

**REPORT TO THE HAWAII STATE LEGISLATURE ON  
ACT 160, SECTION 38.4, SESSION LAWS HAWAII 2006**

**Hawaii Youth Correctional Facility U.S. Department of Justice  
SETTLEMENT DATED FEBRUARY 9, 2006  
PROGRESS REPORT**

**Prepared by:  
Office of Youth Services/Hawaii Youth Correctional Facility  
(HMS 503)**

Section 38.4 of Act 160, Relating to the State Budget

“Provided that of the general fund appropriation for youth residential programs (HMS 503), the sum of \$1,858,229, or so much thereof as may be necessary for fiscal year 2006-2007, shall be expended by the department of human services for additional payroll costs necessary for compliance with the Hawaii youth correctional facility Department of Justice settlement; provided further the sum of \$2,037,651, or so much thereof as may be necessary for fiscal year 2006-2007, shall be expended by the department of human services for other current expenses necessary for compliance with the Hawaii youth correctional facility Department of Justice settlement; provided further the sum of \$212,400, or so much thereof as may be necessary for fiscal year 2006-2007, shall be expended by the department of human services for the purchase of equipment necessary for compliance with the Hawaii youth correctional facility Department of Justice settlement; provided further that the funds shall not be expended for any other purpose; provided further that the department shall prepare a report that shall include but not be limited to:

1. The memorandum of agreement related to the Department of Justice settlement;
2. The proposed budget for fiscal year 2007-2008
3. The current status of any court mandates to which the Hawaii youth correctional facility is subject to; and
4. The progress being made towards complying with the Department of Justice settlement;

And provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2007 regular session.”

The information below and attached provides the requested information:

1. The memorandum of agreement (MOA) related to the Department of Justice (DOJ) settlement. The MOA was effective February 9, 2006 and a copy of the MOA is attached as Attachment A.
2. The proposed budget for fiscal year 2007-2008

FY 07 DOJ Budget Recap and Budget for DOJ for FY 07-08

	<b>Personnel Costs</b>	<b>Other Current Expenses and Motor Vehicles</b>	<b>Total</b>
Funding for DOJ Settlement	1,031,229	1,904,351	2,935,580
Expenses to reflect increased operational costs	827,000	133,300	960,300
	<u>1,858,229</u>	<u>2,037,651</u>	<u>3,895,880</u>
Less non-recurring cost		(976,951)	(976,951)
FY 08 base budget	1,858,229	1,060,700	2,918,929
Budget Requests			
1) Recurring expenses and Security Officer position	55,000	513,900	568,900
2) 4 vehicles to replace existing		142,000	142,000
3) Add Corrections Supervisor I permanent position	53,628		53,628
4) Convert temporary Corrections Supervisor I position to permanent			-
5) Add Grievance Officer permanent position	53,628		53,628
	<u>2,020,485</u>	<u>1,716,600</u>	<u>3,737,085</u>

A more detailed budget is attached as Attachment B.

3. The current status of any court mandates to which the Hawaii Youth Correctional Facility (HYCF) is subject to:  
See Second monitoring report by Russell K. Van Vleet, MSW, Lindsay M. Hayes, MS and Peter M. Leone, PhD attached as Attachment C or electronic file "Attachment C to Act 160, Sec 38.4 Mon Rpt 11\_06.doc"
  
4. The progress being made towards complying with the DOJ settlement:  
See Second monitoring report by Russell K. Van Vleet, MSW, Lindsay M. Hayes, MS and Peter M. Leone, PhD attached as Attachment C or electronic file "Attachment C to Act 160, Sec 38.4 Mon Rpt 11\_06.doc"

Memorandum of Agreement

Between

the United States

and

the State of Hawai'i

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## I. INTRODUCTION

- (A) This Memorandum of Agreement ("Agreement") resolves litigation concerning protection from harm, access to medical and mental health care, and special education claims, and therefore settles all claims asserted in United States v. Hawai'i, Civil No. [\_\_\_\_\_] (D. Haw) (referred to herein as the "litigation" or the "lawsuit"). This litigation concerned conditions of confinement at the Hawai'i Youth Correctional Facility ("HYCF") in Kailua, Hawai'i, and was brought pursuant to the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141 ("Section 14141").
- (B) From October 5, 2004 to October 8, 2004, the United States toured HYCF with a consultant in the field of juvenile justice. On October 26, 2004, the United States conducted individual interviews with each of the girls from HYCF temporarily placed at the Salt Lake Valley Detention Center in West Salt Lake City, Utah.
- (C) Throughout the course of the investigation, the United States received complete cooperation from the State. The State permitted access to HYCF and provided requested documents.
- (D) On August 4, 2005, the United States issued a findings letter pursuant to 42 U.S.C. § 1997(a)(1), which concluded that certain conditions at HYCF violated the constitutional and federal statutory rights of youth confined in the facility.
- (E) In order to resolve all claims in the litigation, including the protection from harm, access to medical and mental health care, and special education claims, the parties have entered into this Agreement, which, if complied with by State of Hawai'i ("State") officials within the time frames specified below, will result in the lawsuit remaining dismissed and the filing of a joint stipulation for final dismissal with prejudice.
- (F) The terms of this Agreement shall apply to HYCF. If the State closes HYCF and transfers youth to a state-run facility substantially similar to HYCF or, without closing HYCF transfers all girls or 20 or more youth to another state-run facility which provides services substantially

similar to HYCF, the applicable and relevant terms of this Agreement will also apply to the new state-run facility. The State reserves the right to transfer youth to a private facility. If the State transfers youth to a private facility which is substantially similar to HYCF, the State shall do everything in its power to facilitate DOJ's inspection of the conditions of care at that facility. The State will not transfer youth out of HYCF in order to attempt to avoid compliance with this Agreement or any constitutional requirements.

- (G) The State enters into this Agreement because it is firmly committed to providing legally adequate conditions at HYCF by instituting the remedial measures required by this Agreement.
- (H) This Agreement does not constitute an admission of liability by the State.
- (I) Defendants named in the lawsuit were the State; Linda Lingle, Governor of Hawai'i; Lillian B. Koller, Director of the Hawai'i Department of Human Services; Sharon Agnew, Director of the Office of Youth Services; Patricia Hamamoto, Superintendent, Hawaii Department of Education; Kaleve Tufono-Iosefa, HYCF Administrator.
- (J) This Agreement is not intended to have any preclusive effect in the litigation or in any other proceeding. Should the issue of the preclusive effect of this Agreement be raised in any proceeding, the parties agree to certify that this Agreement was intended to have no such preclusive effect.
- (K) This Agreement shall not be used against the State in any proceeding other than a proceeding as between the United States and the State. Further, if the Agreement is introduced in a proceeding as between the United States and the State, evidence shall not be admitted as to the State's compliance or noncompliance with the Agreement and nothing in the Agreement shall be relevant to the required constitutional standards.
- (L) Nothing in this Agreement shall prevent the State from modifying or closing HYCF, or developing alternative community placements for the youth currently in the facility.

- (M) No person or entity is intended to be a third-party beneficiary of the provisions of this Agreement for purposes of any civil, criminal, or administrative action. Accordingly, no person or entity may assert any claim or right as a beneficiary or protected class under this Agreement. This Agreement is not intended to impair or expand the right of any person or organization to seek relief against the State or its officials, employees, or agents for their conduct; accordingly, the Agreement does not alter legal standards governing any such claims, including those under Hawai'i law.

## II. DEFINITIONS

In this Agreement, the following definitions shall apply:

- (A) "HYCF" means the Hawai'i Youth Correctional Facility located at 42-477 Kalaniana'ole Highway, Kailua, Hawai'i.
- (B) "Close Observation" means documented visual observation of youth at all hours and interaction with youth during waking hours periodically, but at least every ten minutes round the clock.
- (C) "DOJ" means the United States Department of Justice, which represents the United States in this matter.
- (D) "Defendants" means the State; Linda Lingle, Governor of Hawai'i; Lillian B. Koller, Director of the Hawai'i Department of Human Services; Sharon Agnew, Director of the Office of Youth Services; Kaleve Tufono-Iosefa, HYCF Administrator; and their successors, contractors and agents.
- (E) "Effective Date" means the date the lawsuit is conditionally dismissed by the Court.
- (F) "Implement" means to give practical effect and ensure actual fulfillment by concrete measures, including appropriate training of relevant staff.
- (G) "Include" or "including" means "include, but not be limited to" or "including, but not limited to."
- (H) "Isolation" means placement of a youth alone in a locked room, and includes such practices as lockdown, seclusion, and early dorms. The term isolation does not apply to

locking a youth in a room during normal sleeping hours, with normal sleeping hours not to exceed 8 to 10 hours, as long as any period in excess of 8 hours is as part of a behavior modification and/or level system for the youth and not associated with discipline or punishment of the youth (such as "early dorms").

- (I) "OYS" means Office of Youth Services within the Hawai'i Department of Human Services that oversees the safety, treatment, and rehabilitation of youth residing at HYCF.
- (J) "Precautionary Direct Supervision" means continuous staff observation of a youth, or direct eyeball supervision.
- (K) "Qualified medical professional" means a physician, nurse, or other medical provider licensed and sufficiently trained to provide the services he or she undertakes to provide.
- (L) "Qualified mental health professional" means a psychologist, psychiatrist, or other mental health provider sufficiently trained to provide the services and possessing at least a Master's degree in the relevant mental health field.
- (M) "Quality Improvement Program" means a system of self-auditing and improvement to assess the implementation and effectiveness of all remedies instituted pursuant to this Agreement, to identify deficits that may exist, and to effectuate new measures to cure deficits identified.
- (N) "Restraints" means devices or methods to control or limit the freedom of movement of a person's limbs or which restrict movement of a person's body or overcome resistance to external control. Restraints include the following:
  - (a) "Security Restraint" means a mechanical restraint device, including handcuffs, leg irons, flex cuffs and transport belts or chains designed for the restraint of committed persons.
  - (b) "Chemical Agent Restraint" means an active chemical substance, such as capicum spray, mace or tear gas (CS or CN), that is used to immobilize a person, overcome resistance to physical control, or to deter or stop activities that may cause personal harm to the individual or others.



- (c) "Therapeutic Medical Restraint" means soft physical restraints approved by the medical authority and applied only for medical or psychiatric purposes and used in conjunction with restraint chairs or beds.
- (d) "Physical Restraint" means use of approved methods of physical force to effect control of a person's limbs or body and limit the person's ability to resist external control.
- (O) "Self-Harm" means when a youth attempts or intentionally commits more than a minor injury to himself or herself. Self-Harm includes conduct by a youth in cutting or carving into his or her own skin or body.
- (P) "State" means the Defendants as described in paragraph (II.D) above.
- (Q) "Suicide Precautions" means any level of watch or observation or measures (including, but not limited to, Precautionary Direct Supervision and Close Observation) to prevent a particular youth from committing self-harm or suicide.
- (R) "The facility" means the Hawai'i Youth Correctional Facility located at 42-477 Kalaniana'ole Highway, Kailua, Hawai'i, and any secure state-run facilities built or obtained to replace HYCF.
- (S) "Train" means to appropriately instruct in the skills addressed, including ongoing assessment of mastery of instructional material. Training shall incorporate testing and instructional methods that establish minimal standards for defining staff competency. After the Effective Date of this Agreement, the State will submit the training curriculum and required number of training hours to the Monitor for review and approval.
- (T) "Youth" means any juvenile or youth committed by a court to the custody of OYS and residing at HYCF or any secure facility used in place of HYCF during the operation of this Agreement.

### **III. CONSTITUTIONALLY REQUIRED CARE**

The State does not concede that the terms in this Agreement

are constitutionally mandated and reserves all rights in this regard. The sole purpose of this Agreement is to protect the constitutional rights of youth committed to HYCF, as well as those federal statutory rights identified herein.

#### **IV. SUBSTANTIVE REMEDIAL MEASURES**

##### **A. PROTECTION FROM HARM**

###### **1. SUICIDE PREVENTION**

- (1) Development and Implementation of Policy The State shall develop and implement appropriate policies, procedures, and practices relating to suicide prevention, intervention, and supervision as set forth in this Agreement.
- (2) Identification of Youth At Risk of Suicide The State shall develop and implement policies and procedures pertaining to the screening of youth in order to:
  - (a) place all newly-arrived youth under heightened observation until they can be assessed by a qualified mental health professional, except those youth who had previously been in the facility within the last 60 days need not be placed under such heightened observation if they had not been subject to any suicide precautions in their last stay at the facility and if there is no indicia that the youth is contemplating Self-Harm;
  - (b) request from the Oahu Family Court and the Hawai'i Juvenile Detention Center all mental health reports for each newly-arrived youth within one week of the youth's arrival;
  - (c) place youth on Precautionary Direct Supervision when the youth has a documented history of suicide attempts or Self-Harm, has declared that he or she has recently contemplated or attempted suicide or Self-Harm, or has expressed or communicated a suicidal or Self-Harming plan;
  - (d) place youth on Close Observation where the youth reasonably appears to be at risk of suicide or Self-Harm but has no history of recent suicide or Self-Harm attempts and does not acknowledge a suicidal or Self-Harming plan;

- (e) create a system whereby mental health and medical staff have access to centralized medical and mental health records for youth in their care;
  - (f) require that all HYCF mental health staff appropriately utilize progress notes to document interactions with and/or assessment of suicidal youth; and
  - (g) facilitate appropriate communication between direct care, medical, and mental health personnel and outside providers of medical and mental health regarding the needs of suicidal youth.
- (3) Suicide Risk Assessments, Evaluations, and Review of Files by Mental Health Staff The State shall develop and implement policies and procedures so that:
- (a) qualified mental health professionals conduct timely suicide risk assessments using reliable instruments (including but not limited to the MAYSI assessment):
    - (1) for all youth exhibiting behavior which reasonably may indicate suicidal ideation;
    - (2) within 24 hours of the initiation of suicide precautions;
    - (3) when determining whether to change the level of suicide precautions; and
    - (4) when determining whether to remove suicide precautions;
  - (b) qualified mental health professionals evaluate youth who attempt or commit Self-Harm or have a history of Self-Harm; and
  - (c) mental health staff thoroughly review as appropriate all of a youth's files, including medical files and any case files, for documentation of any prior suicidal or Self-Harming behavior upon intake and again whenever the youth is placed on suicide precautions.
- (4) Placement of Youth on Suicide Precautions The State shall develop and implement policies and procedures so that any staff member who identifies a youth as suicidal immediately shall place the youth on suicide precautions and refer the youth to a qualified mental health professional for assessment.

- (5) Mental Health Response to Suicidal and Self-Harming Youth Where a qualified mental health professional makes a determination that a youth represents a continuing risk of suicide or Self-Harm to himself, the qualified mental health professional shall write a plan for monitoring, intervention and care, and re-evaluation of the youth ("Mental Health Care Plan"). The Mental Health Care Plan shall provide that youth discharged from suicide precautions receive adequate follow-up treatment within the facility, according to the clinical judgment of the qualified mental health professional.
- (6) Documentation of Youth on Suicide Precautions The State shall develop and implement policies and procedures so that direct care staff who supervise youth on suicide precautions:
- (a) read the youth's Mental Health Care Plan,
  - (b) document the following information during each shift in which the staff supervises the youth in such a way as to be accessible by other direct care staff:
    - (1) that the staff member read: (a) the type of precaution established by a qualified mental health professional or the youth's removal from precautions; (b) the time the youth was placed on such precaution or removed; (c) the time of the youth's last status re-evaluation by the qualified mental health professional and any modification or update to the Mental Health Care Plan;
    - (2) the housing location of the youth on precaution;
    - (3) for youth on Close Observation (or other periodic observation), the times of observation and an overall statement regarding the youth's behavior, status, or emotional state for each time recorded; and
    - (4) for youth on Precautionary Direct Supervision (or other continuous observation), narratives detailing the youth's behavior.
- (7) Documentation of Youth at Risk of Self-Harm The State shall

develop and implement policies, procedures, and practices so that incidents of Self-Harm by youth and youth at heightened risk of Self-Harm, and the actions taken to address such incidents, are documented.

- (8) Access to Programs and Services by Youth on Suicide Precaution The State shall develop and implement policies and procedures so that youth on suicide precautions continue to receive programs and services, in accordance with safety and security needs, and in accordance with the clinical judgment of a qualified mental health professional.
- (9) Step Down Levels of Observation The State shall develop and implement policies and procedures establishing a "step-down" level of observation whereby youth on suicide precaution are gradually released from the more restrictive levels of supervision to less restrictive levels for an appropriate period of time as established by qualified mental health professionals and documented in the youth's care plan prior to the youth's discharge from suicide precaution.
- (10) Treatment Plans for Youth Discharged from Suicide Precaution The State shall develop and implement policies and procedures so that all youth discharged from suicide precaution continue to receive mental health treatment in accordance with the treatment plan developed by a qualified mental health professional, unless the qualified mental health professional determines that no such continued treatment is necessary.
- (11) Access to Emergency Equipment The State shall provide direct care staff with immediate access to appropriate equipment to intervene in the event of an attempted suicide, including cut down tools, CPR microshields, and filled oxygen tanks.
- (12) Safe Housing of Suicidal, Self-Harming Youth, and Youth in Isolation The State shall develop and implement policies and procedures so that all housing for youth on suicide precautions, at risk of Self-Harm, or in isolation is, in accordance with generally accepted professional standards, free of hazards that would allow youth to hang themselves or attempt suicide or commit acts of Self-Harm.
- (13) Suicide and Suicide Attempt Review The State shall develop and implement policies and procedures so that appropriate

staff review all suicides and suicide attempts for policy and training implications.

## **2. STAFF ABUSE AND YOUTH ASSAULTS**

- (14) Protection from Harm The State shall provide youth confined at HYCF with reasonably safe living conditions and shall appropriately protect youth from violence and other physical or sexual abuse by staff and other youth.
- (15) Protection from Undue Restraints The State shall develop and implement policies, procedures and practices so that only safe methods of restraint are used at the facility, and only in those circumstances necessary for safety and security, or with respect to therapeutic restraints pursuant to a medical order to protect the health of the youth.
- (16) Use of Force The State shall develop and implement comprehensive policies, procedures and practices governing use of force, so that the least amount of force necessary for the safety of staff, youth, and visitors is used on youth, and that staff adequately and promptly document and report all uses of force by staff.
- (17) Reporting of Staff Misconduct and Other Serious Incidents The State shall develop and implement appropriate policies and procedures which contain definitions approved by the Monitor after review and comment by the DOJ for the terms "use of force," "staff-on-youth violence," "youth-on-youth violence," "inappropriate staff relationships with youth," "sexual misconduct between youth," and "abusive institutional practices," and will develop and implement such policies, procedures, and practices so that:
  - (a) appropriate HYCF staff report all incidents of use of force, staff-on-youth and youth-on-youth violence, inappropriate staff relationships with youth, sexual misconduct between youth, and abusive institutional practices (such as unwarranted use of isolation or restraint or denial of education or medical care) to appropriate individuals at the facility;
  - (b) appropriate HYCF staff call and document in writing to the Office of Youth Services to report all serious incidents of uses of force, staff-on-youth and youth-on-youth violence, inappropriate staff

relationships with youth, sexual misconduct between youth, and abusive institutional practices, and document the call and written correspondence in the youth's medical or case file;

- (c) such reporting may be done without fear of retaliation; and
  - (d) all such incidents are appropriately documented and reported, including the facts of the incident, any injury that occurred as a result of the incident, and in a way that permits review.
- (18) Review of Incidents by Senior Management The State shall develop and implement policies, procedures, and practices so that senior management review all incidents of use of force, staff-on-youth and youth-on-youth violence, inappropriate staff relationships with youth, sexual misconduct between youth, and abusive institutional practices.
- (19) Investigations The State shall develop and implement policies, procedures, and practices so that senior management initiate investigations of all incidents of use of force, staff-on-youth violence, serious youth-on-youth violence, inappropriate staff relationships with youth, sexual misconduct between youth, and abusive institutional practices. Investigations shall be conducted by persons who do not have direct or immediate indirect responsibility for the conduct being investigated.
- (20) Documentation and Tracking of Investigations The State shall develop policies, practices, and procedures for documenting all incidents of use of force, staff-on-youth violence, youth-on-youth violence, inappropriate staff relationships with youth, sexual misconduct between youth, and abusive institutional practices, and for documenting and tracking the status and outcome of all investigations. Where there is evidence of staff misconduct, the State shall initiate appropriate personnel actions and systemic remedies, where appropriate.
- (21) Reporting Possible Criminal Violations The State shall develop policies, practices, and procedures to define those circumstances in which staff must report possible criminal violations to the police, the prosecuting attorney, or the Attorney General.

- (22) Health Care Inquiries Regarding Injury A nurse or other health care provider shall question, outside the hearing of other staff or youth (unless the facility administrator determines that the youth cannot be left alone with the health care provider), each youth who reports to the medical unit with an injury, regarding the cause of the injury. If, in the course of the youth's medical unit visit, a health care provider suspects staff-on-youth abuse, that health care provider shall immediately:
- (a) take all appropriate steps to preserve evidence of the injury (e.g., photograph the injury and any other physical evidence);
  - (b) report the suspected abuse to the appropriate local officials;
  - (c) appropriately document the matter in the youth's medical record; and
  - (d) complete an incident report.
- (23) Isolation The State shall develop and implement policies, procedures and practices so that staff use isolation (as defined in this Agreement) only in accordance with policy and in an appropriate manner, and so that staff document fully the use and administrative review of any imposition of isolation, including the placing of youth in their cells outside normal sleeping hours.
- (24) Due Process The State shall provide youth confined for disciplinary reasons for more than 24 hours with an appropriate due process hearing by an impartial supervisory staff member to determine whether the cause exists for continued disciplinary confinement and appropriate representation at such hearing. The State shall give youth a copy of rule violation charges and the hearing record for review (including the incident report and witness statements), and shall document that youth were: (a) given the opportunity to ask that witnesses be interviewed, and (b) were provided with accommodation where the youth has disabilities that might interfere with his or her capacity to understand the process or outcome. The State shall adequately document any such due process hearings, including the result of the hearing and justification for the result.



- (25) Staffing The State shall provide sufficient numbers of adequately trained direct care and supervisory staff to (a) supervise youth safely, (b) protect youth from harm, (c) allow youth reasonable access to medical and mental health services, and (d) provide youth with adequate time spent in out-of-cell activities. In furtherance of this requirement, the State shall submit a proposed staffing plan to be approved by the Monitor, with the Monitor's approval establishing the sufficient number of staff required by this Agreement. Prior to approval by the Monitor, DOJ may submit comments to the Monitor regarding the State's staffing plan, which comments shall also be provided to the State. The State shall establish mandatory minimum staffing requirements, including a determination of all direct supervision posts that must be filled on each shift. In establishing mandatory post coverage, the State shall include provisions for coverage for all required staff training as well as authorized leave time. The State shall also document daily shift coverages and shall report to the Office of Youth Services, Department of Human Services, and to the Monitor, all instances of failure to provide the minimum post coverage and the closing of a post due to lack of direct care staff. The State shall regularly report to the Office of Youth Services, Department of Human Services, and to the Monitor, the status of all current vacancies.
- (26) Employment Practices The State shall only employ individuals with reputable and responsible characters to work with youth residents at the facility. Within 120 days of the Effective Date of this Agreement, the State shall conduct a criminal record check for all current employees at HYCF, in accordance with Hawaii Revised Statutes section 352-5.5 (2006), taking appropriate actions where new information is obtained. At least as often as every year thereafter, the State shall update such criminal record checks for all employees who come into contact with youth. HYCF administration shall develop policies and procedures so that applicants and all current staff are required to immediately report to it any arrest other than a minor traffic violation and also report the issuance of a restraining order entered against the staff member due to alleged abusive behavior.
- (27) Exploitation The State shall develop and implement policies, procedures, and practices so that staff do not

financially exploit youth or their families.

