



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

AUG 10 2012

VIA E-MAIL AND U.S. MAIL

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State of Mississippi
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The Honorable Cheri M. Barry
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Re: Findings Regarding Department of Justice Investigation of Lauderdale County Youth Court, Meridian Police Department, and Mississippi Division of Youth Services

Dear All:

We write regarding the United States Department of Justice's ("DOJ") investigation of allegations that the Lauderdale County Youth Court ("Youth Court"), the Meridian Police Department ("MPD"), and the Mississippi Division of Youth Services ("DYS") are violating the

constitutional rights of juveniles in Meridian who are referred for law enforcement action by public schools. On December 1, 2011, we notified the City of Meridian and Lauderdale County of our intent to conduct an investigation of MPD and the Youth Court pursuant to the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141 (“Section 14141”), and Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (“Title VI”). On June 29, 2012, we notified the State of Mississippi of the expansion of our investigation to include DYS. This letter provides notice that, unless there are meaningful negotiations to resolve the alleged constitutional violations in the administration of juvenile justice, we will not delay in filing for relief in federal court.

We find reasonable cause to believe that these agencies’ administration of juvenile justice violates the constitutional rights of children in the City of Meridian and the County of Lauderdale under the Fourth, Fifth, and Fourteenth Amendments.¹ Based on the serious and longstanding nature of the violations, as well as these agencies’ refusal to cooperate with our investigation and provide reasonable access to information, we believe a federal lawsuit against the government entities and agents responsible for administering juvenile justice is necessary to vindicate the rights of the children in Meridian and Lauderdale County. Our preferred course of action would be to avoid contested litigation through your cooperation in our ongoing investigation and joint efforts to remedy constitutional deficiencies.

SUMMARY OF VIOLATIONS

This letter provides notice that, unless there are meaningful negotiations, DOJ, on behalf of the United States, will file a complaint in federal district court within 60 days. The suit would be filed against the City of Meridian, the County of Lauderdale, Lauderdale County Youth Court, Youth Court Judges Frank Coleman and Veldore Young in their official capacities, the State of Mississippi, the Mississippi Department of Human Services, and the Mississippi Division of Youth Services (collectively referred to as “the entities”). It would allege the following causes of action:

- (1) The City of Meridian Violates the Fourth Amendment by Arresting Children Without Assessing Probable Cause;
- (2) Lauderdale County and the Youth Court Judges Violate the Fourth, Fifth, and Fourteenth Amendments by Failing to Provide Children Procedural Due Process in the Youth Court Process;
- (3) Lauderdale County, the Youth Court Judges, and the Mississippi Division of Youth Services Violate the Fifth and Fourteenth Amendments by Failing to Provide Children Procedural Due Process Rights in the Probationary Process; and

¹ We have not yet reached a conclusion regarding whether any of the entities are violating the equal protection rights of children, or children's rights under Title VI of the Civil Rights Act of 1964. Our investigation of these issues is ongoing.

- (4) The City of Meridian, Lauderdale County, the Youth Court Judges, and the Mississippi Division of Youth Services Violate Children’s Right to Substantive Due Process Under the Fourteenth Amendment.

While the basis for each allegation is described more fully below, in sum, the entities named above help to operate a school-to-prison pipeline, whereby, following referral of students who attend school in the Meridian Public School District (“District”) to law enforcement, the MPD, Youth Court, and DYS administer juvenile justice without regard for their obligations under the United States Constitution. By policy and practice, MPD automatically arrests all students referred to MPD by the District. The children arrested by MPD are then sent to the County juvenile justice system, where existing due process protections are illusory and inadequate. The Youth Court places children on probation, and the terms of the probation set by the Youth Court and DYS require children on probation to serve any suspensions from school incarcerated in the juvenile detention center.

