

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

Honorable Dan Michael
Presiding Judge, Memphis-Shelby Juvenile Court

Honorable Mark H. Luttrell, Jr.
Mayor, Shelby County, Tennessee

Katherine Pascover
County Attorney

FROM: Sandra Simkins
Due Process Monitor

DATE: December 22, 2016

RE: Compliance Report #8 - September 2016

Juvenile Court Memphis Shelby County (Juvenile Court) entered into a Memorandum of Agreement (Agreement) with the United States Department of Justice Civil Rights Division (DOJ) on December 17, 2012. According to the Agreement, compliance shall be assessed by two monitors and a facility consultant. I was named the Due Process Monitor and have subject matter expertise in the area of due process and juvenile delinquency. The regularly scheduled compliance review and site visit occurred September 26, 2016 – September 29, 2016. This report evaluates the extent to which Juvenile Court has complied with each substantive provision of the Due Process sections of the Agreement.

Format

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Executive Summary

As previously noted, many significant improvements have been sustained including progress toward an independent indigent defense system.¹ I commend the Mayor for his continuing commitment to the terms of the Agreement and to seeking local solutions. *The Blueprint to Achieve Compliance in Juvenile Defender Services*² (“*Blueprint*”) filed by the Public Defender outlines a promising course of action to guide local solutions toward a comprehensive, independent indigent defense system. Many recommendations in *Blueprint* are critical to establishing a minimum level of independence that is essential to achieving substantial compliance with the Agreement.

The *Blueprint* was the subject of many conversations during the site visit, and I was encouraged in meetings with Chief Administrative Officer Harvey Kennedy and representatives of the County Attorney’s office. Once implemented the local solutions proposed will enhance independence and ensure the Public Defender can meet ethical obligations. For example, the *Blueprint* recommends increasing capacity to permit the Public Defender to represent all juvenile delinquency cases where there is no conflict of interest. This is a practical step toward addressing the concerns I have raised in previous reports about deficiencies in the panel system. The *Blueprint* also recommends providing assurances to safeguard the ability of the Chief Public Defender to act independently despite the political controls that are codified in the County charter.

On November 17, 2016 I received a Memorandum from the County Attorney’s Office. I am pleased that the County Attorney’s Office is responding to the *Blueprint* and researching issues found in the Shelby County Charter.

For this reporting period, I am also pleased to report the following: 1) the successful launching of the University of Memphis Cecil C. Humphreys School of Law Children’s Defense Clinic, 2) the increased capacity of the Public Defender Juvenile Unit which currently handles 57% of cases 3) Dr. Tucker-Johnson’s Clinical Services has eliminated the backlog of evaluations, and 4) the Probation Department’s adjusted graduated sanctions grid continues to achieve positive outcomes for youth.

¹See SANDRA SIMKINS, COMPLIANCE REPORT #6—OCTOBER 2015 (2015), page 4 [hereinafter SIMKINS #6], available at http://www.justice.gov/crt/about/spl/documents/shelby_firstmtrrpt_6-5-13.pdf;

In particular, the Mayor took steps to remove the Public Defender from direct oversight of the County Attorney and affirmed the Public Defender as the appointing authority for assistant public defenders. Ratification by the County Commission of an existing local ordinance (Article XI, Section 10-731) clarifies the role of the Public Defender in this important area and reverses the long-standing practice of assistant public defenders serving as appointees of the elected Mayor. This is a significant achievement.”

² *Blueprint* is attached as Exhibit “A”

While the majority of data points are maintaining substantial compliance, issues remain regarding court motions and orders. This continues to result in unnecessary and time-consuming obstacles for defense counsel. In addition, I have highlighted concerns regarding the current discovery practices in transfer hearings.

