryland and the United States Department of Justice

SIXTH MONITOR'S REPORT

For the Baltimore City Juvenile Justice Center (BCJJC)
For the Period of January 1, 2010 through June 30, 2010

Submitted by

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Introduction

On June 29, 2005, the State of Maryland entered into a Settlement Agreement with the United States Department of Justice concerning the conditions of confinement at the Cheltenham Youth Facility (CYF) and the Charles H. Hickey, Jr. School (Hickey), two juvenile detention centers operated by the Maryland Department of Juvenile Services (DJS). A Monitoring Team was appointed to review, assess and report independently on the State's implementation of and compliance with the Settlement Agreement (the Agreement). In June, 2007, the State and the Department of Justice amended the Agreement to include the Baltimore City Juvenile Justice Center (BCJJC).

The initial one-year timeline was extended twice to ensure the full reform of the conditions covered by the Agreement. Most recently, the Agreement's timeline was extended until June 30, 2011 to ensure the full reform of facility conditions related to incident reporting and behavior management. This report discusses the State's progress toward substantial compliance with the remaining 4 of the original 29 provisions. The reader is referred to the previous four Monitors' Reports for a more detailed discussion on the depth of the State's reforms at BCJJC.

This is the Sixth Monitor's Report covering the period January 1, 2010 through June 30, 2010, a period that witnessed steady maintenance of the level of performance on the remaining 4 provisions. Two of these provisions have been in substantial compliance for 6 months, signaling their readiness to be dropped from continued monitoring. The other 2 provisions are on track to reach the 6-month substantial compliance threshold in August, 2010.

The report is organized as follows: using the numbering system from the Agreement, each of the remaining 4 provisions is provided, verbatim, followed by a compliance rating for the period, a discussion of the Monitor's findings, recommendations for reaching compliance, and the evidentiary basis for the Monitor's conclusions. Three compliance ratings were developed jointly by the Parties:

- Substantial Compliance. Substantial compliance with all components of the rated provision. Non-compliance with mere technicalities, or temporary failure to comply during a period of otherwise sustained compliance will not constitute failure to maintain sustained compliance. At the same time, temporary compliance during a period of sustained non-compliance shall not constitute compliance. The standards against which compliance will be assessed are those that are constitutionally required and required by Federal statute. Adherence to best practice is not required to achieve compliance with the Agreement.
- Partial Compliance. Compliance has been achieved on most of the key components of the provision, but substantial work remains.
- Non-Compliance. Non-compliance with most or all of the components of the provision.

¶ III.B-1.i	<u>Protection from Youth-on-Youth Violence</u> . The State shall take all reasonable measures to assure that youth are protected from violence by other youth.
Compliance Rating	Substantial Compliance (as of February 15, 2010)
Discussion	<p>The three subsequent provisions discussed in this report—incident reporting, senior management review, and behavior management—are tools used to achieve the outcome envisioned by this provision: protection from violence by other youth. I conducted two audits of the facility during the current monitoring period, one in March and one in May 2010. The March 2010 audit confirmed that the State had fully complied with the requirements of the Agreement on the two provisions that were in partial compliance at the time of the 5th Monitor’s report (this provision and the one governing behavior management). Further, the Parties agreed that February 15, 2010 would begin the final compliance period for these remaining two provisions. In other words, if the State maintained the level of performance noted during the March 2010 audit for six months (i.e., through August 15, 2010), it would fully satisfy the requirements of the Agreement.</p> <p>As shown in the figure on the last page of this document, the rate of youth-on-youth assault has continued to decrease.¹ During the current monitoring period (January-May, 2010) the average rate of youth on youth assaults was 1.33, compared to 1.65 for the previous 12 months. This represents a decrease of almost 20%. The rate of group disturbances decreased more significantly. The current monitoring period’s average of 0.19 is approximately 53% lower than the preceding 12-month’s average of 0.40. While these decreases have many causes, DJS’ efforts toward reforming the conditions of confinement have certainly contributed to them. The significant decrease in the rate of youth-on-youth assaults during 2010 is particularly encouraging.</p> <p>Further, the DJS conducted an analysis of the number of injuries requiring outside medical treatment at BCJJC. Between January and May 2009, there were 14 such injuries, while there have been only 8 during the same 5 month period in 2010, a decrease of about 43%. Not only are their fewer instances of youth-on-youth violence, but youth sustained serious injuries far less frequently than in the past.</p> <p>Overall, the facility has done an excellent job of reducing the risk of harm faced by youth housed at the BCJJC. While a detention facility of this size,</p>