The students most severely affected by these practices are black children and children with disabilities in Meridian. While the City of Meridian’s overall population is approximately 62% black, 36% white, 2% Hispanic, and 1% Asian, the District has a student enrollment that is approximately 86% black, 12% white, 1% Hispanic, and 1% Asian. Approximately 13% of District students have been identified as eligible for an Individualized Education Program under the Individuals with Disabilities Education Act (IDEA).² Students in the District are expelled and suspended for longer than ten days at a rate almost seven times the rate for Mississippi schools generally.³

CONSTITUTIONAL VIOLATIONS

DOJ concludes that there is reasonable cause to believe that the City of Meridian, Lauderdale County, Judges Coleman and Young, and the State of Mississippi, are engaged in a pattern or practice of violating the constitutional rights of children in the juvenile justice system. We have concluded that the City of Meridian commits these violations through the MPD; that Lauderdale County commits these violations through the Youth Court; that Judges Coleman and Young commit these violations in their official capacities as Youth Court Judges; and that the State of Mississippi commits these violations through its Department of Human Services, and its sub-agency, DYS. These entities, working in conjunction, help to operate a school-to-prison pipeline that routinely and repeatedly incarcerates children for school disciplinary infractions,

² The IDEA, Section 504 of the Rehabilitation Act (Section 504), and the Americans with Disabilities Act (ADA) entitle school-aged children with disabilities to a free appropriate public education. Both Section 504 and the ADA protect individuals with disabilities, including children, from disability-based discrimination.

³ The children expelled and suspended at these disproportionate rates are almost exclusively black children. In addition, the District’s rate of expulsions and out of school suspensions for students with individualized education programs is also approximately seven times higher than the rate for Mississippi schools generally.

punishing children so disproportionately as to violate the constitutional right to substantive due process, and without constitutionally required procedural safeguards.

The entities do not afford children in the juvenile justice system with even the minimum safeguards required by the Constitution. As a result, the City of Meridian engages in a pattern or practice of arresting children in school without probable cause. Lauderdale County and the Youth Court Judges engage in a pattern or practice of violating the procedural due process rights of children in the youth court process by incarcerating children without a timely determination of probable cause and without providing children meaningful representation by an attorney. Lauderdale County, the Youth Court Judges, and DYS also violate the procedural due process rights of children who have allegedly violated probation. All entities engage in a pattern or practice of imposing disproportionate and severe consequences including incarceration for technical probation violations such as school suspensions, without any due process whatsoever.

I. The City of Meridian Violates the Fourth Amendment by Arresting Children Without Assessing Probable Cause

The City of Meridian, through the MPD, engages in a pattern and practice of violating the Fourth Amendment rights of juveniles by failing to require or to make individualized assessments of probable cause when arresting juveniles referred to MPD by the District.

The Fourth Amendment of the U.S. Constitution permits an officer to arrest a suspect without a warrant only “if there is probable cause to believe that the suspect has committed or is committing an offense.” *Michigan v. DeFillippo*, 443 U.S. 31, 36 (1979); *see also Club Retro L.L.C. v. Hilton*, 568 F.3d 181, 204 (5th Cir. 2009). “Probable cause for arrest exists ‘when the facts and circumstances within the knowledge of the arresting officer and of which he has reasonably trustworthy information are sufficient in themselves to warrant in a person of reasonable caution the belief that an offense has been or is being committed.’” *United States v. Fortuna*, 796 F.2d 724, 739 (5th Cir. 1986), *cert. denied*, 479 U.S. 950 (1986) (citations omitted). The arresting officer must make an individualized assessment based on facts and circumstances “particularized to the arrestee,” and these “facts must be known by the officer at the time of the arrest; post-hoc justification based on facts later learned cannot support an earlier arrest.” *Club Retro*, 568 F.3d at 204. Moreover, probable cause is an objective standard. The arresting officer’s subjective intention is immaterial in judging whether their actions were reasonable for Fourth Amendment purposes. *Devenpeck v. Alford*, 543 U.S. 146, 153-55 (2004); *see also Beck v. Ohio*, 379 U.S. 89, 97 (1964) (“[G]ood faith on the part of the arresting officers is not enough. If subjective good faith alone were the test, the protections of the Fourth Amendment would evaporate, and the people would be secure in their persons, houses, papers, and effects, only in the discretion of the police.”).

