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U.S. DIST COURT
MIDDLE DIST. OF LA

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

2006 APR 28 P 4: 24

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SHANNON ROBSHAW, <u>et al.</u>)	
Plaintiffs,)	
)	
v.)	Civ. No. 98-886-B-M1
)	
SIMON GONSOULIN, <u>et al.</u>)	
Defendants,)	
)	
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HAYES WILLIAMS, <u>et al.</u>)	
Plaintiffs,)	Civ. No. 71-98-B
)	
v.)	
)	
JOHN McKEITHEN, <u>et al.</u> ,)	
Defendants.)	
)	
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THE UNITED STATES OF AMERICA,)	Civ. No. 98-947-B-1
Plaintiff,)	
)	
v.)	
)	
THE STATE OF LOUISIANA,)	
Defendants.)	
)	
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MEMORANDUM IN SUPPORT OF THE
PARTIES' JOINT MOTION TO DISMISS

For the reasons set forth below, the parties in these cases jointly move this Court to enter the parties' attached Order dismissing these cases with prejudice on the grounds that the Defendants have substantially complied with the provisions of the

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settlement agreements such that sufficient mechanisms are in place to prevent patterns or practices that violate constitutional and federal statutory law.

I. Background and Procedural History

In April 1996, the Department of Justice ("DOJ") notified Louisiana (the "State") that it was initiating an investigation into conditions at four Louisiana secure juvenile facilities. The facilities involved were the Swanson Correctional Center for Youth ("Swanson"); the Jetson Correctional Center for Youth ("Jetson"); the Louisiana Center for Youth at Bridge City ("Bridge City"); and the Tallulah Correctional Center for Youth ("Tallulah").¹ After its investigation, in June 1997, the Department of Justice sent a letter to the State delineating a number of unconstitutional and unlawful conditions that it found at the facilities.

During the Spring of 1998, the court in Williams v. McKeithen, Civ. No. 71-98-B, ordered the DOJ to retour these four facilities and submit a report on the conditions.² Williams was a private class action suit concerning prison and jail conditions in the State's correctional system. It included the State's secure juvenile facilities. In July 1998, a second private class

¹ During the course of the proceedings, Tallulah was re-named the "Swanson Correctional Center for Youth - Madison."

² The Court's order was pursuant to the DOJ's amicus status in Williams.

action lawsuit, Brian B. v. Stalder, Civ. No. 98-886-B-M1³, concerning conditions at Tallulah was filed.

In November 1998, DOJ filed United States v. Louisiana, Civ. No. 98-947-B-1, pursuant to the Civil Rights of Institutionalized Persons Act (CRIPA), 42 U.S.C. § 1997 and the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141. The DOJ alleged that there were unconstitutional conditions and practices at these four facilities. Specifically, the Complaint alleged that the State failed to provide youth at the facilities with reasonably safe conditions, adequate educational, medical, dental, mental health, and rehabilitative services. This suit was later consolidated with Williams and Brian B.

In November 1999, the parties negotiated an agreement to resolve the education claims in the cases. The agreement was filed with the Court, together with a motion to conditionally dismiss the education claims from the cases pursuant to Fed. R. Civ. P. 41. The Court conditionally dismissed the education claims in November 1999 and finally dismissed them in January 2003, when the State came into compliance with the education agreement.

In August 2000, the Parties entered into a settlement agreement ("2000 Settlement Agreement") resolving the claims in

³ Brian B. v. Stalder is now styled Robshaw v. Gonsoulin.

the cases concerning juvenile justice; medical, dental, mental health, and rehabilitative services; as well as claims by the private plaintiffs concerning access to courts. The parties filed the 2000 Settlement Agreement with the Court and moved that the Court conditionally dismiss the cases pursuant to Fed. R. Civ. P. 41. The Court conditionally dismissed the cases in October 2000.

In January 2003, the parties entered into a second settlement agreement ("2003 Settlement Agreement"). Generally, this agreement dismissed or modified many of the provisions contained in the 2000 Settlement Agreement. However, it also established the appointed position of the Independent Expert to monitor compliance, submit regular reports to the parties, and provide the State with technical assistance.

In 2004, the parties entered into a third and final settlement agreement ("2004 Settlement Agreement"). This agreement terminated a significant number of the provisions contained in the 2000 and 2003 Settlement Agreements. Notably, the 2004 Settlement Agreement also terminated all provisions pertaining to the facilities at Bridge City and Tallulah. Further, it terminated all provisions pertaining to medical and dental care the remaining facilities. The result, generally, was

that the remaining provisions concerned juvenile justice, rehabilitative services, and mental health care services at Swanson and Jetson.

In January 2006, the Independent Expert reported that the State had reached substantial compliance with the outstanding terms of the 2004 Settlement Agreement. On January 17, 2006, in accordance with ¶ 15 of the 2004 Settlement Agreement, the State notified the parties that it was in substantial compliance.

