

MONITORING REPORT FOR THE SETTLEMENT AGREEMENT BETWEEN THE UNITED STATES AND THE STATE OF NEW YORK IN THE MATTER OF *UNITED STATES V. THE STATE OF NEW YORK and THE NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES* (U.S.D.C. NORTHERN DISTRICT OF NEW YORK)

**Facility Monitoring Report:
Columbia Girls Secure Center
Claverack, NY**

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**INDIVIDUAL FACILITY MONITORING REPORT:
COLUMBIA GIRLS SECURE CENTER
Claverack, NY**

I. INTRODUCTION

This is the third monitoring report for the Settlement Agreement between the United States and the State of New York in the matter of *United States v. the State of New York and the New York State Office of Children and Family Services* (U.S.D.C. Northern District of New York). As noted in the first monitoring report, the Monitoring Team consists of two Monitors, Dr. Marty Beyer, who is responsible for the Mental Health paragraphs of the Settlement Agreement, (hereafter referred to as the MH Monitor) and Dr. David Roush, who is responsible for the Protection from Harm paragraphs (hereafter referred to as the PH Monitor).

This report evaluates numbered Paragraphs 40-57 and 68 in the Settlement Agreement. Specific headings within these groups of paragraphs include Use of Restraints, Use of Force, Emergency Response, Reporting, Evaluation of Mental Health Needed, Use of Psychotropics, Staff Training on Psychotropic Medications and Psychiatric Disabilities, Psychotropic Medication Refusals, Informed Consent, Treatment Planning, Substance Abuse Treatment, Transition Planning, Document Development and Revision, and Quality Assurance Programs.

A. Tryon Girls

On June 8, 2011, Governor Andrew Cuomo announced the closure of Tryon Girls Center and the reduction in the capacity of Finger Lakes Residential Center from 135 beds to 109 beds. The Monitoring Team maintained an ongoing dialogue with Home Office regarding the status of the girls displaced by the closing of Tryon Girls. Dr. Beyer monitored the transfer activities including treatment plans, staffing plans, and the status of operations at the destination facilities, Taberg Residential Center for Girls (Taberg) and Columbia Girls Secure Center (CGSC). The Office of Children and Family Services (OCFS) provided brief transition plans for 12 girls moved on August 31, 2011 from Tryon Girls Limited Secure to Taberg that summarized each girl's presenting problems and treatment while at Tryon. The 12 limited secure girls who moved to Taberg ranged in age from 13-17. They had been at Tryon between 13-379 days, with half there less than three months and five between 3-6 months. Almost all the girls were described as aggressive and having trauma histories; four had been placed in psychiatric hospitals; eight of the 12 girls were taking psychiatric medication. OCFS provided less detailed transition plans for five girls moved on August 31, 2011 from Tryon Secure to CGSU. They ranged in age from 15-19, and their charges included: Attempted Murder (2), Robbery (1), and Assault (2). Two had been at Tryon for about 18 months; one for eight (8) months; and the other two for about two (2) months. Three were taking psychiatric medication.

In an August 22, 2011 memo, the Monitors presented their concerns about the adequacy of mental health services and the capacity of Taberg and Columbia to insure protection from harm during the high-risk transition period. On August 25, 2011, Acting

OCFS Deputy Commissioner Franco responded with information about staffing, transition, and treatment at Columbia and Taberg.

On September 2, 2011, the Monitors requested an opinion from Home Office regarding questions about how the Tryon Girls closure applied to the Definition Section of the Settlement Agreement. Specifically, Paragraph 36 states that "Tryon Girls shall mean the Tryon Girls Center, located at 881 County Highway 107, in Johnstown, New York, or any other facility that is used to replace or supplement Tryon Girls." Discussions between OCFS legal counsel and DOJ attorneys resulted in an agreement to designate Taberg and Columbia as facilities that qualify for monitoring under the Settlement Agreement. The monitoring visit to Columbia occurred on November 29 through December 1, 2011, and the Taberg monitoring visit is scheduled for February 2012. The Home Office will also modify the MAP to include Taberg and Columbia and timetables for training at those facilities.

B. Facility Background Information

Columbia Girls Secure Center (CGSC) is a 16-bed secure facility of two units in one building for female adolescents placed with OCFS by criminal and family court. It formerly housed a drug treatment program for the nearby large secure male juvenile facility. On August 31, 2011, five girls were moved from Tryon Secure to CGSC. Subsequently, one of those girls was discharged, and two new girls arrived. On November 29, 2011, there were six girls on one unit at Columbia. They ranged in age from 15 to 19. They had been at Columbia/Tryon from 25 days to 615 days: one had been there less than a month, three less than half a year, one almost a year, and one since early 2010. Columbia serves three types of offenders: (1) juvenile offenders who have committed specified serious felonies by criminal court and who must remain in a secure facility for their confinement. These youth are transferred to the New York State Department of Correctional and Community Services if they must continue to be confined when they reach age 21; (2) juvenile delinquents placed restrictively by the family court who have committed specified serious felonies. These youth must serve a period of the placement in a secure facility and can remain with OCFS involuntarily up to age 21; and (3) juvenile delinquents placed by the family court whose placement in a secure facility has been authorized by the court or who have been transferred from a limited secure facility through an administrative process referred to as a "Fenner." These youth may remain involuntarily in OCFS up to age 18. At least one of the residents at Columbia at the time of the site visit who has a 15-life sentence is likely to transfer to an adult prison at age 21. The six Columbia girls have been sentenced for: Murder, Attempted Murder, Assault (2), Attempted Assault, and Robbery. Three of the girls were taking psychiatric medication: Trazodone (2); Abilify (1), Lexapro (1), Zoloft (1), and Aderall (1).

C. Assessment Protocols

The assessments used the following format:

1. Pre-Visit Document Review

The Monitors submitted a list of documents for pre-visit and on-site review. The Monitors worked with OCFS to make the document production and review processes more efficient, especially ways to make the transportation of documents easier for Home Office without compromising the quality of information provided.

2. Use of Data

The Office of Children and Family Services (OCFS) has a good management information system with access to a wide range of data. A further review of the system and its capabilities allowed for the development of Excel spreadsheets that were provided to the Home Office for the regular collection and dissemination of facility data to the Monitors, including the semi-annual Performance-based Standards (PbS) data. The Monitors were given OCFS' second Six-Month Progress Report on the MAP on December 20, 2011.

3. Entrance Interview

The entrance interview occurred on November 29, 2011 and included the Monitoring Team and OCFS representatives, including key staff members from the facility. The meeting provided an opportunity for introductions, informal discussion of institutional goals and objectives, an overview of the assessment process, a review and discussion of assessment instruments, and the scheduling of the remaining assessment activities. Those in attendance included: Merle Brandwene, Management & Program Support; Matt Carpenter, Assistant Facility Director; Sandra Carrk, Project Manager; Diane Deacon, OCFS Legal; Patricia Fernandez, Assistant Director of Treatment Services; Alyssa Lareau, DOJ Attorney; Edgardo Lopez, Settlement Agreement Coordinator; Anne Pascale, Chief of Treatment Services; Debra Peete, HSTS I BOT; and R. J. Strauser, Youth Counselor 2.

4. Facility Tour

Walkthroughs of the facility followed the entrance interview. The Protection from Harm facility tour was more extensive and included a general inspection of all usable spaces. The facility tour used copies of fire evacuation floor plans on an 8 ½" x 11" format.

5. On-Site Review

The site visit included a review of numerous documents available at the facility and not included in the pre-visit document request list. These documents included many reports that occurred in the time between the document shipment to the Monitors and the on-site assessment.

The MH Monitor observed a treatment team meeting, Rounds and a DBT meeting. The MH Monitor met with the clinicians. The MH Monitor reviewed six girls' records. The PH Monitor reviewed the two (2) physical restraint packets, observed the corresponding videos, and collected information from unit logs and resident interviews.

6. Staff Interviews

The Monitors interviewed 17 CGSC staff. The MH Monitor interviewed two unit staff, a clinician, a counselor, and a nurse. The PH Monitor interviewed six Youth Development Assistants (YDAs), one Facility Director, one Assistant Facility Director, one Nurse Practitioner, two nurses, and one Youth Counselor 2.

7. Resident Interviews

The MH Monitor interviewed four girls, and the PH Monitor interviewed three girls. Interviews occurred in areas with reasonable privacy from staff. The Monitors selected the youth for interviews.

8. Exit Interview

The exit meeting occurred on November 30, 2011. The Monitors expressed their appreciation for the cooperation and hospitality of the CGSC and OCFS staff. The Team then highlighted areas of importance and concern, but not findings. The exit meeting was a time for questions, clarifications, and explanations of events and impressions before the draft report went to both Parties. Those in attendance included: Merle Brandwene, Management & Program Support; James Brewster, YDA 4; Matt Carpenter, Assistant Facility Director; Sandra Carrk, Project Manager; Patricia Fernandez, Assistant Director of Treatment; Jill Green, Education Coordinator; Melissa Gwozdz, YDA 4; Wade Jones, YDA 4; Alyssa Lareau, DOJ; Edgardo Lopez, Settlement Agreement Coordinator; Deborah Mulligan-Timer, Psychiatric Nurse Practitioner; John Nigro, OCFS, YDA 4; Anne Pascale, Chief of Treatment Services; Lou Renzi, Senior Attorney; Jessica Riley, Recreation Specialist; Anita Sapio, Facility Director; Dr. Joe Tomassone, Chief Treatment Services; Louise Turgem, SW 2; and Helen Wood, YC 1. Attendees by teleconference included Dr. Michael Cohen, Medical Director; Diane Deacon, Assistant Deputy Counsel; Myra DeLuke, QA Specialist; Felipe Franco, Deputy Commissioner; Joe Impicciatore, Facilities Manager; Pam Kelly, Training Director; Brian Perazone, Assistant Director for Quality Assurance; Lee Prochera, Counsel; and Jenne Utting, QA Specialist. On December 1, 2011 the MH Monitor did a second exit meeting with the Columbia day shift staff.

D. Preface to Protection from Harm and Mental Health Findings

Two important factors qualify the Columbia Girls Secure Center (CGSC) report. First, the operations at Columbia had been in existence only 90 days at the time of the monitoring visit. The briefness of the CGSC operations limits the Monitors' ability to make compliance decisions based on patterns of systematic behaviors. Compliance determinations require more time and evidence to avoid claims that the programs and conditions at CGSC might be intermittent or momentary.

Second, and in addition to the newness of the CGSC program, Settlement Agreement Paragraph 58 allows the Office of Children and Family Services (OCFS) 23 months (until approximately July 2012) to develop and implement its designated reforms. The report narrative describes programs and services that are still "in progress." Therefore, Settlement Agreement paragraphs where, for example, policy and procedure are not yet permanent but they are operational and guide daily practice in a fashion consistent with the Settlement Agreement may be described as Compliance Pending while the Monitors wait for the full implementation of the reforms by OCFS. Beyond these qualifiers, the CGSC monitoring visit was a very positive experience.