The Fourth Amendment protects students from unreasonable seizures at school. *See New Jersey v. T.L.O.*, 469 U.S. 325, 333 (1985). Arrests constitute seizures for the purposes of Fourth Amendment protections because a seizure occurs when circumstances indicate that a reasonable person would believe that he is not free to leave the premises. *United States v. Mendenhall*, 446 U.S. 544, 554 (1980). The Fifth Circuit has applied the probable cause standard to a student’s challenge to an arrest made by police officers at a Mississippi high school. *See C.H., II v.*

Rankin County School Dist., 415 Fed. Appx. 541, 543 (5th Cir. 2011) (finding police officer had probable cause to arrest student on school campus where administrator stated he witnessed the alleged behavior and officer observed physical injuries alleged to be the result of this behavior). Mississippi state law also includes strong presumptions against warrantless arrests of juveniles. See Miss. Code § 43-21-301; § 43-21-303.

MPD command staff and officers consistently characterized MPD as a “taxi service” for District schools and the Juvenile Center. According to MPD personnel, MPD policy requires officers to automatically arrest a student whenever school staff indicate that they would like to press charges. MPD officers who respond to District referrals do not assess the facts or circumstances of the alleged charge, or whether the alleged conduct actually qualifies as an arrestable offense. Instead, MPD officers routinely handcuff and arrest students without obtaining prior youth court custody orders or making necessary assessments of probable cause.

MPD’s pattern or practice of automatically arresting children referred by the District constitutes a blanket failure to apply probable cause in violation of the Fourth Amendment. This is true even though MPD officers may subjectively believe that they are acting appropriately in following MPD policy and practice, and the directives of District administrators and staff. See *Devenpeck*, 543 U.S. at 153-55; *Beck*, 379 U.S. at 97. Although officers do sometimes obtain predicate information from District personnel prior to making an arrest, this does not appear to be a prerequisite to an arrest. Instead, MPD officers routinely rely solely on the referral decisions made by District personnel and do not independently assess probable cause. This kind of mechanical reliance cannot satisfy the requirement to make a probable cause determination on a systemic level.

II. Lauderdale County and the Youth Court Judges Violate the Fourth, Fifth, and Fourteenth Amendments by Failing to Provide Children Procedural Due Process in the Youth Court Process

Lauderdale County violates the rights of juveniles subject to the jurisdiction of the Youth Court in violation of the Fourth, Fifth, and Fourteenth Amendments by denying them access to meaningful procedural protections in the juvenile justice process.

Under federal law, constitutional due process protections apply to children in the juvenile justice process. The United States Supreme Court has recognized that, although the purpose of juvenile court proceedings is supposed to be rehabilitation rather than punishment, the risk that children will instead be treated punitively or criminally requires that jurisdictions provide due process protections. See generally *In re Gault*, 387 U.S. 1 (1967); *Kent v. U.S.*, 383 U.S. 541 (1966). The Supreme Court has described the minimum contours of these protections as including the provision of adequate and timely notice of charges and court proceedings to children and their guardians, representation by an attorney when incarceration is possible, protection against self-incrimination, an opportunity to cross-examine witnesses, and a probable cause determination by a judicial officer within 48 hours of a warrantless arrest. See *County of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991); *Gerstein v. Pugh*, 420 U.S. 103 (1974); *In re Gault*, 387 U.S. at 33-57; see also *Moss v. Weaver*, 525 F.2d 1258, 1260 (5th Cir. 1976) (holding that *Gerstein* probable cause hearings are required for juveniles).

Mississippi state law incorporates many of the *Gault* findings into the youth court process, mandating that children taken into custody receive detention hearings within 48 hours and timely notice of those hearings, and that counsel be appointed for all critical stages of youth court proceedings, including detention, adjudicatory and disposition hearings; parole or probation revocation proceedings; and post-disposition matters. Miss. Code § 43-21-201(1). However, Mississippi law excepts weekends and holidays from the 48-hour requirement, in violation of the constitutional standard defined by the U.S. Supreme Court in *McLaughlin*, 500 U.S. at 57.

