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Settlement Would Remedy Youth Prison Violations

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The state has promised to impose stringent restrictions on the use of force by its employees against the residents of four upstate youth prisons and to hire dozens of new staff to enhance mental health and other programs at the facilities.

The far-reaching reforms are embodied in [a settlement](#) with the U.S. Department of Justice that was filed Wednesday in the Northern District along with [a complaint](#) in *United States v. The State of New York* (See a [summary](#) of the settlement's terms). Under the agreement, the state will retain control of the facilities but its policies and procedures will be closely scrutinized by two jointly appointed federal monitors—one an expert on "protection from harm" and the other on mental health services.

The state will have 23 months to implement the settlement's detailed remedial measures.

The agreement, which must be ratified by a judge, apparently will resolve a federal investigation that found that the state had systematically violated the constitutional rights of youths confined at the Finger Lakes and the Lansing Residential Centers, both near Ithaca, and the Tryon Residential Center and the Tryon Girls' Center in Johnstown. The investigation by the Justice Department's Civil Rights Division was launched in 2007 after a spate of incidents, including the 2006 death of a disturbed 15-year-old after two employees of the Tryon Center pinned him down to the ground.

The agreement only covers those four centers, which house 15.9 percent of the 667 youths under the age of 16 committed by the courts to the custody of the Office of Children and Family Services. But OCFS Commissioner Gladys Carrion said in an interview that it would have "ripple effects" on the agency's other 20 residential centers.

Ms. Carrion acknowledged that the problems noted by the Justice Department are not confined to the four centers targeted in the federal investigation. New training and other remedies must be implemented "across the system," she said. And "we've been doing some of this," she added.

According to "findings" detailed in an Aug. 14, 2009, Justice Department report, "staff at the four facilities consistently used a high degree of force to gain control in nearly every kind of situation" ranging from sneaking an extra cookie to starting a fist fight. This approach resulted "in an alarming number of serious injuries to youth, including serious concussions, broken or knocked-out teeth, and spinal fractures."

The settlement provides that the use of physical restraints must be limited to "exceptional circumstances," including where a youth's behavior threatens the safety of others or where he or she is attempting to escape.

The report also found that the majority of psychiatric evaluations at the centers "did not come close" to meeting generally accepted professional criteria. "As a consequence," it said, "the treatment of youth with serious mental illness was based on poor information and was generally not effective."

Right now, OCFS does not employ any full-time psychiatrists. But the 2010-11 executive budget, which has been adopted by the Legislature, contains \$18.2 million to hire 169 psychiatrists and other mental health personnel, counselors and other staff to help meet the settlement's mandate that the facilities provide adequate care.

Moreover, Ms. Carrion said that additional money would be found in future years for improved treatment at the other centers.

Ms. Carrion said she is confident the situation can be turned around in 23 months.

The state did not contest the findings of the federal probe. Indeed, Ms. Carrion said she viewed the settlement's provisions as "a validation and reaffirmation" of the state's therapeutic approach to juvenile justice.

Governor David Paterson welcomed what he called a "historic" agreement, saying in a statement that "New York takes another step toward achieving true transformation of our juvenile justice system."

Although the settlement negotiations lasted almost a year, Ms. Carrion said that the Justice Department never threatened to exercise its authority to take over the center.

"It is New York's fundamental responsibility to protect juveniles in its custody from harm and to uphold their constitutional rights," Thomas E. Perez, assistant attorney general for the Civil Rights Division, said in a statement. "We have worked cooperatively with New York officials to craft an agreement to ensure that the constitutional rights of juveniles at the four facilities are

protected, and we commend New York and the New York State Office of Children and Family Services for their willingness to work aggressively to remedy these problems."

Ms. Carrion, who has battled the unions representing OCFS workers and upstate lawmakers opposed to closing residential centers said that the settlement represented "one more tool you need to help you make change. Not everybody is on board."

Ms. Carrion conceded that there would be resistance to the "culture change" demanded by the settlement. But she predicted that many of her agency's workers would embrace conflict resolution and other new ways of dealing with their adolescent charges.

The settlement implements many of the measures proposed by a task force appointed by Mr. Paterson ([NYLJ, Dec. 15, 2009](#)). The governor also has proposed a bill to establish new standards that would make it more difficult for Family Court judges to send youths to the facilities and to set up an independent state board to monitor the facilities ([NYLJ, June 24](#)). However, those ideas have been stuck in the Legislature.

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