- (28) Grievances The State shall develop and implement policies, procedures, and practices so that the HYCF has an appropriate grievance system for youth.
- (29) Retaliation and Intimidation The State shall develop and implement policies, procedures, and practices so that staff do not intimidate or retaliate against youth who file grievances or against staff members, volunteers, contractual employees, or youth families who report allegations of staff abuse or misconduct. The policies, procedures, and practices contemplated by this paragraph will not preclude appropriate action where a youth, employee, or other person knowingly asserts a false complaint or grievance. As to retaliation against staff members, the policies and procedures contemplated by this paragraph may reference Hawaii Revised Statutes, Chapter 378, Part V (Whistleblowers' Protection Act).
- (30) Admissions Intake and Orientation The State shall develop and implement policies, procedures and practices to establish a consistent, orderly admissions intake system, conducive to gathering necessary information about youth, disseminating information to staff providing services and care for youth, and maintaining their safety. Each youth entering the facility shall receive an orientation that shall include simple directions for reporting abuse, and assure youth of their right to be protected from harm and from retaliation for reporting allegations of abuse. Orientation shall also clearly set forth the rules youth must follow at the facility, explain how to access medical and mental health care and the grievance system, and provide other information pertinent to the youth's participation in facility programs.
- (31) Classification The State shall develop and implement a classification system that, upon intake, places youth appropriately and safely within the facility, and provides for later reclassification in appropriate circumstances.

**B. TRAINING**

- (32) Training The State shall develop and implement policies, procedures, and practices to provide staff, volunteers and contractual employees of HYCF, and OYS employees as deemed

appropriate by OYS, with training regarding their responsibilities. These policies, procedures and practices shall include:

- (a) a comprehensive training plan for all HYCF employees and appropriate OYS employees, reviewed and updated annually;
- (b) requirements by job category;
- (c) standards for qualification of trainers;
- (d) processes for approval of the training curriculum;
- (e) schedules for staff training;
- (f) criteria for determining that staff volunteers and contractual employees have mastered the instructional materials and methods being taught; and
- (g) specific requirements by professional discipline for any continuing education credits established by licensure, certification, or recognized professional academies and organizations.

- (33) Use of Force Training The State shall train direct care staff in the approved method for physical restraint that minimizes the risk of injury to youth. The State shall only use instructors that are appropriately certified to teach the approved physical restraint method. All training shall include each staff's demonstration of the approved techniques and 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. Supervisory staff who are routinely involved in responding to incidents and altercations shall be trained to evaluate their subordinates' use of the approved restraint methods and must provide evaluation of the staff's proper use of these method(s) in their reports addressing use of force incidents.
- (34) Suicide and Self-Harm Prevention Training The State shall conduct suicide prevention training for direct care staff.

Within six months of the Effective Date of this Agreement, HYCF shall develop a prevention training curriculum, which shall include the following topics:

- (a) a suicide prevention policy consistent with this Agreement;
  - (b) the ways in which facility environments may contribute to suicidal behavior;
  - (c) potential predisposing factors to suicide;
  - (d) high risk suicide periods;
  - (e) warning signs and symptoms of suicidal behavior;
  - (f) case studies of recent suicides and serious suicide attempts;
  - (g) the proper role of staff in responding to a suicide attempt by youth, including different levels of observation and the types of precautions that should be taken;
  - (h) strategies for de-escalating youth engaging in self-harming behaviors;
  - (i) instruction and mock demonstrations regarding the proper response to a suicide attempt; and
  - (j) the proper use of emergency equipment.
- (35) Staff Training in Behavior Management, De-Escalation and Crisis Intervention The State shall provide appropriate competency-based training to staff in behavior management, de-escalation techniques, appropriate communication with youth, and crisis intervention before staff may work in direct contact with youth.
- (36) Staff Training in Incident Reporting The State shall develop and implement policies, procedures, and practices so that staff are appropriately trained in incident reporting consistent with the type of incident reporting required under this Agreement.
- (37) Behavior Management Program The State shall develop and

implement a behavior management program. The program shall provide youth with positive and systematic recognition and rewards for accomplishments and shall teach social and cognitive skills, reinforce appropriate choices, and assist youth in establishing understandable and reachable goals. The program shall also provide that mental health staff (a) consult custody and other direct care custody staff regarding behavior management, and (b) assess the effectiveness of such program and any interventions utilized. HYCF administration shall incorporate means to assess and refine the program based on mental health staff assessment of outcomes and shall share results with program units.

**C. ACCESS TO MEDICAL AND MENTAL HEALTH CARE**

- (38) Access to Care The State shall provide youth with access to adequate, appropriate, and timely medical and mental health care to meet the individualized needs of youth in accordance with clinical judgment.
- (39) Policies, Procedures and Protocols The State shall develop and implement adequate medical and mental health policies, procedures and protocols as set forth in this Agreement. The State shall provide sufficient numbers of qualified medical professionals to meet these needs. In furtherance of this requirement, the State shall submit a proposed staffing plan to be approved by the Monitor, with the Monitor's approval establishing the sufficient number of staff required by this Agreement. Prior to approval by the Monitor, DOJ may submit comments to the Monitor regarding the State's staffing plan, which comments shall also be provided to the State. The State shall also provide that direct care staff do not restrict or deny the provision of adequate medical and mental health care.
- (40) Privacy Subject to safety considerations, the State shall provide for an appropriately private environment in which to conduct medical and mental health assessments at HYCF.
- (41) Mental Health and Medical Records Retrieval The State, through appropriate HYCF and OYS staff, shall develop and implement policies, procedures and practices so that, consistent with State and Federal law, all reasonable efforts are made to have the juvenile courts in the State, all juvenile detention facilities, and all placement

settings from which youth are committed, timely forward all pertinent youth records or discharge summaries regarding medical and mental health care, in accordance with the clinical judgment of the qualified medical professional or qualified mental health professional.

- (42) Interdisciplinary Communication The State shall develop and implement policies, procedures and practices so that interdisciplinary communication occurs to facilitate mental health treatment among medical and mental health staff and outside providers of medical and mental health services.
- (43) Mental Health and Medical Record System The State shall develop and implement policies, procedures and practices so that medical and mental care staff have reasonable access to all documents that are relevant to the care and treatment of the youth.

#### **D. SPECIAL EDUCATION**

- (44) Provision of Special Education The State shall provide youth confined at the facility with special education in compliance with the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1400 et seq., and regulations promulgated thereunder. The State understands that providing appropriate special education services includes having staff sufficient to transport and, if necessary, appropriately supervise youth during the provision of special education services.
- (45) Documentation The State shall adequately document any lapse in the provision of special education, including the number of youth who were denied access to special education, the date, time, periods missed, and reason for the lapse. The State shall submit such documentation to the facility director for prompt action to try to cure and prevent recurrence of such denial.
- (46) Timeliness in Providing Special Education Youth who qualify for special education services shall receive such services within a reasonable time following intake at the facility.
- (47) Vocational Education The State shall develop and implement appropriate vocational education services for youth with disabilities.

- (48) Section 504 Plans The State shall develop and implement policies, procedures and practices to provide that Section 504 plans are developed and implemented for eligible youth.
- (49) Parent, Guardian and Surrogate Involvement The State shall develop and implement policies, procedures and practices to appropriately notify and involve parents, guardians or surrogate parents in the provision of special education services, whenever possible.

**V. COMPLIANCE AND QUALITY IMPROVEMENT**

- (50) Document Development and Revision The State shall revise and/or develop policies, procedures, protocols, training curricula, and practices so that they are consistent with, incorporate, address, implement, document, and assess all provisions of this Agreement. The State shall revise and/or develop as necessary other written documents such as screening tools, logs, handbooks, manuals, and forms, and internal audit or quality improvement methods to effectuate the provisions of this Agreement and report the outcomes, findings, and corrective action plans.
- (51) Document Review The State shall draft policies and procedures in conjunction with comments and discussions with the DOJ and the Monitor, and will send newly-drafted and revised policies and procedures to the DOJ and the Monitor for review and approval as they are promulgated. The State shall provide initial and refresher training to all facility staff with respect to newly-implemented or revised policies and procedures. The State shall document employee review and training in policies and procedures.
- (52) Quality Improvement Programs The State shall develop and implement a Quality Improvement Program for HYCF.
- (53) Corrective Action Plans The State shall develop and implement policies and procedures to address problems that are addressed in this Agreement or uncovered during the course of quality improvement activities. The State shall develop, implement, and document corrective action plans to address these problems in such a manner as to prevent them from occurring again in the future, and shall report such plans to the Office of Youth Services, Department of Human Services.

(54) Technical Assistance by DOJ In the first instance, the State shall request technical assistance from the Monitor. DOJ will thereafter provide the State with technical assistance as requested by the State, including assistance in the formulation and development of policies and procedures, documentation, and quality improvement methods that are required to monitor and effectuate the terms of this Agreement. DOJ will assist the State in identifying additional financial or technical resources to supplement those resources currently allocated to the facilities. When the State seeks assistance from DOJ, the scope of DOJ's review shall be limited to the area in which the State requested assistance.

## **VI. MONITORING AND ENFORCEMENT**

(55) Monitor Selection The parties have jointly selected Russell Van Vleet to serve as the monitor ("Monitor"). Should the position become vacant and the parties cannot agree on a replacement, the parties shall recommend candidates to the Court, and the Court will select the Monitor. Neither party, nor any employee or agent of either party, shall have any supervisory authority over the Monitor's activities, reports, findings, or recommendations. The cost for the Monitor's fees and expenses shall be borne by the State. The State will apply to the Chief Procurement Officer for an exemption from the state procurement code to retain the Monitor. The Monitor may be terminated only for good cause, unrelated to the Monitor's findings or recommendations, and only with prior notice to and approval of both parties or by Court order.

(56) Monitor Qualifications The Monitor shall have experience and education or training in the field of juvenile justice. The Monitor also may have education, training, or experience in general or special education, adolescent health and mental health needs (particularly the needs of institutionalized adolescents), and institutional abuse and incident investigations.

(57) Monitor Access The Monitor shall have full and complete access to the facilities, all facility and OYS records, staff, and residents. The State shall direct all employees to cooperate fully with the Monitor. All non-public information obtained by the Monitor shall be maintained in a confidential manner.



- (58) Monitor Ex Parte Communications The Monitor shall be permitted to initiate and receive *ex parte* communications with all parties.
- (59) Limitations on Public Disclosures by Monitor Except as required or authorized by the terms of this Agreement or the parties acting together, the Monitor shall not: make any public statements (at a conference or otherwise); issue findings with regard to any act or omission of the State or its agents, representatives or employees; or disclose non-public information provided to the Monitor pursuant to this Agreement. Any press statement made by the Monitor regarding his employment must first be approved by the parties. Other than this lawsuit as between the United States and the State, the Monitor shall not testify in any litigation or proceeding with regard to any act or omission of the State, OYS or any of their agents, representatives, or employees, nor testify regarding any matter or subject that he or she may have learned as a result of his or her performance under this Agreement. In this lawsuit as between the United States and the State, either party may call the Monitor as a witness. Neither party will call the Monitor as their own expert or designate the Monitor as their own expert pursuant to the federal rules of civil procedure. The scope and purpose of the Monitor's testimony shall be left to the discretion of the Court. Other than this lawsuit as between the United States and the State, reports issued by the Monitor shall not be admissible against the State in any proceeding for any reason. In this lawsuit as between the United States and the State, the admissibility into evidence of the Monitor's reports, or portions thereof, shall be governed by the federal rules of evidence, and the parties reserve all rights to either seek admissibility or object to admissibility of those reports. The Monitor is not a state or local agency or an agent thereof, and accordingly the records maintained by the Monitor shall not be deemed public records subject to public inspection. In the event of a proceeding before a court, in which the court needs to determine whether or not the Monitor has performed any contracts or subcontracts for monitoring this Agreement, such testimony as is necessary for the determination of such issue(s) may be allowed, in the discretion of the court, notwithstanding this paragraph.
- (60) Limitations on Other Employment by the Monitor Unless such

conflict is waived by the parties, the Monitor shall not accept employment or provide consulting services that would present a conflict of interest with the Monitor's responsibilities under this Agreement, including being retained (on a paid or unpaid basis) by any current or future litigant or claimant, or such litigant's or claimant's attorney, in connection with a claim or suit against the State or its departments, officers, agents or employees.

- (61) Limitations on Monitor's Liability Other than a proceeding regarding whether or not the Monitor has performed any contracts or subcontracts for monitoring this Agreement, neither the Monitor nor any person or entity hired or otherwise retained by the Monitor to assist in furthering any provision of this Agreement shall be liable for any claim, lawsuit or demand arising out of the Monitor's performance pursuant to this Agreement.
- (62) Monitor Reports The Monitor shall provide the parties with reports describing the steps taken by the State to implement this Agreement and evaluate the extent to which the State has complied with each substantive provision of the Agreement. The Monitor shall issue reports every four (4) months, unless the parties agree otherwise. The Monitor shall provide reports to the parties in draft form for comment at least two weeks prior to their issuance. These reports shall be written with due regard for the privacy interests of individual youth and staff and the interest of the State in protecting against disclosure of non-public information. The Monitor's reports, which shall not be filed with the Court, may be made public by the Monitor or by the State or United States. The Monitor may keep confidential any personally-identifiable information, or any information in the interest of privacy or public safety.
- (63) Monitor Budget The State shall provide the Monitor with a budget to be set forth in an agreement with the Monitor. The Monitor may consult experts or consultants retained by either party. All parties shall receive copies of all draft reports from experts to the Monitor prior to the issuance of any Monitor's report, and shall have the option of being present at briefings from such experts to the Monitor and to the State. The Monitor may initiate and receive *ex parte* communications with the parties and with the parties' consultants.

- (64) Technical Assistance by the Monitor The Monitor shall provide the State with technical assistance as requested by the State.

## VII. REPORTING REQUIREMENTS AND RIGHT OF ACCESS

- (65) DOJ Access The DOJ shall have full and complete access to the youth at the facilities. The DOJ shall have full and complete access to the facilities, youth records, staff records, and staff of the facilities regarding the topics addressed in this Agreement. The DOJ shall have the right to conduct unannounced visits to the facilities, provided that the Special Litigation Section will notify the State in the event that the United States Attorney's Office for the District of Hawai'i accesses youth or records at the facility. The DOJ shall have the right to conduct interviews with staff, and confidential interviews with residents and former residents. State attorneys may be present at interviews of staff and tours of facilities. All non-public information obtained by the DOJ shall be maintained in a confidential manner.
- (66) State Response to DOJ Questions The State shall respond to written questions from the DOJ within 30 days of receipt. The State shall provide the DOJ with written answers and access to any requested documents regarding the State's compliance with the requirements of this Agreement. Any dispute regarding the scope or burden of the requests shall be resolved by the Monitor.
- (67) State Documentation of Compliance The State shall maintain sufficient records to document its compliance with all of the requirements of this Agreement. The State shall also maintain (so long as this Agreement remains in effect) any and all records required by or developed under this Agreement.
- (68) State Compliance Reports Thirty (30) calendar days before each report from the Monitor is due, the State shall provide the Monitor and the United States with a status report regarding its compliance with this Agreement.
- (69) Privileges This Agreement shall not be deemed to waive the attorney/client, attorney work product, deliberative process, victim/counselor, or executive privileges. The

State shall not assert physician/patient or psychotherapist/patient privileges with respect to the monitoring of this Agreement.

#### VIII. IMPLEMENTATION AND TERMINATION

- (70) Information to Employees The State shall provide that all current and future relevant State employees understand the terms of this Agreement (to the extent necessary to carry out their job duties and responsibilities) and implement the terms of this Agreement.
- (71) Implementation The State shall implement all reforms necessary to effectuate this Agreement. The State will begin implementation immediately upon the Effective Date of this Agreement. Minor, inconsequential, sporadic, unintentional or isolated harmless instances of noncompliance with the Agreement shall not be a basis for enforcement, provided they do not affect a substantial interest of the youth.
- (72) Integration This Agreement shall constitute the entire integrated Agreement of the parties. With the exception of DOJ's findings letter dated August 4, 2005 related to HYCF, no prior or contemporaneous communications, oral or written, will be relevant or admissible for purposes of determining the meaning of any provisions herein.
- (73) Enforcement If DOJ believes that the State has failed to substantially comply with any obligation under this Agreement, DOJ will give the State written notice of the State's failure prior to reinstating the lawsuit. The parties shall conduct good-faith discussions to resolve the dispute. The parties shall attempt in good faith to mediate the dispute with the Monitor for a minimum of 30 days prior to DOJ seeking the reinstatement of the civil proceeding that this Agreement settled. The terms of this Agreement are not subject to State or federal court enforcement other than the reinstatement of the Complaint that this Agreement settled. DOJ shall have no remedy or action available for the State's alleged breach of this Agreement other than the reinstatement of the Complaint that this Agreement settled. DOJ commits to work in good faith with the State to avoid enforcement actions. However, in case of an emergency posing an immediate threat to the health or safety of youth, the United States may omit the notice and cure requirements

herein, including the provision regarding remediation, before seeking reinstatement.

- (74) Agreement Coordinator The State shall appoint an Agreement Coordinator to coordinate and oversee compliance with this Agreement.
- (75) Termination This Agreement shall terminate three years from the Effective Date of the Agreement. The Agreement may also end earlier than three years from the Effective Date of the Agreement if the State has substantially complied with each of the provisions of the Agreement and has maintained substantial compliance for at least two years. If the DOJ agrees that the State has maintained such compliance, the parties shall file a joint stipulation to dismiss with prejudice. If DOJ does not agree that the State has maintained such compliance, the burden shall be on the State to demonstrate this level of compliance. There are four substantive sections of this Agreement - protection from harm, training, access to medical and mental health care, and special education. A section of the Agreement may be terminated if the State sustains its burden with respect to that section of the Agreement. Noncompliance with mere technicalities, or temporary failure to comply during a period of otherwise sustained compliance will not constitute failure to maintain substantial compliance. At the same time, temporary compliance during a period of sustained noncompliance shall not constitute substantial compliance.
- (76) Defense of Agreement The parties agree to defend the provisions of this Agreement. The parties shall notify each other of any court challenge to this Agreement. In the event any provision of this Agreement is challenged in any local or state court, removal to a federal court shall be sought.
- (77) Successors This Agreement shall be binding on all successors, assignees, employees, agents and all those working for or on behalf of the State.
- (78) No Waiver for Failure to Enforce Failure by either party to enforce this entire Agreement or any provision thereof with respect to any deadline or any other provision herein shall not be construed as a waiver of its right to enforce other deadlines or provisions of this Agreement.

- (79) Notice "Notice" under this Agreement shall be provided by courier or overnight delivery and shall be provided to the Governor of the State and to the Attorney General of the State.
- (80) Unforeseen Delay If any unforeseen circumstance occurs which causes a failure to timely carry out any requirements of this Agreement, the State shall notify the DOJ in writing within 20 calendar days of the time that the State becomes aware of the unforeseen circumstance and its impact on the State's ability to perform under the Agreement. The notice shall describe the cause of the failure to perform and the measures taken to prevent or minimize the failure. The State shall implement all reasonable measures to avoid or minimize any such failure.
- (81) Non-Retaliation The State agrees that it shall not retaliate against any person because that person has filed or may file a complaint, provided information or assistance, or participated in any other manner in an investigation or proceeding relating to this Agreement. The State is not precluded from taking appropriate action where an individual knowingly asserts a false complaint or makes knowingly false statements.
- (82) Subheadings All subheadings in this Agreement are written for convenience of locating individual provisions. If questions arise as to the meanings of individual provisions, the parties shall follow the text of each provision.
- (83) Severability In the event any provision of this Agreement is declared invalid for any reason by a court of competent jurisdiction, said finding shall not affect the remaining provisions of this Agreement.
- (84) Attorney's Fees and Expenses Each party shall bear the cost of their fees and expenses incurred in connection with this cause.

FOR THE UNITED STATES:

/s/ Edward H. Kubo, Jr.

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EDWARD H. KUBO, JR.  
United States Attorney  
District of Hawai'i

/s/ Wan J. Kim

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WAN J. KIM  
Assistant Attorney General  
Civil Rights Division

/s/ Harry Yee

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HARRY YEE  
Assistant United States Attorney  
District of Hawai'i

/s/ Bradley J. Schlozman

---

BRADLEY J. SCHLOZMAN  
Principal Deputy Assistant  
Attorney General

/s/ Shanetta Y. Cutlar

---

SHANETTA Y. CUTLAR  
Chief  
Special Litigation Section

/s/ Judy Preston

---

JUDY PRESTON  
Deputy Chief  
Special Litigation Section

/s/ Sarah Gerhart

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SARAH GERHART  
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FOR THE STATE:

/s/ Linda Lingle

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LINDA LINGLE  
Governor  
State of Hawai'i

/s/ Mark J. Bennett

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MARK J. BENNETT  
Attorney General  
State of Hawai'i

/s/ Lillian B. Koller

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LILLIAN B. KOLLER  
Director  
Department of Human Services

/s/ Sharon Agnew

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SHARON AGNEW  
Executive Director  
Office of Youth Services

/s/ Patricia Hamamoto

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PATRICIA HAMAMOTO  
Superintendent  
Hawai'i Department of Education

Date: February 7, 2006



FY 07 DOJ Budget and Budget for DOJ for FY 07-08

	FY 07 DOJ Budget	Less Non-recurring Costs	FY 08 Base Budget	Position, Recurring Ex. & Equip. Request 1	New Vehicles Request 2	Add Correct. Supervisor Request 3	Convert Temp to Perm. Corr Sup Request 4	Add Grievance Officer Request 5	Total
<b>Payroll</b>									
Investigator	65,000		65,000						65,000
Para Legal	55,000		55,000						55,000
Personnel Mgmt Spec	55,000		55,000						55,000
Contract Spec	55,000		55,000						55,000
Data Analyst	65,000		65,000						65,000
Data Specialist	55,000		55,000						55,000
Admin Assistant	30,000		30,000						30,000
4 YCS	164,304		164,304						164,304
2 Training Staff	110,000		110,000						110,000
Clerical	25,000		25,000						25,000
Education Spec	55,000		55,000						55,000
Add Security Officer			-	55,000					55,000
Add Corrections Supervisor I (CSI)			-			53,628			53,628
Convert Temp to Perm CSI			-						-
Add Grievance Officer			-					53,628	53,628
Training overtime	243,425		243,425						243,425
Suicide Precautionary OT	53,500		53,500						53,500
Increased operational costs	827,000		827,000						827,000
	<u>1,858,229</u>	<u>-</u>	<u>1,858,229</u>	<u>55,000</u>	<u>-</u>	<u>53,628</u>	<u>-</u>	<u>53,628</u>	<u>2,020,485</u>
<b>Other Current Expenses</b>									
<b>Contracts</b>									
<b>OYS EDIR/PDO</b>									
Contract parole monitoring services in communities divided into 8 districts.	400,000		400,000						400,000
IT consulting contract	250,000	(250,000)	-						-
Contract for secured transportation & supervision of youth to prevent taking direct care staff off the floor and reducing supervision staff.	45,000	(45,000)	-	45,000					45,000
Inter-agency agreement to provide specialized service to expedite background checks of employee candidates for HYCF.	67,700	(67,700)	-	67,700					67,700
Inter-departmental memorandum of agreement to provide DOH assistance and compensation for time on project	20,000		20,000						20,000
Clinical Director	85,000		85,000						85,000
2 contracts to do Sick Leave Reduction Initiative	30,000	(30,000)	-	30,000					30,000
Incentive and graduated sanctions p Transportation, video	157,000	(157,000)	-	157,000					157,000
conferencing, surrogate services	60,000		60,000						60,000
Independent monitoring contract or i Physicals for YCO candidates	25,000		25,000						25,000
				4,160					4,160
	<u>1,139,700</u>	<u>(549,700)</u>	<u>590,000</u>	<u>303,860</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>893,860</u>
<b>Training Contract</b>									
Behavior Gp Counseling	35,000	(35,000)	-	35,000					35,000
Physical Restraint Recert.	10,000	(10,000)	-	10,000					10,000
Gender Sensitivity	10,000	(10,000)	-	10,000					10,000
Crisis Inter & Ver fr Train	50,000	(50,000)	-	25,000					25,000
CPR & F Aid for Train	5,000	(5,000)	-	2,000					2,000
Suicide Prev for Train	10,000	(10,000)	-	10,000					10,000
Safe Culture for Train	5,000	(5,000)	-	2,000					2,000
Water Safety & Life Gd	5,000	(5,000)	-	5,000					5,000
	<u>130,000</u>	<u>(130,000)</u>	<u>-</u>	<u>99,000</u>					<u>99,000</u>

<b>OYS</b>									
Phone	8,400	(8,400)	-	7,200	-	-	-	-	-
Mileage	4,900	(4,900)	-	4,200	-	-	-	-	-
PbS	4,000		4,000						4,000
Russell Van Vleet contract	112,500		112,500						112,500
Legal consultant	50,000		50,000						50,000
Alex Escarcega contract	169,000		169,000						169,000
	<u>348,800</u>	<u>(13,300)</u>	<u>335,500</u>	<u>11,400</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>346,900</u>

<b>HYCF</b>									
Internet connection	7,000	(7,000)	-	2,000	-	-	-	-	2,000
Supplies (Proj Dir)	1,000	(1,000)	-	1,000	-	-	-	-	1,000
Office Renovation (Proj Dir)	5,000	(5,000)	-		-	-	-	-	-
Supplies (Training)	22,000	(22,000)	-	22,000	-	-	-	-	22,000
Travel (Training)	5,000	(5,000)	-	5,000	-	-	-	-	5,000
Phone	4,640	(4,640)	-	4,640	-	-	-	-	4,640
Mileage	3,800	(3,800)	-	3,800	-	-	-	-	3,800
Supplies (Intake/class instru & sup)	8,000	(8,000)	-	8,000	-	-	-	-	8,000
Supplies (HYCF Records Mgmt)	4,000	(4,000)	-	4,000	-	-	-	-	4,000
Increased operational costs	345,700		345,700						345,700
	<u>406,140</u>	<u>(60,440)</u>	<u>345,700</u>	<u>50,440</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>396,140</u>

<b>OYS</b>									
Computers	22,000	(22,000)	-		-	-	-	-	-
Equipment (Furn for new emp)	10,500	(10,500)	-		-	-	-	-	-
Other Equipment (Investigator)	2,500	(2,500)	-		-	-	-	-	-
	<u>35,000</u>	<u>(35,000)</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>

<b>HYCF</b>									
Computers	46,000	(46,000)	-		-	-	-	-	-
Equipment (Furn for new emp)	14,500	(14,500)	-		-	-	-	-	-
Other Equipment (Proj Dir)	3,500	(3,500)	-		-	-	-	-	-
Other Equipment (Training)	79,400	(79,400)	-	49,200	-	-	-	-	49,200
Other Equipment (Fiberglass beds)	30,000	(30,000)	-		-	-	-	-	-
Request for Vehicles					142,000	-	-	-	142,000
	<u>173,400</u>	<u>(173,400)</u>	<u>-</u>	<u>49,200</u>	<u>142,000</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>191,200</u>

<b>Variance</b>									
Electrical for Hookipa Makai Sch	17,011	(15,111)	1,900						1,900
	<u>17,011</u>	<u>(15,111)</u>	<u>1,900</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>1,900</u>

<b>Sub-total Other Current Expense</b>	<u>2,250,051</u>	<u>(976,951)</u>	<u>1,273,100</u>	<u>513,900</u>	<u>142,000</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>1,929,000</u>
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<b>Total DOJ Budget "A" &amp; "B"</b>	<u>4,108,280</u>	<u>(976,951)</u>	<u>3,131,329</u>	<u>568,900</u>	<u>142,000</u>	<u>53,628</u>	<u>-</u>	<u>53,628</u>	<u>3,949,485</u>
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Does not include Project Dir salary which is in HMS 501

**ATTACHMENT C**

**Memorandum of Agreement  
between  
The United States  
and  
The State of Hawaii**

**November 15, 2006**

**Russell K. Van Vleet, MSW  
Lindsay M. Hayes, MS  
Peter M. Leone, PhD**

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Memorandum of Agreement  
Between  
The United States  
And  
The State of Hawaii

**INTRODUCTION**

This is the second report to be issued by the Monitor in response to the Memorandum of Agreement between the United States and the State of Hawaii.

