December 19, 2017

Re: Responses to request concerning changes to the 10th Equal Protection Monitor Compliance Report

Dear Mr. John Jones,

Please see below your specific requests and my response to these requests.

Request #1:

On page 16, in section 5 of Table 1 of the Draft Compliance Report: the "Report reflects a rating of Substantial Compliance for the provision "Develop and implement a community outreach program to inform community of progress toward reforms. However, at the bottom of Page 20, the first items in section 5(a) shows a Partial Compliance rating.

Response: Change for consistency was made to Substantial Compliance.

Request #2:

Based on the feedback you gave on the County-Wide Juvenile Justice Consortium during the October 2017 visit, the County and the Court respectfully request that you consider increasing to Substantial Compliance the rating assigned on the second item in section 5(a), top of Page 21.

Response: I am keeping the rating the same at this time. A solution to this item should come before/at/or shortly following the next site visit in March/April of 2018.

Request #3:

The county and the Court respectfully ask you to consider increasing the rating for this provision to Substantial Compliance. The survey was funded by the Office of Juvenile Justice and Delinquency Provision ("OJJDP," a component of the DOJ's Office of Justice Programs). The surveyors worked at the Court for approximately a year, utilizing two offices there. The Court understands most of the work was completed, but the survey was abruptly suspended with minimal notice to the Court, as reflected in the June 16, 2017 email from Dr. Laura Harris of Data for Good LLC (copy attached as Exhibit 1). All parties recognize that the termination of the survey had nothing to do with the County or the Court; therefore, we respectfully request, under the circumstances, that you consider increasing the compliance rating on that provision to Substantial Compliance.

Response: I am keeping the rating the same at this time. A solution to this item should come before/at/or shortly following the next site visit in March/April of 2018.

Request #4:

On Page 6 of the Draft Compliance Report, the paragraph titled "Summons Review Team (SRT)" states that the Court has had a Summons Review Team since 2010. As correctly stated on page 7 later in the same paragraph, the Summons Review Team is a relatively new pilot program (started in late 2016). The program is described at the bottom of Page 6 was put in place in early 2010. That program supplemented the SHAPE program with the school systems, involved law enforcement, and allowed summonses to be issues in lieu of arrests during school hours for minor offenses occurring at school. The Draft Compliance Report correctly states that there was no thorough analysis of the effectiveness of that program as it related to DMC; the present SRT program was began in 2016 to review all summons (not just summonses issued for limited minor offenses occurring at school).

Response: I have incorporated this text into the report on Page 6 and Page 7.

Request #5:

We understand, per your discussion with Dr. Burgdorf, that the "Key findings from the evaluation" (middle of Page 7) and Appendix 1 will be reworked.

Response: Changes have been made to the report (Page 7) and appendix 1.

Request #6:

At the bottom of Page 7, the Draft Compliance Report includes several recommendations relating to the SRT program. Based on your recommendations during the first few months of the program, the Court has or is currently implementing those recommendations. The Court has implemented qualifiers and disqualifiers in an effort to demonstrate whether there are race-neutral reasons that a child is declined review by the SRT. The Court appreciates your time, evaluation, and recommendations as it continues to work on this pilot program.

Response: Noted and you are welcome.

Request #7:

With respect to the section titled "Detention Assessment Tool version 3 (DAT3)" beginning in the middle of Page 8, the Court implemented DAT3 with your suggested changes in February 2017, with the understanding that you would need approximately 6 months of data before evaluating the DAT3. The Court will continue to work with you on this matter, and looks forward to having you visit Memphis in early 2018 to engage in technical assistance, your generous offer of which is greatly appreciated.

Response: What is stated above is correct; however, it did not mean that the Court should not look at base procedures, like the use of overrides. For the last couple of years, I have indicated

that something is going on at detention and at intake. I also indicated that the instruments used at both of these decision-making points may be the problem. I look forward to working with the Court on this issue.

Request #8:

Beginning just past the middle of Page 9 of the Draft Compliance Report, several "recommendations are provided" regarding the DAT3. The Report mentions that 31% of all cases that result in detention occur because of an override of the detention when a weapon is involved, when the child is out on a warrant or has escaped from a secure facility, or when domestic violence is involved. The DAT3 includes those mandatory detainable offenses in the Override section, which otherwise is discretionary. The Court agrees that the discretionary reasons need to be re-evaluated and training needs to continue, and looks forward to your advice on this important tool.

Response: I understand that the involvement of weapons, when a youth is out on a warrant or has escaped from a secure facility involve mandatory detention. I have inserted a recognition that state law requires detention for these acts. But, these offenses/situations do not make-up all of the Justifications for overrides. As stated in the Report, possession /use of a firearm (34% of the justifications for the override); open APC/Warrant from the court (21%); **followed by danger to the community (16%),** court ordered (14%), **threat of bodily harm (10%),** and some form of parent guardian refusal/not being located, and not available making up the rest of the justifications for the decision to override (7%). Some of these should be built into the DAT3. Furthermore, the justifications for the use of detention seem to be already present within the DAT3 itself. For example, justifications, like danger to the community and threat to bodily harm, are captured in the section on aggravating factors and therefore should not qualify as override reasons. We have previously discussed the need by the Court to address the relationship between race/domestic violence and the use of secure detention.

Thank you for the feedback. If I can address any questions, please let me know.

Sincerely,

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Equal Protection Monitor
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