

Attachment A

SUPPLEMENTAL REPORT
In the Matter of
United States of America v. The State of Georgia

Civil Action No. 1:10-CV-249-CAP

Submitted By: Elizabeth Jones,
Independent Reviewer
March 17, 2015

SUMMARY

The primary intent of this Supplemental Report is to further inform the Court of the State of Georgia's progress in meeting the requirements of very specific Provisions of the Settlement Agreement. This Report is limited in scope; it focuses on implementation concerns referenced in the Independent Reviewer's Annual Report filed by the Parties in September 2014.

Serving People with Developmental Disabilities in the Community

As cited in all previous Reports to the Court in this matter, the State has failed to comply with certain critical Provisions related to the development of a community-based system for individuals with a developmental disability.

In March 2014, the Independent Reviewer's Supplemental Report documented non-compliance with the Provisions [III.A.2.b.iii. (A)-(C)] related to the development and implementation of support coordination services for individuals with a developmental disability placed from State Hospitals into the community. The most recent Annual Report, filed with the Court in September 2014, documented non-compliance with the obligations to:

- Move 150 individuals with developmental disabilities from the State Hospitals to the community [III.A.2.b.i (D)];
- Assemble professionals and non-professionals who provide individualized supports, as well as the individual being served and other persons important to the individual being served, who, through their combined expertise and involvement, develop Individualized Service Plans, as required by the State's HCBS Waiver Program, that are individualized and person centered [III.A.2.b.iii (A)];
- Assist the individual to gain access to needed medical, social, education, transportation, housing, nutritional and other services identified in the Individual Service Plan [III.A.2.b.iii (B)]; and
- Monitor the Individual Service Plan to make additional referrals, service changes, and amendments to the plans as identified as needed [III.A.2.b.iii (C)].

In March 2014, in order to remedy these areas of continuing non-compliance, the State, through its Department of Behavioral Health and Developmental Disabilities (DBHDD), agreed to issue a Plan that addressed nine key areas, including: improving the transition process from State Hospitals to integrated community settings; implementing appropriate mechanisms for the coordination of individualized supports; strengthening the person-centered process for Individual Service Plans; expanding the availability of residential and clinical resources in the community; and conducting independent mortality reviews of all deaths of individuals receiving

Home and Community-Based Services Waivers who meet the criteria for the target population of individuals with developmental disabilities in the Settlement Agreement. The State also agreed to hire consultants with demonstrated expertise to assist in its systemic reform.

The State hired consultants with expertise to assist the Department (DBHDD). On June 30, 2014, the State's Priority Plan was submitted in a timely manner. Upon review, it was considered to be responsive to the overall obligations of the Settlement Agreement. However, the Department of Justice, the Amici and the Independent Reviewer expressed concern regarding both the availability of the resources required for its implementation and the time that would be needed to institute the expected reforms. The Department of Justice recommended that more detailed action steps be developed to guide implementation efforts.

The State decided to proceed with the initial implementation of its Plan in one discrete geographical area (Region 2) managed by the Department (DBHDD). It outlined its scope of work in regularly scheduled meetings with the Department of Justice, the Amici and the Independent Reviewer. It provided documentation, as requested, and was forthcoming in describing both the progress being made and the problems encountered by the Department's staff and consultants.

To date, as discussed in the following pages, demonstrable progress has been very limited. Only two individuals have transitioned from a State Hospital to a community residence under the protocols established in the Priority Plan. Although both of these placements appear to be solid, the projected pace of additional placements from the State Hospitals and the statewide dissemination of the revised procedures and protocols makes it unlikely that substantial compliance can be achieved by July 1, 2015, the end point of the Settlement Agreement.

Furthermore, the State has not yet complied with the Provision [III.A.2.c.ii. (B)(3)] requiring the development of a twelfth Crisis Respite Home. Given the current status of planning at this point in the Fiscal Year, it appears unlikely that this obligation can be met by July 1, 2015.