This report covers the time period commencing July 25, 2006 through November 15, 2006. The monitor will continue to issue reports every 4 months at least during the first year of reporting. The report is divided into Substantive Remedial Measures: Protection from Harm; Training; Access to Medical and Mental Health Care; Special Education; and Compliance and Quality Improvement. Fifty-three Individual Provisions make up the settlement agreement with each rated as to compliance. Ratings are Substantial Compliance, Partial Compliance, Non-Compliance or Not Reviewed.

During the initial eight months of the monitoring an emphasis has been on developing and ratifying policies and procedures in each area of the HYCF and in direct response to the 53 provisions of the Memorandum of Agreement. The following statement has been provided by the OYS in response to the monitor's request for a progress report on those policies and procedures.

“The Office of Youth Services (OYS), through its HYCF Improvement Project Director, Etene Taimalelagi worked in collaboration with consultants, the OYS and HYCF staff to develop approximately 165 new policies designated as ‘(Draft) effective date 9/30/06,’ for the youth facility. While old policies existed, many were obsolete and no longer provided for the level of care to meet current national standards.

Core policies have been written to address critical areas of the Memorandum of Agreement between the United States and the State of Hawai'i. These policies incorporate the changes required to meet compliance for the protection from harm, including suicide prevention, staff abuse and youth assaults, and training. All core policies have been reviewed by the state's monitor and the department of Justice's (DOJ) legal representative. As a result of their review, all changes and/or recommendations have been incorporated into these existing draft policies as of the monitor's October, 2006 visit.

It should be noted that the state has applied aggressive efforts in meeting the requirements of current and effective policies which are the foundation for meeting DOJ compliance. The drafts are undergoing facility and

administrative review. Once that is completed, they will undergo union consultation. Upon ratification by the Youth Facility Administrator, training on policies can be implemented.

Policies remaining to be completed include those required by the MOA under Investigations (Paragraphs 19-21), and the subsections entitled Access to Medical and Mental Health Care, and Special Education. Technical assistance for medical policies is being arranged for through the state's Department of Health. In addition the OYS has requested Arizona's policies for an investigation tracking system that incorporates all aspects of the protection from harm referenced in the MOA.

All remaining policies are expected to be underway by the next monitor's report."

It is important to recognize that the Department of Justice reviews and comments on these policies as they are developed. However, the DOJ has not given final approval to the draft policies and procedures and will not do so until all of the revised policies and procedures are reviewed and confirm that they comply with minimal constitutional protections.

Lindsay M. Hayes, M.S. again reviewed the agency's response to his recommendations contained in the first report. In addition, Peter Leone, Ph.D. provided on site technical assistance regarding Special Education provisions 44 through 49.

The remaining provisions are rated and discussed by Russell K. Van Vleet, the person selected by both parties to monitor this settlement agreement.

The monitor wishes to acknowledge the complete cooperation of the Office of the Attorney General, Mark Bennett, Lisa Ginoza, Heidi Rian and Blair Goto. The Office of Youth Services, Sharon Agnew Director, the Hawaii Youth Correctional Facility (HYCF) Administrator, Kaleve Tufono-Iosefa and Alex Escarcega, Special Assistant to the OYS and the HYCF. Also, the many staff from the HYCF, including the medical, mental health, social work, and the education staff who spent hours during the site visits sharing their expertise with the monitor and others charged with developing this report, including the many Youth Correctional Officers (YCO's) and supervisors (YCS's) who shared their expertise, views and concerns about the status of the facility.

At the conclusion of the second site visit for the second report a de-briefing was held with representatives of the Attorney General's Office, Lisa Ginoza, Heidi Rian and Blair Goto, and representatives of the OYS, Sharon Agnew and the HYCF, Kaleve Tufono-Iosefa, Alex Escarcega, and Etene Taimalelagi.

After the issuance of the first report a strong recommendation was made that de-briefings be held at least monthly with the Attorney General's office regarding the progress of the

HYCF in reaching compliance and responding to the Monitor's recommendations. Those meetings have been held during the course of this last reporting period.

## **DEFINITIONS OF RATINGS**

Compliance with the Agreement requires that The Office of Youth Services (OYS) demonstrate substantial compliance for each of the substantive remedial measures at the Hawaii Youth Correctional Facility (HYCF). In this report, the Monitor describes the steps taken by the OYS to implement the remedial measures and the extent to which the OYS has complied with the requirements of the Agreement. In assessing compliance, the Monitor utilizes the following terms, which have been agreed upon by the parties:

Substantial Compliance: Substantial Compliance with all components of the rated provision. Non-Compliance with mere technicalities, or temporary failure to comply during a period of otherwise sustained compliance will not constitute failure to maintain substantial compliance. At the same time, temporary compliance during a period of sustained non-compliance shall not constitute substantial compliance.

Partial Compliance: Compliance has been achieved on most of the key components of the Agreement provision at the HYCF, but substantial work remains.

Non-Compliance: Non-compliance with most or all of the components of the Agreement provision at the HYCF.

Not Reviewed: This rating is given if the Monitor due to time constraints in the reporting period could not adequately review it.

## **SUBSTANTIVE REMEDIAL MEASURES**

### **A. PROTECTION FROM HARM (SUICIDE PREVENTION)**

**(1) Development and Implementation of Policy.** The state shall develop and implement appropriate policies, procedures, and practices relating to suicide prevention, intervention, and supervision as set forth in this Agreement.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

The currently drafted HCFY suicide prevention policy needs to be completed revamped. First, it is strongly recommended that *Suicide Alert Explanation of Terms* (Policy No. 1.35.59) and *Suicide Alert and Precaution* (Policy No. 1.35.63) be collapsed into one policy. Second, it is strongly recommended that the new policy contain the following critical components: training, intake screening/ assessment, communication, housing, levels of observation, intervention, reporting, and morbidity/mortality review. Attached for consideration as Appendix C is a *Model Juvenile Suicide Prevention Policy*

(previously developed by the monitoring team). The attached policy is consistent with the conditions of this Memorandum of Understanding

**Status: Completed**

Policy has been revamped as recommended including the essential elements outlined in the Appendix C: A Model Juvenile Prevention Policy. Additionally, references will be made to CIP Projects intended to enhance observation and safety. Input was given by the Family Court Liaison Branch (FCLB). Draft was sent to the monitor. Request to DOJ for input and to be returned to HYCF. Upon receipt draft will be distributed to Quality Assurance Team (QAT)

**Status: Completed**

**Recommendation:** Complete QA for review during next reporting period.

**Documentation:** Meeting with Rachael Guay, Dr. Hirsch, Sharon Agnew, Kaleve Tufono-Losefa, Alex Escarcega, Review of FCLB (Mental Health Unit) 9/22/06 updates for DOJ Memorandum of Agreement (1-13 Protection From Harm-Suicide Prevention) Review of newly drafted policy 1.35.63, Juvenile Suicide Prevention Policy. Second Compliance Report, October 14, 2006.

**(2) Identification of Youth at Risk of Suicide.** The state shall develop and implement policies and procedures pertaining to the screening of youth in order to:

**Rating: Partial Compliance**

**Recommendations and Corrective Action From the 1<sup>st</sup> Report:**

First, it is strongly recommended that, at a minimum, suicide risk inquiry upon admission, include specific inquiry regarding: 1) past suicidal ideation and/or attempts; 2) current ideation, threat, plan; 3) prior mental health treatment/hospitalization; 4) recent significant loss (job, relationship, death of family member/close friend, etc.); 5) history of suicidal behavior by family member/close friend; 6) suicide risk during prior confinement; and 7) arresting/transporting officer(s) belief that the youth is currently at risk.

**Status: Completed** Suicide risk inquiry at intake to include 7 bullets listed. FCLB revised suicide risk screening form with more specifics as suggested and medical is in agreement to use this form in lieu of the one they are currently using. The FCLB is utilizing the revised form. It is also suggested that Bullet number 7 be incorporated as part of intake worker's task to ask escorts their opinion if they think the youth is suicidal. Documentation should be entered in the chronological record. In addition, a Clinical Advisor position has been created. The scope of services will include oversight for the delivery of services to youth to include; intake, program integration, behavior modification and transitional services.

Second, it is strongly recommended that either the "Mental Health Assessment" or "Medical History Form" administered by medical staff be revised to include sufficient inquiry regarding suicide risk.

**Status: Completed** FCLB utilizing revised form FCLB and Medical unit met on 9/14/06 and agreed to use common form for suicide risk screening



Third, it strongly recommended that the Suicide Risk Screening form be revised (as described in Recommendation No. 1) and incorporated into the Psychiatric Risk Screening/Assessment Form.

**Status: Completed** Form has been revised to include items in #1. Dr. Hirsch has met with the medical unit and they will begin utilizing the same suicide risk assessment form.

Fourth, HYCF officials should clarify whether the Pertinent Information Sheet is required to be completed by the probation officer, cottage staff, or intake social worker. Further, HYCF draft Policy No. 1.47.05 (Intake Process) should be revised to ensure that a copy of the Pertinent Information Sheet is also forwarded to FCLB's mental health personnel.

**There is not, at the present time, any agreement to require the courts to send the material. There is an expectation that the material will be provided but when it is not the youth is still accepted.**

Fifth, it is strongly recommended that HYCF draft Policy No. 1.47.05 (Intake Process) be revised to incorporate the above recommendations, as well as to fully describe the intake screening process

**Status: Completed**

**Recommendation:** Implement the revised policies and forms for review during the next monitoring period.

**Documentation:** See #1

**(2(a))** Place all newly arrived youth under heightened observation until they can be assessed by a qualified mental health professional, except those youth who had previously been in the facility within the last 60 days need not be placed under heightened observation if they had not been subject to any suicide precautions in their last stay at the facility and if there is no indication that the youth is contemplating self-harm.

**Rating: Partial Compliance**

**Recommendations and Corrective Actions from the 1<sup>st</sup> Report:**

With the acknowledgement that all youth are potentially at risk of suicide upon entry into a juvenile facility, this Provision could be satisfied if the HYCF revised its policies and procedures to require all newly admitted youth be placed on close observation status or observed at 15-minute intervals until they are assessed by mental health staff. It is also strongly recommended that HYCF draft Policy No. 1.47.05 (Intake Process) be revised, approved, and implemented.

**Status: Completed**

**Discussion:** The HYCF suicide prevention policy has been revised to include a requirement that all newly admitted youth be placed on close observation status or observed at 15-minute intervals until they are assessed by mental health staff. In addition, the Maluhia cottage has been opened in order to provide direct and continual observation for any female youth requiring such action.

**Recommendation:** Provide documentation of observation process including the assessments by MH staff.

**Documentation:** See #1

**(2(b))** Request from the Oahu Family Court and the Hawai'i Juvenile Detention Center all mental health reports for each newly-arrived youth within one week of the youth's arrival.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from the 1<sup>st</sup> Report:**

Several recommendations are offered. First, both HYCF Policy No. 1.17.01 (Requirements for Admission) and HYCF draft Policy No. 1.47.09 (Assessment and Evaluation), need to be revised to ensure that pertinent records are obtained, not simply requested, within seven (7) days of admission. For example, 4.0.1d of Policy No. 1.17.01 (Requirements for Admission) should be revised to read: "No youth, under any circumstances, shall be admitted to HYCF without a certified copy of the Mittimus, and the Pertinent Information Sheet. All other documents shall be received within seven (7) days."

**Status: Not Completed - In process**

**Discussion:** An initial meeting has been held with the Family Court Administrator for the First Circuit. A Memorandum of Understanding is being sought that will clarify the issue of requesting or requiring information regarding youth placed at the HYCF. The statutory requirements that may serve as a basis for requiring information is currently under review with assistance from the Attorney General's Office.

Second, it is strongly recommended that a Discharge Summary form, completed by appropriate medical and/or mental health personnel at the Hawaii Juvenile Detention Center, be submitted for each youth and document any pertinent medical, mental health, or suicide risk during detention. The revised HYCF Policy No. 1.17.01 (Requirements for Admission) should reflect the requirement for a discharge summary form.

**Status: Not Completed**

Third, it is strongly recommended that a corrective action plan be developed to address situations in which the HYCF will receive pertinent mental health records of youth who were not in detention and/or not receiving services from the Family Guidance Center, but receiving such services from other providers.

**Status: Not Completed**

Fourth, even when enacted, HYCF Policy No. 1.17.01 (Requirements for Admission) is still not enforceable to outside agencies and providers that commit/refer youth to HYCF. As such, it is strongly recommended that a Memorandum of Understanding be created between the Office of Youth Services and the family courts of each of the Hawaiian Islands (not only the Oahu Family Court) that commits youth to the HYCF.

**Status: Not Completed**

**Discussion:** For youths from the detention home (DH) who are not Family Guidance Centered (FGC)-registered, the recommendation is to secure HYCF MOA with Family Court/ Detention Home (FC/DH) and for probation officers to include such materials in the admission packet. Second Recommendation is to include in the MOA the 7-day benchmark to receive all pertinent information, including Discharge Summary forms of youth's behaviors and issues while at DH. For youth not coming from DH. Recommendation is to include in the MOA the requirement to have the probation officer

(PO) include that material in the intake packet. During the October site visit Attorney General's office notified of the need for MOA.

**Recommendation:** Continue to work on recommendations from the 1<sup>st</sup> report.

**Documentation:** Meeting with Rachael Guay, Dr. Hirsch and review of FCLB (Mental Health Unit) 9/22/06 updates prepared by Rachael Guay. Second Compliance Report, October 14, 2006.

(2(c)) Place youth on Precautionary Direct Supervision when the youth has a documented history of suicide attempts or self-harm, has declared that he or she has recently contemplated or attempted suicide or Self-Harm, or has expressed or communicated a suicidal or Self-Harming plan.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from the 1<sup>st</sup> Report:**

First, it is strongly recommended that Precautionary Direct Supervision (i.e., continuous, direct eyeball observation) be utilized for youth who are assessed to be actively suicidal, either threatening or engaging in self-injurious behavior. In addition, all youth identified at intake with a history of suicidal behavior should be placed on close observation status until they are assessed by mental health staff.

**Status: Completed** FCLB forms have been revised to use Precautionary Direct Supervision as stipulated.

**Discussion:** The state is required to place all youth who have a history of suicide attempts or self-harm on precautionary direct supervision during the time period between intake and a thorough assessment by a qualified mental health professional (QMHP). Forms have been revised to allow Precautionary Direct Supervision but the monitor previously recommended that youth who have a history of suicide attempts be placed on close observation during this period. In order to comply with the recommendation for precautionary direct supervision the MOA would have to be amended.

**Recommendation:** Due to this inconsistency it is recommended that the parties consider an amendment of the MOA with regard to this issue.

Second, Policy No. 1.35.63 should be revised to require HYCF and FCLB officials to track all prior suicidal behavior (not limited to a six-month period), and then allow mental health personnel the discretion to determine whether, based on such prior behavior, the youth should be placed on Suicide Alert status (either close observation or precautionary direct supervision).

**Status: Partially Completed**

**Discussion:** Risk assessment protocol includes asking youth about prior history of suicidality and also records are reviewed to the extent that they are available or made known to be available. Risk assessments are done on each youth at intake upon notification from HYCF. Currently FCLB tracks suicidal history of youth at HYCF. There needs to be a shared data tracking mechanism in place for collection, analysis, and info sharing on youth with prior history. FCLB also suggests that social work administration and/or support staff notify FCLB of receipt of related information or documents not available at intake when received.

Third, although maintaining the “FCLB Suicidality Roster” that tracks youth with a history of suicidal behavior within the past six months is no longer necessary, HYCF and FCLB officials must devise a system to track all prior suicidal behavior of youth while confined in the HYCF.

**Status: Completed**

**Discussion:** FCLB created and utilized the Daily Suicidality roster and distributes it through out the facilities. Also, a daily roster of youths on precautions are distributed daily following MH daily assessments of youths. It is suggested that a shared data base be created for storing this information. This can be accomplished by the FCLB when it is fully staffed.

**Recommendation:** Develop shared data tracking mechanism for collecting youth histories.

**Documentation:** Meeting with Rachael Guay, Dr. Hirsch at September site visit. FCLB 9/22/06 updates prepared by Rachael Guay. Second Compliance Report, October 14, 2006.

**(2(d))** Place youth on Close Observation when the youth reasonably appears to be at risk of suicide or Self-Harm but has no history of recent suicide or Self-Harm attempts and does not acknowledge a suicidal or Self-Harming plan.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from the 1<sup>st</sup> Report:**

It is strongly recommended that Policy No. 1.35.63 be substantially revised as recommended in Provision 1.

**Status: Completed**

**Discussion:** Revisions to the draft policy have been completed consistent with Provision 1. HYCF and FCLB are working collaboratively in addressing close observations requirements as required. During the September site visit one female youth was observed in close observation due to self-mutilating behavior. This was in the newly opened Maluhai cottage.

**Recommendation:** Continue to document use of close observation for compliance purposes.

**Documentation:** Meeting with Rachael Guay during September site visit. FCLB 9/22/06 updates document. Second Compliance Report, October 14, 2006.

**(2(e))** Create a system whereby mental health and medical staff have access to centralized medical and mental health records for youth in their care.

**Rating: Non-Compliance**

**Recommendations and Corrective Action from the 1<sup>st</sup> Report:**

It is strongly recommended that HYCF create a system whereby mental health and medical staff have access to centralized medical and mental health records for youth in their care. Further, confidential mental health evaluations from *any* provider should never be stored in the security file, and must always be kept in the health care record (medical/mental health file).

**Status: Not Completed**

**Discussion:** HYCF continues in non-compliance in this area. The attorney General's office will research statutory requirements and provide guidance and direction to the OYS and HYCF.

**Recommendation:** Have Attorney General's Office report on statutory requirements and offer guidance to compliance in this area during the next reporting period.

**Documentation:** FCLB 9/22/06 updates document prepared by Rachael Guay.

Discussion at the September site visit. Second Compliance Report, October 14, 2006.

(2(f)) Require that all HYCF mental health staff appropriately utilize progress notes to document interactions with and/or assessment of suicidal youth.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from the 1<sup>st</sup> Report:**

It is strongly recommended that HYCF officials develop and maintain a policy (e.g., Policy No. 1.35.63) that requires mental health personnel to utilize progress notes in documenting the interactions with and/or assessment of suicidal youth. A copy of the progress notes should be forwarded to medical staff immediately after review by the Mental Health Director.

**Status: Partially Completed**

**Discussion:** This has always been the practice at the HYCF but since the recommendation efforts to make it a more consistent practice have been undertaken. Psychiatric progress notes on all youths are faxed to medical per episode as soon as possible. (Generally the same day or the next business day if the MD has not counter signed.) A suggestion at the September site visit is to have a problem-solving session with the medical unit to assure receipt of progress notes and to develop a process to see that the notes are made available to appropriate staff

**Recommendation:** Follow-through on suggestion that sessions be held with the medical unit to assure receipt of progress notes and tht they are made available to appropriate staff.

**Documentation:** Discussion with Rachael Guay at September site visit. Review of FCLB 9/22/06 updates prepared by Rachael Guay. Notes from Second Compliance Report, October 14, 2006.

(2(g)) Facilitate appropriate communication between direct care, medical and mental health personnel and outside providers of medical and mental health regarding the needs of suicidal youth.

**Rating: Partial Compliance**

**Discussion: Recommendations and Corrective Action from the 1<sup>st</sup> Report:**

First, it is strongly recommended that HYCF and FCLB reinstate the Youths Currently on Suicide Alert Form. The form should be updated by FCLB on a daily basis and distributed as an attachment to the HYCF Ward Roster to all appropriate personnel.

**Status: Completed**

**Discussion:** The form has been revised to use "Precautionary Direct supervision" and "Close Supervision". Any youth on suicide alert status is noted on the form and faxed immediately to various sections of HYCF, to include: Medical unit, respective school head teacher, respective facilities SW, CS-1 and to respective FGC if involved. It is updated daily. On Sundays Dr. Hirsch does a call in and if needed he or the resident on-

call does a face-to-face otherwise a communications are made with the nurse on-duty and the YCO's to determine continuation of level of care in place. In cases like these, decisions are made on the conservative side, if needed until the following day of assessment. FCLB is still challenged by staffing shortages. Upon full compliment of staffing, FCLB will be able to do better in-person coverage on the weekends, etc.

Second, until such time that HYCF and FCLB develop an integrated file health care system, all pertinent mental health records regarding the assessment and management of suicidal youth should be forwarded to medical staff for inclusion into the youth's medical record.

**Status: Completed**

**Discussion:** Currently the medical unit continues to receive the psychotropic medication list weekly; copy of all initial risk assessments done at intake; copies of all psychiatric progress notes upon review of the clinical director; copies of all suicidal alert forms; copy of comprehensive mental health services report which emanates from weekly CCR meetings. FCLB has met with Nurses Hadley and Storrer. As a result of the initial meeting there is agreement for medical unit nurses to use FCLB's suicide risk screening form (revised) for times they do the screening at intake when MH may not be available. Results of the screening are sent to Dr. Hirsch immediately for review. Any urgent needs are communicated to Dr. Hirsch via his cell phone.