Overall, of the 55 Due Process Provisions assessed pursuant to the MOA, Juvenile Court’s compliance status is as follows:

Compliance Standards	April 2013	Oct. 2013	April 2014	Oct. 2014	April 2015	Oct. 2015	April 2016	Oct. 2016	
Substantial Compliance	0	0	0	24	38	43	50	48	
Partial Compliance	1	26	44	23	16	11	3	5	
Beginning Compliance	25	17	10	5	1	1	0	0	
Non Compliance	3	0	0	1	0	0	2	2	
Insufficient Information/pending	5	2	1	2	0	0	1	1	
Total # of Due Process Provisions in Agreement	34	45	55	55	55	55	56*	56*	

Definitions regarding compliance standards are found in the “Methodology” section of this report.

*I have divided one compliance measure into two parts given nature of progress, see p. 12.

Recent Positive Developments

1. Plan for Comprehensive Independent Juvenile Indigent Defense

In response to my request the Shelby County Public Defender submitted a *Blueprint to Achieve Compliance in Juvenile Defender Services* (“Blueprint”) on August 15, 2016⁵. The *Blueprint* is a key step toward a comprehensive plan for juvenile defender services required under the MOA. The solutions recommended in the Blueprint propose active steps and timelines to achieve substantial compliance before August 31, 2017. I expressed my opinion to Mr. Kennedy that taking the steps proposed in the Blueprint would allow Shelby County to meet its juvenile defender obligations required under the MOA before the end of Mayor Luttrell’s term. I was encouraged by County Attorney’s attention to these issues and the willingness of the Administration to implement the recommendations set out in the *Blueprint*.

The *Blueprint* proposed local solutions in key areas. After conversations conducted during the site visit and review of the *Blueprint*, it is my opinion that if the following solutions are implemented and sustained, substantial compliance would be reached:

- The Public Defender must be able to ethically do the job despite the prospect of dismissal for doing so. This requires that adequate assurances be developed. This is consistent with Principal 1 of the ABA 10 Principals which demands the Public Defender Office be free from political interference. If adequate assurances were developed (i.e. some type of severance and a defined term of service) it would ensure the independence necessary to satisfy the MOA.

⁵ *Blueprint*, page 1. (See Appendix “A”)

- The Public Defender must be able to act independently in state and local budget proceedings to advocate for funding.
- The Public Defender must be able to run their own office in a manner that meets ethical obligations. This includes the ability to hire and remove staff, set and enforce performance standards, maintain workload controls and determine the best structure for service delivery.
- Public Defender compensation should be based on an objective standard rather than be subject to modification by the appointing authority.
- The Public Defender must increase capacity to provide all juvenile delinquency services where there is no conflict of interest, in order to decrease the issues previously stated with the panel structure.

Request for Administration Plan: I am requesting that the Administration outline steps for implementing a plan in these key areas by January 24, 2017. I am also recommending that a meeting be convened (via teleconference or in person) of the relevant parties (including the Public Defender, the County Attorney, DOJ and myself) after the receipt of the Administration's outline, to clarify the issues in the *Blueprint* and *Memorandum*.

2. *Inaugural Class of Children's Defense Clinic at University of Memphis
Cecil C. Humphreys School of Law*

As mentioned in my last report, the University Of Memphis Cecil C. Humphreys School Of Law opened a new Children's Defense Clinic--a first for the state of Tennessee. The concept of an academic partnership was endorsed in the original DOJ Agreement in 2012 and I am pleased to report that students now routinely appear in Shelby County Juvenile court. I cannot overstate the value of the clinic program toward sustaining long term reforms in Shelby County.

Under the leadership of Dean and Professor Peter Letsou and Clinic Director Lisa Geis, students now engage in experiential learning while defending Shelby youth charged with delinquency cases. The clinic has received very positive media attention. In particular there was a "ribbon-cutting" ceremony that was well attended by Shelby County juvenile justice stakeholders.⁸ In addition to training students on best practices and national juvenile defender standards, the Children's Defense Clinic is actively collaborating with the Shelby County Public Defender and has begun to serve as a training resource for the region. For example, the clinic is hosting informal, monthly training sessions open to all juvenile defenders. "Classroom to Courtroom – Using the IDEA in Delinquency Court" was held on September 20, 2016. The next installment of Juvenile Training Immersion Program ("JTIP") was hosted by the law school on December 9, 2016. I want to specifically encourage participation of the private bar and juvenile panel attorneys in these important trainings.