Recent site visits to crisis services by the Independent Reviewer and the Settlement Agreement Coordinator point to the need to evaluate the current location and management of certain existing Crisis Respite Homes. This evaluation is warranted in order to ensure that programmatic and access expectations are met. It is recommended that this evaluation be completed prior to issuance of a contract for the twelfth Respite Home.

The fact-finding completed for this Supplemental Report has raised serious doubt that the State can reach substantial compliance with the obligations discussed above by the July 1, 2015 timeframe anticipated for the completion of the Settlement Agreement.

Serving People with Mental Illness in the Community

As consistently documented in the Independent Reviewer's Annual Reports, the State has continued to sustain progress in strengthening its system of community-based supports for individuals with a serious and persistent mental illness. The Department of Behavioral Health and Developmental Disabilities (DBHDD) has benefited from stable leadership staff in this area of responsibility. These professionals have been receptive to constructive criticism and recommendations for alternative approaches. In addition, Georgia has the strong advantage of a well-organized peer support system and very visible advocacy organizations.

There were two areas of implementation highlighted for further action in the last Annual Report. The first area focused on the practices of certain Assertive Community Treatment Teams that were scoring less favorably on the fidelity measures agreed to by the Parties. The Department (DBHDD) proposed strategies for corrective actions and reported on implementation at meetings with the Department of Justice and the Amici. The Independent Reviewer and her consultant, Dr. Angela Rollins, were provided with all requested documentation and access to programmatic staff at both the Department (DBHDD) and the Assertive Community Treatment Team reviewed in preparation for this Supplemental Report.

As described in the following pages, Dr. Rollins concluded that corrective strategies were being implemented as expected and that the one Assertive Community Treatment Team reviewed for this Supplemental Report was taking appropriate actions to address its weaknesses in fidelity. Dr. Rollins will conduct additional site visits in preparation for the next Annual Report by the Independent Reviewer.

The importance of stable housing, with access to typical community resources and supports, cannot be overestimated. Stable housing is a critical component of a strong foundation for recovery from mental illness. Observations made on numerous site visits throughout the State have demonstrated the very positive difference made in the quality of individuals' lives when there is a choice of integrated housing with appropriately designed supports.

Therefore, the Provisions regarding Supported Housing, scheduled for completion by July 1, 2015, have been the second area of focused attention for this Supplemental Report.

These Provisions require:

- By July 1, 2015, the State will have the capacity to provide Supported Housing to any of the 9,000 persons in the target population who need such support. The Supported Housing required by this provision may be in the form of assistance from the Georgia Department of Community Affairs, the federal Department of Housing and Urban Development, and from any other governmental or private source [B.2.c.ii. (A)];

- By July 1, 2015, the State will provide a total of 2,000 supported housing beds [B.2.c.ii. (B)(5)];
- By July 1, 2015, the State will provide Bridge Funding for 540 individuals with Serious and Persistent Mental Illness [B.2.c.ii. (C.)(5)].

In each year to date of the Settlement Agreement, the State has exceeded the obligations regarding the availability of supported housing beds and Bridge Funding. The Georgia Housing Voucher Program has received high praise from the advocacy community. The productive inter-agency relationship between the Department of Behavioral Health and Developmental Disabilities (DBHDD) and the Department of Community Affairs (DCA) has resulted in the development of progressive policy and the receipt of important resources from the federal government's Department of Housing and Urban Development (HUD).

Based on the fact-finding conducted for this Supplemental Report, it is anticipated that the State will continue to meet the target of 2,000 supported housing beds and Bridge Funding for 540 individuals in a timely manner.

However, of utmost importance at this time, is the Provision requiring the State to have the capacity to provide Supported Housing to any of the 9,000 people in the target population. Although there has been attention to this obligation and the initial design of actions to determine the "need" for housing and the potential "capacity" of available resources, it is the considered professional judgment of the Independent Reviewer and her consultant, Ms. Martha Knisley, that additional time will be necessary for compliance with this Provision to be reached by the State of Georgia.

