

Settlement Agreement – United States through the Department of Justice with Shelby County, Tennessee, the County Mayor and the County Attorney, and the Juvenile Court of Memphis and Shelby County (JCMSC).

Sixth Compliance Report – Equal Protection

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## INTRODUCTION

A Memorandum of Agreement or Understanding (MoA) regarding the Juvenile Court of Memphis and Shelby County was signed December 17, 2012 by the United States Department of Justice, Civil Rights Division, and the County Mayor and County Attorney, and the Juvenile Court of Memphis and Shelby County (JCMSC). Referred from this point on as juvenile court. To address the administration of juvenile justice for youth facing delinquency before the juvenile court and the conditions of confinement of youth at the detention center operated by the juvenile court.

The Parties selected Dr. Michael J. Leiber as the Equal Protection Monitor of the Agreement. The Agreement requires the Monitor to assess the level of compliance by the juvenile court every six months and to produce reports. The first Monitor's report was submitted on June 12, 2013; the second Equal Protection Monitor Report was submitted on January 16, 2014, the third was submitted on June 17, 2014, the fourth on January 12, 2015 and the fifth Equal Protection Monitor Report was submitted July 3, 2015. This is the Equal Protection Monitor's sixth report on movement toward compliance on the items stipulated in the Agreement as pertaining to Equal Protection. The time-frame assessed is July 4, 2015 to October 30, 2015. However, it is important to note that from the time of the Agreement until October 30, 2015, as a whole is also taken into consideration.

The evidentiary basis for his opinions are based on document reviews (policies, data, compliance report by the Settlement Agreement Coordinator, reports provided by the Shelby County Disproportionate Minority Contact Coordinator or DMC Coordinator, meeting notes, emails, etc.), an on-site visit (October 4, 2015 through October 8, 2015), interviews and phone-calls with Staff, the Shelby County DMC Coordinator, the Settlement Agreement Coordinator, and conference calls with Staff and the Office of Juvenile Justice & Delinquency Prevention (OJJDP) and the Department of Justice (DOJ). Each of the five previous Equal Protection Monitor reports have also been relied upon to arrive at conclusions concerning compliance with the MoA.

In the determination of racial disparity in JCMSC's administration of juvenile justice, evaluations were conducted of the level of the disproportionate minority contact (DMC) at various stages or points of contact within the juvenile court (referral to court, cases diverted, secure detention, petition, findings of delinquency, probation, placement in secure confinement, waiver to adult court). In addition, a DOJ study was conducted of decision-making at each stage of juvenile justice proceedings. Results from that examination of the extent of DMC and the DOJ study that examined the possible causes of DMC showed the following: minority youth overrepresentation at almost every stage in the proceedings and evidence of discriminatory treatment of Black youth.

The Agreement indicates provisions (or things to do) and within time-lines to reduce the presence of Black youth in the juvenile justice process and to ensure greater fairness for all youth. In general, the Agreement focuses on procedural changes as pertains to equal protection (e.g., objective decision making tools), cultural/gender sensitivity training, management of and

evaluation of data to observe patterns at points of contact (referral, probation, detention, etc.) and inform possible changes to reduce DMC and the development and use of strategies to divert youth away from court referral and secure detention and transfer to adult court. There is also a requirement to develop linkages with the community for the purpose of informing the general public of the progress toward reform and to improve and further build relations between the community and Juvenile Court of Memphis and Shelby County (Juvenile Court).

## OVERALL SUMMARY AND IMPRESSIONS UP TO THIS POINT IN THE AGREEMENT

Some progress on some items and recommendations provided by the Equal Protection Monitor have occurred. Still, there continues to exist a serious lack of movement in addressing DMC and equal protection that were the focus of the findings and conclusions by the Department of Justice (DOJ) especially since 30 months have past since the signing of the MoA. As stated in the Fifth Equal Protection Monitor Report (Leiber, 2015: page 3) and most recently by the Sixth Compliance Report by the Settlement Agreement Coordinator, a stronger focus and commitment on these issues is still needed on the part of the Court to make the required improvements to insure all youth are treated equitably and to reach compliance with the MoA.

In the sections to follow, a discussion of what the Court has accomplished since the MoA is presented followed by the detailing of areas in need of improvement, a summary of DMC findings, compliance ratings and recommendations to reach compliance. The summary and impressions discussed reflect activities up to October, 30, 2015. The discussion is framed by the areas of concern and recommendations made in the Fifth Equal Protection Monitor Report.

First, the relative rates and various studies have shown that over the last 26 months, including the results from the 5th assessment study conducted by the Equal Protection Monitor, continue to show, for the most part, that

- DMC continues to exist due to differential offending, bias, and procedural or administrative factors (e.g., police referrals especially for minor offenses and domestic assaults, admission of these minor offenses into detention, etc.).

More specific, findings consistently show:

- While the number of referrals has declined over time, the racial breakdown continues to remain high.
- Likewise, although the overall number of youth held in secure detention has decreased, a racial gap remains and in fact has increased AND race still matters once all other factors are considered. More specific, Blacks charged with domestic assault and other person offenses are more likely to be detained than similarly situated Whites.
- Black youth continue to be underrepresented in diversion.
- Blacks charged with person offenses at the non-judicial stage are having increased odds of receiving harsher outcomes relative to their similar situated White counterpart.
- Black youth are overrepresented in cases adjudicated and resulting in confinement in secure facilities.

- But, evidence of race being an influential factor, once relevant legal and extralegal considerations are taken into account, is not present at adjudication and judicial disposition.
- Last and although overall numbers appear to have declined, significant overrepresentation of Black youth exist for receiving Notice to Transfer to adult criminal proceedings (these numbers are high). Actual waiver to adult court is relatively low.