⁸ <http://www.commercialappeal.com/news/courts/law-students-earn-courtroom-experience-with-childrens-defense-clinic-3bdd0d66-dca1-0d00-e053-0100007-392802081.html>

Ongoing Due Process Concerns

1. *Transfer Hearing Discovery and Recently Enacted Tennessee Rules of Juvenile Practice and Procedure*

On July 1, 2016, the Tennessee Administrative Office of the Courts released the Tennessee Rules of Juvenile Practice and Procedure (“Rules”) including specific rules on discovery and transfer (Rules 206 and 208 respectively).¹ During my last visit I learned that the District Attorney’s office frequently denies discovery to the youth’s attorney until after the transfer decision is made by the Court and while the District Attorney’s office is considering filing a Notice of Transfer. This is concerning for a number of reasons, in particular because the prosecutors has a duty to provide exculpatory evidence according to *Brady v. Maryland*, 373 U.S. 83 (1963).

Obstacles to Defense Practice: Motions, Orders, Docket Numbers

This issue has been highlighted in several previous reports but has yet to be resolved.² I continue to hear complaints regarding the processes for filing motions, receiving court orders and obtaining docket numbers. I understand that these issues involve overlapping duties between the court, the office of the clerk, and the probation department. I have enlisted the assistance of settlement coordinator Bill Powell to address these important issues.

¹ Rule 206 Discovery: (a) Each juvenile court shall ensure that the parties in delinquent and unruly proceedings have access to any discovery materials consistent with Rule 16 of the Rules of Criminal Procedure. (b) An informal request for discovery is encouraged, but if the parties cannot agree as to discovery, then a formal discovery request shall be made.

Advisory Commission Comments. In drafting this rule, the Commission was concerned with potential burdens and delays that might be caused if existing criminal discovery methods were applied without modification to juvenile court proceedings. This does not preclude adoption by each court of local rules of procedure to implement the discovery mechanisms found in the Tennessee Rules of Criminal Procedure. The Commission emphasizes the mandate of Supreme Court Rule 18, which limits local rules to those “not inconsistent with . . . the Rules of Juvenile Procedure[.]” *State v. Willoughby*, 594 S. W.2d 388 (Tenn. 1980) holds that discovery rules do not apply to preliminary examinations and hearings. Therefore, this rule would not apply to any probable cause hearing in juvenile court with the caveat that this rule is not the exclusive procedure for obtaining discovery. **Please note that some discovery may be critical in a transfer hearing.** The Court should use its discretion in granting access to information necessary to defend or prosecute a transfer case. The state must disclose any exculpatory evidence to the child’s attorney per *Brady v. Maryland*, 373 U.S. 83 (1963).....(<http://www.tncourts.gov/rules/rules-juvenile-procedure/206>

² See SIMKINS #7 at 17, SIMKINS #6 at 7.

Discussion of Compliance Findings

Methodology

The information for this compliance report was obtained using the same methods as the previous seven compliance reports. I have relied on information from a variety of Juvenile Court stakeholders. I have reviewed “Committee A” minutes and have maintained email correspondence with Juvenile Court. I requested and reviewed numerous documents before and during the site visit.

During the four-day site visit, I observed delinquency hearings, detention/probable cause hearings, probation conferences and the major crimes docket including a transfer hearing. During the site visit I had meetings with the following: Juvenile Court staff, individual probation officers, panel attorneys, and the entire staff of the new public defender juvenile unit, the juvenile defender panel attorney coordinator, the Public Defender, the Clinical Services Director, and the chief of the District Attorney’s juvenile unit. I also reviewed the eighth compliance report prepared by Settlement Coordinator Bill Powell. All of the above provided useful information about current Juvenile Court operations, the progress that has been made toward compliance with the Agreement, and the areas where continued attention is needed.