Not only is it remarkable that in a few weeks before the girls arrived staff renovated Columbia, but that staff—many of whom had faced adversity while at Tryon, and some of whom came from elsewhere—have worked so hard to build a strong team. Columbia appears to be achieving the intent of the Settlement Agreement. Several important achievements include: (a) a cohesive staff that demonstrates consistency and caring; (b) high levels of perceptions of safety by both youth and staff; (c) integration of the Crisis Prevention Management (CPM) techniques and the New York Model, i.e., an integration of treatment and safety; (d) acceptable restraint practices with an initially low rate of

occurrence and with documentation (written and video) consistent with the Settlement Agreement requirements; and (e) levels of youth empowerment that seem to contribute positively to a smooth operation. The result is a calm, safe, caring environment that is unusual for a juvenile facility. Strong staff communication and collaboration and excellent clinical practice were apparent at Columbia.

The Monitors had expressed concern about the stress of transition on the girls moving from Tryon to different facilities. Fortunately, the girls moved with trusted staff to Columbia. This made the move easier for the girls, many of whom have experienced traumatic losses in the past. On the other hand, it was a challenge for staff to provide this beneficial stability while also letting the girls know that many things were going to change at Columbia to make it a different environment than Tryon.

The Monitors concluded that Columbia is the model that every unit in larger facilities should aspire to, with strong teamwork, stability, and a safe, caring environment. There may be a temptation to say it is easy to operate good treatment and protection from harm with only six residents in a facility staffed for 16 residents. The small number of residents is only one of many more important factors accounting for Columbia's achievement. That the Columbia residents settle down to long stays makes treatment both more difficult and easier. The Columbia girls have serious offenses; coming to terms with the likelihood that they will not achieve early parole is a struggle and provokes a long grieving process for what they will miss during years of incarceration. The most important contributors to Columbia operating a model facility are: (1) remarkable teamwork and (2) staff determination to "start over," inspired by the belief they could create a calm, safe, caring environment (unlike what they had experienced before). Several staff commented on their determined optimism when they arrived at Columbia:

- "We knew chaos at Tryon—we didn't want to make the same mistakes. With this group of staff we were finally able to do what we wanted to do."
- "We have leadership for New York Model values. Columbia is stable. Not chaotic. Invested staff. When we added a new disruptive girl, nothing changed about our safe milieu. She changed."
- "The New York Model puts labels on the things we (YDAs) should be doing everyday. This is the way a unit is supposed to run."

An advantage at Columbia is that they have only one new YDA and all are YDA 4s. One staff person commented: "We are a family. We have job security."

The MH Monitor observed strong communication between YDAs and the clinicians. A clinician commented, "We decided that no additional trauma would happen to a girl on the unit. And we have a positive attitude that every girl can be engaged in our program, in relationships with us. Everything staff do is to build relationships, eating with the girls, listening to the girls."

II. PROTECTION FROM HARM MONITORING

The Columbia operations appear to be a formula for compliance for OCFS. The not-yet-fully developed program elements at CGSC are initially so positive that they represent potentially powerful lessons for compliance achievement at other named facilities.

A. Use of Restraints

Multiple factors influence the use of restraints and Protection from Harm. Not every factor is mentioned in the Settlement Agreement, but Paragraph 57a invites the Monitoring Team to identify issues and concerns that emerge during the monitoring that are related to compliance.

40. The State shall, at all times, provide youth in the Facilities with reasonably safe living conditions as follows:

41. Use of Restraints. The State shall require that youth must not be subjected to undue restraints. The State shall create or modify policies, procedures, and practices to require that the use of restraints be limited to exceptional circumstances, as set forth below, where all other appropriate pro-active, non-physical behavioral management techniques have been tried and failed and a youth poses a danger to himself/herself or others. Restraints shall never be used to punish youth. Accordingly, restraints shall be used only in the following circumstances:

- i. Where emergency physical intervention is necessary to protect the safety of any person;*
- ii. Where a youth is physically attempting to escape the boundary of a Facility;
or*
- iii. Where a youth's behavior poses a substantial threat to the safety and order of the Facility.*

COMMENT: The Crisis Prevention and Management (CPM) policy and procedure 3247.12 fulfills the requirement that OCFS create a new set of requirements on the use of restraints. OCFS lists the policies covering Paragraph 41 as "interim" (PPM 2081.00, PPM 3247.13, and PPM 3247.14). During staff interviews, all staff had a working knowledge of the differences between the new policy and the approach to physical restraints prior to the DOJ Settlement Agreement.

Staff appeared to understand the policy and properly identified the circumstances under which restraint can be used. The review of restraint documentation, including video of the events, confirmed a practice that is consistent with policy, procedure, and resident and staff reports. Resident interviews confirmed a limited and specific use of restraints and affirmed staff reports that restraints are not used as punishment.

Missing from the interim policy is guidance to staff regarding how the use of restraints applies to a situation where a youth's behavior poses a substantial threat to the safety and order of the facility (Paragraph 41, iii). OCFS officials reported that they specifically did not include the third prong as a reason for restraint because it was felt that the language was so broad as to leave much room for interpretation as to what is "good order," and it was felt that the first prong, emergency intervention necessary to protect the safety of another person, would be sufficient to encompass situations where restraints would reasonably be required.

Future monitoring will look for a continuation of these consistent outcomes over time. This initial snapshot of use of restraints establishes the foundation for compliance, but substantial compliance assumes some consistency over time.

Further, the State shall:

41. a. Create or modify and implement policies, procedures, and practices to require that in the limited circumstances when the use of restraints is necessary, staff shall employ only the minimum amount of physical control and time in restraints necessary to stabilize the situation.

COMPLIANCE

COMMENT: The policy and procedures are established; the training on the policies and procedures has occurred; and evidence of a corresponding practice includes documentation (written and video), staff reports, and resident reports that are consistent with the policy and procedures. Again, OCFS policies comply with the Settlement Agreement. Columbia administration is familiar with policy and procedure that limit the circumstances when the use of restraints is necessary, and staff interviews affirmed a working knowledge of these circumstances.

41. b. Create or modify and implement policies, procedures, and practices regarding the application of restraints to youth at heightened risk of physical and psychological harm from restraints, including, but not limited to, youth who are obese, have serious respiratory or cardiac problems, have histories of sexual or physical abuse, or are pregnant.

COMPLIANCE

COMMENT: The interim policy and procedures exist; the training on the policies and procedures has occurred; and staff and resident interviews were consistent with the policy and procedures. Interviews with direct care and health care staff revealed a working knowledge of conditions, circumstances, and plans that limit the restraints to youth due to heightened risk of physical or psychological harm. In most instances, staff recited by memory the information in the IIP and seemed quite cognizant of the nature and extent of the limitations.

41. c. If face-down restraints continue to be used, create or modify and implement policies, procedures, and practices to require that staff utilize them only in emergencies when less restrictive measures would pose a significant risk to the safety of the youth, other youth, or staff. In addition:

- i. Face-down restraints shall be employed for only as long as it takes to diffuse the emergency, but in no event shall a youth be restrained in a facedown position for more than three (3) minutes.*
- ii. Trained staff shall monitor youth for signs of physical distress and the youth's ability to speak while restrained.*
- iii. Medical personnel shall be immediately notified of the initiation of a facedown restraint position, and the youth shall be immediately assessed by medical personnel thereafter. In no event shall more than 4 hours lapse*

between the end of a facedown restraint incident and the assessment of the involved youth by medical staff.

COMPLIANCE

COMMENT: The interim policy and procedures exist; the training on the policies and procedures has occurred; and staff and resident reports are consistent with the policy and procedures.

Policy 3247.12 describes a “transitional hold” that moves a youth from a supine restraint to a prone position for the purposes of applying handcuffs. Consistent with Settlement Agreement paragraph 41.c.i., which states, “Face-down restraints shall be employed for only as long as it takes to diffuse the emergency, but in no event shall youth be restrained in a face down position for more than three (3) minutes,” interviews with staff and youth confirmed the elimination of face-down restraint practices as a primary strategy in a restraint process that requires staff to place a youth on the floor for increased safety. In response to the question about when a face-down (prone) restraint is permissible, most Columbia staff responded that a prone restraint is no longer used. The follow-up question to these staff inquired about the application of the “transition hold” as taught in the CPM training. Answers to this follow-up question were consistent. Staff did not consider the “transition hold” as a prone technique because they only move a youth to her side if the application of handcuffs is necessary. The responses indicated a clear understanding of the concerns about face-down restraints expressed in the Settlement Agreement paragraph.

41. d. Prohibit the use of chemical agents such as pepper spray for purposes of restraint.

COMPLIANCE

COMMENT: Interim policy and procedure clearly prohibit the use of chemical agents such as pepper spray. Resident and staff interviews and direct observations provided no evidence of the use of pepper spray.

41. e. Prohibit use of psychotropic medication solely for purposes of restraint.

COMPLIANCE

COMMENT: Interim policy and procedure regarding physical restraint clearly prohibit the use of psychotropic medication for solely restraint purposes. Resident and staff interviews and direct observations provided no evidence of the use of psychotropic medication solely for restraint purposes. The training on the psychotropic medications policy (PPM 3243.32) is listed as incomplete in the December 2011 “6-Month Progress Report.”

41. f. Create or modify and implement policies, procedures, and practices to require that staff are adequately trained in appropriate restraint techniques, procedures to monitor the safety and health of youth while restrained, first aid, and cardiopulmonary resuscitation (“CPR”). The State shall require that only those staff with current training on the appropriate use of restraints are authorized to utilize restraints.

COMPLIANCE

COMMENT: The interim policy and procedures are established; the training on the policies and procedures has occurred; and staff reports are consistent with the policy and procedures. Columbia administration maintains an up-to-date list of staff members and the status of their training, particularly the training required by policy that authorizes them to participate in the use of restraints. The list supplied by Columbia administration contained the names of a few staff members, and Matt Dreyfus, Training Coordinator, verified this list through the use of the STARS system. Those staff members with incomplete training requirements were scheduled for the missing training in the near future. In this instance, the supplemental or remedial training was scheduled within a matter of weeks.

B. Use of Force

42. Use of Force. In order to adequately protect youth from excessive use of force at the Facilities, the State shall:

42. a. Continue to prohibit "hooking and tripping" youth and using chokeholds on youth.

COMPLIANCE

COMMENT: The interim policy and procedures exist; the training on the policies and procedures has occurred; and staff and resident reports are consistent with the policy and procedures. No evidence existed of the use of prohibited physical restraint holds, especially "hooking and tripping" and chokeholds.

42. b. Create or modify and implement a comprehensive policy and accompanying practices governing uses of force, which shall provide, among other things, that the least amount of force necessary for the safety of staff and youth is used.

COMPLIANCE

COMMENT: The interim policy and procedures are established; the training on the policies and procedures has occurred; and staff and resident reports are consistent with the policy and procedures. Staff consistently described situations where their approach to resident misbehaviors was to use de-escalation (verbal strategies) longer than usual to prevent the need for physical restraint. Residents confirmed that staff use verbals to "talk the girls down" because they are responsive to the residents' issues and want to resolve problems without the use of physical restraint.

42. c. Create or modify and implement policies, procedures, and practices to require that staff adequately and promptly document and report all uses of force.