Third, it is strongly recommended that, at a minimum, both HYCF medical and social work staff attend the FCLB Clinical Treatment Team meetings on a weekly basis.

**Status: Not Completed**

**Discussion:** Current practice has FCLB participating in weekly diagnostic meetings, ISPR meetings 3 times a week, MDT, IEP and CSP meetings as needed.

Fourth, it is strongly recommended that the Suicide Alert Form for Secure Programs (Form 202) be revised to ensure its consistency with revisions in Policy No. 1.35.63 (e.g., delete referenced to "non-lethal and overt precautions, etc.).

**Status: Completed**

Fifth, it is strongly recommended that HYCF discontinue the practice of utilizing separate unit logs for each shift and implement a practice by which one unit log book is utilized to continuously document the activities of all three shifts.

**Status: Completed**

**Discussion:** HYCF has discontinued the practice of utilizing separate unit log books for each shift. Staff received training on making the transition to documenting all activities in a single log book. During the September site visit the monitor viewed single log books in each unit of the facility. Staff received training on making the transition to documenting all activities in a single log book. Response by staff in the units was very positive to the change.

**Recommendation:** Implement third recommendation

**Documentation:** Discussion with Alex Escarcega and Kaleve Tufono-Iosefa during the September, 2006 site visit. Comments in the Second Compliance Report, October 14, 2006. ICF of 9/15/06 from Kaleve Tufono-Iosefa to all sections/Unit supervisors/Olomana School/Department of Health/FCLB regarding compliance with

provision 2(g). ICF dated 9/25/06 from Kaleve Tufone-Iosefa regarding log book training. HYCF policy 1.63.29 Logbooks (Draft) effective 9/30/06, under review.

**(3) Suicide Risk Assessments, Evaluations, and Review of files by Mental Health Staff.** The State shall develop and implement policies and procedures so that:

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

It is strongly recommended the HYCF and FCLB revise policies 1.35.63 and 1.47.09 to ensure that they are in need of revision to adequately address suicide risk assessment and evaluation. At a minimum, the policies should require that: "Within 14 days of admission into the facility, all youth shall receive post-admission mental health screening by mental health staff. The screening shall include inquiry into history of psychiatric treatment, violent and suicidal behavior, victimization, learning disabilities, cerebral trauma or seizures, and sex offenses; and current mental status, psychotropic medication, suicidal ideation, drug and alcohol use, and orientation to person, place, and time; and emotional response to incarceration."

**Status: Partially Completed**

**Discussion:** FCLB has revised RA form to include listed items. Dr. Martin Hirsch, Clinical FCLB Clinical Director is overseeing youth placed on suicide alert including 24 hour assessments. Information regarding imminent suicide or self harm is addressed immediately. Other items are completed within the 14 days. FCLB reviews the documents available, observes youth in program, gathers information from direct care staff before writing assessment summary with 14 days. A formal protocol is needed for this process. This process is in place and HYCF (medical) and FCLB continue to work collaboratively to address weekend coverage.

**Recommendation:** Develop a formal process for suicide alert status

**Documentation:** Discussion with Rachael Guay and Dr. Martin Hirsch during the September site visit. Review of FCLB 9/22/06 updates document prepared by Rachael Guay. Second Compliance Report October 14, 2006.

**(3(a))** Qualified mental health professionals conduct timely suicide risk assessments using reliable instruments (including but not limited to the MAYSI assessment); (1) for all youth exhibiting behavior which reasonable may indicate suicidal ideation (2) within 24 hours of the initiation of suicide precautions; (3) when determining whether to change the level of suicide precautions; and (4) when determining whether to remove suicide precautions.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

First, in addition to revising the suicide risk screening and assessment tools as described above, it is strongly recommended that all youth placed on Suicide Alert status be reassessed every 24 hours, regardless of if they are on Precautionary Direct Supervision or Close Observation.

**Status: Partially Completed**

**Discussion:** This is in place but with some challenges due to some continued staff shortages on weekends. Dr. Hirsch (by phone) works with medical staff on duty for the reassessment. If merited he will do face-to-face. The Department of Health has taken steps to provide adequate staffing to assure timely suicide risk assessments and mental

health care plan development coverage seven days per week. Monies have been allocated, positions need to be filled. This will not be in compliance until staffing shortages are resolved.

Second, it is strongly recommended that HYCF officials make a concerted and reasonable attempt to identify temporary office space in the housing units (e.g., the social worker offices when not occupied) so that mental health personnel can conduct assessments in private.

**Status: Not Completed**

**Discussion:** Mental health personnel presently conduct assessments in the medical unit. Currently this is the only space deemed appropriate with reasonable privacy. HYCF is continuing to explore other options.

**Recommendation:** Continue to work on recommendations from the 1<sup>st</sup> report

**Documentation:** FCLB 9/22/06 updates prepared by Rachael Guay. Discussions with HYCF administrators, medical unit staff, MH staff during September site visit. Second Compliance Report October 14, 2006.

**(3(b))** Qualified mental health professionals evaluate youth who attempt or commit Self-Harm or have a history of Self-Harm.

**Rating: Partial Compliance**

**Recommendations and Corrective Action for 1<sup>st</sup> Report:**

Revise and implement newly drafted policies (No. 1.35.63 and Policy 1.47.09).

**Status: Completed**

**Discussion: Revisions have been verified. Implementation will need monitoring.**

**Recommendation:** None at this time.

**Documentation:** Site visit review with EteneTaimalelagi. Second Compliance Report October 14, 2006.

**(3(c))** Mental health staff thoroughly review as appropriate all of a youth's files, including medical files and any case files, for documentation of any prior suicidal or Self-Harming behavior upon intake and again whenever the youth is placed on suicide precautions.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

Revise and implement newly drafted policies (No. 1.35.63 and Policy 1.47.09).

**Status: Completed**

**Discussion:** Implementation will require further monitoring.

**Recommendation:** None at this time.

**Documentation:** Site visit review with EteneTaimalelagi. Second Compliance Report October 14, 2006.

**(4) Placement of Youth on Suicide Precautions.** The State shall develop and implement policies and procedures so that any staff member who identifies a youth as suicidal immediately shall place the youth on suicide precautions and refer the youth to a qualified mental health professional for assessment.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**



Revise and implement newly drafted Policy No. 1.35.63. It is also strongly recommended that the current practice of direct care staff initially locking down suicidal youth in their room in safety smocks until they are assessed by mental health personnel be immediately discontinued.

**Status: Completed**

**Discussion:** Revisions to the draft policies have been completed and an administrative directive has been issued. Regarding the safety smocks. The practice of placing youth in their rooms in safety smocks has mostly been discontinued. According to a discussion during the September site visit staff, on occasion, continue to place youth in the safety smocks. If they do, they must document the reason. This is being reviewed currently.

**Recommendation:** Continue to work on the issue of use of smocks and determine if occasional usage by staff will be acceptable.

**Documentation:** Interview with Rachael Guay during the September site visit. Comments on FCLB 9/22/06 updates prepared by Rachael Guay. Second Compliance Report October 14, 2006.

**(5) Mental Health Response to Suicidal and Self-Harming Youth.** Where a qualified mental health professional makes a determination that a youth represents a continuing risk of suicide or Self-Harm to himself, the qualified mental health professional shall write a plan for monitoring, intervention and care, and re-evaluation of the youth (“Mental HealthCare Plan”). The Mental Health Care Plan shall provide that youth discharged from suicide precautions receive adequate follow-up treatment within the facility, according to the clinical judgment of the qualified mental health professional.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

It is strongly recommended that either Policy No. 1.35.63 be revised or a new policy developed to address the development of treatment planning for youth on Suicide Alert status. The policy should be consistent with the provisions of Section Y-G-01 (Special Needs Treatment Plans) in NCCHC’s standards. In addition, the policy should establish a protocol describing how the treatment plan will be monitored.

**Status: Completed**

**Discussion:** Revisions to the draft policy have been completed and recommendations for consistency with NCCHC standards included. FCLB distributes mental health care plans for all youth on precautions they will work on monitoring the distribution and utilization of mental health plans by establishing specific protocols.

**Recommendation:** Establish monitoring protocols for utilization of the MHCP by next reporting period.

**Documentation:** Discussion with Etene Tamalelagi during September site visit. Review of FCLB 9/22/06 updates. Second Compliance Report October 14, 2006.

**(6) Documentation of Youth on Suicide Precautions.** The State shall develop and implement policies and procedures so that direct care staff who supervise youth on suicide precautions:

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

Revise and implement HYCF Policy 1.35.63.

**Status: Completed**

**Discussion:** The policy has been revised to include language requiring direct care staff who supervise youth on suicide precautions to read the youth's mental health care plan; document the type of precaution established by a qualified mental health professional or the youth's removal from precautions; the time of the youth's last status re-evaluation by the qualified mental health professional and any modification or update to the mental health care plan.

**Recommendation: None at this time**

**Documentation:** Meeting with Etene Taimalelagi during the September site visit. Review of the Second Compliance Report October 14, 2006.

**(6(a))** Read the youth's Mental Health Care Plan.

**Rating: Non-compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

It is strongly recommended that HYCF Policy 1.35.63 be revised to require direct care staff to review each youth's Mental Health Care Plan [i.e., Mental Health Intervention and Treatment Plan (for SA Youth) Form]. In addition, the policy should establish a protocol by which HYCF supervisors can monitor this process to ensure that the plans are being read by direct care staff.

**Status: Partially Completed**

**Discussion:** The policy has been revised. Monitoring of the procedure has not taken place. The MHCP is done for each youth on suicide status and distributed immediately. To the extent that direct care staff, school, YCO's, SW's, medical are reviewing mental health care plan will require more monitoring.

**Recommendation:** None at this time.

**Documentation:** FCLB 9/22/06 updates prepared by Rachael Guay. Second Compliance Report October 14, 2006.

**(6(b))** Document the following information during each shift in which the staff supervises the youth in such a way as to be accessible by other direct care staff: 1) that the staff member read: (a) the type of precaution established by a qualified mental health professional or the youth's removal from precautions; (b) the time the youth was placed on such precaution or removed; (c) the time of the youth's last status re-evaluation by the qualified mental health professional and any modification or update to the Mental Health Care Plan; 2) the housing location of the youth on precaution; 3) for youth on Close Observation (or other periodic observation), the times of observation and an overall statement regarding the youth's behavior, status, or emotional state for each time recorded; and 4) for youth on Precautionary Direct Supervision (or other continuous observation), narratives detailing the youth's behavior.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

**Recommendations:** First, and as previously recommended in Provision 2(g), it is strongly recommended that HYCF and FCLB reinstate the Youths Currently on Suicide Alert Form. The form should be updated by FCLB on a daily basis and distributed as an attachment to the HYCF Ward Roster to all appropriate personnel.

**Status: Completed**

**Discussion:** See 2 g. HYCF continues to explore options for attaching this form to the Ward Daily Roster without compromising youth confidentiality.

Second, it is strongly recommended that HYCF draft Policy 1.35.63 be revised to require direct care staff to document their observation of youth on Suicide Alert status. As such, a “Suicide Alert Observation Form” should be developed. For each youth placed on Suicide Alert, staff shall document the Close Observation check as it occurs (but no more than staggered 10-minute intervals), and the Precautionary Direct Supervision check every 15 minutes, on a Suicide Alert Observation Form maintained for each youth.

**Status: Completed**

Third, it is strongly recommended that the Youth Chronological Record (Form 235) be updated every shift, not simply every day as currently practiced.

**Status: Partially Completed**

**Discussion:** The form is updated every shift as recommended. A suicide Alert Observation Form is being considered as an option to form 235.

**Recommendation:** Review form 235 for revision to suicide alert observation form recommended in 1<sup>st</sup> report.

**Documentation:** FCLB 9/22/06 updates prepared by Rachael Guay. Second Compliance Report October 14, 2006.

**(7) Documentation of Youth at Risk of Self Harm.** The State shall develop and implement policies, procedures, and practices so that incidents of Self-Harm by youth and youth at heightened risk of Self-Harm, and the actions taken to address such incidents, are documented.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

It is strongly recommended that HYCF draft Policy 1.35.63 be revised and implemented to require direct care staff to document incidents of self-injurious behavior and resulting action taken.

**Status: Completed**

**Discussion:** Training on the newly revised policy will be provided to staff and administrators. This had not been scheduled at the time of the site visit in September.

**Recommendation:** Schedule training for compliance during the next reporting period.

**Documentation:** Second Compliance Report October 14, 2006.

**(8) Access to Programs and Services by Youth on Suicide Precaution.** The State shall develop and implement policies and procedures so that youth on suicide precautions continue to receive programs and services, in accordance with safety and security needs, and in accordance with the clinical judgment of a qualified mental health professional.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

First, as previously recommended in Provision 4, it is strongly recommended that the current practice of initially locking down youth on Suicide Alert status in their room with a safety smock until they are assessed by mental health personnel be discontinued.

**Status: Partially Completed**

**Discussion:** The official position of HYCF is that youths not be locked down in safety smocks. However in discussion with Rachael Guay during the September site visit it was indicated that this had occurred. The requirement now is that if staff feel that they need to utilize the safety smock the reasons have to be stated and that is reviewed by the FCLB.

Second, it is strongly recommended that HYCF Policy 1.35.63 be revised to require all youth on Suicide Alert status to receive regular programming and services unless it is contraindicated by a disciplinary sanction or by assessment of mental health personnel.

**Status: Completed**

**Recommendation:** Continue to document use of safety smocks for further review during the next monitoring period.

**Documentation:** Meeting with Etene Taimalelagi to verify revision of policy. Discussion with Rachael Guay during review of FCLB 9/22/06 updates during the September site visit. Review of Second Compliance Report October 14, 2006.

**(9) Step Down Levels of Observation.** The State shall develop and implement policies and procedures establishing a “step-down” level of observation whereby youth on suicide precaution are gradually released from the more restrictive levels of supervision to less restrictive levels for an appropriate period of time as established by qualified mental health professionals and documented in the youth’s care plan prior to the youth’s discharge from suicide precaution.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

It is strongly recommended that HYCF Policy 1.35.63 be revised to address the issue of “step-down” levels of observation for Suicide Alert youth. At a minimum, the revised policy should require that any youth placed on Precautionary Direct Supervision should always be downgraded to Close Observation for a reasonable period of time prior to being discharged from Suicide Alert status.

**Status: Completed**

**Discussion:** Youth on 1:1 are stepped down to close observation status prior to release from precaution status. All youth upon termination of precaution status will have the reassessment of suicide risk schedule as recommended by DOJ.

**Recommendation:** Document process for monitoring.

**Documentation:** Meeting with Etene Taimalelagi to verify revision of policy. Review of Second Compliance Report October 14, 2006. Review of FCLB 9/22/06 updates prepared by Rachael Guay. Discussion with Rachael Guay during the September site visit.

**(10) Treatment Plans for Youth Discharged from Suicide Precaution.** The State shall develop and implement policies and procedures so that all youth discharged from suicide precaution continue to receive mental health treatment in accordance with the treatment plan developed by a qualified mental health professional, unless the qualified mental health professional determines that no such continued treatment is necessary.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

It is strongly recommended that HYCF Policy 1.35.63 be revised to address the issue of treatment planning following a youth's discharge from Suicide Alert status. It is also suggested that, in order to ensure the continuity of care for suicidal youth, all youth discharged from Suicide Alert status remain on the mental health caseload and receive regularly scheduled follow-up assessment by mental health personnel until their release from the facility. Unless their individual treatment plan directs otherwise, the reassessment schedule should be as follows: daily for 5 days, once a week for 2 weeks, and then once every month until release.

**Status: Completed**

**Discussion:** A form for reassessment has been created and will be utilized unless otherwise clinically indicated by QMHP. Youth are assigned to FCLB with staff for continued mental health services until clinically discharged from FCLB team input. There continues to be a MH referral form and process for any youth to be referred for MH services. This form and process are well utilized. FCLB continues to provide consultation/interventions for perceived/real MH crises. FCLB's clinical director is on-call during non-business hours and days. The psych residents are still on an on-call schedule as well but for now the clinical director is the first person called.

**Recommendation:** Consider the recommendation of Rachael Guay during the September site visit to provide training to all direct care staff on behavioral management for youth with and without MH issues. Also for additional training on juvenile justice and rehabilitation in order to more properly participate in treatment planning.

**Documentation:** FCLB 9/22/06 updates prepared by Rachael Guay. Second Compliance Report October 14, 2006.

**(11) Access to Emergency Equipment.** The State shall provide direct care staff with immediate access to appropriate equipment to intervene in the event of an attempted suicide, including cut down tools, CPR microshields, and filled oxygen tanks.

**Rating: Substantial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

First, it is strongly recommended that medical personnel immediately place the CPR masks, rescue tools, and disposable gloves in each housing unit of the facility.

**Status: Completed**

**Discussion:** This provision requires the provision of the equipment for compliance. That has been accomplished. A walk-through of the facility during the September site visit verified the availability of the equipment.

Second, it is strongly recommended that HYCF Policy No. 1.35.63 be revised to address the issue of medical intervention and access to emergency equipment. At a minimum, the policy should require that: 1) all staff who come into contact with youth shall be trained in standard first aid and cardiopulmonary resuscitation (CPR), as well as AED training; 2) all staff who come into contact with youth shall participate in annual "mock drill" training to ensure a prompt emergency response to all suicide attempts; and 3) all housing units shall contain an emergency response bag that includes a first aid kit; pocket mask, face shield, or Ambu-bag; latex gloves; and emergency rescue tool. All staff who come into regular contact with youth shall know the location of this emergency response bag and be trained in its use.

**Status: Completed**

**Discussion:** The recommended training is on-going. What is needed is further monitoring of the training to verify competence of staff.

**Recommendation:** Start a database that assures all staff are trained as stipulated and timelines are met and present quarterly status report to QAT. (Recommendation included in FCLB updates by Rachael Guay.)

**Documentation:** FCLB 9/22/06 updates prepared by Rachael Guay. Second Compliance Report October 14, 2006. ICF Administrative Directive-Emergency kits dated 8/28/06 by Linda Hadley identifying the purpose and procedure for the use and storage of emergency kits placed at O&A cottage.

**(12) Safe Housing of Suicidal, Self-Harming Youth, and Youth in Isolation.** The State shall develop and implement policies and procedures so that all housing for youth on suicide precautions, at risk of Self-Harm, or in isolation is, in accordance with generally accepted professional standards, free of hazards that would allow youth to hang themselves or attempt suicide or commit acts of Self-Harm.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

First, it is strongly recommended that HYCF Policy No. 1.35.63 be revised to address the issue of safe housing for youth on Suicide Alert status. At a minimum, the revised policy should state that any youth placed on Suicide Alert status shall be housed in a room that has the most visibility to staff, as well as all rooms designated to house suicidal inmates shall be as suicide-resistant as is reasonably possible, free of all obvious protrusions, and provide full visibility.

**Status: Completed**

Second, due to their inherent dangerousness, the three holding rooms in the Ho'okipa Makai Unit should never be utilized for housing youth on Suicide Alert status.

**Status: Completed**

**Discussion:** The three holding rooms at the Ho'okipa Makai Unit are not utilized for housing youth on Suicide Alert status. A moratorium was placed on their usage following the debriefing with Lindsay Hayes on May 19, 2006 and continues to be monitored by HYCF administration. During the September site visit the Ho'okipa Makai Unit was visited and verification was obtained that the three rooms had not been used since the May recommendation. It was discussed with Alex Escarcega that water to the rooms be shut off and the doors bolted and locked in order to assure non-usage at any time for the housing of youth.

In addition, HYCF is addressing the safety of its physical plant by utilizing CIP funding. Projects include: installation of a security surveillance system at Ho'okipa Makai; security surveillance and electrical locks at the Observation and Assessment (O&A Unit); replacing porcelain plumbing fixtures at secure facility (SCF) and designing two padded cells to safely house youth who are trying to harm themselves.

Third, it is strongly recommended that a policy be developed to state that removal of a youth's clothing (excluding belts and shoelaces) shall be avoided whenever possible, and used only as a last resort when the youth is physically engaging in self-destructive

behavior. If the decision is made to remove clothing from a suicidal youth, they shall always be issued a safety garment that is suicide-resistant.

**Status: Completed**

**Discussion:** During the October site visit a meeting was held in the O&A unit (girls unit) in order to review all of the girls currently housed in that unit. The purpose of that meeting was to review the number of girls who had been self-mutilating and the HYCF response to those actions. The HYCF administration has been holding regular staffings to review the need for safe housing and placement in isolation. The last one was on 9/12/2006 and the notes of that meeting were reviewed by the monitor. Sixteen girls were in the facility at the time of the visit. Of the 16, 14 had been actively self-mutilating or had a history of self-mutilating. In addition 2 of the girls had made suicide attempts. Seven of the girls had incidents of self-mutilating during this commitment. The following reasons were listed as contributors to this behavior or as obstacles to a stronger response to such behavior. (1) Too many girls; (2) Physical plant too small. Most girls have to be bunked two to a room and doesn't allow single bunking. The lesbian, transgender and bi-sexual issues that one encounters in the housing of youth, especially female youth requires more flexibility in housing, especially the need for more single bunks; (3) LBTG issues; (4) Mixing of youth. Differences in ages (12 to 19) and the programming issues this presents, including protection from harm for the younger girls from the older more physically and emotionally powerful girls; (5) Varying lengths of stay; (6) Pregnancy (one girl pregnant during the visit); and (7) Transitioning. There is very little available in the way of programming for these girls in the community. In response the HYCF administration opened the old superintendent's home, Maluhia, that had been closed or used for office space and training. This facility has the capability to house 5 youth in one individual and one group room. The facility is staffed at a 2-1 ratio insuring that youth housed there on suicidal or self-mutilating watch are constantly under surveillance. The facility has been fitted with beds bolted to the floors. The area outside of the individual cells has glass that present some problems to this type of youth. Given the staff coverage the HYCF is doing what it can at the present time to isolate youth who need it and providing them with a protected environment.

**Recommendation:** Replace the glass in the Maluhia cottage so that it is better suited to housing suicidal and self-mutilating youth.

**Documentation:** Meeting with Rachael Guay and Dr. Martin Hirsch during the September site visit. Second Compliance Report October 14, 2006. Meeting with Etene Taimalelagi to verify policy revisions. Meeting at O&A. Those attending to review each of the girls records included: Mike Kim, Rachael Guay, Dr. Martin Hirsch, Kaleve Tufono-Losefa, Alex Escarcega, Heidi Rian, Shanua Kamaka, HYCF Social worker, Lianne Capsung, Social Worker, FCLB, George Do, OYS Administrative Investigator.. Review of YCO coverage (15 min. checks in Maluhia cottage. Both notes and time clock. Meeting with youth placed in the cottage on self-mutilation watch.

**(13) Suicide and Suicide Attempt Review.** The State shall develop and implement policies and procedures so that appropriate staff review all suicides and suicide attempts for policy and training implications.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

First, it is strongly recommended that Policy 1.35.63 be revised to require that all suicide attempts (regardless of lethality) be documented and reviewed by HYCF officials to determine whether corrective action and/or additional staff training is warranted.

**Status: Completed**

Second, it is strongly recommended that HYCF Policy 1.35.63 be revised to address the requirement of a morbidity-mortality review process for all suicides and serious suicide attempts. "Serious suicide attempts" include all incidents in which the youth was transported outside the facility for emergency medical treatment. At a minimum, the policy should state the following: "Every completed suicide, as well as serious suicide attempt shall be examined by a multidisciplinary Morbidity-Mortality Review Team that includes representatives of both line and management level staff from the direct care, medical and mental health divisions. The Morbidity-Mortality Review process shall comprise a critical inquiry of: a) circumstances surrounding the incident; b) facility procedures relevant to the incident; c) all relevant training received by involved staff; d) pertinent medical and mental health services/reports involving the victim; e) possible precipitating factors leading to the suicide; and f) recommendations, if any, for changes in policy, training, physical plant, medical or mental health services, and operational procedures. When appropriate, the Morbidity-Mortality Review Team shall develop a written plan (and timetable) to address areas that require corrective action."

