

**SHELBY COUNTY GOVERNMENT
OFFICE OF CRIMINAL JUSTICE COORDINATOR**

TO: Winsome Gayle
Civil Rights Division
Special Litigation Section
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FROM: Bill Powell *BP*
Settlement Agreement Coordinator

DATE: April 2, 2013

SUBJECT: Compliance Report #1 – April 2013

The Memorandum of Agreement (MoA) between Shelby County and the US Department of Justice (DoJ) was entered into December 17, 2012. Page 37 of the MoA requires the Settlement Agreement Coordinator to develop and submit a report regarding compliance with the Agreement every six months until the Agreement is terminated. The first Compliance Report is to be provided by April 17, 2013, four months after the effective date of the Agreement. This is the first Compliance Report. It should be clear this report comprises my opinion and assessment of the work in my role as the Settlement Agreement Coordinator.

Format

1. Narrative summary providing an assessment of compliance with the commitments in the MoA during the period covered by the Report
2. Synopsis of each Substantive Remedial Measure, including page # from the MoA on which the commitment is found. This section will include a summary of each individual commitment in the MoA, a status update on that commitment and comments related to compliance
3. Appendix of supporting documentation including copies of pertinent policies, memos and other documentation related to each remedial measure and commitment

Narrative Summary

Corrective work began immediately following the release of the Findings by DoJ on April 26, 2012. The MoA was signed and included a number of aggressive timelines for compliance. The MoA includes commitments in Due Process, DMC and Equal Protection, Protection from Harm: Detention Facility and Community Outreach. Below is a short summary of the progress in each major area.

Due Process

The Due Process commitments through March 2013 have been met. These requirements included revision of a number of policies involving the Judicial/Magistrates area and Court Services/Probation areas. The policies involved basic issues such as probable cause determinations, confidentiality of proceedings, providing notice of charges, transfer hearings and protections against self-incrimination. All of those policies required through March 2013 have been completed. It has been a challenge getting adequate policies written and in place. In some cases, directives were issued to staff to take actions and then policies were finalized afterwards. Several of these policies were submitted at the last moment or, in some cases, shortly after the date committed in the MoA. These "last minute" policy revisions raise concerns about the effectiveness of training and implementation. It is difficult to finalize a policy, communicate it, and implement it all in the same day. It will be incumbent on management to insure the new policies are being followed consistently. The sections in the MoA requiring monthly reviews will be one mechanism to insure policies are followed. Juvenile Court also took the proactive step of developing a policy for how these reviews should be done from the Judicial side of the operations.

Much of the burden of insuring due process protections falls on the magistrates and the defense counsel. Given that the MoA does not call for the Public Defender to assume responsibility for the defense function until December 2013 the Juvenile Defender Panel will continue to play a critical role in assuring due process protections. Training arranged by Monitor Sandra Simkins on due process issues for the Panel attorneys was very helpful in this area. Establishment of clear policies or standards of practice for the Defender Panel could be very helpful in assuring due process protections.

Overall, a lot of good work has been done in providing due process protections in a short time. Now that policies are in place, implementation and monitoring should be an area of focus.

DMC and Equal Protection

Most of the commitments in the area of DMC and Equal Protection are not due for completion until June and September 2013. A DMC Coordinator was appointed by the Mayor in February 2013 and Juvenile Court designated Points of Contact for major operational areas in March 2013. These appointments were not required by the MoA until June 2013. The County and the Court are to be commended for their quick appointment of these positions. The DMC and Equal Protection commitments will be very challenging. The first phase of commitments involves identification of data needs while the second phase involves analysis of data and departmental processes and procedures. It will be critically important for the DMC Coordinator and the Points of Contact to work closely as a team to meet the commitments in the MoA. It is likely some technical assistance will be needed in several of these areas to meet the commitments. Hopefully, DoJ can provide some guidance and support in obtaining the necessary assistance.

Protection from Harm: Detention Facility

The Protection from Harm commitments due thus far involved removal of the restraint chair, insuring security had readily available suicide cut-down tools and the development of a comprehensive suicide prevention policy. The restraint chairs were removed April 26, 2012 and emergency cut down tools are in place. A suicide prevention policy was put in place February

15, 2013. It is my opinion this policy is inadequate and does not meet the commitments made in the MoA. More detail on this position is given in the comment section of the Remedial Measures portion of this report. Current plans call for contracted medical and mental health services to be in place by July 1, 2013. As of now, it is my contention we are not in compliance with the commitments made in the MoA relative to suicide prevention.

Community Outreach Plan (COP)

The COP is not due until June 2013. As with most of these commitments, a great deal of preliminary work is necessary to meet the deadlines. The MoA required creation of a countywide juvenile justice consortium (CJJC) as part of the COP. This CJJC has been created and has convened. They have met with the Mayor, had an orientation that included Judge Person and the Juvenile Court staff, attended a meeting of Committee A and have a meeting set up with the DoJ monitors during their visit in April 2013. An effective COP will need a broad approach and the CJJC could be very useful in developing and implementing such a plan. This is off to a good start.

Conclusion

This Compliance Report reflects a lot of progress since the MoA was signed on December 17, 2013. Policies have been revised, important positions filled and a great deal of training has been conducted. These things have been accomplished while still doing the daily work necessary to run the Court. The MoA commitments due for completion through March 2013 have been met, with the notable exception of the suicide prevention policy.

At this point some areas of concern are:

1. Some policies in the Probation areas are still a bit vague
2. Need to insure that policies that span the various Bureaus/sections including Judicial, Probation, Youth Services, Detention, Clinical Services and the Juvenile Defender are congruent
3. Insure effective communication, implementation and monitoring of revised policies

There are also several positive accomplishments that merit attention:

1. Establishment of policy guiding reviews done in the Judicial/Magistrates area
2. Appointment of the DMC Coordinator and Points of Contact to work with that position
3. Appointment of the Countywide Juvenile Justice Consortium well ahead of the deadline
4. Arranging training with CLE credit for Panel attorneys on due process issues
5. Continued coordination with JDAI efforts

In short, much has been done and much remains. Staff has worked hard and there has been no shortage of effort. Judge Person and his team remain committed to making the improvements outlined in the MoA and in making the Juvenile Court of Memphis and Shelby County an exemplary Court.