PARTIAL COMPLIANCE

COMMENT: The interim policy and procedures exist; the training on the policies and procedures has occurred; and evidence of a corresponding practice includes documentation (written and video), staff reports, and resident reports that are consistent with the policy and procedures. For the 90-day period under review by the Monitoring Team, two (2) instances of restraint occurred; and these instances were documented in a fashion that complies with this paragraph. The small number and short time frame makes compliance findings tenuous in the absence of a pattern of behaviors that reflect systemic responses.

42. d. *Create or modify and implement a system for review, by senior management, of uses of force and alleged child abuse so that they may use the information gathered to improve training and supervision of staff, guide staff discipline, and/or make policy or programmatic changes as needed.*

PARTIAL COMPLIANCE

COMMENT: The interim policy and procedures exist; the training on the policies and procedures has occurred; and staff members report a practice that is consistent with the policy and procedures. An SG-18 or above facility administrator completes a review and logs the information and recommendation on the OCFS 2091 form, which is reviewed by the Facility Director and followed by a Home Office review.

Missing from the implementation of the policy and procedure are protocols or guidance regarding the ways in which information gathered in this process should be used to improve training and supervision and to revise policy or programs. Additionally, protocols for the senior management review of information are "in progress."

The same concern applies here as described for Paragraph 42.c. There were only two (2) instances of restraint in a 90-day period of time by which to evaluate the system (see comments for Paragraph 42.e.).

42. e. *Establish procedures and practices whereby each Facility Administrator or his or her designee will conduct weekly reviews of the use of force reports and videotaped incidents involving uses of force to evaluate proper techniques. Upon this review, staff who exhibit deficiencies in technique(s) shall be prohibited from using force until such staff receive documented instruction on the proper technique(s).*

COMPLIANCE PENDING

COMMENT: The interim policy and procedures exist. The review of the two physical restraint instances revealed no identifiable deficiencies in the restraint techniques according to CGSC administration. Therefore, there was no need for documented instruction on proper techniques. Again, the process appears to be consistent with the intent of the Settlement Agreement paragraph, but more instances of the review and processing of incident report documentation would be helpful in establishing a pattern of behaviors that supports substantial compliance.

42. f. *Train direct care staff in conflict resolution and approved uses of force that minimize the risk of injury to youth. The State shall only use instructors who have successfully completed training designed for use of force instructors. All training shall include each staff member's demonstration of the approved techniques and require that each staff member meet the minimum standards for competency established by the method. Direct care staff skills in employing the method shall be periodically re-evaluated. Staff who demonstrate deficiencies in technique or method shall be re-trained at least every six months until they meet minimum standards for competency established by the method. Supervisor staff who are routinely involved in responding to incidents and altercations shall be trained to evaluate their subordinates' uses of force and must provide evaluation of the staff's proper use of these methods in their reports addressing use of force incidents.*

COMPLIANCE

COMMENT: The training on the policies and procedures occurs regularly, and the evidence of a corresponding practice from the STARS system is consistent with the requirements of this paragraph. Training records show that all direct care staff receive training twice annually on CPM. The records also show that staff members who require retraining for any number of reasons receive the training in a timely fashion. Interviews with staff confirmed the staff member's understanding of the training and an awareness of his or her status regarding completeness of the training requirements. Staffers knew when re-training events would occur and in what activities they were permitted to participate.

C. Emergency Response

The levels of emergency response seemed good, and the policy and procedure regarding response teams and codes are appropriate.

43. Emergency Response. The State shall create or modify and implement policies, procedures, and practices relative to staff use of personal safety devices (sometimes referred to as "pins") to call for assistance in addressing youth behavior. To this end, the State shall:

43. a. Immediately revoke the December 18, 2007 directive to staff of Finger Lakes to "push the pin."

NOT APPLICABLE

43. b. Create or modify policies providing staff with guidelines as to when a call for assistance is appropriate.

COMPLIANCE

COMMENT: The interim policy and procedures exist (PPM 3246.02 and PPM 3247.13); the training on the policies and procedures has occurred; and staff and resident reports are consistent with the policy and procedures. All staff confirmed with acceptable accuracy the call for assistance procedures based on the color code indicators, where Code Yellow = personal safety, Code Blue = medical, Code Green = security, Code Gray = mental health issues, and Code White = restraint in progress. The PH Monitor heard no codes during the monitoring visit.

43. c. Create or modify policies and procedures regarding the appropriateness of the response to the situation presented.

COMPLIANCE

COMMENT: The interim policy and procedures exist (PPM 3246.02); the training on the policies and procedures has occurred; and staff reports are consistent with the policy and procedures. The PH Monitor verified the existence of the response team chart in the CSU booth and the log entry of response descriptions in the CSU logbook. Again, we heard no codes during the monitoring visit

43. d. *Require administrators of each Facility to submit an emergency response plan for review and approval in accordance with statewide policy.*

PENDING REVIEW

COMMENT: The local operation practice (LOP) exists as the emergency response plan. It was not included in the review during this visit, but it will be part of the next CGSC monitoring visit.

43. e. *Train all Facility staff in the operation of the above policy and procedures.*

Compliance

COMMENT: The interim policies and procedures referenced in paragraphs 41-43 are addressed primarily in policies 3247.12 and 3246.02. These policies are part of the CPM training, and the STARS system confirms the Columbia staff's successful completion of the training.

D. Reporting and Investigation of Incidents

These paragraphs refer largely to the activities of the Special Investigations Unit (SIU). A separate monitoring visit to the Home Office in December 2011 addresses these paragraphs. Most of the comments below reflect aspects of the current reporting and investigative process as they relate to the responsibilities of the individual facility staff. Compliance implications are found in the forthcoming Supplemental report.

44. *Reporting and Investigation of Incidents. The State shall adequately report, investigate, and address the following allegations of staff misconduct:*

- i. Inappropriate use of restraints;*
- ii. Use of excessive force on youth; or*
- iii. Failure of supervision or neglect resulting in:*
 - (1) youth injury; or*
 - (2) suicide attempts or self-injurious behaviors.*

COMMENT: The walkthrough of the physical plant looks for potential risks of harm to youth regarding injuries, suicide behaviors, and self-injurious behavior (44.iii.). The expectation that an agency can eliminate all related physical plant risks of harm is unrealistic. Instead, potential risks are noted with administration during the tour and make their way into the report when there is reason to suspect that staffing patterns and/or supervisory practices are not adequate to mitigate the potential risks for harm. The CGSC physical plant has relatively fewer risks of harm. One concern was the tension between privacy versus safety when girls use their bathroom and showers. Conversations with administration resulted in a simple change in supervision practices to include regular auditory responses from the girls when visual observations were inappropriate.

To this end, the State shall:

44. a. *Create or modify and implement policies, procedures, and practices to require that such incidents or allegations are reported to appropriate individuals, that such reporting may be done without fear of retaliation, and that such reporting be done in a manner*

that preserves confidentiality to the extent possible, consistent with the need to investigate and address allegations.

See Supplemental Report regarding Paragraph 44.

COMMENT: In its 90 days of existence, Columbia has not had a situation that required the reporting of an incident for investigation. Therefore, there is no evidence one way or another that such reporting is done without fear of retaliation or that it is done in a matter that preserves confidentiality to the extent possible, consistent with the need to investigate and address all aspects of the allegation.

44. b. Create or modify and implement policies, procedures, and practices providing that such incidents or allegations are promptly screened and which establish criteria for prioritizing Facility investigations based on the seriousness and other aspects of the allegation. There shall be a prompt determination of the appropriate level of contact between the staff and youth, if any, in light of the nature of the allegation and/or a preliminary investigation of the credibility of the allegation. The determination shall be consistent with the safety of all youth. The determination must be documented.

See Supplemental Report regarding Paragraph 44.

44. c. Create or modify and implement policies, procedures, and practices to require that a nurse or other health care provider will question, outside the hearing of other staff or youth, each youth who reports to the infirmary with an injury regarding the cause of the injury. If, in the course of the youth's infirmary visit, a health care provider suspects staff-on-youth abuse, the health care provider shall immediately take all appropriate steps to preserve evidence of the injury, report the suspected abuse to the Statewide Central Register of Child Abuse and Maltreatment ("SCR"), document adequately the matter in the youth's medical record, and complete an incident report.

COMPLIANCE

COMMENT: The interim policy and procedures exist, and staff and resident interviews are consistent with the policy and procedures. The key issue here is the safeguarding a youth's opportunity for a candid conversation during a post-restraint examination with a trusted, health care provider, so that she can then more easily provide confidential information regarding the use of force incident, allegations of excessive use of force, and injury complaints.

Interviews with the health clinic staff revealed an understanding of the policies and procedures, their professional obligations, and what appeared to be a trusting and helpful demeanor. Nurses appeared to have a solid understanding of their mandatory reporting requirements, and they described a post-restraint procedure that allows the examination to occur with a reasonable amount of privacy. When the staff demonstrated to the PH Monitor how and where the post-restraint examination occurs, there were several questions about the nature and extent of confidentiality and sound barriers. On-the-spot problem solving resulted in new ideas about the sound abatement, and these modifications need to be evaluated at the next on-site visit.

44. d. Create or modify and implement policies, procedures, and practices to require that all allegations of staff misconduct described above are adequately and timely investigated

by neutral, trained investigators and reviewed by staff with no involvement or personal interest in the underlying event.

- i. Such policies, procedures, and practices shall address circumstances in which evidence of injuries to youth, including complaints of pain or injury due to inappropriate use of force by staff, conflicts with the statements of staff or other witnesses.*
- ii. If a full investigation is not warranted, then the reasons why a full investigation is not conducted shall be documented in writing. In cases where a youth withdraw an allegation, a preliminary investigation shall be conducted to determine the reasons for the withdrawal and, in cases where it is warranted, a full investigation will be conducted.*

See Supplemental Report regarding Paragraph 44.

COMMENT: The SIU conducts investigations while new and updated policy and procedure work their way through the review and approval process. At the facility level, there have been no investigations of current CGSC staff resulting from allegations at CGSC.

44. e. Create or modify and implement policies, procedures, and practices to require prompt and appropriate corrective measures to response to a finding of staff misconduct described above.

See Supplemental Report regarding Paragraph 44.

COMMENT: At the facility level, there have been no corrective measures of current CGSC staff resulting from allegations of staff misconduct.

44. f. Provide adequate training to staff in all areas necessary for the safe and effective performance of job duties, including training in: child abuse reporting; the safe and appropriate use of force and physical restraint; the use of force continuum; and crisis intervention and de-escalation techniques. Routinely provide refresher training consistent with generally accepted professional standards.

COMPLIANCE

COMMENT: The interim policy and procedures exist (PPM 2801.00, PPM 3247.00, PPM 3247.01, PPM 3247.13, and PPM 3456.00); the training on these topics has occurred as documented in STARS; and staff descriptions of the training are consistent with the policy and procedures.

44. g. Create or modify and implement policies, procedures, and practices to require adequate supervision of staff.

See Supplemental Report regarding Paragraph 44.

COMMENT: At the facility level, we are aware of no concerns about the adequacy of staff supervision of current CGSC staff.