The Agreement does not conceptualize or require specific compliance levels; however experience in other jurisdictions suggests that the following levels are useful in evaluation. Note, “significant period” of time means longer than one year.

Substantial Compliance means that Juvenile Court has drafted the relevant policies and procedures, has trained the staff responsible for implementation, has sufficient staff to implement the required reform; has demonstrated the ability to properly implement the procedures over a significant period of time and has ascertained that the procedures accomplish the outcome envisioned by the provision.

Partial Compliance means that Juvenile Court has drafted policies and procedures and has trained staff responsible for implementation. While progress has been made toward implementing the policy, it has not yet been sustained for a significant period of time.

Beginning Compliance means that the Juvenile Court has made initial efforts to implement the required reform and achieve the outcome envisioned by the provision, but significant work remains. Policies may need to be revised, staff may need to be trained, procedures may need continued implementation to accomplish outcome envisioned by the Agreement.

Non –Compliance means that Juvenile Court has made no notable compliance on any of the key components of the provision.

Insufficient Information/pending means that it is not possible to assess compliance at this moment.

PROBABLE CAUSE DETERMINATIONS	APRIL 2013	OCT. 2013	APRIL 2014	OCT. 2014	APRIL 2015	OCT. 2015	APRIL 2016	OCT. 2016	
Within 90 days: revise policies to require prior to detaining a child Magistrate makes proper probable cause determination	BC	PC	PC	SC	SC	SC	SC	SC	
Within 90 days: insure PC determination within 48 hours of warrantless arrest	BC	PC	PC	SC	SC	SC	SC	SC	
Within 90 days: insure no child detained for more than 48 hours prior to Detention Hearing if Court has not made PC determination	BC	PC	PC	SC	PC	SC	SC	SC	
Within 90 days: insure every child has meaningful opportunity to test PC by revising practices to	BC	PC	PC	SC	SC	SC	SC	SC	
a. Appoint defense attorney to represent any indigent child. Indigence should be presumed unless information to contrary is provided	BC	PC	PC	SC	SC	SC	SC	SC	
b. Require govt to prove existence of PC with reliable evidence or affidavit of complaint	BC	BC	PC	PC	PC	PC	SC	SC	
c. Allow defense attorneys opportunity to challenge PC	BC	PC	PC	PC	SC	SC	SC	SC	
d. Require record be maintained reflecting when defense counsel appointed, forms of evidence used, & whether defense attorney challenged evidence or provided alternative evidence. Such record should be accessible from the info system	II/P	BC	PC	PC	SC	SC	SC	SC	
Each month, Judge or designee shall review a sampling of case files to determine whether requirements regarding notice of charges are being followed. Shall also include periodic observations of Detention & Adjudicatory hearings. If not, immediate corrective action shall be taken.	II/P	BC	PC	PC	PC	PC	SC	SC	

Affidavits of Complaint (AOC):

This topic has been addressed in a number of prior compliance reports. At this time substantial compliance has been maintained.

NOTICE OF CHARGES	APRIL 2013	OCT. 2013	APRIL 2014	OCT. 2014	APRIL 2015	OCT. 2015	APRIL 2016	OCT. 2016	
Within 90 days: revise policies to insure children & defense attorney receive copies of AOC as soon as available but at minimum before Detention Hearing. Also, insure Magistrates formally arraign children at all Detention Hearings.	BC	PC	PC	SC	SC	SC	SC	SC	
When changes are made to charges as set forth in petition prior to adjudicatory hearing that could increase the penalty, Juvenile Court shall provide notice of final charges by providing copies of new Petition at least 14 calendar days in advance of hearing unless advance notice is waived.	BC	PC	PC	SC	SC	SC	SC	SC	
When changes are made to charges as set forth in petition prior to adjudicatory hearing that could reduce the penalty, Juvenile Court shall provide notice of final charges by providing copies of new Petition within 24 hours of change in charges.	BC	PC	PC	SC	SC	SC	SC	SC	
Each month, Judge or designee shall review a sampling of case files to determine whether requirements regarding notice of charges are being followed. Shall also include periodic observations of Detention & Adjudicatory hearings. If not, immediate corrective action shall be taken.	II/P	PC	PC	SC	SC	SC	SC	SC	