Some of these results can be explained by Black youth being charged with more crime, more serious crime, problems at school, etc. AND bias in the treatment of Black youth (overcharging, reliance on tainted decision-making criteria) AND simply as by-products of existing procedures (unnecessary police referrals to court and detention, no one to pick up the youth, aggressive prosecutorial recommendations, etc.).

To address these varied but interrelated factors, recommendations were put forth in the Fifth Equal Protection Monitor Report. Following an on-site visit in early October of 2015, the Court was asked to provide a response detailing what the Court accomplished from July 4, 2015 to October 30, 2015 within the context of the recommendations. Below is what was provided in response to that request.

#### Recommendation 1:

Existing programs need to be used and/or used more effectively to address a larger number and range of youth, such as SHAPE, Porter Leath, JIFF, Operation Safe Community and the Defending Childhood Initiative grant.

*Court Response:* There are more than 100 programs and resources with Shelby County that potentially may offer services to children and their families. The Court is developing a resource directory, which can be easily accessed by court personnel, when searching for available programs and resources for children and families.

*Equal Protection Monitor Response:* The development of a resource directory is a step in the right direction. However, this document as well as other exercises such as mapping of programs with the location or community of those referred along with a discussion of what is missing in terms of services and programs has been asked for at least 18 months and this still has not occurred. There is a need for an assessment of the effects of programs/ procedures/policies and existing agreements on DMC.

#### Recommendation 2:

Furthermore, while the Summons program and the pilot programs with the Sheriff's Department and the Memphis Police Department are initiatives that are reducing the number of youth referred to secure detention, the Juvenile Court needs to continue to develop policies and programs to reduce the racial disparity in referrals in general and in the use of secure detention. Once again, it is recommended that **the Court implement a policy directing its facility staff to refuse to receive youth involved in minor activity, including minor domestic assaults. The Court could also**

**continue to support the development of diversion alternatives to court referral for a number of minor offenses.** Essentially, the Court needs to examine ways to reduce the flow of youth, especially Blacks, into the juvenile justice system, truly keeping it as a mechanism of last resort.

*Court Response:* The Court is committed to supporting diversion alternatives to court referrals as demonstrated by the Court's continued support of the SHAPE program and its efforts in helping with the development and implementation of other creative initiatives such as the LEAP Call-In Program and the Precinct Based Juvenile Court Liaison Program. The Court will continue to monitor, along with the Shelby County Schools' management, and work to ensure that all appropriate schools are included in the SHAPE program.

The LEAP Call-In Program is operational and Memorandums of Understanding are in place with the Memphis Police Department and the Shelby County Sheriff's Office. Also, the Court is proud to note that the City of Germantown and the Town of Collierville recently committed to the program.

The Juvenile Court Precinct Liaison Program will begin in November 6, 2015, at the Old Allen Station Precinct in North Memphis one day per week during the peak hours of 2pm and 8pm. The liaison will also be a resource to the officers and staff. The goal of the program is to reduce contact with the Court.

*Equal Protection Monitor Response:* The Court is to be commended for these efforts. Both programs should reduce youth referrals to detention. The Juvenile Court Precinct Liaison Program should also reduce youth referrals to the Court in general. Evaluations need to be conducted to assess if these goals are achieved. Concomitantly, evaluations need to be also conducted concerning the effectiveness of the Summons program.

In addition, while the Court does not necessarily have control over referrals, there is a continued need for the Court to develop policies, programs and working relationships with existing agencies to reduce the racial disparity in referrals and secure detention involving minor offenses and minor domestic assaults. As stated previously, the Court needs to examine ways to reduce the flow of youth, especially Blacks, into the juvenile justice system, truly keeping it as a mechanism of last resort. The Precinct Based Juvenile Court Liaison Program may help in this regard as well as participation with the SHAPE Program. Still, more is needed to reduce the number of referrals to the Court.

### Recommendation 3:

While information has been gathered, **there is still a need to interpret the data; determine what it means for DMC, what can be done to reduce DMC, what barriers or challenges exist and how these can be addressed.** This applies to not only the Points of Contact (POC) but as well to those in charge of the gathering of information that lists programs and services used by the court to treat/intervene into the lives of youth and whether those most in need are being served. Further, there is a need

for all parties to also take into consideration not only the data, say from the RRI's, but the results from the assessment studies. **Personnel are not using this information to address DMC issues.**

*Court Response:* A DMC Coordinator was hired in the past ninety (90) days and is working to address this issue. The DMC Coordinator recently attended a workshop sponsored by the Tennessee Commission on Children and Youth who have developed a strategy for interpreting some of the JCMSC collected monthly data on minor offenses. The DMC Coordinator, along with the Research Specialist and others, are collecting data and looking at the number of summons received for offenses that the Court recommends could be handled through informal adjudication. The analysis of this data will answer specific questions to guide the Court as it develops policies and practices relating to the services provided to this targeted population which includes first and second-time non-violent youth offenders.

*Equal Protection Monitor Response:* The intent of Court Response is good and as stated may address the referral and detention of Black youth for minor offenses. However, until deliverable products are shown that involve the discussion and interpretation of data linked to the development and implementation of strategies and policies, the Court is falling short to comply with this 3<sup>rd</sup> Recommendation.

#### Recommendation 4:

As stated throughout each Equal Protection Compliance report, there is a need for involvement by all parties at all levels – the Court Administrators, the DMC Coordinator, those involved with the detention initiative, staff and in particular, those involved as the Points of Contact, attempt to reduce DMC to gain compliance with the Agreement. Again, **the Court MUST take the lead on this and have a more active role in leadership and ownership** in this process. A step in this direction could be the hiring of a DMC Coordinator who has the backing of the Court as well as experience with DMC issues. The Court is aware of this recommendation and need for such a person - indicated in person while on the last onsite visit and in the response to the last Settlement Agreement Coordinator Report whereby someone will be hired or appointed to spearhead the DMC problem. I strongly encourage the Court to follow through on this.