44. h. The State shall utilize reasonable measures to determine applicants' fitness to work in a juvenile justice facility prior to hiring employees for positions at the Facilities including but not limited to state criminal background checks. The State shall update

state criminal background checks and SCR clearances for all staff who come into contact with youth every two years.

See Supplemental Report regarding Paragraph 44.

COMMENT: These factors are mostly systemic and apply to Home Office.

III. MENTAL HEALTH MONITORING

For the ten mental health paragraphs of the Settlement Agreement, five policies have not been finalized (PPM 2801.00 "Training Requirements for DJJOY Staff," PPM 3247.60 "Suicide Risk Reduction and Response," new policy on Case Management of Juvenile Delinquents Placed in the Custody of OCFS, new policy on Facility Admission Process, and an update on the integration of PPM 3443.00 "Resident Rules" in the New York Model) and five training curricula have not been completed (comprehensive mental health policies and standards, case management and treatment team processes including substance abuse treatment services and transition planning, psychiatric medication and psychiatric disabilities and protocols related to developing uniform working diagnoses for mental health professionals and prescribing and monitoring psychiatric medication).

The Monitors cannot assess full compliance until the policies are finalized, staff are trained, and the staff demonstration of consistent application of the training and adherence to the policies can be observed.

45. *The State shall provide adequate and appropriate mental health care and treatment to youth consistent with generally accepted professional standards as follows:*
46. *Behavioral treatment program. The State shall provide an integrated, adequate, appropriate, and effective behavioral treatment program at the Facilities. To this end, the State shall:*
 - a. *Create or modify and implement policies, procedures, and practices for an effective behavioral treatment program consistent with generally accepted professional standards and evidence-based principles. The behavioral treatment program shall be implemented throughout waking hours, including during school time.*
 - b. *Create or modify and implement policies, procedures, and practices to require that mental health staff provide regular consultation regarding behavior management to direct care staff and other staff involved in the behavioral treatment program.*
 - c. *Create or modify and implement policies, procedures, and practices to regularly assess the effectiveness of the interventions utilized.*
 - d. *Explain the behavioral treatment program to all youth during an orientation session, setting forth Facility rules and the positive incentives for compliance as well as the sanctions for violating those rules. The rules for the behavioral treatment program shall be posted conspicuously in Facility living units.*

PARTIAL COMPLIANCE

The New York Model and training comply with the requirements of 46a, and 46a is being implemented into practice at Columbia.

Mental health staff at Columbia were observed complying with 46b.

The Daily Achievement System (part of the New York Model) complies with the requirements of 46d, and implementation is about to begin at Columbia.

There are three policies, one integration of a policy into the New York Model, and staff practices the MH Monitor is waiting to review to determine full compliance with 46 a, b, and d. It is unclear what OCFS is implementing to comply with 46c.

State Report on Progress (12/20/11)

1. Create the New York Model.

Completed June 2011.

2. Create new policy on Case Management and Treatment Team Processes.

“This policy is drafted but the content is different than originally intended. New tasks will be provided to address the remedial measures in the upcoming revised MAP.”

3. Modify PPM 2801.00 “Training Requirements for OCFS Operated Facility and Day Placement Staff” and PPM 3443.00 “Resident Rules.”

2801.00 Renamed Training Requirements for Division of Juvenile Justice and Opportunities for Youth Staff “has been implemented as interim at the DOJ facilities. Pending discussion with unions.”

3443.00 Resident Rules “This policy is being evaluated for integration with New York Model.”

4. Create new policy related to Facility Admission Process.

“The Non-Secure and Limited Secure version is drafted and ready to submit to DOJ. Secure version in progress.”

5. Revise orientation curriculum.

Completed March 2011.

6. Plan for training and train staff in the implementation of the New York Model, including the facility admission process, case management, and treatment team processes.

New York Model training was completed at Lansing 10/27/11, Columbia 12/14/11 and Taberg 12/22/11 and will be completed at Finger Lakes 6/19/12. The full training schedule is being developed. Treatment team planning is being implemented at each facility.

On Site Observations (11/11)

Paragraph 46 of the Settlement Agreement requires an effective program to meet the needs of residents. OCFS is implementing the New York Model with policies and

training to support it, which are designed to build on the strengths of OCFS services and address weaknesses of past programming. OCFS does not have to implement the New York Model to comply with Paragraph 46, but OCFS is choosing to comply with Paragraph 46 with the New York Model.

The New York Model is a composite of evidence-based practices that have been successful with delinquents elsewhere and have not previously been combined for such a comprehensive program. If research shows that the New York Model is effective in supporting youth to recover from trauma and change their behaviors, it has the potential to be influential in delinquency programming around the country.

The components of the New York Model include: the Sanctuary Model of Trauma-Responsive Care which, through its seven commitments, helps residents understand the links between past trauma and current emotions and behaviors; Dialectical Behavior Therapy (DBT) which is an evidence-based, skill-building approach using behavioral principles such as chain analysis, reinforcement, validation, and coaching; the SELF Model (Safety, Emotional Management, Loss, and Future) which emphasizes providing a safe environment so residents can understand their trauma and communicate their feelings more effectively; the Daily Achievement System focusing on earning rewards based on progress in treatment; the treatment team; and community meetings to develop emotional intelligence, demonstrate social responsibility, use open communication, focus on the future, and learn from others.

Outstanding clinical practice was observed at Columbia. Practice improvement is happening before staff are fully trained in the New York Model. The Assistant Director for Treatment Services, therapist, and case manager are active on the units with girls and are coaching staff in responding to the individual girls' needs. Girls and staff talk about the skills learned from DBT and Sanctuary. Every girl is involved in individual therapy, and clinicians are accessible for unscheduled access. Behavior chains appear to be routinely used to help girls recognize what triggered them, what they felt, how they expressed their feelings and the outcome.

The New York Model integrates clinical services into what happens on the units as the girl recovers from trauma, changes her cognitions and her regulation of her behavior improves. Columbia exemplifies how coaching makes the New York Model an effective approach to engaging residents and a new way of thinking by staff and youth, rather than simply a treatment program. The MH Monitor observed a strong team at Rounds, with the OCFS Chief Psychiatrist, the Psychiatric Nurse Practitioner, Assistant Director for Treatment, the psychologist, and the YC1 presenting one girl who was discussed in depth. Staff in many different roles thoughtfully considered how her severe receptive language disorder affects her not only in school, but as a contributor to her being fearful so much of the time. High anxiety as a consequence of trauma among girls was also discussed, with the admonition that instead of seeing her behavior as resistant, considering it as her way to keep things in control to manage anxiety. Her grief -- mourning what she had lost with her Parole Board denial -- was also discussed. Columbia has the only Psychiatric Nurse Practitioner in a juvenile facility in the state. Rounds are seen as a valuable use of one of her eight hours at the facility each week. In the debrief of Rounds, a clinician commented that staff want coaching, both by modeling how to respond to a girl and by teaching about

mental health concepts. What they concluded about a girl's anxiety in Rounds, for example, the participants planned to discuss with staff who were not present.

Crisis Prevention and Management (CPM) training is a 5-day course, provided during Basic Academy Training for newly hired direct care staff (for DOJ facilities), and as a stand-alone course at the facilities for all other staff. A 1-day CPM Refresher class is provided biennially at each institution. New York Model training is comprised of ten core modules, divided into three days of training. The MH Monitor had the opportunity to observe a training session at Columbia on part of the third module of the New York Model. The trainer made good use of a case study and role plays to encourage looking behind the behavior of residents to understand their needs. The trainees were practicing validating statements such as, "I can understand where your behavior comes from" and "I can understand being new here you might feel you had to show everyone you could stand up for yourself." The large training group included staff in a range of positions at Columbia (including teachers and a recreation new hire who had not yet started work). The December 2011 OCFS 6-Month Progress Report reported that staff who were newly hired at Columbia received the full CPM training class, most of which was completed by August 31, 2011 with follow up until October 14, 2011. The 41 staff who came to Columbia from Tryon Girls had already been trained in CPM. The former Tryon Girls staff received CPM Refresher training at Columbia during October and November 2011. New York Model training for Columbia staff began November 1, 2011 and was scheduled to be completed by December 14, 2011. The training is structured so that classes of available staff all take Day 1 of the training, then when that is completed, all take Day 2 of the training, and then Day 3. The OCFS regional Chief of Treatment Services is working with Columbia staff to implement the New York Model components.

The MH Monitor remains concerned that the one-page "New York Model Beliefs and Assumptions" is not presented in a way a resident can understand and is too wordy for slogans for staff to use. It is important to integrate the individualized growth, self-regulation, and SELF concepts that come from Sanctuary, DBT, Daily Achievement, trauma research, and adolescent development into short messages that have meaning for residents.

The new Daily Achievement System, part of the New York Model, is designed as a research-based approach to behavior change. The goal is for staff to coach youth in understanding what is *behind behavior* (trauma, immaturity, faulty thought patterns) and also rewarding improved behavior. Shifting to praise and de-emphasizing criticism and punishment is a challenge in guiding staff. The OCFS regional Chief of Treatment Services was beginning to work with Columbia staff on implementing the Daily Achievement System.

The MH Monitor observed skilled leadership of a DBT group at Columbia. The therapist managed significant challenges in the group. Some girls have been in the program for many months and understand mindfulness and other DBT concepts. Some girls are newer and do not have the same level of trust or understanding. At least one girl lacks the cognitive skills to comprehend abstract concepts. The therapist did a good job translating DBT to real life situations, which is an obstacle the MH Monitor observed in

groups in other facilities. The therapist was disappointed that because of the MH Monitor's presence the YDAs observed rather than co-leading or participating more in the DBT group.

One college-bound resident described mindfulness and the school program at Columbia as good preparation for the "real world" she will be released to. "Sometimes people do get you mad. You have to be mindful. You have to problem solve. I don't fight here. We don't want people to be hurt anymore. I am learning to follow rules. I really want to be with my family. These weren't true when I came here." She tearfully shared the heartbreak of being denied release by the Parole Board, which means another two years of incarceration: "Staff helped me get ready for the Parole Board. I realize I made a mistake. I'm changing. When they fail at the Parole Board, girls act out. They shouldn't write you up for venting your feelings if it isn't hurting anyone." Although she appreciates the Columbia program, she wishes there was a substance abuse program.

Another resident who was at Tryon for a long time commented on what a good program Columbia is for her: "It is organized here, Tryon was chaos. This is a clean, fresh start. We have the best staff from Tryon. More programs. Before I always fought. I didn't know how to problem solve. We don't fight here. Since we got here, girls don't take it to the level of restraint. These staff are real smart and tell us before we get worse. We help each other. We are a family."

The other girl who was recently turned down by the Parole Board despite writing an outstanding letter that was in her file explained how much she has changed. She said she wanted to give up but has gotten a lot of help from staff and residents to deal with her disappointment that she will have to stay much longer. She commented that she had not been "self-aware" about her past trauma.

The girls had difficulty thinking of anything they would like to see improved at Columbia. When pushed, they came up with lengthening phone calls from 10 minutes to 15 minutes, longer showers, an extra telephone line so incoming calls from family can get through, being able to eat snack on the unit instead of having to go to the dining hall, and having more activity time in the evening. The girls were happy that their families were provided transportation to visit Columbia in October, which they thought was beneficial for their treatment. They report the food is delicious. They love cooking in the culinary program taught by the vocational teacher. They are positive about all the progress they are making with individual instruction in school. Some are confident they will pass NYS Regents exams in January.