Concluding Comment

In light of the above, it is recommended that the Parties expedite the timeframe for the Provision (VII.A.3.) that, in part, states: "If the case has not yet been dismissed, the Parties agree to ask the Court for a non-evidentiary hearing on the status of compliance on or near July 1, 2015." An earlier date for this hearing before the Court would permit the State to discuss its plans for reaching substantial compliance with certain obligations of the Settlement Agreement that are yet unfulfilled.

_____/s/_____

Elizabeth Jones, Independent Reviewer
March 17, 2015

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INTRODUCTORY COMMENTS

As proposed in the most recent Annual Report, filed in September 2014, this Supplemental Report is intended to further inform the Court of the State of Georgia's progress in remedying non-compliance with certain Provisions of the Settlement Agreement related to serving individuals with a developmental disability in the community. As stated in previous Reports in this matter, the State has suspended all but a very limited number of placements from State Hospitals to community-based settings in order to address substantive weaknesses in its system of supports for this group of individuals.

In addition, this Report discusses two sets of Settlement Agreement obligations focused on supporting adults with serious and persistent mental illness. These specific obligations relate to the performance of Assertive Community Treatment Teams and the implementation of Supported Housing strategies. Of particular note are the obligations for Supported Housing required to be in place by July 1, 2015, the end point of the Settlement Agreement.

Although this Supplemental Report is intentionally limited in its focus, the issues discussed are central to the overall systemic principles and reforms mandated by the Settlement Agreement.

NOTES ON METHODOLOGY

Information for this Supplemental Report was obtained from numerous sources, including site visits by the Independent Reviewer and her consultants to community residential placements, supported housing, one Assertive Community Treatment Team, and crisis services. Interviews were held with the leadership, programmatic staff and consultants of the Department of Behavioral Health and Developmental Disabilities; staff of the Department of Community Affairs; staff of provider agencies; members of the Amici; and individuals receiving supports as a result of the Settlement Agreement. With the cooperation of the two Departments, numerous documents were requested and reviewed.

However, there were some unanticipated problems with the receipt of documents from the Department of Behavioral Health and Developmental Disabilities. Despite repeated requests, a complete set of records for one individual with an intellectual disability, who was reviewed and visited by the Independent Reviewer and her two

clinical consultants, could not be obtained. Reportedly, the agencies initially responsible for this individual had closed and the records were not secured/retrieved by the Department. This problem is of serious concern; it interfered with the completion of the Independent Reviewer's work in determining the extent to which this individual had been put at risk in his community placements. As a result of this incident, the Department (DBHDD) is urged to review and revise its procedures for the secure retrieval of all client-related documentation, especially when a provider agency ceases operation.

The Parties were provided with copies of all monitoring tools completed as a result of the site visits to a sample of individuals with a developmental disability. The Independent Reviewer and programmatic staff from the Department of Behavioral Health and Developmental Disabilities designed the template for the monitoring tool questions. The sample was randomly selected from a list of individuals with Behavior Support Plans residing in Regions 1 and 3.

As has been the case throughout the course of this Agreement, the Commissioner, the Deputy Commissioner and their staff met with the Independent Reviewer and her consultants as often as requested. There appeared to be thoughtful consideration of any recommendations offered to the Department throughout the fact-finding period for this Report. Discussions were both forthright and collegial. Parties' meetings, held on a regular basis, were instructive and offered valuable information. The ensuing discussions helped shape the framework and findings for this Report.

As required by the Settlement Agreement, the Parties were provided with a copy of the draft Supplemental Report and given an opportunity to comment on the structure of the Report and its findings.

DISCUSSION OF FINDINGS

Serving People with Developmental Disabilities in the Community

As cited in all previous Reports to the Court in this matter, the State has failed to comply with certain critical Provisions related to the development of a community-based system for individuals with a developmental disability.

In March 2014, the Independent Reviewer's Supplemental Report documented non-compliance with the Provisions [III.A.2.b.iii. (A)-(C)] related to the development and implementation of support coordination services for individuals with a developmental disability placed from State Hospitals into the community. The most recent Annual Report, filed with the Court in September 2014, documented non-compliance with the obligations to:

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- Monitor the Individual Service Plan to make additional referrals, service changes, and amendments to the plans as identified as needed [III.A.2.b.iii (C)].