Comments

Juvenile Court continues to be in compliance with this section. Nothing in the data, observations or meetings with various stakeholders raised concern in this area.

TRANSFER HEARINGS	APRIL 2013	OCT. 2013	APRIL 2014	OCTOBER 2014	APRIL 2015	OCTOBER 2015	APRIL 2016	OCTOBER 2016	
Within 90 days: require Transfer Hearings comport with due process requirements. Specifically, shall insure all Transfer Hearings include: <i>a.</i> Asst DA presents evidence in support of petition for transfer	BC	PC	PC	SC	SC	SC	SC	SC	
<i>b.</i> Children have right to attorney whose role is to represent their stated interest	BC	PC	PC	SC	SC	SC	SC	SC	
<i>c.</i> Children, through their attorney, are provided opportunity to present evidence on their own behalf	NC	II	BC	PC	PC	SC	SC	PC*	
<i>d.</i> Children, through attorney, provided opportunity to confront evidence & witnesses	NC	BC	PC	PC	SC	SC	SC	PC*	
<i>e.</i> Children are protected from self-incrimination	BC	PC	PC	SC	SC	SC	SC	SC	
<i>f.</i> Judge or Magistrate makes written findings that: child committed delinquent act, child is not committable to an institution for persons with developmental disability or mental illness and interests of community require Child be put under legal restraint or discipline	BC	BC	PC	PC	PC	SC/P C	SC **	SC	
<i>g.</i> Judge or Juvenile Court Magistrate considers & documents consideration of factors relevant to findings including 7 factors	NC	BC	PC	PC	SC	SC	SC	SC♦	
Each month, Judge, or designee, shall review all files related to Transfer Hearings to insure Hearings followed Agreement. Review shall include periodic observations of Transfer Hearings to insure Magistrates follow policies.	II/P	BC	PC	PC	SC	SC	SC	SC	

*See comments. Lack of discovery curtails the youth's lawyer ability to provide representation and impacts due process.

♦Substantial compliance is based on Shelby's practice of obtaining a psych evaluation prior to hearing. Evaluation is critical to determine amenability/ 7 factors.

** (for written findings) However There is no place in TN for DD youth

Comments

In the executive summary, I mentioned the lack of discovery at transfer hearings. The lack of discovery impacts the attorneys' ability to investigate the case which also limits ability to present evidence and cross examine witnesses. The current data for transferred youth is as follows:

Shelby County	2008	2009	2010	2011	2012	2013	2014	2015	2016 to 10/20
# of children transferred to adult court*	225	194	151	121	99	90	77	47	57

*Data provided by JCMSC

Shelby County Notice of Transfers	
2014	182
2015	153
2016 (up to 10/20)	108

Continued Excellence of Clinical Services (newly hired staff has decreased backlog)

Clinical Services continues to deliver high quality evaluations. At the time of my visit there were no cases in "backlog" status. According to Dr. Tucker-Johnson, clinical services should soon be on track to complete evaluations within 30 days of receiving the court order.