FUTURE MONITORING

When they are available, the MH Monitor will review:

- New policy on Case Management of Juvenile Delinquents Placed in the Custody of OCFS.
- New policy on Facility Admission Process.
- Modified PPM 2801.00 "Training Requirements for DJJOY Staff."
- Update on the integration of PPM 3443.00 "Resident Rules" in the New York Model.

The MH Monitor will discuss how the effectiveness of interventions will be regularly assessed.

The MH Monitor will discuss the process of implementing case management and treatment teams.

The MH Monitor will observe youth orientation and the Daily Achievement System and the New York Model in action after training.

47. *Mental health crises. The State shall provide any youth experiencing a mental health crisis with prompt and adequate mental health services appropriate to the situation. To this end, the State shall:*

- a. *Train all appropriate staff, including direct care staff, on appropriate positive strategies to address a youth's immediate mental health crisis, including a crisis manifesting in self-injurious behavior or other destructive behavior. Such strategies should be utilized in an effort to stabilize and calm the youth, to the extent possible, while awaiting the arrival of a qualified mental health professional. Staff shall not resort to uses of force, including restraints, except as provided in paragraphs 41 and 42 [of the Settlement Agreement].*
- b. *Create or modify and implement policies, procedures, and practices for contacting a qualified mental health professional outside of regular working hours in the event of a youth's mental health crisis or other emergency situation.*
- c. *Require that any youth who experiences a mental health crisis and resorts to maladaptive coping strategies, such as self-injurious behavior, is referred for mental health services following the resolution of the immediate crisis. A qualified mental health professional shall develop a crisis management plan in conjunction with the youth and his or her other mental health service providers. The crisis management plan shall specify methods to reduce the potential for recurrence through psychiatric treatment, treatment planning, behavioral modification and environmental changes, as well as a strategy to help the youth develop and practice positive coping skills. Such services shall continue throughout the duration of the youth's commitment to the Facility.*

PARTIAL COMPLIANCE

The CPM policy and training appear to comply with the requirements of 47a.

Mental health staff at Columbia were observed complying with 47a and c.

Resident records reflect few mental health crises since Columbia opened but discussions indicated how their response would be in compliance with 47 b and c.

The MH Monitor reviewed Policy PPM 3243.33 entitled "Behavioral Health Services" which responds to the Settlement Agreement by describing treatment that is "child and family-focused, culturally competent, developmentally appropriate, trauma informed, empirically validated and well integrated with other facility and community services." PPM

3243.33 includes: initial screening and assessment, mental health treatment, integration and coordination of mental health treatment services, response to crises, refusal of mental health services, substance abuse interventions and treatment, sexually abusive behavior interventions and treatment, clinical documentation of mental health treatment, and treatment oversight and clinical supervision.

The MH Monitor reviewed Policy PPM 3243.34 entitled "Psychiatric Hospitalizations" which responds to the Settlement Agreement by describing steps to be taken by facilities when a resident requires an intensive mental health treatment setting. Topics covered include: emergency psychiatric admission for youth requiring immediate hospitalization, non-emergency transfer to a psychiatric hospital or residential treatment facility, OCFS continued jurisdiction over such youth, and their discharge from the mental health facility to OCFS.

The MH Monitor reviewed the 8/11 curriculum for five-hour training for direct care staff entitled "Mental Health for DJJOY Youth: Disorders, Interventions and Management Basics." This curriculum is responsive to Paragraph 47 of the Settlement Agreement. It reviews the psychiatric diagnoses common among delinquent youth: mood disorders (Major Depression, Dysthymic Disorder, Bipolar Disorder), anxiety disorders (Generalized Anxiety Disorder, Post Traumatic Stress Disorder), adjustment disorders, ADHD, and disruptive behavior disorders (Oppositional Defiant Disorder, Conduct Disorder). Of particular value are the specific interventions, written with little mental health jargon that will be useful with youth with each diagnosis. For example, for youth with high anxiety: "lessen stimulation; give careful, clear instructions"; for youth with trauma: "help youth with self-soothing," "use a calm, reassuring approach," and "kindly correct thinking errors." Sample mental health assessments of youth with these diagnoses are included as a teaching tool.

However, there are two policies and an updated Memorandum the MH Monitor is waiting to review to determine full compliance.

State Report on Progress (12/20/11)

1. Review and modify if necessary policies: PPM 2801.00 "Training Requirements for DJJOY Staff," PPM 3243.33 "Behavioral Health Services," PPM 3247.13 "Use of Physical Restraint," PPM 3247.60 "Suicide Risk Reduction and Response" and PPM 3243.34 "Psychiatric Hospitalizations."

PPM 2801.00 and the new restraint policy have been implemented as interim at the DOJ facilities. PPM 3243.33 is approved for implementation. PPM 3243.34 is approved for implementation. PPM 3247.60 is pending further revisions.

2. Plan for training and train staff in Crisis Prevention and Management

CPM training was completed 5/20/11.

3. Plan for training and train staff in comprehensive mental health policies, including strategies to address mental health crises and standards and procedures for contacting a qualified mental health professional outside normal work hours.

Mental health training is being scheduled.

On Site Observations (12/11)

During the site visit, the MH Monitor observed mental health and unit staff responding to girls quietly to guide them in helping them calm themselves. Clinicians talked about implementing a trauma-responsive approach to de-escalation and helping girls utilize their coping skills when upset. Traumatized girls quickly become more anxious than they have the skills to manage, and that de-escalation involves supporting them to soothe themselves (so a restraint will not have to be considered).

Asked how they explain that only two restraints had occurred between opening Columbia and the monitoring visit three months later with a volatile group of girls having to make a big adjustment, staff responded "relationships." It was evident during the visit that as staff had reported, they know each girl well, are able to talk things out, and understand what works with each girl as she gets emotionally dysregulated. Instead of thinking of their interventions as de-escalation, Columbia staff emphasize responsiveness to each girl before she begins to escalate.

The MH Monitor reviewed 2/11/11 Memorandum from Iren Valentine to Annette Larrier, Alvin Lollie and Anita Sapio entitled "Contacting Mental Health Professionals Outside of Regular Work Hours." It identifies a clinician at Tryon, Lansing, and Finger Lakes who should be contacted in the event of an emergency situation or a mental health crisis. The MH Monitor has not reviewed an updated Memorandum that includes Columbia and Taberg. The Memorandum indicates that "each of the facilities report having an established procedure in place," but the MH Monitor has not reviewed that procedure.

FUTURE MONITORING

When they are available, the MH Monitor will review:

- Revised PPM 2801.00 "Training Requirements for DJJOY Staff"
- Revised PPM 3247.60 "Suicide Risk Reduction and Response."
- Updated "Contacting Mental Health Professionals Outside of Regular Work Hours" Memorandum.
- Training curriculum on comprehensive mental health policies and standards

The MH Monitor will interview trainers and staff who participate in the "Mental Health for DJJOY Youth: Disorders, Interventions and Management Basics" Training. The MH Monitor will observe ongoing CPM training on de-escalation and on chain analysis.

48. Evaluation of mental health needs. The State shall require that youth with mental health needs are timely identified and provided adequate mental health services. To this end, the State shall:

- a. Create or modify and implement policies, procedures and practices to require that each youth admitted to a Facility is comprehensively screened by a qualified mental health professional in a timely manner utilizing reliable and valid measures. The State shall require that any youth whose mental health screening indicates the possible need for*

mental health services receives timely, comprehensive, and appropriate assessment by a qualified mental health professional and referral when appropriate to a psychiatrist for a timely mental health evaluation.

- b. Require that any youth whose mental health screening identifies an issue that places the youth at immediate risk is immediately referred to a qualified mental health professional. The qualified mental health professional shall determine whether assessment or treatment is necessary. A determination to transfer a youth to a more appropriate setting on other than an emergency basis shall require consultation with a committee designated by OCFS' Deputy Commissioner for Juvenile Justice and Opportunities for Youth (DJJOY) or his or her designee or successor. Such committee may include qualified mental health professionals at OCFS' central office. If a determination is made that the youth should be transferred to a more appropriate setting, the State shall immediately initiate procedures to transfer the youth to such a setting.*
- c. Require that assessments take into account new diagnostic and treatment information that becomes available, including information about the efficacy or lack of efficacy of treatments and behavioral interventions.*
- d. Create or modify and implement policies, procedures and practices to require that for each youth receiving mental health service, the youth's treating qualified mental health professional(s), including the treating psychiatrist, if applicable, develop a consistent working diagnosis or diagnoses. The diagnosis or diagnoses shall be updated uniformly among all qualified mental health professionals providing services to the youth.*
- e. Create or modify and implement policies, procedures, and practices to require that both initial and subsequent psychiatric evaluations are consistent with generally accepted professional standards. Initial evaluations should be legibly written and detailed, and should include, at a minimum, the following information for each youth evaluated: current mental status; history of present illness; current medications and response to them; history of treatment with medications and response, including adverse side effects or medication allergies; social history; substance abuse history; interviews of parents or guardians; review of prior records; and explanation of how the youth's symptoms meet diagnostic criteria for the proffered diagnosis or diagnoses.*

PARTIAL COMPLIANCE

The new mental health assessment format complies with 48a, d, and e.

Mental health staff at Columbia were observed complying with 48d.

Some resident records demonstrate compliance with 48a, c, and e.

However, there are two policies, a training curriculum, and completed forms the MH Monitor is waiting to review to determine full compliance, as well as a discussion among treating clinicians regarding consistent diagnostic practices.

State Report on Progress (12/20/11)

1. Modify policies: PPM 2801.00 "Training Requirements for OCFS Operated Facility and Day Placement Staff," PPM 3243.33 "Behavioral Health Services," PPM 3247.13 "Use of Physical Restraint," PPM 3243.34 "Psychiatric Hospitalizations" and PPM 3247.60 "Suicide Risk Reduction and Response."

PPM 2801.00 has been implemented as interim at the DOJ facilities. PPM 3243.33 is approved for implementation. PPM 3243.34 is approved for implementation. PPM 3247.60 is pending further revisions and review/approval by unions.

2. Identify assessment instruments.

Form OCFS-1448 Admission Screening Interview completed October 2011.

3. Plan for training and train staff in comprehensive mental health policies and standards.

Training is being schedule.

Orientation of Form OCFS-1448 to be scheduled at the facilities.

4. Formalize committee for mental health transfers.

Completed 6/9/11.

5. Update Memorandum of Understanding with Office of Mental Health.

Completed 1/4/11.

6. Communicate and implement policy and procedures to qualified mental health professionals.

In progress.

7. Plan for training and train mental health professionals on protocols related to developing a uniform working diagnosis(es) and comprehensive mental health policies and standards.

Protocol in development.