In March 2014, in order to remedy these areas of continuing non-compliance, the State, through its Department of Behavioral Health and Developmental Disabilities (DBHDD), agreed to issue a Plan that addressed nine key areas, including: improving the transition process from State Hospitals to integrated community settings; implementing appropriate mechanisms for the coordination of individualized supports; strengthening the person-centered process for Individual Service Plans; expanding the availability of residential and clinical resources in the community; and conducting independent mortality reviews of all deaths of individuals receiving Home and Community-Based Services Waivers who meet the criteria for the target population of individuals with developmental disabilities in the Settlement Agreement. The State also agreed to hire consultants with demonstrated expertise to assist in its systemic reform.

The State hired consultants with expertise to assist the Department (DBHDD). On June 30, 2014, the State's Priority Plan was submitted in a timely manner. Upon review, it was considered to be responsive to the overall obligations of the Settlement Agreement. However, the Department of Justice, the Amici and the Independent Reviewer expressed concern regarding both the availability of the resources required for its implementation and the time that would be needed to institute the expected reforms. The Department of Justice recommended that more detailed action steps be developed to guide implementation efforts.

The State decided to proceed with the initial implementation of its Plan in one discrete geographical area (Region 2) managed by the Department (DBHDD). It outlined its scope of work for the "Pioneer Project" in regularly scheduled meetings with the Department of Justice, the Amici and the Independent Reviewer. It provided documentation, as requested, and was forthcoming in describing both the progress being made and the problems encountered by the Department's staff and consultants.

At the present time, the Priority Plan continues to be the primary document directing the actions of the Department as it engages in efforts to reform its community-based system of supports for people with a developmental disability.

Therefore, in order to prepare this Supplemental Report, the Independent Reviewer requested current information related to the implementation of the Priority Plan. Discussions were held with key leadership staff at the Department as well as with members of the Steering Committee for the "Pioneer Project." On January 20, 2015, a site visit was made to the community residence where the first two individuals were transitioned as part of the "Pioneer Project." On February 10, 2015, a site visit was made to the residence of an individual who transitioned from Atlanta Regional Hospital to a community-based residential setting in Region 4. (This individual had been transferred to Atlanta Regional on November 13, 2013 because of Southwestern State Hospital's closure on December 31, 2013. She was placed in her community residence on October 14, 2014.)

Community Placements from State Hospitals:

As noted above, with very limited exceptions, community placements from the State Hospitals continue to be suspended. The Independent Reviewer has been informed of the community placement of the following individuals: 1) the two individuals placed from Gracewood under the "Pioneer Project;" 2) the individual transitioned from Atlanta Regional Hospital to a group home in Region 4; 3) three individuals transferred from the Craig Center, including two people moved at the request of their families, as well as one placed in a group home where she is reported as doing "remarkably well"; and 4) four individuals discharged from forensic units.

Only the two individuals placed under the aegis of the "Pioneer Project" were provided early engagement by support coordinators.

During the site visit to Region 4, the Independent Reviewer and the Settlement Agreement Coordinator were informed of transition-related difficulties with Atlanta Regional Hospital. Reportedly, the two direct support staff persons assigned to accompany the individual to her new home were not familiar with her needs for support. In addition, they did not spend sufficient time with residential staff in the group home so that a smooth transition process could be ensured.

Recently, the Independent Reviewer was informed that eighteen individuals from Region 2 are now scheduled for community placement in the near future. She has not been provided with any information about these individuals except that five individuals are from Gracewood; four individuals are from mental health units at East Central Regional Hospital; six individuals are forensic clients; two individuals are from the Craig Center; and one individual now is in Atlanta Regional Hospital.

In summary, community placements from the State Hospitals are suspended except for limited exceptions, including forensic clients.

The State's decision to suspend community placements was a carefully considered response to concerns about vulnerabilities in the present system of community-based supports. In the Independent Reviewer's judgment, it was the right decision. However, this Provision [III.A.2.b.i (D)] is critical to the successful implementation of the Settlement Agreement and the underlying Court Orders of the Olmstead decision.