Protections Against Self-incrimination	APRIL 2013	OCTOBER 2013	APRIL 2014	OCTOBER 2014	APRIL 2015	OCTOBER 2015	APRIL 2016	OCTOBER 2016	
Within 90 days: prevent POs or other staff from eliciting info about Children's involvement in alleged delinquent act outside presence of Child's defense attorney	BC	PC	PC	SC	SC	SC	SC	SC	
Within 90 days: notify Child's attorney in writing of any probation conference or interview which shall be open to defense attorney.	BC	BC	PC	PC	PC	PC	PC	PC	
Within 90 days: insure POs advise Children of Miranda rights. Shall include	BC	BC	PC	PC	SC	SC	SC	SC	
a. Description of role of defense attorney									

b. Statement Child is entitled to attorney & maybe at no cost	BC	BC	PC	PC	SC	SC	SC	SC	
c. Statement that Child's statements regarding offense can be included in Probation report	BC	BC	PC	PC	SC	SC	SC	SC	
d. Statement that Child's statement can be used against them.	BC	BC	PC	PC	SC	SC	SC	SC	
POs have Children document understanding of rights against self-incrimination & must receive advice of attorney before waiving it.*	BC	BC	PC	PC	PC	SC	SC	SC*	
Consider partnership w/non-profit or academic organization to provide advice and support to children during the probation intake process	S/ NR	S/ NR	S/ NR	S/ NR	S/ NR	S/ NR	S/ NR	S/ NR	S/NR
Within 30 days: prohibit adverse use of information obtained from child during probation conference	BC	PC	PC	SC	SC	SC	SC	SC	
Within 30 days: insure Magistrates do not permit the govt to call Children as witnesses in Child's own Adjudicatory or Transfer Hearing	BC	PC	PC	SC	SC	SC	SC	SC	
Within 30 days: Magistrates required to give oral advisement of rights against self-incrimination to any Child wishing to testify at own hearing	BC	PC	PC	SC	SC	SC	SC	SC	
Each month the Judge or designee shall review sample of files to determine rights against self-incrimination are protected. This shall include periodic observation of probation conferences by appropriate supervisory staff of the probation dept. as well as observation of Adjudicatory & Transfer Hearings	II	II	BC	PC	PC	SC	SC	SC	
Immediately cease providing Visit & Contact forms to Magistrates prior to Adjudicatory Hearings.	PC	PC	PC	SC	SC	SC	SC	SC	

*Children do document understanding, but do not receive advice of attorney before waiving.

Comments

Success of Probation Unit:

Downward Adjustment and Continued Success of the Graduated Sanctions Grid: In my last report I noted the downward adjustment to the graduated sanctions grid. The new grid is in the process of being validated.

Lack of Attorneys at Probation Conferences: There has yet to be attorneys at probation conferences. This area of the MOA has not been met.

JUVENILE DEFENDERS	APRIL 2013	OCT. 2013	APRIL 2014	OCT. 2014	APRIL 2015	OCT. 2015	APRIL 2016	OCT. 2016	
Within 1 year insure independent, zealous advocacy by juvenile defenders. This shall include: h. Creation of specialized unit for juvenile defense within Office of the Public Defender	N/A	N/A	BC	BC	PC	PC	PC	PC	
i. Support Juvenile Public Defender Training	N/A	N/A	BC	PC	PC	SC	SC	SC	
j. Insure Juvenile Public Defender has appropriate administrative support, reasonable workloads & sufficient resources. Representation shall cover all stages of case as long as juvenile court has jurisdiction	N/A	N/A	BC	BC	PC	PC	PC	PC	
k. Implement attorney practice standards for juvenile defenders	N/A	N/A	BC	BC	PC	PC	SC	SC	
Within 1 year insure independent advocacy including: a. Appoint juvenile defender to represent children at detention hearings & probable cause determinations as soon as possible	N/A	N/A	BC	BC	PC	PC	SC/ NC**	SC/ NC **	
b. Establish Panel System Overseen by independent body to handle conflicts	N/A	N/A	II	NC	BC	BC	NC	NC	
c. Support attorney practice standards for juvenile defenders including training and evaluation.	N/A	N/A	BC	BC	PC	PC	I/I ***	I/I ***	
d. Insure juvenile defender has confidential meeting space to confer with clients within the facility	N/A	BC	PC	PC	SC	SC	SC	SC	

** SC for timely appointment, NC because not independent

***unclear if new PC can enforce defense standards due to structure

Comments

The *Comprehensive Plan for Independent Indigent Defense System* and the *Blueprint* was discussed in the executive summary.