*Court Response:* The Court has hired a DMC Coordinator. Over the last ninety (90) days, the DMC Coordinator has participated in the following activities and/or completed the following:

1. Observed 60+ delinquency and detention hearings;
2. Attended:
  - a. 2 CJJC meetings
  - b. 2 "Committee A" meetings
  - c. 1 public meeting
  - d. 2 JDAI sub-committee meetings
  - e. 2 JDAI Governing Committee meetings
  - f. 1 Juvenile Justice Board meeting

- g. Various meeting pertaining to various JCMSC initiatives; i.e., the Call-In Program and the Juvenile Court Precinct-Based Liaison Program;
3. Met with staff persons from various departments in order to gain a better understanding of each department, the work they do, and the policies and procedures that guide their performance. The departments and persons include:
  - a. Judicial
  - b. Administration
  - c. Corrective Services
  - d. Youth Services Bureau
  - e. Public Defenders
  - f. Prosecutors
  - g. DMC Coordinator from the Mayor's Office;
4. Reviewed DOJ findings and the MOA;
5. Reviewed all compliance reports;
6. Reviewed court data with specific attention being paid to the months of July 2015 and August 2015;
7. Submitted an article to be included in the local JDAI newsletter;
8. Submitted strategies for increasing public awareness to the JDAI sub-committee;
9. Submitted idea to the CJJC in an attempt to help them gain information from the community as it relates to specific issues;
10. Attended the JDAI National Conference held in Phoenix, Arizona on September 28-30th;
11. Attended TCCY sponsored training: "Reducing Ethnic Disparities" on September 1, 2015 in Nashville, TN;
12. Met with multiple faith-based organizations to discuss JCMSC, educate them on the issue of DMC, and discuss services they offer to the community;
13. Met with a representative from the Rotary Club- the club is sponsoring a plan called "50 by 5" which proposed to help reduce youth violence by 50% in 5 years. We are currently working to see how we can collaborate on this important effort; and
14. Began the development of a court resource directory.

*Equal Protection Monitor Response:* The Court is commended for the hiring of a Court DMC Coordinator. In addition, the Court DMC Coordinator appears to have undertaken a number of things consistent with the recommendation and in particular, some aspect of the recommendation for "leadership" and "ownership" on the part of the Court. At the on-site visit in October, a number of activities, many not listed above, were given to the Court DMC Coordinator. These were laid out during a one-on-one meeting and again with a meeting with the Shelby County DMC Coordinator and they are:

1. Communicate and work in collaboration with the Shelby County DMC Coordinator;
2. Communicate and seek advice from the Settlement Agreement Coordinator
3. Communicate and work in collaboration with the lead contact for the JDAI detention initiative;
4. Examples of specific tasks but not exhaustive:
  - Lead the Points of Contact (POC)
  - Work with the County DMC Coordinator on DMC projects, including the strategic plan
  - Work on community efforts to educate and disseminate information to and from the Court as pertains to DMC
  - Take on the Court's DMC webpage (and dash board)
  - Organize the town hall meetings
  - Participate in the Community Consortium – acting as a liaison for the Community and the Court

At the last two on-site visits (May, Oct of 2015), Judge Michael stated that the Court DMC Coordinator will have direct access to him and his backing to carry out tasks and responsibilities, and allow for an up and down flow of communication and information from administration to Court personnel and the community. It is imperative that this will occur as this support is central to the Court taking ownership of the MoA as pertains to DMC.

#### Recommendation 5:

While technical assistance has been requested and used for various training, the Juvenile Court needs to continue to move on the following:

- The operationalization and implementation of the strategic plan,
- Implementation of objective tools to structure decision making at what is referred to non-judicial outcomes (often referred to as intake) and the graduate sanction grid.
- Although the validation of the **DAT** has been in place since January, 2014, validation needs to continue and include all instruments. The validation of the DAT (Field Test and Validation Test) is still in the process of being conducted by Dr. Burt Burraston and colleagues at the University of Memphis (U of M) Department of Criminology and Criminal Justice. A report has been generated involving 300 field tests and 100 validation test for the time-frame of Oct. 1, 2012 through June 30, 2013. Additional testing is underway. DOJ approved the YASI as an objective decision making tool on or about April 3, 2014, at which point juvenile court began a purchase contract process. **While the YASI is a validated tool, it and the Graduated Sanctions Grid need to be validated as applied to the Court.** This will ensure that the tools are capturing accurate data, encouraging race-neutral decision-making, and improving overall fairness in court proceedings.

**Justification for this recommendation** rests on findings from the initial



Field and validation of the DAT and findings from the assessments studies. For example, **Burraston and colleagues recommended that the Court restrict Danger to the community to assaultive felonies** and to combine categories of ‘Current Status’ and ‘Violation of Probation’ to eliminate redundancy as well as the item ‘two or more prior adjudications of delinquency for prior felony offenses’ should be returned to its original point value of 5. These changes would reduce the detention rate. Picking up on this recommendation, **results from the Assessment studies reveal** that the racial gap in detention still exists as does inequity in detention decisions involving Black youth relative to similarly situated White youth, especially for Blacks charged with domestic assault and person offenses. Race effects also exist at the non-judicial stage where Black youth charged with a person offense increases the chances of moving forward in the court proceedings.