Lauderdale County routinely violates children's due process rights as articulated in *Gault*, *Gerstein*, and *McLaughlin*. With regard to the Fourth Amendment's probable cause determination requirement, the Supreme Court has stated that "[w]hatever procedure a State may adopt, it must provide a fair and reliable determination of probable cause as a condition for any significant pretrial restraint of liberty, and this determination must be made by a judicial officer either before or promptly after arrest." *Gerstein*, 420 U.S. at 124-25. The Fifth Circuit has been clear that the *Gerstein* probable cause hearings are required for juveniles, *Moss*, 525 F.2d at 1260, and the U.S. Supreme Court has subsequently held that probable cause determinations must be made within 48 hours, *McLaughlin*, 500 U.S. at 57.

Lauderdale County uses a two step process to initially place a child in detention following an arrest and then keep a child in detention pending adjudication. In the first step, an intake officer at the Juvenile Center, who is also a designee of the Youth Court in Lauderdale County, issues a temporary custody order. In the second step, a Youth Court Judge holds a detention hearing and issues a detention order. However, neither of these initial steps satisfies the *Gerstein* requirements because they do not appear to include probable cause determinations. Rather, these orders focus on the state law criteria for temporarily removing children from custody of their parents or guardians, which require a finding that custody is necessary and there are no reasonable alternatives to custody.⁴ Moreover, the detention hearings that are held do not meet the federal 48 hour standard, as Lauderdale County holds all juvenile hearings, including detention hearings, only on Tuesdays and Thursdays. Although Lauderdale's practice is consistent with Mississippi state law, which carves out weekends and holidays from the 48 hour requirement, it violates the constitutional standard, resulting in significant extensions of "temporary" incarceration.

Lauderdale County also fails to meaningfully meet *Gault's* proscription that juveniles be provided representation by an attorney when incarceration is possible, protection against self-incrimination, and an opportunity to cross-examine witnesses. Children and their guardians consistently report that they are not always appointed an attorney for detention or adjudication hearings, and that the public defender who is appointed pursuant to a contract with the Youth Court does not provide children and guardians with meaningful or effective representation. These combined conditions do not satisfy the "essentials of due process and fair treatment" required by the Supreme Court in *Gault*. 387 U.S. at 30.

⁴ Custody is deemed "necessary," under Mississippi law only "(i) When a child is endangered or any person would be endangered by the child; or (ii) to insure the child's attendance in court at such time as required; or (iii) when a parent, guardian or custodian is not available to provide for the care and supervision of the child." Miss. Code § 43-21-301(3)(b).

III. Lauderdale County, the Youth Court Judges, and the Mississippi Division of Youth Services, Violate the Fifth and Fourteenth Amendments by Failing to Provide Children Procedural Due Process Rights in the Probationary Process

Lauderdale County and DYS violate the constitutional rights of juveniles under the Fifth and Fourteenth Amendments through their policies, procedures, and practices with respect to probation and probation revocation for children in the Lauderdale County juvenile justice system.

In *Morrissey v. Brewer*, 408 U.S. 471 (1972) and *Gagnon v. Scarpelli*, 411 U.S. 778 (1973), the U.S. Supreme Court held that the due process clause of the Fourteenth Amendment requires probable cause hearings for parole and probation revocations, where the liberty interest of the parolee or probationer is at stake. Specifically, the Supreme Court found that the minimum requirements of due process in the context of a parole or probation revocation proceeding are: written notice of the claim; disclosure to the parolee or probationer of evidence against him; opportunity to be heard in person and to present witnesses and documentary evidence; the right to confront and cross-examine adverse witnesses; a neutral and detached decision-maker; and a written statement by the factfinder as to the evidence relied on and the reasons for revoking parole or probation. *Gagnon*, 411 U.S. at 781-782; *Morrissey*, 408 U.S. at 489. Moreover, the Court in *Gagnon* found that the effectiveness of these due process rights may depend on the use of skills which the probationer or parolee is unlikely to possess, noting that “the unskilled or uneducated probationer or parolee may well have difficulty in presenting his version of a disputed set of facts,” and that due process may therefore require appointment of an attorney for indigent parolees or probationers. *Gagnon*, 411 at 786-88. The Supreme Court has noted that the protection of an attorney in legal proceedings is especially important for children, who are particularly vulnerable to the coercive nature of the criminal justice process. *See In re Gault*, 387 U.S. at 39 n. 65 (“The most informal and well-intentioned of judicial proceedings are technical; few adults without legal training can influence or even understand them; certainly children cannot.”); *see also J.D.B. v. North Carolina*, 131 S.Ct. 2394, 2397 (2011) (“The law has historically reflected the same assumption that children characteristically lack the capacity to exercise mature judgment and possess only an incomplete ability to understand the world around them.”)