On Site Observations (12/11)

The MH Monitor reviewed a thorough Integrated Assessment at Columbia. In the section entitled "What motivates youth?" helpful suggestions to staff for this girl were: "Calm tone; Direct appeal for cooperation; and Goals she can accomplish in a short time." Staff were cautioned that "she escalates quickly if yelled at." Her trauma history was summarized, and she has a diagnosis of PTSD. Her goals were to "Decrease the amount of time she makes hurtful or threatening comments to others" (use of a chain analysis and doing repair with anyone she threatens were recommended) and "Share thoughts and feelings about past behavior in therapy." Each team member's activities were included in the Integrated Assessment, but the connection was not made between the girl's needs and

staff actions. For example, YDAs and teachers can use a calm tone, appeal for her cooperation and encourage tasks that she can accomplish quickly. More team analysis of what is behind her hurtful and threatening comments, and what staff can do to meet her need for a reminder about not taking others' comments personally and her need to slow things down so she can think through problem solving would be helpful.

Four of the girls at Columbia are diagnosed with Generalized Anxiety Disorder, five with Cannabis Abuse, one with Major Depressive Disorder, and one with Dysthymia; the most recently admitted girl's diagnosis is pending.

FUTURE MONITORING

When they are available, the MH Monitor will review:

- Revised PPM 2801.00 "Training Requirements for DJJOY Staff."
- Revised PPM 3247.60 "Suicide Risk Reduction and Response."
- Completed OCFS-1448 forms in records.
- Training curriculum on comprehensive mental health policies and standards.
- Training curriculum for mental health professionals on protocols related to developing uniform working diagnoses.
- The MH Monitor will interview trainers and staff who participate in the Mental Health for DJJOY Youth: Disorders, Interventions, and Management Basics training. The MH Monitor will discuss consistency in diagnostic practices with the clinicians.

49. *Use of psychotropic medications. The State shall require that the prescription and monitoring of the safety, efficacy, and appropriateness of all psychotropic medication use is consistent with generally accepted professional standards. To this end, the State shall:*

- a. *Create or modify and implement policies, procedures and practices to require that any psychotropic medication is: prescribed only when it is tied to current, clinically justified diagnoses or clinical symptoms; tailored to each youth's symptoms; prescribed in therapeutic amounts, as dictated by the needs of the youth served; modified based on clinical rationales; documented in the youth's record with the name of each medication; the rational for the prescription of each medication, and the target symptoms intended to be treated by each medication.*
- b. *Create or modify and implement policies, procedures and practices for the routine monitoring of psychotropic medications, including: establishing medication-specific standards and schedules for laboratory examinations; monitoring appropriately for common and/or serious side effects, including requiring that staff responsible for medication administration regularly ask youth about side effects they may be experiencing and document responses; establishing protocols for timely*

identification, reporting, data analyses and follow up remedial action regarding adverse drug reactions; monitoring for effectiveness against clearly identified target symptoms and time frames; requiring that such medications are used on a time-limited, short-term basis where such use is appropriate, and not as a substitute for adequate treatment of the underlying cause of the youth's distress; requiring that youth are not inhibited from meaningfully participating in treatment, rehabilitation or enrichment and educational services as a result of excessive sedation; and establishing protocols for reviewing such policies and procedures to require that they remain consistent with generally accepted professional standards.

- c. Require that the results of laboratory examinations and side effects monitoring are reviewed by the youth's psychiatrist, if applicable, and that such review is documented in the youth's record.*

PENDING REVIEW

The MH Monitor reviewed Policy PPM 3243.32 entitled "Psychiatric Medications" and it addresses the requirements of the Settlement Agreement: prescribing, informed consent, medication administration, clinical monitoring, reporting, and training.

The MH Monitor reviewed Policy PPM 3243.33 entitled "Behavioral Health Services" which responds to the Settlement Agreement by describing treatment that is "child and family-focused, culturally competent, developmentally appropriate, trauma informed, empirically validated and well integrated with other facility and community services." PPM 3243.33 includes: initial screening and assessment, mental health treatment, integration and coordination of mental health treatment services, response to crises, refusal of mental health services, substance abuse interventions and treatment, sexually abusive behavior interventions and treatment, clinical documentation of mental health treatment, and treatment oversight and clinical supervision.

Given the complex requirements of 49 a, b and c, the MH Monitor will engage an adolescent psychopharmacology expert subcontractor to assist the MH Monitor with her review of compliance with the psychotropic medication section of the Settlement Agreement.

The MH Monitor is awaiting a training curriculum to review.

State Report on Progress (12/20/11)

1. Modify policies: PPM 3243.32 "Psychiatric Medications" and PPM 3243.33 "Behavioral Health Services."
"Approved for implementation."
2. Plan for training and train qualified health professionals in prescribing and monitoring practices related to psychiatric medication.
"Curriculum in development."

On Site Observations (11/11)

Three girls were prescribed psychiatric medication. A 19-year old diagnosed with Major Depressive Disorder and Generalized Anxiety Disorder was prescribed Zoloft and Trazodone. A 16-year old diagnosed with Generalized Anxiety Disorder and Mixed Expressive-Receptive Language Disorder was prescribed Abilify, Lexapro, and Trazodone. A 15-year old diagnosed with Dysthymic Disorder and ADHD was prescribed Adderall. The MH Monitor observed documentation of diagnosis, symptoms, dosages, and administration of psychiatric medication in the individual records at Columbia. The Psychiatric NP briefly presented medication and medication changes for the girl in Rounds.

FUTURE MONITORING

When it is available, the MH Monitor will review:

- Training curriculum on prescribing and monitoring psychiatric medication

Expert review to determine appropriateness of medications for diagnoses and whether correct dosages and standard monitoring of effects are the practice at Columbia.

50. *Staff training on psychiatric medications and psychiatric disabilities. The State shall create or modify and implement policies and procedures requiring staff in Facilities to complete competency-based training on psychotropic medications and psychiatric disabilities.*

a. *The training shall provide, at minimum, an overview of the behavioral and functional impact of psychiatric disabilities on youth, common treatments for such psychiatric disabilities, including both behavioral and pharmaceutical interventions; commonly used medications and their effects, including potential adverse side effects and intended benefits; and warning signs that a youth may be suffering a serious adverse effect of a psychotropic medication and the immediate and follow-up actions to be taken by the staff in such an incident.*

b. *The State shall create or modify and implement policies, procedures and training materials for staff at all Facilities as follows: Staff employed at the Facilities who routinely work directly with youth (but not including qualified mental health professionals or medical professionals) shall complete a minimum of six (6) hours of competency-based training regarding psychotropic medications and psychiatric disabilities annually for the term of this Agreement. Such staff includes, but is not limited to, Youth Division Aides, Youth Counselors, teachers, recreation staff, licensed practical nurses, Facility Administrators, and Deputy Administrators. All other staff at the Facilities shall be required to complete a minimum of one (1) hour of competency-based training on psychotropic medications and psychiatric disabilities annually for the term of this Agreement.*

PENDING REVIEW

There are a policy and a training curriculum the MH Monitor is waiting to review to determine compliance.

State Report on Progress (12/20/11)

1. Modify policies: PPM 2801.00 "Training Requirements for OCFS Operated Facility and Day Placement Staff," PPM 3243.32 "Psychiatric Medications" and PPM 3243.33 "Behavioral Health Services."

PPM 2801.00 has been implemented as interim at the DOJ facilities. PPM 3243.32 is approved for implementation. PPM 3243.33 is approved for implementation.

2. Plan for training and train staff on psychiatric medication and psychiatric disabilities.

"Mental Health training is being scheduled. Psych Meds curriculum in development."

On Site Observations (11/11)

Other than the Rounds discussion described above, there was no opportunity for observation of staff understanding of medication.

FUTURE MONITORING

When they are available, the MH Monitor will review:

- Modified PPM 2801.00 "Training Requirements for DJJOY Staff."
- Training curriculum on psychiatric medication.

The MH Monitor will interview trainers and staff who participate in the "Mental Health for DJJOY Youth: Disorders, Interventions and Management Basics." Training.

51. *Psychotropic medication refusals. The State shall create or modify and implement policies, procedures, and practices regarding psychotropic medication refusals by youth, which provide, at minimum, as follows:*

- a. *All youth who are scheduled to receive medication shall be taken without the use of force to the medication administration location at the prescribed time. Any youth who expresses his or her intent to refuse medication shall communicate his or her refusal directly to medical staff.*

- b. *In circumstances where staff's verbal efforts to convince a youth to report to the medication administration location results in an escalation of a youth's aggressive behavior, staff shall not forcibly take the youth to receive medication. The supervisor shall document the youth's refusal on a medical refusal form, and shall complete an incident report documenting the circumstances of the refusal, including the justification for not escorting the youth to medication.*

- c. *A medical refusal form shall be completed each time a youth is scheduled to receive medication and refuses. In addition to the date and*

time, youth's name and prescribed medication which the youth is refusing, the form shall include an area for either the youth or a staff person to record the youth's stated reason for refusing medication, an area for the youth's treating psychiatrist to certify that s/he has reviewed the medication refusal form, and signature line for the refusing youth.

- d. The youth's psychiatrist shall receive, review, and sign all medication refusal forms prior to meeting with the youth.*
- e. The youth's treatment team shall address his or her medication refusals.*

COMPLIANCE

In addition to reviewing the revised PPM 3243.32 "Psychiatric Medications," the MH Monitor reviewed the 7/19/11 Policy PPM 3243.15 entitled "Refusal of Medical or Dental Care by Youth," and it covers the requirements of the Settlement Agreement: refusal of medication, health professional counseling and administration of treatment over youth objection.

The MH Monitor reviewed the curriculum for the one-hour training for nurses entitled "Refusal of Psychiatric Medication." It covers the requirements of the Settlement Agreement: procedures to be followed if youth refuse psychiatric medication, counseling youth who refuse psychiatric medication, youth who change their minds, reporting requirements, and what to do if psychiatric medication refusal occurs in the context of a psychiatric emergency.

State Report on Progress (12/20/11)

1. Modify policies: PPM 3243.15 "Refusal of Medical and Dental Care by Youth and PPM 3243.32 "Psychiatric Medications."

PPM 3243.15 implemented. PPM 3243.32 is approved for implementation.

2. Plan for training and train staff on psychiatric medications, including refusal of treatment.

"Medical staff training on refusal of treatment is completed."

"Psych Meds curriculum in development."

3. Educate youth on refusal of medical protocols.

"Ongoing."

On Site Observations (11/11)

Although the MH Monitor did not observe documentation in girls' individual records that any girl had refused psychiatric medication, it was reported that if a girl does not want to take her medication, the medical staff's practice is to ask about her reasons and counsel her about making a wiser decision. If they cannot persuade her to take her medication, she is asked to write her reason on the medication refusal form, which is reviewed by the Psychiatric NP.

52. *Informed consent. The State shall revise its policies and procedures for obtaining informed consent for the prescription of psychotropic medications consistent with generally accepted professional standards. In addition, the State shall require that the information regarding prescribed psychotropic medications is provided to a youth and to his or her parents or guardians or parson(s) responsible for the youth's care by an individual with prescriptive authority, such as a psychiatric nurse practitioner. This information shall include: the purpose and/or benefit of the treatment; a description of the treatment process; an explanation of the risks of treatment; a statement of alternative treatments, including treatment without medication; and a statement regarding whether the medication has been approved for use in children.*

PARTIAL COMPLIANCE

There is a training curriculum the MH Monitor is waiting to review to determine compliance.