Thus, there is a need not only to validate the instruments used to structure decision-making at detention (DAT) and the non-judicial stage (YASI, Graduate Sanction Grid) but to **make improvements/adjustments to the criteria used by decision-makers. In actuality, these tools and the use of over-rides could be accounting for DMC and inequitable decision-making at detention and the non-judicial stage.** A focus on race, domestic assaults, person offenses and what constitutes danger to the community would be starting points in this adjustment process. In essence, the Court needs to address the following questions: (1) are the structured decision-making tools being administered properly (e.g., overrides)? And (2) are the tools and the criteria comprising the tools designed to reduce DMC and ensure decision-making that results in equal protection.

*Court Response:* The strategic plan that the Court is working under has been created by Ms. Lisa Hill who is the DMC Coordinator for the County. The plan was reviewed by the DMC Coordinator for the Court and determined to be consistent with the terms of the MOA. The Court will continue to operate under the terms of the strategic plan and take into consideration the recommendations of Ms. Hill, and it will periodically and systematically review the plan to make any necessary adjustments and/or modifications.

*Equal Protection Monitor Response:* The Court response to this recommendation is unsatisfactory. As stated in the Equal Protection Monitor Response to recommendation 5, **the Court DMC Coordinator MUST** communicate and work in collaboration with the Shelby County DMC Coordinator and one of the key aspects of this collaboration is working together on the strategic plan – this involves more than a periodic review but a substantial collaborative endeavor between the Court DMC Coordinator, the County DMC Coordinator and the Court. After 90 days since being hired, more needs to be done than a simple review. There is a need for communication, interaction, and documented change to the current strategic plan derived from the joint efforts between the three parties – the Court DMC Coordinator, the County DMC Coordinator and the Court.

Further, in the response from the Court, there is a failure to address movement on the implementation and validation of the objective decision-making tools – DAT, Graduated Sanction Tool, and YASI. The Court has been working with a group from Memphis University who have conducted two validations and provided a number of recommendations to modify/adjust the DAT. In addition, some changes have been made to the Graduated Sanction Tool. But, little to nothing has been done to address the validation of the Graduated Sanction Tool and the YASI instrument. While the use of objective decision-making tools may be effective in ensuring equitable outcomes, results from the relative rates and the assessment studies show that even after the implementation of such tools, Black youth are still being treated in a disadvantaged manner compared to similar situated White youth. Thus, there is a continuing need to validate these instruments to assess whether these instruments are reducing or contributing to DMC.

Recommendation 6:

As previously noted, while efforts are being made to reform detention decision making and especially by the working relationship with JDAI, **it is important to understand that detention reform that results in the reduction in the number of youth detained by itself does not mean a reduction in DMC or increased equitable treatment irrespective of race as evidenced over time by the racial gap in the relative rates and the results from the Assessment studies.**

*Court Response:* The Court did not respond to this recommendation.

*Equal Protection Monitor Response:* Since July of 2015, the sentiment expressed in this recommendation remains. A reduction in the number of youth detained by itself does not mean a reduction in DMC or increased equitable treatment irrespective of race. By the next on-site visit (April, 2016), there needs to be evidence that the Court is attempting to address the racial gap in the relative rates and the results from the Assessment studies concerning secure detention. For example, show that the Points of Contract has looked at data and examined the detention process in the context of DMC, documentation of efforts to establish policies and practices with other agencies to divert youth away from secure detention, use and/or establish alternatives to secure detention, etc.

Recommendation 7:

**Notice of Transfer and actual waivers to criminal court has remained a DMC problem.** While the number of waivers has decreased – which is good – the number of notice of transfer remains high and most of the youth involved in both (notice, transfer) are Black. Greater effort is needed to address this issue to reduce DMC.

*Court Response:* The Court will continue to address this issue with the Shelby County District Attorney's Office, as eighty-nine (89) notices to transfer were filed from April, 2015, through October, 2015, while the actual transfers year-to-date is 37.

*Equal Protection Monitor Response:* As noted by the Court Response the numbers provided are from April to October rather than from January to October. More importantly, the number of Notice to Transfer is a problem and needs to be addressed. By the next on-site visit (April, 2016), documented evidence needs to be presented as to how this is being addressed. For example, show that the Points of Contact has looked at data and examined this process. Concomitantly, show that the Court has engaged in discussions with the prosecutor to address the Notice of Transfer.

Recommendation 8:

**The Strategic Planning Committee** needs to continue to meet and evolve its mission.

*Court Response:* The DMC Coordinator met with the Points of Contact Representatives and Mrs. Lisa Hill on several occasions over the past ninety (90) days to discuss the issues of racial and ethnic disparity faced by the Court, and its ongoing efforts to effectively address the issues. The Strategic Planning Committee meetings will continue to be held, and the current strategic plan will be reviewed, discussed and revised as needed.

*Equal Protection Monitor Response:* See response to Recommendation 5 that **the Court DMC Coordinator MUST** communicate and work in **collaboration** with the Shelby County DMC Coordinator and one of the key aspects of this collaboration is working together on the strategic plan – this involves more than a periodic review but a substantial collaborative endeavor between the Court DMC Coordinator, the County DMC Coordinator and the Court. This applies to the Strategic Planning Committee as well.

Recommendation 9:

Although having some growing pains, **The Points of Contact Committee** needs to continue to meet, interpret/discuss the data, and develop recommendations to reduce DMC. Plenty of data exists to show that problems exist with referrals, detention, and decision-making at the non-judicial stage and notice to transfer. The Points of Contact should continue to look at this information and attempt to make recommendations for changes especially at these stages. For example, questions to be addressed could center on: How can we curb court referrals? Since DAT is used at detention, why is it that a racial gap remains? That Blacks charged with domestic assault and person offenses are being detained yet similar Whites are not? At the non-judicial stage, why are Blacks referred for further court proceedings while alike Whites are not? These are just a few questions that should guide The Points of Contact as well as Administration.