**Status: Completed**

**Discussion:** Included in the Second Compliance Report is this summary regarding self-harm and suicide attempts for the last reporting period: "It should be noted that HYCF has experienced two suicide attempts and one self-harm incident at the O&A cottage during this review period. The self-harm incident occurred while the youth was on 1:1 direct observation. Consequently, the three youths received mental health assessments and hospitalization."

Pursuant to the recommendations stated in this provision, HYC has ensured an on-going review process involving a series of multi-disciplinary meetings at which time representatives from all disciplines (medical, mental health, education, facility maintenance, direct care, social work) have come together for the purposes of reviewing the incident reports, staff coverage, response time, emergency equipment use and updated form medical and mental health professionals. This process is on-going and has resulted in taking precautionary measures both with the physical plant and providing additional staffing to ensure youth safety. The review of these incidents has generated a series of corrective measures to include an increase in staff and nurse coverage and physical modifications to the rooms where the incidents occurred.

Further monitoring is required of the corrective plan in order for the rating to be changed.

**Recommendation: None at this time**

**Documentation:** Interviews with Kaleve Tufono-Iosefa (HYCF Administrator) and Alex Escarcega (HYCF Consultant); Second Compliance Report October 14, 2006. Provision 13 file in the HYCF compliance cabinet. Folder 13 contained the multi-disciplinary team minutes; interagency communications; housing assessments and inspections; timeline; incident reports; mentalhealth care plans; police reports; chronologals; ICF dated 9/27/06 by YFA Kaleve Tufono-Iosefa regarding cell safety inspection at O&A.



**(14) Protection from Harm.** The State shall provide youth confined at HYCF with reasonable safe living conditions and shall appropriately protect youth from violence and other physical or sexual abuse by staff and other youth.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from the 1<sup>st</sup> Report:**

Policy No. 1.43.35, Youth Rights, Alleged Abuse, Neglect, and Exploitation needs further detail regarding youth's access to the complaint process.

**Status: Completed**

**Discussion:** This language was added: "Any youth having cause to believe that they may have been adversely affected by abuse, neglect or exploitation by an employee, volunteer or contractor or other youth may file a report in accordance with the youth grievance policy: 1.43.81.

Second, Develop a master file so that incidents can be tracked.

**Status: Partially Completed**

**Discussion:** At the time of the first site visit for the second report, August of 2006, this file had not yet been developed. A review of two files indicated that the form 200, the incident report was missing. The agency agreed to continue to pursue the development of the master file. Incidents again cannot be tracked since the filing does not allow a review of the process. A youth advocate or ombudsman position has been recommended. In addition the posting of contact information for the new investigator would also be a mechanism for helping to ensure that youth are not susceptible to staff not filing incident reports.

Second, add reporting requirements to P&P 1.63.25 in order to track staff shortages that result in cottage restriction

**Status: Completed**

**Discussion:** Binders have been added to the modules that track cottage restrictions. This binder provides a record of all requests for cottage restrictions maintained in chronological order and kept in the administration office. The CS1 shall submit a monthly report to the FYA regarding the status of cottage restrictions facility wide especially if there is a pattern of increased requests and approvals for cottage restriction. A copy of the monthly report will re routed to the Executive Director of the Office of Youth Services.

In addition the OYS ex. Director is advised of the initial restriction and any continued restriction within specified time frames. In the Corrective Action Plan of July 31, 2006 a requirement has been added that requires that continued restriction has to be approved, in writing, every 24 hours.

Third, Amend Policy No.1.55.05.4.0.1 to read that conduct that constitutes a crime involves harm or threat of harm to others.

**Status: Completed**

**Discussion:** In order to develop a baseline of protection from harm measures the following tables were developed. The first report covered Nov. 05 through April 06.

May through July have been added for continued comparison. Figures beyond July were not available in time for this report.

**Assault Table**

	<b>Assaults on youth</b>	<b>Assaults on staff</b>
Nov. 05	11	0
Dec. 05	2	0
Jan. 06	7	0
Feb. 06	10	2
Mar. 06	24	1
Apr. 06	10	1
May 06	12	3
June 06	15	0
July 06	6	1

**Sexual Misconduct and Suicide Attempt Table**

	<b>Sexual Contact</b>	<b>Indecent Exposure</b>	<b>Attempt Suicide</b>
Nov. 05	0	0	1
Dec. 05	0	0	0
Jan. 06	0	0	0
Feb. 06	1	1	1
Mar. 06	0	3	0
Apr. 06	0	1	0
May 06	3	0	3
June 06	1	0	3
July 06	0	3	Not Reported

**Physical & Mechanical Table**

	<b>Number</b>	<b>Location</b>
Nov. 05	2	Ho'okipaM, SCF-School
Dec. 05	1	SCF-Gym
Jan. 06	1	SCF-A
Feb. 06	3	O&A girls, SCF-A, HookipaM
Mar. 06	8	Transport, O&A girls (2), SCF-B, HookipaM (4)
Apr. 06	1	O&A girls
May 06	5	SCF intake (1), SCF B (1), SCF 3 (1), O&A Female (1), Ho'okipa (1)
June 06	4	SCF B (2), O&A Female (1), Ho'okipa Maika (1)
July 06	3	SCF (3)

**Recommendation:** (1)Provide updated information on tables for next reporting period. (2)Provide an update on the # of incidents and number of youth that went to security (3)Provide a summary of Social work activity in the modules. (4)Develop a cottage management purpose for the social workers. They are unclear at the present time about their purpose in running groups in the modules. (5)Provide an update on the master file.

(6) Provide an update on form 200. (7) Move reporting requirements of P&P 1.63.25 in order to track staff shortages that result in cottage restrictions to provision 25. This had been a recommendation in the 1<sup>st</sup> report. (8) Post contact information for the investigator in the modules. (9) Include in the orientation process information about contacting the investigator. Separate out the incidents involving the school and those involving the remainder of the facility. (10) In addition track the disposition of removal of youth from school. (where are these youth being placed? In their rooms in the module?) (11) Specify time frames for contacting the OYS Ex. Director on restrictions of youth. (12) Continue to work on collaboration between MH and HYCF staff in order to properly program for youth with serious mental health problems. (13) Continue and strengthen training for YCO's with respect to identifying and working with youth with MH problems especially those with suicidal and self-mutilating tendencies. (14) Continue to look at ways to separate long-term from short term placements. (This may be a community response. Alternatives to the use of the HYCF for short-term placements.) (15) Replace glass in the Maluhia cottage with break resistant windows. (16) Continue and strengthen training with all staff on LBGT issues. (Follow-up to the sensitivity training provided by the Attorney General's Office on the LBGT issues.)

**Documentation:** Meeting with staff during site visit of August 8, 2006. HYCF Corrective Action Plan of July 31, 2006. Meeting with staff at Maluhia cottage during the October site visit. (Rachael Guay, Dr. Hirsch, Laveve Tufono-Losefa, Alex Escarcega, Heidi Rian, Mike Kim, Melvea Hardy, Lhauna Kamaka, Leanne Casupang, Linda Hadley, Lynette Storrer. Second Compliance Report October 14, 2006.

**(15) Protection from undue restraints.** The state shall develop and implement policies, policies, procedures and practices so that only safe methods of restraint are used at the facility, and only in those circumstances necessary for safety and security, or with respect to therapeutic restraints pursuant to a medical order to protect the health of the youth.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

Review the issue of constant surveillance.

**Status: Partially Completed**

**Discussion:** HYCF policy 01.09.13 Organizations, Administration and Management has been revised with an effective date of 9/30/06. This policy is under review and the practice of using restraints for transporting of youth to and from the various HYCF facilities is also part of this process. Current practice is that youth are always under constant surveillance when restrained and this is included in the P&P. Currently youth are classified by custody and level using a system that has been in place for many years. Youth are placed in close custody when they enter the facility. When they move from level 1 to level 2 they are placed on medium custody which means they do not require restraints when moving within the facilities of the HYCF. When they are moved to level 3 and 4, minimum custody, youth are allowed to leave the facility for day passes or community activities without restraints. During the August site visit it was indicated that an entirely new process for determining custody was being explored. The use of more recent risk assessing instruments will be utilized. The use of restraints for the movement of youth within a secure facility is viewed by the monitor as an unnecessary use of restraints. As long as youth are being committed to a secure facility on status offenses or

minor charges and pose no real threat to themselves or others then the use of belts, handcuffs, and leg shackles should be very limited. Youth facilities are still considered to be rehabilitation facilities. Putting very young youth with no history of serious offending in restraints would seem to be contrary to that mission. It is understood that absconding is an issue but the movement within the facility should be supervised by staff in a manner sufficient to prevent absconding . . .

**Recommendation:** Prepare the revised security classification process for the next site visit.

**Documentation:** Discussion with staff at site visit August 8, 2006. Second Compliance Report October 14, 2006.

**(16) Use of Force.** The State shall develop and implement comprehensive policies, procedures and practices governing use of force, so that the least amount of force necessary for the safety of staff, youth, and visitors is used on youth, and that staff adequately and promptly document and report all uses of force by staff

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

HYCF Institute a formal review of the use of force.

**Status: Not Completed**

Second, collapse the two definitions of mechanical restraints into a single definition.

**Status: Completed**

Third, the use of force restraint form be revised to contain space for a narrative describing why the restraint was necessary.

**Status: Completed**

Fourth, amend these P&P.

1.63.61 (2.0) Use of force should cease when resistance ceases. (Amended as recommended.)

1.63.61. (2.0) Prohibition on use of excessive force and use of excessive force will result in discipline including termination (Amended as recommended)

1.63.61 (4.2 . 3.0.2a. definition)☺ delete chemical devices ( Reference to chemical devices deleted as recommended.)

1.63.61 (4,2b the last sentence should be rephrased. Facts unknown to a HYCF staff member, whether they be mitigating or aggravating, cannot be considered in subsequent hearings regarding the justification for the use of force.(Amended as recommended.)

1.63.61 (4.0.3d.) delete the word enforce and insert control (Amended as recommended)

1.63.61. 3.0.2g. Eliminate the term self defense techniques and insert appropriate use of force. (Amended as recommended.)

Delete f of 3.0.2 (Deleted as recommended.)

1.63.61 (4.0.1) delete verbal de-escalation. (Deleted as recommended.)

1.63.61 (4.0.1) delete self defense replace with appropriate use of force. (Amended as recommended)

1.63.61 (4.0.4) delete b and replace with (could other means be used and if no other means available what is the minimal use of force that is appropriate.) (Amended as recommended)

1.63.61 (4.0.6 a. 3) delete (deleted as recommended.)

1.63.61 (4.0.7a.5) strike handle with care (deleted as recommended)

1.63.61 4.0 Bail add custody control levels (After the discussion during the August site visit a decision was made to not amend to include control levels since those levels are under review and will likely be amended.)

1.63.61 (.8a1) Add what would be the appropriate level of restraints for those control levels (After the discussion during the August site visit a decision was made to not add appropriate level of restraints for those control levels since the levels are subject to review and will likely be amended in the near future.)

1.63.61 (4.0.8b.4) use of force techniques are prohibited once youth has been restrained. Unless youth is exhibiting violent behavior (Amended as recommended.)

**Status: Completed**

**Use of Force/Restraint Report  
July 1, 2006 – October 1, 2006**

Housing Unit	July	August	September	October
SCF	0	1	2	0
O&A	1	1	0	0
HM	0	0	0	0
<b>Total</b>	1	2	2	0

**Recommendation:** Install the formal review process recommended in the 1<sup>st</sup> report.

**Documentation:** Reviewed P&P and Use of Force (UOF)/Restraint Form with Etene Taimalelagi during the August site visit. Second Compliance Report October 14, 2006

**(17) Reporting of Staff Misconduct and Other Serious Incidents.** The State shall develop and implement appropriate policies and procedures which contain definitions approved by the Monitor after review and comment by the DOJ for the terms “use of force”, “staff-on-youth- violence,” “youth-on-youth violence,” “inappropriate staff relationships with youth,” “sexual misconduct between youth, “and “abusive institutional practices,” and will develop and implement such policies, procedures, and practices so that:

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

Consider strengthening current policy 1.43.35 with respect to administrative leave for staff accused of misconduct.

**Status: Completed**

**Discussion:** The P&P outlined in this provision have been developed. Policy and Procedure No. 1.43.35, effective 10/24/05 has been amended to include placing the accused staff member on administrative leave pending the outcome of the investigation, to ensure that the investigation or review be conducted with the full cooperation of staff and youth, that adequate resources are provided and that the youth is protected as recommended in the 1<sup>st</sup> report.

Three important steps have been initiated to expedite the development and implement procedures and practices regarding staff misconduct and other serious incidents, especially with regard to staff on administrative leave pending the outcome of investigations.

(1)A contract between OYS and Matt Levi Corporation (Investigations) was executed on July 28, 2006. This is a short term contract whereby the vendor serves as a Special Investigator for the Office of Youth Services by performing the fact-finding investigation of four cases of alleged employee misconduct at HYCF. In order to complete this Scope of Services, the Provider will complete the following tasks:

A.. Review the existing partial report on one case compiled by the Department of Public Safety.

B. Meet with the Office of Youth Services (OYS) and/or HYCF management to gather preliminary information on the allegations and identify staff, youth and witnesses involved in each case.

C. Interview the key people involved in each case as well as any others with pertinent information.

D. Complete other fact-finding activities deemed to be necessary and within the scope of this contract (e.g. record reviews).

E. Provide a written Final Report presenting the results of these fact-finding efforts, without conclusions or recommendations.

The monitor requested information regarding the experience and credentials of the Matt Levi Company: The following was provided by the OYS. “He has over 20 years of experience. He has investigated numerous issues involving youth populations. He has recently and continues to be involved in investigations for the Family Court. These investigations frequently involve youth who are on their way to or from HYCF. This is exactly the area upon which he is currently concentrating. He has also done numerous investigations of employee misconduct in a variety of settings.” The following is noted in the justification for the award: “The selected vendor demonstrated a much more thorough understanding of the situation requiring investigation and had much greater experience in investigations of this type involving youth adjudicated under Family Court. He outlined a more practical approach including more sources of evidence.” In addition, Youth Facility Administrator Kaleve Tufono-Iosefa indicates that in her discussions with Matt Levi he has been well-informed regarding the requirements of the MOA.

(2)OYS has hired a well-qualified administrative investigator (Investigator IV) effective September 1, 2006. Duties include the following:

(a)Field work

(b)Undercover activities

(c)Gathering and providing custodial care of evidence

(d)Case preparation

(e)Tracking

(f)Reporting

(g)Recording and providing evidence

The investigator is working independently of HYCF and has oversight responsibility for administrative policies and employee standards of conduct including safety inspections and employee investigations. He is also responsible for listing the protocol requirements for establishing a well-defined investigative unit.

This investigator, Mr. Do has been hired. Mr. Do is not a private vendor but a state employee (89-day hire). This position will become a full-time civil servant position subject to state hiring procedures. The administrative investigator is housed at OYS and reports directly to the Executive Director. He conducts investigations at the request of the Executive Director regarding youth and employee incidents. The investigator can only conduct administrative investigations not criminal. A referral form requesting an administrative investigation must be submitted to the Executive Director, who upon review makes a determination if an investigation is required.

(3)The state has received supplemental funding to establish an integrated record keeping computer system that will include serious incident reports and integration of medical and mental health records.

**Recommendation:** Provide examples of the implementation of this P&P for review during the next site visit. Provide summary of activities of Matt Levi Corporation. Provide summary of investigations conducted by investigator and resolutions of those investigations. Provide an update of progress of implementation of computer system.

**Documentation:** Review of P&P revisions with Etene Taimalelagi. Second Compliance Report October 14, 2006.

(17 a) Appropriate HYCF staff report all incidents of use of force, staff-on-youth and youth-on-youth violence, inappropriate staff relationships with youth, sexual misconduct between youth, and abusive institutional practices (such as unwarranted use of isolation or restraint or denial of education or medical care) to appropriate individuals at the facility.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

More detailed information on the types of incidents requiring reporting was requested in the 1<sup>st</sup> report.

**Status: Completed**

**Discussion:** It is provided in the Use of Force (UOF)/Restraint Form. A criteria for use of force is included in the form that outlines when reporting is necessary. Those include:

Protection of youth from imminent self-harm

Protection of third parties from imminent harm

Prevention of escapes or attempted escapes

Protection of self from imminent harm

Prevention of imminent property damage

Movement of a referred youth to security

**Recommendation:** Track incidents of use of force for review during next site visit.

**Documentation:** HYCF Policy No. 1.63.61. New Use of Force (UOF)/Restraint Form. Second Compliance Report October 14, 2006.

(17 b) Appropriate HYCF staff shall call and document in writing to the Office of Youth Services to report all serious incidents of uses of force, staff-on-youth and youth-on-youth violence, inappropriate staff relationships with youth, sexual misconduct between youth, and abusive institutional practices, and document the call and written correspondence in the youth's medical or case files

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:** Review this process and assemble documentation for the next site visit.

**Status: Completed**

**Discussion:** Reviewed documentation of incidents that had been reported to OYS. An escape attempt of 07-6-06, an investigation of 7/13/06 and an incident of 7/5/06. The documentation was thorough, including narratives, photographs and completed incident reports. Hawaii is discussing investigative tracking with other states that have more sophisticated systems. Attempts will be made to learn from those systems.

**Recommendation:** Continue the documentation for further monitoring.

**Documentation:** HYCF Policy No. 1.01.35. Review of file assembled for documentation for the monitoring visit. Second Compliance Report October 14, 2006. Review of incidents during the October site visit.

(17 c) Such reporting may be done without fear of retaliation

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

P&P 1.43.35 be amended to include this language: “Any person that reports abuse or neglect shall not be retaliated against. Retaliation does not preclude action when an employee or youth asserts a false claim.”

**Status: Completed**

**Discussion:** In addition the HYCF Administrative Investigations Manual has been included. The investigator has been employed and will review and revise the manual as he begins investigations. Included in the manual are provisions that outline the investigations including gathering evidence, evidence storage, interviews and interrogations, disposition of investigations etc. This manual responds to the questions raised in the 1<sup>st</sup> report, that HYCF should maintain a record of all incident reports (including those found to be unwarranted.) And in instances where a report is sustained, what type of disciplinary sanctions can be provided. Also, the YFA does review all grievances and investigations and must agree with the dispositions.

**Recommendation:** The FYA should maintain a record of all reviews including any investigations in which there is disagreement and the reasons for that disagreement for review by the monitor and use in P&P revisions and training..

**Documentation:** HYCF Policy & Procedure Manual Chapter 43, Policy No. 1.43.35, effective 10/24/05. Hawaii Youth Correctional Facility Policy Administrative Investigations Manual. Second Compliance Report October 14, 2006

(17 d) All such incidents are appropriately documented and reported, including the facts of the incident, any injury that occurred as a result of the incident, and in a way that permits review.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

Policy and Procedure No. 1.01.35 Reporting incidents be amended to include serious incident reporting.

**Status: Completed**



**Discussion:** In this procedure incidents shall be reported to the Executive Director for the OYS by the YFA via email or telephone at the earliest possible time with recommendations regarding the most appropriate manner in which the incident should be investigated. In the case of a fatality, notification and investigation will follow HYCF policies regarding Notification of Serious Incidents, Alleged Abuse, Mistreatment and Exploitation, and the Administrative Investigation Manual. The Youth Facility Administrator shall: Share the written report with Supervisors, staff and peers in order to ensure that any knowledge gained from the incident and its investigation is staffed and debriefed. Conduct any needed post-event analysis and discussion with staff and/or youth to deal with emotional training regarding the incident. Secondary incidents may use the same procedure, but any step in the process may be optional. The emphasis will be on ensuring that adequate communications occur.

Delete injury to self from incident report form.

**Status: Completed**

Incident reports be included in admin. Master list in HYCF office

**Status: Completed**

Consider expanding uses of form 200 to include accountability tracking and training

**Status: Completed**

**Recommendation:** Develop documentation of incidents for review during the next site visit.

**Documentation:** HYCF Policy & Procedure 1.01.35. Discussion with Etene Taimalelagi during August Site visit. Second Compliance Report October 14, 2006

**(18) Review of Incidents by Senior Management.** The State shall develop and implement policies, procedures, and practices so that senior management review all incidents of use of force, staff-on-youth and youth-on-youth violence, inappropriate staff relationships with youth, sexual misconduct between youth, and abusive institutional practices.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

It was recommended that the HYCF Policy and Procedure manual be revised to provide more detail regarding the process of reviewing serious incident reports.

The policy is 1.01.35 Notification of a Serious Incident effective 9/30/06.

**Status: Completed**

**Discussion:** George Do has been hired as an investigator, effective September 1, 2006. Since his hiring he has been reviewing incidents with The TFA and with Alex Escarcega. Currently there are 4 staff on administrative leave awaiting investigations. There is as yet no formal process in place for the development of the reviews. The intent, according to discussion at the site visit, was to borrow from other systems who have formal reviews in place. Some states were discussed as possible models. Sharon Agnew will take responsibility for setting up a site visit. A revision of policy and procedure for this provision will have to wait for the completion of the site visit and the adaptation of the review process.

**Recommendation:** Prepare a summary of incidents reviewed for monitoring during the next reporting period.

**Documentation:** Site visit of October 3, 2006. Discussion with Sharon Agnew, OYS, Ex. Director, Kaleve Tufono-Iosefa, YFA and Alex Escarcega, Technical Advisor.

**(19) Investigations.** The State shall develop and implement policies, procedures, and practices so that senior management initiate investigations of all incidents of use of force, staff-on-youth violence, serious youth-on-youth violence, inappropriate staff relationships with youth, sexual misconduct between youth, and abusive institutional practices. Investigations shall be conducted by persons who do not have direct or immediate indirect responsibility for the conduct being investigated.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

Develop the investigative process and hire an investigator.

**Status: Partially Completed**

**Discussion:** Policy and Procedure has not been developed for investigations but this will change as the Investigations unit is developed. The Office of Youth Services has hired one investigator on an 89day hire. The position will become permanent and the policy and procedure will have to be developed as the investigations unit is formed. The OYS is looking at other states for assistance in forming this function within the Hawaii juvenile system. Currently the investigator is working on two suicide attempts that occurred at the HYCF and is making an initial assessment of the investigative needs of the facility. The current thinking is that at least two investigators will be needed. They will be assigned to the OYS. Investigations will be routed through the OYS Executive Director for approval both on content and disposition of the cases.

**Recommendation:** Contact other jurisdictions for information that would be helpful in developing the investigations unit. Form the unit during the next reporting period and begin the development of the Policy and Procedure that will guide the investigative process.

**Documentation:** Meeting with Sharon Agnew, OYS Executive Director and George Do, newly hired investigator for the OYS. Also at the meeting were Kaleve Tufone-Losefa, YFA and Alex Escarcega, Technical Advisor.

**(20) Documentation and Tracking of Investigations.** The State shall develop policies practices, and procedures for documenting all incidents of use of force, staff-on-youth violence, youth-on-youth violence, inappropriate staff relationships with youth sexual misconduct between youth, and abusive institutional practices, and for documenting and tracking the status and outcome of all investigations. Where there is evidence of staff misconduct, the State shall initiate appropriate personnel actions and systemic remedies, where appropriate.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

Develop an electronic reporting capacity for investigations and incidents.

**Status: Partially Completed**

**Discussion:** The state is embarking on an integrated record keeping computer system that will include the electronic reporting of serious incidents and investigations. The state has receive supplemental funding for this purpose. Currently grievances provide the best source of information to the HYCF administration regarding any incidents. This process,

as outlined in provision 28 is greatly improved but still not the process that is needed within the HYCF. The Investigations Unit is also just being formed, as described in provision 19, and until that unit is developed appropriate policy and procedure will not be available. The state is currently initiating appropriate personnel actions and systemic remedies where appropriate which allows for the rating of partial compliance. The capacity of the HYCF to respond will be greatly enhanced with the development of the investigations unit and the development of the P&P.

**Recommendation:** Continue to improve the tracking of incidents, use of force etc. while the investigations unit is being formed. Report on the progress of the development of the electronic system during the next monitoring period.

**Documentation:** Same as 19 above.

**(21) Reporting Possible Criminal Violations.** The State shall develop policies, practices, and procedures to define those circumstances in which staff must report possible criminal violations to the police, the prosecuting attorney, or the Attorney General.

**Rating: Non-Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

Revise Policy No. 1.09.55 Youth Correctional Officers Work Assignment to YCO Work Assignment Responsibilities. It has been included in the P&P manual.