State Report on Progress (12/20/11)

1. Modify policy: PPM 3243.32 "Psychiatric Medications"
PPM 3243.32 is approved for implementation.
2. Plan for training and train qualified mental health professionals on psychiatric medications, including informed consent requirements
"Informed consent is being obtained by qualified prescribers at all four facilities."
"Psych Meds curriculum in development."

On Site Observations (11/11)

Informed consent forms were in the records reviewed by the MH Monitor.

FUTURE MONITORING

When it is available, the MH Monitor will review:

- Training curriculum on psychiatric medication and psychiatric disabilities

53. *Treatment planning. The State shall develop and maintain adequate formal treatment planning consistent with generally accepted professional standards. To this end, the State shall:*

- a. *Create or modify and implement policies, procedures and practices regarding treatment planning which address, among other elements, the required content of treatment plans and appropriate participants of a youth's treatment team.*
- b. *Require that treatment teams focus on the youth's treatment plan, not collateral documents such as the "Resident Behavior Assessment."*
- c. *Require that the youth is present at each treatment team meeting, unless the youth is not physically located in the Facility during the meeting or the youth's presence is similarly impracticable, and that, if*

applicable, the youth's treating psychiatrist attend the treatment team meeting a minimum of every other meeting.

- d. If a youth has a history of trauma, require that treatment planning recognizes and addresses the youth's history of trauma and its impact and includes a strategy for developing appropriate coping skills by the youth.*
- e. Require that treatment plans are individualized for each youth, and that treatment plans include: identification of the mental and/or behavioral health issues to be addressed in treatment planning; a description of any medication of medical course of action to be pursued, including the initiation of psychotropic medication; a description of any individual behavioral treatment plan or individual strategies to be undertaken with the youth; a description of the qualitative and quantitative measures to monitor the efficacy of any psychotropic medication, individual behavioral treatment plan or individual strategies utilized with the youth; a description of any counseling or psychotherapy to be provided; a determination of whether the type or level of treatment needed can be provided in the youth's current placement; and a plan for modifying or revising the treatment plan if necessary.*
- f. Require that treatment plans are modified or revised as necessary, based on the efficacy of interventions, new diagnostic information, or other factors. The treatment plan shall be updated to reflect any changes in the youth's mental health diagnosis.*

PARTIAL COMPLIANCE

Mental health staff at Columbia were observed complying with 53b and c.

The Columbia staff are using the new integrated assessment and new treatment plan form and are improving their skills in collaborating with each other and the youth and youth's family in writing treatment goals.

There is a new policy and a training curriculum the MH Monitor is waiting to review to assess compliance.

State Report on Progress (12/20/11)

1. Create new policy on Case Management and Treatment Team Processes

The new policy is renamed Case Management of Juvenile Delinquents Placed in the Custody of OCFS. "This policy is drafted but the content is different than originally intended. New tasks will be provided to address the remedial measures in the upcoming revised MAP."

2. Modify treatment plan documents

Integrated Assessment form completed July 2011.

Integrated Treatment Plan completed July 2011.

New York Model Treatment Team Implementation Guidelines completed 10/20/11.

3. Plan for training and train staff on case management and treatment team processes

“Instruction and implementation on treatment team processes provided by Bureau of Behavioral Health Services in progress: Lansing completed 10/25/11; Finger Lakes starting 12/6/11; Columbia completed 11/15/11; Taberg to be scheduled.”

On Site Observations (11/11)

The MH Monitor had the opportunity to observe the Assistant Director for Treatment lead a culturally competent treatment team. She and the therapist spoke Spanish with the girl's mother on the telephone, reviewing the treatment plan and translating the input of the participants. The girl and her mother were pleased at the positive comments about her progress, and the YC's appreciation that “you are a great help to your peers.” Her mother expressed worries about the plan for parole and her medication. This was an outstanding example of how a treatment team can actively include a girl and her parent. Furthermore, it exemplified how treatment gives a girl recognition for her progress and gives appreciation to all staff for their support of the girl. As Columbia continues to implement the New York Model, the next step may be to have treatment teams provide more opportunities for each girl to take ownership of her treatment, perhaps by beginning with “We are here to talk about how each of us can help you achieve your goal.”

Learning how to write specific treatment goals based on what is behind each girl's behavior is the challenge of the new treatment plan. The MH Monitor discussed with Columbia staff their commonly used treatment goals “Fully engage in treatment” and “Discuss her feelings.” These are challenges for the girls, but it is doubtful that they are useful as a treatment goal. How does that proposed goal relate to her future goals or to her current behavior? Depending on what the girl says about what she wants to change, if her treatment goal were stated, for example, “To talk about what makes me worried and what I do when I'm feeling things are out of my control,” it is much clearer what staff will do to help her meet this goal and in the process she would gradually be engaging in treatment. Writing specific needs in treatment plans is an art. Instead of “Talk about how anger has affected past behavior,” perhaps the girl would understand better “Figure out what triggers anger and how to deal with those triggers without getting so angry.” For the girl who wants to keep her frightening feelings inside, perhaps a need stated something like “Name my feeling and where it comes from in the past to make it less scary” would be more helpful.

The treatment plans in the record reflected the progress Columbia is making in figuring out how to be trauma-responsive. One new girl sent to Columbia for her first offense, murdering a family member, who has complicated family trauma, is depressed over her 15-life sentence and does not talk about her crime. Her treatment plan is “Increase comfort in the new environment” and “Establish a therapeutic relationship.” These appear to be a description of the process of adjusting to the program. Her goals instead might include to “Grieve her losses” and “Understand the chain of thoughts and feelings that led to her offense.” Treatment planning with this resident should not be global requirements but instead provide support individualized for the resident to process her past trauma in order to become less depressed and reactive.

In the meeting with clinicians, the MH Monitor observed thoughtful discussion about how staff can enhance “skills generalization” among girls so they use the skills they are learning in groups (and in individual therapy) all the time. They are committed to staff communication about how each girl is engaged in treatment and making progress on her goals throughout the day. The clinicians discussed the challenge of paying attention to typical adolescent development and trauma at the same time. For example, we discussed the identity development process of one girl and how peer-involved her offense and other behavior in the community were. Columbia is the place where a more mature identity will take shape, and clinicians want to make sure her normal development is fostered. At the same time, clinicians recognized that patience is required to “honor a girl’s process of grieving,” which could take a long time. The clinicians observed that they are using the New York Model to inspire a culture change among staff. Part of what they do by coaching is encouraging hope that what they do with each girl each day fosters her self-improvement. They commented that having the clinician and the case manager in the living unit “makes a big difference.”

The clinicians discussed the MH Monitor’s observation that several of the girls’ treatment plans only addressed mental health interventions (things a therapist would do with her). But an integrated treatment plan states needs behind behavior that can be met by all staff differently, not only by the therapist in groups or therapy. The treatment plan should include, for example for a need such as “Deal with my triggers without getting so angry.” A typical trigger in school and how the teachers would support her to meet that need, a typical trigger while playing a sport and how the YDAs would support her to meet that need, and a typical trigger in school and how the recreation specialist would support her to meet that need.

FUTURE MONITORING

When they are available, the MH Monitor will review:

- New policy on Case Management of Juvenile Delinquents Placed in the Custody of OCFS.
- Training curriculum on case management and treatment team processes.

The MH Monitor will interview trainers and staff who participate in the case management and treatment team processes training.

The MH Monitor will review treatment plans and observe another treatment team meeting.

54. *Substance abuse treatment. The State shall create or modify and implement policies, procedures, and practices to require that:*

- a. *All youth who have a suspected history of substance abuse are provided with adequate prevention education while residing at a Facility; and*
- b. *All youth who are known to have current problems with substance abuse or dependence are provided adequate treatment for those problems while residing at a Facility.*

PARTIAL COMPLIANCE

Substance abuse, particularly daily marijuana use, is a widespread, often trauma-related problem among youth that is influential in delinquent behavior. The section of PPM 3243.33 entitled "Substance abuse interventions and treatment" does not address the connection between the New York Model and such treatment, including the applicability of DBT and Sanctuary skills. A few short paragraphs in PPM 3243.33 cover juvenile facility services: prevention and education to be provided as part of each school's academic curriculum and "services" contracted from an OASAS provider for youth with identified substance abuse treatment needs.

The MH Monitor reviewed the curricula entitled "DBT Skills for Substance Abuse" and the five-section Washington State curriculum entitled "Chain Analysis and Engagement and Motivation for Substance Abusers" and a Linehan PowerPoint for DBT: Substance Abuse. These DBT/Substance Abuse materials are being used by DJJOY in a customized training scheduled for a number of staff from all DJJOY facilities in February, 2012 and future monitoring will assess the curriculum's compliance with the requirement for substance abuse treatment in the Settlement Agreement.

The MH Monitor is waiting to review a service description, a policy, a training curriculum, and possibly an MOU.

State Report on Progress (12/20/11)

1. Develop collaboration with NYS Office of Alcohol and Substance Abuse Services (OASAS).

"Based in part on comments made by the DOJ Monitors, OCFS is reconsidering the manner in which we will meet this remedial measure, which may not involve collaboration with OASAS."

2. Modify PPM 3243.33 "Behavioral Health Services."

"Approved for implementation."

3. Create new policy on Case Management and Treatment Team Processes (to include substance abuse services).

New policy renamed Case Management of Juvenile Delinquents Placed in the Custody of OCFS. "This policy is drafted but the content is different than originally intended. New tasks will be provided to address the remedial measures in the upcoming revised MAP. Substance abuse services are incorporated in the integrated treatment team process."

4. Plan for training and train staff on case management and treatment team processes, including substance abuse services.

"Instruction and implementation on treatment team processes provided by Bureau of Behavioral Health Services in progress: Lansing completed 10/25/11; Finger Lakes starting 12/6/11; Columbia completed 11/15/11; Taberg to be scheduled."

5. Plan for and provide, with the support of OASAS, substance abuse treatment, prevention, and educational services to youth commensurate with their needs.

“Based in part on comments made by the DOJ Monitors, OCFS is reconsidering the manner in which we will meet this remedial measure.”

On Site Observations (11/11)

There is a certified substance abuse treatment staff person at Columbia. Most of the girls at Columbia have significant substance abuse histories and have substance-abusing family members; for several girls, their use was apparently connected to their offense. OCFS is figuring out how substance abuse treatment services will be integrated in a trauma-responsive way into the New York Model.

FUTURE MONITORING

When they are available, the MH Monitor will review:

- Description of substance abuse treatment and education services in the facilities that complies with 54 a and b.
- The MOU with OASAS if these services will be provided in conjunction with OASAS.
- New policy on Case Management of Juvenile Delinquents Placed in the Custody of OCFS.
- Training curriculum on case management and treatment team processes including substance abuse services.

The MH Monitor will interview trainers and staff who participate in the case management and treatment team processes training including substance abuse services.

The MH Monitor will observe substance abuse treatment and education services being provided to residents.

