

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

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**TO:** Winsome Gayle  
Civil Rights Division  
Special Litigation Section  
US Department of Justice

**FROM:** Bill Powell **BP**  
Settlement Agreement Coordinator

**DATE:** September 23, 2013

**SUBJECT:** Compliance Report #2 – September 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 was provided April 2, 2013, four months after the effective date of the Agreement. This is the second Compliance Report. It should be clear this report comprises my opinion and assessment of the work in my role as the Settlement Agreement Coordinator. This report is comprised of three sections in the format below:

**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**

Work in meeting the commitments in the MoA has continued at an often frenetic pace. 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 progress in each major area. This brief summary includes identification of good things that have occurred and

identification of the main challenges in each area. More detailed comments on each item can be found in the following section – Synopsis of Substantive Remedial Measures.

### **Due Process**

The Due Process area can generally be divided into two broad aims. The first involves revision and creation of policies for the Court. The second involves revision of the Juvenile Defense function to include the establishment of a Juvenile Defender Unit with the County's Public Defender Office and improvements with the Juvenile Defender Panel.

#### **Good:**

- Policies have been revised and created that provide clear direction as to how cases should be handled.
- Cases are reviewed by the Chief Legal Office and the Chief Magistrate
- Data on these reviews has been incorporated into a spreadsheet to allow identification of performance trends
- Great deal of work done by Public Defender Stephen Bush in researching practice standards and training needs in preparation of setting up the Juvenile Defender Unit.

#### **Challenges:**

- Insure all the policies are consistently followed by staff and analyze the data captured in the reviews and spreadsheets on due process performance
- Need aggregated information on work being done in Probation Conferences
- A big issue remains in insuring attorneys are assigned early in the process for juveniles, including at the Probation Conference stage. This includes issues with the AOC and payment for attorneys at this stage
- Resource and structural issues with the Juvenile Defender Panel need to be resolved

### **DMC and Equal Protection**

This is the area in need of the most work. The DMC and Equal Protection area can also generally be divided into two areas. The first is Data collection and Analysis. The second involves responding to that analysis by employing of objective decision tools and using the data to inform changes in policy and practice. A lot of good work has been done in collecting data. The follow up in determining what to do with that data has been somewhat chaotic. Below are some thoughts on this area.

#### **Good:**

- A great deal of data has been gathered
- The RRI for some areas has been improved. In fact, the data shows that disparities did not exist in Cases Petitioned or in Cases Resulting in Secure Confinement. The initial DoJ report did show disparities in both these areas.
- The pilot program with law enforcement designed to reduce transports has begun
- There has been a great deal of cooperation with OJJDP and JDAI in areas of training and technical assistance

Challenges:

- There has been a great deal of confusion regarding the role of the Points of Contact and their level of engagement in reducing DMC
- There have not been many indications of analyzing and using data to reduce DMC
- Technical assistance has been requested to help with objective decision making tools. This is critically important to insure there is a valid basis for decisions made by staff.
- The strategic plan will be important in providing structure and direction for improvements in DMC reduction
- Plans for evaluation of the pilot program with law enforcement need to be made

**Protection from Harm: Detention Facility**

Use of Force guidelines and suicide prevention practices are the linchpins for the Protection from Harm: Detention Facility portion of the MoA. Excellent progress has been made in this area. Policies have been revised, data is being collected in a number of key areas and that data is being analyzed. Correct Care Solutions (CCS) was brought on board as the contracted medical services provider and provides qualified mental health services for Detention.

Good:

- The Use of Force policy was revised. It is a good policy which provides appropriate guidance to staff. Recommendations previously made by consultant Lindsay Hayes have been incorporated into the new policy
- Detention administrators have done an excellent job in developing data to track performance. They have developed a “report card” format which allows key indicators to be easily viewed and trends to be identified
- CCS is on board and providing medical and mental health services
- A new suicide prevention policy was created which is a substantial improvement from the prior policy
- CCS developed a suicide prevention policy for their staff which mirrors the policy used by Detention
- A Critical Incident Review policy was created to provide guidance in reviews and insure “lessons learned” are incorporated into training and practice

Challenges:

- Administrators will need to insure policies are followed by staff
- Regular drills should be conducted to insure policies are understood and applied
- Spreadsheets should continue to be tweaked to insure optimal use by management
- Communication between security and medical staff is always a challenge and steps should be taken to insure good communication between these groups

**Community Outreach Program (COP)**

The MoA required a Community Outreach program to be developed by June 17, 2013. Although a great deal of activity has occurred, it has not been apparent that there has been a planned approach to this outreach. A policy was submitted on September 17, 2013 detailing what should

be done in this area. Information on a number of activities by the Community Outreach liaison, Tom Coupe, has also been submitted and it is apparent Mr. Coupe has been active. Still, it is my belief that to meet the goals of the MoA it is important to have a “plan” detailing how this commitment of community outreach will occur. It should be noted the CJCC has been actively meeting and appears interested in providing a community link with the Court.

Good:

- A policy was developed outlining what community outreach activities should occur
- The CJJC has met regularly and is comprised of individuals motivated to see system improvements
- Tom Coupe has been active in the community in his role as Community Outreach liaison
- Technical assistance has been requested to help with the community outreach

Challenges:

- A Community Outreach Plan will provide more specific guidance for a proactive approach to community outreach that will not be dependent on one person to provide outreach from the Court
- Efforts need to be made to put the CJJC to work and engage them in bringing community feedback to the Court for use in improving community relations

Conclusion

This 2<sup>nd</sup> Compliance Report reflects a great deal of progress. Policies are in place to provide direction and guidance as to how work should proceed. Data is being collected and, in most cases, has been translated into a form that can be used to inform management of what should be done.

At this point the main challenges include:

1. Establishment of attorney practice standards and training
2. Getting defense attorneys involved as early as possible in the representation of juveniles
3. Resources and structural stability of the Juvenile Defender Panel
4. Insuring revised policies are effectively communicated to and implemented by staff
5. Insure effective communication, implementation and monitoring of revised policies
6. Better organizing DMC reduction efforts through improved communication with and work of the Points of Contact
7. Developing objective decision making tools and assuring consistent treatment
8. Improved analysis of all the data being gathered and using that analysis to inform system improvements

There are also several positive accomplishments that merit attention:

1. Development of aggregate data in the Judicial and Detention areas which allow tracking of performance trends in these areas
2. Yeoman's work has been done in collecting data in a number of areas
3. Contracted medical and mental health services are now on site
4. Tremendous improvement in Use of Force and Suicide Prevention policies which also include a process for Critical Incident Reviews.
5. Great deal of research and collaboration being done in preparation of establishing a Juvenile Defender Unit
6. Establishment of the pilot program with law enforcement to reduce transports to Juvenile Court.
7. Continued engagement with the CJJC
8. There continues to be excellent support provided by OJJDP and the JDAI initiative

There has been a great deal of progress since the last Compliance Report submitted in April 2013. It is a huge undertaking to make the type changes necessary to meet the commitments in the MoA and still complete the daily activities necessary to keep such a large Court operating. 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. While much remains to be done, I believe this report reflects a great deal of improvement has been made.