**Status: Completed**

Develop procedures to accompany Policy No. 1.55.05

**Status: Changed as recommended**

**Recommendation:** Review activity for last reporting period and follow investigations if any violations occurred.

**Documentation:** Second Compliance Report October 14, 2006

**(22) Health Care Inquiries Regarding Injury.** A nurse or other health care provider shall question, outside the hearing of other staff or youth (unless the facility administrator determines that the youth cannot be left alone with the health care provider,) each youth who reports to the medical unit with an injury, regarding the cause of the injury. If, in the course of the youth's medical unit visit, a health care provider suspects staff-on-youth abuse, that health care provider shall immediately:

1. Take all appropriate steps to preserve evidence of the injury (e.g., photograph the injury and any other physical evidence);
2. Report the suspected abuse to the appropriate local officials;
3. Appropriately document the matter in the youth's medical record; and
4. Complete an incident report

**Rating: Non-Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:** Develop the medical policies and procedures in time for the 2<sup>nd</sup> reporting period.

**Status: Not Completed**

**Discussion:** This provision remains in non-compliance due to the need for the development of policy and procedure for this provision. P&P has been developed by current staff and is being used to guide the process at the present time. That P&P, however, has not been accepted by the administration and awaits the oversight of a

medical director. The medical procedures are being developed by Linda Hadley and Kaleve Tufono-Iosefa. The OYS requested funding from the Hawaii legislature to further develop this area. That funding was provided. A review of the 4 steps outlined in the provision finds the following:

- (1) Every effort is made to preserve evidence of the injury. Photographs are taken and submitted to the YFA for a decision on disposition. One issue was raised and that was that a camera is not always available. Agreement that this would be remedied and a camera provided on a 24 hr. basis.
- (2) During the discussion it was determined that the reporting of abuse by the medical unit is quite problematic. According to L. Hadley, RPN, Child Protective Services has been contacted and they will not accept the referrals. Her comment provided to the monitor through the file was that CPS stated "being a state facility we (HYCF) are to handle it internally." She indicated that she had personally contacted the Hawaii Police Department regarding Staff-on-youth injuries and "they also refused to accept the complaint, for the same reason."
- (3) "The injury is documented in the youth's medical file; the Family Nurse Practitioner (FNP) and the contracted physician are notified. The youth is counseled by nursing staff, the FNP and the contracted physician. Mental Health and the Administrator are notified of the incident also." (SA file 22)
- (4) "An injury report is written, it is noted in the chart, and a copy is made for our records. (Incident reports are only written by the Healthcare staff if they actually see the incident.) The original packet is given to the Administrator. After the Administrator reads and initials the report, a yellow copy goes to the Safety monitor, the white (original) and pink copies are returned to the Health care Services. The report is then reviewed by the FNP and the contracted physician." (SA File 22)

It is apparent that there are four other major issues with this provision. One is the need to develop the P&P either newly written or a modification of those written by current staff. Secondly is the issue of non-acceptance of abuse referrals by CPS. Based on information given during this site visit it would appear that the HYCF had no official avenue for reporting or resolving abuse complaints. This is currently being remedied through the review of the process and statutory language by the Attorney General's Office and confirmation with HYPD of its responsibility and willingness to investigate these complaints. According to YFA Kaleve Tufono Iosseda HPD is responding appropriately to HYCF requests. Third is the review of injuries. Injury reports are being submitted to the facility administrator. These are to be returned to the health unit and reviewed by a state inspector. At the time of the August site visit these reports were more than 6 months behind. The reports are behind due to the workload that the YFA has. She is reading incident reports as well as grievances and medical reports.

In an effort to track the medical units activities documentation was forwarded to the monitor. The first report is an Excel report that tracks youth from November '05 through October 10, '06. The referrals are not in complete order by date of referral but they do

give some idea of the activity. During that time period there were 501 entries ranging from self cutting to stubbed toes. Of those 501, 22 were listed as staff on youth (1 chemical burn, 1 hit in face, 1 shove, 1 choked, 1 wrong meds and 17 take downs). 98 were listed as youth on youth, almost all as fighting.

**Recommendation:** Develop the Medical policies and procedures in time for the 3rd reporting period. Investigate the issue surrounding referrals of abuse complaints to CPS and provide a remedy. One may be the use of investigators that are police officer certified and therefore able to conduct investigations that are legally acceptable to the courts. Continue to track medical coverage.

**Documentation:** Review of SA file 22. Interview with Linda Hadley RPNV, FNP Medical during the August site visit. Meeting with medical unit staff during the August site visit.

**(23) Isolation.** The State shall develop and implement policies, procedures and practices so that staff use isolation (as defined in this agreement) only in accordance with policy and in an appropriate manner, and so that staff document fully the use and administrative review of any imposition of isolation including the placing of youth in their cells outside normal sleeping hours.

**Rating: Non-Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

Track isolation by module, facility, reason, staff member, youth and shift.

**Status: Partially Completed (see chart below)**

HYCF policy 1.63.95 Security Admission, Extension, or Release (Draft) effective date 2/3/06 has been revised to HYCF policy 1.63.95 Security Admission, Extension, or Release (Draft) effective date 9/30/06.

**Status: Completed**

**Discussion:** The process for isolation was outlined in the 1st report. Youth continue to be placed on security for various reasons, including school disruption, programming disruption and staffing problems. None of this has changed since the first report. In order to better monitor the use of isolation or “security” as it is called at the HYCF its use is being documented for continual review. (See provision 22). In addition to continuing to monitor the use of security (isolation) as described above the use of security in response to staff shortages will also be documented.

There has been one significant change since the 1<sup>st</sup> report and that is the opening of the Maluhia Cottage. (Also see Provision 13). HYCF and FCLB have been working collaboratively to address incidents of self-harm by youth at the O&A Unit. Part of the remedy has been to separate youth on a short-term basis from the general population for safety purposes. HYCF has designated Maluhia Cottage as a respite/transitional unit for youth exhibiting repeated episodes of self-harm. The use of Maluhia became effective September 29, 2006. HYCF and FCLB are in the process of formalizing the protocols by utilizing a multi-disciplinary approach.

In addition a clinical advisor position has been created. This person will be responsible for overseeing the use of isolation as stated under this provision. It is anticipated that the

issue of collaboration between direct care, medical, mental health etc. will be addressed through this position.

### HYCF Security Program Admissions

July 1, 2006 – October 1, 2006

Housing Unit	July	August	September	October
SCF (long-term Boys)	14	12	15	1
O&A (Girls)	10	10	6	0
Ho'okipa Makai (short-term Boys)	4	0	1	0
<b>Total</b>	28	22	22	1

**Recommendation:** (1) The recommendation from the last report is continued. Track use of isolation by module, facility, reason, staff member, youth, and shift. When a youth is placed in isolation the medical unit is to be notified. There needs to be confirmation that this is part of the P&P that is currently being drafted. Medical contacts the mental health unit if necessary. (2) Pull isolation folders to review use of isolation and determine if notification is occurring as outlined in the P&P. (3) Complete the development of the P&P and implement. (4) Track Clinical Advisor activities.

**Documentation:** Discussion with medical, mental health and administration during the October site visit. Second Compliance Report October 14, 2006.

**(24) Due Process.** The State shall provide youth confined for disciplinary reasons for more than 24 hours with an appropriate due process hearing by an impartial supervisory staff member to determine whether the cause exists for continued disciplinary confinement and appropriate representation at such hearing. The State shall give youth a copy of rule violation charges and the hearing record for review (including the incident report and witness statements), and shall document that youth were: (a) given the opportunity to ask that witnesses be interviewed, and (b) were provided with accommodation where the youth has disabilities that might interfere with his or her capacity to understand the process or outcome. The State shall adequately document any such due process hearings, including the result of the hearing and justification for the result.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

1.55.01: 2.0.7 confirm that all staff are trained on disciplinary system and the range of sanctions.

1.59.05: Clarify that lengthening the length of stay means lengthening the minimum not the maximum. Only the court can extend the maximum sentence.

1.59.05 4.0.2 d Youth unable to attend, youth advocate will be proxy.

1.59.05 4.0.3 c (5): right to appeal to YFA changed to make appeal to Ex. Dir of OYS.

1.63.05 clarify how many staff need to be in central control

1.55.25 4.0.2 Change YCO's to YCS's

1.55.25 4.0.4 the second c should be an e.

1.55.25 4.0.4 d: a written reprimand. Reprimand is referenced in the log book

**Status: Completed**

**Discussion:** P&P 1.59.05 was in draft form. It has been completed and it does provide for an advocate to represent a youth in hearings. This allows the youth to select someone to assist with the response to issues that may surface in a disciplinary hearing and not expect a youth to represent him/herself to other staff and administration.

The monitor also attended a multi-disciplinary hearing for a youth which also demonstrated that youth are being represented in the facility. The youth did not attend the hearing but his needs were reviewed and in the process of developing a treatment plan the best interest of the youth was continually expressed. (Also reviewed in provision 31).

Category Due Process hearings were reviewed with Alex Escarcega. A file was pulled dated 9/28/06 and reviewed for process and content. Forms were reviewed, tape verified, area for tapes to be securely held reviewed. Mr. Escarcega provides oversight to this process including the scheduling, adherence to due process, QA, (which includes decisions, treatment plans, advocacy, decisions).

A youth ombudsman position is still being considered. When this position is filled that person would assume the duties that Mr. Escarcega currently fulfills.

**Recommendation:** Hire the youth ombudsman position instead of using staff as advocates in due process hearings.

**Documentation:** Review of Settlement Agreement files documenting hearings and due process. Site visit of October 4, 2006. Verification of P&P revisions with Etene Taimalelagi. Second Compliance Report October 14, 2006

**(25) Staffing.** The State shall provide sufficient numbers of adequately trained direct care and supervisory staff to (a) supervise youth safely, (b) protect youth from harm, (c) allow youth reasonable access to medical and mental health services, and (d) provide youth with adequate time spent in out-of-cell activities. In furtherance of this requirement, the State shall submit a proposed staffing plan to be approved by the Monitor, with the Monitor's approval establishing the sufficient number of staff required by this Agreement. Prior to approval by the Monitor, DOJ may submit comments to the Monitor regarding the State's staffing plan which comments shall also be provided to the State. The State shall establish mandatory minimum staffing requirements, including a determination of all direct supervision posts that must be filled on each shift. In establishing mandatory post coverage, the State shall include provisions for coverage for all required staff training as well as authorized leave time. The State shall also document daily shift coverages and shall report to the Office of Youth Services, department of Human Services, and to the Monitor, all instances of failure to provide the minimum post coverage and the closing of a post due to lack of direct care staff. The State shall regularly report to the Office of Youth Services, Department of Human Services, and to the Monitor, the status of all current vacancies.

**Rating: Non-Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

Document all staff not reporting for work.

**Status: Completed**

**Discussion:** HYCF continues to document staff not reporting for duty and works closely with the DHS personnel Department in their consultation with the leadership of UPW regarding employee attendance problems. The goal is to fully implement a sick leave program to take corrective measures with staff who fail to report for duty. (The Sick Call Examination Services for the Hawaii Youth Correctional Facility was executed June 30, 2006.)

Staffing has been tracked for each cottage on each of the three shifts from June 1, 2006 to Sept. 30, 2006. The work shifts and times are identified below:

1. Shift 1 = 2200 to 0600 hrs.
2. Shift 2 = 0600 to 1400 hrs.
3. Shift 3 = 1400 to 2200 hrs.

For the purpose of tracking staffing requirements, the HYCF has adopted a 1:8 youth to direct care staff ratio during waking hours (0600-2200. During sleep hours (2200-0559) where youth are secured in their rooms; the youth to direct care staff ratio is 1:16.

**Terms and definitions:**

**Direct care staff:** staff members whose main responsibility is to provide direct supervision to youth entrusted in their care, 24 hours a day; 7 days a week (Youth corrections Officers, Youth Corrections Supervisors).

**DOJ required staffing:** means staffing that is consistent with 1:8 e.g., 1 direct care staff to 8 youth) during waking hours and 1:16 (e.g., 1 direct care staff to 16 youth) during sleep hours for youth.

**Actual Staffing** means counting the number of staff that was physically present on their assigned shifts during the tracking period.

<i>DOJ Required Staffing Compliance by Month, for the Period of June 1, 2006 through September 30, 2006</i>				
<b>Month</b>	<b>Total Shifts Examined</b>	<b>Total Shifts in Compliance to Ratio</b>	<b>Shifts in Compliance to Ratio using ACO Staffing</b>	<b>Shifts in Compliance to Ratio using ONLY HYCF Staffing</b>
<b>June</b>	<b>90</b>	<b>37</b>	<b>1</b>	<b>36</b>
<b>July</b>	<b>93</b>	<b>39</b>	<b>2</b>	<b>37</b>
<b>August</b>	<b>93</b>	<b>36</b>	<b>2</b>	<b>34</b>
<b>September</b>	<b>90</b>	<b>45</b>	<b>3</b>	<b>42</b>
<b>Reporting Period</b>	<b>366</b>	<b>157</b>	<b>8</b>	<b>149</b>

*Notes:*

- The Hawaii Youth Correctional Facility (HYCF) Secured Custody Facility (SCF) experienced lockdown status, due to insufficient staffing, for the following dates: August 5, 2006 (6:00 am through 1:00 pm) and September 17, 2006 (6:00 am through 2:00 pm).
- According to the accumulated data, the Hawaii Youth Correctional Facility has maintained a 42% staffing compliance for the period of June 1, 2006 through September 30, 2006.



Compliance is shown by number of staff working  
 Compliance is also shown by number of fill-in staff that were needed to make the ratios

HYCF has made substantial progress since the last reporting period in reducing lockdowns due to staff shortages and in completing negotiations for the MOA with the Department of Public Safety and the Union. Youth and staff safety are both very well served by these measures.

**Number of Lockdowns**  
 July 1, 2006 – October 6, 2006

<b>Housing Unit</b>	<b>July</b>	<b>August</b>	<b>September</b>	<b>October</b>
SCF	0	1*	1**	0
O&A (Girls)	0	0	0	0
Ho'okipa Makai (short-term Boys)	0	0	0	0
<b>Total</b>	0	1	1	1

Responses: What the agency is doing

- (1) Sick leave program
- (2) Memorandum of agreement (additional staff). Provides figures on how many of these staff have been used. Also indicates how little training or preparation staff have to work in a youth facility.
- (3) Union Consultation
- (4) Recruitment/hiring
- (5) Cottage management Team
- (6) Collaboration with other state agencies (Utilizing adult corrections officers (ACO) in assisting Youth Corrections Officers YCO) with basic observation and supervision of youth.

A Memorandum of Understanding between the OYS the Department of Human Services and the Department of Public Safety went into effect August 4, 2006 and shall terminate February 1, 2007. Under the MOA Adult Corrections Officers partner with youth Corrections Officers to provide “supplemental basic observation” of youth. This enhances staff coverage on the housing units and minimizes the need to lockdown youth for safety reasons. For the period September 27, 2006 through September 30, 2006 a total of 21 ACO’s received the required “Basic Orientation to Hawaii Youth Correctional Facility” that includes an overview of the juvenile justice system, alleged abuse, neglect, and exploitation; Use of force and youth basic rights.

In addition to aggressively recruiting YCO staff, HYCF received supplemental funding for four permanent Youth Correctional Supervisors. All have been filled but one. During the last reporting period HYCF hired four additional YCO’s, two have completed training and are able to provide direct supervision to youth.

HYCF has also been awarded supplemental funding to secure a contract for secured transportation and supervision of youth while off campus. This will avoid having to utilize HYCF direct care staff off campus. A request for proposal (RFP) has not been generated as of this date. Once the RFP is generated information will be available regarding potential vendors and their qualifications to perform this service. The monitor would be interested in the companies that would be considered for this service. The issue of transporting youth, the restraining required etc. presents questions regarding the propriety of a private company performing this service.

Explore with Union representatives the appropriate response to continued absences of direct care staff.

**Status: Completed**

**Discussion:** These meetings have been held and have resulted in the agreements discussed in this provision.

Meet in small groups with senior staff to solicit input into reasons for staffing shortages and consider their recommendations for solutions

**Status: Partially Completed**

**Discussion:** Several meetings have been held, one with the monitor during the October site visit. However not enough staff have been contacted for input for completion of this recommendation.

Despite the substantial effort of the agency a rating of non-compliance is issued due to some lockdowns still occurring and to the fact that the provision calls for “sufficient numbers of adequately trained direct care and supervisory staff.” The MOA is an emergency response and compliance with this provision will await the elimination of the need of the MOA and staff that are trained, not given a 2-hour orientation prior to working in the modules.

**Recommendation:** (1) Continue to document all staff not reporting for work. (2) The administration, including Sharon Agnew, OYS ex. Director, Kaleve Tufono-Iosefa, HYCF administrator and Alex Escarcega should meet in small group sessions with direct care staff and solicit their input into the reasons for the staffing shortages and their recommendations for solutions. (3) Once staffing ratios are stabilized the HYCF should also develop a cottage management team, made up of their most experienced youth secure facility staff. This team would spend up to six weeks in each cottage doing two things: Seeing that newly hired staff are able to properly perform the necessary functions learned in their pre-service academy and current staff also demonstrate competence in this area. Absent competency testing training will not be of benefit. Those staff who cannot demonstrate competence should be invited to be trained a second time. Those unable or unwilling to become part of a youth corrections staff through such training and competency demonstration should be assisted to find employment elsewhere. (4) Review with the monitor the responses to the RFP for transportation of youth. This is a highly specialized service that should only be done by those with correctional service backgrounds.

**Documentation:** Review of staffing issues during August and October site visits. Discussion of staffing with staff on modules during site visits. Discussion of staffing

with one senior staff group during October site visit. Second Compliance Report October 14, 2006.

**(26) Employment Practices.** The State shall only employ individuals with reputable and responsible characters to work with youth residents at the facility. Within 120 days of the Effective Date of this agreement, the State shall conduct a criminal record check for all current employees at HYCF, In accordance with Hawaii Revised Statutes section 352-5.5 (2006), taking appropriate actions where new information is obtained. At least as often as every year thereafter, the State shall update such criminal record checks for all employees who come into contact with youth. HYCF administration shall develop policies and procedures so that applicants and all current staff are required to immediately report to it any arrest other than a minor traffic violation and also report the issuance of a restraining order entered against the staff member due to alleged abusive behavior.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

Need an annual update on BCI's. Need to require employees to report an arrest or issuance of a restraining order due to alleged abusive behavior.

**Status: Partially Completed**

**Discussion:** HYCF policy 1.09.05 Criminal History Record Clearance (Draft) effective date 9/30/06 has been revised to include that reputable and responsible persons are hired as staff members at HYCF which shall include criminal history record checks in accordance with section 846-2.7 of the Hawaii Revised Statutes. DHS has agreed to provide a written certification to the YFA verifying the names and dates of the employee updates with no new criminal history. They will also provide in writing any new criminal history information directly to the YFA in a confidential letter for disposition. It is not clear whether restraining order reporting is included in this statute.

An effective employee misconduct policy needs to be developed that identifies inappropriate staff conduct, assists the supervisor/manager in designing a course of action once a problem behavior has been identified and allows employees to take steps to correct the problem performance, conduct, or inappropriate behavior. Discipline may be administered as a corrective or punitive measure in response to an employee's misconduct or deficient job performance.

**Status: Not Completed**

**Recommendation:** Clarify the issue of the restraining order and develop the employee misconduct policy.

**Documentation:** Second Compliance Report October 14, 2006

**(27) Exploitation.** The state shall develop and implement policies, procedures, and practices so that staff do not financially exploit youth or their families.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

Compile listing of any actions taken and review those reports with the monitor during the next reporting period. Develop financial exploitation policy and procedure.

**Status: Partially Completed**

**Discussion:** Listing was not complied nor reviewed. However HYCF policy 1.43.35 Reporting Alleged Abuse, Neglect, and Exploitation dated 10/24/05 has been revised to HYCF policy 1.43.35 Alleged Abuse, Neglect, and Exploitation (Draft) effective 9/30/06 to include the recommended language.

**Recommendation:** Review the newly drafted P&P for compliance during the next reporting period.

**Documentation:** Second Compliance Report October 14, 2006

**(28) Grievances.** The state shall develop and implement policies, procedures, and practices so that the HYCF has an appropriate grievance system for youth.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

1.43.81. 4.0.2 b.i. Interviews of youth and staff to be mandatory instead of discretionary.

4.0.2 d response to grievances be 7days instead of 15.

4.0.2. b V Persons who resolve grievances should not have supervision of person who is subject of the complaint.

5.0 a V. Notice to youth about abusing the grievance should be directly related to the level system.

5.0 b I Add training provision and add contract providers as recipients.

**Status: Completed**

Hire an Ombudsman as soon as possible to assume the responsibility for this process.

**Status: Not Completed**

**Discussion:** During the October site visit the HYCF had not yet been funded for the ombudsman position . During the August site visit a young social work student had assumed the ombuds function. She took all of the outstanding grievances (78 since May 1, 2006) She reviewed the grievances with the youth and the staff and successfully resolved them. The policy called for resolutions to be completed within 15 days. She was resolving them in 2-3 days. The backlog of grievances certainly is a strong indication of the lack of follow-through in this process. She was only available for one more week during that month and the process would revert basically back to its old form.

During the interim remove the responsibility of distributing forms from staff. Direct care staff should not be involved in the distribution of grievance forms. Review the current procedure that allows multiple persons to distribute grievance forms.

**Status: Not completed**

**Discussion:** Alex Escarcega, Technical Advisor was handling the duties of distributing grievance forms. The forms are picked up by maintenance personnel each day as they go from facility to facility. Direct care staff are still distributing forms although it is agreed that this is not best practice it cannot be discontinued until the ombudsman is hired.

In addition, the procedure is not clear that the Youth Facility Administrator reviews all resolutions.

At the first site visit information provided by the Superintendent of the HYCF indicated that the resolutions would all be reviewed by her. Amend the current procedure to clarify that the superintendent reviews all resolutions.

**Status: Not Completed**

**Discussion:** Alex Escarcega is reviewing each grievance, not on a daily basis, but as time allows, at least twice weekly. The YFA does review each resolution.

Also, the “Youth Complaint Form” that is used by youth to file a grievance should be revised to include space for youth to provide a written narrative describing their version of the facts surrounding an incident. The policy should also be revised to reflect that volunteers are required to receive training on the facility’s grievance process.

**Status: Not Completed**

Revise policy to allow for volunteers to receive training for grievances.

**Status: Not Completed**

**Recommendation:** Have Alex Escarcega provide daily review of the distribution and collection until this responsibility can be assumed by an ombudsman. Complete recommendations not completed from the 1st report.

**Documentation:** Meeting with Kaleve Tufono-Losefa YFA and Alex Escarcega, Technical Advisor, October 5, 2006. Review of Grievance file, review of grievances Second Compliance Report October 14, 2006.

**(29) Retaliation and Intimidation.** The State shall develop and implement policies, procedures, and practices so that staff do not intimidate or retaliate against youth who file grievances or against staff members, volunteers, contractual employees, or youth families who report allegations of staff abuse or misconduct. The policies, procedures, and practices contemplated by this paragraph will not preclude appropriate action where a youth, employee, or other person knowingly asserts a false complaint or grievance. As to retaliation against staff members, the policies and procedures contemplated by this paragraph may reference Hawaii Revised Statutes, Chapter 378, Part V (Whistleblowers’ Protection Act).

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

1.43.35 section 4.0.1. Insert staff that report abuse or neglect will not be retaliated against. Insert: Retaliation does not preclude action when an employee or youth asserts a false claim. 4.0.2 a: the initial report may be oral but it must be documented in writing. 5.0.5 II: insert: reference the collective bargaining agreement for discipline.

**Status: Completed**

**Discussion:** During the October site visit some staff interviewed by the monitor said that youth were intimidated and feared retaliation. This issue will likely not be resolved until an ombudsman is hired that can directly confront the issues, track any suggestion of intimidation or retaliation and ensure the integrity of the grievance process.

**Recommendation:** The old recommendation is continued. Compile list of actions for review during the next reporting period.

**Documentation:** Discussion with HYCF administration at site visit October 2006. Interviews with youth during the August and October site visits inquiring specifically about the grievance process and their concern about retaliation.