This Provision requires additional time.

This Provision remains in effect. It is anticipated that there will be a finding of non-compliance in the next Annual Report. It is strongly recommended that the Parties renegotiate the timeline for this Provision and that there be a definition of the measures that must be met before the suspension of community placements can be lifted.

Support Coordination and the Individual Service Plan:

Since there have been only two placements to date under the framework of the "Pioneer Project," it is difficult to comment at length on these Provisions. Clearly, at this point in time, there has been insufficient work to conclude that non-compliance has been remedied.

Nonetheless, the two placements shaped by the protocols and policies of the "Pioneer Project" appear to be solid. Both individuals were transitioned carefully into their new home; residential staff was trained in their needs for support, prior to the placements; and the monitoring by the Regional Office has been timely.

The group home is located in a typical neighborhood; neighbors were invited to attend an "open house" after the two individuals moved into their new home. There has been an effort to design and implement integrated community-based options for socialization and skill development. Daily events include participation at a local senior citizen center and a community recreational center.

Residential staff has been observant. They have developed individualized techniques for supporting the two women in their Activities of Daily Living. It was impressive to learn how they have reshaped protocols designed at Gracewood in order to increase independence at mealtimes.

Support coordination was redefined to include early engagement. That is, the support coordinators began to work with both individuals while they were institutionalized at Gracewood.

This is a major change. The Department is to be commended for implementing this very important reform.

The guidelines for early engagement were provided to the Independent Reviewer. Based on the notes received, the requirements were met for both individuals placed under the "Pioneer Project."

The Individual Service Plans developed for both individuals reflect person centered planning. As noted above, it has been important that residential staff has developed more effective strategies for teaching new skills and maintaining independence.

There has been very measured, and thus limited, progress in strengthening the provision of support coordination services and the implementation of the Individual Service Plan. However, the foundation has merits.

There needs to be additional effort to ensure the statewide dissemination of these new policies and protocols. At this time, other individuals placed from State Hospitals do not receive the same considered transition planning and support coordination. For example, the transition of the individual from Atlanta Regional Hospital to a group home in Region 4 was marred by problems. These are problems that would have been avoidable if the new protocols were implemented.

Further considerations:

The Priority Plan outlined a number of actions that were to be taken in the statewide reform of Georgia's community-based system for individuals with a developmental disability. Upon review, it is evident that certain planned initiatives have not been finalized, as anticipated. For example:

- a. Only four independent mortality reviews of deaths of individuals receiving Home and Community-Based Services Waivers have been finalized. The Independent Reviewer is in the process of determining whether the Department has taken any of the remedial actions recommended in these reviews.
- b. At this time, there has not been a redefinition of the Regional Office roles and responsibilities. In at least one Region, this lack of clear delineation has interfered with the oversight of a provider agency with significant weaknesses. On May 9, 2014, consulting staff to the Department sent a Proposed Plan of Correction to the Central Office in Atlanta. As of February 10, 2015, there had been no guidance or instructions issued to the Regional Office. The issues identified in the Plan of Correction are consistent with observations conducted by the Independent Reviewer's nurse consultant during site visits conducted to this same agency in October 2014.
- c. Policies related to Community Transitions and Transfers have not been finalized. The statewide Integrated Clinical Support Team has not been

established in order to provide consistent direction on health and wellness related matters.

- d. The analysis has not been completed of the 105 individuals in Region 2 with a developmental disability who have been transferred, in previous years, from the State Hospitals. This work was to be completed by February 28, 2015. However, as of the date of this filing, a report has not been sent to the Independent Reviewer.
- e. A coordinated approach to the oversight of behavioral supports has not yet been developed. Planning for this initiative is in its preliminary stages. The reviews conducted by the Independent Reviewer's consultant, a Board Certified Behavior Analyst, have been forwarded to the Parties. These reports support the need to develop a cadre of trained Behavior Analysts who can work closely with residential and day program staff to teach appropriate behaviors. These reports also document the critical need to ensure that truly informed consent is given for restrictive practices. This has been a concern of the Independent Reviewer since her first Annual Report.
- f. Social Role Valorization training has been provided only to an extremely limited extent. Two staff persons at the home of the individuals placed under the "Pioneer Project" participated in this training. The need to provide this type of training has been a longstanding recommendation by the Independent Reviewer.