*Court Response:* The DMC Coordinator reviewed copies of the monthly reports submitted by the Points of Contact and met with all Points of Contact Representatives at the Court. The DMC Coordinator will schedule and facilitate meetings on a regular basis with the representatives.

*Equal Protection Monitor Response:* At the last on-site visit (October, 2015), the Equal Protection Monitor met with the Court DMC Coordinator and separately with the relatively newly hired data analyst to discuss a change in how The Points of Contact (POC) committee go about their meetings. More specific, rather than focusing mostly on individual case decisions at each point of contact, it was stressed that instead the POC, led by the Court DMC Coordinator examine and discuss trends and results from the relative rates and assessment studies. This could be a process that entails just one meeting to several meetings as well as bringing in people to provide additional information or clarity to an issue. Further, the end result then would be recommendations informed by these discussions with feedback from those in the upper administration of the Court, such as Judge Michael. Moving forward, the overall monthly report should reflect this kind of activity.

#### Recommendation 10:

Because the Consortium was having difficulty and under-utilized, DOJ has become more active in terms of providing assistance and direction. Further the Consortium, the Court, and the DMC coordinator need to have a working relationship. In fact, the DMC coordinator and someone from the Court need to attend meetings and be participants. The Consortium should also be able to request and receive in a timely manner, information from the Court and with some conditions, the ability to visit the Court, hearings, and detention.

- Both the County DMC Coordinator and the representative working with JDAI have been very active in the community in terms of DMC. **Although there has been some activity over the last 6 months including a community meeting, the Court needs to do a much better job of engaging with and providing information to the community.**
- In response to the Settlement Coordinator's 5<sup>th</sup> Compliance Report, the Court put forth a Community Out Reach Plan that details among other things a number of community outreach initiatives. **It is hoped that over the next 6 months, the Court will follow their Community Out-Reach Plan and accomplish even more.**

*Court Response:* The DMC Coordinator attended at least two (2) CJJC meetings and will continue to build upon the existing relationship by attending the monthly meetings, serving on various committees and advising and consulting with the group as needed.

The DMC Coordinator received and reviewed a copy of the Community Outreach Plan and met with the Community Outreach Designee to discuss the progress made. The DMC Coordinator chose to use the current Community Outreach Plan as a template for DMC efforts. The DMC Outreach Plan includes:

1. Identifying indigenous leadership in the following communities:
  - a. Whitehaven (39116, 38117)

- b. Frayser (38127, 38128)
  - c. South Memphis (38106)
  - d. Westwood (38109), and
  - e. Hickory Hill (38115);
2. Facilitating discussions that will provide an opportunity for the community to express their concerns and/or ask questions about DMC and the Court;
  3. Collecting suggestions as to how the Court could have a greater presence in the community;
  4. Educating community leaders on the concept and principles of DMC and collaborating on possible solutions;
  5. Developing a community-based presentation on DMC, juvenile court processes and procedures;
  6. Identifying at least five high schools and middle schools within the targeted zip codes and contacting Shelby County School Administration to discuss the possibility of speaking in various civic classes at these schools about DMC;
  7. Meeting with at least one faith-based entity from the targeted zip codes each month to discuss DMC and the services they might provide; and
  8. Meeting with members of the local civic groups like the NAACP or the Rotary Club to not only educate them on DMC but also to encourage them to become partners with the Court.

*Equal Protection Monitor Response:* What is listed above is good. It is also important as detailed in recommendation 4 that the Court's DMC Coordinator take over and develop the DMC webpage (and dash board), organize town hall meetings, further development of a community engagement plan, and participate with the Community Consortium – acting as a liaison for both the Community and the Court.

#### Recommendation 11:

Per the Agreement, a community survey and survey of the Court should have already been conducted. A contract was in place for someone to conduct the study but there have been delays in working with OJJDP. A group contracted with OJJDP and will be working with Dr. Laura Harris and the Court to do this sometime within the next month or so.

*Court Response:* The Court did not respond.

*Equal Protection Monitor Response:* The Court has been involved with a consultant who is in the process of conducting a survey of youth and parents involved with the Juvenile Court. Once the study results come available, it is imperative that the Court put forth a plan as to how to address recommendations provided by the consultant.

Overall, some positive things have been done (e.g., working with JDAI, the hiring of Court DMC Coordinator, attempting to validate the DAT Tool). But, much work is still needed to address

DMC at the stages of referral, detention, non-judicial and notice of transfer to adult court. In addition, policies, procedures and programs need to be cataloged and assessed; there is a need for greater involvement with the Consortium and the community in general; a community out-reach action plan needs to be developed and the strategic plan needs to be discussed and revised in a collaborative manner between the two DMC Coordinators and the Court. Last, the Points of Contact needs to be used more effectively to address DMC at each of the stages in the system.

In the section to follow, specific provisions, action taken to address the provisions, the level of compliance, a discussion of the rating of compliance, recommendations, and expectations will be discussed. The following levels are useful for indicating movement toward compliance on the part of the Juvenile Court that is first detailed:

**Substantial Compliance (SC)** means that the Juvenile Court has implemented policies, procedures and programs; has trained staff and personnel; has sufficient staff to implement the required reform; has demonstrated a commitment toward reform; has identified points of contact, have met, collected data, analyzed the data, and attempted reform; has addressed data needs; has developed and utilized mechanisms to disseminate information; has identified and developed areas and stages in the system in need of reform; has developed a plan to evaluate and monitor reform, and has ascertained if reform achieved desired outcomes. All of this needs to be implemented and accomplished within time-lines as specified in the Agreement.