In response to the State's notification, DOJ and the private plaintiffs toured Swanson the week of February 27, 2006 and Jetson the week of March 6, 2006. Accompanying and assisting the parties were Dr. Pam McPherson, Dr. Eric Trupin, and Mr. Jon Trzcinski. Dr. McPherson and Dr. Trupin advised the parties regarding mental health aspects of the tour, while Mr. Trzcinski assisted the DOJ with the juvenile justice issues.⁴ Mr. Steve Robinson assisted the State with respect to juvenile justice issues. The provisions of the 2004 Settlement Agreement specified the scope and nature of the tours and required prompt written reports from each DOJ expert assessing the State's compliance, which the DOJ provided to the State.

⁴ Dr. Jim Austin, the Independent Expert provided for under the 2003 Settlement Agreement, was present for portions of these tours.

II. Substantive Findings

Presently, only two key areas remain at issue concerning Swanson and Jetson: juvenile justice and mental health care. Following the tours, the parties agreed that the State was in substantial compliance with provisions of the 2004 Settlement Agreement concerning juvenile justice⁵ and mental health care. The State has taken a number of measures to improve the conditions at secure juvenile facilities.

The State has reduced significantly the number of youths housed at both Swanson and Jetson.⁶ At the time of the tours, there were approximately 149 and 169 youths at Swanson and Jetson, respectively. Despite this dramatic reduction, the facilities have maintained the same staffing levels as that which existed at the time of the 2000 Settlement Agreement, thus creating a much lower ratio of youth-to-staff.

Staff at both facilities receive a sufficient amount of pre-service and ongoing training. Staff training coordinators at each facility are responsible for ensuring that staff receive all necessary training.

⁵ Generally, "juvenile justice" issues involve matters such as protection from harm, the use of excessive force, inappropriate cell restriction, and proper training of custody staff.

⁶ Over the last three years, there has been a statewide reduction in the number of youth in secure care from 1200 to 400.

Both Swanson and Jetson have seen a dramatic and continued reduction in the number of fights between youth or between youth and staff. This reduction is a direct result of the dramatic reduction in populations at both facilities, improved youth-to-staff ratios, and increased staff training. Both facilities have installed a number of security cameras that constantly record the events in the housing units and allow for improved monitoring. Further, each facility now investigates any incident where there is an allegation of abuse or a serious injury resulting from a fight between youths.

The State has committed significant resources to Project Zero Tolerance ("PZT"). PZT is an investigative unit established by the State that operates on the campus of each facility and conducts investigations into allegations of abuse or incidents in which a youth suffers a serious injury. Typically, each investigation involves a review of any available footage from the security cameras, and interviews of staff, youth, or witnesses. These investigations can be initiated in a variety of ways, including by youth or medical staff.

With regard to mental health issues, the State has made significant progress in providing youth with behavioral health and rehabilitation services commensurate with generally accepted professional standards. Psychiatric staff are dedicated to providing the best services the profession has to offer to youth.

Inter-disciplinary teams have been created and collaborate regularly on the treatment plans for individual youth. Youth have timely access to psychiatrists and are frequently monitored when receiving treatment. This high level of access has increased the emotional stability of the youth as well as the overall stability of Swanson and Jetson.

The State has developed and implemented a number of new initiatives to treat troubled youth. Both Swanson and Jetson have instituted a comprehensive behavior management program. This program focuses on a variety of issues such as anger management and substance abuse. Additionally, the State has established a specialized program for sex offenders.

As it has moved away from a correctional-based approach, the State has developed an innovative and unique model to care for youth in secure care: The Louisiana Model ("LAMOD"). To develop LAMOD, the State worked in collaboration with the Missouri Youth Services Institute and with the Annie E. Casey Foundation.⁷ The program is not yet implemented throughout the system, but once it is, the State of Louisiana stands to become a national model in the care of youth in secure care facilities.

⁷ The Annie E. Casey Foundation is a private charitable organization that seeks to develop and fund community programs that more effectively meet the needs of at risk children and families.

III. Conclusion

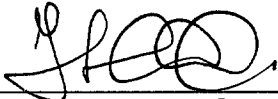
The parties agree that the State has achieved substantial compliance with the provisions of the 2004 Settlement Agreement such that it is appropriate at this time to dismiss these cases. Accordingly, the parties respectfully request that the Court grant the Joint Motion to Dismiss and sign the attached proposed Order.

FOR THE DEPARTMENT OF JUSTICE

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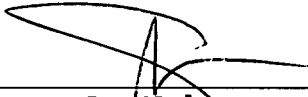
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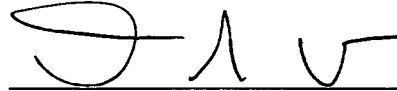
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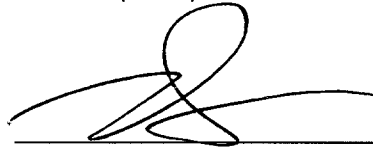


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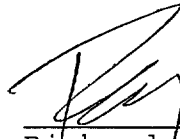
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