The Youth Court regularly imposes supervised probation on children in Lauderdale County as part of the adjudication and disposition process. DYS “youth counselors,” or probation officers, in Lauderdale County typically present a recommendation to the Youth Court concerning specific probation requirements for each child, and the Youth Court decides which of these requirements to include in the dispositional order. The Youth Court also orders the child to comply with all the rules or regulations as set forth in the probation contract the youth counselor provides. The youth counselors then implement and supervise children’s probation, including determining when a child has violated the terms of his or her probation.

The probation contracts authorized, imposed, administered, and enforced by Lauderdale County and DYS contain conditions that are not comprehensible to juveniles and cannot effectively inform juveniles of their procedural rights and protections, including their right to request a probable cause hearing with respect to an alleged probation violation. Moreover, there

is no evidence that Lauderdale County and DYS ever provide constitutionally required probable cause hearings, or any procedural safeguards whatsoever, to juveniles alleged to have violated probation, even when incarceration and loss of liberty are possible consequences of the probation violation. Rather, the probation contracts in practice grant absolute discretion to the youth counselor to determine whether there was, in fact, a probation violation, and what the consequence of the alleged probation violation will be. To the extent that the County does provide a hearing after an alleged probation violation, it appears to be purely dispositional, with the youth counselor or Youth Court Judge determining whether the time a child has already served in the detention center is sufficient punishment for the alleged violation.

The U.S. Supreme Court articulated a three-part test for determining what procedures due process requires in *Mathews v. Eldridge*, 424 U.S. 319 (1976). First, the Court must assess the value of the liberty interest and the degree of potential deprivation. Second, the Court must evaluate the fairness and reliability of any existing procedures and the probable value, if any, of additional procedural safeguards. Third, the Court must consider the administrative burden and other societal costs or benefits which might be associated with requiring more process as a matter of constitutional law.

In the instant case, children face loss of liberty, incarceration, and the interruption of school and family life—exactly the type of interests and deprivation the Supreme Court found sufficiently serious in *Morrissey* and *Gagnon* as to require substantial procedural protections. Moreover, the Fifth Circuit has observed that juveniles facing delinquency charges which could result in incarceration have a protected liberty interest at stake. *See Drummond v. Fulton Cnty. Dep't. of Family & Children's Servs*, 563 F.2d 1200, 1208 (5th Cir. 1977) (contrasting “clearly” protected liberty interest of juveniles facing charges which could result in incarceration with assertion that juveniles in foster care have protected liberty interest in not being moved). Lauderdale County’s current procedures provide no indicia of fairness and reliability, especially as applied to children deemed to have violated probation because of a school suspension. In those instances, the fact of the suspension, regardless of the underlying circumstances and without any additional inquiry, is automatically converted by a youth counselor into a probation violation. The *Gagnon* Court noted that “[b]oth the probationer or parolee and the State have interests in the accurate finding of fact and the informed use of discretion.” 411 U.S. at 785. This conclusion is clearly applicable to the present situation, in which the incarceration of children, even for two or three days, amounts to a deprivation of liberty and an interruption of educational services, which work a substantial detriment to both the child and the community.

IV. The City of Meridian, Lauderdale County, the Youth Court Judges, and the Mississippi Division of Youth Services Violate Children’s Right to Substantive Due Process Under the Fourteenth Amendment

The City of Meridian, Lauderdale County, the Youth Court Judges, and DYS, working in concert, violate the Fourteenth Amendment substantive due process rights of juveniles through their policies, procedures, and practices with respect to incarcerating students who attend school in the District for technical probation violations, including those resulting from suspensions for alleged school disciplinary infractions.