**Partial Compliance (PC)** means that the Juvenile Court has implemented policies, procedures and programs; has trained staff and personnel; has sufficient staff to implement the required reform; has demonstrated a commitment toward reform; has identified points of contact, have met, collected data, analyzed the data, and attempted reform; has addressed data needs; has developed and utilized mechanisms to disseminate information; has identified and developed areas and stages in the system in need of reform; has developed a plan to evaluate and monitor reform, and has ascertained if reform achieved desired outcomes. **However**, while progress has been made toward stated above items, performance has been inconsistent and/or incomplete throughout the monitoring period and additional modifications are needed to ensure a greater level of compliance.

**Beginning Compliance (BC)** means that the Juvenile Court has made initial efforts to implement the required reform and achieve the desired outcome of equal protection for all youth within the stated time-lines **but** significant work remains on many of facets of stated above items.

**Non-Compliance (NC)** means the Juvenile Court has not implemented policies, procedures and programs; has not trained staff and personnel; does not have sufficient staff to implement the required reform; has not demonstrated a commitment toward reform; has not identified points of contact, have not met, have not collected data, have not analyzed the data, and have not attempted reform; has not addressed data needs; has not developed and utilized mechanisms to disseminate information; has not identified and developed areas and stages in the system in need of reform; has not developed a plan to evaluate and monitor reform, and has not ascertained if reform achieved desired outcomes. This assessment is made within the context that the above stated actions or inactions has not occurred within time-lines as specified in the Agreement.

**Compliance Level to Be Determined (CLTBD)** means that a decision on the compliance level is pending in light of deadlines of specific reforms as stated in the Agreement have not yet come or arrived – Nine-Months, One- Year- or have been given an extension.

Table 1. Compliance Rating by Provision

Identifier	Provision	Compliance Rating
1a	Identify all data collection needs at each major Decision Point	<b>PC</b>
1c	Identify staffing needs to collect, evaluate & report data	<b>PC</b>
1e	JCMSC shall identify and designate a point of contact within each department to reduce DMC	<b>PC</b>
1f	Collect data and information required to determine where DMC occurs	<b>PC</b>
1d	Shelby County Mayor shall appoint a coordinator responsible for oversight of the progress on reducing DMC	<b>SC</b>
1b (9 months) i-vi	JCMSC shall augment the appropriate data collection method to assist in its evaluation of its DMC levels, causes, and reduction.... This includes information on points of contact, the RRI's, and available diversion options for youth appearing before JCMSC	<b>PC – Assessment – Leiber</b> <b>PC – Staff reports</b>
1g (9 months)	Assess impact policies/procedures/programs on DMC levels at each decision point and conduct inventory of services and options...	<b>NC</b>
1h (9 months)	Complete and implement strategic plan to reduce DMC	<b>PC</b>
2a	Revise policies, procedures, practices, and existing agreements to reduce DMC at each Decision Point and encourage objective decision making in all departments relating to its delinquency docket (i) Collection of sufficient	<b>NC</b>  <b>BC</b>  <b>BC</b>



	<p>data</p> <p>(ii) Provision requiring least restrictive options and alternatives to a detention setting</p> <p>(iii.) Guidelines identifying a list of infractions for which a child shall NOT be detained</p> <p>(iv.) Guidelines identifying a list of infractions for which a child may be detained</p> <p>(v.) Training and guidance on the use of existing and new objective decision making tools</p> <p>(vi.) Requirement that a supervisory authority review all overrides within each department on, at minimum, a monthly basis</p>	<p><b>BC/CLTBD</b></p> <p><b>BC/CLTBD</b></p> <p><b>BC/CLTBD</b></p> <p><b>BC/CLTBD</b></p> <p><b>BC</b></p> <p><b>BC/CLTBD</b></p>
2c	Reassess the effectiveness of its policies, procedures, practices and existing agreements annually and make necessary revisions to increase DMC reduction	<b>NC</b>
3a-h (9 months)	<p>Use of objective decision-making tools, etc.</p> <p>Refine decision-making tools, etc.</p> <p>Pilot program – Sheriff’s department – transport</p> <p>Pilot program – Memphis Police Department – day/evening report center</p> <p>The Precinct Based Juvenile Court Liaison Program.</p> <p>Monitor Transfer</p> <p>Annual review of objective tools</p>	<p><b>BC</b></p> <p><b>NC</b></p> <p><b>BC</b></p> <p><b>BC</b></p> <p><b>BC</b></p> <p><b>BC</b></p>
4	<p>Training on a number of pts (i-vii)</p> <p>Staff involved with the delinquency docket should receive training of at least 4</p>	<p><b>PC</b></p> <p><b>PC</b></p>

	hours.	
5	<p>Develop and implement a community outreach program to inform community of progress toward reforms.</p> <p>This should include a county-wide consortium that includes but is not limited to six to nine citizens selected by the Mayor and approved by the County Commission.</p> <p>Open meeting every six months</p> <p>There is a need for summaries of reports to be posted</p> <p>JCMSC shall publish on its website annual reports in accordance with the Agreement.</p> <p>The Community Outreach program should include a data dashboard that communicates compliance on the part of JCMSC with the Agreement.</p> <p>A community survey shall be conducted (<b>one year</b>)</p>	<p><b>NC</b></p> <p><b>PC</b></p> <p><b>PC</b></p> <p><b>PC</b></p> <p><b>SC</b></p> <p><b>PC</b></p> <p><b>BC/CLTBD</b></p>