The State requires additional time and effort to come into compliance with the Provisions related to placements from the State Hospitals, support coordination and the implementation of Individual Service Plans. Current efforts, although very limited, are promising and, if implemented on a broader and more time-efficient scale, would be effective as catalysts for systemic reform.

It is again recommended that the Parties consider ways to extend the Settlement Agreement timelines for these Provisions.

Crisis Respite Home:

By July 1, 2014, the State was required to establish a twelfth Crisis Respite Home [III.A.2.c.ii. (B)(3)]. The State did not meet this obligation. At this point in time, approximately four months before the end of the Fiscal Year, the Independent Reviewer has not been informed of any plans to fund and establish this resource for crisis respite care. Therefore, it seems unlikely that the Provision can be in compliance by July 1, 2015. Furthermore, site visits to Crisis Respite Homes across the State have highlighted the need to examine and evaluate at least one existing residence in Region 3. The Independent Reviewer has discussed this issue with the Department and has recommended that there be a comprehensive review of crisis services to ensure that the expectations for access and crisis intervention are uniformly met by the provider agencies. Given the circumstances, it is recommended that the implementation of this Provision be delayed until such a

comprehensive review can be completed. Agreement by the Parties is required for the adoption of this recommendation.

Serving People with Mental Illness in the Community

Assertive Community Treatment (ACT):

The Independent Reviewer's most recent Annual Report included recommendations regarding the work of the Assertive Community Treatment (ACT) Teams. It was recommended that the Department of Behavioral Health and Developmental Disabilities take action to ensure that all ACT Teams meet the DACT fidelity standards and that training and technical assistance be provided to Teams with lower scores.

Since September 2014, the Department has distributed monthly reports on the training, technical assistance and other supports provided to ACT Teams throughout the State. The Independent Reviewer's consultant, Dr. Angela Robbins, reviewed these actions during a site visit to Atlanta and the Cobb-Douglas area on January 26, 2015.

Dr. Rollins decided to conduct a site visit to the Cobb-Douglas ACT Team. The site visit was prompted by the Team's scoring below a 4.0 on the DACTS for two consecutive years. (It was the only Team in the State to do so.) During her visit, Dr. Rollins observed the morning meeting and interviewed staff. Her observations were discussed with the Department's staff responsible for mental health services.

Dr. Rollins noted improvements in staffing capacity as well as in the integration of clinical supports. Problems raised by the Team included the lack of response from and collaboration by local private hospitals, especially at the point of discharge. The Department has been asked to further explore these identified problems and to assist with resolution, if necessary.

In addition to Dr. Rollins's site visit, the Independent Reviewer, her housing consultant and the Department's Settlement Agreement Coordinator met with two of this Team's clients. The Independent Reviewer selected the clients. Meetings were held at the clients' homes; the Georgia Housing Voucher Program provides rental assistance for both men. Both men volunteered information about their interaction with the ACT Team and spontaneously commended the support received in their homes three days per week. The apartments were well maintained, within reasonable access to community resources, and located in "scattered" sites. One gentleman has significant health needs; the Team is addressing these needs. The second gentleman would like to seek employment. The Team is assisting him with his preferences for work.

In addition to her site visit, Dr. Rollins reviewed the training and technical assistance provided by the Department. She confirmed that training had been held on a recovery orientation to mental illness; the Department's Office of Recovery Transformation has been involved in this effort. A "Recovery Tool" is being used to assist provider agencies to operationalize a recovery approach. This Tool will be especially helpful for Teams that do not yet understand the difference between a medical model and a recovery-focused model.