The Due Process Clause “guarantees more than fair process....The Clause also provides heightened protection against government interference with certain fundamental rights and liberty interests.” *Washington v. Glucksberg*, 521 U.S. 702 (1997). “Government actions that burden the exercise of those fundamental rights or liberty interests are subject to strict scrutiny, and will be upheld only when they are narrowly tailored to a compelling governmental interest.” *Seal v. Morgan*, 229 F.3d 576, 574 (6th Cir. 2000).

Two different legal standards may be used to measure whether government actors have committed a substantive due process violation when a fundamental right or liberty interest is implicated. One standard prohibits the deprivation of a fundamental right or liberty interest by government action that is so arbitrary and abusive as to shock the conscience. *See, e.g., County of Sacramento v. Lewis*, 523 U.S. 833, 845-49 (1998) (substantive component of the Due Process Clause is violated by government action when it “can properly be characterized as arbitrary, or conscience shocking, in a constitutional sense.”); *Collins v. Harker Heights*, 503 U.S. 115, 126 (1992) (“The Due Process Clause of the Fourteenth Amendment was intended to prevent government from abusing its power, or employing it as an instrument of oppression.”) (internal citations omitted). The second standard protects individuals from the “arbitrary and discriminatory enforcement of vague standards.” *See, e.g., National Endowment for the Arts v. Finley*, 524 U.S. 569, 588 (1998). Under this doctrine, a policy may violate substantive due process when it is rooted in written regulations or procedures which, (1) fail to provide people of ordinary intelligence a reasonable opportunity to understand what conduct is prohibited, or, (2) authorize or even encourage arbitrary and discriminatory enforcement. *See Hill v. Colorado*, 530 U.S. 703, 732 (2000) (summarizing void for vagueness standard as applied to statute); *City of Chicago v. Morales*, 527 U.S. 41 (1999) (ordinance vesting vast amount of discretion to the police in its enforcement violates due process because scope is too broad and does not provide for sufficient notice); *Fairchild v. Liberty Independent School Dist.*, 597 F.3d 747, 761-62 (5th Cir. 2010) (applying void for vagueness analysis to local school district policies).

The government actors here are violating children’s substantive due process rights under both standards through their pattern or practice of incarcerating District students for probation violations resulting from suspensions for alleged school disciplinary infractions, without any procedural safeguards whatsoever. The system established by the City of Meridian, Lauderdale County, and DYS to incarcerate children for school suspensions “shocks the conscience,” resulting in the *incarceration* of children for alleged “offenses” such as dress code violations, flatulence, profanity, and disrespect. Moreover, the process used to effectuate this incarceration results from arbitrary and discriminatory enforcement of vague standards, in violation of substantive due process requirements. The vagueness of Lauderdale County’s probation contracts, combined with the lack of procedural protections in the probation revocation process, vest the probation officer with complete discretion to determine whether a probation violation has occurred and what the punishment should be. For example, the probation contract states that any suspension from school is a violation of probation and must be served in the detention center. This statement fails to provide any specificity about the types of behavior for which a student can be suspended, and, therefore, incarcerated. Further, the absolute reliance by the youth counselors and Youth Court on District personnel’s application of disciplinary policies—*i.e.*, finding a probation violation solely based on the fact that a student has been suspended—

allows for selective and abusive government action by District, County, and DYS personnel that results in the incarceration of children.

DEPARTMENT OF JUSTICE INVESTIGATION

The Civil Rights Division of DOJ makes the findings described above following an eight-month investigation. DOJ notified the City of Meridian and the Lauderdale County Youth Court of its investigation into these practices on December 1, 2011. On June 29, 2012, DOJ notified the State of Mississippi of the expansion of this investigation to include DYS, in relation to the administration of juvenile justice in Lauderdale County.

During the course of this investigation, DOJ conducted numerous site visits to Meridian, and met with a wide range of community stakeholders and affected parties. DOJ attorneys interviewed MPD command staff, juvenile detectives, and patrol officers, as well as MPD's training officer, IT staff, and the dispatch commander for the County's E-911 services. DOJ attorneys also interviewed the DYS youth probation counselors in Lauderdale County, their regional supervisor, and their state-level supervisor.