1. DMC Assessment

- (a) Identify all data collection needs at each major Decision Point (p. 21)  
**STATUS-PARTIAL COMPLIANCE (PC)**  
DISCUSSION-collection needs have been identified for each data point  
But more needs to be done with the data, interpretation, action
- (c) Identify staffing needs to collect, evaluate & report data (p. 22)  
**STATUS-PARTIAL COMPLIANCE (PC)**  
DISCUSSION-listing of staffing; issues concerning data have been resolved with the hire of a new data analyst but work needs to be done to make data useable for purposes to address DMC.
- (e) JCMSC shall identify and designate a point of contact within each department to reduce DMC (p. 22).  
**STATUS-PARTIAL COMPLIANCE (PC)**  
DISCUSSION-points of contact have been identified. Although monthly meetings have taken place, problems continue to exist with understanding purpose and assuming an active role. Administration has indicated once again that it will take an active part in taking charge of the Points of Contact in terms of objectives and use of data and information to address DMC, including results from assessment studies and information contained in compliance reports.
- (f) Collect data and information required to determine where DMC occurs (p. 22)  
**STATUS-PARTIAL COMPLIANCE (PC)**  
DISCUSSION-information has been collected and examined in general and by zip code among other things (e.g., referring agency, schools, etc.). Specific information on detention, alternatives to detention, and to some degree, transfer recommendations, has been collected and analyzed. While data has been collected, lacking is a discussion of what the data means and what can be done to address DMC. Notice of transfer and actual transfers need to be studied in greater detail, especially the former.
- (d) Shelby County Mayor shall appoint a coordinator responsible for oversight of the progress on reducing DMC (p. 22).  
**STATUS-SUBSTANTIAL COMPLIANCE (SC)**  
DISCUSSION-the DMC Coordinator was hired in February of 2013. Work has been done with Staff, the Points of Contact, development of reports and to some degree has been involved in community outreach. As stated in the first report, the DMC Coordinator and the Court Community Liaison need to work together more often as part of the community outreach stipulation.

1.DMC Assessment

- (b) Within nine months, Juvenile Court shall augment the appropriate data collection method to assist in its evaluation of its DMC levels, causes, and reduction. This includes information on points of contact, the RRI's, and available diversion options for youth appearing before JCMSC... (p. 22)

**STATUS-PARTIAL COMPLIANCE FOR EQUAL PROTECTION  
MONITOR (PC), PARTIAL COMPLIANCE FOR STAFF (PC)**

DISCUSSION-the 4th assessment study was conducted by Leiber, process will continue with working relationship with Court to improve data examined. Staff has produced many documents using data and RRI. Listing of diversion programs has occurred. Interpretation and action with the data is needed.

- (g) Assess impact of policies/procedures/programs on DMC levels at each decision point and conduct inventory of services and options...(p. 22-23)

**STATUS-NON-COMPLIANCE (NC)**

DISCUSSION-Listing of diversion alternatives, intra-agency agreements, and collection of data, especially from The Points of Contact, the DMC Coordinator and the Court have occurred. HOWEVER, linkage, interpretation and steps taken to use this data as well as from the Assessment Studies has not occurred even though informed numerous to times to do so (e.g., Compliance Reports).

- (h) Complete and implement strategic plan to reduce DMC... (p. 23)

**STATUS-PARTIAL COMPLIANCE (PC)**

DISCUSSION-a strategic plan has been developed. Technical assistance was requested and provided as to how to proceed in November of 2013 and March, 2014. Implementation should continue. Committee members need to be replaced as needed and they should not be the same as those residing on the POC.

2.DMC Policies and Procedures

- (a) Revise policies, procedures, practices, and existing agreements to reduce DMC at each Decision Point and encourage objective decision making in all departments relating to its delinquency docket. (p. 23)

**STATUS-NON COMPLIANCE**

DISCUSSION- Discussion and revision of policies, practices and existing agreements to reduce DMC at each stage has not been sufficient.

**STATUS-BEGINNING COMPLIANCE (BC)**

DISCUSSION-Structured decision-making tools have been adopted and implemented.

- (b) Revision of the above to include: (p. 23)

- (i) Collection of sufficient data
- (ii) Provision requiring least restrictive options and alternatives to a detention setting
- (iii.) Guidelines identifying a list of infractions for which a child shall NOT be detained
- (iv.) Guidelines identifying a list of infractions for which a child may be detained
- (vi.) Requirement that a supervisory authority review all overrides within each department on, at minimum, a monthly basis.

**STATUS-BEGINNING COMPLIANCE (BC)**

DISCUSSION-information has been collected; adoption of objective instruments

has occurred. DAT is being validated a second time, the Sanction Grid has been implemented and tinkered with; and training began for the adoption of YASI and is being implemented. It is important that all 3 instruments be validated. This will ensure that the tools are capturing accurate data, encouraging race-neutral decision-making, and improving overall fairness in court proceedings. Efforts are still needed to make changes to be sure stated objective of fairness is attained, especially in light of the Relative Rate information and results from the Assessment studies.

- (v.) Training and guidance on the use of existing and new objective decision making tools

**STATUS-BEGINNING COMPLIANCE (BC)**

DISCUSSION- training, adoption, and implementation of objective tools has occurred.

- (c) Reassess the effectiveness of its policies, procedures, practices and existing agreements annually and make necessary revisions to increase DMC reduction. (p. 24)

**STATUS-NON COMPLIANCE (NC)**

DISCUSSION-already discussed -see above – 2(a).

3.DMC Reduction: Evaluation and Tools (pg. 24-26)

- (a) Use of objective decision-making tools, etc.

**STATUS-BEGINNING COMPLIANCE (BC)**

DISCUSSION-already discussed

- (b) Refine decision-making tools, etc.

**STATUS-NON COMPLIANCE (NC)**

DISCUSSION-little movement has been done in the regard – see 2(a).

- (c) Implementation of a pilot program involving sheriff, police and the summons program

**STATUS-BEGINNING COMPLIANCE (BC)**

DISCUSSION-agreement in place and implementation, training and evaluation needs to be part of effort

- (d) Use of alternatives, including a pilot diversion program to secure detention, day/evening reporting center, the establishment of the Precinct Based Juvenile Court Liaison Program. etc.