Dr. Rollins will conduct additional site visits in the forthcoming months. She will concentrate her attention on performance by three ACT Teams, one in Region 4 and the others in Region 3. She will also continue to review the Department's on-site technical assistance and training, which is essential to ACT Teams attaining and sustaining effective performance.

Supported Housing:

The importance of stable housing, with access to typical community resources and supports, cannot be overestimated. Stable housing is a critical component of a strong foundation for recovery from mental illness. Observations made on numerous site visits to supported apartments, shelters for homeless people and jails throughout the State have demonstrated the very positive difference made in the quality of individuals' lives when there is a choice of integrated housing with appropriately designed supports. (In order to further document the effects of Supported Housing, the Department (DBHDD) is planning an initial pilot project that will match client outcome data with housing performance data. The Independent Reviewer and her consultant, Martha Knisley, will work closely with Department staff to structure a preliminary report on how outcomes will be monitored as part of an overall Supported Housing Quality Management Plan to be completed before June 30, 2015.)

Therefore, the Provisions regarding Supported Housing, scheduled for completion by July 1, 2015, have been the second area of focused attention for this Supplemental Report.

These Provisions require:

- By July 1, 2015, the State will have the capacity to provide Supported Housing to any of the 9,000 persons in the target population who need such support. The Supported Housing required by this provision may be in the form of assistance from the Georgia Department of Community Affairs, the federal Department of Housing and Urban Development, and from any other governmental or private source [B.2.c.ii. (A)];
- By July 1, 2015, the State will provide a total of 2,000 supported housing beds [B.2.c.ii. (B)(5)];

- By July 1, 2015, the State will provide Bridge Funding for 540 individuals with Serious and Persistent Mental Illness [B.2.c.ii. (C.)(5)].

In each year to date of the Settlement Agreement, the State has exceeded the obligations regarding the availability of supported housing beds and Bridge Funding. The Georgia Housing Voucher Program has received high praise from the advocacy community. The productive inter-agency relationship between the Department of Behavioral Health and Developmental Disabilities (DBHDD) and the Department of Community Affairs (DCA) has resulted in the development of progressive policy and the receipt of important resources from the federal government's Department of Housing and Urban Development (HUD).

Based on the fact-finding conducted for this Supplemental Report, it is anticipated that the State will meet or exceed this Year's targets of 2,000 supported housing beds and Bridge Funding for 540 individuals in a timely manner. It is also expected that the State will comply with the requirements regarding "scattered" sites and roommates.

However, of utmost importance at this time, is the Provision requiring the State to have the capacity to provide Supported Housing to any of the 9,000 people in the target population "who need such support."

The Department is preparing to meet this obligation and had hoped they could complete a needs assessment before the ending date of the Settlement Agreement. On January 21, 2015, staff provided the Independent Reviewer and Ms. Knisley with an overview of their materials and proposed action steps. Based on that overview, it was mutually agreed that the Department would require more time than originally allocated to finalize materials, including policies and protocols; to train staff; to complete their preliminary needs assessment process; and to make arrangements for assessing need on a continuous basis.

The Department has retained experienced housing consultants to assist it with reaching the stipulated "capacity" for the target population. Ms. Knisley has followed the Department's work in this area on an ongoing basis. In order to assist with the deliberations, she has provided her own estimate of potential Supported Housing resources. Her report states: "Reaching affordable housing capacity (units, vouchers and subsidies) for the target population is difficult to achieve. It will require DBHDD, DCA, the homeless services system, Public Housing Authorities and veterans' programs to maximize as many funding opportunities as possible, in all corners of the State. However, even if all the resources that could be used were made available, it may not be enough to meet demand. The opportunities must include rental units that meet quality standards and are safe and affordable to persons with very low incomes and/or subsidies that can be used for such rental units with the same characteristics."

Therefore, although there has been attention to this obligation and the initial design of actions to determine the “need” for housing and the potential “capacity” of available resources, it is clear that additional time will be necessary for compliance with this Provision to be reached by the State of Georgia. As Ms. Knisley has concluded: “Meeting the ‘capacity’ and ‘in need of’ requirements presents significant challenges. The State is moving in the right direction but they will not meet these requirements by July 1, 2015.”