¹ The DJS Research and Evaluation Unit calculates the rate of various serious incidents as the *rate per number of youth days* which neutralizes the impact of fluctuations in the size of the facility’s population.

	with this type of physical plant, and the characteristics of the youth incarcerated there will always be difficult to manage, the procedures and practices put in place through this reform effort have significantly improved the security of the facility, and the safety of the youth and staff who live and work there.
Recommendations	The State is in substantial compliance with this provision as of February 15, 2010. Per the Agreement with the DOJ, this level of compliance must be maintained for 6 months (i.e., through August 15, 2010) in order for the State to have fully complied with the terms of the Agreement.
Evidentiary Basis	<ul style="list-style-type: none"> ▪ DJS StateStat, November 2008-May 2010 ▪ Interviews with Superintendent, Assistant Superintendent, Shift Commanders, Superintendents and line staff ▪ Data on the number of injuries sustained by youth, provided by the DJS Research and Evaluation Unit

¶ III.B-1.ii	<p><u>Reporting of Youth-on-Youth Violence.</u> The State shall develop and implement appropriate policies, procedures, and practices to enhance the reporting to appropriate individuals of incidents of youth-on-youth violence and to provide that such reporting may be done through confidential means, without fear of retaliation for making the report. The State shall document and report appropriately and with sufficient detail all such incidents.</p>
Compliance Rating	Substantial Compliance (since December 2009)
Discussion	<p>The facility has fully implemented procedures to ensure that all incidents of youth-on-youth violence are fully documented in an Incident Report.</p> <p>The overall purpose of incident reporting is to inform facility administrators and staff about the situations (people, places, procedures, etc.) that appear to increase the risk of youth violence so that targeted prevention strategies can be developed. Consistently, incident reports (IRs) at BCJJC include sufficient detail to serve this function.</p> <p>A total of 29 incident reports describing youth-on-youth assaults and group disturbances that occurred between December 2009 and May 2010 were reviewed. The IRs included essential details regarding the youth and staff involved; contextual information that could lend insight into the underlying cause of the incident or that could help staff to prevent or anticipate the assault; and specific details regarding the nature of the assault. Most of the incident reports also included a detailed description of how staff ultimately brought an end to the altercation, including a full description of the types of physical restraints used.</p> <p>A well-written incident report will not reduce violence by itself, but high-quality incident reports are essential tools for any effort to reduce the rate of youth violence in a facility. Maintaining the quality of incident reports and analyzing the information contained in them are essential steps to a continued reduction in assaults and disturbances at BCJJC.</p>
Recommendations	The State has been in substantial compliance with this provision for six months.
Evidentiary Basis	<ul style="list-style-type: none"> • Interviews with Facility Superintendent, Assistant Superintendents, Shift Commanders, Supervisors and line staff • Incident reports, n=29, randomly selected from those generated December 2009 through May 2010 related to youth-on-youth assault and group disturbances

¶ III.B-1.iii	<u>Senior Management Review</u> . The State shall develop and implement a system for review by senior management of youth-on-youth violence.
Compliance Rating	Substantial Compliance (since December 2009)
Discussion	<p>By DJS policy, each incident report must be reviewed by the Shift Commander prior to being submitted to the Administration. These reviews should critique staff performance in preventing, anticipating, or intervening in the incident. Feedback surrounding the use of de-escalation and physical intervention techniques, staffing ratio and posting, supervision strategies, institutional security, conflict resolution, environmental hazards, policy and procedures will help to improve staff skill and knowledge and may lead to a decline in youth violence over time.</p> <p>Across the 29 incident reports reviewed, all of the Shift Commanders at least attempted to critique the incident—no longer are they simply summarizing the event as they were at the time of the First Monitors’ Report. Over time, the quality of their reviews has consistently improved, particularly with the implementation of a video review process to guide the critique. The Shift Commander reviews are one of the facility’s strongest assets for developing supervision skills among line staff.</p> <p>By DJS policy, once reviewed by the Shift Commander, a member of the senior management team must review the complete incident report packet within 72 hours. These audits should not only verify the completeness of the incident reporting package, but should also comment on the quality of the staff’s responses to each portion of the incident report and confirm that all of the sources of information hang together without contradiction. Across the 29 incident reports reviewed, all were audited and corrected within the timelines established by policy, and most contributed thoughtful critiques and recommendations for reducing youth violence in the future.</p>
Recommendation	The State has been in substantial compliance with this provision for six months.
Evidentiary Basis	<ul style="list-style-type: none"> • Interviews with Facility Superintendent, Assistant Superintendents, Shift Commanders and Supervisors • Incident reports, n=29, randomly selected from those generated December 2009 through May 2009 related to youth-on-youth violence and group disturbances. The IR packets included the Shift Commanders’ reviews and Audits. • Video Review Log, December 2009 through May 2010 • Incident Report Audit Log, December 2009 through May 2010