**(30) Admissions, Intake and Orientation.** The state shall develop and implement policies, procedures and practices to establish a consistent, orderly admissions intake system, conducive to gathering necessary information about youth, disseminating

information to staff providing services and care for youth, and maintaining their safety. Each youth entering the facility shall receive an orientation that shall include simple directions for reporting abuse, and assure youth of their right to be protected from harm and from retaliation for reporting allegations of abuse. Orientation shall also clearly set forth the rules youth must follow at the facility, explain how to access medical and mental health care and the grievance system, and provide other information pertinent to the youth's participation in facility programs.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

1.51.09 Add questions on drug and alcohol abuse to admissions process.

CMS.01.35 Identify what Category 1 and 2 violations are and which sanctions go with them

1.47.13 4/0.4 Add additional topics to the orientation: reporting abuse, access to MH care, and fear of retaliation.

1.47.13 Case management standard and youth orientation to be consistent

**Status: Completed**

Assessments and exams need to follow the youth. (Provision 41).

**Status: Not Completed**

Update the handbook and emphasize its use to the youth as part of the intake process. A copy of the handbook was once again reviewed. It is the same handbook that was issued in November of 2004

**Status: Partially Completed**

Youth rights and grievances should be clear to the youth and the process for accessing these rights articulated in the book.

**Status: Partially Completed.**(see above.)

Clarify communication channels. During the first site visit it was clear that each part of the intake and assessment was being conducted but it was also clear that personnel within the facility were not aware of all of the actions being taken and were not benefiting to the extend they could from each other's work. The HYCF is aware of the need for more organized communication between the various disciplines. To date nothing has been presented to the monitor that indicates that an organizational change has taken place that would facilitate this communication.

**Status: Partially Completed**

**Discussion:** This process has begun and an interdisciplinary staffing was attended by the monitor during the October site visit. It was a very professional meeting with all parties participating and treatment plans generated. This included representatives from all areas of HYCF and outside providers.

The intake policy should clearly identify the HYCF staff responsible for obtaining documents that are required upon the admission of a youth. If that paper work is missing that staff person would be responsible for contacting the appropriate agencies and obtain the mission paper work.

**Status: Partially Completed**

**Discussion:** This is in progress but required paperwork has not been agreed upon nor has responsible parties.

Include clarification of category 1&2 offenses in the orientation process. Policy now indicates that the youth must have reviewed at least the items mentioned in the orientation.

**Status: Not Completed**

**Discussion: Not included in Compliance report**

The policy is not clear as to the listing for orientation being complete. P&P should be re-stated making it clear that all of the items included in the orientation are in the P&P and are to be covered.

**Status: Not Completed**

**Recommendation:** Complete recommendations not completed in 2<sup>nd</sup> report.

**Documentation:** Continued discussion of the process with staff at October site visit.

Review of Settlement Agreement files with Alex Escarcega. Second Compliance Report October 14, 2006.

**(31) Classification.** The state shall develop and implement a classification system that, upon intake, places youth appropriately and safely within the facility, and provides for later reclassification in appropriate circumstances.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

Review the risk classification instrument during the next site visit. The field-testing should have been completed by that time and the appropriateness of the criteria can be reviewed with staff.

**Status: Partially Completed**

**Discussion:** In the 1<sup>st</sup> report it was indicated that a more detailed classification instrument was to be field-tested on April 9<sup>th</sup>. The Initial Security Classification Instrument is just beginning field-testing during this reporting period. The ISCA “was developed for use by staff at the Hawaii Youth Correctional Facility to determine initial security classification and placement of youth committed to HYCF. The instrument assigns initial security classification based on a combination of risk to re-offend and offense impact. The greater the risk to re-offend and the greater the offense impact, the greater the initial security classification.” (ISCA Instruction Manual). Section I: Offender risk level: Includes scoring on prior assaultive behavior, impulsive or hostile response to frustration, age at first adjudication, chemical/alcohol use, problem solving skills, peer relationships, prior adjudications, compliance with facility regulations, history of escapes, prior commitments, gender, adjudicated sex offender, and age at admission. Section II Current offense seriousness: Length of maximum sentence, violent offense in current admission. Section III, Risk level and offense seriousness scores, Section IV Initial security Classification Assignment and Residential Placement and Section V Subsequent Changes to the initial security classification assessment.

Youth are scored on the ISCA and then placed in a level of security and classification consistent with the scoring. At the HYCF youth are kept on close control regardless of initial classification. This is being done while HYCF staff determine if the ISCA is compatible with the current level system and they develop a comfort level with the scoring and placement recommendations that result from that scoring.

Determine if cottage management system is sufficient to eliminate code reds in response to insufficient staffing.

**Status: Partially Completed (see following charts)**

**Discussion:** In the previous report it was also pointed out that youth were being locked down due to staffing shortages and not due to classification. This has continued since the last report although with much less frequency. (See provision 25 and chart below.)

Complete the override section of the risk assessment.

**Status: Completed**

HYCF policy 1.47.21 Initial Security Classification Assessment, and Community Risk Assessment (Draft) effective date 9/30/06 has been revised. Administrative override is included in this policy.

Move to the cottage management system

**Status: Partially Completed**

**Discussion:** The classification system is also being tested to see if it is compatible with the new cottage management system being installed at the HYCF. This cottage management is still being developed. In addition the HYCF is looking at some reorganization in order to better manage the cottages. This includes a request for a CS1 staff over each of the 3 facilities that make up the HYCF complex. (1 CS1 is in place and the other 2 have been requested. The funding of these positions will await legislative action so actual implementation will not be until July of 07. (The Union is being apprised of this reorganization.). Also an additional security officer is being requested to manage movement of youth

The monitor also attended a multi-disciplinary meeting on October 4, 2006 that was partly an attempt to classify a youth. Multi-disciplinary meetings are held in response to youth who require specialized review due to special needs, overtly aggressive behavior or mental health issues that need attention. The youth was discussed, his classification reviewed, treatment plan developed.

**Number of Code Reds**  
February 1 – October 9, 2006

Location	Shift	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct
SCF	1	0	0	0	0	0	0	0	0	0
OA	1	0	0	0	0	0	0	0	0	0
Ho'okipa	1	0	0	0	0	0	0	0	0	0
<b>Total</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Location	Shift	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct
SCF	2	0	3	1	2	0	0	0	0	0
OA	2	0	0	0	0	0	0	0	0	0
Ho'okipa	2	0	0	0	0	0	0	0	0	0
<b>Total</b>		<b>0</b>	<b>3</b>	<b>1</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>



Location	Shift	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct
SCF	3	0	1	1	0	0	0	1	5*	0
OA	3	0	0	1	0	0	0	1	0	0
Ho'okipa	3	0	0	1	0	0	0	0	0	0
<b>Total</b>		<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>5</b>	<b>0</b>

**Recommendation:** Continue the former recommendations. Review the experience of field-testing the classification instrument. Determine if classification is being followed from intake to placement in cottages and its compatibility with the level system.

**Documentation:** Discussion with site visit staff: Review of file, review of classification instrument. Those attending the multi-disciplinary meeting included: YFA Kaleve Tufono-Iosefa, Alex Escarcega, Dr.R. Hamamoto, Psychiatrist, FCLN, Malvea Hardy, Acting Corrections Supervisor 1, Linda Hadley, Nurse, Kale Au, Caseworker, Devon Enesa, Youth Services Supervisor, Lynette Storrer, Medical Unit Nurse, Lori Terakawa, Social Worker, Sharon Agnew, OYS Ex. Dir. Heidi Rian, Deputy Attorney General, Russ Van Vleet, Federal Monitor. Second Compliance Report October 14, 2006.

## B. TRAINING

**(32) Training.** The state shall develop and implement policies, procedures, and practices to provide staff, volunteers and contractual employees of HYCF, and OYS employees as deemed appropriate by OYS, with training regarding their responsibilities.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

Explore the development of a juvenile justice academy. Obtain curricula from other jurisdictions to determine adequacy of current curriculum.

**Status: Not Completed**

Develop a time table for the completion of training of all current employees on basic juvenile justice principles and cottage management principles.

**Status: Not Completed**

Determine if funding would be provided so that staff could be hired, trained in pre-service settings prior to service. Also, develop expectation that competency must be shown in order to be hired and to retain employment.

**Status: Not Completed**

1.13.01 section 4.0.2. Rephrase that section to say that the training should be scheduled for one year and updated monthly. Letter e: add provision for annual re-training (except pre-service training.)

1.13.13, 4.04 add d. That staff are in good standing and not had a disciplinary action in last 6 months.

1.15.1 Volunteer services. The training of volunteers must be the same as that required of staff.

1.51.1 2.0 add that volunteer staff will not function as direct care staff.

1.51.1 4.0.5 volunteers are not to provide direct supervision of youth and not be a part of the staffing pattern

**Status: Completed**

**Discussion:** Contained within the narrative for the last report were other comments not included in the recommendation section of this provision. Those are outlined in the Second Compliance Report October 14, 2006. The response in that report is that the HYCF has received supplemental funding in the amount of \$110,000 for two training specialists and one training clerk/typist. \$25,000 for the purpose of establishing a policy driven training program and staff development. Training will provide staff with tools to improve operations and management of youth consistent with nationally recognized standards for youth correctional facilities.

Currently the issue is getting people to training. There is no pre-service academy due to staff shortages. Tuesday is still the training day. Staff are brought in shift 3 one hour early and shifts 2 and 1 will stay one hour.

For example: To train staff on pathogens it took two weeks to train 45 staff.

No training for volunteers at this point.

To obtain compliance staff need pre-service training. This will not happen until staffing is completed.

**Recommendation:** Incorporate the use of trainers in the cottages until the academy is instituted. Explore the possibility of utilizing the DPS academy (building) for the establishment of a juvenile justice academy. Have new training specialists provide detailed responses to issues raised in the first two reports in time for the 3<sup>rd</sup> report.

**Documentation:** Review of HYCF training log. Sign-in sheet for Bloodborne Pathogens. Discussion with Alex Escarcega, Kaleve Tufono-Iosefa, Sharon Agnew, Heidi Rian. Second Compliance Report October 14, 2006.

**(33) Use of Force Training.** The State shall train direct care staff in the approved method for physical restraint that minimizes the risk of injury to youth. The State shall only use instructors that are appropriately certified to teach the approved physical restraint method. All training shall include each staff's demonstration of the approved techniques and 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. Supervisory staff who are routinely involved in responding to incidents and altercations shall be trained to evaluate their subordinates' use of the approved restraint methods and must provide evaluation of the staff's proper use of these method (s) in their reports addressing use of force incidents.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

Explore the additional restraint training. Continue to work with the trainers and the staff to remedy the training issues identified in the discussion

**Status: Completed**

**Discussion:** HYCF policy 1.63.61 Use of Force, effective date 10/24/05 has been revised with the recommended language changes including collapsing two definitions of

mechanical restraints into a single definition. Kaleve Tufono-Iosefa YFA continues to review incidents involving the use of force.

Handle with Care Re-Certification training was provided by Mr. Bruce Chapman at HYCF August 2-4, 2006. A total of 14 HYCF staff participated in the training. Henry Haina (YCO), Phyllis Rosete (YCO), Mike Kim (YCS), John Cavaco (YCS), Cynthia Hubbell (YCS), Colin Gonsales (YCO), Keoni Yadao (Acting Corrections Supervisor !), Regino Punahale (YCO), Mitch Simao (YCS), Derek McMoore (YCO), Domingo Ricasa (YCO), Etene Taimalelagi (Special Projects Director), Matt Mondragon (YCO) (attended one day only, not certified).

The training was modified to allow for the inability of some HYCF staff, due to physical size, to be trained in other additional techniques. Only 14 were re-certified. Those staff who come in to assist with staff shortages (ACO's) do not use force. ACO's may exercise verbal, non-physical de-escalation and crisis prevention and intervention skills in accordance with their PSD training. This is included in the MOA the HYCF has with the Dept. of Public Safety.

**Recommendation:** Provide the additional training recommended by Handle With Care (Handle With Care, Addendum Core Techniques) Trainers Manual.

**Documentation:** Letter from Bruce Chapman from Handle With Care acknowledging the completion of the training. Sign-up sheet for training.

**(34) Suicide and Self-Harm Prevention Training.** The State shall conduct suicide prevention training for direct care staff. Within six months of the Effective Date of this Agreement, HYCF shall develop a prevention training curriculum, which shall include the following topics:

- (a) A suicide prevention policy consistent with this Agreement;
- (b) The ways in which facility environments may contribute to suicidal behavior;
- (c) Potential predisposing factors to suicide;
- (d) High risk suicide periods;
- (e) Warning signs and symptoms of suicidal behavior;
- (f) Case studies of recent suicides and serious suicide attempts;
- (g) The proper role of staff in responding to a suicide attempt by youth, including different levels of observation and the types of precautions that should be taken;
- (h) Strategies for de-escalating youth engaging in self-harming behaviors;
- (i) Instruction and mock demonstrations regarding the proper response to a suicide attempt; and
- (j) The proper use of emergency equipment.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

First, it is strongly recommended that all current suicide prevention training be immediately suspended until such time as HYCF Policy 1.35.63 is substantially revised and implemented, as well as the suicide prevention lesson plan revamped.

**Status: Partially Completed**

**Discussion:** Policy 1.35.63 has been revised effective date 9/30/06. Training has been stopped by HYCF. FCLB has revamped some of its forms using the DOJ recommendations. Dr. Hirsch is in the process of setting up a time when he can do the suicide assessment training with the nurses on the form FCLB devised.

Second, it is strongly recommended that an 8-hour suicide prevention lesson plan be developed that includes the following topics: juvenile suicide research, why the environments of juvenile facilities are conducive to suicidal behavior, staff attitudes about suicide, potential predisposing factors to suicide, high-risk suicide periods, warning signs and symptoms, identifying suicidal youth despite their denial of risk, strategies for de-escalating youth engaging in self-harming behaviors, components of the HYCF's suicide prevention policy, critical incident stress debriefing, and liability issues associated with juvenile suicide.

**Status: Partially Completed**

**Discussion:** FCLB is developing a curriculum that is more specific to the youths at HYCF and recommendations based on the DOJ report. When the trainings resume Dr. Hirsch will meet with the FYA and discuss the curriculum in development; FCLB will conduct the training per the curriculum in partnership with Medical.

Third, although Provision 34 only requires suicide prevention training of direct care staff, it is strongly recommended that all staff [including direct care, education, social work, medical (including contract), and mental health personnel] who have regular contact with youth receive this initial 8-hour suicide prevention training.

**Status: Not Completed**

**Discussion:** Need to develop a tracking system.

Fourth, it is strongly recommended that all staff who have regular contact with youth should receive two (2) hours of annual suicide prevention training. The two-hour training workshop shall include a review of predisposing risk factors, warning signs and symptoms, identifying suicidal youth despite their denial of risk, and review of any changes to the HYCF's suicide prevention program. The annual training shall also include general discussion of any recent suicides and/or suicide attempts in the facility.

**Status: Not Completed**

**Discussion:** Need to develop this curriculum. Draft will be worked on after 8 hr. curriculum is completed and approved by QAT. Need to develop tracking system. Identify logistics.

**Recommendation:** Complete the recommendations from 1<sup>st</sup> Report.

**Documentation:** Review of training with Alex Escarcega during the October Site Visit. Review of recommendations from 1<sup>st</sup> report with Rachael Guay during the October site visit.

### **(35) Staff Training in Behavior Management, De-Escalation and Crisis Intervention.**

The State shall provide appropriate competency-based training to staff in behavior management, de-escalation techniques, appropriate communication with youth, and crisis intervention before staff may work in direct contact with youth.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

Continue to work on staffing issues so that this training can take place as scheduled this fall.

**Status: Partially Completed**

**Discussion:** Staff continue to be re-certified on the “Handle With Care” techniques. A training took place on August 2-4, 006. Module 4 of the Handle With Care Instructor Manual enables staff to learn arrange of appropriate verbal and nonverbal intervention skills. Staff is required to demonstrate the ability, during role playing exercises, to reduce tension via a variety of intervention strategies. This training has been provided by Emmert & Associates over a period of several years now.

**Recommendation:** Prioritize “Handle With Care” training so that all staff are trained in this area for compliance review during the next reporting period.

**Documentation:** Reviewed Handle with Care curriculum that had just been completed prior to the October site visit. Second Compliance Report October 14, 2006.

**(36) Staff Training in Incident Reporting.** The State shall develop and implement policies, procedures, and practices so that staff are appropriately trained in incident reporting consistent with the type of incident reporting required under this agreement.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

Develop the training in time for the next reporting period.

**Status: Partially Completed**

**Discussion:** P&P 1.01.06 has been revised effective 9/30/06. The form 200 has been revised to delete injury to self and added Harassment (major) and Harassment (minor). Awaiting feedback from appropriate staff prior to implementation of form. On September 26, 2006 the first training session on Incident Reporting was provided to staff in conjunction with training on the level system and log books.

**Recommendation:** Document trainings for review at next site visit.

**Documentation:** Discussion with Alex Escarcega at October site visit. Second Compliance Report October 14, 2006.

**(37) Behavior Management Program.** The State shall develop and implement a behavior management program. The program shall provide youth with positive and systematic recognition and rewards for accomplishments and shall teach social and cognitive skills, reinforce appropriate choices, and assist youth in establishing understandable and reachable goals. The program shall also provide that mental health staff (a) consult custody and other direct care custody staff regarding behavior management, and (b) assess the effectiveness of such program and any interventions utilized. HYCF administration shall incorporate means to assess and refine the program based on mental health staff assessment of outcomes and shall share results with program units.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

MH should look at measures such as those of the Youth Outcome Questionnaire (YOQ) as an assessment tool. This measures attitudinal and behavioral changes and could be adapted to the module exercises.

**Status: Partially Completed**

**Discussion:** This is being investigated.

Review with the monitor the clinical director's position and expectations for a more thorough and rigorous approach to provision of mental health services when this position is filled.

**Status: Not Completed**

**P&P Recommendations:**

1.51.01 Attach handbook with level system description to policy.

1.51.03 add violence to definition

4.01d gather input from youth regarding privileges for the level system

**Status: Partially Completed**

**Discussion:** 1.51.03 has been revised effective September 30, 2006. However, the handbook is currently being revised and not attached to the policy. 1.51.03 was revised effective September 30, 2006. This includes procedures that instructs that a television will be set on a channel that does not have movies rated (R), or depict drugs, violence, alcohol, or gang-related activities in a non pro-social manner.

The level system was outlined in the 1<sup>st</sup> Report. That system had not been fully implemented at the time the report was issued, July 24, 2006. During the second reporting period the status of that level system was found to be in formulation but not fully implemented. The level system has been implemented and youth are placed on levels. When visiting cottages it was clear that youth are aware of the levels and of their status within those levels. What remains to be done is the connection of the level system with the larger cottage management issues of treatment that will need to include mental health, medical and educational personnel.

**Recommendation:** (1) Develop outline for cottage management system that includes level system and its connection to treatment issues. (2) Complete revision of handbook.

**Documentation:** Discussions with youth in modules at HYCF during the October site visit. Second Compliance Report October 14, 2006.

### **C. ACCESS TO MEDICAL AND MENTAL HEALTH CARE**

**(38) Access to Care.** The state shall provide youth with access to adequate, appropriate, and timely medical and mental health care to meet the individualized needs of youth in accordance with clinical judgment.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

(1) Continue to work with direct care staff so that they can begin to participate in the group treatment process and move that function into the individual cottages.

**Status: Not Completed**

**Discussion:** One of the issues of concern to the monitor is the provision of oversight to conditions within the modules on a regular basis. While incident reporting allows a review of incidents if reports are not written then it is necessary for someone to be inspecting the conditions within the units and to determine if youth need medical or

psychiatric care. During medical visits, usually for the distribution of medicines to youth that occur each day, the nursing staff do, as a matter of their routine, make observations of youth to determine if any youth need care who have not been referred to the medical unit. If so the youth are taken to the unit for whatever care is deemed appropriate. A spread sheet also showed the lack of medical follow-through due to insufficient medical and dental coverage. From November of 2005 through 10-11-06 there were 202 appointments with medical and 64 cancelled. During the same time frame there were 126 dental appointments with 40 cancellations. Also, Youth are not getting follow-up appointments to doctors. The medical coverage is sufficient within the facility but if the youth need specialists it is not being provided. This is due to lack of transportation. The health unit is also supposed to provide documentation for the next reporting period.

Lastly, the medical unit staff indicated that they feel that youth are afraid to fill out grievances due to retaliation.

**Recommendation:** (1) During the next reporting period review the last 3 months of the use of security. Cross reference this with the nursing unit log which contains a listing of each time nursing staff visited youth in security. This will help determine to what extent, if any, youth are being placed in security without accompanying incident reports or referrals to medical. (2) Update the medical follow-through spread sheet from October through January for identification of status of medical coverage.

(2) Complete the staffing of medical and MH as soon as recruitment will allow. Be sure that newly hired staff agree to work flex-hours.

**Status: Not Completed.**

**Discussion:** Recruitment is on going through personal contacts, attendance at conferences, newspaper advertising etc.

(3) Schedule flex-time for MH and social work staff. Everyone is trying to see youth between 8 a.m. and 5 p.m. Scheduling has to include evenings and week-ends.

**Status: Partially Completed**

**Discussion:** Dr. Hirsch is on call 24/7. Other staff are being recruited and will work flex when hired.

(4) HYCF needs to re-evaluate scheduling to include the mental health needs of the youth. Youth in emotional distress need to be seen immediately. This would not be a denial of education.

**Status: Not Completed**

**Discussion:** This is a process that needs to be undertaken when the clinical director is hired and new mental health staff are added. This issue, however, is not just the flexibility of the MH staff it is the programming within the facility between education, direct care, recreation, medical etc. MH needs require some prioritization. Included in this will have to be the need for adequate space that is addressed in other provisions.

(5) New clinical director should make scheduling a priority and see that education and mental health needs are balanced.

**Status: Not Completed**

**Discussion:** Clinical Director not yet hired.

(6) Clarify role of social work staff in the mental health provision of care and cottage management practices

**Status: Not Completed**

**Additional Discussion:** During the August site visit the provision of a mental health assessment was reviewed once again with the mental health staff. The issue of communication and collaboration still remains. Assessments are being conducted but to the extent that they are useful is the issue. Staff are not being provided this information and questions were raised regarding to what extent the information is useful for the direct care staff. Many of the staff are still not trained and there continues to be a lack of staff so that ratios are not met and staff are only able to provide basic coverage.

During this site visit girls were being locked down due to a recent epidemic of cutting (self-mutilation by cutting). (One girl was transported to the hospital during the site visit.)

In a discussion of this issue Dr. Hirsch (recently hired to replace the retired Dr. Peter Kim) he indicated that there is really no explanation for the behavior. There is no process available, due mostly to facility limitations to isolate the youth. There was some discussion about utilizing a vacant building in order to isolate and better supervise youth who are self-mutilating. This facility, Maluhai was opened as a separation facility. During the October site visit one female youth was housed there.

There was also discussion of the risk assessment and its revision. A draft was to be provided during the next site visit. Currently all youth are assessed and instructions given to the YCO's through the YCS's. These assessments are also provided for review to the YFA.

Rachael Guay indicated during this discussion that she does not feel that the requirement of a MH assessment in 14 days upon admission is necessary or realistic. The discussion resulted in a recommendation that Etene review assessment policies and remove that requirement. It was agreed that all youth needed screening but not assessment. (need to define the difference) All youth will be screened but only those that need a mental health assessment will be given one.

The P&P, 1.35.01, 1.35.35, 1.35.29, 1.35.39 and 1.35.63 are being developed and placed in Chapter 35 of the P&P manual.

There was discussion regarding the use of social workers in the provision of treatment agreement. There appears to be considerable overlap and gaps in this service and those needed correcting. The cottage management teams are still being developed and the direct care staff are transitioning into treatment.

The on-call 24 hr. coverage is currently being provided by Dr. Hirsch.



The issue of space is somewhat improved. There is space for interviews and treatment sessions at the girls facility still a major problem in the boys secure. There was discussion of use of social workers space for interviews or modular space being provided.

**Recommendation:** Involve mental health staff in the development of the cottage management teams especially as it involves the direct care staff. Clarify the issue of 14 day assessments.

**Documentation:** Meeting with Rachael Guay, Dr. Hirsch during August and October site visits. FCLB 9/22/06 updates prepared by Rachael Guay. Second Compliance Report October 14, 2006.