DOJ also sought access to the Youth Court, including records, proceedings, and personnel. Although Lauderdale County and the Youth Court Judges initially pledged full cooperation with our investigation, Lauderdale County and the Youth Court Judges have consistently denied DOJ access to information about the policies and practices of the Youth Court, including the opportunity to observe the Youth Court, interview Youth Court staff, and review Youth Court files. Additionally, the Youth Court Judges have directed the City of Meridian to deny the DOJ access to law enforcement files concerning children referred from the District to the MPD.

In refusing DOJ access, Lauderdale County and Judges Coleman and Young cited Mississippi Code § 43-21-259 and § 43-21-261, which provide confidentiality protections for juvenile records, including youth court and law enforcement records. However, Mississippi law also permits judges to authorize release of these records when it is in the best interests of the children, the public safety, or the functioning of the Youth Court. The County and Youth Court Judges have continued to assert confidentiality concerns despite the authority of the Civil Rights Division of DOJ under federal statute to investigate allegations of constitutional and federal law violations in the administration of juvenile justice, DOJ's strict obligations regarding sensitive personal information under federal privacy laws, and the Civil Rights Division's long experience protecting the confidentiality of sensitive personal information, including incarcerated juveniles and court records.

To date, Lauderdale County has failed to produce even a single document in response to DOJ's requests for information. Lauderdale County has also remained silent about any reasons for refusing to produce non-confidential information, such as policies and procedures, as well as for denying DOJ access to interview court personnel about non-confidential information.

After an initial period of cooperation with DOJ's investigation, the City of Meridian, apparently at the direction of the Youth Court, has denied the Department of Justice further

access to information about the practices of the MPD with respect to children referred by the District, and/or under the supervision of the Lauderdale County Youth Court.

The State of Mississippi, through DYS, has provided some cooperation with the DOJ's investigation, permitting DOJ attorneys to interview DYS youth probation counselors in Lauderdale County and their supervisors. DOJ also sought information regarding Lauderdale County Youth Court proceedings and outcomes from the Mississippi State Administrative Office of the Courts ("AOC"), which collects and maintains data from counties throughout the State about youth court proceedings. The AOC staff members who we met with during our site visit were helpful in describing their database and initially offered cooperation. However, when DOJ subsequently requested data from the AOC pertaining to Lauderdale County, the Mississippi Assistant Attorney General responded in writing on March 26, 2012, that the AOC will not provide such information, citing the confidentiality protections for youth court records in Mississippi Codes § 43-21-259 and § 43-21-261.

Despite the entities' refusal to provide reasonable access to DOJ regarding their administration of juvenile justice, DOJ gathered sufficient information to find that the City of Meridian, Lauderdale County, Judges Coleman and Young, and the State of Mississippi, are engaged in a pattern or practice of violating the constitutional rights of children in the juvenile justice system.

RESOLUTION OF CONSTITUTIONAL VIOLATIONS

It is in the best interests of the children subject to the administration of juvenile justice in Meridian and Lauderdale County to fully resolve these constitutional violations as expeditiously as possible. We hope you share our view that a collaborative approach by all parties would be productive.

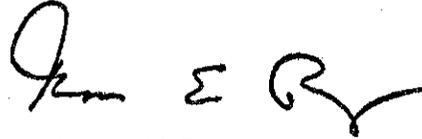
We are willing to engage in meaningful negotiations to resolve the entities' constitutional violations in the administration of juvenile justice, as long as the entities commit to timely engage all relevant stakeholders with decision-making authority in these negotiations. However, because of the severity of the constitutional violations at issue, and the grievous and irreparable nature of the harm suffered by children in Meridian and Lauderdale County as a result of these violations, we will not unduly delay filing for relief in federal court.

Please note that this letter is a public document. It will be posted on the Civil Rights Division's website.

As you know, our Special Litigation Section is handling this matter. The Chief of the Special Litigation Section, Jonathan M. Smith, may be reached at 202-514-5393, and Deputy Chief Shelley Jackson may be reached at 202-305-3373. Special Litigation Section Attorney

Lori Rifkin, who has been the primary contact for your legal counsel in our investigation, may be reached at 202-514-8434.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom E. Perez". The signature is fluid and cursive, with the first name "Tom" being the most prominent.

Thomas E. Perez
Assistant Attorney General

cc: Robert Bailey
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