¶ III.B-1.v	<p><u>Behavior Management Program</u>. The State shall develop and implement an effective behavior management program at the facility throughout the day, including during school time and shall continue to implement the behavior management plan. The State shall develop and implement policies, procedures and practices under which mental health staff provide regular consultation regarding behavior management to direct care and other staff involved in the behavior management plans for youth receiving mental health services, and shall develop a mechanism to assess the effectiveness of interventions utilized.</p>
Compliance Rating	Substantial Compliance (as of February 15, 2010)
Discussion	<p>The development and implementation of an effective behavior management program is one of the key strategies for reducing youth violence. Behavior management encompasses all of the facility’s tactics for shaping youth’s behavior—its system for awarding incentives; consequences for breaking facility rules; immediate responses to youth violence; and strategies for keeping youth occupied with pro-social activities. Throughout all of these, case management, education and mental health staff should be involved to ensure consistency and increasing support for youth who struggle to comply with facility rules.</p> <p><u>Point/Level System</u></p> <p>The basic structure of the current point/level system remains solid—youth are able to earn up to 100 points per day and as points accumulate, youth are promoted to a higher level that is associated with greater privileges. Point deductions, or fines, are issued when youth do not follow facility rules.</p> <p>Although simple in concept, the system is actually quite complex, which may account for difficulty the facility originally experienced in implementing the system and the continued oversight that is needed to ensure that the program functions as designed. During my visit in March, 2010, I noted that the program continued to be plagued by a high number of mechanical errors in tabulating and carrying the youth’s points forward. During my review of documents between February and May 2010, I found that for the most part, these problems have been resolved. An audit of 6 random days across 4 units revealed error rates between 15 and 30 percent (i.e., between 15 and 30 percent of the youth’s point sheets had some type of calculation error). While this rate of error is higher than desired, it does not appear to compromise the integrity of the program, and given the complexity in design, is likely as good as it’s going to get.</p> <p>Consistently, youth were aware of their points and level and reported that</p>

they received all of the incentives that are promised to them. The range of incentives has dramatically increased over the past two years and now includes commissary, special late night activities, access to game rooms, extra phone calls and special visits. Youth reported that these incentives are meaningful and that they made striving for Level 3 and 4 “worth it.” Approximately 15 to 20 percent of the facility’s youth succeed in reaching Levels 3 and 4. Youth of any level are also permitted to apply for an extended stay in each unit’s Honors Room which features upgraded bedding, a videogame console and other activities.

Guarded Care Plans

Case management and mental health staff are involved in the behavior management of certain youth with serious behavioral and mental health problems, through the development of Guarded Care Plans (GCPs). The concept of the GCP reflects the requirements of this provision related to mental health consultation. Since the reform effort began at BCJJC, the role of the GCP in the facility’s effort to manage the behavior of youth has evolved. Originally, when the facility lacked a structured system of incentives and had very few programming opportunities for youth, the GCPs were the main vehicle for behavior modification. Over time, the facility created an incentive system and a rich array of programming for ALL youth. As a result, the role of the GCP can now be narrowed. Moving forward, GCPs should be reserved as a tool for working with youth with serious mental illnesses, rather than a panacea for all youth exhibiting behavioral difficulties.

While the GCPs are currently adequate to the task of providing mental health input to the management of youth behaviors, in the future, they could be more finely honed to address the specific treatment needs of youth with serious mental illnesses who engage in violent behavior while housed at the BCJJC.

Seclusion

While the facility is not permitted by State law to use disciplinary isolation, youth may be confined to their rooms when they represent a legitimate safety threat to other youth or staff (e.g., immediately following a fight). The period in seclusion is used to de-escalate the youth so that he may be safely returned to the general population. In order to prevent an over-reliance on the use of seclusion, staff must seek authorization from an Administrator to place a youth in seclusion. Staff are also required to collaborate with Mental Health staff when determining whether a youth is prepared to be released from seclusion. This is an excellent practice.

To assess the practices surrounding the use of seclusion at BCJJC, I reviewed approximately 18 seclusion records for youth involved in serious institutional misconduct from March through May 2010. Consistently, these documents revealed that youth were monitored closely while they were in their rooms; they were visited by medical staff several times during their stay; and their readiness for release was monitored closely by the Shift Commanders. While the integrity of some of these processes slipped with the influx of new staff, overall, the facility's practices in this area have improved consistently since the Agreement was signed into effect.