**(39) Policies, Procedures and Protocols.** The State shall develop and implement adequate medical and mental health policies, procedures and protocols as set forth in this Agreement. The State shall provide sufficient numbers of qualified medical professionals to meet these needs. In furtherance of this requirement, the state shall submit a proposed staffing plan to be approved by the Monitor, with the monitor's approval establishing the sufficient number of staff required by the Agreement. Prior to approval by the Monitor, DOJ may submit comments to the Monitor regarding the State's staffing plan, which comments shall also be provided to the State. The State shall also provide that direct care staff do not restrict or deny the provision of adequate medical and mental health care.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

(1) Discontinue the use of the HYCF Administrator providing on-call medical coverage after 11p.m. and on weekends. Contract for adequate medical on-call coverage. The first call for medical emergencies should always be a medical person.

**Status: Completed**

(2) Develop the staffing plan and submit it for approval

**Status: Partially Completed**

**Discussion:** An MOA between Halihi-Palama Community Mental Health Center and the OYS is being negotiated to provide professional dental services. A contract is to be awarded to review medical and mental health policies. A clinical director position is being recruited as are other MH positions. There are still not sufficient staff to meet the needs of youth at the HYCF. During the August site visit there was still a vacant psychiatrist position, two psychologists vacant. A QA position was being recruited as was an administrative office manager. There is the need for two additional social work positions (one for case management, transition and one for substance abuse issues.)

**Recommendation:** Provide update on progress of MOA and hiring of needed staff at next site visit.

**Documentation:** Site visit discussions with medical, nursing and mental health staff. Second Compliance Report October 14, 2006.

**(40) Privacy.** Subject to a safety consideration, the state shall provide for an appropriately private environment in which to conduct medical and mental health assessments at HYCF.

**Rating: Partial Compliance**

**Recommendation and Corrective Action from 1<sup>st</sup> Report.**

Provide sufficient space for mental health programming

**Status: Partially Completed**

**Discussion:** Medical and mental health personnel presently conduct assessments and examinations in two rooms within the medical unit that are separated from the visiting rooms and central control area. Although YCO's and other professional staff may be in the general area, medical unit personnel do not feel that this compromises confidentiality or privacy for youth. HYCF considered the use of social worker offices when not occupied, however for safety and privacy reasons, it was determined that this was not a viable option.

During the August site visit there was discussion of TV rooms being used for mental health interviewing. Locks would have to be changed so that counselors could exit the rooms.

**Recommendation:** Continue to explore the use of TV rooms.

**Documentation:** Meetings with medical, mental health and administration during the August and September site visits. Second Compliance Report October 14, 2006.

**(41) Mental Health and Medical Records Retrieval.** The State, through appropriate HYCF and OYS staff, shall develop and implement policies, procedures and practices so that, consistent with State and Federal law, all reasonable efforts are made to have the juvenile courts in the State, all juvenile detention facilities, and all placement settings from which youth are committed, timely forward all pertinent youth records or discharge summaries regarding medical and mental health care, in accordance with the clinical judgment of the qualified medical professional or qualified mental health professional.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

(1) Review the current P&P to determine if other documents need to be required for admission to be completed.

**Status: Completed**

**Discussion:** HYCF policy 1.47.01 Requirements For Admission (Draft) effective 9/30/06 has been revised to include the recommended language. "No youth under any circumstance shall be admitted to HYCF without a certified copy of the Mittimus or Court Order and the Pertinent Information Sheet. All other documents may be received no later than seven (7) days of the youth's admission date. (documents listed in 1<sup>st</sup> report)

(2) Allow for a short period of time for paperwork requirements to be addressed by all concerned agencies (3 months) and then amend current policy requiring additional documents

**Status: Not Completed**

**Discussion:** Meetings have begun with the deputy court administrator to determine which records need to be transferred with the youth upon admission and how this process will occur. Staff have been going from court circuit to court circuit having these discussions. HYCF and FCLB continue to work on plans to develop a MOU with the family courts in addition to seeking clarification on the issue of requesting or requiring important pertinent information regarding youth placed at HYCF. The statutory requirements may

serve as the basis for “requiring information” as opposed to “requesting” is currently under review with assistance from the AG’s Office.

**Recommendation:** Update monitor on progress of MOU with circuit courts and with position of AG’s office regarding the requiring of information from the courts prior to admission.

**Documentation:** Meetings with AG representative during the site visit. Discussion at September site visit with medical, mental health and administrative personnel. Second Compliance Report October 14, 2006.

**(42) Interdisciplinary Communication.** The State shall develop and implement policies, procedures and practices so that interdisciplinary communication occurs to facilitate mental health treatment among medical and mental health staff, HYCF and outside providers of medical and mental health services.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

Develop Policy and Procedures in time for next site visit.

**Status: Partially Complete**

**Discussion:** Interdisciplinary staff meetings are now being held. Individual youth are being staffed and decisions being made that have system wide ramifications. The monitor attended one staffing during the September site visit that had representatives from the Olomana school, medical, mental health, social work and administration.

A MOA has been in place since April 2005 between DHS, DOE, DH to collaborate on the provision of services to youth at HYCF.

The AG/DOE/DOH/HYCF Interagency Workgroup prepares an agenda and meets monthly. This workgroup is trying to determine what is needed to meet the provisions of the MOA.

There is draft P&P 1.01.53 Interdisciplinary Communications (Draft) effective date 7/27/06.

One concern that came up during the August site visit was that after hours there is no access to medical or mental health records after hours. There is no computer access within the facilities. Nursing stations close at 11 p.m. and mental health personnel leave at 4 p.m. After these hours only the on-call person would be able to help staff in need of information about a youth.

**Recommendation:** Provide documentation of the activities of the Interagency workgroup and the status of the implementation of the MOA during the next reporting period.

**Documentation:** Second Compliance Report October 14, 2006

**(43) Mental Health and Medical Record System.** The state shall develop and implement policies, procedures and practices so that medical and mental care staff have reasonable access to all documents that are relevant to the care and treatment of the youth.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

Develop the Policy and Procedures in time for the next site visit.

**Status: Partially Completed**

**Discussion:** Policies 1.35.01, 1.35.35, 1.35.29,1.35.39,1.35.63 have been included in Chapter 35 of the HYCF P&P manual. The state is currently trying to establish an integrated keeping computer system. The OYS is establishing two information technology positions to support a computerized information sharing system. The OYS is negotiating with another state to share their information system. Fax machines have been requested so that at least documents could be accessed from various facilities as needed pending the development of the electronic capabilities.

**Recommendation:** (1)Update status of information system during next site visit. (2)Update status of hiring technology positions. (3)Update status of negotiations with other state for technology development. (4)Provide update on current status of information sharing including improvements since last report (fax usage, other improvements)

**Documentation:** Discussion with administrative staff at September site visit. Second Compliance Report October 14, 2006

**D. SPECIAL EDUCATION**

**(44) Provision of Special Education.** The State shall provide youth confined at the facility with special education in compliance with the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1400et seq., and regulations promulgated thereunder. The State understands that providing appropriate special education services includes having staff sufficient to transport and, if necessary, appropriately supervise youth during the provision of special education services.

**Rating: Partial Compliance.**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

Continue to document any need to alter education practices due to staff shortages. Need clarification of youth on security status. How many, over the past year were on this status and how many missed education due to this status?

**Status: Not Completed**

**Discussion:** Students attend school for 6, 40 minute periods each day with a 15 minute recess period in the morning, one half hour for lunch, and a one hour reading time period from 11:30 to 12:30 on the living units.

Olomana School staff is part of a local school district and are employees of the Hawaii Department of Education. Staff is well aware of the Felix Consent Decree for special education services and indicates that practices are shaped in part by the requirements of this agreement.

The majority of students enrolled in Olomana School at HYCF are eligible for special education services. However discussion with staff and review of documents indicate that students did not receive education on occasion during the second reporting period

because of staff shortages and because students were excluded from school for disciplinary purposes.

Discussion with staff about scheduling students indicates that for the most part, all students receive comparable levels of service. Several students received tutorial and one-on-one instruction but most appear to be assigned to classes independently of their IEPs.

The lack of vocational services for the boys at SCF this semester is an example of current programming. Some students who need and/or would benefit from vocational coursework do not have the opportunity to do so this semester.

The several IEPs that were reviewed were well developed, timely, and included the critical information needed by teachers and support staff.

**Recommendation:** Compile documentation for recommendations from 1<sup>st</sup> Report.

**Documentation:** Discussion with Mr. Suehiro, Olomana school principal during the August 8-11, 2006 site visit. Review of IEPs, discussion with school staff and tour of the school program.

**(45) Documentation.** The State shall adequately document any lapse in the provision of special education, including the number of youth who were denied access to special education, the date, time, periods missed, and reason for the lapse. The State shall submit such documentation to the facility director for prompt action to try to cure and prevent recurrence of such denial.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

Long-term goal would be to include the YCO's within the classroom. Many jurisdictions have job expectations that take the direct care staff into the classrooms. Not only does this enhance security but it allows the YCO's to assist with the education process. The monitor understands that this would be a large departure from current practice and is recommending at this time, only that discussion begin about the possibility of this change. Prepare additional material regarding suspensions for review during the next site visit.

**Status: Not Completed**

**Discussion:** The Olomana School has developed an elaborate system of seven consequences for students' inappropriate behavior. These responses range from "corners" and "in hall placement" that may remove a student from access to special education services for a portion of a class period to "security program referral" and suspension that may result in a student being excluded from class for an entire school day. While some of the consequences such as "alternative learning site for behavior" and "alternative learning site – tutor" remove students from class, they provide opportunities for students to work one-on-one or in a small group setting on academic tasks. Other consequences such as "no tolerance" and "suspension" remove students from the opportunity to receive special education services. While several students at SCF had behavior support plans, the disciplinary system did not appear to include elements of support plans for individual students.

While discipline has a legitimate role in the operation of schools and classrooms, the elaborate system of responses to inappropriate student behavior appears excessive and results in students not receiving services to which they are entitled. Further, the system of negative consequences is not balanced by a series of positive responses to student behavior. Other than informal positive verbal feedback from teachers, the most systematic positive consequence involves students earning “student of the month” status. This designation requires students to earn all possible behavioral points during the month and results in a special lunch with several staff.

During the second reporting period, education staff documented the names of students and the dates on which students were excluded from school. However there did not appear to be a system in place at the time of the August site visit to review and systematically respond to school exclusions with the facility director or other HYCF staff.

In response to the exit interview during the August site visit, the Olomana School staff developed a set of action plans to address many of the concerns raised in the first report. One of the action plans addresses discipline; others address aspects of school climate, the involvement of HYCF in the community, and communication between HYCF and Olomana School.

**Recommendation:** The Olomana School staff should work with HYCF staff to develop an integrated system for behavior management.

**Documentation:** Discussion with HYCF staff and Mr. Suehiro, school principal during the August 8-11, 2006 site visit. Review of log that documents students and their removal from the classroom. (No title on the document only heading that says Student Totals).

**(46) Timeliness in Providing Special Education.** Youth who qualify for special education services shall receive such services within a reasonable time following intake at the facility.

**Rating: Substantial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

Have Dr. Leone verify this process during the next reporting period.

**Status: Completed**

**Discussion:** Review of files and discussion of intake procedures indicate that students are placed in classes within a day or two of their arrival at HYCF. The current intake process involves initial testing and an approximately one-hour orientation.

Staff may want to consider developing an “intake” classroom in which students receive academic instruction and initial assessments for the first week or two of their stay at HYCF. An intake classroom would enable youth to adjust to the expectations of the facility and learn about the management and incentive systems.

**Recommendation:** Continue to expedite the review of students’ files and ensure that students are placed into school within the first day or two of their arrival.

**Documentation:** Review of students’ files and discussions with Gabriele Finn during the August 8-11, 2006 site visit.

**(47) Vocational Education.** The State shall develop and implement appropriate vocational education services for youth with disabilities.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

Continue the development of the curriculum.

**Status: Partially Completed**

**Discussion:** HYCF has recently introduced a vocational training program that provides youth with academic and hands-on instruction in the building trades. At the time of our site visit in August 2006, 8 of the 15 girls were enrolled in vocational education and were receiving services. The current program design has either girls or long-term boys participating in the vocational education program each semester; that is, girls and long-term boys only access to the vocational program during one half of each year.

The vocational education program for the boys in the short-term program at Ho'okipa consisted of a computer class that had recently been developed. The program did not appear to have a curriculum in place at the time of our visit and the program appeared to focus on keyboarding skills and introduction to word processing software rather than on vocational skills per se.

What has been developed for the girls and long-term boys looks very good; students receive academic instruction and hands on vocational instruction in the shop area. Students prepare a portfolio based on their work. A primary concern is that the program does not serve all students. A related concern is that the construction trades class shares space with the maintenance staff. During class time students work in and around large machinery and heavy pieces of equipment. In one shop area, the instructor and students have to move their work out of the way to accommodate maintenance equipment and materials.

In addition to providing opportunities for additional students, the vocational program should include at least one additional vocational area that focuses on careers and employment in areas such as horticulture, information technology, or hospitality services.

In the building trades area, staff should consider including OSHA safety training as part of the curriculum. Students who complete and receive certificates and are OSHA certified, will have opportunities to pursue entry-level jobs in several occupations if they choose to do so.

Following the August site visit, the Olomana School staff developed an action plan focused on improving the vocational education program. A review of the action plan indicated that staff was considering a range of vocational education options including small engine repair, landscaping, film editing, IT certifications, and several others.

**Recommendation:** Develop at least two additional vocational areas for the long-term boys and girls. Develop a schedule that enables both groups to attend vocational classes during the same semester. For the short-term boys, explore and further develop vocationally oriented coursework. Consider developing a pre-vocational course that

enables students to investigate and learn about various occupations. Consider for all students, developing coursework related to Microsoft Office Specialist certification or a similar program designed to train students to industry standards and job requirements. While many students may not complete all requirements for certification prior to their return to the community, such a course would provide an alternative to building trades or another vocational area and expose students to an emerging occupational area. Carefully examine the space used by students for vocational classes. Ensure that it meets safety codes for vocational classrooms.

**Documentation:** Discussion with Olomana School staff and Principal August Suehiro during the August 8-11, 2006 site visit. Tour of vocational shops and observation of classes.

**(48) Section 504 Plans.** The State shall develop and implement policies, procedures and practices to provide that Section 504 plans are developed and implemented for eligible youth.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

Have Dr. Peter Leone review this process during the next reporting period.

**Status: Completed**

**Discussion:** School staff review students' files for a history of Section 504 eligibility. The school counselor coordinates review and dissemination of information about students' 504 accommodations. This information is shared among the education staff at daily morning meetings held before the start of school.

At the time of the August 2006 site visit, HYCF and Department of Health staffs did not regularly receive information about students' accommodations. Similarly, the Family Court Liaison Branch of the Department of Health was not sharing with the school staff information about students' functioning that would be useful in developing or revising 504 plan accommodations.

**Recommendation:** Ensure that Olomana School staff, HYCF staff, and Department of Health staff share information about students' functioning on a regular basis.

**Documentation:** Review of four students' Section 504/ Chapter 53 Eligibility and Modification Plans and interview with school counselor during August 2006 site visit.

**(49) Parent, Guardian and Surrogate Involvement.** The State shall develop and implement policies, procedures and practices to appropriately notify and involve parents, guardians or surrogate parents in the provision of special education services, whenever possible.

**Rating: Substantial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

Develop the team in time for monitoring during the next site visit.

**Status: Partially Completed.**

**Discussion:** A Multi-Disciplinary team has been developed and is staffing youth. It isn't clear at this point to what extent this involves the education process.



The Olamana school staff has a well-developed system for contacting parents, guardians, and foster parents to participate in IEP eligibility and implementation meetings, Section 504 accommodation meetings, and behavior support plan meetings. A review of notes for meetings held for youth at SCF between August 2005 and August 2006 revealed that a parent, guardian, or surrogate parent participated in 23 of 24 meetings. In several instances a parent or a foster parent participated by phone in the meetings.

Meeting notes indicated that staff has used five different surrogate parents for youth at HYCF during the past year.

**Recommendation:** Continue to document parent, guardian, and surrogate involvement in meetings. Identify multi-disciplinary staffings of acting-out students.

**Documentation:** Discussions with the school staff during the August 2006 site visit. Review of 37 “Meeting Information and Notes” documents for SCF, Ho’okipa Mauka and Ho’okipa Makai.

## **E. COMPLIANCE AND QUALITY IMPROVEMENT**

**(50) Document Development and Revision.** The State shall revise and/or develop policies, procedures, protocols, training curricula, and practices so that they are consistent with, incorporate, address, implement, document, and assess all provisions of this Agreement. The State shall revise and/or develop as necessary other written documents such as screening tools, logs, handbooks, manuals, and forms, and internal audit or quality improvement methods to effectuate the provisions of this Agreement and report the outcomes, findings, and corrective action plans.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

Provide QA audits to the monitor for review as they are completed

**Status: Partially Completed**

**Discussion:** Quality Assurance meetings are being conducted and corrective action plans developed. The Performance –Based Standards (PbS) program continues to be utilized as a QA tool. P&P has been developed that includes 1.01.13, 1.01.07 and 1.01.13.

**Recommendation:** (1) Provide update on status of P&P development. (2) Provide monitor with completed audits and corrective action plans for review during the next reporting period.

**Documentation:** Review of Audits as well as screening instruments for suicide, intake, risk assessment, medical review etc. as part of the monitoring process. Review of SA 50 file with Alex Escarcega at October site visit.

**(51) Document Review.** The State shall draft policies and procedures in conjunction with comments and discussions with the DOJ and the Monitor, and will send newly-drafted and revised policies and procedures to the DOJ and the Monitor for review and approval as they are promulgated. The State shall provide initial and refresher training to all facility staff with respect to newly-implemented or revised policies and procedures. The State shall document employee review and training in policies and procedures.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

Continue the revisions to the P&P in order to complete that process during the next reporting period

1.63.05 clarify how many staff in central control

1.63.09 4.0.4a add for an organized activity

1.63.09 4.0.4: delete e.

1.63.17 4.0.1 a change to “without the approval of the YCS”

1.63.17 4.0.1 b Remove etc.

1.63.17.4.0.3 b clarify which staff would assist in escorting during staff shortages.(YCS or security staff)

1.63.17.4.0.3 Clarify that staffing ratios of 1:8 wake and 1:16 sleeping hours constitute best practice.

1.63.21 3.0.2 c Checks are every 15 minutes at irregular intervals

1.63.32 4.0.2 c Immediately repeat count if concern about accuracy

1.63.4.0.5 a delete comma

1.63.29 4.0.1 add g: all youth movement

1.63.33 3.2.c change body cavity search to body orifice search.

1.63.33 4.0.2c remove “routine” from strip searches. Strip searches shall be conducted instead of may be conducted.

1.63.33 4.0.4d Allow law enforcement officers to participate only if staff are insufficient

1.63.33.5 4.0.5 Combine a&b.

**Status: Completed**

**Recommendation:** Need update on refresher training to all facility staff on P&P revisions. Update on status of P&P revisions.

**Documentation:** Meeting with Alex Escarcega and Kaleve Tufolo-Loseda and Heidi Rian during the October site visit. Review of P&P with Etene Taimalelagiduring the October site visit.

**(52) Quality Improvement Programs.** The State shall develop and implement a Quality Improvement Program for HYCF.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

Expand the QA activities in time for the next site visit

**Status: Partially Complete**

**Discussion:** The HYCF QA team was established in March 2006. It meets three times per month to review both programmatic and operational corrective action plans.

**Recommendation:** Provide to the monitor a list of all audits conducted since the March establishment of the QA function at HYCF.

**Documentation:** See 51 above.

**(53) Corrective Action Plans.** The State shall develop and implement policies and procedures to address problems that are addressed in this Agreement or uncovered during the course of quality improvement activities. The State shall develop, implement, and document corrective action plans to address these problems in such a manner as to prevent them from occurring again in the future, and shall report such plans to the Office of Youth Services, Department of Human Services.

**Rating: Partial Compliance**

**Recommendations and Corrective Action from 1<sup>st</sup> Report:**

(1) Forward to the monitor any corrective action plans in progress and completed for his review.

**Status: Not Completed**

(2) Develop plans for expanding the auditing capability including relieving the YFA with the responsibility of chairing this effort. Ideally this should be a separate office within the HYCF

**Status: Not Completed**

**Discussion:** The QA and corrective action process were outlined in the 1<sup>st</sup> Report. The audits and corrective action plans are contained in the HYCF monitoring files and have been reviewed by the Monitor. .

**Recommendation:** To expedite the monitoring process it would be helpful to have audits and corrective action plans completed electronically forwarded to the monitor for review prior to the site visit.

**Documentation:** HYCF Corrective Action Plan-Monitoring Instrument. Review of completed audits and corrective action plans during the October site visit. .

## **APPENDIX A: LIST OF ATTENDEES AT SITE VISITS**

### Tuesday, August 8, 2006 Briefing with Mr. Russell VanVleet and Dr. Peter Leone

Lisa Ginoza- First Deputy Attorney General  
Blair A. Goto- Deputy Attorney General  
Heidi M. Rian - Deputy Attorney General  
Russell VanVleet-Federal Monitor  
Dr. Peter Leone, Professor of Special Education, University of Maryland  
Rachel Guay- Family Court Liaison Branch Chief, Child/Adolescent Mental Health Division, Department of Health  
Dr. Martin Hirsch-Clinical Director, Child/Adolescent Mental Health Division, Department of Health  
Kaleve Tufono-Iosefa-HYCF Facility Administrator  
Etene Taimalelagi-Special Projects Director, Office of Youth Services  
Devon Enesa-HYCF Social Worker V  
Linda Hadley-HYCF Registered Professional Nurse V  
Donald Okshige-HYCF Business Services Supervisor II  
Lynette Storrer-HYCF Registered Professional Nurse III  
Jeffrey Lacerdo-HYCF General Construction and Maintenance Supervisor  
Melvia Hardy-HYCF Acting Corrections Supervisor 1  
Phyllis Rosete-HYCF Acting Corrections Supervisor 1  
Gay Lynn Goo Simplicano-HYCF Secretary  
August Suehiro-DOE/Principal/Olomana School  
Gabriele Finn-DOE/Student Services Coordinator/Olomana School  
Jackie Gravener-DOE/Teacher-In-Charge/Olomana School

### Friday, August 11, 2006 De-Briefing with Mr. Russell VanVleet and Dr. Peter Leone

Lisa Ginoza- First Deputy Attorney General  
Blair A. Goto- Deputy Attorney General  
Heidi M. Rian - Deputy Attorney General  
Russell VanVleet-Federal Monitor  
Dr. Peter Leone, Professor of Special Education, University of Maryland  
Kaleve Tufono-Iosefa-HYCF Facility Administrator  
Alex Escarcega-HYCF Technical Advisor  
Etene Taimalelagi-Special Projects Director, Office of Youth Services  
August Suehiro-DOE/Principal/Olomana School  
Tina Winquist-DOE/Vice-Principal/Olomana School  
Melissa Zen-DOE/Teacher-In-Charge/Olomana School

Tuesday, October 3, 2006 Briefing with Mr. Russell Van Vleet

Russell Van Vleet-Federal Monitor  
George Do-OYS Administrative Investigator  
Sharon Agnew- OYS Executive Director  
Kaleve Tufono-Iosefa-HYCF Facility Administrator  
Etene Taimalelagi-Special Projects Director, Office of Youth Services  
Heidi M. Rian - Deputy Attorney General  
Linda Hadley-HYCF Registered Professional Nurse V  
Rachel Guay- Family Court Liaison Branch Chief, Child/Adolescent Mental Health  
Division, Department of Health  
Dr. Martin Hirsch-Clinical Director, Child/Adolescent Mental Health Division,  
Department of Health  
Alex Escarcega-HYCF Technical Advisor  
Melvia Hardy-HYCF Acting Corrections Supervisor 1

Friday, October 6, 2006 De-Briefing with Mr. Russell Van Vleet

Russell Van Vleet-Federal Monitor  
Kaleve Tufono-Iosefa-HYCF Facility Administrator  
Etene Taimalelagi-Special Projects Director, Office of Youth Services  
Heidi M. Rian - Deputy Attorney General  
Lisa Ginoza- First Deputy Attorney General  
Blair A. Goto- Deputy Attorney General  
Sharon Agnew- Executive Director, Office of Youth Services  
Alex Escarcega-HYCF Technical Advisor