55. *Transition planning. The State shall require that each youth who has mental health issues, or who has been or is receiving substance abuse treatment, who is leaving a Facility has a transition plan. The State shall create or modify and implement policies, procedures, and practices for the development of a transition plan for each such youth. The transition plan shall include information regarding:*

- a. *Mental health resources available in the youth’s home community, including treatment for substance abuse or dependence if appropriate;*
- b. *Referrals to mental health or other services when appropriate; and*
- c. *Provisions for supplying psychotropic medications, if necessary, upon release from the Facility.*

PARTIAL COMPLIANCE

The MH Monitor reviewed the curriculum for the one-hour training for nurses entitled “Psychiatric Medications at the Time of Release,” and it explains the policy required by the Settlement Agreement: release plans for youth with a 30 days dose of psychiatric medication, an appointment with a community-based mental health program, and the involvement of the parent and CMSO case manager.

The MH Monitor is waiting to review a policy and a training curriculum.

State Report on Progress (12/20/11)

1. Modify policies: PPM 3243.32 "Psychiatric Medications" and PPM 3243.33 "Behavioral Health Services."

"Approved for implementation."

2. Create new policy on Case Management and Treatment Team Processes

New policy renamed Case Management of Juvenile Delinquents Placed in the Custody of OCFS. "This policy is drafted but the content is different than originally intended. New tasks will be provided to address the remedial measures in the upcoming revised MAP."

3. Plan for training and train facility and community based staff on case management and treatment team processes, to include transition planning.

"Transition planning for youth with mental health needs has been implemented using the Continuity of Care plan, which incorporates the components of this remedial measure."

On Site Observations (11/11)

Facility clinicians have been directed to complete Continuity of Care Plans for all youth with mental health, substance abuse, or sexual offending behavior treatment needs when they are released from the facility. The language of the Settlement Agreement in Paragraph 55 is a transition plan to include information regarding mental health, psychiatric medication and substance abuse services the resident will receive in his/her next location. Good practice in juvenile justice is a transition plan that defines how a resident's treatment plan and gains in the facility will continue in the community (or other placement). Thus, the OCFS Continuity of Care Plan should not be limited to mental health transition information (and should not be called a Mental Health/Psychiatric Medication Continuity of Care Plan, although mental health and psychiatric medication are important sections of a Continuity of Care Plan). The MH Monitor has not yet reviewed a Continuity of Care plan that included all elements of a youth's successful transition to the community. The MH Monitor encourages OCFS to change the wording in the MAP and the policy to reflect transition activities for more than psychiatric medication and follow-up mental health treatment.

FUTURE MONITORING

When they are available, the MH Monitor will review:

- New policy on Case Management of Juvenile Delinquents Placed in the Custody of OCFS.
- Training curriculum on case management and treatment team processes, including transition planning.
- Transition plans in records.

The MH Monitor will interview trainers and staff who participate in the case management and treatment team processes training including transition planning.

The MH Monitor will observe residents working with staff on transition plans that connect their successes in the facility with their plans in the community and review transition plans for youth with mental health needs.

IV. DOCUMENT DEVELOPMENT AND QUALITY ASSURANCE

56. *Document Development and Revision. Consistent with paragraph 68¹ of this Agreement, the State shall create or modify policies, procedures, protocols, training curricula, and practices to require that they are consistent with, incorporate, address, and implement all provisions of this agreement. In accordance with paragraph 68 of this Agreement, the state shall create or modify, as necessary, other written documents – such as screening tools, handbooks, manuals, and forms – to effectuate the provisions of this Agreement. The State shall submit all such documents to the United States for review and approval, which shall not be unreasonably withheld.*

PENDING REVIEW

COMMENT: A determination of compliance or non-compliance is not made at this time. This visit did not generate many concerns about Paragraph 56.

57. *Quality Assurance Programs. The State shall create or modify and implement quality assurance programs consistent with generally accepted professional standards for each of the substantive remedial areas addressed in this Agreement. In addition, the State shall:*

NONCOMPLIANCE

COMMENT: At the facility level, there were no indications of a Quality Assurance (QA) presence through a set of QA guidelines, specific data collections, or routine inspections of operations. The QA unit exists with a staff of eight (8) individuals, but no QA Director. The new policy on quality assurance is still pending; therefore, the program itself is also pending. See page 21 of the December 2011 “6-Month Progress Report.” The QA unit has instead taken responsibility for monitoring the reportable incidents that require DOJ notification per the Settlement Agreement, for providing support to the DOJ facilities to prepare for monitoring visits, for performing oversight of OCFS facilities’ usage of the Performance-based Standards System (PbS), and for developing a quality assurance instrument to measure compliance with the remedial measures.

57. a. *create or modify and implement policies and procedures to address problems that are uncovered during the course of quality assurance activities; and*

COMMENT: No recommendations exist as a result of the CGSC monitoring visit.

57. b. *create or modify and implement corrective action plans to address identified problems in such a manner as to prevent them from occurring again in the future.*

¹ 68. Document development and revision. The State shall timely revise and /or develop policies and procedures, forms, screening tools, blank log forms, and other documents as necessary to ensure that they are consistent with, incorporate, address, and implement all provisions of this Agreement.

COMMENT: No corrective action recommendations exist as a result of the CGSC monitoring visit.

V. SUMMARY

Columbia is the named facility closest to invoking Paragraph 77.c. The following issues need to be addressed before achieving substantial compliance and the initiation of the “12 consecutive months” prerequisite for considering a termination of the Settlement Agreement for Columbia:

- OCFS moves all interim policies and procedures to permanent and approved status,
- OCFS completes the reforms called for by July 2012 in the Settlement Agreement,
- CGSC staff make the recommended changes in this report, and
- CGSC maintains its high level of functioning in subsequent monitoring visits.

The CGSC program is exemplary and could serve as a formula for achieving compliance at the other named facilities.

Appendix A

List of Documents Reviewed for Columbia Girls Secure Center

1. Complete set of current policies, procedures, and practices.
2. Current floor plans or diagrams (on 8.5 x 11" format) of living units and other program space in each of the facilities, including information regarding segregation and disciplinary units, and other special management units.
3. Current program descriptions, including daily and weekly schedules for youth by living units, including mental health program activities and schedules (i.e., groups, other therapeutic activities).
4. Current rated capacity (including the capacity breakdowns by living units) and current census by facility and living unit.
5. A current organizational chart of each facility, including the names, gender, and titles of all employees, including supervisors, mid-managers, and upper level managers.
6. Total staffing for the mental health program(s) according to program, and specifying the job category or discipline, including all contract personnel.
7. Facility reviews including, monitoring reports, accreditation reports, audit reports, and other reports prepared for or by facility management or external entities since August 1, 2010.
 - A. Fire Safety Reports – Annual, Semi-Annual, Monthly (consistent with statutory inspection intervals by the state or local fire marshal).
 - B. All existing Facility Director's reports to DJJOY executive staff regarding an accurate and complete account of incidents involving the use of physical restraint as entered into the Automated Restraint Tracking System (ARTS).
8. List of all youth on any level or type of personal safety watch, specifying the date, length of time, and precipitating cause since August 31, 2011.
9. Incident reports or youth grievances regarding use of force, injury, and sexual misconduct since August 31, 2011.
10. A list or log of all youth who were injured (requiring more than on-site first aid) or who were transported to an emergency room or other off-grounds medical facility for medical or mental health treatment, including the source and date of the injury, and a description of the injury or condition for which treatment was sought, particularly youth on the mental health caseload who appear on this list since August 31, 2011.
11. List of all youth seen by medical following a physical restraint incident since August 31, 2011.
12. List of youth who were admitted to a psychiatric facility, the precipitating cause, and the length of each youth's stay at the psychiatric facility.

13. Use of force reports since August 31, 2011, including a list of youth who were restrained, specifying the date, precipitating cause, and method of restraint (i.e., physical, mechanical, chemical).
14. List of all youth who received a psychiatric, substance abuse, or other mental health intervention, including diagnosis and date and type of treatment.
15. List of youth taking psychotropic medication, identifying the medication, dosage, and the condition it is treating.
16. A list of staff who are or who have been in the process of any corrective action or discipline as a result of disobeying laws, regulations, or OCFS policies or procedures regarding the supervision of youth.
17. A list of staff who are or who have been on administrative leave or no-contact status pending the outcome of any investigation or injury.
18. A list of incidents that have been referred to social services agencies, the local police, or other State or County law enforcement authorities.
19. Complaints from parents, guardians, attorneys, or other interested third parties regarding use of force or fear of safety, including sexual misconduct, and the status of the complaint.
20. Civil complaints or criminal charging documents alleging professional misconduct against staff or facility administrators, and the results of those complaints or charges.
21. Reports of investigations involving allegations of abuse, neglect, or mistreatment.
22. Description of all physical plant improvements since January 1, 2009, including any changes to the interior and exterior visual surveillance systems.
23. List of employees who have not satisfactorily completed CPM training and who are not authorized to perform a physical restraint.
24. Training records from the STARS system for each staff member in the facility indicating the training session or experience completed.
25. Youths' institutional records.
26. An alphabetical list of juveniles held at the facilities for the first day of the site visit, including names, ages, admission dates, living units, housing classifications, detaining offenses, and any personal safety watch alerts.
27. Any list or log of youth grievances indicating the type, date, and outcome of each grievance.
28. Any list or log of youth discipline indicating the type, date, and outcome of each disciplinary event.
29. Incident reports, use of force reports, disciplinary infraction reports, and disciplinary hearing reports.
30. Any digital video surveillance camera recordings of specific incidents, especially

those prepared for the Facility Director's review of physical restraint as defined by PPM 3247.17.

31. Any manual and electronic housing unit logs.
32. State of New York laws, rules, and regulations regarding confidentiality for adolescents.
33. State of New York Child Health Care Standards.
34. State of New York Child Abuse/Maltreatment law(s), including mandatory reporting.

Appendix B

List of OCFS Staff Who Contributed Information

Janine Bianco, RN

Merle Brandwene, Management & Program Support

James Brewster, YDA 4

Matt Carpenter, Assistant Facility Director

Gladys Carrion, OCFS Commissioner

Sandra Carrk, Project Manager

Dr. Michael Cohen, Medical Director

Susan Curran, RN

Diane Deacon , OCFS Legal

Myra DeLuke, QA Specialist

Patricia Fernandez, Assistant Director of Treatment Services

Felipe Franco, Deputy Commissioner

Jill Green, Education Coordinator

Melissa Gwozdz, YDA4

Joe Impicciatore, Facilities Manager

Wade Jones, YDA4

Pam Kelly, Training Director

Edgardo Lopez, Settlement Agreement Coordinator

Lois Morris, YDA4

Deborah Mulligan-Timer, Psychiatric Nurse Practitioner

John Nigro, YDA4

Adrian Otero, YDA4

Anne Pascale, Chief of Treatment Services

Debra Peete, HSTS I BOT

Brian Perazone, Assistant Director for Quality Assurance

Lee Prochera, Counsel

Lou Renzi, Senior Attorney

Jessica Riley, Recreation Specialist

Brenda Rowlett, YDA4

Anita Sapio, Facility Director

R. J. Strauser, YC2

Dr. Joe Tomassone, Chief Treatment Services

Louise Turgem, SW 2

Jenne Utting, QA Specialist.

Helen Wood, YC 1