Further, the time youth spend in seclusion has been greatly reduced. In the early stages of the Agreement, it was not uncommon for youth to spend 24 to 48 hours in locked-door seclusion. By contrast, in the month of March 2010, only 5% of the seclusion episodes lasted more than 12 hours.

Court Reports

In response to a historical lack of consequences in the facility's approach to behavior management, a system was devised to inform the Court of the youth's behavior while housed at BCJJC. Prior to all scheduled court hearings, facility case managers prepare a one-page summary of the youth's behavior while in custody that includes the youth's total points, level, involvement in institutional misconduct, participation in education and programming, and contact with parents. These reports are well-designed and capture the salient facts needed for a Judge to assess the youth's behavior while at BCJJC.

Under the guidance of the Case Manager Supervisor, the process was implemented in November 2009. It has been implemented consistently throughout that time.

Intensive Services Unit

As noted in previous Monitors' Reports, a significant number of youth-on-youth assaults at BCJJC involve a rather small proportion of youth. Because the point/level system had not until recently been effectively designed with an array of incentives for positive behavior, and the court reports had not yet been implemented, youth reported there were few reasons for them to refrain from involvement in serious misconduct. Further, staff indicated that they felt disempowered by the lack of serious consequences for youth who were involved in violent institutional misconduct.

During the previous monitoring period, the State committed to developing a segregated, highly-structured unit for the small number of youth with chronic involvement in violent misconduct. The Intensive Services Unit (ISU)

was designed to provide intensive programming and structure and to limit the youth's movement and access to potential victims. All services, including education, are brought to the unit. Any staff may refer a youth to the ISU; admission is determined by a committee that reviews the youth's facility record and is ultimately approved by the Superintendent. ISU staff were hand-picked and the esteem of the ISU was enhanced by the administration's formal recognition of the ISU staff's expertise.

The ISU has now been in operation for approximately 4 months. After some initial adjustments to the program design and operation, the ISU has been well-implemented since mid-February 2010. Continued refinement of the admissions and transition planning process is recommended and suggestions toward this end were discussed during my May 2010 visit. In short, the facility needs a dependable system for quickly identifying youth who meet the ISU eligibility criteria (i.e., involvement in 4 violent incidents) and must incorporate specific structural and supervision guidelines into the youth's plan for re-entering the general population.

Programming

Limiting youth's idle time is one of the most effective behavior management strategies available. The State has embraced this philosophy and has committed to providing a rich array of programs to ensure that the youths' idle time is kept to a minimum.

In addition to indoor and outdoor recreation, youth at BCJJC also received programming from the following groups:

- Boys & Girls Club;
- Boy Scouts;
- Community Law in Action (CLIA);
- Aggression Replacement Training (ART), substance abuse education, and psychoeducational groups run by Hope Health staff;
- Structured activity time in the facility's game room;
- Case Managers' groups on a variety of topics;
- Leadership Groups;
- Current Events Groups; and
- Arts & Crafts Groups.

In total, all units receive between 18 and 20 hours of structured programming each week, in addition to 25 hours of education services. The increases in programming are supported by a 24-hour schedule that is followed consistently across all units. The amount and variety of programming now available to youth at BCJJC is remarkable and exceeds contemporary standards of care in juvenile facilities.

Recommendations	The State is in substantial compliance with this provision as of February 15, 2010. Per the Agreement with the DOJ, this level of compliance must be maintained for 6 months (i.e., through August 15, 2010) in order for the State to have fully complied with the terms of the Agreement.
Evidentiary Basis	<ul style="list-style-type: none"> ▪ <i>BCJJC Student Handbook</i> ▪ Behavior Management Point Logs for 4 units, February through May 2010 ▪ Guarded Care Plans for approximately 5 youth, written February through May 2010 ▪ Interviews with Superintendent, Assistant Superintendents, Shift Commanders, Supervisors, and line staff ▪ Seclusion records, n=18, randomly selected from those occurring March through May 2010 ▪ Court reports, February through May 2010 ▪ Interview with Case Manager Supervisor ▪ ISU Program Description ▪ <i>ISU Youth Handbook</i> ▪ ISU Treatment plans, n=6, written April and May 2010 ▪ Unit Schedules for units 21, 30, 31, 32, 33, 40 and 41 ▪ BCJJC Total Programming Hours, by Unit, created by the facility

BCJJC Rates of Violence, 12-Month Trend