**STATUS-BEGINNING COMPLIANCE (BC)**

DISCUSSION-discussions with Memphis Police Department to implement day/evening reporting centers has taken place. The Court and the Memphis Police Department have entered into an agreement to establish the Precinct Based Juvenile Court Liaison Program. Other alternatives have been discussed. These arrangements could help reduce the number of referrals to juvenile court and detention if done correctly. Continued discussions need to translate into action – programs, alternatives, policies. Use of SHAPE, JIFF and

the agreement with Georgetown University may help in this regard. Expansion of SHAPE has occurred.

- (e) Monitor and evaluate Transfer Process
- (f) Continued collection of data to assess DMC and its causes
- (g) Points of Contact to evaluate monthly RRI and numbers at each point in the system and generate a management report
- (h) Annually review objective decision-making tools....

DISCUSSION-these items have discussed previously

#### 4. Training (p. 26-27)

- (a) Training on a number of pts (i-vii)
- (b) Staff involved with the delinquency docket should receive training of at least 4 hours.

##### **STATUS-PARTIAL COMPLIANCE (PC)**

DISCUSSION-several training sessions have occurred, training on certain programs is still in progress. Overall, the Court is commended for their effort in this regard.

#### 5. Community Outreach as stated in Agreement

- (a) Develop and implement a community outreach program to inform community of progress toward reforms.

##### **STATUS-NON COMPLIANCE (NC)**

DISCUSSION- over the 2-3 years so since the MoA and in particular in the last year while some activity has occurred, including the talks, appearances and radio exposure, the development of a **Community Out-Reach Plan that encompasses more than a listing of activities is needed.** Over the last year, the Court was informed of the need for someone to lead this effort. On the last site visit (early October, 2015) I was told that the relatively newly hired Court DMC Coordinator would take the lead on this initiative. I agree. Hopefully, the next six months will bring not only the development of a Community Out-Reach Plan but even more engagement with the community on DMC efforts as well as feedback from the community to the Court whereby the Court DMC Coordinator is a liaison.

This should include a county-wide consortium that includes but is not limited to six to nine citizens selected by the Mayor and approved by the County Commission who are reflective of the cultural and ethnic diversity of the County. The consortium should also include at least two parents of children who have had children before the Court for a delinquency matter; a person under age 21 who had direct contact with the juvenile justice system and community advocates. (p. 33)

##### **STATUS-PARTIAL COMPLIANCE (PC)**

DISCUSSION-a county-wide Consortium has been formed and appears to be representative of the community; a relatively new Chair is in place as well as a County Attorney, the Consortium needed direction and

technical assistance as well as more direct involvement from DOJ; steps have been undertaken to develop a strategy and goals to engage with the community and the Court. Members from the Consortium have been granted permission by the Court to observe detention and delinquency proceedings; a retreat has been held where the Mayor attended and reaffirmed his support for the Consortium, and efforts are being made to have a greater presence in the community. Additional technical assistance is being provided to aid the Consortium to better act as a liaison between the community and the Court. The Consortium is moving in the right direction. The County DMC Coordinator, the Court DMC Coordinator, and the Court need to play an active role but not control the Consortium. Information should flow back and forth between the Consortium and the Court.

- (b) A number of other criteria that focus on at least one open meeting every six months and the publicizing of the meeting and the posting. (p. 33)

**STATUS-PARTIAL COMPLIANCE (PC)**

DISCUSSION-public meetings have been held. The date for the next public meeting is planned for some time in December, 2015 or early January, 2016. Sufficient notice and distribution of the hearing date needs to reach stake holders in the community as well as persons from communities most susceptible to DMC. Meetings need to be held every 6 months or so.

- (c) There is a need for summaries of reports completed pursuant to the Agreement and made available to the community prior to the meeting- to be posted (p. 34)

**STATUS-PARTIAL COMPLIANCE (PC)**

DISCUSSION-this appears to have occurred

- (d) JCMSC shall publish on its website annual reports in accordance with the Agreement.

**STATUS-SUBSTANTIAL COMPLIANCE (SC)**

DISCUSSION-these activities have occurred

- (e) The Community Outreach program should include a data dashboard that communicates compliance on the part of JCMSC with the Agreement. (p. 34)

**STATUS-PARTIAL COMPLIANCE (PC)**

DISCUSSION-a dashboard has been developed and placed on the Court website. Postings exist as well as the agreement and reports. Additional data is also presented. Postings should occur at least monthly, if not sooner, following after an event, activity, etc. Likewise, announcements should be posted as soon as possible to provide sufficient notice to the public. Further, a Facebook page and other social mechanisms have been created – pamphlet, Twitter account. Presentations have also occurred within the community. A Summit was held in late June 2014. The DMC Coordinator and the JDAI

contact person have been very active in the community in terms of presentations, sitting on committees, and seeking out working relationships with community agencies and programs with the police. Central people involved in establishing working relationship with Georgetown University. The current community outreach person representing the Court has done some activity but relatively very little in the last year. (see discussion above -5(a). Once again, it hoped that the Court DMC Coordinator will play an active role in the community.

- (f) A community survey shall be conducted (**one year**) (p. 34)  
The survey should measure public satisfaction, attitudes among court personnel and community members both within Memphis and the County and should be representative of gender, race/ethnicity.

**STATUS-BEGINNING COMPLIANCE (BC)/COMPLIANCE LEVEL TO BE DETERMINED (CLTBD)**

DISCUSSION- a survey of the community was to have already taken place per the MoA; however, delays by OJJDP have slowed the development and implementation of studies of the community and Court personnel. A contract has been awarded to Dr. Laura Harris and she is in the process of working with a group contracted by OJJDP and in particular, Tom Harig.