Ms. Knisley’s report has been shared with the Parties and the Amici for review and for further discussion, if desired.

ONGOING WORK

Mortality Reviews:

In her March 2014 Supplemental Report, the Independent Reviewer recommended:

“The Department (DBHDD) should retain an independent consultant/consultant group to conduct mortality reviews for individuals placed under the Settlement Agreement. Independent review of any such deaths would strengthen the Department’s knowledge about provider agencies and the availability/provision of critical supports.”

Subsequently, the Department retained the expertise of the Columbus Organization. A prioritized list of deaths to be reviewed was forwarded to Columbus. This list included individuals placed from the State Hospitals into community residences.

The four finalized Columbus reports have been shared with the Department of Justice and the Independent Reviewer. The Independent Reviewer requested that the mortality review process be included in the agenda for the Parties’ meeting scheduled for February 26, 2015. At that meeting, the Department described its process for reviewing the Columbus reports and for implementing its recommendations. The Independent Reviewer has raised a number of questions about that process and has requested that additional information be provided. Currently, she is reviewing whether the Department has taken any of the remedial actions recommended in the Columbus report. Repeated recommendations by Columbus that the State obtain medical records and ensure that autopsies are performed in a timely manner also will require attention. In addition, there are questions regarding the data that still need to be addressed.

The Department has contracted with two qualified consultants to conduct reviews of deaths by suicide. As of the date of this filing, however, no reviews have been completed.

Finally, the Department has agreed to issue an Annual Mortality Report. The first report is expected to be completed by August 2015. The Annual Mortality Report will be released publically and will provide important information about the Department's review of deaths.

Other States have found a comprehensive mortality review process to be of critical importance. For example:

The Connecticut Department of Developmental Services's (DDS) mortality review process has evolved into a powerful quality assurance system for ensuring the delivery of optimal health care oversight and services... The regional and state recommendations regarding health care oversight and standardization of health care practices for professional and non-professional staff have improved basic health care services and mitigated health related risk. The impact of mortality findings and recommendations has been observed within DDS and has extended to community-based health care providers including practitioners in private practice, licensed nursing facilities, acute care hospitals, hospice providers, health and dental clinics, and other state agencies. (State of Connecticut: Mortality Annual Report, FY 2010)

The Independent Reviewer will update the Court about the State of Georgia's mortality review process in her next Report.

CONCLUDING COMMENTS

After careful consideration of the facts outlined in this Supplemental Report, as well as her ongoing discussions with the Parties, it is the considered professional judgment of the Independent Reviewer that the State is unlikely to reach compliance with five Provisions of the Settlement Agreement prior to July 1, 2015. These Provisions are critical; they relate to the individualized, coordinated and safe transitions of individuals with a developmental disability from State Hospitals; the implementation of appropriately designed supports for individuals in community-based settings; and the development of sufficient capacity to meet the need for supported housing for up to 9,000 adults with serious and persistent mental illness.

Although the State's good faith efforts continue and there is evidence now of promising plans beginning to lead to desirable results in the attempts to reach compliance, additional time will be required to ensure sustainable statewide systemic reform for the community-based support of individuals in the target populations.

In light of the above, it is recommended that the Parties expedite the timeframe for the Provision (VII.A.3.) that, in part, states: "If the case has not yet been dismissed, the Parties agree to ask the Court for a non-evidentiary hearing on the status of

compliance on or near July 1, 2015.” An earlier date for this hearing before the Court would permit the State to discuss its plans for reaching substantial compliance with certain obligations of the Settlement Agreement that are yet unfulfilled.

In addition, if the timelines for certain Provisions are extended by agreement of the Parties, it is again recommended that the Parties develop and adopt more precise exit criteria. The Independent Reviewer reiterated this recommendation in her September 2014 Annual Report when it was suggested that the State’s Priority Plan “create exit criteria to enable the State to reach identifiable goals necessary to achieve compliance with the Settlement Agreement.”