The Public Defender continues to add attorney and staff capacity toward the goal of providing representation for 100% of all juvenile delinquency cases where there is no ethical conflict of interest. As for the recent site visit the Public Defender is now providing 57% of all delinquency defender services.

	2016
Juvenile Defender	312
Public Defender	43%
	414
	57%
Total Distinct Complaints	725

In previous reports I have raised specific concerns about the lack of independence in the present panel attorney structure, and in particular about the role of the panel coordinator. Efforts underway to increase public defender capacity are intended to reduce the scope of the panel problem as much as possible, and according to the proposed timeline in the *Blueprint* should be complete by January 15, 2017.

CONFIDENTIALITY OF JUVENILE DELINQUENCY PROCEEDINGS	APRIL 2013	OCTOBER 2013	APRIL 2014	OCTOBER 2014	APRIL 2015	OCTOBER 2015	APRIL 2016	OCTOBER 2016	
Within 30 days: revise policies to protect confidentiality in delinquency proceedings	BC	PC	PC	SC	SC	SC	SC	SC	
Insure only person properly concerned with child's case are admitted into any delinquency proceeding	BC	PC	PC	SC	SC	SC	SC	SC	

Comments

The policies continue to be incorporated into practice without incident.

PLEA COLLOQUIES	APRIL 2013	OCTOBER 2013	APRIL 2014	OCTOBER 2014	APRIL 2015	OCTOBER 2015	APRIL 2016	OCTOBER 2016	
Within 6 months: establish procedure for plea colloquies that is age-appropriate and clear to the Child	N/A	PC	PC	SC	SC	SC	SC	SC	

Insure Magistrates conduct interactive oral colloquy w/ child that includes: Nature of delinquent act charged, Child's right to attorney, Right to plead not guilty & have Adjudicatory hearing, Child's waiver of right to trial on merits & an appeal	N/A	PC	PC	SC	SC	SC	SC	SC	
Within 6 months: insure children have a right to counsel whenever entering a plea of guilty	N/A	PC	PC	SC	SC	SC	SC	SC	

Comments

Substantial compliance has been maintained.

RESTITUTION GUIDELINES	APRIL 2013	OCTOBER 2013	APRIL 2014	OCTOBER 2014	APRIL 2015	OCTOBER 2015	APRIL 2016	OCTOBER 2016	
Within 6 months: establish guidelines for assigning restitution to any child adjudicated delinquent that provides the child a meaningful opportunity to Challenge the evidence of restitution. At a minimum the restitution guidelines shall: i. Require documentation to support the restitution request ii. Allow children adequate time to review the restitution request & opportunity to introduce evidence opposing the amount iii. Allow opportunity to request adjustment to restitution amount by introducing evidence of family income or obligations that would render the restitution an undue hardship	N/A	PC	PC	SC	SC	SC	SC	SC	

Comments

The restitution policy maintains substantial compliance.

BOND SETTING GUIDELINES	APRIL 2013	OCTOBER 2013	APRIL 2013	OCTOBER 2014	APRIL 2015	OCTOBER 2015	APRIL 2016	OCTOBER 2016	
Within 6 months: establish bond setting guidelines At minimum the guidelines shall: i. Prevent excessive bonds ii. Reasonably assure appearance in court iii. Take into account presumptive indigence of children iv. Allow parents to file statements of indigence	N/A	PC	PC	SC	SC	SC	SC	SC	

Comments

Bond amounts continue to be set in accordance to the guidelines and maintain substantial compliance.

LANGUAGE ACCESS PLAN	APRIL 2013	OCTOBER 2013	APRIL 2014	OCTOBER 2014	APRIL 2015	OCTOBER 2015	APRIL 2016	OCTOBER 2016
Within 6 months: develop language access plan that complies with Title VI. Make summons & other crucial documents available in appropriate languages	N/A	PC	PC	II/P	SC	SC	SC	SC
Implement language access plan within 1 year	N/A	BC	PC	II/P	SC	SC	SC	SC

Comments

The language access plan remains in substantial compliance.

TREATMENT OF WITNESSES	APRIL 2013	OCT. 2013	APRIL 2014	OCT. 2014	APRIL 2015	OCT. 2015	APRIL 2016	OCT. 2016
Within 6 months: revise procedures on treatment of witnesses to insure integrity of witness testimony is preserved. Include: All witnesses placed under oath All witnesses properly sequestered	N/A	PC	PC	SC	SC	SC	SC	SC

Comments

This section has maintained substantial compliance.

JUDICIAL BENCH CARDS	APRIL 2013	OCTOBER 2013	APRIL 2014	OCTOBER 2014	APRIL 2015	OCTOBER 2015	APRIL 2016	OCTOBER 2016
Within 6 months: develop bench cards Bench cards shall be readily accessible documents. Should be available upon request Juvenile Court shall produce bench cards for the following: a. Detention Hearing, PC determinations and bond settings b. Adjudicatory Hearings c. Plea colloquies d. Transfer Hearings e. Disposition hearings, including procedures for setting restitution f. Post-dispositional hearings	N/A	BC	PC	PC	SC	SC	SC	SC

Comments

Bench cards continue to be used and I did not observe or hear of any issues during my eighth visit.

RECORDINGS OF JUVENILE DELINQUENCY HEARINGS	APRIL 2013	OCTOBER 2013	APRIL 2014	OCTOBER 2014	APRIL 2015	OCTOBER 2015	APRIL 2016	OCTOBER 2016
Within 6 months: all hearings shall be recorded by electronic means, Private court reporters may provide written transcripts	N/A	BC	PC	PC	SC	SC	SC	SC
Juvenile Court shall insure recordings are complete & of good quality								
Juvenile Court shall make recordings accessible at no cost to defense counsel representing indigent children								
Recordings shall be stored for 2 years								

Comments

I had the opportunity to listen to recordings of court proceedings. I found the recordings to be clear and of good quality. A standing order is in effect ensuring defense attorneys access to audio tapes.

WRITTEN FINDINGS	APRIL 2013	OCTOBER 2013	APRIL 2014	OCTOBER 2014	OCTOBER 2014	OCTOBER 2015	APRIL 2016	OCTOBER 2016
Within 6 months: require Magistrates to produce court orders containing the written findings of fact for each judicial decision made	N/A	BC	PC	PC	SC	SC	SC	SC
Written findings of fact shall include the relevant statutory requirements, legal reasoning that formed the basis for the court's decision and a narrative of the facts considered in decision								

Comments

During my eighth site visit I reviewed the files of all transfer hearings and randomly selected adjudicatory hearings files. Each file contained a detailed written finding of fact.

TRAINING	APRIL 2013	OCTOBER 2013	APRIL 2014	OCTOBER 2014	APRIL 2015	OCTOBER 2015	APRIL 2016	OCTOBER 2016
Within 6 months: develop a training plan for all employees involved with delinquency docket & submit training plan to Monitor and US for approval Training plan shall insure appropriate staff are trained on topics relevant to their role & responsibilities in delinquency proceedings including: Constitutional due process requirements i. Adolescent development ii. Dispositional planning iii. Best practices in social service & therapeutic options iv. Functional & practical purposes of juvenile court v. Appropriate professional role of different players within juvenile proceedings	N/A	BC	PC	PC	PC	PC	SC	SC
Juvenile Court shall implement 1 st training plan within 12 months & shall create subsequent training plans on an annual basis thereafter	N/A	N/A	BC	PC	PC	PC	SC	SC

Comments

During the last compliance period the court has maintained substantial compliance.